

2011 before the Board of Medical Licensure and Discipline, resulting in an agreement of the parties. At that time it was also agreed that Dr. Apolinario's medical license suspension would continue until such times as the hearing was completed and the Board had issued a final order in the case, further, that a hearing officer would hear the case in full and submit a recommendation to the Board.

As a result of these findings of fact, the hearing officer recommends the Board conclude as a matter of law that Dr. Apolinario violated 24 *Del. C.* § 1731(b)(1) in that he prescribed, dispensed, or stored controlled substances without current and valid CSR for a period of approximately twenty months. Further, the hearing officer recommends the Board conclude as a matter of law that Dr. Apolinario violated 24 *Del. C.* § 1730(b)(11) in that he engaged in "(m)isconduct, including...incompetence, or gross negligence or pattern of negligence in the practice of medicine. . . ."

The Board is bound by the findings of fact made by the hearing officer. 29 *Del. C.* § 8735(v)(1)d. However, the Board may affirm or modify the hearing officer's conclusions of law and recommended discipline. The parties were given twenty days from the date of the hearing officer's proposed order to submit written exceptions, comments and arguments concerning the conclusions of law and recommended penalty. No written exceptions, comments or arguments concerning the conclusions of law and recommended penalty were submitted by either of the parties within the twenty days.

The Board deliberated on the hearing officer's recommended conclusions of law and recommended penalty on May 6, 2014, and affirmed the recommended conclusions of law. The Board further found that because Dr. Apolinario has not practiced for three years, his license has become expired. The hearing officer's recommended penalty of no additional discipline in light

of the three years Dr. Apolinario's license has been disciplined is appropriate and adequate to ensure that Dr. Apolinario's continued practice does not endanger the public health, safety, or welfare. Therefore, the Board orders that the suspension on Dr. Apolinario's be lifted and his license returned to its expired status.

IT IS SO ORDERED this 3rd day of June, 2014.

DELAWARE BOARD OF MEDICAL LICENSURE AND DISCIPLINE

George E. Brown
George Brown, President
Pursuant to 29 Del. C. § 10128(g)

Date Mailed: 8-15-14