

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF HEALTH  
THREE CAPITOL HILL  
PROVIDENCE, RHODE ISLAND 02908

Department of Health  
Health Services Regulation  
Board of Nursing Assistants,

C15-192B

v.

Erica Lynn Gagnon,  
Respondent.

91 7199 9991 7032 8168 4029

**DECISION**

**I. INTRODUCTION**

This matter arose pursuant to a Notice of Charges and Time of Hearing and a Particular Charges of Violations both dated July 14, 2015 and issued to Erica Lynn Gagnon (“Respondent”) by the Department of Health (“Department”). The Respondent holds a registration (“License”) as a certified nursing assistant (“CNA”) pursuant to R.I. Gen. Laws § 23-17.9-1 *et seq.* A hearing was held on November 6 and 19, 2015. Both parties were represented by counsel and rested on the record.

**II. JURISDICTION**

The administrative hearing was held pursuant to R.I. Gen. Laws § 42-18-1 *et seq.*, R.I. Gen. Laws § 23-17.9-1 *et seq.*, R.I. Gen. Laws § 42-35-1 *et seq.*, and the *Rules and Regulations Pertaining to Practices and Procedures before the Rhode Island Department of Health.*

**III. ISSUE**

Whether the Respondent violated R.I. Gen. Laws § 23-17.9-8 and the *Rules and Regulations Pertaining to Rhode Island Certificates of Registration for Nursing Assistants,*

*Medication Aides, and the Approval of Nursing Assistant and Medication Aide Training Program* (“Licensing Regulation”) and if so, what sanction should be imposed.

#### IV. TESTIMONY AND MATERIAL FACTS

Melissa Carroll (“Carroll”) testified on behalf of the Department. She testified that she worked as a CNA at a retirement home (“Home”) for about ten (10) months and that in February, 2015, she had been there for approximately nine (9) or ten (10) months. She testified that she shared a shift with the Respondent and they worked together three (3) or four (4) days a week on the same floor. She testified that she had noticed the Respondent abusing patients and initially submitted an anonymous complaint. See Department’s Exhibit Five (5) (initial anonymous complaint addressed to “Leslie” from December, 2014). She testified that she also made a second complaint. See Department’s Exhibits Eight (8) (second anonymous complaint addressed to “Lynn” from February, 2015) and Six (6) (supplemental complaint dated February 25, 2015).<sup>1</sup>

Carroll testified that she saw the Respondent hit a patient (“ML”) in the face with a soaked “buddy,” an incontinence pad. She testified that when sitting next to Respondent, she overheard the Respondent crank call one of the patients (“HG”) and that the Respondent had obtained the patient’s telephone number from HG’s cell phone. Carroll testified that the Respondent would say a patient (“LD”) had a bed pan when she did not so the patient would get soaked and also another CNA told her that Respondent had put a straw in LD’s call light so it did not work properly. She testified that the Respondent told her that she had given another patient (“WS”) a lap dance. She testified that she heard the Respondent swear and be mean to patient (“HL”) by saying things like they would celebrate when she died. She testified that she filed the complaint about the Respondent because she felt she had to but was scared so did it anonymously. She testified that

---

<sup>1</sup> Department’s Exhibits Five (5), Six (6), Seven (7), Eight (8), and Nine (9) were sealed by the undersigned by agreement of the parties.

prior to filing a complaint, she did not have a falling out with the Respondent and the Respondent had not reported her. She testified that she was afraid to make the report and testified under subpoena. See Department's Exhibit Three (3) (subpoena). On cross-examination, Carroll testified that when the Home asked who made the anonymous complaint, she said she had.

Kimberly Sawicki ("Sawicki") testified on behalf of the Department. She testified she was subpoenaed to testify. See Department's Exhibit Two (2). She testified that she started working at the Home on August 27, 2014 and is still there. She testified that she worked as a medication aide on the same shift and floor four (4) of five (5) days with the Respondent. She testified that the Assistant Director of Nursing, Lynn, had asked her to make a statement because she had received a complaint. She testified that she made a statement on February 25, 2015. See Department's Exhibit Seven (7). She testified that Chelsea Paola ("Paola") told her that she and Respondent had hit a patient (ML) in the face with a wet buddy. She testified that the Respondent made crank calls to HG and that Respondent told her (Sawicki) that she got HG's cellphone number by calling her own cell phone number with HG's cellphone when HG was in the bath. She testified that the Respondent would swear at HL. She testified that she did not have a falling out with the Respondent prior to making the report but she was nervous about making the report and was told that if she made the report there could be problems.

