

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS
DEPARTMENT OF HEALTH
DIVISION OF PROFESSIONAL REGULATION

vs

A.H. FILE NO. PR 99-17

ADEBOWALE A. BABALOLA, N.A.

ORDER

This matter was heard on the 12th day of May 1999 as the result of an ADMINISTRATIVE HEARING NOTICE dated 16 April 1999 which alleged that Adebowale A. Babalola, (Babalola), a certified nursing assistant (NA) had improperly delegated responsibility to another person, who was not certified or licensed to have that responsibility, to care for a patient assigned to Babalola's care.

The Rhode Island Department of Health (DOH) was represented by Gregory Madoian, Esquire, and Babalola represented himself. The hearing was conducted under the provisions of Chapters 23-17.9 and 42-35 of the RIGL and the rules and regulations respectively promulgated thereunder.

Based upon the testimony and exhibits presented and the argument heard the following FINDINGS OF FACT have been determined;

1. Under the provisions of Chapters 23-17.9 of the RIGL the DOH has the authority and responsibility to regulate and license nursing assistants in this state.

2. Babalola is licensed as a nursing assistant in this state by the DOH.

3. The DOH did, on 16 April 1999, send Babalola an Administrative Hearing Notice in which he was informed that the DOH had revoked his certificate of registration as a nursing assistant effective 26 February 1999. The Notice further informed Babalola that said action was taken as the result of a complaint alleging that while employed as a Nursing Assistant by A Caring Experience, on assignment to a home care patient, he did neglect to care for a patient and acted in a manner inconsistent with the health and safety of the patient. Specifically, on 4 January 1999, he allegedly sent an unlicensed person to care for a patient that had been assigned to Babalola. He was offered an opportunity for a hearing the question of whether his license should be permanently revoked due to the aforementioned allegations. (Exhibit 1)

4. By letter dated 3 February 1999, Babalola said he sent someone to cover his shift on 4 January 1999 because his daughter had a high temperature and he decided to send his wife's cousin to cover for him until his wife could return to care for his daughter. He did not know the patient fell, and ended up in the hospital, during the time his wife's cousin was covering for him, until told by a fellow worker the next day. He asked that the DOH issue a warning rather than a suspension because he was dedicated to his work and has a good record. He described his action that day as an honest error and promises that there will be no repeat of this type of error again. (exhibit 2)

5. At the hearing Babalola stated the incident was not intentional and he was sorry for what happened. He regrets the error he made and requested forgiveness. He understands he had an obligation to call the agency rather than have a friend cover for him but at the time didn't think there was time to call the agency so he didn't. He also stated he did go to the patient's home with his wife's cousin that day but

left. (transcript page 12 line 9 to page 13 line 8)

CONCLUSIONS OF LAW

I

Under the provisions of Chapter 23-17.9 of the RIGL the DOH has the authority and responsibility to license and regulate Nursing Assistants in this state, and Babalola is a certified NA and is therefore subject to said 23-17.9 so this matter is properly before the DOH.

II

Under the Rules And Regulations For The Registration Of Nursing Assistants And The State Review And Approval Of Nursing Assistant Training And Competency Evaluation Programs (Rules), promulgated in September 1996 and still current at this time, there is no provision for a NA to designate another uncertified person to carry out the duties of an NA, therefore what Babalola did is in violation of the Rules.

III

Under Sub-Section 14.5.2 of the Rules the nursing assistant program shall consist of no less than eighty (80) hours of classroom instruction and twenty (20) hours of practical experience. There is no evidence that Babalola's wife's cousin was a certified NA or had any type of training that would be acceptable to the DOH.

IV

Babalola admitted to the substitution of his wife's cousin for the patient care and has placed himself on the compassion of the hearing officer to determine a suitable disposition of this case, therefore, the question is not one of guilt but rather is one of magnitude regarding a suitable decision.

OPINION

The decision of Babalola to entrust his patient to an unskilled, unregistered person was not only inadvisable but also illegal. The fact that the patient fell and had to be hospitalized while the cousin was "caring" for the patient was a serious reminder of the reason for trained health care workers to administer care to those in need. If Babalola felt strongly about his wife's cousin competence to care for someone with a health problem, he could have asked the cousin to observe his sick daughter until his wife came home to care for her. The determination to substitute himself with an untrained person was a critical and unconscionable conclusion by Babalola. The cousin was evidently suitable for the patient, but not for his daughter.

ORDERED

1. That the charge of improperly delegating responsibility to an unlicensed person and therefore neglecting to care for a patient is hereby upheld.

2. That as the result of his action to leave the patient without a properly trained and licensed person to care for the patient, Babalola has violated Sub-Section 17.9(a)(b) and (e) of the RIGL.