

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL
LICENSURE AND CERTIFICATION**

BOARD OF MEDICINE

**In Re: Dagoberto Rodriguez, MD
Med. License #19748**

Docket No.: 22-MED-002

FINAL DECISION—07/06/22

I. ATTENDEES:

Emily Baker, Board President
Nina Gardner, Board Member
Michael Barr, Board Member
Jonathan Eddinger, Board Member
Richard Kardell, Board Member
Jonathan Ballard, Board Member
David Goldberg, Board Member
Susan Finerty, Board Member
Linda Tatarczuch, Board Member
Nikolas Frye, Presiding Officer
Dagoberto Rodriguez, Licensee (via Zoom)
Alison Avila, Esq., Counsel for Licensee (via Zoom)
Christine Senko, Supervising Administrator
Jessica Kennedy, Board Administrator
Attorney Michael Haley, Board Counsel

II. CASE SUMMARY/PROCEDURAL HISTORY:

On or about 12/01/21, the Board of Medicine ("Board") voted unanimously by roll call to issue a Notice of Hearing to Dr. Dagoberto Rodriguez ("Licensee") for a show cause hearing. The purpose of the hearing was to learn why reciprocal action should not be taken in New Hampshire in relation to the disciplinary action taken by another state licensing board against Licensee. A final adjudicative hearing was held on 07/06/22. Pursuant to N.H. Code Admin. R. Med 207.01(b) ("Rules"), Nikolas Frye, Esq., (Hearings Examiner) was appointed as presiding officer. This final order follows.

III. SUMMARY OF THE EVIDENCE:

The Board received the following evidence pursuant to RSA 541-A:33 and Rule 206.09:

a. Exhibits were submitted by the Board, numbered as follows:

1. Physician Data Center Practitioner Profile for Licensee, dated 10/13/21
2. Oregon Medical Board Stipulated Order: In the Matter of Dagoberto Jesus Rodriguez, MD, Applicant, dated 10/07/21;
3. Email from Licensee to the Board, dated 10/27/21 (with enclosures)
4. MLO Printout for Applicant, dated 10/28/21;
5. Physician Data Center Practitioner Profile for Licensee, dated 03/04/22;
6. Illinois Department of Financial and Professional Regulation, Division of Professional Regulation Consent Order in Dept. v. Dagoberto J. Rodriguez, MED, Docket #2021-09130, dated 02/20/22;
7. Email from Licensee to the Board, dated 03/08/22 (with enclosures);
8. 04/15/22 Email from Licensee to the Board, dated 04/15/22 (with enclosures);
9. Physician Data Center Practitioner Profile for Licensee, dated 04/19/22;
10. North Dakota Board of Medical and Osteopathic Examiners Temporary Approval Order, In the Matter of Dagoberto Jesus Rodriguez, MD, Docket # 22-093, dated 04/13/22 (including Stipulation and Agreement with Reprimand, dated 04/08/22 and other Pleadings and Orders)
11. Physician Data Center Practitioner Profile for Licensee, dated 05/11/22
12. Email from Licensee to the Board, dated 06/06/22 (with enclosures)
13. Tennessee Board of Medical Examiners Consent Order in the Matter of Dagoberto Rodriguez, M.D., Complaint No. 2021027221, dated 05/24/22
14. Physician Data Center Practitioner Profile for Licensee, dated 06/06/22
15. Email from Licensee to the Board, dated 07/01/22 (with enclosures)
16. South Dakota Board of Medical and Osteopathic Examiners Final Order Stipulation & Agreement with Reprimand in the matter of Dagoberto Jesus Rodriguez, MD, dated 06/09/22

b. Licensee submitted no additional Exhibits.

c. Sworn testimony from Licensee and offer of proof from Counsel for Licensee

IV. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED:

After receiving and reviewing Exhibits 1 through 16, the Board conducted this adjudicative disciplinary hearing pursuant to RSA 329:17-c. At his request, Licensee and his counsel appeared via Zoom. Pursuant to RSA 329:17-c and Rule 410.01, the Board may issue any disciplinary sanction or take any action regarding the Licensee's misconduct otherwise permitted under RSA 329:17(VII), including sanctions or actions that are more stringent than those imposed by the foreign jurisdiction(s). Similarly, Licensee is afforded an opportunity to show, by a preponderance of the evidence, why a lesser sanction

than that administered by the foreign jurisdiction(s) should be imposed. *See* Rules 206.10(a) and 410.01(a). The Licensee, however, has no ability to collaterally attack the underlying finding of discipline by the foreign jurisdiction(s). *See* RSA 329:17-c.

