

Final Order No. DOH-10-0103-FOF-MQA
FILED DATE - 1/14/2010
Department of Health
By: Angela Boston
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF NURSING

DEPARTMENT OF HEALTH,
Petitioner,

vs.

DOH Case No.: 2008-12416
DOAH Case No.: 09-0611PL
License No.: RN 2802012

NANCY ELLEN CUNNINGHAM,
Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF NURSING (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on August 6, 2009, in Jacksonville, 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 Walter T. S. Widener, Assistant General Counsel. Respondent was not present nor was she represented by counsel at the hearing.

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.

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DIVISION OF
ADMINISTRATIVE
HEARINGS

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

MOTION TO ASSESS COSTS

Respondent filed a motion to assess costs pursuant to Section 456.072(4), Florida Statutes. The motion is granted, and costs are assessed in the amount of \$13,080.02.

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:

The licensee must pay an administrative fine of \$250.00 and investigative costs of \$13,080.02 within 168 months 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 license of NANCY ELLEN CUNNINGHAM is suspended until the applicant undergoes an evaluation coordinated by the Intervention Project for Nurses (IPN), and complies with any and all terms and conditions imposed by IPN as a result of said evaluation. It is the duty of the licensee to contact the IPN at P.O. Box 49130, Jacksonville Beach, Florida 32240-9130, (904) 270-1620. If the licensee is not in need of monitoring or treatment and the IPN is not suitable, no further action will be required. If the licensee is in need of monitoring or treatment, the licensee shall comply with all conditions of the IPN Advocacy Contract or she will be in violation of the Board Order.

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

DONE AND ORDERED this 11th day of January, 2010.

BOARD OF NURSING



Rick García, RN, MSN, CCM for
Jessie Colin, RN, PhD, 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 NANCY ELLEN CUNNINGHAM, c/o Paul Kwilecki Esquire, 629 Peninsula Drive, Daytona Beach FL 32118; to Lisa Shearer Nelson, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by interoffice delivery to Walter Widener, Department of Health, 4052 Bald Cypress Way, Bin #C65, Tallahassee, Florida 32399-3265 this 14th day of

January, 2010,

Angela Barton

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Sent To Nancy Ellen Cunningham
c/o Paul Kwilecki, Esq.
Street, Apt. No.,
or PO Box No. 629 Peninsula Dr.
City, State, ZIP+4 Daytona Beach FL 32118