

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF CHIROPRACTIC**

In the Matter of the	:	
Petition for Reinstatement of	:	
the License to Practice Chiropractic of	:	Case No. 20-43-000989
	:	
Daniel David Pompa, DC.,	:	
Petitioner	:	

**FINAL ORDER ADOPTING AND CORRECTING HEARING EXAMINER’S
PROPOSED ADJUDICATION AND ORDER**

AND NOW, this 13th day of October, 2020, the State Board of Chiropractic (Board), having reviewed the evidentiary record of this proceeding, together with the hearing examiner’s Proposed Adjudication and Order, and noting that neither party filed exceptions to the hearing examiner’s proposal, it is hereby **ORDERED** that the hearing examiner’s August 5, 2020, Proposed Adjudication, is adopted. The Proposed Adjudication and Order shall be corrected on page 5, Conclusion of Law number 3 to reflect that Petitioner’s petition is **GRANTED and his license shall be reinstated to unrestricted status.** Petitioner’s license shall be placed on Expired status until he satisfies the conditions set forth by the Chiropractic Practice Act at 63 P.S. § 625.501(b), the Board’s regulations at 49 Pa. Code § 5.17(m), and all other administrative licensing qualifications and requirements, including the payment of any applicable fees for reactivation of his license.

With this correction, the Board adopts the hearing examiner’s Proposed Adjudication and Order as the **FINAL ORDER** of the Board in this matter. A copy of the hearing examiner’s Proposed Adjudication and Order is appended to this Order as **Appendix A.**

This Order is effective immediately.

Prothonotary Filed On: Oct 13 2020 09:27 AM Department of State

**BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**



**K. KALONJI JOHNSON
COMMISSIONER**

Petitioner:

Prosecuting Attorney:

Board Counsel:

Date of Mailing:

**BY ORDER:
STATE BOARD OF CHIROPRACTIC**

/s/ Nicole L. VanOrder, Esquire on behalf of

**JOHN MCCARIN, DC
ACTING CHAIR**

Daniel D. Pompa, DC
8643 Trails Drive
Park City, Utah 84098

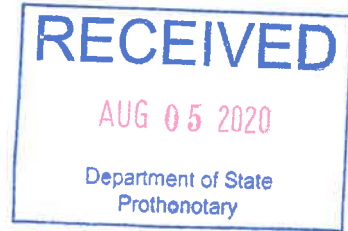
David N. Smith, Esquire

Nicole L. VanOrder, Esquire

October 13, 2020

APPENDIX A

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF CHIROPRACTIC**



In the Matter of Reinstatement of :
License to Practice Chiropractic of : **Case No. 20-43-000989**
Daniel David Pompa, DC, :
Petitioner :

PROPOSED ADJUDICATION AND ORDER

**Ember S. Jandebaur
Hearing Examiner**

**Commonwealth of Pennsylvania
Department of State
P.O. Box 2649
Harrisburg, PA 17105-2649
(717) 772-2686**

PROCEDURAL HISTORY

This matter involves a Petition for Reinstatement (“Petition”) of a license to practice chiropractic filed by Daniel David Pompa, D.C. (“Petitioner”) on January 13, 2020. By Final Order dated May 7, 2013, the Pennsylvania State Board of Chiropractic (“Board”) suspended Petitioner’s Pennsylvania license to practice chiropractic for five (5) years pursuant to the Chiropractic Practice Act¹ at 63 P.S. § 625.506(a)(11) for committing immoral or unprofessional conduct by means of an act involving moral turpitude, dishonesty or corruption. Upon Petitioner’s filing of the Petition, the Board delegated this matter to the Office of Hearing Examiners.

By Notice of Hearing dated May 26, 2020, this matter was scheduled for a telephonic hearing to occur on July 7, 2020. The hearing occurred, as scheduled, before Hearing Examiner Ember S. Jandebeur. Petitioner appeared *pro se* for the hearing and testified on his own behalf. David N. Smith, Esquire, represented the Commonwealth at the hearing. The Commonwealth presented no testimony and entered one exhibit, the Consent Agreement and Order, into the record. The parties declined to file post-hearing briefs at the conclusion of the hearing. The hearing record closed with the filing of the hearing transcript (“N.T.”) on July 20, 2020. This matter is now ready for disposition.

¹Act of December 16, 1986, P.L. 1646, No. 188, *as amended*, 63 P.S. § 625.101 *et. seq.*

FINDINGS OF FACT

1. Petitioner holds a license to practice chiropractic in the Commonwealth of Pennsylvania, License Number DC006390L. Official Notice-Board records.²
2. Petitioner holds an adjunctive procedure certificate at AJ006390L NT 6.
3. Petitioner's chiropractic license was originally issued on October 3, 1995, and expired September 1, 2014. Official Notice-Board records.
4. Petitioner's current address is 8643 Trails Drive, Park City, Utah. He has lived there for four years. NT 18.
5. Petitioner has lived in Utah since November 2012. NT 18.
6. By Consent Agreement and Order dated May 7, 2013, the Board suspended Petitioner's Pennsylvania license to practice chiropractic at Docket No. 2029-43-12; File No. 09-43-10749 upon finding that Petitioner violated the Chiropractic Practice Act at 63 P.S. § 625.506(a)(11) by and through 49 Pa. Code § 5.81(2)(ii) for committing immoral or unprofessional conduct by means of an act involving moral turpitude, dishonesty or corruption. C-Exh. 1.
7. The legal incident that resulted in the Consent Agreement and Order was a family battle between Petitioner and the grandmother of a pair of twins Petitioner accepted responsibility for. The controversy concerned usage of the twins' trust fund. NT 11.

