

FILED

STATE OF FLORIDA
BOARD OF NURSING

2011 APR 28 12:01

Final Order No. DOH-11-987.FOF-MQA
FILED DATE - 4-27-11
Department of Health

By: Paul Sades
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2010-01333
DOAH CASE NO.: 07-4761PL
LICENSE NO.: PN 5163198

CYNTHIA L. MCNEMAR,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF NURSING (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on April 7, 2011, in Ft. Lauderdale, 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 Jodi-Ann Johnson, Assistant General Counsel. Respondent was present and was represented by Paul Kwilecki, 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.

RULING ON EXCEPTIONS

Respondent filed exceptions to the Recommended Order. Counsel for Respondent advised the Board the exceptions were withdrawn. Where upon, the Board denied Respondent's exception.

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 Chapters 456 and 464, Florida Statutes.
2. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein by reference.

PENALTY

Upon a complete review of the record in this case, the Board determines that the penalty recommended by the Administrative Law Judge be ACCEPTED. WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

The license of CYNTHIA L. MCNEMAR is hereby reprimanded.

The licensee must pay an administrative fine of \$100.00 within 12 months of the date this Final Order is filed. Payment shall be made to the Board of Nursing and mailed to, DOH- Compliance Management Unit, Bin C76, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Nursing Compliance Officer.

The license shall undergo an evaluation coordinated by the Intervention Project for Nurses (IPN), and comply 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 within 30 days. 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.

The license of CYNTHIA L. MCNEMAR is placed on probation for one year, subject to the following terms:

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 as a nurse.

The licensee must report any change in address or telephone number, employment, employer's address or telephone number, or any arrests 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 her 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 as a nurse 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(s). The supervisor 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.

If the licensee leaves Florida for thirty (30) days or more or ceases to practice as a nurse in the state, this probation shall be tolled until the licensee returns to 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 as a nurse 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.

RULING ON MOTION TO ASSESS COSTS

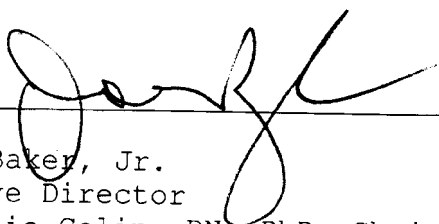
The Board reviewed the Petitioner's Revised Motion to Assess Costs and imposes the costs associated with this case in the

amount of \$14,733.34. Said costs are to be paid within 15 years from the date this Final Order is filed. Payment shall be made to the Board of Nursing and mailed to, DOH-Compliance Management Unit, Bin C76, 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 26th day of April, 2011.

BOARD OF NURSING



Joe R. Baker, Jr.
Executive Director
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 CYNTHIA

L. MCNEMAR, c/o Paul Kwilecki, Esquire, 327 S. Palmetto Avenue,
Daytona Beach FL 32114; 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 Jodi-Ann Johnson, Department
of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida
32399-3265 this 27th day of April, 2011.

Angel Sanders

Deputy Agency Clerk