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Final Order No. DOH-06-1390-S -MOA
FILED DATE - 8/19/2006
Department of Health
By: Alicia Setten
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NOS.: 2004-25030
2005-54964
LICENSE NO.: ME0052135

LARRY R. ROSENTHAL, M.D.,

Respondent.

_____ /

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on April 7, 2006, in Tampa, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises, the Board rejected the Settlement Agreement and offered a Counter Settlement Agreement which Respondent was given 7 days to accept. Respondent timely accepted the Board's Counter Settlement Agreement. The Counter Settlement Agreement incorporates the original Settlement Agreement with the following amendments:

1. The costs set forth in Paragraph 2 of the Stipulated Disposition shall be set at \$2,700.50. Said costs shall be paid

within 45 days of reinstatement of his license to practice medicine in Florida.

2. Respondent shall pay an administrative fine in the amount of \$3,000. Said fine shall be paid within 45 days of reinstatement of his license to practice medicine in Florida.

3. Upon reinstatement of licensure, Respondent shall be placed on probation with the terms and conditions to be set by the Board at the time of reinstatement.

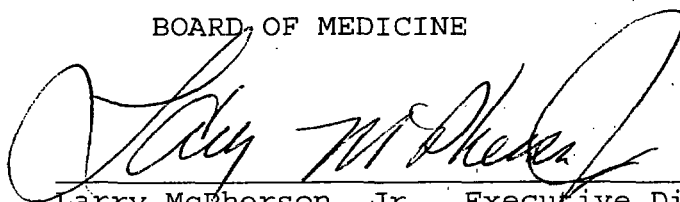
IT IS HEREBY ORDERED AND ADJUDGED that the Settlement Agreement as submitted be and is hereby approved and adopted in toto and incorporated herein by reference with the amendments set forth above. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Settlement Agreement as amended.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 4 day of AUGUST,

2006.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
for MARK S. AVILA, M.D., Vice-Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to LARRY R. ROSENTHAL, M.D., 601 S. Newport Street, Suite #2, Tampa, Florida 33606; to Cynthia A. Mikos, Esquire, 2018 East 4th Avenue, Tampa, Florida 33605-5216; and by interoffice delivery to John Terrel and Wings Benton, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 9th day of August, 2006.

Alicia Stiffen

Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2004-25030

DOH Case No. 2005-54964

LARRY R. ROSENTHAL, M.D.

Respondent.

CONSOLIDATED SETTLEMENT AGREEMENT

Larry R. Rosenthal referred to as the "Respondent," and the Department of Health, referred to as "Department" stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Medicine, referred to as "Board," incorporating the Stipulated Facts and Stipulated Disposition in this matter.

Petitioner is a state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes, and Chapter 456, Florida Statutes, and Chapter 458, Florida Statutes.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 52135.

2. The Department charged Respondent in two Administrative Complaints. In case number 2004-25030, an Administrative Complaint was filed and properly served upon Respondent charging Respondent with violations of Chapter 458, Florida Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

3. In case number 2005-54964, an Administrative Complaint charged Respondent with a violation of Chapter 458, Florida Statutes, and Respondent waived his right to a finding of probable cause and service of the Administrative Complaint. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit B.

4. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaints for purposes of these proceedings only.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 456 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts alleged in the Administrative Complaints, if proven, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaints.

3. Respondent agrees that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

1. **Letter Of Concern** - Respondent shall receive a Letter of Concern from the Board of Medicine.

2. **Reimbursement Of Costs** - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for any administrative costs incurred in the investigation and preparation of this case. Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative cost directly associated with Respondent's probation, if any. The agreed upon amount of Department costs to be paid in this case are not to exceed three thousand five hundred dollars (\$3,500.00). Respondent will pay costs to the Department of Health, HMQAMS/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Medicine Compliance Officer upon reinstatement by the Board. Any post-Board costs, such as the costs associated with probation, are not included in this agreement.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS HIS/HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE COSTS ARE NOT PAID AS AGREED TO IN THIS SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF REINSTATEMENT, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT

AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

3. Suspension:

- A. Respondent's license shall be indefinitely suspended until such time as Respondent provides the Board with adequate evidence that Respondent is capable of practicing with reasonable skill and safety, including but not limited to, an evaluation by the Board approved impaired practitioners' treatment provider. Respondent may present such evidence at any time after the Board imposes the suspension set forth in this Stipulation, including the same Board meeting at which this Stipulation is accepted. However, the term of suspension must be imposed prior to the Board considering respondent's petition for reinstatement.
- B. Respondent's license shall be indefinitely suspended until such time as Respondent provides the Board with evidence of Respondent's good standing in any and all jurisdictions in which Respondent is licensed to practice.
- C. Respondent's license shall remain suspended until such time as Respondent appears before the Board and the Board has an opportunity to question and observe Respondent. The Board is hereby authorized to extend Respondent's suspension in six month increments if the Board finds that Respondent is unable or unwilling to practice with reasonable skill and safety to the public.

STANDARD PROVISIONS

4. **No force or effect until final order** - It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.

5. **Addresses** - Respondent must keep current residence and practice addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any changes of said addresses.

6. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 458 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice medicine. Prior to signing this agreement, the Respondent shall read Chapters 456, 458 and 893 and the Rules of the Board of Medicine, at Chapter 64B8, Florida Administrative Code.

7. **Violation of terms considered** - It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 458, Florida Statutes.

8. **Purpose of Agreement** - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Agreement. In this regard, Respondent authorizes the Board to review and examine all

investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Respondent agrees to support this Agreement at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

9. **No preclusion of additional proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

10. **Waiver of attorney's fees and costs** - Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of costs noted above, the parties will bear their own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department and the Board in connection with this matter.

