

STATE OF FLORIDA  
BOARD OF NURSING

Final Order No. DOH-17-1727-<sup>PDF</sup>-MQA  
FILED DATE - SEP 18 2017  
Department of Health  
By: *Angel Saubas*

DEPARTMENT OF HEALTH,  
Petitioner,

vs.

DOH CASE NO.: 2015-31849  
DOAH CASE NO.: 17-1628PT  
LICENSE NO.: CNA 274235

ANDREA R. DELPOZZO,  
Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF NURSING (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, at the properly noticed meeting on August 2-4, 2017, in West Palm Beach, 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 Louise St. Laurent, Deputy General Counsel. Counsel for Respondent, Steven D. Brownlee, Esq., was present on behalf of Respondent.

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.

EXCEPTIONS

1. The Respondent filed exceptions to paragraphs 21, 23, and 26. The Petitioner filed responses to the Respondent's exceptions.

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DIVISION OF ADMINISTRATIVE HEARINGS  
FILED

2. Respondent's exception No.1 alleges "Violation of Due Process" related to notice of violation charged and is directed to paragraph 26 of the Recommended Order. The Board considered Respondent's exception, Petitioner's response, and argument of the parties and being otherwise advised on the premises, REJECTS the exception presented.

3. Respondent's exception No. 2 alleges "Lack of Corroboration" directed to paragraph 23 of the Recommended Order. The Board considered Respondent's exception, Petitioner's response, and argument of the parties and being otherwise advised on the premises, REJECTS the exception presented.

4. Respondent's exception No. 3 speaks to the "Reasonableness of Self-Defense" and is directed to paragraph 21 of the Recommended Order. The Board considered Respondent's exception, Petitioner's response, and argument of the parties and being otherwise advised on the premises, REJECTS the exception presented.

#### **FINDINGS OF FACT**

5. The findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein by reference.

6. There is competent substantial evidence to support the findings of fact.

**CONCLUSIONS OF LAW**

5. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 464, Florida Statutes.

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

7. Respondent violated Section 464.204(1)(b), F.S. by using force against or striking a patient, which Florida Administrative Code Rule 64B9-8.005(13) defines as unprofessional conduct.

**PENALTY**

8. Upon a complete review of the record in this case, the Board determines that the recommendation of the Administrative Law Judge is ACCEPTED.

**WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:**

9. a. Respondent's license is SUSPENDED for 60 days,
- b. Followed by PROBATION for 1 year,<sup>1</sup>

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<sup>1</sup> Conditions of Probation are as follows:

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, HMQAMS, BIN # C76, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3251.

Whether employed as a nursing assistant 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 as a nursing assistant 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

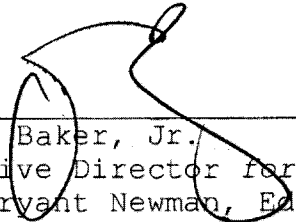
c. Respondent shall enroll in and successfully complete an 8 hour course in Anger Management. This shall be in addition to other normally required in-service training courses. Verification of course content and course completion must be submitted to the Nursing Compliance Officer within six (6) months from the date of this Order.

d. Respondent shall pay all costs related to the investigation and prosecution of this matter. The amount of costs shall be determined by the Division of Administrative Hearings.

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

DONE AND ORDERED this 18<sup>th</sup> day of Sept, 2017.

BOARD OF NURSING

  
\_\_\_\_\_  
Joe R. Baker, Jr.  
Executive Director for  
Jody Bryant Newman, EdD, EdS,  
Chair

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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 the practice of nursing assistant in the state this probation shall be tolled until the licensee returns to the active practice of nursing assistant. 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 as a nursing assistant without notification to the Board is a violation of this Order.

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: Andrea R. Delozzo, 3251 Beneva Rd., Unit 204, Sarasota, FL 34234; and C/O Steven Brownlee, Esq., Chapman Law Group, 6841 Energy Court, Sarasota, FL, 34240; by U.S. Mail to: J. Lawrence Johnston, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by e-mail to: Matthew Witters, Assistant General Counsel, at Matthew.witters@flhealth.gov; and Diane L. Guillemette, Assistant Attorney General, at diane.guillemette@myfloridalegal.com, this 18<sup>th</sup> day of September, 2017.



Andrea R. Delozzo  
3251 Beneva Rd.  
Unit 204  
Sarasota, FL 34234



**Certified Article Number**

9414 7266 9904 2090 7482 56

**SENDER'S RECORD**

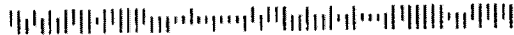
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J. Lawrence Johnston, Administrative Law Judge  
Division of Admin. Hearings  
The Desoto Bldg.

*Brygel Sanders*

**Deputy Agency Clerk**



Andrea R. Delozzo  
c/o Steven Brownlee, Esq.  
Chapman Law Group  
6841 Energy Court  
Sarasota, FL 34240



**Certified Article Number**

9414 7266 9904 2090 7482 49

**SENDER'S RECORD**