

By: *Annmarie Morris*  
Deputy Agency Clerk

**STATE OF FLORIDA  
BOARD OF OSTEOPATHIC MEDICINE**

**DEPARTMENT OF HEALTH**

Petitioner,

vs.

Case No: 2015-19554

License No.: OS 8474

**DANUTA B. FABISIAK, D.O.,**

Respondent.

\_\_\_\_\_ /

**FINAL ORDER**

This matter appeared before the Board of Osteopathic Medicine (hereinafter the "Board") at a duly-noticed public video and teleconference meeting on August 13, 2021, for a hearing not involving disputed issues of material fact pursuant to Sections 120.569 and 120.57(2), Florida Statutes. Pursuant to the Administrative Complaint, attached hereto as Exhibit A, it was alleged that Respondent violated Section 459.015(1)(o), Florida Statutes (2009-2014). Petitioner was represented by Sarah Corrigan, Assistant General Counsel, Florida Department of Health. Respondent, Danuta B. Fabisiak, D.O., was present and was represented by Bruce Lamb, Esq.

Service of the Administrative Complaint was made upon Respondent. Respondent filed an Election of Rights requesting a hearing pursuant to Section 120.57(1), Florida Statutes, and the matter was referred to the Division of Administrative Hearings. On April 2, 2021, the Administrative Law Judge issued an Order Granting Petitioner's Motion, Deeming Matters Admitted, and relinquished jurisdiction to the Board of Osteopathic Medicine, pursuant to Section 120.57(1)(i), Florida Statutes, to conduct such further proceedings pursuant to Section 120.57(2), Florida Statutes, as are

appropriate. Subsequently, Petitioner filed a Motion for Hearing Not Involving Disputed Issues of Material Fact and Final Order, and a Motion to Assess Costs in Accordance with Section 456.072(4). Respondent has not filed a response to either motion.

The prosecuting attorney offered the investigative file into evidence and the Order Granting Petitioner's Motion, Deeming Matters Admitted, and Relinquishing Jurisdiction to prove the facts as alleged in the Administrative Complaint, and they were received into evidence. The Board finds that the uncontested facts adequately support the allegations. 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**

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. There is competent, substantial evidence to support the Board's findings and conclusions.

#### **CONCLUSIONS OF LAW**

The Petitioner's Motion for Hearing Not Involving Disputed Issues of Material Fact is granted.

The conclusions of law alleged and set forth in the Administrative Complaint are approved, adopted, and incorporated herein by reference as the conclusions of law by the Board.

The violations set forth warrant disciplinary action by the Board.

Based upon the Findings of Fact, the Board concludes that Respondent violated Section 459.015(1)(o), Florida Statutes (2009-2014).

The Board is empowered by Section 459.015(2), Florida Statutes, to impose a penalty against Respondent. Pursuant to Section 456.079(3), Florida Statutes, and Rule 64B15-19.002, Florida Administrative Code, the Board finds the following items to be mitigating factors in this matter: the unique circumstances of this case; no prior discipline against Respondent's license; no pecuniary gain; one patient involved; and the matter does not present a danger to the public.

THEREFORE, IT IS ORDERED AND ADJUDGED:

1. **Letter of Concern.** The Respondent's license to practice osteopathic medicine is hereby issued a Letter of Concern.
2. **Fine.** The Respondent shall pay an administrative fine of \$2,500.00 within 60 days from the filing date of this Final Order.
3. **Continuing Medical Education.** The Respondent shall complete two (2) hours of continuing medical education in the area of Medical Records within twelve (12) months from the filing date of this Final Order. These hours shall be in addition to those hours required for biennial renewal of licensure. This requirement may be fulfilled through on-line education.

Respondent shall submit documentation of completion of this course within thirteen (13) months of this Final Order to the Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, FL 32314-6320, Attention: Board of Osteopathic Medicine Compliance Officer.

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


The Board reviewed the Petitioner's Motion to Assess Costs and imposes the costs associated with this case in the amount of **\$7,157.94**. Said costs are to be paid within 60 days from the date this Final Order is filed.

**Payment of Fine and Costs.** Payment of all fine and costs shall be made within 60 days from the date of the filing of this Final Order to the Board of Osteopathic Medicine and mailed to: DOH-Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Osteopathic Compliance Officer.

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

DONE AND ORDERED this 23 day of August, 2021.

