

STATE OF FLORIDA  
BOARD OF NURSING

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOAH Case No.: 20-0895PL  
DOH Case No.: 2016-08658  
License No.: RN 9372885

BRIAN FRANCIS ANTONIAK, R.N.  
a/k/a BRIAN HALL, R.N.,

Respondent.

FINAL ORDER

This matter appeared before the Board of Nursing at a duly-noticed public telephonic meeting on October 8, 2020, for final agency action pursuant to Sections 120.569 and 120.57(1) and (2), Florida Statutes. Petitioner was represented by Phillip Crawford, Assistant General Counsel, Florida Department of Health. Respondent was present with his counsel of record, Sara Bazzigaluppi, Attorney at Law.

Upon receipt of service of the Administrative Complaint, Respondent alleged that he submitted a petition for formal hearing before the Division of Administrative Hearings. Petitioner alleged that it had not received a timely request for formal hearing. The issue of whether Respondent timely submitted a petition for formal hearing was sent to the Division of Administrative Hearings for hearing. On June 9, 2020, an evidentiary hearing was held before an Administrative Law Judge (ALJ). As a result of this hearing, the Administrative Law Judge issued a Recommended Order.

The Board considered the ALJ's Recommended Order. Neither party filed exceptions.

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After a complete review of the record, the Board voted to adopt the Findings of Fact and Conclusions of Law stated in the Recommended Order. The ALJ recommendation was that the Board issue a final order dismissing Respondent's Election of Rights request for a disputed-fact administrative hearing as untimely and not excused under the equitable tolling doctrine. The Board voted to accept this recommendation.

Based on the finding that Respondent failed to timely submit an Election of Rights requesting a formal hearing, the Board proceeded to hold a hearing not involving disputed issues of material fact pursuant to Section 120.57(2), Florida Statutes.

The prosecuting attorney offered the investigative file into evidence to prove the facts as alleged in the Administrative Complaint and for the purposes of determining penalty. The investigative file was received into evidence. After a complete review of the record in this matter, including consideration of the Administrative Complaint, any written evidence or testimony, and any mitigating or aggravating circumstances, the Board makes the following findings and conclusions:

#### **FINDINGS OF FACT**

1. The allegations of fact set forth in the Administrative Complaint are approved, adopted, and incorporated herein by reference as the findings of fact of the Board.
2. There is competent, substantial evidence to support the Board's findings and conclusions.

#### **CONCLUSIONS OF LAW**

3. The conclusions of law alleged and set forth in the Administrative Complaint are approved and adopted and incorporated herein by reference as the conclusions of law of the Board.
4. The violations set forth in the Administrative Complaint warrant disciplinary action

by the Board.

5. Based upon the Findings of Fact, the Board concludes that the licensee violated: Section 464.018(1)(h), Florida Statutes, violating a rule of the Board, by violating Rule 64B9-8.005(1), Florida Administrative Code, by committing unprofessional conduct by failing to maintain accurate records; and Section 464.018(1)(n), Florida Statutes, by failing to meet minimum standards of acceptable and prevailing nursing practice.

6. The Board is empowered by Section 464.018(2) and/or 456.072(2), Florida Statutes, to impose a penalty against Respondent.

THEREFORE, IT IS ORDERED AND ADJUDGED, that:

7. **Suspension.** 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.

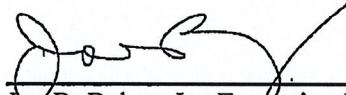
#### **RULING ON MOTION TO ASSESS COSTS**

The Board voted to bifurcate the Motion of Costs from this hearing and retain jurisdiction to determine the amount of costs due at a future date.

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

**DONE AND ORDERED** this 27<sup>th</sup> day of October, 2020.

**BOARD OF NURSING**



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Joe R. Baker, Jr., Executive Director  
*for* Deborah McKeen, CD-LPN, BS, 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 to Brian Antoniak a/k/a Brian Hall by sending same by email to his counsel of record, **Sara Bazzigaluppi**, [sbazzigaluppi@chapmanlawgroup.com](mailto:sbazzigaluppi@chapmanlawgroup.com); and by email to: **Matthew Witters**, Chief Legal Counsel, Department of Health-PSU, [Matthew.Witters@flhealth.gov](mailto:Matthew.Witters@flhealth.gov); and **Deborah Loucks**, Senior Assistant Attorney General, [Deborah.Loucks@myfloridalegal.com](mailto:Deborah.Loucks@myfloridalegal.com); and by U.S. Mail to the Honorable **Elizabeth W. McArthur**, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060, on October 27, 2020.

  
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**Deputy Agency Clerk**