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Final Order No. DOH-07-0196-5-MOA
FILED DATE - 2/16/07
Department of Health
By: Rachobe
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2004-37339
LICENSE NO.: ME0025509

DANIEL STEIN, 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 February 2, 2007, in Orlando, Florida, for the purpose of considering a Consent Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Consent Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED that the Consent Agreement as submitted be and is hereby approved and adopted in toto and incorporated herein by reference with the following clarifications:

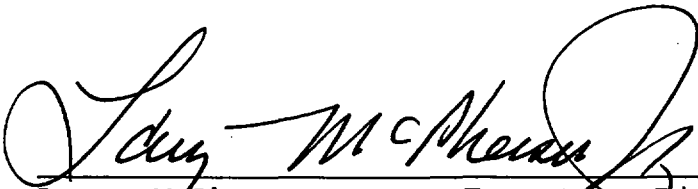
1. The phrase "with a training license" shall be deleted from Paragraph 1 of the Stipulated Conclusions of Law.
2. The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$2,152.40.

Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Consent Agreement as clarified above.

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

DONE AND ORDERED this 15 day of FEBRUARY, 2007.

BOARD OF MEDICINE


Larry McPherson, Jr., Executive Director
for H. FRANK FARMER, JR., 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 DANIEL STEIN, M.D., 2713 W. Virginia Avenue, Tampa, Florida 33607; to A. S. Weekley, Esquire, Holland & Knight, 100 North Tampa Street, Suite 4100, Tampa, Florida 33602-3644; and by interoffice delivery to John Terrel, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 16 day of February, 2007.



2 Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2004-37339

DANIEL STEIN, M.D.

Respondent.

CONSENT AGREEMENT

Daniel Stein, M.D., referred to as the "Respondent," and 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 medical doctor in training in the State of Florida having been issued License Number ME 25509.
2. Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent with violations of Chapter 456

and/or 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. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint for purposes of these proceedings only. Execution of this Settlement Agreement is not an admission of any wrongdoing.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a physician with a training license, 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 Complaint, if proven, would constitute violations of Chapter 456 and/or 458, Florida Statutes, as alleged in the Administrative Complaint.

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

STIPULATED DISPOSITION

1. **Reprimand** - The Board shall reprimand the license of Respondent.

2. **Fine** - The Board of Medicine shall impose an administrative fine of nine-thousand five-hundred dollars (\$9,500.00), against the license of Respondent, to be paid by Respondent to the Department of Health, HMQAMS/Client Services, Post Office Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of

Medicine Compliance Officer, within thirty-days (30) of the Final Order accepting this Agreement. All fines shall be paid by check or money order. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS/HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED TO IN THIS CONSENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF THE FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

3. **Reimbursement Of Costs** - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay 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 shall not 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 within thirty-days (30) from the entry of the Final Order in this cause. 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 CONSENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF THE FILING OF THE FINAL ORDER, 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.

4. Laws and Rules Course - Respondent shall complete the Laws and Rules Course, administered by the Florida Medical Association, within one (1) year of the filing of the Final Order of the Board. In addition, Respondent shall submit documentation in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as physician's recognition awards, documenting completion of this medical education course within one (1) year of the Final Order incorporating this Agreement. All such documentation shall be sent to the Board of Medicine, regardless of whether some or any of such documentation was previously provided during the course of any audit or discussion with counsel for the Department. These hours shall be in addition to those

required for renewal of licensure. Unless otherwise approved by the Board, said continuing medical education courses shall consist of a live, lecture format.

5. Community Service - Respondent shall perform fifty (50) hours of community service, within one year of the filing of the Final Order. Community Service shall be defined as the delivery of medical services directly to patients, or the delivery of other volunteer services in the community, without fee or cost to the patient or the entity, for the good of the people of the State of Florida. Community service shall be performed outside the physician's regular practice setting. Respondent shall submit a written plan for performance and completion of the community service to the Probation Committee for approval prior to performance of said community service. Affidavits detailing the completion of community service requirements shall be filed with the Board as required by the Probation Committee.

6. Lecture/Seminar - During the next six (6) months following the filing date of a Final Order in this case, Respondent shall present a one (1) hour lecture/seminar on appropriate consultation services. The lecture/seminar shall be presented to medical staff at an approved medical facility. Respondent shall submit a written plan to the Board for approval prior to performance of said lecture/seminar. Respondent shall also provide written documentation to the Board that said lecture/seminar has been completed within six months of the filing of the Final Order in this case. Said documentation shall consist of a letter from

the Risk Manager of the approved medical facility indicating that the lecture/seminar has been completed.

STANDARD PROVISIONS

7. **Appearance** - Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

8. **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.

9. **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.

10. **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.

11. **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.

12. **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.

13. **No preclusion of additional proceedings** - Respondent and 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.

14. **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.

15. **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 4th day of December, 2006.



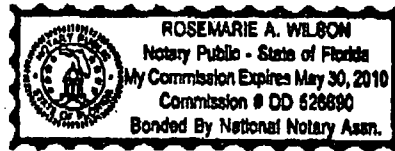
Daniel Stein, M.D.

at

Before me, personally appeared Daniel Stein, whose identity is known to me by personally known to me (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 4th day of December, 2006

Rosemarie Wilson
NOTARY PUBLIC



My Commission Expires: 5/30/10

APPROVED this 5th day of December, 2006.

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

Warren James Pearson

By: Warren James Pearson
Assistant General Counsel
Department of Health

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO.: 2004-37339

DANIEL STEIN, M.D.,

RESPONDENT.

9-21-04

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 the Respondent, Daniel Stein, 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 25509.
-

3. Respondent's address of record is 2713 W. Virginia Avenue, Tampa, Florida 33607.

4. On or about October 25, 2004, an anonymous complainant provided a copy of a solicitation letter received from Respondent.

5. Respondent's solicitation letter states, in part, "For each of your clients that you book to have Mesotherapy or other Medical Aesthetic procedures performed at Stein Medical Institute, you can choose between money or services."

6. Respondent's solicitation letter also specifically states, "For every client of yours that you consult with and who schedules a procedure that is performed in our office, you will receive either \$100 or \$150 in services for your consultation."

7. Section 458.331(1)(nn), Florida Statutes (2003, 2004), provides that violating any provision of Chapter 456 or Chapter 458, or any rules adopted pursuant thereto, constitutes grounds for disciplinary action by the Board of Medicine.

8. Section 456.054, Florida Statutes (2003, 2004), provides that it is unlawful for any health care provider or any provider of health care

services to offer, pay, solicit, or receive a kickback, directly or indirectly, overtly or covertly, in cash or in kind, for referring or soliciting patients.

9. Respondent's solicitation letter specifically states, "For every client of yours that you consult with and who schedules a procedure that is performed in our office, you will receive either \$100 or \$150 in services for your consultation."

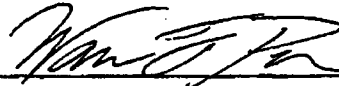
10. Based on the foregoing, Respondent violated Section 458.331(1)(nn), Florida Statutes (2003, 2004), by violating Section 456.054, Florida Statutes (2003, 2004) when he offered kickbacks for the referral or solicitation of patients.

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 25th day of September

2006.

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



Warren James Pearson
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar No. 0711578
(850) 245-4640
(850) 245-4681 FAX

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *Alida Styfon*
DATE: *9.26.06*

PCP: September 22, 2006

PCP Members: Ashkar, Beebe, Bearison

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 any other discipline imposed.