

STATE OF FLORIDA
BOARD OF NURSING

Final Order No. DOH-19-0554- FOF -MQA
FILED DATE APR 01 2019
Department of Health
By: Brygel Sanders
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOAH CASE NO.: 18-4813PL
DOH CASE NO.: 2017-01693
LICENSE NO.: RN9429602

ADENIKE ADEBIYI,

Respondent.

**SECOND FINAL ORDER FOLLOWING REVERSAL AND REMAND TO DOAH
FROM THE 4TH DCA**

THIS CAUSE came before the Board of Nursing (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on February 7, 2019, in Howey-in-the-Hills, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order, Respondent's Exceptions to the Recommended Order, and Petitioner's Responses 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 Judson Searcy, Assistant General Counsel. Respondent was present. There was a previous Final Order filed in this matter that was appealed to the Fourth District Court of Appeal. That court reversed the Board's First Final Order and remanded the case for a formal hearing. A copy of the District Court Opinion is attached hereto as Exhibit D.

Upon review of the Recommended Order, the written arguments 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

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

Respondent did not file exceptions that comply with Section 120.57(1)(k), Florida Statutes and the Board voted to deny all of the exceptions on that ground. The exceptions did not identify the disputed portion of the recommended order by page number or paragraph, identify the legal basis for the exceptions, and did not include appropriate and specific citations to the record. However, the Board did go through the email that Respondent sent to the Department after the filing of the Recommended Order that it considered as exceptions and ruled as follows:

1. In its Responses to Respondent's Exceptions to the Recommended Order, Petitioner addressed issues raised in an email sent by Respondent to the Department on January 4, 2019. The Board considered Respondent's Exception number 1 to be (a) of her January 4, 2019, email. Respondent appears to take exception to Paragraph 21 of the Recommended Order. The Board reviewed and considered Respondent's exception to Paragraph 21 and denied the exception because: the findings set forth therein were supported by competent substantial evidence; the Board does not have the ability to reject, substitute, or make new findings of fact; and for the reasons set forth in Petitioner's Responses to Respondent's Exceptions to the Recommended Order.

2. The Board considered Respondent's Exception number 2 to be (b) of her January 4, 2019, email. This exception appears to be a proposal to add a finding of fact to the Recommended Order. The Board voted to deny this exception because the Board does not have the authority to make independent or supplemental findings of fact and for the reasons set forth in Petitioner's Responses to Respondent's Exceptions.

3. The Board considered the Respondent's Exception number 3 to be the first sentence of (c) of her January 4, 2019, email. This exception appears to be a proposal to add a finding of fact to the Recommended Order. The Board voted to deny this exception because the Board does not have the authority to make independent or supplemental findings of fact and for the reasons set forth in Petitioner's Responses to Respondent's Exceptions.

4. The Board considered the Respondent's Exception number 3 to be the second sentence of (c) of her January 4, 2019, email. The Board reviewed and considered Respondent's exception and denied the exception because the findings set forth therein were supported by competent substantial evidence and for the reasons set forth in Petitioner's Responses to Respondent's Exceptions to the Recommended Order.

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 in the record to support the findings of fact.

CONCLUSIONS OF LAW

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

8. 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:

Respondent violated Section 456.072(1)(hh), Florida Statutes. Respondent's license to practice as a registered nurse is suspended until Respondent undergoes an evaluation coordinated by the Intervention Project for Nurses (IPN). It is the duty of the licensee to contact the IPN at P.O. Box 49130, Jacksonville Beach, Florida 32249-9130, (904) 270-1620, within 30 days from the date of entry of this order. If the licensee is diagnosed with a condition that prevents the licensee from practicing nursing with reasonable skill and safety to patients, the licensee shall comply with any and all terms and conditions imposed by IPN as a result of the evaluation. If the licensee is not in need of monitoring or treatment and the IPN is not suitable, no further action will be required.

RULING ON MOTION TO ASSESS COSTS

The Board reviewed Petitioner's Motion to Assess Costs, grants the Motion, and imposes the costs associated with the investigation and prosecution of this case in the amount of **fourteen thousand nine hundred eighty-three dollars and thirty-eight cents (\$14,983.38)** to be paid within **fifteen (15) years** from the filing date of this Final Order. Payment of the costs shall be made to the Board of Nursing and mailed to, DOH-Compliance Management Unit, 4052 Bald

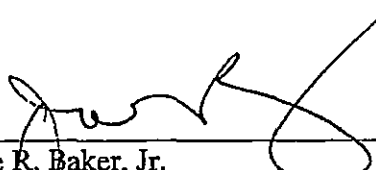
Cypress Way, Bin C76, Tallahassee, FL 32399-3276, Attention: Nursing Compliance Officer.

Payment must be made by cashier's check or money order ONLY. Personal checks will not be accepted. Respondent shall be required to pay a minimum of **one thousand dollars (\$1,000.00)** per year.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 1st day of Apr, 2019.

BOARD OF NURSING



Joe R. Baker, Jr.
Executive Director for
Kathryn L. Whitson, MSN, RN 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 THE FILING DATE 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 U.S. Mail to: Adenike Adebisi, 170 SE 14th Street, Apt. 1503, Miami, Florida 33131; 219 Menores Drive, Apt. 3, Coral Gables, Florida 33131 and 219 Menores Drive, Apt. 3, Coral Gables, Florida 33134; by U.S. mail to: F. Scott Boyd, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by electronic mail to: IPN, info@ipnfl.org; Judson Searcy, Assistant General Counsel, Department of Health, Judson.Searcy@flhealth.gov; and Deborah B. Loucks, Senior Assistant Attorney General, Office of the Attorney General, deborah.loucks@myfloridalegal.com, on April 1, 2019.

Angel Sanders

Deputy Agency Clerk

Adenike Adebisi
170 SE 14th St.
Apt. 1503
Miami, FL 33131

Certified Article Number
9414 7266 9904 2140 1127 54
SENDER'S RECORD

Adenike Adebisi
219 Menores Dr.
Apt. 3
Coral Gables, FL 33131

Certified Article Number
9414 7266 9904 2140 1126 24
SENDER'S RECORD

*Reg. Mail to
F. Scott Boyd*

Adenike Adebisi
219 Menores Dr.
Apt. 3
Coral Gables, FL 33134

Certified Article Number
9414 7266 9904 2140 1126 31
SENDER'S RECORD