

PC

By: Sherrisa McConn
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF CHIROPRACTIC MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2003-11744

License No.: CH 5839

SCOTT DRIZEN, D.C.,

Respondent.

FINAL ORDER

This matter appeared before the Board of Chiropractic Medicine at a duly-noticed public meeting on April 28, 2006, in Ft. Lauderdale, for consideration of the Administrative Law Judge's Recommended Order in the above-styled cause. Petitioner was represented by Ephraim Livingston. Respondent was present and represented by Louis Kwall, Esq.

Upon review of the Recommended Order, the argument of the parties, and after a review of the complete record in this case, the Board makes the following findings and conclusions.

RULING ON EXCEPTIONS

Upon review of the Respondent's Exceptions to the Recommended Order and the complete record in this case, the argument of the parties, and being duly advised on the premises, the Board REJECTS Respondent's Exceptions.

Petitioner's Exceptions to the Recommended Order were withdrawn other than that as stated below.

FINDINGS OF FACT

1. The findings of fact set forth in the Recommended Order are approved and

adopted and incorporated herein by reference.

2. There is competent substantial evidence to support the findings of fact.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 460, Florida Statutes.

2. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein by reference, with the following exception.

3. The Board grants Respondent's exception to Paragraph 59, pertaining to an interpretation of Section 460.412, Florida Statutes, changing the last word in the last sentence from "relationship" to "activity." Paragraph 59 is to read as follows:

59. Although the Petitioner's expert opined without further elaboration that taking the photographs without the patient's consent constituted sexual misconduct, the greater weight of the evidence fails to establish that the Respondent attempted to induce the patient into sexual activity by the taking of the photographs. Further the petitioner's assertion that the photographs of the patient were taken while the patient objected and was under duress would appear to contradict an alleged attempt to induce or engage a patient into a sexual activity.

4. The Board finds this interpretation is as or is more reasonable than that of the Administrative Law Judge's interpretation of Section 460.412, Florida Statutes.

DISPOSITION

Upon a complete review of the record in this case, the Board determines that the penalty recommended by the Administrative Law Judge be REJECTED. The Board rejects the penalty recommended by the Administrative Law Judge for the following reason:

The Board found that the findings of fact in Paragraph 56 of the Recommended Order

and adopted herein, along with the testimony in the transcript, pgs. 25 - 77, substantiate the need that the Respondent undergo an evaluation with Professional Resource Network (PRN).

WHEREBY IT IS ORDERED AND ADJUDGED,

1. Respondent shall pay an administrative fine in the amount of \$2,500.00 to the Board within 30 days from the date this Final Order is filed. Payment shall be made to the Board of Chiropractic Medicine and mailed to, DOH-Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Chiropractic Compliance Officer.

2. Respondent shall undergo a PRN evaluation and comply with PRN recommendations. Respondent shall contact PRN to begin the evaluation process within 30 days of the filing of this Final Order.

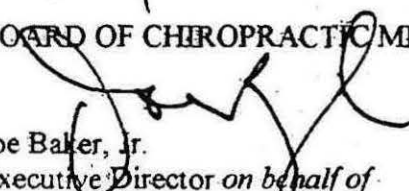
This Order shall take effect upon being filed with the Clerk of the Department of Health.

RULING ON MOTION TO ASSESS COSTS

The Board reviewed the Petitioner's Motion to Assess Costs and imposes the costs associated with this case in the amount of \$6,655.37 to be paid within one (1) year from the date of entry of this Order. Payment shall be made to the Board of Chiropractic Medicine and mailed to, DOH-Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Chiropractic Compliance Officer.

DONE AND ORDERED this 25th day of May, 2006.

BOARD OF CHIROPRACTIC MEDICINE


Joe Baker, Jr.
Executive Director on behalf of
Salvatore LaRusso, D.C., CHAIR

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Certified Mail to **Scott Drizin, D.C.**, 801 East Bay Drive, Suite 428, Largo, Florida 33770; **Louis Kwall, Esq.**, 133 North Ft. Harrison, Clearwater, Florida 33755; by interoffice mail to **Michael T. Flury**, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; **Ephraim Livingston**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265 this 26th day of May, 2006.



Deputy Agency Clerk