

STATE OF RHODE ISLAND
PROVIDENCE, SC.

DEPARTMENT OF HEALTH
HEALTH SERVICES REGULATION

vs.

ELMISE ALEXANDRE, N.A.

A.H. FILE NO. (HSR) 2007-8

ADMINISTRATIVE DECISION

This matter came on for hearing on February 6, 2007 upon a complaint that the Respondent physically assaulted a home care patient on or about July 6, 2006. Further, the State alleges that the Respondent has not complied with the terms of a probation Order that was entered against her on September 26, 2005. The State is seeking an Order of suspension.

The State was represented by legal counsel. The Respondent appeared for hearing and indicated on the record that she wished to represent herself pro se.

FINDINGS OF FACT

The State presented evidence that the Respondent has been under a probation Order since September 26, 2005. The probation Order prohibits the Respondent from working in a community-based setting (such as home care services), and it requires that Respondent work under supervision and that her employer submit quarterly performance evaluations of her work and that the Respondent submit evidence of in-service educational training with respect to patients' rights and her responsibilities.

The Administrator for the Nursing Assistant Board testified that the Respondent has not complied with any of the terms outlined in the probation Order.

Further, the Respondent's employer, Linda Oakley, Director of Patient Care Services at Alternative Care Medical Services, testified that the Respondent never informed her that she was on license probation, nor did she advise her of the probation requirements. In fact, the witness testified that Alternative Care Medical Services operates a business that provides home health services. Respondent was hired to provide home care services, which she is precluded from doing via the terms of her probation. She had been employed by Alternative Care for one (1) month prior to the July 6th incident.

The witness also testified as to the incident that occurred on July 6, 2006. The witness testified that her office was contacted by an elderly home care patient who said that she had been assaulted the previous day by her nursing assistant. The witness went to the patient's home to investigate the patient's complaint. The patient stated that a "thin dark" person had put her hands on her throat. Subsequent to the incident, the employer checked the State's website and learned that her probation prevented the Respondent from doing home care services. The Respondent was let go for that reason.

The Respondent testified that she did not abuse the patient in any way. Further, that she is one of several nursing aides who attended the patient on a daily basis. The Respondent presented testimony from another nursing assistant who serviced the same patient. That witness testified that the patient is "confused". In any event, there is no direct evidence that the Respondent assaulted the patient.

There is, however, clear evidence that the Respondent did not comply with the terms of the probation Order. She testified that she was "scared" to tell the employer about the probation because she did not think the employer would hire her.

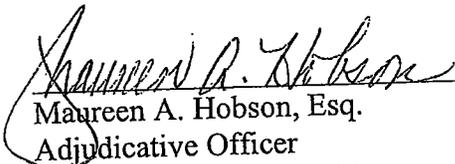
The probation Order was entered unilaterally by the State, presumably because the Respondent failed to appear and contest the charges.

The Respondent has been a certified nursing assistant for thirteen (13) years. She is working in a health care facility presently. While it is evident that the Respondent violated her probation, I find no evidence that continuation of the probation Order will engender any rehabilitation of the Respondent. It is not clear that the Respondent requires rehabilitation,

Based upon the foregoing, the probation Order entered on September 26, 2005 is hereby vacated.

The Respondent is hereby issued a **Reprimand** for violating the terms of the probation Order while it was in full force and effect.

Entered this 7TH day of February, 2007.



Maureen A. Hobson, Esq.

Adjudicative Officer
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If you are aggrieved by this final agency order, you may appeal this final order to the Rhode Island Superior Court within thirty (30) days from the date of mailing of this notice of final decision pursuant to the provisions for judicial review established by the Rhode Island Administrative Procedures Act, specifically, R.I. Gen. Laws § 42-35-15.

CERTIFICATION

I hereby certify that I have mailed a copy of the within Administrative Decision, by regular mail, to Elmise Alexandre, 59 Pekin Street, Apt. 2, Providence, RI 02908 on this 7th day of February 2007.

Carole Alloworth