

LICENSE NUMBER

70542

PROFESSION CODE

1501

FILE NUMBER

61417

Final Order # DL-2339-S

Date FO Filed 12/14/00

DEPARTMENT OF HEALTH, BOARD OF MEDICINE

FINAL ORDER FACT SHEET

1. Respondent's/Petitioner's/Applicant's Name: YVES LOUIS HOMSY, M.D.
2. License Number: ME0070542
3. Profession Type: Physician
4. Type of Order: X Discipline _____ Licensure _____ Declaratory Statement
5. DOH Case Number: 2005-67170
6. File Number: 61417
7. Statutory reference for Violations/Reasons for Denial: 456.072(1)(aa), F.S.
8. Violation Codes: 100
9. Penalties Imposed: \$5,000 fine; \$1,633.80 costs; 50 hours community service; 5 hours CME in risk management; 1 hour lecture on wrong-site surgery; letter of concern.
10. Closure code: 4060
11. Exhibits to be Attached to Final Order:
 - a. Administrative Complaint X
 - b. Settlement Agreement/Stipulation X
 - c. Recommended Order _____Exceptions: Petitioner's _____ Respondent's _____
 - d. Motions (Specify) _____
 - e. Other (Specify) _____
12. Special Handling Instructions _____
12. Fact Sheet Prepared By: Nancy Murphy
13. Codes Added to Fact Sheet By: Alan Han
14. Exhibits Attached to Final Order By: Alan Han

STATE OF FLORIDA
BOARD OF MEDICINE

Final Order No. DOH-06-2339-S -MOA
FILED DATE - 12/14/06
Department of Health
By: Alina Stoffo
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2005-67170

LICENSE NO.: ME0070542

YVES LOUIS HOMSY, 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 December 1, 2006, in Orlando, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement 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 Settlement Agreement as submitted be and is hereby approved and adopted in toto and incorporated herein by reference with the following clarification:

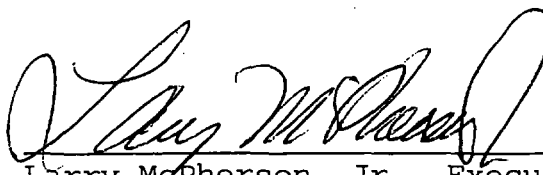
The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$1,633.80.

Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Settlement 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 13 day of December, 2006.

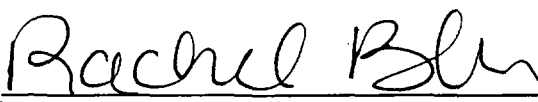
BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
for MAMMEN P. ZACHARIAH, 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 YVES L. HOMSY, M.D., Children's Urology Group, 2727 W. Dr. M.L. King, Suite 200, 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 14th day of December, 2006.


Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No.2005-67170

YVES L. HOMSY, M.D.

Respondent.

SETTLEMENT AGREEMENT

Yves L. Homsy, M.D., referred to as the "Respondent," and the 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 licensed physician in the State of Florida having been issued license number ME 70542
2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent with violations of



Chapter 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.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed physician, 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 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. **Letter Of Concern** - Respondent shall receive a Letter of Concern from the Board of Medicine.

2. **Fine** - The Board of Medicine shall impose an administrative fine of \$5,000.00 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) from the date of filing 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 SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF THE DATE OF 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 the 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 is currently one thousand three hundred eighty-two dollars and ninety cents (\$1,688.80), but shall not exceed two thousand one hundred eighty-eight dollars and eighty cents (\$ 2,188.80). 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 date of filing 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 SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF THE DATE OF 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. Community Service - Respondent shall perform 50 hours of community service, within one year of the date of 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.

5. Continuing Medical Education - Within one year of the date of the filing of a Final Order in this cause, Respondent shall attend five (5) hours of Continuing Medical Education (CME) in risk management. Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said continuing medical education course(s). 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 course within one (1) year of the date of filing of the Final Order in this matter. All such documentation shall be sent to the Board of Medicine, regardless of whether some or any of such documentation was provided previously during the course of any audit or discussion with counsel for the Department. These hours shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board, said continuing medical education course(s) shall consist of a formal, live lecture format.

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 Wrong Site Surgeries. 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 date of 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 the 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.

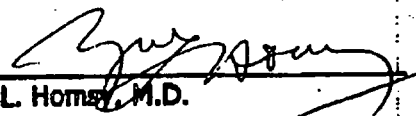
14. Waiver of attorney's fees and costs - Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of costs noted above, the parties will bear their own attorney's fees and costs resulting from



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.

