

**FILED**

Department of Professional Regulation  
AGENCY CLERK



CLERK \_\_\_\_\_

**DEPARTMENT OF PROFESSIONAL REGULATION  
BOARD OF MEDICINE**

DATE 6-11-92

**DEPARTMENT OF PROFESSIONAL  
REGULATION,**

**Petitioner,**

**v.**

**DPR CASE NUMBER: 91-03837  
LICENSE NUMBER: ME 0029723**

**LORD A. LEE-BENNER, M.D.,**

**Respondent.**

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**FINAL ORDER**


THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on June 5, 1992, in Tampa, Florida, for consideration of a Consent Agreement (attached hereto as Exhibit A) entered into between the parties in the above-styled case. Upon consideration of the Consent Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise 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 by reference herein. Accordingly, the parties shall adhere to and abide by all of the terms and conditions of the Consent Agreement.

This Final Order takes effect upon filing with the Clerk of the Department.

DONE AND ORDERED this 5<sup>th</sup> day June, 1992.

BOARD OF MEDICINE

  
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ZACHARIAH P. ZACHARIAH, M.D.  
CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by certified U.S. Mail to Richard T. Jones, Esq., Jones, Carter, Singer & Cervone, P.A., P. O. Box 1526, Gainesville, Florida 32602, Lord A. Lee-Benner, M.D., 360 San Miguel Drive, Suite 208, Newport Beach, California, 92660-7815, and by interoffice delivery to Larry G. McPherson, Jr., Chief Medical Attorney, Department of Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, at or before 5:00 P.M., this 11<sup>th</sup> day of June, 1992.

  
\_\_\_\_\_  
DOROTHY J. FAIRCLOTH  
Executive Director

**STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION  
BOARD OF MEDICINE**

**DEPARTMENT OF PROFESSIONAL  
REGULATION,**

**Petitioner,**  
**vs.**

**DPR CASE NO. 9103837**

**LORD A. LEE-BENNER, M.D.,**

**Respondent.**

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**CONSENT AGREEMENT**

LORD A. LEE-BENNER, M.D., referred to as the "Respondent", and the Department of Professional Regulation, 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.

**STIPULATED FACTS**

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 0029723.
2. Respondent was charged by an Administrative Complaint filed by the Department and properly served upon Respondent with violations of Chapter 458, Florida Statutes, and the rules enacted 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.

4. Respondent submitted documentation consisting of receipts, vouchers, certificates and other papers in an effort to demonstrate his compliance with the continuing education requirements for the 1988-89 licensing biennium. Respondent remained deficient in three (3) hours of Category I HIV/AIDS CME.

5. The Department is satisfied that the additional documentation, taken after the biennium, is generally acceptable as "make-up" compliance and in this case indicates satisfaction of the CME requirements for 1988-89.

#### **STIPULATED CONCLUSIONS OF LAW**

1. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 455 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts set forth in the Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.

#### **STIPULATED DISPOSITION**

1. **FUTURE CONDUCT.** Respondent shall not in the future violate Chapter 455, 458 and 893, Florida Statutes, or the rules promulgated pursuant thereto.

2. **FINE.** The Board shall impose an administrative fine in the amount of \$500.00 against the Respondent. The fine shall be paid by the Respondent to the Executive Director of the Board within thirty (30) days of its imposition by Final Order of the Board.

3. Upon the Board's acceptance of this Agreement, the Department dismisses Count Two of the Administrative Complaint.

#### **STANDARD PROVISIONS**

4. Respondent shall pay all costs necessary to comply with the terms of the Final Order issued based on this Agreement. Such costs include, but are not limited to, the cost of preparation of investigative reports detailing compliance with the terms of his Agreement. See Section 458.331(2), Florida Statutes.

5. 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 of the Stipulated Facts, Stipulated Conclusions of Law and Stipulated Disposition) shall have no force and effect unless a Final Order is entered incorporating the terms of this Agreement, by the Board.

6. Should this Agreement be rejected, no statement made in furtherance of this Agreement by the Respondent may be used as direct evidence against the Respondent in any proceeding. However, such statements may be used by the Petitioner for impeachment only.

7. Respondent and the Department fully understand that this joint Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against the Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit "A" herein.

8. 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 joint Agreement of Facts,

Conclusions of Law and imposition of discipline, and the Final Order of the Board incorporating said Agreement.

9. Upon the Board's adoption of this Agreement the parties hereby agree that each party will bear his own attorney's fees and costs resulting from prosecution and/or defense of this proceeding. Respondent waives the right to seek any attorney's fees or costs from the Department in connection with this disciplinary proceeding.