On cross-examination, Sawicki testified the Respondent told her there would be consequences if she testified. She testified she saw and heard the crank calls to HG and saw and heard the Respondent swear at HL. She testified that she never saw the Respondent hit a patient. On redirect examination, she testified that Paola told her about hitting ML with the wet buddy.

Lynn Viveiros ("Viveiros"), Assistant Director of Nursing, testified on behalf of the Department. She testified that she has been at the Home for three (3) years and became Assistant

Director of Nursing in January, 2015 and is responsible for investigations. She testified that she received an anonymous note regarding the Respondent and Paola being sexually inappropriate with male residents, not giving residents bed pans, refusing to answer calls, making crank calls, turning out call lights, and slapping a patient with an incontinence pad. She testified that when she received the anonymous complaint, the Respondent was asked to leave because of the investigation and an investigation was started. She testified that they spoke to the residents about any problems, notified physicians and families, and contacted the police and the Attorney General's office. She testified that they asked general questions of the residents on the unit about any problems during the second shift. She testified the anonymous letter she received was on February 24, 2015 and they looked at the schedule and decided it was most likely from Carroll. She testified that it was Carroll and Carroll made a supplemental report. She testified she spoke to the residents but not all of them could express what had happened because of cognitive impairment. She testified LD said that the Respondent and Paolo would not give her a bed jacket and she would need someone to help her get a bed jacket. She testified HL told her that the Respondent is rough with her. She testified that HG said she was receiving crank calls and whoever was making the crank calls, called her (HG) by name and she (HG) threatened to go to the police and then the calls stopped. She testified that at first WS said that he was okay but then his daughter called and said he had a statement to make. She testified that WS spoke with them with his daughter and son-in-law present and said that a CNA had done the "hoochie coochie" but did not say the CNA's name. See Department's Exhibit Nine (9) (Home's investigatory report). On cross-examination she testified that no resident identified the Respondent hitting anyone.

Leslie Duke ("Duke"), Director of Nursing at the Home, testified on behalf of the Department. She testified that in January, 2015, she became Director of Nursing and prior to that

was the Assistant Director of Nursing. She testified that as the Assistant Director of Nursing, she was in charge of hiring, firing and training and as Director, she then became responsible for all the employees and ensuring their jobs were performed and the Home meets state regulation. She testified that in December, 2014, when she was the Assistant Director, she received an anonymous note put under her door which she forwarded to the Director. She testified that in February, 2015, there was a second anonymous complaint and when she received that note, she followed investigation protocols and sent the Respondent home from work and called Paolo not to come in.

Duke testified that they interviewed the residents and employees. She testified that she was present at the interviews for the employees as well as the second interview of resident WS. She testified that Carroll admitted that she wrote both anonymous notes and then wrote a supplemental complaint. She testified that the Home has a statutory obligation to investigate the complaint and forward the report to the Department. She testified the incidences happened in the unit to which the Respondent and Paola were assigned. She testified many of the residents of that unit have dementia and require complete care and are dependent on the CNA's for their personal care. She testified WS's family contacted the Home after he was first interviewed to say he had additional information and originally had not wanted to get anyone in trouble. On cross-examination, Duke testified that because of privacy issues, there are no cameras in the rooms or on the units, but only on the front and back door. She testified that the Respondent started in April, 2011 and there had been complaints about her work but none related to patient abuse.

Arlene Hartwell, CNA Board Manager, testified on behalf of the Department. She testified that the Board and the Department are seeking revocation of Respondent's License.

Tina Tavis testified on behalf of the Respondent. She testified that she works at the Home and is a permanent floater. She testified that she knows the Respondent, Carroll, and Sawicki.

She testified that she had heard about the prank calls, but never saw them and she never saw the Respondent push or hit any patient. She testified the staff were cliquy and that there were some that were devious and that if you told them how to do the job, they would gang up on you. She testified that there was a group including Carroll and that if the Respondent got on their case, they would be mad and that she was not part of the clique. On cross-examination, Tavis testified she is a floater and did not see the Respondent every day.

