

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

ANDREW J. CRACKER, M.D.,

Respondent.

Final Order No. DOH-99-1259-FOI -MQA Date 10-29-99

FILED

Department of Health
Angela Hall, AGENCY CLERK

By Stephen J. W.
Deputy Agency Clerk

CASE NO.: 97-10119

LICENSE NO.: ME0067263

FINAL ORDER

THIS CAUSE came before the Board of Medicine (Board) pursuant to Sections 120.569 and 120.57(2), Florida Statutes, on October 8, 1999, in Tampa, Florida, for consideration of the Administrative Complaint (attached hereto as Exhibit A) in the above-styled cause. At the hearing, Petitioner was represented by John Terrel, Senior Attorney. Respondent was present but was not represented by counsel at the hearing. 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. On the record, the parties agreed that the date set forth in the Administrative Complaint should be corrected to reflect the year of 1997.

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:

1. Respondent shall pay an administrative fine of \$500.
2. Respondent shall document completion of 10 hours of continuing medical education (CME) in the area of risk management within one (1) year from the date this Final Order is filed.

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

DONE AND ORDERED this 19th day of October, 1999.

BOARD OF MEDICINE

Ranya Williams
for JAMES CERDA, M.D.
CHAIRMAN

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. 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 AGENCY FOR HEALTH CARE ADMINISTRATION 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 U.S. Mail to Andrew J. Cracker, M.D., 120 Maple Drive, Chapel Hill, North Carolina 27514; and by interoffice delivery to Larry G. McPherson, Jr., Chief Attorney, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308-5403, on or before 5:00 p.m., this _____ day of _____, 1999.

AMENDED CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been provided by certified mail to Andrew J. Cracker, M.D., 124 and 120 Maple Drive, Chapel Hill, NC 27514, and interoffice delivery to Larry McPherson, Jr. , Chief Attorney, 2727 Mahan Drive, Tallahassee, Florida 32308-5403, at or before 5:00 p.m., this _____ day of _____, 1999.

STATE OF FLORIDA
DEPARTMENT OF HEALTH
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case Number 97-10119

ANDREW J. CRACKER, M.D.,

Respondent.

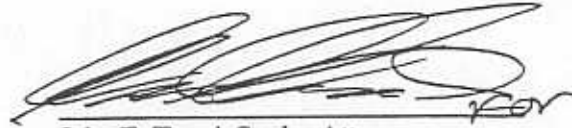
MOTION FOR FINAL ORDER

COMES NOW the Petitioner, Department of Health, by and through its agent, Agency for Health Care Administration, and requests that this Honorable Board of Medicine enter a Final Order in the above-styled cause. As grounds therefore, the Petitioner would state that:

1. On April 20, 1999, Petitioner filed an Administrative Complaint against Respondent alleging violations of Section 453.331(1)(t), Florida Statutes.
2. The Administrative Complaint and Election of Rights was forwarded to the last known address of Respondent, 120 Maple Dr., Chapel Hill, NC 27514.
3. On June 25, 1999, the Agency received an Election of Rights form requesting an informal hearing.
4. The Respondent has been advised by a copy of this motion that the Board will consider the investigative report, as well as any oral or written communication from the complainants on the issue of penalty in this matter.

WHEREFORE, the Petitioner requests that this Honorable Board, after consideration of the record, issue a Final Order concerning the Respondent's license to practice medicine in the state of Florida.

Respectfully submitted,



John E. Terrel, Senior Attorney
Florida Bar No. 0865036
Agency for Health Care Administration
Office of the General Counsel
P.O. Box 14229
Tallahassee, FL 32317-4229
(850) 487-9632
(850) 414-1989 FAX

JET/tc

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by United States Mail on this 26 day of AUGUST, 1999, to Andrew J. Cracker, 120 Maple Dr., Chapel Hill, NC 27514.



John E. Terrel, Senior Attorney

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,)
)
 PETITIONER,)
)
 v.) CASE NO. 97-10119
)
 ANDREW J. E. CRACKER, 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 Andrew J. E. Cracker, 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 455, Florida Statutes, and Chapter 458, Florida Statutes. Pursuant to the provisions of Section 20.43(3), Florida Statutes, the Petitioner has contracted with the Agency for Health Care Administration to provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.

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 0067263. Respondent's last known address is 700 Zeagler Drive, Suite 10, Palatka, Florida 32177.

3. On or about February 14, 1995, Patient C. F. went to the Emergency Department of Colombia Putman Medical Center in Palatka, Florida, presenting with complaints of abdominal pain and vaginal bleeding.

4. On or about February 15, 1995, Patient C. F. was admitted to the hospital and diagnosed as having a ruptured left tubal pregnancy.

5. On or about February 15, 1995, the Respondent performed a laparoscopy and laparotomy, with removal of the left tubal pregnancy and a right laparoscopic salpingectomy.

6. During the course of the procedure, Patient C. F. began to bleed profusely from the left oviduct and the Respondent made the decision to proceed with laparotomy.

7. The Respondent waived the procedure of counting the sponges to expedite the time of the surgery, as there was excessive hemorrhage.

8. Pursuant to the hospital's protocol, when a sponge count is waived, a radiograph was obtained of the abdomen near the conclusion of the surgery.

9. Respondent interpreted the radiograph as showing no retained foreign objects.

10. Post-operatively, Patient C. F. showed signs of intra-abdominal complications and on or about February 18, 1995, another radiograph was ordered because of suspected bowel obstruction.

11. The radiograph, taken on or about February 18, 1995, showed two (2) retained laparotomy sponges in the right upper quadrant of the abdomen.

12. Patient C. F. was returned to surgery and the sponges were removed without complications.

13. Patient C. F. was discharged from the hospital on February 24, 1995.

14. The Respondent did not meet the applicable standard of care in the treatment of Patient C. F. The Respondent failed to interpret the initial radiograph properly, thus causing the patient to have to undergo additional surgery.


15. Based on the foregoing allegations, the Respondent is in violation of Section 458.331(1)(t), Florida Statutes, by failing to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of the Respondent's license, restriction of the Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, the assessment of costs related to the investigation and prosecution of this case, other than costs associated with an attorney's time, as provided for in Section 455.624(3), Florida Statutes, and/or any other relief that the Board deems appropriate.

SIGNED this 19 day of April, 1999.

Robert G. Brooks, M.D., Secretary

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Stephanie Q. Dixon
DATE 4/20/99


Larry G. McPherson, Jr.
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Larry G. McPherson, Jr.

Chief Medical Attorney

Agency for Health Care Administration

P. O. Box 14229

Tallahassee, Florida 32317-4229

Florida Bar # 788643

RPC/wfw

PCP: April 17, 1999

PCP Members: Skinner, Leon, Rodriguez