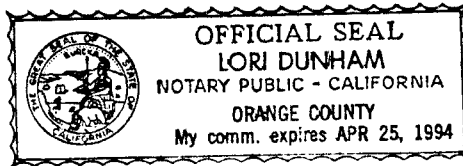
10. This Agreement is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent, as well as any factual statements provided by Respondent or Respondent's counsel, prior to or in conjunction with consideration of the Agreement. Furthermore, should this joint 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.

SIGNED this 27 day of March, 1992.

*Lord A. Lee-Benner, M.D.*  
LORD A. LEE-BENNER, M.D.

Sworn to and Subscribed  
before me this 27<sup>th</sup> day  
of March, 1992.

*Lori Dunham*  
NOTARY PUBLIC



My Commission Expires: April 25, 1994

APPROVED this 8 day of April, 1992.

George Stuart  
Secretary

*Larry G. McPherson, Jr.*

By: Larry G. McPherson, Jr.  
Chief Medical Attorney  
Medical Section

STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION  
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL  
REGULATION,

Petitioner,

v.

Case No. 91-03837

LORD LEE-BENNER, M.D.

Respondent.

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ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Department of Professional Regulation, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine Against Lord Lee-Benner, M.D., hereinafter referred to as "Respondent," and alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.30, Florida Statutes; Chapter 455, 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 0029723. Respondent's last known address is 360 San Miguel Drive #208, Newport Beach, California 92660-7815.

3. Pursuant to Section 455.213(5), Florida Statutes, as a condition of renewal of a license, the Board of Medical Examiners (Board of Medicine) shall require licensees which it regulates to



periodically demonstrate their professional competency by completing at least forty (40) hours of continuing education every two (2) years, of which at least five (5) hours shall concern risk management. Criteria for, and content of, continuing education courses shall be approved by the Board.

4. Pursuant to Rule 21M-28.002, Florida Administrative Code, every physician licensed pursuant to Chapter 458, Florida Statutes, shall be required to complete forty (40) hours of continuing medical education (CME) approved by the Board in the twenty-four (24) months preceding each biennial renewal period as established by the Department. At least five (5) of such CME hours required for renewal shall concern risk management.

5. Pursuant to Section 21M-28.002(2)(a), Florida Administrative Code, risk management means the identification, investigation, analysis, and evaluation of risks and the selection of the most advantageous method of correcting, reducing, or eliminating, identifiable risks.

6. Pursuant to Section 21m-28.002(3), Florida Administrative Code, part of the application for renewal shall include a form on which the licensee shall state that he has completed the required continuing education. Additionally, the licensee must retain such receipts, vouchers, certificates, or other papers, such as physician recognition awards issued by the AMA, as may be necessary to document completion of the CME listed on the renewal form for a period of not less than four (4) years from the date the course was taken. The Board will randomly audit

such numbers of licensees as is necessary to assure that the continuing education requirements are met.

7. Pursuant to Rule 21M-28.002(5), Florida Administrative Code, the following courses have been approved by the Board of Medicine for continuing education:

a. Organized courses approved for American Medical Association Category I CME credits or accepted for the American Medical Association physician recognition award.

b. Any postgraduate training program accredited by the Accreditation Council for Graduate Medical Education.

c. The following specialty training: American College of Emergency Physicians, Category I; American Academy of Family Physicians prescribed credit; and American College of Obstetricians and Gynecologists cognates.

8. Pursuant to Section 455.2226(2), Florida Statutes, the Board shall require each person licensed or certified under Chapter 458 to complete a Board approved educational course on human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS).

9. Section 455.2226(7), Florida Statutes, gives the Board the authority to adopt rules to carry out the provisions of Section 455.2226(2), Florida Statutes.

10. Pursuant to Rule 21M-28.005, Florida Administrative Code, promulgated by the Board, all Category I, American Medical Association continuing medical education courses which are at least three (3) hours and which include the topics of HIV/AIDS: the

disease at its spectrum of clinical manifestation; epidemiology, treatment, counseling and prevention; legal issues related to the disease, shall satisfy the requirements of Section 455.2226(2), Florida Statutes.

11. On or about November 9, 1989, Respondent signed the following statement which was thereafter submitted as part of the request to renew his license to practice medicine:

I hereby certify that during the period January 1, 1988, through December, 31, 1989, I have obtained no fewer than forty (40) hours of continuing education courses which meets the requirement of Chapter 455.213(5), Florida Statutes, and Rule 21M-28.002(CME)(6), Florida Administrative Code. I further certify that at least five (5) of the forty (40) hours concern risk management pursuant to Rule 21M-28.002(2), Florida Administrative Code. I understand that I must maintain such receipts, vouchers, certificates, or other papers to document completion of the CME requirement for a period of not less than four (4) years from the date the course was taken.