The credible evidence presented at the hearing allows the Board to find the following facts. Licensee currently holds New Hampshire Physician's License #19748, which expires 06/30/23 and was active when the Licensee was first disciplined in the state Oregon. On 10/28/20, the State of Oregon Medical Board ("Oregon Board") issued a Stipulated Order involving the Licensee, in which it imposed discipline. Exh. 2. The underlying factual allegations, which the Licensee neither admitted nor denied, were that the Licensee prescribed to Oregon patients without an Oregon medical license. *Id.* Pursuant to the terms of the Stipulated Order, the Board found that the Licensee had engaged in conduct that violated Oregon's Medical Practice Act and, consequently, Licensee agreed to 1) withdraw his application for an Oregon medical license; 2) never re-apply for a medical license in Oregon; 3) obey all federal and Oregon laws relating to the practice of medicine; and 4) stipulate that any violation of the terms of the Stipulated Order were grounds for further discipline. Exh. 2. The Stipulated Order has resulted in the Licensee receiving reciprocal discipline in other jurisdictions in which he is licensed. *See* Exhs. 5-16.

The Licensee testified that he has complied with all terms of discipline (including continuing education components) and is merely waiting on a board to grade a paper he was required to write. The Licensee explained that he anticipates retiring in a few months. He described his hearing as poor and recognized it was time for him to end his career. The Licensee further offered that he appeared before this Board out of respect for its obligation to protect the public. He described his extensive background in pediatrics and stated he would like to preserve the integrity of what he has done in his career. Based on these facts, the Licensee requested the Board administer no reciprocal discipline.

V. DISCUSSION AND FINDINGS OF FACTS / CONCLUSIONS OF LAW:

After reviewing all the evidence, and accounting for the credibility and demeanor of the witness,

the Board finds, by a preponderance of the evidence, that the Respondent has not met his burden of proof that the Board should impose no reciprocal sanctions. The Board finds that ordering some reciprocal discipline is appropriate in this matter because the allegation of prescribing without a medical license in a foreign jurisdiction is serious enough to warrant some discipline and the Licensee is still actively licensed in New Hampshire. Nonetheless, the Board finds that the mitigating factors presented by the Licensee indicate it should impose a lesser sanction than the Oregon Board.

The Board therefore concludes that the Licensee's alleged conduct as described in the Stipulated Order constitutes a basis for misconduct pursuant to RSA 329:17, VI(d). Pursuant to RSA 329:17-c and RSA 329:17(VII)(a), the Board orders that the Licensee is hereby **REPRIMANDED**. Pursuant to RSA 329:24(III)(b) and Rules 408.03 and 411.02, and upon a finding of professional misconduct, the Board finds a reprimand is appropriate and is the minimum sanction required to punish and/or deter said conduct. The Board considered the following factors in coming to this conclusion: 1) seriousness of the offense; (2) the licensee's prior disciplinary record; (3) The licensee's state of mind at the time of the offense; (4) The licensee's acknowledgment of his or her wrongdoing; (5) The licensee's willingness to cooperate with the board's investigation; (6) The purpose of the rule or statute violated; (7) The potential harm to public health and safety; (8) The deterrent effect upon other practitioners; and (9) The nature and extent of the enforcement activities required of the board as a result of the offense.

VI. CONCLUSION AND DECISION:

Pursuant to RSA 329:17-c and RSA 329:17, the Board hereby orders that Licensee be
REPRIMANDED.

DATED:
7/22/2022

_____/s/ Nikolas Frye, Esq._____
Nikolas Frye, Esq., Hearings Examiner
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