Lisa Durrett testified on behalf of the Respondent. She testified she worked at the Home on Respondent's unit and worked four (4) days a week with the Respondent. She testified she heard rumors of prank calls, but she never saw any prank calls and never saw a resident pushed or hit or treated badly. She testified that she was friends with Respondent who was great to everyone and that the coworkers were all dependable and reliable. She testified that Carroll was quiet and kept to herself. She testified that she did not think the staff was cliquy and they welcomed floaters to the unit. She testified that the Respondent spoke her mind and people might not like that. On cross-examination, Durrett testified that at the Home, there was one CNA for each resident and one would call someone in if one needed help with a resident so she did not go into rooms with the Respondent and was not aware what the Respondent did during whole shift.

Alisha Gonzalez testified on behalf of the Respondent. She testified that she worked for four (4) years at the Home and during those years, she worked with the Respondent about seven (7) times and never saw her hurt anyone and never saw her make prank calls. She testified that not everyone wants to do their work so they did not like when the Respondent told them what to do. On cross-examination she testified that she is the Respondent's sister.

Cheryl Gagnon testified on behalf of the Respondent. She testified that she is the Respondent's mother and works at the Home. She testified that for three (3) years from May 2012

to 2015, she worked at Respondent's unit with Respondent five (5) days a week. She testified she would be with the Respondent all the time and was in every room with the Respondent. She testified she never saw the Respondent make a prank call and never saw her hurt or push anyone. She testified that not everyone would do their work and the Respondent told them what to do. She testified that the Respondent had to tell Carroll a few times what to do when she was not answering the light and that Carroll would complain the Respondent was rude to her. She testified that there was no conflict between the Respondent and Sawicki.

## V. DISCUSSION

### A. **Legislative Intent**

The Rhode Island Supreme Court has consistently held that it effectuates legislative intent by examining a statute in its entirety and giving words their plain and ordinary meaning. *In re Falstaff Brewing Corp.*, 637 A.2d 1047 (R.I. 1994). If a statute is clear and unambiguous, "the Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings." *Oliveira v. Lombardi*, 794 A.2d 453, 457 (R.I. 2002) (citation omitted). The Supreme Court has also established that it will not interpret legislative enactments in a manner that renders them nugatory or that would produce an unreasonable result. See *Defenders of Animals v. DEM*, 553 A.2d 541 (R.I. 1989) (citation omitted). In cases where a statute may contain ambiguous language, the Rhode Island Supreme Court has consistently held that the legislative intent must be considered. *Providence Journal Co. v. Rodgers*, 711 A.2d 1131, 1134 (R.I. 1998). The statutory provisions must be examined in their entirety and the meaning most consistent with the policies and purposes of the legislature must be effectuated. *Id.*

## **B. Standard of Review for an Administrative Hearing**

It is well settled that in formal or informal adjudications modeled on the Federal Administrative Procedures Act, the initial burdens of production and persuasion rest with the moving party. 2 Richard J. Pierce, *Administrative Law Treatise* § 10.7 (2002). Unless otherwise specified, a preponderance of the evidence is generally required in order to prevail. *Id.* See *Lyons v. Rhode Island Pub. Employees Council* 94, 559 A.2d 130, 134 (R.I. 1989) (preponderance standard is the “normal” standard in civil cases). This means that for each element to be proven, the fact-finder must believe that the facts asserted by the proponent are more probably true than false. *Id.* When there is no direct evidence on a particular issue, a fair preponderance of the evidence may be supported by circumstantial evidence. *Narragansett Electric Co. v. Carbone*, 898 A.2d 87 (R.I. 2006).

## **C. Statute**

R.I. Gen Laws § 23-17.9-8 provides as follows:

Disciplinary proceedings. – The department may suspend or revoke any certificate of registration issued under this chapter or may reprimand, censure, or otherwise discipline or may deny an application for registration in accordance with the provisions of this section upon decision and after a hearing as provided by chapter 35 of title 42, as amended, in any of the following cases:

(1) Upon proof that the nursing assistant is unfit or incompetent by reason of negligence, habits, or other causes;

(2) Upon proof that the nursing assistant has violated any of the provisions of this chapter or the rules enacted in accordance with this chapter; or acted in a manner inconsistent with the health and safety of the patients of the home in which he or she is providing nursing assistant services;

\*\*\*

(5) Has engaged in conduct detrimental to the health, welfare and safety of patients/residents in his or her care;

(6) Any other causes that may be set forth in regulations promulgated under this chapter.

