

8-15-01

(2)

Final Order No. DOH-01-1982-~~FOF~~-MQA
FILED DATE - 11/15/01
Department of Health

STATE OF FLORIDA
BOARD OF DENTISTRY

By: Ueki R. Keenan
Deputy Agency Clerk

DIVISION OF
ADMINISTRATIVE
HEARINGS

DEPARTMENT OF HEALTH, BOARD
OF DENTISTRY,

Petitioner,

vs.

DOAH CASE NO.: 99-4690

AHCA CASE NO.: 98-3745

AT

DOUGLAS J. PHILLIPS, Jr. D.D.S.

Respondent.

CA-CWS

FINAL ORDER

THIS MATTER was heard by the Board of Dentistry pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on September 28, 2001, in Tallahassee, Florida, for consideration of the Recommended Order entered by Claude B. Arrington, Administrative Law Judge, dated August 15, 2001 (a copy of which is attached as Exhibit A). Petitioner was represented by Rosana Catalano, Senior Attorney. Respondent was present and represented by James Tuthill, Esquire. Upon consideration of the Administrative Law Judge's Recommended Order, after review of the entire record and having been otherwise fully advised in its premises, the Board makes the following findings and conclusions.

RULINGS ON EXCEPTIONS FILED BY RESPONDENT

1. Respondent filed exceptions to the Administrative Law Judge's Findings of Fact and Conclusions of Law. A copy of said exceptions is attached as Exhibit B, and by reference incorporated herein. Respondent's exceptions total 45 pages, they are not separately numbered, and do not specify which paragraphs in the Recommended Order Respondent takes exception to. Respondent's exceptions fail to demonstrate that any specific finding of fact was not supported by competent substantial evidence, nor that the proceedings upon which the findings of fact were based departed from the essential requirements of law. The exceptions

instead go to matters such as the credibility of witnesses and the weight of the evidence. For all the reasons advanced by Petitioner in its Response to Respondent's Exceptions to Recommended Order (a copy of which is attached as Exhibit C and by reference incorporated herein), Respondent's exceptions are DENIED.

RULINGS ON EXCEPTIONS FILED BY PETITIONER

2. Petitioner filed "Petitioner's Exceptions to Recommended Penalty, or in the alternative Petitioner's Motion to Increase Recommended Penalty." A copy of said Exceptions/Motion is attached as Exhibit D, and by reference incorporated herein. The Board concurs that revocation is within the range of penalties provided by the Board's disciplinary guidelines for two out of the three violations for which Respondent was found guilty. The Board further finds the existence of aggravating factors as elaborated in Petitioner's Exceptions/Motion. For all of the reasons and citations to the record advanced by Petitioner in the Exceptions/Motion, the Board grants the exception to the recommended penalty, and grants the motion to increase recommended penalty.

FINDINGS OF FACT

3. The Administrative Law Judge's Findings of Fact are approved and adopted and are incorporated herein by reference.

4. There is competent, substantial evidence to support the Board's findings.

CONCLUSIONS OF LAW

5. The Board has jurisdiction of the parties and subject matter of this case pursuant to Sections 120.569 and 120.57, Florida Statutes, and Chapter 466, Florida Statutes.

6. The Administrative Law Judge's Conclusions of Law are approved and adopted and are incorporated herein by reference.

7. The Board REJECTS the Administrative Law Judge's recommendation.

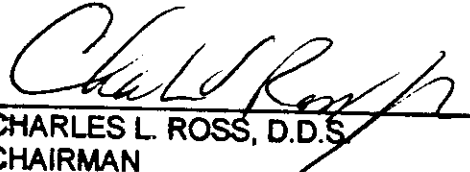
WHEREFORE, it is ORDERED AND ADJUDGED that the Respondent's license to practice be and the same is hereby REVOKED. Administrative Costs are assessed at \$151,181.24.

This Final Order becomes effective upon its filing with the Clerk for the Department of Health.

The parties 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 by filing a filing fee and one copy of a Notice of Appeal with the District Court of Appeal within thirty (30) days of the date this Final Order is filed.

DONE AND ORDERED this 2nd day of November, 2001.

BOARD OF DENTISTRY


CHARLES L. ROSS, D.D.S.
CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been forwarded by United States Mail to Douglas J. Phillips, Jr., D.D.S., 4512 North Flagler Drive, #301, West Palm Beach, FL 33407-3802, to James Tuthill, Esq., Raymond Plaza, Suite 407, 2161 Palm Beach Lakes Blvd, West Palm Beach, FL 33409, to Lisa Pease, Senior Attorney-Appeals, Agency for Health Care Administration, P.O. Box 14229, Tallahassee, FL 32317-4229 by interoffice mail to Claude Arrington, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060, and by hand delivery/interoffice mail to Department of Health and its counsel, this 15 day of November, 2001.

