

By:

Shirley Beckman
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF NURSING

FILED
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DIVISION OF
ADMINISTRATIVE
HEARINGS

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH Case No.: 2004-37737
DOAH Case No.: 05-3235PL
License No.: CX 700****7400

ROSE GAUBERT,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF NURSING (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on February 9, 2006, in Tallahassee, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order, a copy of which is attached hereto as Exhibit A, in the above-styled cause. Petitioner was represented by Yolanda Green. Respondent was not present and was not represented by an attorney.

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.

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 464, Florida Statutes.

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

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:

The licensee must pay an administrative fine of \$50.00 within 60 days of 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.

The licensee shall enroll in and successfully complete courses in LEGAL ASPECTS OF NURSING, NURSING ETHICS, ANGER MANAGEMENT, PATIENT RIGHTS and the ALZHEIMERS COURSE sponsored by the Department of Elder Affairs. 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.

The license of ROSE GAUBERT is placed on probation for one year, subject to the following conditions:

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.

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.

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 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.

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 Nursing Compliance Officer 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 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.

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. The licensee 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 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.

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 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. 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.

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.

RULING ON MOTION TO ASSESS COSTS

The Board considered the Petitioner's Motion to Assess Costs in this matter and according to its statutory mandate set forth in §456.072(4), Florida Statutes, costs in the amount of \$1,964.82 shall be submitted to the Board within one year 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 22 day of February, 2006.

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 ROSE GAUBERT, 1613 Maple Drive, Ft. Myers FL 33907; to William F. Quattlebaum, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by interoffice delivery to Yolanda Green, and Pamela Page, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3265 this 24th day of February, 2006.



Deputy Agency Clerk