

STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION -  
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL  
REGULATION,

PETITIONER,

vs.

CASE NO. 92-10263

DONALD LEE RIFE, M.D.

RESPONDENT.

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ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Department of Professional Regulation, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine against Donald Lee Rife, M.D., hereinafter referred to as "Respondent," and alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.30, Florida Statutes; Chapter 455, Florida Statutes; and Chapter 458, Florida Statutes.
2. Respondent is and has been at all times material hereto a licensed physician in the State of Florida, having been issued license number ME 0042228. Respondent's last known address is 2203 N. Lois Avenue, Suite 1100, Tampa, Florida 33607.
3. On or about August 6, 1992, the Vermont Board of Medical Practice revoked Respondent's medical license by Final Order based

on charges against Respondent of committing sexual misconduct with minors in the state of Vermont in his office setting.


Respondent is guilty of having his license to practice medicine acted against by the licensing authority of any jurisdiction in that on or about August 6, 1992, the Vermont Board of Medical Practice revoked Respondent's license to practice medicine by Final Order.

5. Based on the preceding allegations, Respondent has violated Section 458.331(1)(b), Florida Statutes, by having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine enter an Order imposing one or more of the following penalties: revocation or suspension of the Respondent's license, restriction of the Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, and/or any other relief that the Board deems appropriate.

SIGNED this 8 day of October, 1992.


George Stuart, Secretary

  
Larry G. McPherson, Jr.  
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Larry G. McPherson, Jr.  
Chief Medical Attorney  
Department of Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida 32399-0750  
Florida Bar #788643  
LGM/nd  
PCP: October 4, 1992  
McEwen, Dauer, Kaiser

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BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL  
REGULATION,

CLERK Sarah L. Wadsworth  
DATE 6/11/93

Petitioner,

-vs-

DPR CASE NUMBER: 92-10263  
DOAH CASE NUMBER: 92-6556  
LICENSE NUMBER: ME 0042228

DONALD LEE RIFE, M.D.,

Respondent.

FINAL ORDER

This cause came before the Board of Medicine (Board) pursuant to Section-120.57(1)(b)10, Florida Statutes, on June 6, 1993, in West Palm Beach, Florida, for the purpose of considering the Hearing Officer's Recommended Order, Respondent's Exceptions to the Recommended Order, and Petitioner's Response to Respondent's Exceptions (copies of which are attached hereto as Exhibits A, B, and C, respectively) and the Motions for Final Order of the parties in the above-styled cause. Petitioner, Department of Professional Regulation, was represented by Larry G. McPherson, Jr., Attorney at Law. Respondent was not present, but was represented by Paul B. Johnson, Attorney at Law.

Upon review of the Recommended Order, the post-hearing pleadings and motions, the argument of the parties, and after a review of the complete record in this case, the Board makes the following findings and conclusions.

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RULINGS ON EXCEPTIONS

1. Respondent's Exception Number 1 is rejected based on the written response by Petitioner.

2. Respondent's Exception Number 2 is rejected for the following reasons:

a. This subpart of the Exception lacks the specificity required by Rule 21M-18.004(2), Florida Administrative Code.

b. This subpart of the Exception lacks the specificity required by Rule 21M-18.004(2), Florida Administrative Code.

c. This subpart of the Exception is rejected based on the written response of Petitioner; there is competent substantial evidence to support the Hearing Officer's finding.

3. Respondent's Exception Number 3 is rejected based on the written response by Petitioner. The legal issue as to the appropriate burden of proof for the Vermont proceeding is appropriately resolved in Vermont, not here.

4. Respondent's Exception Number 4 is rejected based on the written response by Petitioner.

5. Respondent's Exception Number 5 is rejected based on the written response by Petitioner.

6. Respondent's Exception Number 6 is rejected based on the written response by Petitioner and the advice stated on the record by Board counsel. The action taken by the Board in Vermont is sufficient to support the finding that action was taken against Respondent's license in Vermont by the licensing authority of the state. To hold otherwise would allow the citizens of Florida to be unprotected from the practice of

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medicine by a doctor whose past conduct toward patients has been described as predatory. If the revocation by the Vermont Board is set aside by a court, then this action by Florida can be and will be revisited in light of that occurrence.

7. Respondent's Exception Number 7 is rejected based on the written response by Petitioner and the advice stated on the record by Board counsel. The cases cited by Respondent are not applicable to this proceeding because the action on which the Florida charges are based occurred after Respondent was licensed in Florida. Even though the conduct on which the Vermont revocation was based occurred prior to Respondent's licensure in Florida, the revocation by Vermont did not. The Florida Board of Medicine could not have denied Respondent's license application in 1983 based on the revocation of his Vermont license because said action had not occurred prior to issuance of his Florida license.

8. Respondent's Exception Number 8 is rejected based on the written response by Petitioner.

9. Respondent's Exception Number 9 is rejected based on the written response by Petitioner and the advice stated on the record by Board counsel. The relevant issue is whether Florida proved the allegations charged (i.e., action against Respondent's license) by clear and convincing evidence. Whether Vermont used the appropriate burden of proof and whether that burden was met is to be resolved by the Vermont courts. In proceeding under Section 458.331(1)(b), Florida Statutes, the Department is not required to re-try the underlying case.

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10. Respondent's Exception Number 10 is rejected based on written response by Petitioner.

- FINDINGS OF FACT

1. Findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein.
2. There is competent substantial evidence to support the findings of fact.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 458, Florida Statutes.
2. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein.
3. There is competent substantial evidence to support the conclusions of law.

PENALTY

Upon a complete review of the record in this case, the Board determines that the penalty recommended by the Hearing Officer be accepted in substance, but rephrased. WHEREFORE,

IT IS HEREBY ORDERED AND ADJUDGED that

1. Respondent shall pay an administrative fine in the amount of \$2000 to the Board of Medicine, Department of Professional Regulation, within 30 days of the date this Final Order is filed.

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2. Respondent's license to practice medicine in the State of Florida is REVOKED. However, jurisdiction is retained for the purpose of reconsidering this action in the event the action against Respondent's license to practice medicine in Vermont is set aside.

This order takes effect upon filing with the Clerk of the Department of Professional Regulation.

DONE AND ORDERED this 9<sup>th</sup> day of June, 1993.

BOARD OF MEDICINE

  
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JAMES N. BURT, M.D.  
CHAIRMAN

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

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