

FILED DATE **NOV 03 2014**

Department of Health

By: Angela Saubers
Deputy Agency Clerk

**STATE OF FLORIDA
THE FLORIDA BOARD OF PHARMACY**

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CHRISTOPHER S. SWITLYK, RPH,
RESPONDENT.

CASE NO.: 2011-20634
DOAH CASE NO.: 14-0883PL
LICENSE NO.: PS 36908

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DIVISION OF
ADMINISTRATIVE
HEARINGS

**FINAL ORDER AFTER HEARING
INVOLVING DISPUTED ISSUES OF MATERIAL FACT**

This cause came before the FLORIDA BOARD OF PHARMACY (hereinafter Board), pursuant to Chapters 456; 465; and sections 120.569 and 120.57(1), *Florida Statutes*, at a duly noticed public meeting held on October 8, 2014, in Kissimmee, Florida. The purpose of the cause was for consideration of the Honorable J. Lawrence Johnston's (hereinafter Administrative Law Judge or ALJ) Recommended Order issued on June 24, 2014 (attached hereto as Exhibit "A"). The department was present and represented by Yolanda Green, Esquire. The Respondent was not present nor represented by counsel.

Upon review of the Recommended Order (hereinafter RO), reviewing and hearing written and oral arguments from the parties, and after a review of the complete record in this case, the Board makes the following rulings, findings, and conclusions:

I. RULINGS ON EXCEPTIONS

After the Recommended Order was issued, the Respondent did file and penned a letter which was addressed to the Administrative Law Judge, the General Counsel for the Department of Health, the Assistant General Counsels who prosecuted the case and to the Executive Director for the Board of Pharmacy. However, the Department objected to the letter being treated as properly filed exceptions. The Board denies the letter, even if treated as exceptions, on the following grounds:

1. The letter, if treated as exceptions to the Recommended Order, is legally insufficient. The letter fails to clearly identify the disputed portion of the recommended order by page number or paragraph; fails to identify a legal basis for any exceptions; and fails to make citations to the record. Therefore, under the authority of section 120.57(1)(k), *Florida Statutes*, the letter, if considered exceptions is hereby **DENIED**.
2. The letter, if treated as exceptions to the Recommended Order, is **DENIED** because the Board finds that the Findings of Facts were based on competent substantial evidence and the proceedings complied with the essential requirements of law and that the Conclusions of Law are reasonable and there are not more reasonable Conclusions of Law found. Therefore, pursuant to section 120.57(1)(l), *Florida Statutes*, it would be improper to grant any exception to the Findings of Fact or Conclusions of Law.

II. FINDINGS OF FACT

1. There is competent, substantial evidence to support the RO Findings of Fact.
2. Accordingly, the RO Findings of Facts, are hereby approved, adopted and incorporated herein by reference as the Findings of Fact of the Board.

III. CONCLUSIONS OF LAW

1. The Board has personal jurisdiction, subject matter jurisdiction, and final order authority, in this cause pursuant to sections 120.569; 120.57(1); and Chapters 456 and 465, *Florida Statutes*.
2. The Board does not find a more reasonable interpretation of the law than that which was found by the Administrative Law Judge.
3. Accordingly, the Conclusions of Law as set forth in the Recommended Order are approved, adopted, and incorporated herein by reference as the Conclusions of Law of the Board.

IV. VIOLATIONS

1. Based on the foregoing adopted Findings of Fact and the adopted Conclusions of Law, the Administrative Law Judge's recommendation is **ACCEPTED**.
2. Accordingly, Respondent is found in **VIOLATION** of section 456.072(1)(c), *Florida Statutes* by being guilty of "[b]eing convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice" pharmacy, and Respondent is found in **VIOLATION** of section 456.072(1)(x), *Florida Statutes*, by being guilty of "[f]ailing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction."

V. DISCIPLINE

The Board accepts the recommendation of the ALJ.

WHEREFORE, it is hereby **ORDERED** and **ADJUDGED**, that the Respondent's license is hereby: **PERMANENTLY REVOKED**.

DONE AND ORDERED this 31 day of October, 2014.

THIS FINAL ORDER SHALL BECOME EFFECTIVE UPON BEING FILED WITH THE AGENCY CLERK FOR THE DEPARTMENT OF HEALTH

BOARD OF PHARMACY

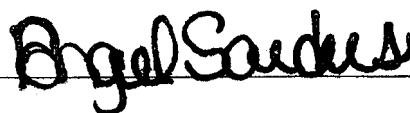
Patrick Kennedy for Jeff Mesaros
Patrick Kennedy, Executive Director
on behalf of Jeffery Mesaros, PharmD, J.D.
Chair of the Board of Pharmacy

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 has been furnished by Certified Mail to **Christopher Switlyk**, Register # 53913-018, Federal Correctional Institution, Post Office Box # 779800, Miami, Florida 33177; and to the **Honorable, J. Lawrence Johnston**, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by Electronic Mail to **Yolonda Green**, Assistant General Counsel, Florida Department of Health, yolonda.green@flhealth.gov ; and to **David D. Flynn**, Assistant Attorney General, david.flynn@myfloridalegal.com this 3rd day of November, 2014.



DEPUTY AGENCY CLERK

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