

STATE OF FLORIDA
BOARD OF MEDICINE

Final Order No. DOH-13-1069-**5** -MQA

FILED DATE JUN 14 2013

Department of Health

By


Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2012-16560

LICENSE NO.: ME0097916

DAVID BRANDEIS HERZOG, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) on June 7, 2013, in Tampa, Florida, for the purpose of considering Respondent's offer to voluntarily relinquish his license to practice medicine in the State of Florida. (Attached hereto as Exhibit A.) Said written offer of relinquishment specifically provides that Respondent agrees never again to apply for licensure as a physician in the State of Florida.

Upon consideration of the written offer of voluntary relinquishment, the charges, and the other documents of record, and being otherwise fully advised in the premises,

IT IS HEREBY ORDERED that Respondent's Voluntary Relinquishment of his license to practice medicine in the State of Florida is hereby ACCEPTED, and shall constitute discipline upon Respondent's license.

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

DONE AND ORDERED this 13th day of June, 2013.

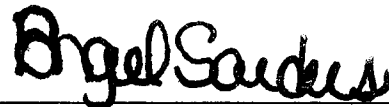
BOARD OF MEDICINE



Allison M. Dudley, J.D., Executive Director
For Zachariah P. Zachariah, M.D., 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 DAVID BRANDEIS HERZOG, M.D., 55 Colbert Road East, Newton, Massachusetts 02465; to David M. Gould, Esquire, 98 North Washington Street, Boston, Massachusetts 02114; and by interoffice delivery to Doug Sunshine, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 14th day of June, 2013.



Deputy Agency Clerk

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2012-16560

DAVID B. HERZOG, M.D.,

Respondent.

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Angelo Sauter*
DATE: 3-8-13

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent, David B. Herzog, M.D., License No. ME 97916, hereby voluntarily relinquishes Respondent's license to practice medicine in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment of License is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Medicine (hereinafter the Board) of this Voluntary Relinquishment of License shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes. As with any disciplinary action, this relinquishment will be reported to the National Practitioner's Data Bank as disciplinary action. Licensing authorities in other states may impose discipline in their jurisdiction based on discipline taken in Florida.
2. Respondent agrees to never reapply for licensure as a medical doctor in the State of Florida.
3. Respondent agrees to voluntarily cease practicing medicine immediately upon executing this Voluntary Relinquishment of License. Respondent further agrees to

refrain from the practice of medicine until such time as this Voluntary Relinquishment of License is presented to the Board and the Board issues a written final order in this matter.

4. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, and waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent understands that the record and complaint become public record and remain public record and that information is immediately accessible to the public. Section 456.073(10) Florida Statutes.


5. Upon the Board's acceptance of this Voluntary Relinquishment of License, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment of License and of the Final Order of the Board incorporating this Voluntary Relinquishment of License.

6. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment of License, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment of License. Respondent agrees that consideration of this Voluntary

Relinquishment of License and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment of License are not accepted by the Board.

DATED this 29TH day of JANUARY, 2013

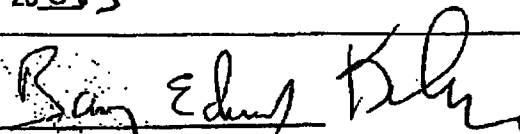

David B. Herzog, M.D.

STATE OF Massachusetts

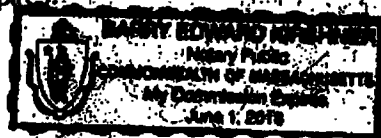
COUNTY OF: MIDDLESEX

Before me, personally appeared David B. Herzog, whose identity is known to me by Drivers License (type of identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 29th day of JANUARY, 2013


NOTARY PUBLIC

My Commission Expires:





INVESTIGATIVE REPORT

Office: CONSUMER SERVICES		Date of Complaint: November 7, 2012		Case Number: ME 2012-16560	
Subject: DAVID BRANDEIS HERZOG, M.D. 55 Colbert Road East Newton, MA 02465			Complainant/Source: FLORIDA BOARD OF MEDICINE/BOARD ACTION REPORT - MASSACHUSETTS		
Prefix: ME	License #: 97916	Profession: Allopathic Physician	Board: Medicine	Report Date: December 3, 2012	
Period of Investigation: November 13, 2012 through December 3, 2012			Type of Report: FINAL		
Alleged Violation: § 458.331(1)(b)(g)(kk)(nn) and F.S.456.072 (1)(w) Florida Statutes...Out of state discipline...Failing to perform a legal obligation..... Failure to report out of state discipline... Violation of a Rule or Statute...Failing to comply with the requirements for profiling and credentialing....					
<p>Synopsis: This investigation is predicated on the receipt of a complaint from the Florida Board of Medicine (Ex. #1) alleging that DR. HERZOG'S license in Massachusetts was surrendered on October 17, 2012. According to documents from the Commonwealth of Massachusetts Board of Registration in Medicine, DR. HERZOG surrendered his license voluntarily. DR. HERZOG did not report Massachusetts action to the Florida Board, nor did he report the action on his practitioner profile.</p> <p>DR. HERZOG was notified of this complaint by letter dated November 13, 2012 sent regular mail to the address on file with the Board (Ex. #2) including a copy of the case summary and initial complaint.</p> <p>DOH computer information obtained reflects that DR. HERZOG is licensed to practice Medicine in the State of Florida with a license that is CLEAR and ACTIVE.</p> <p>There is no patient involved in the case. Therefore, notification is not necessary.</p> <p>DR. HERZOG is represented by David M. Gould with Ficksman & Conley, LLP Attorneys at Law, located at 98 North Washington Street, Suite 500, Boston, MA 02114.</p> <p>Response has been received from DR. HERZOG by letter denying the allegations (Ex. #3).</p>					
Related Case: none					
Investigator/Date: Ronnie Shipp Government Analyst I (HA-123) <i>Ronnie Shipp</i> DEC 03 2012			Approved By/Date: <i>Theresa Schum</i> 12/4/12		
Distribution: PSU/CSU					

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