

1-10-01

Final Order No. DOH-01-0433-<sup>FOF</sup>-MOA  
FILED DATE - 3/30/01  
Department of Health

By: Vicki R. Kenon  
Deputy Agency Clerk

AT

STATE OF FLORIDA  
BOARD OF RESPIRATORY CARE

Division of Administrative Hearings  
**FILED**  
Date 7/6/04

DEPARTMENT OF HEALTH

Petitioner,  
vs.  
OSCAR DIAZ,  
Respondent.

DOAH CASE NO. 00-1246

SML-1105

FINAL ORDER

THIS CAUSE came before the Board of Respiratory Care (Board) pursuant to section 120.569 and section 120.57(1), Florida Statutes, on March 8, 2001, by telephone conference call for the purpose of considering the Administrative Law Judge's Recommended Order (attached hereto as Exhibit A). Agency for Health Care Administration attorney Larry McPherson represented Petitioner and the Respondent was not present.

Upon review and consideration of the Recommended Order and the available record in this case, the Board arrives at the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The findings of fact set forth in the Recommended Order are approved, adopted, and incorporated herein by reference.

2. The findings of fact are supported by competent, substantial evidence in the record.

**CONCLUSIONS OF LAW**

3. The Board has jurisdiction of this matter pursuant to sections 120.569 and 120.57(1), and Part V of chapter 468, Florida Statutes.

4. The conclusions of law set forth in the Recommended Order are consistent with the findings and are approved, adopted, and incorporated herein by reference.

**RECOMMENDATION**

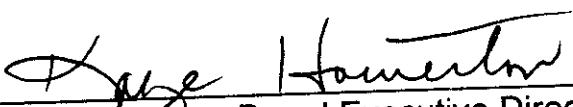
5. The Administrative Law Judge's Recommendation is hereby approved and adopted.

**WHEREFORE,**

**IT IS HEREBY ORDERED AND ADJUDGED** that Respondent's license to practice in the field of respiratory care is REVOKED. Within 30 days of the filing of this order, Respondent shall pay a fine in the amount of \$500.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

**DONE AND ORDERED** this 13 day of March, 2001.

  
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Kaye Howerton, Board Executive Director for  
the BOARD OF RESPIRATORY CARE

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

A party who is adversely affected by this final order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a notice of appeal with the agency clerk of the Department of Health and a second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Appellate District where the party resides. The notice of appeal must be filed within 30 days of rendition of the order to be reviewed.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by U.S. Mail to Oscar Diaz, 372 East 36<sup>th</sup> Street, Hialeah, Florida, 33013; and by interoffice mail to Stuart M. Lerner, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, Tallahassee, Florida, 32399, senior attorney Larry McPherson, Agency for Health Care Administration, General Counsel's Office - MQA, Allied Health, Tallahassee, Florida 32317, Simone Marstiller, AHCA Appeals, 2727 Mahan Drive, Fort Knox #3, Tallahassee, Florida, 32317, and to Donna Erlich, Assistant General Counsel, Department of Health, Tallahassee, Florida, by 5:00 p.m. this \_\_\_\_\_ day of \_\_\_\_\_, 2001.