

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

VS

A.H. FILE NO. PR 99-16

TERESA ELLIOTT-WOODY, C.N.A.

ORDER

This matter was heard on 22 April 1999 upon the complaint of the Department of Health, Division of Professional Regulation (DOH) that Teresa Elliott-Woody (Woody), a Certified Nursing Assistant (CNA), had misappropriated property of a client while employed as a CNA by Phenix Home Care, Inc. (Phenix). Woody was on assignment to a home care client on 11 December 1998, 14 December 1998, and other diverse dates, and the DOH alleges Woody took money without authorization from a clients home. The allegations were assimilated into an ADMINISTRATIVE HEARING NOTICE dated 6 April 1999. The Notice gave the date, time and place for the hearing, the legal authority therefore and the specific alleged charges, and the proposal of the DOH to revoke Woody's certificate of registration as a Nursing Assistant.

The DOH was represented by Gregory A. Madoian, Esquire, and Woody was neither represented nor present for the hearing. The Administrative Hearing Notice was mailed by regular and certified mail to Woody and no DOH personnel had received any requests from Woody for continuances or any other information. The hearing was conducted under the provisions of Chapters 23-17.9 and 42-35 of the R.I.G.L. and the respective Rules and Regulations appropriate thereto.

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 R.I.G.L. the DOH has the authority and responsibility to regulate and certify nursing assistants in this state.
2. Woody is a certified nursing assistant in this state and was employed by Phenix in that capacity. Phenix sent Woody to the home of Mr. and Mrs. John McGuirl, 195 Concord Avenue, Cranston, RI on numerous occasions to help Mrs. McGuirl with the general housekeeping.
3. On 30 November 1998 John McGuirl called Rick Cardone, a private investigator, alleging that money was being taken from his home by the "cleaning woman". He told Cardone he had contacted the Cranston Police but they said there wasn't enough evidence at that time to arrest Woody. He further informed Cardone that his insurance company advised him to contact Cardone. On 8 December 1998 Cardone spoke to Mrs. McGuirl and she told Cardone that they would like the surveillance camera installed on 9 December 1998. The money was photographed and the serial numbers recorded. The camera was installed with a video recorder on that date. Cardone and his associate went to 195 Concord Avenue on the morning of 10 December and placed money in various places of a room, and videotaped the placement of the money, and started the surveillance camera before they left. They returned at 1:06 p.m. and found no money missing. They returned in the early morning of 11 December 1998 and observed Mr. McGuirl place a \$5.00 bill in each of ten envelopes on a tall bureau. Mr. McGuirl also left two \$5.00 bills on another bureau and two \$10.00 bills in a pocketbook on top of the bureau and two \$10.00 bills in a purse in the top drawer of a bureau. When Cardone's associate, Jim Lima returned to turn off the camera later that day he discovered that the two \$5.00 bills left loose on the bureau were missing. He also stated that Mr. McGuirl said approximately \$200.00 was also missing from

the pocketbook. Mr. McGuirl told him he had the serial numbers of the bills. (exhibit 3 & trans P 7 L 11 to 17)

4. On 12 December 1998 Cordone and Lima reviewed the 11 December film and saw Woody searching the closet, take money off the bureau and then go thru the pocketbook at the other bureau and remove something therefrom. Cardone called for Detective Mike Gates at the Cranston Police Station and was informed he would be out until the following Monday. On December 14 Cardone returned to 195 Concord Avenue and started the video camera. He called Cranston Police and Officer Okolowicz, Badge #341 responded and was shown the camera and scene and told about the 11 December filming. They left the McGuirl residence and went to the Cranston Police Station and viewed the video again and made witness statements. Officer Okolowicz said an arrest warrant would be obtained for Woody. (exhibit 3)

5. Cardone returned to the McGuirl residence on 15 December 1998 and documented the money that was left and started the video recorder. He called the Cranston Police and was informed that the police would go to the McGuirl residence at about 11:30 a.m. with an arrest warrant for Woody. After the police arrived Cardone turned off the video recorder. (exhibit 3)

