

STATE OF FLORIDA
BOARD OF CHIROPRACTIC MEDICINE

Final Order No. DOH-19-0841-~~FD~~ - MQA

FILED DATE MAY 20 2019
Department of Health

By: [Signature]
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOAH CASE NO. 18-5636
DOH CASE NO. 2015-18518

ENRIQUE RODRIGUEZ, D.C.,

Respondent.
_____ /

FINAL ORDER

THIS MATTER came before the Board of Chiropractic Medicine (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on April 26, 2019 in Orlando, 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). Petitioner was represented by Kimberly Marshall, Assistant General Counsel. Respondent was 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.

RULING ON EXCEPTIONS

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

Petitioner's Exception

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1. The Board reviewed Petitioner's exception to Paragraph 41 of the Recommended Order. Petitioner takes exception to the third and fourth sentences in that paragraph:

"Respondent also believed that Patient D.H. invited his misconduct. Although not a defense, this provides slight mitigation." With these sentences deleted, Paragraph 41 reads as follows:

41. There is only a single offense, there is no evidence of any other incident or prior discipline, and suspension or revocation of Respondent's professional license would have a very great effect upon his livelihood. Respondent has also taken some actions, including installation of cameras, to reduce the likelihood that there will be future offenses. On the other hand, this serious conduct by respondent was intentional, and he has demonstrated little or no remorse for his actions.

For the reasons set forth in Petitioner's Exception to the Recommended Order, the proposed revision is as or more reasonable than that of the Administrative Law Judge and is granted.

Respondent's Exceptions

2. The Board reviewed and considered the Respondent's exceptions to Paragraph 5 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence, and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

3. The Board reviewed and considered the Respondent's exceptions to Paragraph 7 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence, and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

4. The Board reviewed and considered the Respondent's exceptions to Paragraph 8 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

5. The Board reviewed and considered the Respondent's exceptions to Paragraph 9 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and based on the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

6. The Board reviewed and considered the Respondent's exceptions to Paragraph 10 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

7. The Board reviewed and considered the Respondent's exceptions to Paragraph 11 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

8. The Board reviewed and considered the Respondent's exceptions to Paragraph 17 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

9. The Board reviewed and considered the Respondent's exception to Paragraph 18 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

10. The Board reviewed and considered the Respondent's exceptions to Paragraph 20 of the Recommended Order and denied the exceptions because the findings set forth therein were

supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

11. The Board reviewed and considered the Respondent's exceptions to Paragraph 21 of the Recommended Order and denied the exceptions based on competent substantial evidence in the record and the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

12. The Board reviewed and considered the Respondent's exceptions to Paragraph 24 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons sets forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

13. The Board reviewed and considered the Respondent's exceptions to Paragraph 33 of the Recommended Order and denied the exceptions because the conclusions of the Administrative Law Judge are as or more reasonable than the exceptions for the reasons set forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

FINDINGS OF FACT

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

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

CONCLUSIONS OF LAW

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

17. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein by reference with the exception of Paragraph 41 which is amended as shown in paragraph 1 of this Final Order.

PENALTY

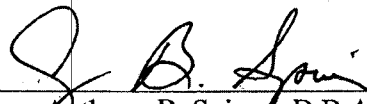
Upon a complete review of the record in this case, the Board determines that the penalty recommended by the Administrative Law Judge be ACCEPTED. WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

18. Respondent's license to practice chiropractic medicine in the State of Florida is hereby REVOKED.

19. Respondent shall pay costs of \$45,990.28.

DONE AND ORDERED this 20th day of May, 2019.

BOARD OF CHIROPRACTIC MEDICINE



Anthony B. Spivey, D.B.A., Executive Director
on behalf of Danita Heagy, D.C., Chair

NOTICE OF RIGHT TO JUDICIAL REVIEW

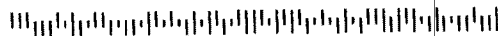
A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK 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 U.S. Mail** to Enrique T. Rodriguez, D.C. c/o Micheal D. Weinstein, Esq., 12 SE 7th Street, Suite 713, Ft. Lauderdale, FL 33301; **U.S. Mail** to Scott Boyd, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and **Email** to Kimberly Marshall, Assistant General Counsel, Department of Health, at Kimberly.Marshall@flhealth.gov on this 20th day of May, 2019.

Brygel Sanders

Deputy Agency Clerk



Enrique Rodriguez, D.C.
c/o Michael D. Weinstein, Esq.
12 SE 7th St.
Suite 713
Ft. Lauderdale, FL 33301

Certified Article Number

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SENDER'S RECORD