

FILED DATE - **SEP 01 2020**
Department of Health

STATE OF FLORIDA
BOARD OF MEDICINE

By: *Synthia Parnell*
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2019-42058
LICENSE NO.: ME0096432

DAVID HAROLD AVERBACH, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(2), Florida Statutes, on August 7, 2020, via a duly noticed telephone conference call meeting, for consideration of the Administrative Complaint (attached hereto as Exhibit A) in the above-styled cause pursuant to Respondent's Election of Rights. At the hearing, Petitioner was represented by Michael Williams, Assistant General Counsel. Respondent was not present and was not represented by counsel. The facts are not in dispute.

Upon consideration, it is ORDERED:

1. The allegations of fact set forth in the Administrative Complaint are approved and adopted and incorporated herein by reference as the findings of fact by the Board.

2. The conclusions of law alleged and set forth in the Administrative Complaint are approved and adopted and

incorporated herein by reference as the conclusions of law by the Board.

3. The violations set forth warrant disciplinary action by the Board.

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

Respondent's license to practice medicine in the State of Florida is hereby **SUSPENDED** until such time as his license to practice medicine in all jurisdictions is unencumbered. The Board retains jurisdiction in this matter to impose terms and conditions upon reinstatement of Respondent's license, including, but not limited to, a period of probation with said terms and conditions to be set at the time of reinstatement.

RULING ON MOTION TO ASSESS COSTS

The Board reviewed the Petitioner's Motion to Assess Costs and imposes the costs associated with this case in the amount of \$94.61. Said costs are to be paid within 30 days from the date this Final Order is filed.

(NOTE: SEE RULE 64B8-8.0011, FLORIDA ADMINISTRATIVE CODE. UNLESS OTHERWISE SPECIFIED BY FINAL ORDER, THE RULE SETS FORTH THE REQUIREMENTS FOR PERFORMANCE OF ALL PENALTIES CONTAINED IN THIS FINAL ORDER.)

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

DONE AND ORDERED this 13 day of August, 2020.

BOARD OF MEDICINE



Claudia Kemp, J.D., Executive Director
For Hector Vila, M.D., Vice-Chair

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 HEALTH 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.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by **Certified** and U.S. Mail to DAVID HAROLD AVERBACH, M.D., P.O. Box 252572, West Bloomfield, Michigan 48325; and 6525 Heritage, West Bloomfield, Michigan 48325, and by email to averbachdh@gmail.com; by email to Allison Dudley, Assistant General Counsel, Department of Health, at Allison.Dudley@flhealth.gov; and by email to Edward A. Tellechea, Chief Assistant Attorney General, at

Ed.Tellechea@myfloridalegal.com this 15th day of
September, 2020.

Synthia Pousel
Deputy Agency Clerk

|||||
David Harold Averbach, M.D.
6525 Heritage
West Bloomfield, MI 48325

Certified Article Number
9414 7266 9904 2157 7122 06
SENDER'S RECORD

|||||
David Harold Averbach, M.D.
P.O. Box 252572
West Bloomfield, MI 48325

Certified Article Number
9414 7266 9904 2157 7122 20
SENDER'S RECORD

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2019-42058

DAVID HAROLD AVERBACH, M.D.,

RESPONDENT.

_____ /

ADMINISTRATIVE COMPLAINT

Petitioner Department of Health files this Administrative Complaint before the Board of Medicine against Respondent David Harold Averbach, M.D., and alleges:

1. Petitioner is the state agency 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 medical doctor within the state of Florida, having been issued license number ME 96432.
3. Respondent's address of record is 6525 Heritage, West Bloomfield, Michigan 48325.

4. On or about October 5, 2019, the Michigan Board of Medicine entered a Consent Order and Stipulation finding that Respondent violated the Michigan Public Health Code and placing Respondent on probation, assessing a fine of \$5,000.00, costs, and placing other conditions on Respondent's Michigan medical license.

5. Section 458.331(1)(b), Florida Statutes (2019), provides that 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, constitutes grounds for disciplinary action by the Board of Medicine.

6. The Michigan Board of Medicine acted against Respondent's medical license by entering the Consent Order and Stipulation.

7. Based on the foregoing, respondent has violated Section 458.331(1)(b), Florida Statutes (2019), by having his Michigan medical license acted against.

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 17th day of April 2020.

Scott A. Rivkees, MD
State Surgeon General

s/Michael J. Williams

Michael J. Williams
Assistant General Counsel
Office of the General Counsel
Prosecution Services Unit
Florida Department of Health
4052 Bald Cypress Way, Bin #C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 558-9833
Facsimile: (850) 245-4684
Email: Michael.Williams2@flhealth.gov
Florida Bar Number: 109786

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Bridget Cortes*

DATE 4-17-2020

MJW/rr

PCP: April 17, 2020

PCP Members: Mark Avila, M.D.; Zachariah Zachariah, M.D.; Nicholas Romanello

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.

A request or petition for an administrative hearing must be in writing and must be received by the Department within **21 days** from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

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.