Final Order No. DOH-03-0167-S-MQA
FILED DATE - 2/26/03
Department of Health
By: Vicki R. Kenon
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH Case No.: 2002-13239
License No.: ME0068753

NELSON KRAUCAK, 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 7, 2003, 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, the Board rejected the Consent Agreement and offered a Counter Consent Agreement which was accepted on the record by the parties. The Counter Consent Agreement incorporates the original Consent Agreement with the following amendments:

1. The fine set forth in Paragraph 3 of the Proposed Disposition shall be deleted.

2. The costs set forth in Paragraph 4 of the Proposed Disposition shall reflect the actual costs in this case in the amount of $597.86.

3. The requirement for continuing medical education set forth in Paragraph 5 of the Proposed Disposition shall be deleted.

4. The requirement for a reprimand as set forth in Paragraph 2 of the Proposed Disposition shall be deleted.

5. The Respondent shall receive a letter of concern from the Board.

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 amendments set forth above. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Consent Agreement as amended.

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

DONE AND ORDERED this 25 day of February, 2003.

BOARD OF MEDICINE

Larry McPherson, Jr., Executive Director
for Raghavendra Vijayanagar, 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 NELSON KRAUCAK, M.D., 8985 Northeast 134th Avenue, Suite A, Lady Lake, Florida 32159; to Robert A. Leventhal, Esquire, 111 North Orange Avenue, Suite 700, Orlando, Florida 32801; and by interoffice delivery to Ephraim Livingston and Pamela Page, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 26th day of February, 2003.

Vicki Rykman

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STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

vs. CASE NO.: ME 2002-13239

NELSON KRAUCAK, M.D.,

Respondent,

_____/

02 DEC 17 PM 3:

CONSENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes, the above named parties hereby offer this Consent Agreement to the Board of Medicine as disposition of the Administrative Complaint, attached hereto as Exhibit "A", in lieu of any other administrative proceedings. The terms herein become effective only if and when a Final Order accepting this Consent Agreement is issued by the Department and filed. In considering this Consent Agreement, the Board may review all investigative materials regarding this case. If this Consent Agreement is rejected, it, and its presentation to the Board, shall not be used against either party.

STIPULATED FACTS

1. For all times pertinent hereto, Respondent was a licensed physician in the State of Florida, having been issued license number ME 068753. Respondent's last known address is 8985 Northeast 134th Avenue, Suite A, Lady Lake, Florida 32159.

2. The Respondent was charged in an Administrative Complaint filed by the Department and properly served upon Respondent with violations of Chapter 456 and 458, Florida Statutes. A true and correct copy of the Administrative Complaint is attached hereto and incorporated by reference as Exhibit A.

3. Respondent admits the factual allegations contained in the Administrative Complaint for purposes of settling these proceedings only.

STIPULATED LAW

1. Respondent admits that Respondent is subject to the provisions of Chapters 456 and 458, Florida Statutes, and the jurisdiction of the Board, and the Department.

2. Respondent admits that the stipulated facts, if proven true, constitute violations of law as alleged in the Administrative Complaint.

3. Respondent admits that the stipulated disposition in this case is fair, appropriate, and acceptable to Respondent.

PROPOSED DISPOSITION

1. The Respondent shall be present when this Consent Agreement is presented by the Department to the Board and under oath shall answer questions by the Board concerning this case and the disposition thereof.

2. The license of the Respondent shall be reprimanded by the Board of Medicine.

3. The Board of Medicine shall impose an administrative fine of Three Thousand ($3,000) dollars against the license of the Respondent, to be paid by the 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 (30) days of entry of the Final Order accepting this consent agreement.

4. The Respondent shall reimburse the Board of Medicine in an amount up to Seven Hundred ($700) dollars for the cost of investigation of this case within thirty (30) days from the entry of the Final Order in this cause. The costs shall be paid to the Compliance Officer at the address listed in paragraph three.

5. Within one (1) year of the filing of the Board's Final Order in this cause, the Respondent will successfully complete 10 hours of continuing medical education in ethics. These continuing education courses shall be in addition to the continuing education credits normally required for renewal of Respondent's license. Home study courses will not be accepted to satisfy this condition unless specifically authorized by the Board. Verification of successful completion and

documentation of course content shall be submitted to the Board office within thirty (30) days of completion of the continuing education course.

6. Respondent shall pay all costs necessary to comply with the terms of the Final Order issued to resolve this cause.

7. Respondent shall not in the future violate Chapter 456 and 458, Florida Statutes, the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice as a physician.

8. It is expressly understood that a violation of the terms of this Consent Agreement shall be considered a violation of a Final Order of the Board of Medicine, for which disciplinary action may be initiated pursuant to Chapter 456 or 458, Florida Statutes.

9. It is expressly understood that this Consent Agreement is subject to approval of the Board and has no force or effect until a Final Order is entered by the Board approving this Consent Agreement.

