

FILED DATE - **FEB 23 2021**
Department of Health

By: *Stephanie Parnell*
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2014-12060
DOAH CASE NO.: 19-5173PL
LICENSE NO.: ME0062034

ANTHONY GLENN ROGERS, M.D.,

Respondent.

FILED
FEB 23 2021
11:12 AM
DOH
ADMINISTRATIVE HEARINGS

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on February 5, 2021, via a duly noticed video conference meeting, for the purpose of considering the Administrative Law Judge's Recommended Order, Respondent's Exceptions to the Recommended Order, and Petitioner's Response to Respondent's 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 Michael J. Williams, Assistant General Counsel. Respondent was represented by Sharon B. Urbanek, Esquire.

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 Respondent's Exceptions to the Recommended Order and ruled as follows:

1. The Board denied Respondent's exception a. for the reasons set forth in the Petitioner's written response to the Respondent's exceptions and as summarized on the record.

2. The Board denied Respondent's exception b. for the reasons set forth in the Petitioner's written response to the Respondent's exceptions and as summarized on the record.

3. The Board denied Respondent's exception c. for the reasons set forth in the Petitioner's written response to the Respondent's exceptions and as summarized on the record.

4. The Board denied Respondent's exception d. for the reasons set forth in the Petitioner's written response to the Respondent's exceptions and as summarized on the record.

5. The Board denied Respondent's exception e. for the reasons set forth in the Petitioner's written response to the Respondent's exceptions and as summarized on the record.

6. The Board denied Respondent's exception f. for the reasons set forth in the Petitioner's written response to the Respondent's exceptions and as summarized on the record.

7. The Board denied Respondent's exception g. for the reasons set forth in the Petitioner's written response to the Respondent's exceptions and as summarized on the record.

8. The Board denied Respondent's exception h. for the reasons set forth in the Petitioner's written response to the Respondent's exceptions and as summarized on the record.

9. The Board denied Respondent's exception i. for the reasons set forth in the Petitioner's written response to the Respondent's exceptions and as summarized on the record.

10. The Board denied Respondent's exception j. for the reasons set forth in the Petitioner's written response to the Respondent's exceptions and as summarized on the record.

11. The Board denied Respondent's exception k. for the reasons set forth in the Petitioner's written response to the Respondent's exceptions and as summarized on the record.

12. The Board denied Respondent's exception l. for the reasons set forth in the Petitioner's written response to the Respondent's exceptions and as summarized on the record.

13. The Board denied Respondent's exception m. for the reasons set forth in the Petitioner's written response to the Respondent's exceptions and as summarized on the record.

14. The Board denied Respondent's exception n. for the reasons set forth in the Petitioner's written response to the Respondent's exceptions and as summarized on the record.

15. The Board denied Respondent's exception o. for the reasons set forth in the Petitioner's written response to the Respondent's exceptions and as summarized on the record.

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.

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 \$20,000.00 to the Board within 30 days of the date of entry of the final order.

2. Respondent's license to practice medicine in the State of Florida is hereby **SUSPENDED** for a period of six (6) months commencing the date of entry of the final order.

3. Following the six (6) month suspension set forth above, Respondent shall be placed on probation for a period of two (2) years, subject to the following terms and conditions:

a. Respondent shall appear before the Board's Probation Committee at the first meeting after said probation commences, at the last meeting of the Probation Committee preceding termination of probation, semiannually, and at such other times requested by the Committee. Respondent shall be noticed by Board staff of the date, time and place of the Board's Probation Committee where Respondent's appearance is required. Failure of the Respondent to appear as requested or directed shall be considered a violation of the terms of probation and shall subject the Respondent to disciplinary action.

b. Respondent shall not practice except under the indirect supervision of a **BOARD-CERTIFIED** physician fully licensed under Chapter 458 to be approved by the Board's Probation Committee. Absent provision for and compliance with the terms regarding temporary approval of a monitoring physician set forth below, Respondent shall cease practice and not practice until the Probationer's Committee approves a monitoring physician. Respondent shall have the monitoring physician present at the

first probation appearance before the Probation Committee. Prior to approval of the monitoring physician by the committee, the Respondent shall provide to the monitoring physician a copy of the Administrative Complaint and Final Order filed in this case. A failure of the Respondent or the monitoring physician to appear at the scheduled probation meeting shall constitute a violation of the Board's Final Order. Prior to the approval of the monitoring physician by the Committee, Respondent shall submit to the committee a current curriculum vitae and description of the current practice of the proposed monitoring physician. Said materials shall be received in the Board office no later than fourteen days before the Respondent's first scheduled probation appearance. The attached definition of a monitoring physician is incorporated herein. The responsibilities of a monitoring physician shall include:

(1) Submit biannual reports, in affidavit form, which shall include:

- A. Brief statement of why physician is on probation.
- B. Description of probationer's practice.
- C. Brief statement of probationer's compliance with terms of probation.
- D. Brief description of probationer's relationship with monitoring physician.

E. Detail any problems which may have arisen with probationer.

(2) Be available for consultation with Respondent whenever necessary, at a frequency of at least once per month.

