

STATE OF FLORIDA  
BOARD OF MEDICINE

FILED DATE **DEC 18 2014**  
Department of Health

By: *[Signature]*  
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2013-02931  
DOAH CASE NO.: 14-1283PL  
LICENSE NO.: ME0054513

ROBERTO E. RIVERA, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on December 5, 2014, in St. Petersburg, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order, Exceptions to the Recommended Order and Response to Exceptions to the Recommended Order (copies of which are attached hereto as Exhibits A, B, and C, respectively) in the above-styled cause. Petitioner was represented by Daniel Hernandez, Assistant General Counsel. Respondent was not present and was not represented by counsel.

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.

**FILED**  
2014 DEC 19 PM 12:30  
DIVISION OF  
ADMINISTRATIVE HEARINGS

### RULING ON EXCEPTIONS

The Board reviewed and considered the Respondent's Exceptions to the Recommended Order and ruled as follows:

1. Respondent's exception 1 is denied based upon the oral and written responses of the Petitioner and because the Board does not have substantive jurisdiction over constitutional challenges.

2. Respondent's exception 2 is denied based upon the oral and written responses of the Petitioner.

### 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 458, Florida Statutes.

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

### RULING ON EXCEPTION TO PENALTY

The Board considered the Respondent's exception to the penalty and the Petitioner's response and denies the exception and rules as follows: Respondent's exception is rejected for the reasons set forth by the Petitioner and the Board determined that the recommended penalty set forth by the administrative law judge is appropriate. However, based upon the fact that Respondent's license in Florida will remain suspended until his license in New Jersey is unencumbered, the Board determined that reservation of jurisdiction is appropriate because Respondent may require a period of supervision upon reinstatement of his license to practice medicine.

### PENALTY

Upon a complete review of the record in this case, the Board determines that the penalty recommended by the Administrative Law Judge be ACCEPTED. WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

1. Respondent shall pay an administrative fine in the amount of \$1,500.00 to the Board within 90 days from the date of reinstatement of his license to practice medicine in the State of Florida. Said fine shall be paid by money order or cashier's check.

2. The Respondent's license to practice medicine in the State of Florida is SUSPENDED until such time as he demonstrates that his license to practice medicine in the State of New Jersey is unencumbered and free from any restrictions or conditions. Additionally, the Board reserves jurisdiction in this matter to impose additional terms and conditions of practice at the time Respondent's license to practice medicine in the State of Florida is reinstated.

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 \$5,260.45. Said costs are to be paid within 90 days from the date Respondent's license to practice medicine in the State of Florida is reinstated.

(NOTE: SEE RULE 64B8-8.0011, FLORIDA ADMINISTRATIVE CODE. UNLESS OTHERWISE SPECIFIED BY FINAL ORDER, THE RULE SETS FORTH THE REQUIREMENTS FOR PERFORMANCE OF ALL PENALTIES CONTAINED IN THIS FINAL ORDER.)

DONE AND ORDERED this 16 day of December,

2014.

BOARD OF MEDICINE



Chandra Prine, Interim Executive Director  
For Nabil El-Sanadi, M.D., Chair

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 THIRTY (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 provided by **Certified Mail** to ROBERTO E. RIVERA, M.D., 82 La Salle Drive, Yonkers, New York 10710; and c/o Bergen County Jail, Inmate #E-12, 160 South Rivera Street, Hackensack, New Jersey 07601; to Lisa Shearer Nelson, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by interoffice delivery to Daniel Hernandez, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 18<sup>th</sup> day of December, 2014.

Yonkers, NY

7013 1090 0001 0261 7611

Bergen County Jail

7013 1090 0001 0261 7628

Angel Sanders

**Deputy Agency Clerk**

**Mission:**

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



**Rick Scott**  
Governor

**John H. Armstrong, MD, FACS**  
State Surgeon General & Secretary

**Vision:** To be the Healthiest State in the Nation

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**MEMORANDUM**

**Date:** October 14, 2014

**To:** Lucy C. Gee, M.S., Division Director  
Division of Medical Quality Assurance

**From:** Allison M. Dudley, J.D. Bureau Chief  
Bureau of Health Care Practitioner Regulation

**Subject:** Delegation of Authority

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Effective October 14, 2014, Chandra Prine, Program Operations Administrator will have delegated authority as the Acting Executive Director of the Board of Medicine until further notice.

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**Florida Department of Health**

Division of Medical Quality Assurance • Bureau of Health Care Practitioner Regulation  
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