BOARD OF OSTEOPATHIC MEDICINE

  
Kama Monroe, J.D., Executive Director  
*on behalf of* Sandra Schwemmer, D.O., 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 Florida 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 has been furnished by U.S. Mail to **Danuta B. Fabisiak, D.O.**, 2110 58<sup>th</sup> Street West, Bradenton, FL 34209; and **Bruce Lamb, Esquire**, Gunster Law Firm, 401 East Jackson Street, Suite 2500, Tampa, FL 33602; and by email to **Donna C. McNulty**, Special Counsel, at [Donna.McNulty@myfloridalegal.com](mailto:Donna.McNulty@myfloridalegal.com); and **Sarah Corrigan**, Assistant General Counsel, at [Sarah.Corrigan@flhealth.gov](mailto:Sarah.Corrigan@flhealth.gov); this 24<sup>th</sup> day of August, 2021.

  
\_\_\_\_\_  
Deputy Agency Clerk

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,**

**PETITIONER,**

**v.**

**CASE NO. 2015-19554**

**DANUTA B. FABISIAK, D.O.,**

**RESPONDENT.**

---

**ADMINISTRATIVE COMPLAINT**

COMES NOW Petitioner, Department of Health, by and through its undersigned counsel, and files this Complaint before the Board of Osteopathic Medicine against Respondent, Danuta B. Fabisiak, D.O., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of osteopathic medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 459, Florida Statutes.
2. At all times material to this Complaint, Respondent was a licensed osteopathic physician within the State of Florida, having been issued license number OS 8474.

3. Respondent's address of record is 2110 58<sup>th</sup> Street West, Bradenton, Florida 34209.

4. At all times material to this Administrative Complaint, Respondent practiced as a psychiatrist in Bradenton, Florida.

5. From on or about June 25, 2010, through on or about May 29, 2015, Respondent prescribed sertraline, mirtazapine, atenolol, bupropion, warfarin, citalopram, and/or azithromycin to W.R.

6. Sertraline, brand name Zoloft, is a selective serotonin reuptake inhibitor (SSRI) drug commonly prescribed to treat depression, obsessive-compulsive disorder, posttraumatic stress disorder, social anxiety disorder, and/or panic disorder, among other indications. Sertraline is a legend drug.

7. Mirtazapine is an antidepressant commonly prescribed to treat depression. Mirtazapine is a legend drug.

8. Atenolol, brand name Tenormin, is a beta blocker commonly prescribed to treat high blood pressure and chest pain. Atenolol is a legend drug.

9. Bupropion, brand name Welbutrin, is commonly prescribed to treat depression and/or as a smoking cessation aid. Bupropion is a legend drug.

10. Warfarin, brand name Coumadin, is a blood thinner commonly prescribed to treat and prevent blood clots. Warfarin is a legend drug.

11. Citalopram, brand name Celexa, is a selective serotonin reuptake inhibitor (SSRI) drug commonly prescribed to treat depression. Citalopram is a legend drug.

12. Azithromycin, brand name Zithromax, commonly called "Z-pak," is an antibiotic commonly used to treat various infections. Azithromycin is a legend drug.

13. Respondent did not keep records of W.R. being a patient, or records of treatment, including but not limited to copies of prescriptions.

14. Section 459.015(1)(o), Florida Statutes (2009 – 2014), provides that failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed osteopathic physician or the osteopathic physician extender and supervising osteopathic physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or



administered; and reports of consultations and hospitalizations, constitutes grounds for disciplinary action.

15. As set forth above, Respondent failed to keep medical records for W.R.

16. Based on the foregoing, Respondent violated Section 459.015(1)(o), Florida Statutes (2009-2014), by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed osteopathic physician or the osteopathic physician extender and supervising osteopathic physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

WHEREFORE, Petitioner respectfully requests that the Board of Osteopathic Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action,

refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 14 day of April, 2017.

Celeste Philip, MD, MPH  
Surgeon General and Secretary



Ann L. Prescott  
Assistant General Counsel  
DOH Prosecution Services Unit  
4052 Bald Cypress Way, Bin C-65  
Tallahassee, FL 32399-3265  
Florida Bar No. 0092974  
(850) 245-4640 Telephone  
(850) 245-4662 Facsimile  
Ann.Prescott@flhelath.gov

**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK: *Angel Sanders*  
DATE: **APR 17 2017**

/ALP

PCP: April 14, 2017

PCP Members: Dr. Moran (chair) & Dr. Hayden

## NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

## NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.