

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH
HEALTH SERVICES REGULATION

vs.

MARSUE McKARR, N.A.

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A.H. FILE NO. (HSR) 2005-36

ADMINISTRATIVE DECISION

This matter came on for hearing on September 28, 2005 upon allegations of unprofessional conduct pursuant to § 23-17.9-8 of the General Laws.

Specifically, the State alleges that while employed as a certified nurse assistant (CNA) at Hopkins Manor North on August 17, 2004, the Respondent did fail to attend to the needs of her assigned patient, and that as a result of her inaction, the patient became anxious, upset and short of breath. Further, the complaint against the Respondent alleges that when informed of the patient's discomfort, the Respondent laughed in the patient's face. The nursing facility reported the incident to the State and the State embarked on an investigation.

The State interviewed personnel at Hopkins Manor North and reviewed the Respondent's personnel record. Investigations from the Office of Facilities Regulation and the health professionals Complaint Unit concluded that the allegations against the Respondent were substantiated (Exhibits 2-4). The facts are as follows. The prescribed course of conduct for the CNA attending the subject patient was to turn down the patient's bed at or before 9:00pm each evening. On August 17, 2005 care for the patient was assigned to the

Respondent. The Respondent went on her break and returned therefrom at approximately 8:45pm. The Respondent was aware that the patient wanted her bed turned down and that the patient had great difficulty doing this for herself. Nevertheless, the Respondent did not attend to the patient, but rather she sat in the "back room" until approximately 9:40pm. When she then went to the patient's room and found that she had turned down her own bed and was anxious and agitated, the Respondent laughed, trying to make light of the situation.

The Respondent appeared at the hearing representing herself. She admitted that she failed to turn the patient's bed down because she was busy and then forgot. She did testify that while she was eating her dinner she asked another CNA whether she had turned down the patient's bed. The patient was not assigned to the other CNA, and she told the Respondent that she had not turned down the bed. Even then, the Respondent did not attend to patient, but continued to sit chatting with the other CNA.

The Respondent states that she went to the patient's room sometime later to apologize for forgetting to turn the bed down. She stated that the patient was upset and repeatedly admonished her not to forget again. She said she did not laugh at the patient, but was enjoying a joke made by a coworker.

This Hearing Officer does not find the Respondent's version of the events to be credible. I find it more likely to be that the Respondent was sitting in the back room while the patient struggled with the bed. Additionally, the State's investigation of Respondent's personnel record at Hopkins Manor North reveals several past "warnings" given by supervisors and complaints made against the

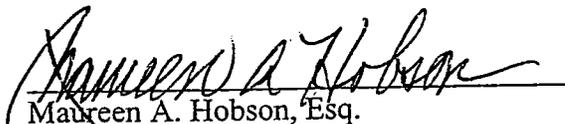
Respondent based upon her refusal to provide patient care and/or her uncooperative attitude with patients.

Based upon the foregoing and upon the pertinent statutory provisions, I conclude that the Respondent was guilty of unprofessional conduct with respect to her retreatment of the subject patient.

ORDER

The Respondent is hereby issued a **REPRIMAND** that will be posted on her license and kept in her file at the Department of Health.

Entered this 5th day of October 2005.



Maureen A. Hobson, Esq.
Acting Assistant Director of Health
Chief Legal Counsel
R.I. Department of Health
Cannon Building, Room 404
Three Capitol Hill
Providence, RI 02908-5097
Tel. (401) 222-2137
Fax (401) 222-1250

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 ADMINIS-
TRATIVE DECISION to Marsue McKarr, P.O. Box 6322, Providence, RI 02908
on this 5th day of October 2005.

Carole Alsworth