11. **Waiver of further procedural steps** - Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly

waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

SIGNED this 28th day of Feb, 2006.

Larry R. Rosenthal, M.D.
Larry R. Rosenthal, M.D.

Before me, personally appeared Larry R. Rosenthal, whose identity is known to me by Fl. Driver's License (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 28th day of Feb, 2006.

Julia Guzman
NOTARY PUBLIC

My Commission Expires:

Julia Guzman
NOTARY PUBLIC
Montgomery County, Maryland
My Commission Expires 11/01/07

APPROVED this 6th day of March, 2006.

M. Rony Francois, M.D., M.S.P.H., Ph.D.
Secretary, Department of Health

Patricia Nelson

By: Patricia Nelson
Assistant General Counsel
Department of Health

Patricia Nelson
Assistant General Counsel
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Larry R. Rosenthal, M.D., 2004-25030

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TOTAL P. 16

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2004-25030

LARRY R. ROSENTHAL, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Medicine against Respondent, Larry R. Rosenthal, M.D., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed physician within the State of Florida, having been issued license number ME 52135.

3. Respondent's address of record is 601 S. Newport, Suite #2, Tampa, Florida 33606.

4. The Commonwealth of Virginia Board of Medicine ("CVBM") is the licensing authority regulating the practice of medicine in the State of Virginia.

5. On or about April 8, 2004, the CVBM entered an Order, which imposed a one thousand (\$1,000.00) fine against Respondent's license to practice medicine in Virginia for failing to provide information on his Practitioner Profile within the required timeframe.

6. The Order entered by the CVBM constitutes disciplinary action against the Respondent's license to practice medicine in the State of Virginia.

7. Respondent failed to report, in writing, to the Florida Board of Medicine within thirty (30) days of the April 8, 2004 disciplinary action taken by the CVBM.

COUNT ONE

8. Petitioner re-alleges and incorporates paragraphs one (1) through seven (7) as if fully set forth herein.

9. Section 458.331(1)(b), Florida Statutes (2003), provides that having a license or the authority to practice medicine revoked, suspended, or otherwise acted against by licensing authority of any jurisdiction constitutes grounds for disciplinary action by the Board of Medicine.

10. The April 8, 2004 Order issued by the CVBM, which imposed a one thousand (\$1,000.00) dollar fine against Respondent's license to practice medicine constitutes disciplinary action against the Respondent's Virginia medical license.

11. Based on the foregoing, Respondent has violated Section 458.331(1)(b), Florida Statutes (2003), 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.

COUNT TWO

12. Petitioner re-alleges and incorporates paragraphs one (1) through seven (7) as if fully set forth herein.

13. Section 458.331(1)(kk), Florida Statutes (2003), provides that failing to report to the board, in writing, within 30 days if action as defined in Section 458.331(1)(b), Florida Statutes, has been taken against one's license to practice medicine in another state, territory or country constitutes grounds for disciplinary action by the Board of Medicine.

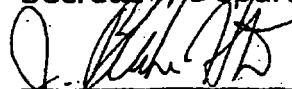
14. Respondent failed to report, in writing, to the Florida Board of Medicine within thirty (30) days of the disciplinary action.

15. Based on the foregoing, Respondent has violated Section 458.331(1)(kk), Florida Statutes (2003), by failing to report to the board, in writing, within 30 days if action as defined in Section 458.331(1)(b), Florida Statutes has been taken against one's license to practice medicine in another state, territory or country.

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

SIGNED this 13th day of May, 2005.

John O. Agwunobi, M.D., M.B.A., M.P.H.
Secretary, Department of Health



J. Blake Hunter
Assistant General Counsel
DOH Prosecution Services Unit
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Florida Bar No. 0570788
(850) 414-8126
(850) 414-1989 FAX

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK Neetha Coleman

DATE 5-14-05

/jbh

PCP: May 13, 2005

PCP Members: Gustavo Leon, M.D. (Chairperson), Mammen Zachariah, M.D., and John Beebe

Reviewed and approved by: Clf (initials) 2/25/05 (date)

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

MAR 08 2006

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2005-54964

LARRY R. ROSENTHAL, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Medicine against Respondent, Larry R. Rosenthal, M.D., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed physician within the State of Florida, having been issued license number ME 52135.

3. Respondent's address of record is 601 S. Newport, Suite #2, Tampa, Florida 33606.

4. Respondent has a medical problem, and as a result, he is unable to practice medicine with reasonable skill and safety to patients.

5. Respondent has admitted that he has a medical problem, and as a result, he is unable to practice medicine.

6. Section 458.331(1)(s), Florida Statutes (2005), provides that being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other types of material or as a result of any mental or physical is ground for disciplinary action by the Board of Medicine.

7. Respondent is unable to practice medicine with reasonable skill and safety to patients due to a medical problem.

8. Based on the foregoing, Respondent has violated Section 458.331(1)(s), Florida Statutes (2005), by being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other types of material or as a result of any mental or physical is ground for disciplinary action by the Board of Medicine

WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of

practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 7th day of March, 2006.

M. Rony François, M.D., M.S.P.H., Ph.D.
Secretary, Department of Health

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Theresa Melhorn*
DATE 3-8-06

Jan K. Kishig for
Patricia Nelson
Assistant General Counsel
DOH Prosecution Services Unit
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Tallahassee, FL 32399-3265
Florida Bar No. 325790
(850) 245-4640
(850) 245-4680 FAX

/PN

PCP: *Waiver*
PCP Members:

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

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