

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D20-2041

DEPARTMENT OF HEALTH, BOARD
OF MEDICINE,

Petitioner,

v.

JOSEPH DORN, M.D.,

Respondent.

Petition for Review of Non-Final Agency Action—Original
Jurisdiction.

May 19, 2021

PER CURIAM.

During its investigation of Dr. Joseph Dorn, the Department of Health, Board of Medicine, produced emails responsive to his discovery requests. But the Department redacted from the emails information about investigations of other physicians. Dr. Dorn argued that he had a right to receive the emails in unredacted form and moved to compel. The administrative law judge granted the motion.

The Department sought review of the administrative law judge's order by petition for writ of certiorari. We grant the petition and quash the order because the order departs from the essential

requirements of the law, causing injury that cannot be remedied on direct appeal. *See Citizens Prop. Ins. Corp. v. San Perdido Ass'n, Inc.*, 104 So. 3d 344 (Fla. 2012). Dr. Dorn had no right to production of the unredacted emails because the redacted information concerned complaints against or investigations of other physicians where “no probable cause has been found and no waiver of confidentiality exists.” *See Dep’t of Health v. Poss*, 45 So. 3d 510, 514 (Fla 1st DCA 2010); § 456.073(10), Fla. Stat. (2010) (providing that the complaint and information obtained during an investigation of a health care practitioner are confidential and exempt from public disclosure until ten days after a probable cause finding or until “the subject of the investigation waives his or her privilege of confidentiality”).

GRANTED.

ROWE, M.K. THOMAS, and NORDBY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Louise R. Wilhite-St. Laurent, General Counsel, and Sarah Young Hodges, Chief Appellate Counsel, Florida Department of Health, Tallahassee, for Petitioner.

Robert O. Beasley and Phillip A. Pugh of Litvak Beasley Wilson & Ball, Pensacola, for Respondent.