

8-30-00

AT RD

Final Order No. DOH-00-2245- FOF-MOA
FILED DATE - 12/11/00
Department of Health

STATE OF FLORIDA
BOARD OF NURSING

By: Vicki R. Keron
Deputy Agency Clerk

WKT
DEPARTMENT OF HEALTH

Petitioner,

DOAH Case No. 00-1006
Case No. 98-19815
License No. PN 0741801

vs.

BILLIE MAE TWIEHAUS HOLZHAUER,

Respondent.

FILED
DEC 11 PM 1:15
DIVISION OF
ADMINISTRATIVE
HEALTH SERVICES

FINAL ORDER

THIS MATTER came before the Board of Nursing (hereinafter "the Board") for final action pursuant to Section 120.57(1)(I), Florida Statutes, at a duly-noticed public meeting held on October 12, 2000, in Ft. Lauderdale, Florida, for the purpose of considering the Recommended Order issued by the Administrative Law Judge in the above-styled case. The Petitioner was represented by Reginald D. Dixon. The Respondent was not present at the Board meeting.

After a review of the complete record in this matter, including consideration of the Administrative Law Judge's Recommended Order, a copy of which is attached hereto as Exhibit A, any exceptions filed by the parties, and the arguments of each party, the Board makes the following findings and conclusions:

EXCEPTIONS

1. Petitioner filed one exception, directed to paragraph 23 of the Recommended Order, which stated that the Board of Medicine is responsible for disciplinary proceedings against license practical nurses. Pursuant to Chapter 464,

the Board of Nursing is responsible for disciplinary proceedings against license practical nurses. Therefore the conclusion of law in paragraph 23 is revised to conform to the statute.

2. Respondent filed 13 exceptions to the Recommended Order. The exceptions do not demonstrate that the Administrative Law Judge made findings of fact without competent substantial evidence to support them, or made erroneous conclusions of law. Therefore, Respondent's exceptions are rejected.

FINDINGS OF FACT

3. The Administrative Law Judge's findings of fact are hereby approved, adopted, and incorporated herein.

4. There is competent, substantial evidence to support the Administrative Law Judge's findings of fact as adopted by the Board.

CONCLUSIONS OF LAW

5. The Board has jurisdiction over this matter pursuant to the provisions of Sections 120.569 and 120.57(1) and Chapter 480, Florida Statutes.

6. The Administrative Law Judge's conclusions of law are hereby approved, adopted and incorporated herein, as amended by Petitioner's exception to paragraph 23.

7. There is competent substantial evidence to support the Board's findings and conclusions.

PENALTY

IT IS THEREFORE ORDERED AND ADJUDGED:

The penalty recommended by the Administrative Law Judge is approved, and the following terms of probation are imposed:

The licensee shall not violate chapters 455 or 464, Florida Statutes, the rules promulgated pursuant thereto, any other state or federal law, rule, or regulation relating to the practice or the ability to practice nursing.

The licensee must report any change in address or telephone number, employment, employer's address or telephone number, or any arrests in writing by certified mail within 5 working days to the Probation Supervisor at the Board of Nursing Office, 904/858-6940, 4080 Woodcock Drive, Suite 202, Jacksonville, Florida 32207 .

Whether employed as a nurse or not, the licensee shall submit written reports to the Probation Supervisor at the Board of Nursing office, which contain the licensee's name, license number, and current address; the name, address, and phone number of each current employer; and a statement by the licensee describing her employment. This report shall be submitted to the Probation Supervisor every three (3) months in a manner as directed by the Probation Supervisor.

All current and future settings in which the licensee practices nursing shall be promptly informed of the licensee's probationary status. Within five days of the receipt of this Order, the licensee shall furnish a copy to her nursing supervisor or supervisors, if there are multiple employers. The supervisors must acknowledge this probation to the Board Probation Supervisor in writing on employer letterhead within ten days. Should the licensee change employers, she must supply a copy of

this Order to her new nursing supervisor within five days. The new employer shall acknowledge probation in writing on employer letterhead to the Board Probation Supervisor within ten days. The licensee shall be responsible for assuring reports from nursing supervisors will be furnished to the Board Probation Supervisor every three (3) months. That report shall describe the licensee's work assignment, work load, level of performance, and any problems. Any report indicating an unprofessional level of performance shall be a violation of probation.

Should the licensee desire to return to school to attend a nursing program, the licensee shall provide a copy of this Order to the Program Director prior to beginning class. The Program Director must inform the Board in writing on school letterhead, acknowledging receipt of a copy of the Order. If the school is willing to comply with the licensee's conditions of probation during clinical experiences, that should be specified. Otherwise the probation shall be tolled. Any requests for modification or accommodation by the school or the licensee shall be considered on an individual basis by the Board.

The licensee must work in a setting under direct supervision and only on a regularly assigned unit. Direct supervision requires another nurse to be working on the same unit as the licensee and readily available to provide assistance and intervention. She cannot be employed by a nurse registry, temporary nurse employment agency or home health agency. Multiple employers are prohibited. The licensee cannot be self-employed as a nurse.

If the licensee leaves Florida for thirty (30) days or more or ceases to practice nursing in the state, this probation shall be tolled until the licensee returns to active practice of nursing in Florida. Then the probationary period will resume. Unless this Order states otherwise, any fines imposed or continuing education required must be paid or completed within the time specified and are not tolled by this provision. Employer reports are not required during the time probation is tolled. Working in nursing without notification to the Board is a violation of this Order.

This Final Order shall become effective upon filing with the clerk of the Department of Health.

DONE AND ORDERED this 23rd day of October, 2000.

BOARD OF NURSING

Cathy A. Oles LPN B.P.S.
Cathy A. Oles, LPN, BPS, Chair

NOTICE OF RIGHT TO JUDICIAL REVIEW UNLESS WAIVED

Pursuant to Section 120.569, Florida Statutes, any substantially affected person is hereby notified that they may appeal this Final Order by filing one copy of a Notice of Appeal with the clerk of the Department of Health and by filing the filing fee and one copy of the Notice of Appeal with the District Court of Appeal within 30 days of the date this Final Order is filed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to **BILLIE MAE TWIEHAUS HOLZHAUER, c/o Harry A. Blair, Esquire, 2180 West 1st Street, Suite 401, Ft. Myers FL 33901, and William F. Quattlebaum Division of Administrative Hearings, 1230 Apalachee Parkway, Tallahassee FL 32399-1550 and and by inter-office mail to Reginald Dixon, Staff Attorney, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308-5403, this ___ day of _____, 2000.**

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AMENDED CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been provided by certified mail to Billie Mae Twiehaus Holzhauser, 15 Redwood Manor, Pontiac, IL 61764, Harry A. Blair, Esquire, 2180 W 1st St, Ste. 401, Ft. Myers, FL 33901, William F. Quattlebaum, Division of Administrative Hearings, 1230 Apalachee Parkway, Tallahassee, FL 32399-1550, and interoffice delivery to Reginald D. Dixon, Senior Attorney, Agency for Health Care Administration, PO Box 14229, Tallahassee, FL 32317-4229 at or before 5:00 p.m., this 1 day of December, 2000.

Michelle R. Fogsdon