

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PROVIDENCE, SC

DEPARTMENT OF HEALTH  
HEALTH SERVICES REGULATION

V.

AH FILE NO: (HSR) 2003-16

LAWRENCE DANTE, N.A.

ADMINISTRATIVE DECISION

This matter came on for hearing before an Adjudication Officer within the Department of Health (hereinafter DOH) on June 19, 2003 following the investigation of a complaint made against the Respondent to the DOH. The charges against the Respondent were set forth in the Administrative Hearing Notice issued by the DOH on 5/9/03. (State's 1). The Notice alleges that the Respondent has been guilty of unprofessional conduct while employed at Rhode Island Hospital. Specifically, the State alleges that while employed as a Nursing Assistant at Rhode Island Hospital in April of 2003, the "Respondent did make inappropriate sexual comments and gestures to a female patient; did gyrate his pelvis area in the presence of the female patient; and did inappropriately touch the leg of the female patient". The State has moved for revocation of Respondent's nursing assistant registration.

The Respondent was present for hearing and represented by legal counsel.

TRAVEL AND FINDINGS

This matter first came to the attention of the DOH pursuant to a report of the incident made by Rhode Island Hospital to the Division of Facilities Regulation within the DOH. Upon completion of an investigation of the incidents in question, the Director of Health issued an Immediate Compliance Order and Summary Suspension on May 6, 2003. That Order, which is State's 2 on the record, summarily suspended Respondent's registration as a nursing assistant pending this hearing.

The subject patient and her husband testified as to the alleged incidents that occurred on April 22<sup>nd</sup> and 24<sup>th</sup>. The husband testified that he and his wife first met the Respondent when the wife was admitted to the hospital on April 22<sup>nd</sup>. They were watching television in the patient's room when the Respondent entered. The husband and wife thought that he was the wife's nurse. The Respondent asked them why they were not watching woman's mud wrestling. He stated to them that he liked to watch ladies mud wrestling because he is color-blind and all of the women look nude to him. He stated that he especially likes it when "their nipples get hard". As he made that statement he gestured toward his own nipples and said something like "ba bing". The couple felt that this was inappropriate, but inasmuch as it was only one incident, they did not report it to anyone that evening.

Subsequently, on April 24<sup>th</sup>, both the patient and her husband had further experience with the Respondent. The patient testified that she underwent surgery on the 24<sup>th</sup>. An RN assisted her back to bed from the surgery. The Respondent followed them into the patient's room. When the RN left the room, the Respondent approached the patient in bed and stood over her staring down at her. He told her that she was a beautiful girl. The patient testified that his statement and actions made her very uncomfortable, but she was still under the impression that he was her nurse, so she said nothing. She testified that she attempted to divert his attention by telling him that she was hungry. At that point, he began a discussion of hospital food. The Respondent told the patient that she should have the chicken because you can "jerk off" on it, and it will still taste like chicken. He left the room, but he came back shortly thereafter. At that time,

the Respondent began to complain about some of the female nurses. He made rude remarks about them. With respect to one nurse in particular, the Respondent told the patient that she used to be thin, and when she was, he wanted "to do her", but now that she has a "big wide ass", he wants nothing to do with her. While talking to the patient, the Respondent began gyrating his hips and thrusting his pelvis in her direction. The patient was still under the impression that Respondent was her nurse. She didn't want to do anything that would jeopardize her care, but she was afraid. When the Respondent left the room, the patient called her husband to come to the hospital. She told him what had been taking place with the Respondent, and he urged her to report it. While the patient's husband was there, the Respondent did come into the room and try to start another conversation about the mud wrestling. The husband told him that he and his wife were not interested in that sort of thing. When it was time for her medication, a male nurse came to deliver it. At that time, the patient learned that the Respondent was not a nurse, but rather an aide. She reported to the nurse some of the things that had been going on with the Respondent. The nurse told her that the Respondent was weird. The husband then left the hospital for the evening. It was approximately 9:30 pm. The patient testified that immediately after her husband's departure, the Respondent again entered her room. She feigned sleep. The Respondent stood over her looking at her. He then touched her leg and moved his hand up her leg and tried to lift her johnny. She pulled it down firmly around her, and the Respondent left the room. In addition to the above comments attributed to the Respondent, the patient also testified that when she complained of pain to the Respondent, he told her that he could get any amount of "coke-87%" she wanted. The patient then stated that she telephoned her daughter intermittently from about 9:30 through 11:00 so that she would be on the phone with someone in the event that the Respondent came back into her room. The Respondent's shift ended at 11:00.

The patient reported the Respondent to first female staff member that she saw in the hallway. That individual reported the incident to hospital administration and the hospital sent a nursing administrator to the patient's room to take her statement. That occurred at approximately 12:30 am on the 25<sup>th</sup>.

The hospital reported the incident to the Division of Facilities Regulation within the DOH, and Facilities referred the matter to the Division of Health Services Regulation to take appropriate action against Respondent's registration as a nursing assistant. As set forth aforesaid, the Director of Health immediately issued an Order summarily suspending Respondent's registration pending this hearing.

The Respondent testified on his own behalf. He stated that none of the testimony given by the patient or her husband was true. He emphatically denied making any sexual comments or engaging in any unwarranted touching. He specifically denied the "nipple" incident, telling the patient that she was beautiful, talking about the chicken, telling the patient that he could obtain coke and talking abusively about other female staff members at the hospital. The Respondent did admit that he did touch the patient's leg, but did it only to get her attention. He also admits talking about mud wrestling, but denies any sexual comments with respect to the conversation. Despite the fact that the patient and her husband had never met the Respondent before the hospital stay, the Respondent maintains that their story was entirely made up in an effort to hurt him.

This hearing officer finds that the Respondent's testimony lacks any credibility. In fact, the Respondent admitted on the record that he is color-blind, which begs the question as to why that would come up in conversation were it not in the context testified to by the patient and her husband. The testimony of the couple is compelling, accurate and consistent. Their testimony is credible, and I find that the Respondent is guilty of the state's allegations.

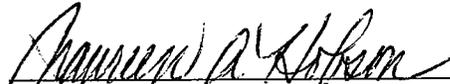
#### CONCLUSION

Pursuant to section 23-17.9-8, the DOH may revoke or suspend the registration of a nursing assistant who it determines has engaged in conduct that is detrimental to the health, welfare and safety of patients/residents in his/her care. The conduct engaged in by the Respondent herein was certainly detrimental to the patient's welfare, compromised her care and caused her to experience anxiety while in the hospital.

ORDER

Based upon the foregoing, the registration of Lawrence Dante as a nursing assistant in the State of Rhode Island is hereby revoked forthwith.

ENTERED THIS 24<sup>TH</sup> DAY OF JUNE, 2003.

  
\_\_\_\_\_  
Maureen A. Hobson  
Adjudication Officer and Deputy Chief Legal Counsel  
Department of Health

YOU HAVE THIRTY DAYS TO APPEAL THIS DECISION TO THE SUPERIOR COURT.

CERTIFICATION

I certify that a copy of the within was mailed to James Kelleher, Esq., Revens, Revens & St Pierre at 946 Centerville Road, Warwick, RI 02886 on the 24<sup>th</sup> day of June, 2003.

  
\_\_\_\_\_  
Carole Allsworth