

**COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS
BOARD ACTION NO. 14-011
ADMINISTRATIVE ACTION NO. 17-KBCE-0341**

KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS

COMPLAINANT

vs.

RECOMMENDED ORDER OF DEFAULT

CHEDRICK NEAL, D.C. (5181)

RESPONDENT

* * * * *

Upon Motion for Default, filed on behalf of the Petitioner, Kentucky Board of Chiropractic Examiners (“the Board”), and for the reasons that follow, the Hearing Officer being otherwise duly advised, the Hearing Officer issues the following Findings of Fact, Conclusions of Law, and Recommended Order:

PROCEDURAL BACKGROUND

1. This case concerns a Notice of Administrative Hearing and Formal Complaint issued by the Complainant, Kentucky Board of Chiropractic Examiners (“the Board”), against the Respondent, Chedrick Neal, D.C. (5181), on or about November 17, 2017.

2. On November 21, 2017, the Hearing Officer in this case issued a Notice Assigning Case and Order Setting Filing Requirements and Setting Prehearing Conference, which set a telephonic prehearing conference on January 5, 2018, at 11:00 a.m., ET. The Hearing Officer’s order stated:

Prior to the date of the prehearing conference, the Respondent shall provide the Administrative Hearings Branch with a telephone number to be reached for the prehearing conference.

The Hearing Officer’s order also stated:

Pursuant to KRS 13B.080(6):

If a party properly served . . . fails to attend or participate in a prehearing conference, . . . the hearing officer may adjourn the proceedings and issue a default order granting or denying relief as appropriate, or may conduct the proceedings without the participation of the defaulting party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings. A default order shall be considered a recommended order and shall be processed as provided in KRS 13B.110.

3. On or about January 5, 2018, at 11:00 a.m., ET, the Hearing Officer conducted a telephonic prehearing conference at which the Board's counsel appeared. The Respondent did not contact the Hearing Officer's staff with a phone number where he can be reached, as he was ordered to do.

4. By order dated January 5, 2018, which was mailed to the Respondent's last known address, the Hearing Officer set a telephonic show cause conference for February 5, 2018, at 11:00 a.m., ET. The Hearing Officer's order stated:

The Respondent is ordered to contact the Hearing Officer's staff at (502) 696-5442 and provide a phone number where he can be reached for the telephonic show cause conference set in this order, and also provide a current address if his address has changed.

The Hearing Officer's order also stated:

If the Respondent fails to comply with this show cause order, and if the Board shows that the Respondent was served as required by KRS 13B.050, then pursuant to KRS 13B.080(6), a recommended order will be issued finding him in default and recommending that a final order be issued consistent with the charges and penalties in the Notice of Hearing and Complaint in this case.

5. On February 5, 2018, at 11:00 a.m., ET, the Board's counsel appeared but the Hearing Officer could not contact the Respondent because he did not contact the Hearing Officer's staff and provide a phone number where he can be contacted.

6. On February 5, 2018, the Hearing Officer issued an Order of Default stating:
The Respondent is in default for failing to appear at a scheduled telephonic prehearing conference and for failing to comply with orders of the Hearing Officer.

7. On or about April 17, 2018, the Board's counsel filed a Motion for Default. In that motion, the Board's counsel states that the requirements of KRS 13B.050(2) were met.

FINDINGS OF FACT AND CONCLUSIONS OF LAW IN DEFAULT

1. Pursuant to KRS 312.019(5), the Board "shall regulate the practice of chiropractic by persons licensed or certified by it and shall enforce the provisions of this chapter and the administrative regulations of the board. The board may investigate violations and cause the prosecution of persons violating the provisions of this chapter or the administrative regulations promulgated by the board."

2. Pursuant to KRS 312.019(3), the Board "may deny, revoke, limit, impose probationary conditions, refuse to renew, or suspend any license, certification, or registration issued by it."

3. Pursuant to KRS 312.150 and KRS 312.163, the Board is authorized to take disciplinary action against any license.

4. The Chedrick A. Neal at all material times in this matter was licensed in the Commonwealth as a chiropractor, license number 5181.

5. As a result of the Respondent's default, and pursuant to KRS 13B.080(6), the allegations in the Formal Complaint are admitted as facts. Those findings are as follows:

- a. In December 2016, the Respondent entered into a plea agreement in the State of Florida wherein he entered a plea of no contest to possession of more than 20g of cannabis as well as possession of a fraudulent driver's license. Both charges are Florida state law criminal felonies.
- b. In March 2017, the Respondent completed an application for renewal of an inactive license with the Kentucky Board of Chiropractic Examiners. The Respondent failed to indicate on his application that he entered a no contest plea to the two Florida felony criminal charges referenced above.