²Official notice of such matters as might be judicially noticed by courts is permissible under the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 35.173, which provides, in pertinent part, as follows:

§ 35.173. Official notice of facts.

Official notice may be taken by the agency head or the presiding officer of such matters as might be judicially noticed by the courts of this Commonwealth, or any matters as to which the agency by reason of its functions is an expert. . . .

¹ Pa. Code § 35.173. See also, *Falasco v. Commonwealth of Pennsylvania, Board of Probation and Parole*, 521 A.2d 991, 994 n. 6. (Pa. Cmwlth. 1987).

8. The Board's May 7, 2013 Order permitted Petitioner to petition the Board for the reinstatement of his license to practice chiropractic upon an affirmative showing that he has complied with the Consent Agreement and Order and that his resumption of practice does not present a threat to the public health and safety. C-Exh. 1 at ¶ h.

9. Petitioner testified on his own behalf. NT 8-30.

10. Petitioner did not seek reinstatement sooner because he lives in Utah and was working with Systemic Formulas and there was no need to be in private practice. NT 9.

11. Petitioner has a corporate office in Pittsburgh. NT 10.

12. Petitioner's online supplement business is based in Pittsburgh. NT 15.

13. Petitioner has no imminent plans to move back to Pennsylvania. NT 10.

14. Petitioner has not practiced chiropractic since 2013. NT 12.

15. Petitioner completed a mix of twenty-four (24) hours of continuing medical education or CME approximately six (6) months ago. He completed no other CMEs. NT 12-13, 28, 29.

16. Petitioner's goal if he returns to Pennsylvania is to open a solo chiropractic practice. NT 13.

17. Petitioner got sick in 1990 and out of that illness developed supplement formulas with a biochemist in Utah. NT 16.

18. Systemic Formulas is a business interest of Petitioner's. NT 16.

19. Petitioner is "mostly" self-employed through Revelation Health as an independent contractor. NT 19.

20. Since May 2013 Petitioner's income has been from Revelation Health and Vertical Enrichment (a coaching company). NT 21.

21. Petitioner completed the chiropractic exams in 1995 or 1996. NT 26-27.
22. Petitioner has not done any training related to chiropractic since May 2013. NT 29.
23. Petitioner was served with all pleadings, notices and orders filed in this matter, and he participated in the July 7, 2020 administrative hearing. Official Notice-Board records, NT 8-30.

CONCLUSIONS OF LAW

1. The Board has jurisdiction in this matter. Findings of Fact, Nos. 1-3,
2. Petitioner had notice and opportunity to be heard in accordance with the Administrative Agency Law, 2 Pa. C.S. §504. (Finding of Fact, No. 23).
3. Petitioner has satisfied his burden of proof that his license to practice chiropractic should be reinstated to probationary status for period of no less than one (1) year upon satisfying the conditions set forth at 63 P.S. § 625.501(b) and 49 Pa. Code § 5.17(m). (Finding of Fact, Nos. 9-22).

DISCUSSION

This matter comes before the hearing examiners on a petition for reinstatement. Petitioner's chiropractic license was suspended for five (5) years beginning May 7, 2013 and theoretically ended May 7, 2018. Petitioner did not seek reinstatement until now because he lives in Utah and did not need to. He is interested in restoring his license now and petitioned for same on January 13, 2020. The reason for the 2013 suspension was Petitioner pled guilty to misappropriating the trust funds of two children. (OTSC at ¶ h). To reinstate his license, Petitioner has to affirmatively show that he complied with all terms of the Consent Agreement and Order and that resumption of unsupervised practice does not present a threat to the public health and safety. (OTSC at ¶ h).

Petitioner has not practiced chiropractic since his license was suspended. NT 22. His license expired September 1, 2014 and was not renewed. The Consent Agreement had fourteen (14) requirements of Petitioner. They are: (1) abide by all laws, (2) abide by the terms of his probation in his criminal conviction, (3) notify the Board of any criminal charges or legal actions, (4) notify the Board of any change in address at which Petitioner shall practice, (5) notify the Board of any personal change in address, (6) not falsify information to the Board, (7) failure to comply deemed a violation, (8) failure to comply grounds for additional discipline, (9) Consent Agreement considered discipline and is reportable, (10) deemed settled when Board issues final order, (11) Consent Agreement to be supplied to any employer, (12) employer to verify received Consent Agreement, (13) agrees to release of information and (14) address at which to send reports provided. There was no indication by any party at hearing that Petitioner failed to meet all fourteen (14) of the requirements. Therefore, I find that Petitioner met all of the requirements of the Consent Agreement as required for reinstatement.

