

STATE OF FLORIDA
BOARD OF CHIROPRACTIC MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOAH CASE NO. 20-0052PL
DOH CASE NO. 2017-20103
LICENSE NO. CH 12441

JEREMIAH LEE KENNEY-WRIGHT, 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, by Videoconference on September 4, 2020, 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 Rose Garrison, Assistant General Counsel. Respondent was present and was represented by counsel, Edwin Bayó, Esq.

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 Petitioner's Responses thereto, and ruled as follows:

1. The Board reviewed Respondent's Preliminary Exception, regarding the admissibility and consideration of the audio and transcript of the "controlled call" in the

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Recommended Order. Respondent takes exception to the admission and consideration of the content of the call. For the reasons set forth in Petitioner's Response to Respondent's Exceptions to the Recommended Order, the Preliminary Exception is REJECTED.

2. The Board reviewed and considered the Respondent's exceptions to Paragraph 14 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence, and for the reasons set 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 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 set 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 29 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons set 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 30 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons set 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 31 of the Recommended Order and denied the exceptions because the findings set forth therein were

supported by competent substantial evidence and for the reasons set 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 32 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons set 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 37 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons set forth in the Petitioner's Response to Respondent's Exceptions to the Recommended Order.

9. The Board reviewed and considered the Respondent's exceptions to Paragraph 38 of the Recommended Order and denied the exceptions because the findings set forth therein were supported by competent substantial evidence and for the reasons set 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 47 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.

11. The Board reviewed and considered the Respondent's exceptions to Paragraph 48 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.

12. The Board reviewed and considered the Respondent's exceptions to Paragraph 49 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.

13. The Board reviewed and considered the Respondent's exceptions to Paragraphs 48 and 49 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.

14. The Board reviewed and considered the Respondent's exceptions to Paragraph 50 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.

15. The Board reviewed and considered the Respondent's exceptions to the ALJ's recommended penalty. As discussed further below in Paragraph 21, upon complete review of the record, the Board finds there are additional mitigating factors, not considered by the ALJ, which warrant departure from the Recommended Penalty. Accordingly, Respondent's Exception is GRANTED IN LIMITED PART.

FINDINGS OF FACT

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

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

CONCLUSIONS OF LAW

18. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapters 456 and 460, Florida Statutes.

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

20. There is competent substantial evidence to support the Conclusions of Law and the finding that a violation of the practice act occurred for which discipline may be imposed against Respondent's Florida Chiropractic License.

PENALTY

21. Upon a complete review of the record in this case, the Board determines that the penalty recommended by the Administrative Law Judge be REJECTED. Specifically, the Board finds that the recommended penalty of Revocation would be inconsistent with the Board's previous rulings for the conduct charged; the Respondent's wife has recently had their third child which may reduce her earnings ability; the Respondent is young and the recommended penalty would create a significant reduction in his life-long ability to earn and contribute to his community, the health of his patients, and society in general. Accordingly, while discipline against Respondent's Florida Chiropractic License is necessary to protect the health, safety and welfare of Florida's citizens, Revocation of Respondent's Florida Chiropractic License is not the least restrictive measure to be taken.

RULING ON MOTION TO ASSESS COSTS

22. Proceedings regarding Petitioner's Motion to Assess Costs are **BIFURCATED**, and the Board will consider the Petitioner's Motion at the next available Board Meeting,

November 6, 2020. WHEREFORE, IT IS HEREBY

ORDERED AND ADJUDGED that:

23. Respondent's license to practice chiropractic medicine in the State of Florida is hereby **RESTRICTED FOR A PERIOD OF FIVE (5) YEARS** from the date of this Final Order. During the period of restriction, a female chaperone will be present at any time Respondent treats a female patient alone or in a private room/treatment setting. The chaperone shall be properly licensed or registered with the Florida Board of Chiropractic Medicine, and cannot be the Respondent's wife.

In addition, during the period of restriction, **MONITORING** shall be in place to verify that Respondent complies with the practice restriction. Monitoring visits shall be unannounced, and shall follow the Board's approved monitoring protocol on file with the Department of Health Compliance Monitoring Unit.

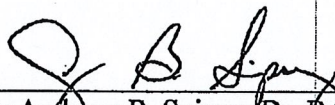
24. Respondent shall complete **ONE HUNDRED (100) HOURS OF COMMUNITY SERVICE** within five (5) years of the date of this Final Order.

25. Respondent shall **TAKE AND PASS THE NATIONAL BOARD ETHICS AND BOUNDARIES ASSESSMENT EXAM (NBCE EMBASS) WITHIN ONE (1) YEAR OF THE DATE OF THIS FINAL ORDER.** In addition, Respondent shall take **TWO (2) HOURS OF FLORIDA LAWS AND RULES; TWO (2) HOURS OF ETHICS; AND ONE (1) HOUR OF RISK MANAGEMENT BOARD APPROVED CONTINUING EDUCATION (CE)** courses within five (5) years of the date of this Final Order. Such hours shall be in addition to the hours required for biennial licensure renewal.

26. Respondent shall pay an **ADMINISTRATIVE FINE OF TWO THOUSAND DOLLARS (\$2,000.00)** (\$1,000 per count) within five (5) years of the date of this Final Order.

DONE AND ORDERED this 11 day of September, 2020.

BOARD OF CHIROPRACTIC MEDICINE



By Anthony B. Spivey, Dr. 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 Jeremiah Lee Kenney-Wright, D.C.** 4054 Silverstream Terrace, Sanford FL 32771 and **Jeremiah Kenney-Wright, D.C. c/o Edwin Bayó, Grossman Furlow and Bayo, 2022-2 Raymond Diehl Road, Tallahassee FL 32308; U.S. Mail to Brian A. Newman, Administrative Law Judge, Division of Administrative Hearings, The DeSoto**

Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and Email to Rose Garrison, Esq., Assistant General Counsel, Department of Health, at Rose.Garrison@myfloridahealth.com this 14th day of September, 2020.

Aimee Mauer

Jeremiah Lee Kenney-Wright, D.C.
4054 Silverstream Terrace
Sanford, FL 32771

Certified Article Number

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SENDER'S RECORD