

Third District Court of Appeal

State of Florida, July Term, A.D. 2008

Opinion filed October 15, 2008.

Not final until disposition of timely filed motion for rehearing.

No. 3D07-3163

Lower Tribunal Nos. 07-1153; 01-12975

Robert Whitney, D.C.,
Appellant,

vs.

**Florida Department of Health,
Board of Chiropractic Medicine,**
Appellee.

An Appeal from the Florida Department of Health, Board of Chiropractic Medicine.

W. J. Barnes, for appellant.

Wings S. Benton and Patricia A. Nelson, for appellee.

Before RAMIREZ and ROTHENBERG, JJ., and SCHWARTZ, Senior Judge.

PER CURIAM.

There is no basis in the evidence or law to support the determinations below that the appellant, a chiropractor, violated § 460.413(1)(d), Fla. Stat.¹ See

¹ “The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2): . . . (d) False, deceptive, or misleading advertising.”

Rosenberg v. Dep't of Prof'l Reg., Bd. of Chiropractic Exam'rs, 488 So. 2d 153 (Fla. 3d DCA 1986); Sherman v. Dep't of Prof'l Reg., 452 So. 2d 1128 (Fla. 4th DCA 1984) (Anstead, C.J., concurring specially); see also Pub. Health Trust of Dade Co. v. Lopez, 531 So. 2d 946 (Fla. 1988); Hotel & Rest. Comm'n v. Sunny Seas No. One, Inc., 104 So. 2d 570 (Fla. 1958). Accordingly, the order imposing discipline upon appellant is reversed for dismissal of the proceeding below.

Reversed.