10. This Consent Agreement is executed by the Respondent for the purpose of avoiding further administrative action by the Board of Medicine regarding the acts or omissions specifically set forth in the Administrative Complaint, attached as Exhibit A. 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 Consent Agreement. Respondent agrees to support this Consent 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 Consent Agreement not be accepted by the Board, it is agreed that the presentation and consideration of this Consent 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.

11. The Respondent and the Department fully understand that this Consent Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by

11. The Respondent and the Department fully understand that this Consent Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Department against the Respondent for acts or omissions that are not the subject of the Administrative Complaint, attached as Exhibit A. This Consent Agreement relates solely to the current disciplinary proceedings arising from the aforementioned complaint and does not preclude further action by other divisions, departments, and/or sections of the Department, including but not limited to the Medicaid Program Integrity Office.

12. The Respondent waives the right to seek attorney's fees and/or costs from the Board or the Department of Health in connection with this disciplinary proceeding.

WHEREFORE, the parties hereto request the Board to enter a Final Order accepting and implementing the terms contained herein.

SIGNED this 11 day of December, 2002.

Nelson Kraucak, M.D.
CASE NO. ME 2002-13239

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

Sworn to and subscribed by Respondent before me this 11th day of December 2002.

Notary Public
My Commission Expires: 04-20-06

JACQUELINE H QUINN
COMMISSION NUMBER
DD110059
MY COMMISSION EXPIRES
APR. 20,2006
STATE OF FLORIDA

APPROVED this 20th day of December, 2002.

John O. Agwunobi, M.D., MBA
Secretary, Department of Health

By: Wings S. Benton
Deputy General Counsel
Department of Health

Deborah Loucks, Assistant General Counsel
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Prosecutorial Services Unit
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STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,	)	
	)	
PETITIONER,	)	
	)	
v.	)	DOH CASE NO. 2002-13239
	)	
NELSON KRAUCAK, M.D.,	)	
	)	
RESPONDENT.	)	

ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Department of Health, hereinafter referred to as "Petitioner,". and files this Administrative Complaint before the Board of Medicine against Nelson Kraucak, M.D., hereinafter referred to as "Respondent," and alleges:

1. Effective July 1, 1997, 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. Respondent is and has been at all times material hereto a licensed physician in the State of Florida, having been issued license number ME 68753. Respondent's last known address of record is 8985 Northeast 134th Avenue, Suite A, Lady Lake, Florida 32159.

3. On or about June 14, 2002, a judgment against Respondent was filed in the United States District Court, Middle District of Florida, Tampa Division in the matter of the United States of America vs. Nelson Kraucak, Case number: 8:02-CR-1-T-17TBM.

4. The information alleged that the during the calendar year of 1996, the Respondent on behalf of himself and his wife filed an income tax return that reported taxable income in the amount of $207,307. The information alleged that the

Respondent knew and believed that their taxable income for 1996 was substantially in excess of the stated amount.

5. Respondent pleaded guilty to count one of the Information filed in the case and Respondent was adjudicated guilty of a violation of Title 26 United States Code Section 7206, for filing a false tax return.

6. As a result of the adjudication of guilt, Respondent was placed on probation for a term of three (3) years with terms and conditions; ordered to pay an assessment of $100.00; a fine of $5,000 and restitution in the amount of $9,617.00 or an amount determined by the Internal Reven0ue Service.

7. Filing a false income tax return demonstrates a lack of honesty, integrity and judgment and an unwillingness to abide by law. The lack of honesty, integrity and judgment and an unwillingness to abide by law directly relates to the practice or the ability to practice medicine.

8. Based on the foregoing, Respondent has violated Section 458.331(1)(c), Florida Statutes (2000), by being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine.

WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties, in addition to the assessment of the costs related to the investigation and prosecution of this case as provided for in Section 456.072(4), Florida Statutes (2000):

a) Revocation of Respondent's license;

b) Suspension of Respondent's license for an appropriate period of time;

c) Restriction of the Respondent's practice;

d) Imposition of an administrative fine;

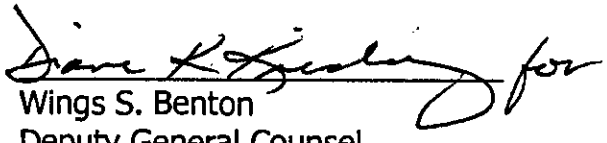
e) Issuance of a reprimand;

f) Placement of the Respondent on probation;

g) Administrative costs, and/or any other relief that the Board deems appropriate.

SIGNED this 29th day of October, 2002.

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



Wings S. Benton
Deputy General Counsel
Department of Health

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FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Vicki R. Kenon
DATE 10/29/02

PCP: October 18, 2002
PCP Members: Georges El-Bahri, Chairperson; Laurie Davies, MD; Gil Rodriguez