

7-9-03

Final Order No. DOH-03-1133-PuFMOA
FILED DATE - 10/2/03
Department of Health

By: Heather Coleman
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF NURSING

DEPARTMENT OF HEALTH,
BOARD OF NURSING,

Petitioner,

vs.

JANE WICKHAM, L.P.N.,

Respondent.

DOAH CASE NO: 03-0534PL
DOH CASE NO.: 2001-17455
LICENSE NO.: PN 1227531

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FINAL ORDER

This matter was heard by the Board of Nursing (hereinafter "the Board") pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on August 15, 2003, at a duly-noticed public meeting of the Board held in Tallahassee, Florida, for consideration of the Recommended Order (a copy of which is attached hereto as "Exhibit A") in the case of Department of Health, Board of Nursing v. Jane Wickham, L.P.N., DOAH Case No. 03-0534PL. Respondent was served with an Administrative Complaint filed February 18, 2000, alleging a violation of Section 464.018(1)(h), Florida Statutes, as defined in Rule 64B9-8.005(14), F.A.C.. (A copy of the Administrative Complaint is attached hereto as "Exhibit B".) At the meeting of the Board, the Respondent was not present, nor was she represented at the meeting by counsel. The Petitioner was represented by Amy Pietroangelo, Assistant General Counsel, Department of Health.

Upon consideration of the Recommended Order, after review of the entire record and having been otherwise fully advised in its premises, the Board makes the following findings and conclusions:

FINDINGS OF FACT

1. The Findings of Fact in the Recommended Order are approved and adopted in toto and are incorporated herein by reference.
2. No exceptions were filed to the Recommended Order.
3. There is competent, substantial evidence to support the Board's findings.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of the parties and subject matter of this case pursuant to Sections 120.569 and 120.57, Florida Statutes, and Chapter 464, Florida Statutes.
2. The Conclusions of Law in the Recommended Order are approved and adopted in toto and are incorporated herein by reference.
3. There is competent, substantial evidence to support the Board's conclusions.

PENALTY

Upon a complete review of the record, the Board approves and adopts the recommendation set forth in the Recommended Order the Board enter a Final Order finding Respondent, Jane Wickham, guilty of violating Section 464.018(1)(h), Florida Statutes, and Rule 64B9-8.005, Florida Administrative Code. The Board approves and adopts the penalty recommended and specifies the costs, the number of hours of continuing education courses, and probationary terms.

WHEREFORE, IT IS ORDERED AND ADJUDGED that

1. Respondent's license to practice nursing is reprimanded.
2. The licensee must pay an administrative fine of \$ 300.00 and investigative costs of \$10, 032.97 within sixty (60) days from the date of entry of this Order. Partial

payments shall not be accepted. Payment shall be made to the Board of Nursing and mailed to, DOH-Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Nursing Compliance Officer.

3. The licensee shall enroll in and successfully complete 2 hours of continuing education in the subject area of anger management and 2 hours of continuing education in the subject area of patient rights. This shall be in addition to other normally required continuing education courses. Verification of course content and course completion must be submitted to the Nursing Compliance Officer.

4. Respondent shall be on probation until the fine and costs imposed above are paid and until she demonstrates compliance with the continuing education requirements set forth above. The probation is subject to the following conditions:

a. The licensee shall not violate chapters 456 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.

b. The licensee must report any change in address or telephone number, employment, employer's address or telephone number, or any arrests [or violations of probation or whatever impediment which may be on the license from another jurisdiction], in writing within 10 working days to the Nursing Compliance Officer at the Department of Health, Client Services Unit, HMQAMS, BIN # C01, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3251.

c. Whether employed as a nurse or not, the licensee shall submit written reports to the Nursing Compliance Officer which shall 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/his employment. This report shall be submitted to the Nursing Compliance Officer every three (3) months in a manner as directed by the Nursing Compliance Officer.

d. 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/his nursing supervisor or supervisors, if there are multiple employers. The supervisors must acknowledge this probation to the Nursing Compliance Officer in writing on employer letterhead within ten days. Should the licensee change employers, she/he must supply a copy of this Order to her/his new nursing supervisor within five days. The new employer shall acknowledge probation in writing on employer letterhead to the Nursing Compliance Officer within ten days. The licensee shall be responsible for assuring that reports from nursing supervisors will be furnished to the Nursing Compliance Officer 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.

e. 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 the 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.

f. The licensee's failure to comply with the terms of this Probation Order without the prior written consent of the Board shall be a violation of this Probation. The probation shall not be terminated until the licensee has complied with all terms of probation. The licensee shall pay all costs necessary to comply with the terms of this Order. Such costs include, but are not limited to, the cost of preparation of investigative and probationary reports detailing the compliance with this probation; the cost of obtaining, and analysis of, any blood or urine specimens submitted pursuant to this Order; and administrative costs directly associated with the licensee's probation.

g. The terms of this Order are effective as of the date this Order is filed with the clerk for the Department of Health. The Board office will send the licensee information regarding probationary terms, however, failure of the licensee to receive such information DOES NOT EXCUSE COMPLIANCE with the terms of this Order.

h. Failure to comply with the terms of probation set forth above shall result in a subsequent Uniform Complaint Form being filed by the Board with the Department of Health against the Respondent's license, which may result in additional administrative fines, probationary periods, and/or suspensions being imposed against the Respondent's license.

5. The Board reserves the right to impose reasonable conditions of reinstatement at the time the licensee appears before the Board to demonstrate the present ability to engage in the safe practice of nursing. This Final Order shall become effective upon filing with the Clerk of the

Department of Health.

DONE AND ORDERED, this 1st day of October, 2003.

BOARD OF NURSING



Dan Coble
Executive Director

NOTICE OF RIGHT TO APPEAL

Pursuant to Section 120.569, Florida Statutes, the parties are 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 forwarded by United States Mail to Jane Wickham, 3878 Cranberry Avenue, Bunnell, FL 32110 and to Ella Jane P. Davis, Administrative Law Judge, Division of Administrative Hearings, Desoto Building, 1230 Apalachee Parkway, Tallahassee, FL 32399-3060; and by interoffice delivery to Pamela Page, Esquire, Department of Health, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265; Amy Pietrodangelo, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265; and to Rosanna Catalano, Assistant Attorney General, Office of the Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050, on this 2 day of October, 2003.

Shawn Dyles