Section 6.1 of the Licensing Regulation provides as follows:

Pursuant to the statutory provisions of sections 23-17.9-8 and 23-17.9-9 of the Rhode Island General Laws, as amended, the Department may deny, suspend or revoke any registration issued hereunder or may reprimand, censure or otherwise discipline an individual who has been found guilty of violations of the Act or the rules and regulations herein, in accordance with section 23-17.9-8 of the Rhode Island General Laws, as amended, and upon decision and after hearing as provided pursuant to section 11.0 herein in any of the following cases:

a) upon proof that such nursing assistant and/or medication aide is unfit or incompetent by reason of negligence, habits or other causes;

b) upon proof that such nursing assistant and/or medication aide has violated any of the provisions of the Act or the rules and regulations herein; or acted in a manner inconsistent with the health and safety of the patients of the agency/home in which he or she is providing nursing assistant and/or medication aide services

\*\*\*

e) has engaged in conduct detrimental to the health, welfare, and safety of patients/residents in his/her care;

f) has engaged in unprofessional conduct including, but not limited to, departure from, or failure to conform to, the standards of acceptable and prevailing practice.

#### **D. Arguments**

In closing, the Respondent argued that the four (4) people who testified on the Respondent's behalf did not see anything inappropriate by the Respondent and it is a drastic step to take away the Respondent's License on the basis of two (2) witnesses especially the witnesses that may have been rivals of the Respondent and there is no other evidence to support the allegations besides that testimony.

In closing, the Department argued that Carroll and Sawicki's testimony were consistent with their statements. The Department argued that there was no evidence of bias by Carroll or Sawicki both of whom were subpoenaed to testify and there was no credible evidence of any rivalry. The Department argued that the Respondent relied on evidence from a friend, her sister, and her mother and while clearly they would want to protect the Respondent, their evidence was not compelling.

**E. Whether the Respondent Violated R.I. Gen. Laws § 23-17.9-8**

In December, 2014, Carroll sent an anonymous note to the then Assistant Director of Nursing reciting that she saw Respondent and Paolo hit ML with a wet “buddy.” See Department’s Exhibit Five (5). Duke was the Assistant Director at the time and testified that she forwarded the anonymous complaint to the Director. Nothing was done at that time. In February, 2015, Carroll again submitted an anonymous complaint about Respondent and Paolo. See Department’s Exhibit Eight (8). This complaint stated that the Respondent had obtained HG’s cellphone number by calling her own cellphone with HG’s cellphone when HG was in the bathroom and that the Respondent prank calls HG and HG has indicated that it is ongoing and she might call the police. It indicated that the Respondent and Paolo slapped ML with a wet “buddy” while ML was sleeping and almost woke her. It indicated that she saw Respondent dancing provocatively in front of WS. This time the Home investigated the anonymous complaint and Carroll admitted she wrote both anonymous complaints and made a supplemental complaint. See Department’s Exhibit Six (6). The supplemental complaint indicated that the Respondent gave WS a lap dance. The complaint indicated that Respondent prank called HG and was mean to HL and tricked LD by telling her she has a bed pan when she does not causing LD to wet herself and she unplugged LD’s call light.

The Home investigated the complaint and took statements from staff and residents (though was unable to obtain statements from all affected residents due to cognitive issues on the part of the residents). Sawicki’s statement indicated that she was just trying to mind her business and do her job. In her statement, she indicated that she heard that the Respondent and Paolo hit ML with a wet “buddy,” but did not witness that. She wrote that she discovered that the Respondent had been prank calling HG and that Respondent told her she obtained HG’s cellphone number by

calling herself from HG's cellphone when HG was in the bathroom. The statement said that she had heard the Respondent be mean to HG and HL.

One CNA statement<sup>2</sup> indicated that there is a great team on the Respondent's unit and while they play around with each other, it is only for laughs and no one is abused or bullied. LD's statement indicated that the Respondent and Paolo did not give her her bed jacket. ML was unable to give a statement. HL stated that the Respondent bosses her around and is rough with her. HG's statement indicated that she received prank calls which stopped after she threatened to call the police. HG's statement indicated that one prank call called her by her first name and one called her by her full name and one pretended to have gone to school with her. Initially WS's statement was that he did not want to get anyone in trouble, but he made a second statement after his family contacted the Home indicating that he had been woken up for dancing and that they all were clothed but they did the "hoochie coochie." See Department's Exhibit Nine (9).

