

STATE OF FLORIDA
BOARD OF MEDICINE

PETITION FOR DECLARATORY
STATEMENT OF

MICHAEL DOMINIC MOZZETTI, M.D.
_____ /

FINAL ORDER ON PETITION FOR DECLARATORY STATEMENT

This matter came before the Board of Medicine (hereinafter the "Board") on October 12, 2012, in Deerfield Beach, Florida, for consideration of the above-referenced Petition for Declaratory Statement (attached hereto as exhibit A). The Notice of Petition for Declaratory Statement was published on September 7, 2012, in Vol. 38, No. 36, of the Florida Administrative Weekly.

The petition, filed by Michael Dominic Mozzetti, M.D., sets forth the following inquiry: Do "live" AMA Category 1 CME credits as set forth in Rule 64B8-9.0131(7) include continuing medical education courses that are broadcasted contemporaneously via teleconference, internet webinar, or through other remote delivery mediums that are scheduled by an accredited CME provider at a specific time?

FINDINGS OF FACT

1. Petitioner is a Florida licensed physician.
2. Petitioner appears to be practicing in a pain management clinic registered pursuant to Section 458.3265, Florida Statutes.

CONCLUSIONS OF LAW

3. The Board of Medicine has authority to issue this Final Order pursuant to Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.

4. The Petition filed in this cause is in substantial compliance with the provisions of 120.565, Florida Statutes, and Rule 28-105.002, Florida Administrative Code.

5. For purposes of determining standing in this matter, the individual Petitioner, an allopathic physician licensed pursuant to Chapter 458, Florida Statutes, is a substantially affected person because in order to continue to practice in a pain management clinic he must document completion of 15 hours of "live lecture format, Category I CME in pain management" for every year he is practicing in the clinic as required by Rule 64B8-9.0131(7), Florida Administrative Code.

6. Rule 64B8-9.0131(7), Florida Administrative Code, reads as follows:

Upon completion of the 40 hours of CME set forth above, physicians qualifying under (6) above, must also document the completion of 15 hours of live lecture format, Category I CME in pain management for every year the physician is practicing pain management.

7. The Petitioner cites to the 2010 revision of the *American Medical Association's Physician's Recognition Award and continuing education medical education credit system* for guidance as to an answer to his inquiry. Under the AMA system, in order to qualify as an AMA PRA Category Credit CME the course must meet the following definition and requirements:

Live activities

A live activity is a certified CME activity that occurs at a specific time as scheduled by the accredited CME provider. Participation may be in person or remotely as is the case of teleconferences or live Internet webinars. These may be offered through a variety of delivery mechanisms; examples include, but are not limited to, national, regional or local conferences, workshops, seminars, regularly scheduled conferences, journal clubs, simulation workshops, structured learning activities presented during a committee meeting and live Internet webinars.

To be certified for *AMA PRA Category 1 Credit*[™], a live activity must:

- Meet all core requirements for certifying an activity.
Designating, claiming and awarding credit for participation in a live activity
- Credit designation for each live activity is determined by measuring formal interaction time between faculty and the physician audience; 60 minutes of physician participation in a certified live activity equals one (1) *AMA PRA Category 1 Credit*[™]; credit is designated in 15 minute or 0.25 credit increments; accredited CME providers must round to the nearest quarter hour.
- Physicians should claim credit based on their participation time in 15 minute or 0.25 credit increments; physicians must round to the nearest quarter hour.
- The time for simultaneous certified sessions within a live activity can only be counted once toward the designated maximum.
- Only segments of the live activity that comply with the AMA core requirements may be certified for *AMA PRA Category 1 Credit*[™]. These certified segments must be clearly identified in the activity materials and included in the designated maximum amount of credit.

8. The Board of Medicine is of the opinion that if the Petitioner's CME courses in pain management meet the definitions and requirements of the *AMA's Physician's Recognition Award and continuing education medical education credit system* as set forth above, they meet the "live lecture format" requirement set forth in Rule 64B8-9.0131(7), Florida Administrative Code.

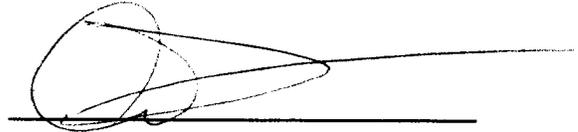
9. The Board's response to this Petition addresses solely the question propounded by the Petitioner and only addresses issues regarding the practice of medicine. The Board's conclusion is based solely on the Board's application of the factual circumstances outlined in the Petition to the pertinent statutory and rule

provisions set forth above.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 6th day of December, 2012.

BOARD OF MEDICINE

A handwritten signature in black ink, appearing to read 'Allison M. Dudley', is written over a horizontal line. The signature is somewhat stylized and extends to the right.

Allison M. Dudley, J.D.
Executive Director
For Jason J. Rosenberg, M.D., Chair

NOTICE OF APPEAL RIGHTS

Pursuant to Section 120.569, Florida Statutes, Respondents are hereby notified that they may appeal this Final Order by filing one copy of a notice of appeal with the Clerk of the Department of Health and the filing fee and one copy of a notice of appeal with the District Court of Appeal within 30 days of the date this Final Order is filed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail to: Michael Dominic Mozzetti, M.D., 3161 Harbor Boulevard, Suite A, Port Charlotte, Florida 33952; and by email to Edward A. Tellechea, Chief Assistant Attorney General, ed.tellechea@myfloridalegal.com; and Jennifer Tschetter, General Counsel, Department of Health, Jennifer_Tschetter@doh.state.fl.us, on this 16th day of December, DEC. 2012.



Deputy Agency Clerk

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Orlando Saucedo*

DATE: 8.20.12

August 18, 2012

From: Michael Dominic Mozzetti, M.D., FAPM, FACEP
3161 Harbor Blvd
Suite A
Port Charlotte, FL 33952
Ph: 941 629-1218 Fx: 941 625-9465

Via email,

"Petition for Declaratory Statement Before the Department of Health State of Florida Medical Board".

6488-9.0131 Training Requirements for Physicians Practicing in Pain Management Clinics

Rulemaking Authority 458.3265 (4) (b) FS. Law Implemented 458.3265 (4) (b) FS. History-New 5-17-11, Amended 5-28-12.

Petitioners Request: That the definition of "live" AMA Category 1 CME credit is expanded to include the 2010 AMA definition of approved Category 1 credit.

Rule 6488-9.0131 (7)

"Upon completion of the 40 hours of CME set forth above, physicians qualifying under (6) above must also document the completion of **15 hours of live lecture format**, Category 1 CME in pain management for every year the physician is practicing pain management "

Discussion: The Physician's Recognition Award and credit system completed a revision in 2010 to the core requirements for certifying educational activities for *AMA PRA Category 1 credit*. Seven learning formats and format-specific requirements for certifying activities for *AMA PRA Category 1 credit* were detailed.

The "Live" credit was outlined as follows:

A live activity is a certified CME activity that occurs at a specific time as scheduled by the accredited CME provider. Participation may be in person or remotely as is the case of teleconferences or live internet webinars. These may be offered through a variety of delivery mechanisms; examples include, but are not limited to, national, regional or local conferences, workshops, seminars, regularly scheduled conferences, journal clubs, simulation workshops, structured learning activities presented during a committee meeting and live internet webinars.

The webinar technology is set up where a CME monitor can see who is participating and leaving the classroom in a real time setting.

Thank you for your consideration and attention to this request.

Respectfully,


Michael D. Mozzetti, MD, FAPM, FACEP