6. The video tape of 11 December 1998 offered in this matter shows Woody looking through a closet, envelopes on a tall bureau and a pocketbook on a low bureau. (exhibit 2) Woody was identified on the video, during the hearing, by Ann St. Pierre, Office Manager at Phoenix Health Care where Woody was employed. (trans Pg 12 L 4 & exhibit 2)

7. In every instance where Woody went thru items in the closet, on the tall bureau or the pocketbook on the low bureau, she put on rubber gloves prior to her search. (exhibit 2)

9. The DOH is seeking a revocation of Woody's Certified Nursing Assistant certificate because of the allegations against her. (exhibit 1)

10. Under the provisions of Section 23-17.9-8 of the RIGL; "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 hearing as provided by chapter 42-35, as amended in any of the following cases;

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

(b) Upon proof that the nursing assistant has willfully or repeatedly violated any of the provisions of this chapter or the rules enacted in accordance therewith; or willfully or repeatedly 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;

(c) Upon proof that the nursing assistant has been convicted in a court of competent jurisdiction, either within or without this state, of a felony;

(d) Otherwise violate any of the provisions of this chapter;

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

(f) Such other causes as may be set forth in regulation promulgated under this chapter."

CONCLUSIONS OF LAW

I

Under the provision of Chapter 23-17.9 of the RIGL the DOH has the authority and responsibility to register and regulate nursing assistants in this state, and Woody is a nursing assistant and is therefore subject to said 23-17.9 so this matter is properly before the DOH.

II

Under Section 23-17.9-8 the department is authorized to revoke, suspend, reprimand, censure, or deny an application if there is proof that the person;

(a) is unfit or incompetent by reason of negligence, habits or other causes;

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

(c)***

(d)***

(e) has engaged in conduct that is detrimental to the health, welfare and safety of patients/residents in his or her care; and Woody has been accused of violating (a), (b), and (e) of said section, and she has shown she is unfit, she has willfully misappropriated McGuirl's money and has displayed conduct that is detrimental to the welfare of Mr. and Mrs. McGuirl.

III

The McGuirls suspected Woody of stealing money from them and hired Cardone to prove their suspicions. Woody was videotaped in McGuirl's home and was observed going thru personal items of McGuirl in a closet, in envelopes placed on a bureau, and in a pocketbook left on a bureau. She was seen putting money into her pocket at least two times on exhibit 2, she is, therefor, guilty of violating 23-17.9 (8) (a), (b), and (e) because of her actions.

OPINION

There is no uncertainty regarding the guilt of Woody in this matter. She was identified and was seen on the videotape pilfering from the McGuirls. There is no doubt that because of her actions Woody should not be allowed to be a certified nursing assistant or have the opportunity to take advantage of trusting patients or clients under the guise of being there to help them.

ORDERED

1. That the Certificate of Registration of Teresa Elliott-Woody as a Nursing Assistant is hereby revoked.
2. That this revocation shall be for an indefinite period of time but in no event shall said revocation be less than five (5) years from the date of this Order.

YOU HAVE THIRTY DAYS IN WHICH TO APPEAL THIS ORDER, IF YOU SO DESIRE, TO THE SUPERIOR COURT OF THE STATE OF RHODE ISLAND, HOWEVER, SAID APPEAL, BY AND OF ITSELF DOES NOT NEGATE THE AFFECT OF THIS ORDER

20 24 May 1999
date


Joseph D. Almonte
Adjudication Officer
R.I. Dept. Of Health

CERTIFICATION

I hereby certify that the within ORDER was sent by regular and certified mail to Teresa Elliott-Woody, 24 Willow Street, West Warwick, RI 02893 this 25th day of May 1999.

Denise E. Dennis

CC ✓ Mary Ellen McCabe, Esquire
✓ Russell J. Spaight
Patricia A. Nolan, MD, MPH, Director of Health