6. Based on these factual findings, the Respondent violated KRS 312.150(1)(c) by entering a no contest plea to two felony cases in the State of Florida on or about December 13, 2016.

7. Based on these factual findings, the Respondent violated KRS 312.150(1)(a) by attempting to retain his inactive chiropractic license without making disclosure of the two felony cases referenced above.

8. Based on these factual findings, the Respondent violated KRS 312.150(1)(g) by violating any provision of KRS Chapter 312.

RECOMMENDED ORDER IN DEFAULT

Based on the foregoing findings of fact and conclusions of law in default, the Hearing Officer RECOMMENDS that the Kentucky Board of Chiropractic Examiners issue a final order:

1. Approving and adopting this recommended order.

2. Ordering that the chiropractic license number 5181 held by the Respondent, Chedrick A. Neal, is suspended.

3. Ordering that if the Respondent, Chedrick A. Neal, files an application for reinstatement of his license, or for a new license, to practice chiropractic in Kentucky, he shall also petition the Board for a hearing and comply with all reasonable terms that the Board may then impose upon his reinstated or renewed license in accordance with KRS 312.163, including but not limited to probation for a period and upon the terms and conditions that the board may establish, payment of the costs of this proceeding, and payment of a penalty not exceeding five thousand dollars for each separate violation set forth in this recommended order.

NOTICE TO PARTIES OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13B.110(4):

a copy of the hearing officer's recommended order shall be sent to each party in the hearing and each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the agency head.

Pursuant to Kentucky case law (*see Rapier v. Philpot*, 130 S.W.3d 560 (Ky. 2004) and subsequent cases), when a party fails to file exceptions, that party's appeal under KRS 13B.140 is limited to those findings and conclusions contained in the agency head's final order that differ from those contained in the hearing officer's recommended order.

Pursuant to KRS 13B.120(2):

the agency head may accept this recommended order and adopt it as the agency's final order, or it may reject or modify, in whole or in part, the recommended order, or it may remand the matter, in whole or in part, to the hearing officer for further proceedings as appropriate.

Pursuant to KRS 13B.120(4):

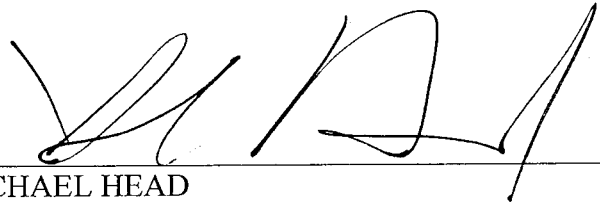
the agency head shall render a final order in an administrative hearing within ninety (90) days after the hearing officer submits a recommended order to the agency head, unless the matter is remanded to the hearing officer for further proceedings.

Pursuant to KRS 13B.140:

All final orders of an agency shall be subject to judicial review in accordance with the provisions of KRS Chapter 13B. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, in a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

Pursuant to KRS 23A.010(4), "Such review [by the Circuit Court] shall not constitute an appeal but an original action." Some courts have interpreted this language to mean that summons must be served when filing an appeal petition in the Circuit Court.

SO ORDERED this 9th day of May, 2018.



MICHAEL HEAD
HEARING OFFICER
ADMINISTRATIVE HEARINGS BRANCH
OFFICE OF THE ATTORNEY GENERAL
1024 CAPITAL CENTER DR., STE. 200
FRANKFORT, KENTUCKY 40601-8204
(502) 696-5442

CERTIFICATE OF SERVICE

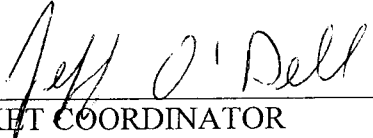
16th I hereby certify that the original of this RECOMMENDED ORDER was served this day of May, 2018, by first-class mail, postage prepaid, to:

KARALEE OLDENKAMP DC
EXECUTIVE DIRECTOR
KY BD OF CHIROPRACTIC EXAMINERS
PO BOX 183
GLASGOW KY 42142-0183

for filing; and a true copy was served by first-class mail, postage prepaid, to:

CHEDRICK NEAL
800 OKALA RD #300
TALLAHASSEE FL 32304

M KEITH POYNTER
P O BOX 183
209 S GREEN ST
GLASGOW KY 42142-0183



DOCKET COORDINATOR

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