

FILED DATE JUN 15 2016

Department of Health

By: Army L. Conway
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2006-36542
DOAH CASE NO.: 15-7083PL
LICENSE NO.: PA9103823

SANDRA ANN LINDSTROM, P.A.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on June 3, 2016, in Fort Lauderdale, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order, Exceptions to the Recommended Order, and Response to Exceptions to the Recommended Order (copies of which are attached hereto as Exhibits A, B, and C, respectively) in the above-styled cause. Petitioner was represented by Yolonda Green, Assistant General Counsel. Respondent was present but was not represented by counsel.

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.

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ADMINISTRATIVE
HEARINGS

RULING ON EXCEPTIONS

The Board reviewed and considered the Respondent's Exceptions to the Recommended Order and ruled as follows:

1. Respondent's exception 1 is denied due to Respondent's failure to cite to the paragraph or page number addressed in the exception. In addition, the Respondent asked the Board to re-weigh the evidence presented by the parties' respective handwriting experts. The Board also adopted the arguments set forth in Petitioner's Response to Exceptions to the Recommended Order.

2. Respondent's exception 2 to paragraph 6 on page 9 of the Recommended Order is denied because the Respondent asked the Board to improperly re-weigh the evidence presented by the Petitioner that support the ALJ's factual findings. The findings in question are supported by competent substantial.

3. Respondent's exception 3 to paragraphs 11 - 20 on pages 11 - 14 of the Recommended Order is denied because Respondent asked the Board to re-weigh the evidence presented by the parties' with respect to the findings of fact for each of the three dates of service at issue. The findings in question are supported by competent substantial.

4. Respondent's exception 4 is denied due to Respondent's failure to cite to the paragraph or page number addressed in the exception. In addition, the Respondent asked the Board to re-

weigh Respondent's testimony in regards to her working dates and the Petitioner's evidence in regards to the incident dates. The Board also adopted the arguments set forth in Petitioner's Response to Exceptions to the Recommended Order.

5. Respondent's exception 5 to paragraph 21, page 14 of the Recommended Order is denied because the Respondent asked the Board to improperly re-weigh the evidence regarding the Respondent's supervision. The ALJ's findings on this issue are based on competent substantial. The Board also adopted the arguments set forth in Petitioner's Response to Exceptions to the Recommended Order.

6. Respondent's exception 6 to the Recommended Order is denied due to Respondent's failure to cite to the paragraph or page number addressed in the exception and because the Petitioner challenges the ALJ's ruling regarding the admissibility of evidence. The Board has no substantive jurisdiction over evidentiary matters, and therefore, lacks the authority to grant the exception.

7. Respondent's first exception 7 to the Recommended Order is denied due to Respondent's failure to cite to the paragraph or page number addressed in the exception and because the Petitioner challenges the ALJ's ruling regarding the admissibility of evidence. The Board has no substantive

jurisdiction over evidentiary matters, and therefore, lacks the authority to grant the exception.

8. Respondent's second exception 7 to the Recommended Order is denied due to Respondent's failure to cite to the paragraph or page number addressed in the exception and because the Petitioner challenges the ALJ's ruling regarding the sequestration of witnesses. The Board has no substantive jurisdiction over such procedural/evidentiary matters, and therefore, lacks the authority to grant the exception.

9. Respondent's exception 8 to the Recommended Order with regard to the application of Section 456.073(13), Florida Statutes, is denied based on the arguments set forth in Petitioner's Response to Exceptions to the Recommended Order and because the Board concurs with the ALJ's application of Section 456.073(13) to the circumstances in this matter.

10. Respondent's exception 9 is denied due to Respondent's failure to cite to the paragraph or page number addressed in the exception. In addition, the Respondent challenged the credibility of Petitioner's witnesses and asked the Board to improperly re-weigh the evidence presented by Petitioner in regard to the authorship of the offending prescription. The findings in question are supported by competent substantial.

11. Respondent's exception 10 to page 21 of the Recommended Order is denied based on the arguments set forth in Petitioner's Response to Exceptions to the Recommended Order.

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.

PENALTY

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

1. Respondent shall pay an administrative fine in the amount of \$2,500.00 to the Board within 30 days from the date the Final Order is filed. Said fine shall be paid by money order or cashier's check.

2. Respondent's license to practice medicine in the State of Florida is hereby REVOKED.

RULING ON MOTION TO BIFURCATE AND RETAIN JURISDICTION TO ASSESS COSTS

On the record at the hearing in this matter, The Petitioner withdrew its Motion to Bifurcate and Retain Jurisdiction to Assess Costs.

(NOTE: SEE RULE 64B8-8.0011, FLORIDA ADMINISTRATIVE CODE. UNLESS OTHERWISE SPECIFIED BY FINAL ORDER, THE RULE SETS FORTH THE REQUIREMENTS FOR PERFORMANCE OF ALL PENALTIES CONTAINED IN THIS FINAL ORDER.)

DONE AND ORDERED this 13th day of June, 2016.

BOARD OF MEDICINE

Claudia Kemp
Claudia Kemp, J.D., Executive Director
For Steven Rosenberg, M.D., 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 Certified Mail to SANDRA ANN LINDSTROM, P.A., 6726 Pomeroy Circle, Orlando, Florida 32810; to David M. Maloney, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; by email to Yolonda Green, Assistant General Counsel, Department of Health, at Yolonda.Green@flhealth.gov; and by email to Edward A. Tellechea, Chief Assistant Attorney General, at Ed.Tellechea@myfloridalegal.com this 15th day of June, 2016.

Amy L. Conway

Deputy Agency Clerk

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