

3.9.05

Final Order No. DOH-05-1622-FDF-MQA
FILED DATE - 9-22-05
Department of Health

STATE OF FLORIDA
BOARD OF NURSING

By: Shirasa McKinn
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2002-01508
2002-11450
DOAH CASE NO.: 04-3796PL
LICENSE NO.: RN 3221312

2005 SEP 23 A 11:47

LOGAN T. LANHAM,

AT

Respondent.

LJS
Closed

FINAL ORDER

THIS CAUSE came before the BOARD OF NURSING (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on August 12, 2005, in Jacksonville, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order and Exceptions to the Recommended Order, and (copies of which are attached hereto as Exhibits A and B, respectively) in the above-styled cause. Petitioner was represented by Kathryn Price, Assistant General Counsel. Respondent was represented by Robert Rappel, Esquire at hearing, but Mr. Rappel withdrew before the case was presented to the Board.

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

1. Exception 1 is rejected. Respondent does not assert that any testimony was not supported by competent substantial

evidence. It is the responsibility of the Administrative Law Judge (ALJ) to determine which facts are credible and pertinent to the findings of fact.

2. Exception 2 is rejected. Respondent does not assert that any testimony was not supported by competent substantial evidence. It is the responsibility of the Administrative Law Judge (ALJ) to determine which facts are credible and pertinent to the findings of fact.

3. Exception 3 is rejected. Respondent does not assert that any testimony was not supported by competent substantial evidence. It is the responsibility of the Administrative Law Judge (ALJ) to determine which facts are credible and pertinent to the findings of fact.

4. Exception 4 is rejected. Respondent does not assert that any testimony was not supported by competent substantial evidence. It is the responsibility of the Administrative Law Judge (ALJ) to determine which facts are credible and pertinent to the findings of fact.

5. Exception 5 is rejected. Respondent argues that the recited testimony is not credible. It is the responsibility of the Administrative Law Judge (ALJ) to determine which facts are credible and pertinent to the findings of fact.

6. Exception 6 is rejected. Respondent does not assert that any testimony was not supported by competent substantial

evidence. It is the responsibility of the Administrative Law Judge (ALJ) to determine which facts are credible and to resolve conflicting testimony.

7. Exception 7 is rejected. There is competent substantial evidence to support the finding of fact in paragraph 23. Pursuant to Section 120.57(1)(1), Florida Statutes, the standard for agency review of findings of fact is not "clear and convincing" evidence.

8. Exception 8 is rejected. There is competent substantial evidence to support the finding of fact in paragraph 25. Pursuant to Section 120.57(1)(1), Florida Statutes, the standard for agency review of findings of fact is not "clear and convincing" evidence.

9. Exception 9 is rejected. There is competent substantial evidence to support the finding of fact in paragraph 26. Pursuant to Section 120.57(1)(1), Florida Statutes, the standard for agency review of findings of fact is not "clear and convincing" evidence.

10. Exception 10 is rejected. There is competent substantial evidence to support the finding of fact in paragraph 27. Pursuant to Section 120.57(1)(1), Florida Statutes, the standard for agency review of findings of fact is not "clear and convincing" evidence.

11. Exception 11 is rejected. There is competent substantial evidence to support the finding of fact in paragraph 28. Pursuant to Section 120.57(1)(1), Florida Statutes, the standard for agency review of findings of fact is not "clear and convincing" evidence.

12. Exception 12 is rejected. There is competent substantial evidence to support the finding of fact in paragraph 29. Pursuant to Section 120.57(1)(1), Florida Statutes, the standard for agency review of findings of fact is not "clear and convincing" evidence. Further, it is the responsibility of the Administrative Law Judge (ALJ) to determine which facts are credible and to resolve conflicting testimony.

13. Exception 13 is rejected. There is competent substantial evidence to support the finding of fact in paragraph 30. Pursuant to Section 120.57(1)(1), Florida Statutes, the standard for agency review of findings of fact is not "clear and convincing" evidence. Further, it is the responsibility of the Administrative Law Judge (ALJ) to determine which facts are credible and to resolve conflicting testimony.

14. Exception 14 is rejected. There is competent substantial evidence to support the finding of fact in paragraph 45. Pursuant to Section 120.57(1)(1), Florida Statutes, the standard for agency review of findings of fact is not "clear and convincing" evidence.

15. Exception 15 is rejected. There is competent substantial evidence to support the finding of fact in paragraph 46. Pursuant to Section 120.57(1)(1), Florida Statutes, the standard for agency review of findings of fact is not "clear and convincing" evidence.

16. Exception 16 is rejected. There is competent substantial evidence to support the finding of fact in paragraph 47. Pursuant to Section 120.57(1)(1), Florida Statutes, the standard for agency review of findings of fact is not "clear and convincing" evidence. Further, it is the responsibility of the Administrative Law Judge (ALJ) to determine which facts are credible and to resolve conflicting testimony.

17. Exception 17 is rejected. There is competent substantial evidence that Respondent violated Section 464.018(1)(h), Florida Statutes, for which the Board may impose disciplinary sanctions. Pursuant to Section 120.57(1)(1), Florida Statutes, the standard for agency review of findings of fact is not "clear and convincing" evidence.

FINDINGS OF FACT

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

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

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.

3. Respondent has violated Section 464.018(1)(h), Florida Statutes.

DISPOSITION

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

IT IS HEREBY ORDERED AND ADJUDGED that COUNT I of the Administrative Complaint is dismissed.

The license of LOGAN T. LANHAM is hereby **REPRIMANDED**.

The licensee must pay an administrative fine of \$250.00 within 24 months 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.

The licensee shall enroll in and successfully complete courses in patient rights, legal aspects of nursing, nursing

ethics and professional standards. 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 within six (6) months from the date of this Order. The Board will retain jurisdiction for the purpose of enforcing continuing education requirements.

RULING ON MOTION TO ASSESS COSTS

The Board reviewed the Petitioner's Motion to Assess Costs and imposes the costs associated with this case in the amount of \$7,482.12. Said costs are to be paid within 24 months from the date this Final Order is filed. 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.

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

DONE AND ORDERED this 21 day of September, 2005.

BOARD OF NURSING



Dan Coble, RN, PhD, Executive Director
for Patricia Dittman, RN, Chair

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 DEPARTMENT OF HEALTH 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 LOGAN T. LANHAM, 1523 Ocean Cove Street, Sebastian FL 32958; to Larry J. Sartin, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by interoffice delivery to Kathryn Price and Pamela Page, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3265 this 22 day of September, 2005.



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Deputy Agency Clerk