

FILED DATE **SEP 14 2018**

Department of Health

By *[Signature]*  
Deputy Agency Clerk

**STATE OF FLORIDA  
THE FLORIDA BOARD OF DENTISTRY**

DEPARTMENT OF HEALTH,  
PETITIONER,

VS.

MATTHEW R. MOYE, D.D.S.,  
RESPONDENT.

CASE NO.: 2010-21018  
DOAH CASE NO.: 18-0659PL  
LICENSE NO.: DN 16032

**FINAL ORDER  
AFTER HEARING  
INVOLVING DISPUTED ISSUES OF MATERIAL FACT**

This cause came before the FLORIDA BOARD OF DENTISTRY (hereinafter Board), pursuant to Chapters 456; 466; and sections 120.569 and 120.57(1), *Florida Statutes*, at a duly noticed public meeting held on August 24, 2018, in Tampa, Florida. The purpose of the cause was for consideration of the Honorable E. Gary Early's (hereinafter Administrative Law Judge or ALJ) Recommended Order issued on June 14, 2018 (attached hereto as Exhibit "A").

**APPEARANCES**

For Petitioner:

Octavio Simoes-Ponce, Esquire  
John A. Wilson, Esquire  
Department of Health  
Prosecution Services Unit  
4052 Bald Cypress Way, Bin C-65  
Tallahassee, Florida 32399-3265

For Respondent:

Edwin A. Bayò, Esquire  
Paul Drake, Esquire  
Grossman, Furlow, & Bayò, LLC  
2022-2 Raymond Diehl Road  
Tallahassee, Florida 32308

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DIVISION OF  
ADMINISTRATIVE HEARINGS

Upon review of the Recommended Order (hereinafter RO), the Exceptions, the Respondent's and Petitioner's Motions and hearing oral arguments from the parties, and after a review of the complete record in this case, the Board makes the following rulings, findings, and conclusions:

#### I. RULINGS ON EXCEPTIONS

1. Respondent's Exception 1 – RO Paragraph 38: **DENIED.**

The Board adopts and incorporates the Department's written Response to the Exceptions as the basis for denial and based on the Board's discussion during the presentation of the exception.

2. Respondent's Exception 2 – RO Paragraph 40: **DENIED.**

The Board adopts and incorporates the Department's written Response to the Exceptions as the basis for denial and based on the Board's discussion during the presentation of the exception.

3. Petitioner's Exceptions 1-9: **WITHDRAWN.**

During the hearing, Petitioner withdrew all filed exceptions.

#### II. FINDINGS OF FACT

1. There is competent, substantial evidence to support the RO Findings of Fact.
2. Accordingly, the RO Findings of Facts are hereby approved, adopted and incorporated herein by reference as the Findings of Fact of the Board.

#### III. CONCLUSIONS OF LAW

1. The Board has personal jurisdiction, subject matter jurisdiction, and final order authority, in this cause pursuant to sections 120.569; 120.57(1); and Chapters 456 and 466, *Florida Statutes*.
2. The Board does not find a more reasonable interpretation of the law, than that which was found by the Administrative Law Judge.

3. Accordingly, the Conclusions of Law as set forth in the RO are approved, adopted, and incorporated herein by reference as the Conclusions of Law of the Board.

#### IV. VIOLATIONS

1. Based on the foregoing adopted Findings of Fact and Conclusions of Law, the Administrative Law Judge's recommendation is **ACCEPTED**.

2. Accordingly, Respondent is found in **VIOLATION** of section 466.028(1)(c), *Florida Statutes* and Respondent is found in **VIOLATION** of section 466.028 (mm), *Florida Statutes*, through a violation of section 456.072(1)(c), *Florida Statutes*.

