

FILED DATE - **OCT 19 2018**

Department of Health

By: *[Signature]*
Deputy Agency Clerk

**STATE OF FLORIDA
BOARD OF NURSING**

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2017-03339

DOAH CASE NO.: 18-0504PL

LICENSE NO.: CNA 286629

TONY L. MCGEE

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 1-3, 2018, 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 Matthew Witters, Assistant General Counsel. Respondent was present.

Upon review of the Recommended Order, and after a review of the complete record in this case, the Board makes the following findings and conclusions.

MOTION TO BIFURCATE

The Department's Motion to Bifurcate to allow additional time for determination of the amount of costs is granted.

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DIVISION OF
ADMINISTRATIVE HEARINGS

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

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

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

PENALTY

5. 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:

6. Respondent is to pay a fine of \$50.00 within one year of the date of filing the Final Order.

7. The license of Tony L. McGee is placed on probation for 1 year, subject to the following conditions:

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 DOH-Compliance Management Unit, 4052 Bald Cypress Way, Bin C76 Tallahassee, Florida 32399-3276, Attention: Nursing Compliance Officer.

Whether employed as a certified 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 his 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 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 his nursing supervisor. The supervisor must acknowledge this probation to the Nursing Compliance Officer in writing on employer letterhead within ten days. Should the licensee change employers, he must supply a copy of this Order to his 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 ceases to practice for 30 days or more, this probation shall be tolled until the licensee returns to the active practice of nursing. 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 nursing 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.

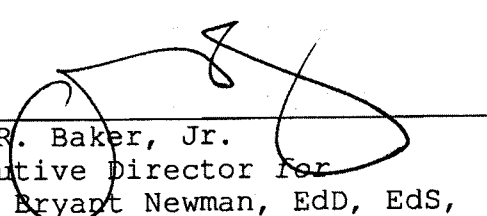
The terms of this Order are effective as of the date this Order is filed with the clerk for the Department of Health. The Board office will send the licensee information regarding probationary terms, however, failure of the licensee to receive such information DOES NOT EXCUSE COMPLIANCE with the terms of this Order.

8. The Department is awarded costs. Determination of the amount of costs is referred to 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 18th day of Oct, 2018.

BOARD OF NURSING



Joe R. Baker, Jr.
Executive Director for
Jody Bryant Newman, EDD, EdS,
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 ^{J.S.U.S.} certified mail to: Tony McGee, 5713 Ibizan Court, Orlando, FL 32810; E. Gray Early, 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 19th day of October, 2018.

Brygel Sanders
Deputy Agency Clerk