I hereby certify that during the period January 1, 1988, through December 31, 1989, I have completed a maximum of three (3) hours Category I, American Medical Association continuing medical education, which consists of education on the clinical manifestations, epidemiology, transmission, control, treatment and prevention of HIV and AIDS, with emphasis on appropriate behavior and an attitude change and legal issues related to the disease, pursuant to Section 455.2226, Florida Statutes, and Rule 21M-28.005, Florida Administrative Code. I understand that I must maintain such receipts, vouchers, certificates or other papers to document completion of this requirement for a period of not less than four (4) years from the date the course was completed.

I affirm that these statements are true and correct and recognize that providing false information may result in a fine, suspension or revocation of my license as provided in Florida Statutes 455.2275, 775.082, or 775.084.

12. The aforementioned statement was required as part of the renewal process for the licensing period from January 1, 1990 through December 31, 1991. Without this statement, Respondent could not have renewed his license to practice medicine in Florida.

13. Thereafter, Respondent successfully renewed his license to practice medicine in Florida. That renewal was based, in part, on the aforementioned statement regarding completion of CME.

14. Thereafter, Respondent was selected randomly for audit purposes to verify his CME for the period covered in his statement (January 1, 1988 through December 31, 1989). by letter dated December 28, 1990, from the Executive Director for the Board of Medicine, Respondent was asked to provide such documentation.

15. On or about May 9, 1991, Respondent admitted in a letter that he was deficient in HIV/AIDS CME credits. Respondent also stated he wished to voluntarily relinquish his license to practice medicine in the State of Florida.

16. On or about May 17, 1991, Respondent submitted documentation verifying most of his CME credits for 1988-1989. Respondent's documentation lacked three (3) hours CME credits in HIV/AIDS.

17. Respondent failed to maintain such receipts, vouchers, certificates, or other papers to document completion of the CME requirements for the relevant time period, and thereby failed to submit the required documentation for the Board's random audit.

18. On or about August 13, 1991, Respondent was sent a Voluntary Relinquishment of License form via certified mail. No response has been received from Respondent as of October 15, 1991.

COUNT ONE

19. Petitioner realleges and incorporates paragraphs one (1) through sixteen (16), as if fully set forth herein this Count One.

20. Respondent violated a rule of the Board, in that Respondent failed to maintain and submit documentation verifying risk management credits of his CME for the period from January 1, 1988, through December 31, 1989, in response to the Board's random audit, and thereby failed to comply with Rule 21M-28.002, Florida Administrative Code.

21. Based on the preceding allegations, Respondent violated Section 458.331(1)(x), Florida Statutes, by violating any provision of this chapter, a rule of the Board of Department, or a lawful order of the Board or Department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the Department.

COUNT TWO

22. Petitioner realleges and incorporates paragraphs one (1) through sixteen (16), and eighteen (18) as if fully set forth herein this Count Two.

23. Respondent renewed his license by fraudulent misrepresentation, in that Respondent falsely certified that he

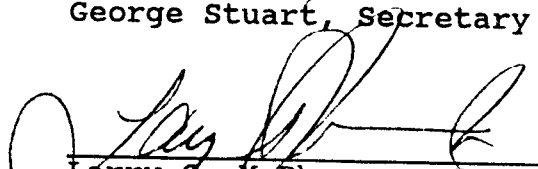
completed the CME requirements for the period from January 1, 1988 through December 31, 1989.

24. Based on the preceding allegations, Respondent violated Section 458.331(1)(a), Florida Statutes, attempting to obtain, obtaining, or renewing a license to practice medicine by bribery, by fraudulent misrepresentations, or through an error of the Department or the Board.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine enter an Order imposing one or more of the following penalties: 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, and/or any other relief that the Board deems appropriate.

SIGNED this 24 day of February, 1992.

George Stuart, Secretary

  
Larry G. McPherson, Jr.  
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Larry G. McPherson, Jr.  
Chief Medical Attorney  
Department of Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida 32399-0750  
Florida Bar #788643  
CJR/hrb/pc  
PCP: February 17, 1992  
McEwen and Kaiser

**FILED**

Department of Professional Regulation  
AGENCY CLERK



CLERK \_\_\_\_\_

DATE 2-25-92

## MEMORANDUM

**TO:** Compliance Tracking File

**FROM:** Compliance Management Unit

**DATE:** Friday, July 28, 2006

**SUBJECT:** Closing Document

Due to the history and age of this file, it is apparent that it should have been closed; however, no closing order or notice of completion was entered into this file during the normal course of business. In the absence of this documentation, this memorandum will serve as the official closing document and terminates compliance tracking activities for the attached Final Order.