

1 **Final agency action regarding decision below:**

2
3 **REQHRG Date hearing requested**

4
5 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

6
7 IN THE MATTER OF :

No. 06A-04553-MDX

8 W. Neil Chloupek, M.D.,

ORDER

9
10 Holder of License No. 04553
11 For the Practice of Medicine
12 In the State of Arizona
13
14

15
16 On October 5, 2006, Respondent filed an application for an award of attorney
17 fees and costs with the Office of Administrative Hearings, pursuant to A.R.S. § 41-1007.

18 On October 11, 2006, the Arizona Medical Board considered the Administrative
19 Law Judge Decision in this matter. The Arizona Medical Board modified the
20 Administrative Law Judge Decision and rejected the Recommended Order for dismissal.
21 Instead, the Board voted to revoke Respondent's license. Pursuant to A.R.S. § 41-
22 1092.08(C), the Board's Order dated October 16, 2006 is the final administrative
23 decision in this matter.

24 A.R.S. § 41-1007(C) provides that a party may apply for an award of attorney
25 fees and costs within thirty days after the "final decision or order." Respondent's
26 application, therefore, was premature.

27 As a result of the Arizona Medical Board's final administrative decision,
28 Respondent is not the prevailing party in this matter. Therefore, IT IS ORDERED that
29 Respondent's application be denied.
30

Done this day: November 13, 2006.

Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007
(602) 542-9826

Brian Brendan Tully
Administrative Law Judge

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

Copy mailed this ____ day of _____, 2006 to:

Timothy C. Miller, J.D.
Arizona Medical Board
ATTN: Legal Coordinator
9545 East Doubletree Ranch Road
Scottsdale, AZ 85258

Paul J. Giancola, Esq.
Snell & Wilmer, L.L.P.
One Arizona Center
400 East Van Buren
Phoenix, AZ 85004-0001

Dean E. Brekke, Esq.
Assistant Attorney General
Office of the Attorney General
1275 West Washington, CIV/LES
Phoenix, AZ 85007

By _____