Carroll testified to seeing Respondent hit ML with the wet buddy. Carroll testified that she heard Respondent crank call HG. Sawicki testified that she heard the prank calls and Respondent told her how she (Respondent) obtained HG's cellphone number. HG's statement confirmed she received prank calls. Carroll testified that the Respondent would not give LD a bedpan and turned off her call light. LD's statement was consistent with those types of activities in that she stated that the Respondent would not give her bed jacket to her. Carroll testified that the Respondent told her she gave a resident a lap dance and WS's statement confirmed it. Carroll and Sawicki both testified that the Respondent was rude and mean to HL. HL's statement corroborated that by stating that Respondent was rough with her.

---

<sup>2</sup> The signature looks like Lisa Durrett. See Department's Exhibit Nine (9).

The Respondent's sister who worked with her about six (6) times testified that she never saw anything inappropriate. The Respondent's mother testified that she worked with her daughter five (5) days a week and was with her in the rooms and never saw anything inappropriate. However, the evidence was that each CNA was responsible for certain patients so would not be with another CNA all the time. Furthermore, the evidence was that the behavior by Respondent was often in conjunction with Paolo. Additionally both the sister and mother are family members with more reason to give testimony to protect the Respondent.

The Respondent argued that Carroll and Sawicki were somehow driven by a rivalry with Respondent to testify as they did. Tavis spoke of cliques. Durrett disagreed there were cliques. There was testimony that the Respondent told other staff what to do and was resented for this. However, no evidence was presented that Carroll and Sawicki's evidence was not credible. Both were subpoenaed. There was no evidence that either had an "axe to grind" against the Respondent. Their testimony was corroborated by statements from residents.<sup>3</sup>

During a civil proceeding, an adverse inference may be drawn from the refusal to testify. Thus, a hearing officer can draw an adverse inference from a party's refusal to testify during an administrative proceeding for any reason including a constitutional one. *Baxter v. Palmigiano*, 425 U.S. 308, 318 (1976);<sup>4</sup> *Powers v. State*, 734 A.2d 508 (R.I. 1999). In addition, the "Empty

---

<sup>3</sup> R.I. Gen. Laws § 42-35-10 allows the rules of evidence to be relaxed in administrative hearings so that hearsay evidence may be admitted. In this matter, the residents' statements were admitted and the residents did not testify. However, there was testimony regarding the same incidents about which the resident gave statements. The statements were of type a reasonable prudent person would rely on. See *DePasquale v. Harrington*, 599 A.2d 314 (R.I. 1991).

<sup>4</sup> In *Baxter*, a prisoner was informed that he had a right to remain silent during his prison disciplinary hearing but that if he remained silent his silence would be held against him. The prisoner remained silent. He did not invoke his Fifth amendment right. *Baxter* found that an adverse inference could be drawn from an inmate's silence at his disciplinary proceedings. The Court found as follows:

Our conclusion is consistent with the prevailing rule that the Fifth Amendment does not forbid adverse inferences against parties to civil actions when they refuse to testify in response to probative evidence offered against them: the Amendment "does not preclude the inference where the privilege is claimed by a party to a Civil cause." (citation omitted). *Id.* at 318.

Chair Doctrine” is a rule of jurisprudence that states that if a party in a contested civil proceeding fails to call a readily available witness who would normally be expected to testify to a material issue, the fact-finder may presume (but does not have to) that if the witness did testify, the evidence would have been prejudicial to the party’s cause. *Retirement Board of Employees’ Retirement System v. DiPrete*, 845 A.2d 270 (R.I. 2004); *Belanger v. Cross*, 488 A.2d 410 (R.I. 1985). “This empty-chair doctrine, however, must be applied with great caution. *Id.*; see also *Avarista v. Aloisio*, 672 A.2d 887, 892 (R.I.1996). Before a negative inference may be drawn in such a situation, it must be demonstrated that the missing witness was available to the person who would be expected to call the witness.” *Belanger*, 488 A.2d at 412–13. Here, the Respondent was available to testify but was not called. *Avarista* declined to apply the rule if either party could have called the witness; however, *DiPrete* phrased the issue of which party would be expected to call the witness. In this matter, the Department did not call the Respondent and instead relied on testimony of co-workers. The Respondent did not testify on her behalf, but relied on co-workers’ testimony. From the failure of Respondent to testify, it can be presumed that testimony from the Respondent would not have assisted her case.

