

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING, AND REGULATION
BEFORE THE SOUTH CAROLINA STATE BOARD OF MEDICAL EXAMINERS**

In the Matter of:

Dayna D. Hughes, MDO,
Medical License No. 31590,
Licensee.

Case No. 2009-0346

**FINAL
ORDER
(Public)**

This matter came before the Board of Medical Examiners (the Board) for hearing on August 2, 2010, as a result of the Notice and Complaint served upon the Respondent and filed with the Board. A quorum of Board members was present. The hearing was held pursuant to S.C. Code Ann. § 40-47-117 to determine whether sanctions should be imposed based upon the Memorandum of Agreement and Stipulations agreed upon by the Respondent and the State. Patrick D. Hanks, Assistant General Counsel, represented the State. The Respondent appeared, and was represented by Elizabeth T. "Lisa" Thomas, Esquire.

The Respondent was charged with violation of S.C. Code Ann. § 40-47-110(B)(3), (B)(4), and (B)(9) (1976, as amended).

FINDINGS OF FACT

Based upon the preponderance of the evidence on the whole record, the Board finds the facts of the case to be as follows:

1. The Respondent is a physician duly licensed to practice medicine in South Carolina, and was so licensed at all times relevant to the issues in this case.
2. The Respondent originally was licensed in Arkansas as a psychiatrist and moved to South Carolina in July 2008; she has not practiced in South Carolina, but her spouse is a practicing physician in Charleston, South Carolina.
3. The move to Charleston was extremely stressful for the Respondent. She lost her immediate support system of family and friends where she lived in Arkansas her entire life, and the move put severe strain on her marriage. The Respondent suffered from untreated depression, anxiety, and hypothyroidism at the time of the move. The Respondent has a history of ADHD and anorexia nervosa, for which she received treatment prior to the move.
4. The Respondent generated three (3) fraudulent scripts [*sic*] for *Adderall*. She obtained a prescription pad in expectation of a job that failed to materialize. Subsequently, she wrote scripts [*sic*]

for *Adderall* on three (3) occasions in the name of a person residing in Arkansas. During this period, she did not hold a controlled-substance registration with the South Carolina Department of Health and Environmental Control (DHEC), Bureau of Drug Control (Bureau); she had a valid prescription for *Adderrall* [sic], forty milligrams four times each day, from John Macarthur, MD, a psychiatrist practicing in Charleston. She ingested eight (8) forty-milligram tablets per day between October and December 2009.

5. The Respondent was arrested by the Bureau for three (3) counts of obtaining a controlled substance by fraud in December 2009. At the Ninth Solicitor's recommendation, the Respondent enrolled in the Charleston County pretrial intervention program and met all its conditions; it is expected that all charges will be dismissed at or before the matter's hearing, and the Respondent's record will be expunged.

6. Upon her arrest, the Respondent contacted the Board and informed it of the charges described above, and she enrolled with the South Carolina Recovering Professionals Program (RPP). Evaluated at the Medical University of South Carolina, she was diagnosed with amphetamine dependence, social anxiety disorder, panic disorder, and post-traumatic stress disorder, and an eating disorder. She has complied fully with treatment and RPP's other conditions, including, but not limited to, intensive outpatient treatment recommended by Sarah Book, MD, who treats her depression; she receives therapy from Darlene Shaw, MD.

7. RPP supports the Respondent's return to the practice of medicine, following an evaluation by Dr. Book.

8. The Respondent admits the aforementioned acts by her present grounds that constitute misconduct as alleged.

9. Should a finding of fact constitute a conclusion of law, or *vice versa*, it is adopted as such and directed that it be treated accordingly.

CONCLUSIONS OF LAW

Based upon careful consideration of the facts in this matter, the Board finds and concludes as a matter of law that:

1. The Board has jurisdiction in this matter and, upon finding that a licensee has violated any of the provisions of S.C. Code Ann. § 40-47-200, *supra*, has the authority to order the revocation or suspension of a license to practice medicine or osteopathy, publicly or privately reprimand the holder of a license, or take other reasonable action short of revocation or suspension, such as requiring the licensee to undertake additional professional training subject to the direction and supervision of the Board, or imposing restraint upon the medical or osteopathic practice of the licensee as circumstances warrant until the licensee demonstrates to the Board adequate professional competence. Additionally, the Board may require the licensee to pay a fine of up to twenty-five thousand dollars and the costs of disciplinary action.

2. The Respondent violated S.C. Code Ann. § 40-47-110(B)(3) in that she violated a federal, state, or local law involving alcohol or drugs or committed an act involving a crime of moral turpitude, as evidenced by the admitted facts described above.

3. The Respondent violated S.C. Code Ann. § 40-47-110(B)(4) in that she engaged in the habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability, as evidenced by the admitted facts described above.

4. The Respondent violated S.C. Code Ann. § 40-47-110(B)(9) in that she engaged in dishonorable, unethical, or unprofessional conduct that is likely either to deceive, defraud, or harm the public, as evidenced by the admitted facts described above.

5. The sanction imposed is consistent with the purpose of these proceedings and has been made after weighing the public interest and the need for the continuing services of qualified medical doctors against the countervailing concern that society be protected from professional ineptitude and misconduct.

6. The sanction imposed is designed not to punish the physician, but to protect the life, health, and welfare of the people at large.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that:

1. The Respondent is publicly reprimanded.

2. The Respondent shall pay administrative costs of Five Hundred, Sixty-five Dollars and Forty Cents (\$565.40) within one (1) year of the date of his Order. These costs shall not be deemed paid until they are received by the Board.

3. The Respondent shall continue her enrollment in, and active participation with, the South Carolina Recovering Professionals Program (RPP) indefinitely. Release from this requirement is incumbent upon her appearance before the Board requesting and obtaining such a release.

4. Prior to returning to practice, the Respondent must appear before the Board and provide evidence which, in the Board's discretion, is sufficient to show her competence to practice, including, but not limited to, the following:

- a. That she is current in the number of her continuing medical education requirements;
- b. Providing a professional competency evaluation as approved by the Board;
- c. Providing evidence of her clinical competency as approved by the Board; and
- d. Providing evidence she is in compliance with all the terms and conditions of this Order.

5. It is strongly recommended the Respondent take, and successfully pass, her board examination(s).

6. The Respondent shall provide written quarterly reports from her treating psychiatrist

7. This Final Order shall take effect upon service of this order on the Respondent.

AND IT IS SO ORDERED.

STATE BOARD OF MEDICAL EXAMINERS

BY: Louis E. Costa II, MD, MD
Louis E. Costa II, MD
President of the Board

9-17-, 2010