The second issue is can Petitioner resume practice without jeopardizing public health and safety after being absent from the profession since 2013? The law requires that “any person who has failed to renew his license for a period longer than five years shall be required to apply for a license in accordance with subsection (a) if he desires to resume chiropractic.” 63 P.S. § 625.501 (b).

Subsection (a) states:

An applicant for a license under this act shall submit satisfactory proof to the board that the applicant meets the following:

- (1) Is 21 years of age or older
- (2) Is of good moral character
- (3) Has a high school diploma or its equivalent
- (4) Has completed two years of college or 60 credit hours
- (5) Has graduated from an approved college of chiropractic, with successful completion of not less than the minimum number of hours of classroom and laboratory instruction required by regulation of the board, which minimum shall be at least 4,000 hours
- (6) Has passed the examination required under this act
- (7) Has not been convicted of a felonious act prohibited by the act of April 14, 1972 known as the Controlled Substance, Drug, Device and Cosmetic Act or of an offense under the laws of another jurisdiction which if committed in this Commonwealth would be a felony under the Controlled Substance, Drug, Device and Cosmetic Act, unless applicant satisfies all of the following criteria...

63 P.S. § 625.501(a)(1-7)

According to the above statutory citations Petitioner is required to take the chiropractic exam in order to resume his practice. The exam is oral, practical and written. 63 P.S. § 625.502(b). In addition, section 507 requires that Petitioner complete 24 hours of continuing chiropractic education within the preceding two-year period. 63 P.S. § 625.507(a). Also, in addition, section

508 requires that Petitioner provide satisfactory evidence that he has obtained professional liability insurance in the minimum amount of \$100,000.00 per occurrence and \$300,000.00 per annual aggregate. 63 P.S. 625.508(a).

Based on the record, I conclude that once Petitioner meets the statutory requirements, his practice of chiropractic will not jeopardize the public health and safety. An appropriate order follows.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF CHIROPRACTIC**

In the Matter of Reinstatement of :
License to Practice Chiropractic of : **Case No. 20-43-000989**
Daniel David Pompa, DC, :
Petitioner :

PROPOSED ORDER

AND NOW, this 5th day of August 2020, upon consideration of the foregoing Findings of Fact, Conclusions of Law and Discussion, it is hereby **ORDERED** that the Petition to reinstate the license to practice chiropractic of **Daniel David Pompa, D.C.**, is hereby **ORDERED** that the Petition is **GRANTED** upon Petitioner satisfying the conditions set forth by the Chiropractic Practice Act at 63 P.S. § 625.501(b), the Board’s regulations at 49 Pa. Code § 5.17(m), and all other administrative licensing qualifications and requirements, including the payment any applicable fees.

The State Board of Chiropractic has announced its intention to review this Proposed Adjudication and Order in accordance with 1 Pa. Code § 35.226(a)(2).

BY ORDER:

/s/ Ember S. Jandebeur

Ember S. Jandebeur
Hearing Examiner

For the Commonwealth: David N. Smith, Esquire
Department of State
P.O. Box 69521
Harrisburg, PA 17106-9521

For Petitioner: Daniel D. Pompa, DC
8643 Trails Drive
Park City, Utah 84098

Date of Mailing: August 5, 2020



NOTICE

SERVICE OF PROPOSED REPORT:

The foregoing is the proposed report issued in this matter by a Hearing Examiner for the Department of State, in accordance with the General Rules of Administrative Practice and Procedure at 1 Pa. Code §35.207.

EXCEPTIONS TO PROPOSED REPORT:

Any participant who wishes to appeal all or part of the Hearing Examiner's proposed report to the Board must file exceptions in the form of a *Brief on Exceptions* with the Prothonotary of the Department of State within 30 days after the date of mailing shown on this proposed report in accordance with the General Rules of Administrative Practice and Procedure at 1 Pa. Code §§35.211-214.

The *Brief on Exceptions* shall contain a short statement of the case, a summary of the appealing party's position, the grounds for filing exceptions to the proposed report, and the argument in support of the appealing party's position with citations to the record and legal authority. The appealing party may also include proposed findings of fact and conclusions of law.

In the event any participant files exceptions, the Board may substitute its findings for those of the Hearing Examiner, and /or may impose a greater or lesser sanction than that imposed by the Hearing Examiner without regard to the relief requested or the position argued by any party, and without hearing additional argument or facing additional evidence.

Failure to file a *Brief on Exceptions* within the time allowed under the General Rules of Administrative Practice and Procedure at 1 Pa. Code §§35.211-214 shall constitute a waiver of all objections to the proposed report.

FILING AND SERVICES:

An original and three (3) copies of the *Brief on Exceptions* shall be filed with:

Prothonotary
2601 North Third Street
P. O. Box 2649
Harrisburg, PA 17105-2649

Copies of the *Brief on Exceptions* must also be served on all participants to the proceeding.

Briefs on Exceptions must be received for filing by the Prothonotary within the time limits specified herein. Date of receipt by the Office of Prothonotary and not date of deposit in the mail is determinative.