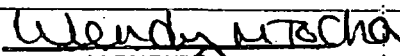
15. Waiver of further procedural steps - Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

SIGNED this 23rd day of October, 2006.

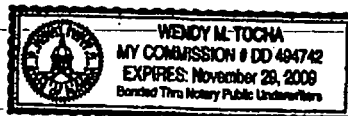

Yves L. Homsy, M.D.

Before me, personally appeared Yves L. Homsy M.D., whose identity is known to me by FL Driver's license (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 23 day of October, 2006.


NOTARY PUBLIC

My Commission Expires: 11/29/09



APPROVED this 25 day of October, 2006.

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

 for

By: Katherine B. Hayward
Assistant General Counsel
Department of Health

EDL:pdh

MAY 15 2006

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2005-67170

YVES LOUIS HOMSY, M.D.,

RESPONDENT.

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, Yves Louis Homsy, 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 0070542.

3. Respondent's address of record is Children's Urology Group, 2727 West Martin Luther King Boulevard, Suite 200, Tampa, Florida 33607.

4. On or about June 16, 2005, Patient D.G., a male child who was less than a month old, was admitted to St. Joseph's Hospital in Tampa, Florida, in order to undergo surgery to correct a severe left ureteropelvic junction obstruction.

5. On or about June 16, 2005, Respondent performed a left pyeloplasty (surgical reconstruction of the kidney pelvis to correct an obstruction) on Patient D.G.

6. During the surgery, Respondent attempted to place a left double-J internal ureteral stent ("ureteral stent") into the ureter for post-operative drainage of the kidney.

7. Respondent was unable to place the stent in Patient D.G.'s ureter due to the child's small size and had to place an externally draining stent, known as a Kidney Internal Stenting System ("KISS") catheter into the upper ureter instead. A Penrose drain was also placed around the kidney.

8. On or about June 20, 2005, the KISS catheter was removed and, approximately one week later, Respondent removed the Penrose drain.

9. On or about August 29, 2005, Patient D.G. again presented to Respondent, at which time, Patient D.G.'s parents, believing that Respondent had been able to successfully place the ureteral stent in their child during the pyeloplasty, asked Respondent when he was going to remove the stent. (Respondent typically removed this type of stent approximately six (6) weeks after surgery.)

10. Respondent, also mistakenly believing that he had been successful in placing the ureteral stent in Patient D.G. during the pyeloplasty operation, scheduled Patient D.G. for removal of the stent via a cytoplasty.

11. On or about September 1, 2005, under general anesthesia, Respondent inserted a cystoscope into Patient D.G.'s bladder and subsequently found that he had not left a ureteral stent in Patient D.G. during the previous operation.

12. As a result, Respondent's performance of the cystoscopy on Patient D.G. on or about September 1, 2005, was medically unnecessary.

13. Respondent admitted that he had not remembered that he had been unsuccessful in placing the ureteral stent in the previous operation until he had been in the process of performing the cystoscopy.

14. Section 456.072(1)(aa), Florida Statutes (2005), provides that performing or attempting to perform health care services on the ~~wrong patient, a wrong-site procedure, a wrong procedure, or an~~ unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition ~~constitutes grounds for discipline by the Board of Medicine.~~

15. Respondent performed a procedure that was medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition when he performed a cystoscopy in order to ~~remove a ureteral stent he believed to be in Patient D.G. on or about~~ ~~September 1, 2005.~~

16. Based on the foregoing, Respondent has violated Section 456.072(1)(aa), Florida Statutes (2005), by performing a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that was medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition.

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 12th day of May, 2006.

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

Katharine B. Heyward
Katharine B. Heyward

Assistant General Counsel

DOH Prosecution Services Unit

4052 Bald Cypress Way, Bin C-65

Tallahassee, FL 32399-3265

Florida Bar # 0104817

(850) 245-4640

(850) 245-4681 FAX

FILED

DEPARTMENT OF HEALTH

DEPUTY CLERK

CLERK Theresa McKinnon

DATE 5-15-06

PCP: May 12, 2006

PCP Members: Ashkar, M.D., Arila, M.D., + Beebe

DOH v. YVES LOUIS HOMSY, M.D.

DOH CASE NO. 2005-67170

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 to any other discipline imposed.