However, even without the adverse inference of the Respondent not testifying on her behalf, there is a preponderance of evidence to find that the Respondent treated the vulnerable patients in her care abusively and unprofessionally. The evidence demonstrated that the Respondent hit ML with a wet buddy, danced in a sexual manner to WS, prank called HG, verbally abused HL, and refused to assist LD.

---

The Court noted, “[t]hus, aside from the privilege against compelled self-incrimination, the Court has consistently recognized that in proper circumstances silence in the face of accusation is a relevant fact not barred from evidence by the Due Process Clause.” *Id.* at 319.

The Respondent continually engaged in this abusive and unprofessional behavior by hitting ML, prank calling HG, verbally abusing HL, being unhelpful to LD, and dancing inappropriately to WS. She bragged about her actions to other CNA's and engaged in such behavior when she could be overheard (e.g. the prank calls). Such behavior is abusive to patients, inconsistent with and detrimental to the health and safety of patients, and fails to conform to the standards of prevailing practice.

The Respondent's actions violated R.I. Gen. Laws § 23-17.9-8(1) (unfit by reason of habits (abusive behavior)); (2) (inconsistent with the health and safety of a patient); (5) (detrimental to the health and safety of a patient in her care); and (6) (violates Section 6.1(f) of Licensing Regulation). The Respondent's action also violated Section 6.1(a) (unfit by reason of habits (abusive behavior)); (b) (inconsistent with the health and safety of a patient); (e) (detrimental to the health and safety of a patient in her care); and (f) (fails to conform to the standards of acceptable and prevailing practice) of the Licensing Regulation. The Respondent has demonstrated repeatedly that she cannot properly care for patients and as a result her License should be revoked.

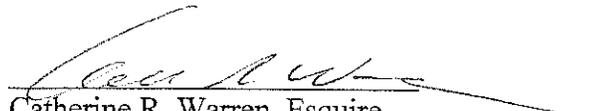
#### **VI. FINDINGS OF FACT**

1. The Respondent is licensed as a nursing assistant pursuant to R.I. Gen. Laws § 23-17.9-1 *et seq.*
2. A hearing was held on November 6 and 19, 2015. The parties rested on the record.
3. The facts contained in Section IV and V are reincorporated by reference herein.

#### **VII. CONCLUSIONS OF LAW**

Based on the forgoing, the Respondent violated R.I. Gen. Laws § 23-17.9-8(1), (2), (5), and (6) and violated Sections 6.1(a), (b), (e), and (f) of the Licensing Regulation. The undersigned recommends that Respondent's License be revoked.

Entered this day 15<sup>th</sup> December, 2015.

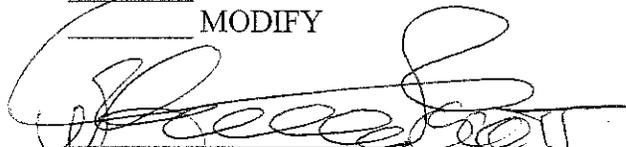
  
Catherine R. Warren, Esquire  
Hearing Officer

**ORDER**

I have read the Hearing Officer's Decision and Recommendation in this matter, and I hereby take the following action with regard to the Decision and Recommendation:

ADOPT  
 REJECT  
 MODIFY

Dated: 12/21/15

  
Nicole Alexander-Scott, M.D.  
Director

**NOTICE OF APPELLATE RIGHTS**

THIS DECISION CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF HEALTH PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.

**CERTIFICATION**

I hereby certify on this 10 day of January, 2016 ~~December, 2015~~ that a copy of the within Decision and Notice of Appellate Rights was sent by first class mail and certified mail to Robert McNelis, Esquire, 986 Hartford Avenue, Johnston, RI 02919 and by hand-delivery to Amy Coleman, Esquire, Department of Health, Three Capitol Hill, Providence, RI 02908.