#### V. DISCIPLINE

The Board finds that the violations warrant discipline and accepts the recommendations of the ALJ as follows and hereby **ORDERS** and **ADJUDGES**, that

1. The Respondent is hereby placed on 1-year probation. The probation shall not commence until the Respondent is released from incarceration and until the Respondent appears before the Board at one of the Board's regularly scheduled Board meetings. The Respondent shall have 6 months from release of incarceration to appear before the Board or Respondent is in violation of this Final Order. The Board hereby reserves jurisdiction until the Respondent appears before the Board to impose additional conditions of probation consistent with and pursuant to rule 64B5-13.005(3)(d)2., F.A.C. for the purposes of ensuring that the Respondent can competently and safely practice dentistry.
2. The Respondent's license is hereby restricted. The Respondent is hereby restricted from practicing dentistry until Respondent is released from incarceration and appears before the Board as mandated by this Final Order.

3. The Respondent shall have an evaluation from Professional Resource Network and comply with any terms and conditions of the evaluation to include entering a monitoring contact if one is deemed necessary. The evaluation shall be completed prior to the Respondent appearing before the Board as mandated by this Final Order.
4. The Respondent shall pay an Administrative Fine in the amount of \$10,000.00 within 18 months from the date that the Respondent's probation commences.
5. The Respondent shall take and successfully complete a course in Ethics consisting of 3 semester hours. The Ethics course shall be taken at or through any accredited college or university. The course shall be completed within 12 months from the date the Respondent's probation commences.
6. The Respondent shall complete 100 hours of nondental community service. The community service shall be provided through an organization serving the indigent. The community service shall be completed within 12 months from the date Respondent's probation commences.

#### VI. MOTION TO ASSESS COSTS

Petitioner filed a written Motion to Assess Costs in accordance with section 456.072 (4), *Florida Statutes*. Respondent did not file objections to the Motion. Petitioner's Motion was supported by sworn affidavits: a sworn affidavit from the lead prosecutor in this cause attesting to the incurred costs and reasonableness and a sworn affidavit from an outside attorney attesting to the reasonableness and necessity of the legal time incurred in the prosecution of this cause.

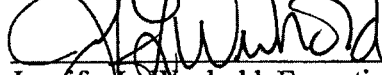
After consideration of the submitted affidavits, and consideration of all other relevant material submitted, the Board granted the Motion for Costs.

WHEREFORE, it is hereby **ORDERED** and **ADJUDGED**, that the Respondent is hereby assessed costs of investigation and prosecution in the amount of **\$12,683.84**. All costs shall be paid within 18 months from the date the Respondent's probation commences.

**DONE AND ORDERED** this 13th day of **SEPTEMBER**, 2018.

**THIS FINAL ORDER SHALL BECOME EFFECTIVE UPON BEING FILED WITH THE AGENCY CLERK FOR THE DEPARTMENT OF HEALTH**

BOARD OF DENTISTRY



Jennifer L. Wenhold, Executive Director

*on behalf of*

T.J. Tejera, D.M.D., M.D.,

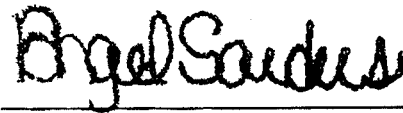
Chair of the Board of Dentistry

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

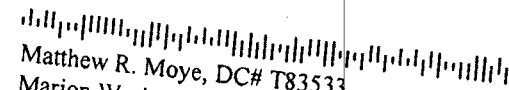
A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, *FLORIDA STATUTES*. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK 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 has been furnished by Certified Mail to **Matthew R. Moye, D.D.S.**, Marion Work Camp, Post Office Box 158, Lowell, Florida 32663-0158; and by Electronic Mail to **Edwin A. Bayò, Esquire**, [e.bayo@gfblawfirm.com](mailto:e.bayo@gfblawfirm.com) ; **Octavio Simoes-Ponce**, Assistant General Counsel, Florida Department of Health, [octavio.simo-es-ponce@flhealth.gov](mailto:octavio.simo-es-ponce@flhealth.gov) ; and to **David D. Flynn**, Assistant Attorney General, [david.flynn@myfloridalegal.com](mailto:david.flynn@myfloridalegal.com) this 14<sup>th</sup> day of SEPTEMBER, 2018.



DEPUTY AGENCY CLERK

  
Matthew R. Moye, DC# T83533  
Marion Work Camp  
P.O. Box 158  
Lowell, FL 32663-0158

**Certified Article Number**  
9414 7266 9904 2104 1132 85  
**SENDER'S RECORD**