(3) Review 25 percent of Respondent's patient records of all patients selected on a random basis at least twice per year. Chart review conducted by Respondent's monitor shall include the review of informed consents, proper documentation and adequacy of intra-operative imaging. In order to comply with this responsibility of random review, the monitoring physician shall go to Respondent's office every 6 months. At that time, the monitoring physician shall be responsible for making the random selection of the records to be reviewed by the monitoring physician.

(4) Report to the Board any violations by the probationer of Chapter 456 and 458, Florida Statutes, and the rules promulgated pursuant thereto.

c. In view of the need for ongoing and continuous monitoring or supervision, Respondent shall also submit the curriculum vitae and name of an alternate supervising/monitoring physician who shall be approved by Probation Committee. Such physician shall be licensed pursuant to Chapter 458, Florida Statutes, and shall have the

same duties and responsibilities as specified for Respondent's monitoring/supervising physician during those periods of time which Respondent's monitoring/supervising physician is temporarily unable to provide supervision. Prior to practicing under the indirect supervision of the alternate monitoring physician or the direct supervision of the alternate supervising physician, Respondent shall so advise the Board in writing. Respondent shall further advise the Board in writing of the period of time during which Respondent shall practice under the supervision of the alternate monitoring/supervising physician. Respondent shall not practice unless Respondent is under the supervision of either the approved supervising/monitoring physician or the approved alternate.

d. CONTINUITY OF PRACTICE

(1) TOLLING PROVISIONS. In the event the Respondent leaves the State of Florida for a period of 30 days or more or otherwise does not or may not engage in the active practice of medicine in the State of Florida, then certain provisions of the requirements in the Final Order shall be tolled and shall remain in a tolled status until Respondent returns to the active practice of medicine in the State of Florida. Respondent shall notify the Compliance Officer 10 days prior to his/her return to practice in the State of

Florida. Unless otherwise set forth in the Final Order, the following requirements and only the following requirements shall be tolled until the Respondent returns to active practice:

(A) The time period of probation shall be tolled.

(B) The provisions regarding supervision whether direct or indirect by the monitor/supervisor and required reports from the monitor/supervisor shall be tolled.

(2) ACTIVE PRACTICE. In the event that Respondent leaves the active practice of medicine for a period of one year or more, the Respondent may be required to appear before the Board and demonstrate the ability to practice medicine with reasonable skill and safety to patients prior to resuming the practice of medicine in the State of Florida.

4. Respondent's license to practice medicine in the State of Florida is hereby **reprimanded**.

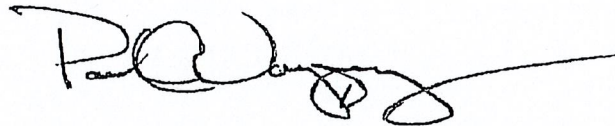
(NOTE: SEE RULE 64B8-8.0011, FLORIDA ADMINISTRATIVE CODE. UNLESS OTHERWISE SPECIFIED BY FINAL ORDER, THE RULE SETS FORTH THE REQUIREMENTS FOR PERFORMANCE OF ALL PENALTIES CONTAINED IN THIS FINAL ORDER.)

RULING ON MOTION TO BIFURCATE AND
RETAIN JURISDICTION TO ASSESS COSTS

The Board considered the Petitioner's ore tenus motion to bifurcate and retain jurisdiction to assess costs and voted to GRANT the Petitioner's Motion and retain jurisdiction to assess costs at a later date.

DONE AND ORDERED this 22nd day of February, 2021.

BOARD OF MEDICINE

A handwritten signature in black ink, appearing to read 'Paul A. Vazquez', written over a horizontal line.

Paul A. Vazquez, J.D., Executive Director
For Zachariah P. Zachariah, 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** and U.S. Mail to: Anthony Glenn Rogers, M.D., 907 N. Federal Highway, Boynton Beach, FL 33435 and 8235 S. US Highway 1, Suite 200, Port Saint Lucie, FL 34952; Sharon B. Urbanek, Esq., Forman Law Offices, P.A., 238 Northeast 1st Avenue, Delray Beach, FL 33444; Robert E. Meale, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; by email to: Chad Dunn, Assistant General Counsel, Department of Health, at Chad.Dunn@flhealth.gov; Edward A. Tellechea, Chief Assistant Attorney General, at Ed.Tellechea@myfloridalegal.com; on this 23rd day of February, 2021.

Stephanie Parnell
Deputy Agency Clerk

|||...
Anthony Glenn Rogers, M.D.
907 N. Federal Highway
Boynton Beach, FL 33435

Certified Article Number

9414 7266 9704 2157 7175 39

SENDER'S RECORD

|||...
Anthony Glenn Rogers, M.D.
8235 S. US Highway 1, Suite 200
Port Saint Lucie, FL 34952

Certified Article Number

9414 7266 9704 2157 7175 15

SENDER'S RECORD

|||...
Sharon B. Urbanek, Esq.
Forman Law Offices, P.A.
238 Northeast 1st Avenue
Delray Beach, FL 33444

Certified Article Number

9414 7266 9704 2157 7175 22

SENDER'S RECORD

|||...
Robert E. Meale, Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-3060

Certified Article Number

9414 7266 9704 2157 7175 08

SENDER'S RECORD