

2-27-01

PRACTITIONER REGULATION
LEGAL

2001 OCT 22 PM 3:43

STATE OF FLORIDA
BOARD OF MEDICINE

Final Order No. DOH-01-0972- For MOA
FILED DATE - 6/26/01
Department of Health

By: Victoria R. Kenney
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

AT

DSM - Closed

vs.

DOH CASE NO.: 1998-21736
DOAH CASE NO.: 00-4115PL
LICENSE NO.: ME0054804

Z. Zimmerman

MARK FRANKLIN PRYSI, M.D.,

Respondent.

02 OCT 22 PM 4:16
ADMINISTRATIVE
HEARINGS

FINAL ORDER

THIS CAUSE came before the Board of Medicine (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on June 2, 2001, in Dania, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order, Exceptions to the Recommended Order, and Response to Exceptions (copies of which are attached hereto as Exhibits A, B, and C, respectively) in the above-styled cause.

Petitioner was represented by John Terrel, Senior Attorney.

Respondent was represented by Bruce M. Stanley, Sr., Esquire.

Upon review of the Recommended Order, the argument of the parties, and after a review of the complete record in this case, the Board makes the following findings and conclusions.

RULINGS ON EXCEPTIONS

The Board reviewed the Petitioner's Exceptions to the Recommended



Order and the Respondent's Response to and Motion to Strike the Petitioner's Exceptions and accepts the Exceptions for the reasons stated by the Petitioner. The record demonstrates that the Administrative Law Judge concurs that whether permitting a licensed practical nurse to sign a prescription for a controlled substance is the practice of medicine or the performance of professional responsibilities in violation of Section 458.331(1)(f) or (w), is a conclusion of law. The Administrative Law Judge sustained several of Respondent's objections to questions designed to solicit such conclusions as seeking conclusions of law.

FINDINGS OF FACT

1. The findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein by reference with the modifications set forth above.

2. There is competent substantial evidence to support the findings of fact as modified.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 458, Florida Statutes.

2. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein by reference as modified above.

3. There is competent substantial evidence to support the conclusions of law as modified.

PENALTY

Upon a complete review of the record in this case, the Board determines that the penalty recommended by the Administrative Law Judge be REJECTED. WHEREFORE,

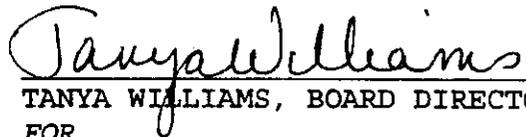
IT IS HEREBY ORDERED AND ADJUDGED

Respondent shall pay an administrative fine in the amount of \$1,000 fine. Said fine shall be paid within 30 days from the date this Final Order is filed.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 21st day of June, 2001.

BOARD OF MEDICINE


TANYA WILLIAMS, BOARD DIRECTOR
FOR
GASTON ACOSTA-RUA, M.D.
CHAIRMAN

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE AGENCY FOR HEALTH CARE ADMINISTRATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to Mark F. Prysi, M.D., 11181 Health Park Boulevard, Naples, Florida 34110; to Bruce M. Stanley, Sr., Esquire, Henderson, Franklin, Starnes & Holt, P.A., P.O. Box 280, Ft. Myers, Florida 33902-0280; to Daniel Manry, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by interoffice delivery to Nancy M. Snurkowski, Chief Medical Attorney, and Simone Marstiller, Senior Attorney - Appeals, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308-5403, on or before 5:00 p.m., this _____ day of _____, 2001.

AMENDED CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been provided by certified mail to **Mark F. Pysi, M.D.**, 11181 Health Park Blvd., Naples FL 34110, **Mark F. Pysi, M.D.**, 1152 Goodlette Rd., N., Naples FL 34102, **Bruce M. Stanley, Sr., Esq.**, P. O. Box 280, Ft. Myers FL 33902-0280, **Daniel Manry, ALJ**, DOAH, 1230 Apalachee Pkwy., Tallahassee FL 32399-3060, and interoffice delivery to Nancy Snurkowski, Esq. And Simone Marstiller, Esq., AHCA, 2727 Mahan Dr., Tallahassee FL 32308-5403 at or before 5:00 p.m., this 27th day of June, 2001.

Jane Jordan