MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DAWN RENEE FURMAN,

Respondent,

v.

BOARD OF NURSING HOME ADMINISTRATORS,

Appellant.

DOCKET NUMBER WD83385

Date: July 28, 2020

Appeal from:

Cole County Circuit Court
The Honorable Daniel R. Green, Judge

Appellate Judges:

Division Four: Cynthia L. Martin, C.J., Presiding, and Alok Ahuja and W. Douglas Thomson, JJ.

Attorneys:

Marie Claire Dwyer, Jefferson City, Missouri, for appellant
David F. Barrett, Jefferson City, Missouri, for respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DAWN RENEE FURMAN, Respondent,
v.
BOARD OF NURSING HOME ADMINISTRATORS, Appellant.

WD83385 Cole County

Before Division Four Judges: Cynthia L. Martin, C.J., Presiding, and Alok Ahuja and W. Douglas Thomson, JJ.

Dawn Renee Furman was employed as Vice President of Clinical and Operations with Saba Healthcare, which manages a number of skilled nursing homes. Furman was responsible for overseeing several separate facilities, including Brook Chateau, a large assisted living facility in Kansas City.

On October 15, 2016, the licensed nursing home administrator for Brook Chateau unexpectedly stopped reporting to work. At the time, the facility had been informed by Missouri regulators that its license was in "immediate jeopardy," threatening closure of the facility if the regulatory issues were not promptly resolved.

Furman was licensed as a nurse, and as a nursing home administrator, in Illinois. She submitted an application for licensure as a Missouri nursing home administrator on October 20, 2016. Although she claimed that she simultaneously submitted an application for a temporary emergency license, she was unable to produce any emergency license application, and the Board of Nursing Home Administrators has no record of receiving such an application. Furman admitted that she was informed by the Board that it had received no emergency application on her behalf, but she apparently took no further action to rectify the situation.

On December 14, 2016, a new employee hired by Furman submitted her application to serve as Brook Chateau's administrator, as well as an application for a temporary emergency license. The emergency license application, which listed Furman as the existing "administrator," was signed by Furman as well as by the applicant.

The Board investigated after receiving the new employee's license application. The investigator testified that Furman confirmed to her that she had

been operating as the facility's administrator since October 15, 2016, even though she had no temporary or permanent license to do so.

The Board denied Furman's application for a nursing home administrator's license on the basis that she had acted in that capacity without a license for two months, in violation of Missouri statutes. On administrative review, the Administrative Hearing Commission likewise denied Furman's license application. Furman then sought judicial review in the Circuit Court of Cole County. The circuit court reversed the Administrative Hearing Commission's decision, finding that license denial was unwarranted because Furman's actions had caused no substantive harm, and no question had been raised concerning her competency.

The Board appeals.

REVERSED.

Division Four holds:

The Board of Nursing Home Administrators is authorized to deny a nursing home administrator's license to any applicant who has acted as the administrator of a Missouri nursing home without the appropriate licensure. On administrative review of the Board's decision to deny a license, the Administrative Hearing Commission exercises the discretion initially vested with the Board.

Although she denied it before the Administrative Hearing Commission, on appeal Furman does not dispute that she submitted no application for a temporary emergency license, and she no longer denies that she acted as Brook Chateau's nursing home administrator for two months without the necessary licensure. Furman also does not dispute that her actions gave the Administrative Hearing Commission a basis to deny her license application; she argues only that it should have exercised its discretion to impose a lesser sanction. We disagree. Particularly in light of Furman's failure before the Commission to accept responsibility for her actions, the Administrative Hearing Commission acted in its discretion in concluding that denial of Furman's license application, rather than any lesser sanction, was warranted.

Opinion by: Alok Ahuja, Judge July 28, 2020

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