

COMMONWEALTH OF PENNSYLVANIA

Jessica E. Scochin	:	State Civil Service Commission
	:	
v.	:	
	:	
Clarks Summit State Hospital, Department of Human Services	:	Appeal No. 30389
	:	
Alice W. Ballard Attorney for Appellant		Peter J. Garcia Attorney for Appointing Authority

ADJUDICATION

This is an appeal by Jessica E. Scochin challenging her Level One – Alternative Discipline in Lieu of Suspension (hereinafter “ADLS”)¹ from regular Registered Nurse employment with Clarks Summit State Hospital, Department of Human Services. A hearing was held January 17, 2020, at the State Civil Service Commission’s Strawberry Square Office in Harrisburg, Pennsylvania before Commissioner Gregory M. Lane.

The Commissioners have reviewed the Notes of Testimony and exhibits introduced at the hearing. The issue before the Commission is whether the appointing authority had good cause to suspend appellant.

¹ The imposed action carries the same weight as if appellant had served a one-day suspension from her position with the appointing authority. Accordingly, the appeal will be analyzed as challenging a one-day suspension.

FINDINGS OF FACT

1. By letter dated October 10, 2019, appellant was issued a Level One – Alternative Discipline in Lieu of Suspension (hereinafter “ADLS”), equivalent to a one-day suspension from her position as Registered Nurse, regular status. The appointing authority charged:

The reason for this action is Violation of Discipline Policy 7174, Failure to follow general instructions or procedures. Specifically, on 5/3/19, 6/7/19, 8/2/19,² and 9/10/19, you added orders to the physician’s reorder sheet³ that did not follow the policy of a verbal order or telephone order.

Comm. Ex. A.

2. The appeal was properly raised before this Commission and was heard under Section 3003(7)(i) of Act 71 of 2018.⁴

² There are two documents dated August 2, 2019 at issue in this appeal. The appointing authority did not list the date twice in the disciplinary letter.

³ The physician’s reorder sheet is referred to throughout the hearing as a Physician Reorder Form. The documents submitted into evidence are also called the Physician Order Form. AA Ex. 2. Thus, the Commission shall call the document the Physician Order Form.

⁴ Appellant’s request to amend her appeal to include a claim of discrimination under Section 3003(7)(ii) of Act 71 of 2018 was denied. Comm. Ex. E; N.T. p. 11.

3. Appellant has been employed as a Registered Nurse with the appointing authority since 2004. N.T. p. 16.
4. In September and October 2019, appellant reported to Registered Nurse Supervisor Gregory Serafini. N.T. p. 16.
5. On November 21, 2019, Tara Fariello became the Acting Nurse Manager. Fariello was a Registered Nurse Supervisor from 2005 through November 21, 2019. N.T. pp. 20-21.
6. Every twenty-eight to thirty days, the pharmacy faxes a pre-printed Physician Order Form to the Nursing Office. There is one form per patient. N.T. pp. 37-39, 147; AA Ex. 2.
7. Prescribers review the pre-printed Physician Order Form and can add, delete, or change any order written therein. Prescribers can request any changes to the Physician Order Form verbally or by telephone. N.T. pp. 38-39, 79, 149; AA Ex. 1.
8. If a Registered Nurse, such as appellant, notices a discrepancy between the Physician Order Form sent from the pharmacy and the Physician Order Form

modified by the prescriber, she must contact the prescriber either by telephone or by speaking to him face-to-face. N.T. pp. 55, 95-97.

9. When a prescriber issues an order by telephone, the Registered Nurse transcribes it onto the Physician Order Form, writes the time and date, the name of the prescriber, the letters “TO,”⁵ and her full name and title. The Registered Nurse must then use a verification stamp to indicate the order was received from the prescriber and she properly transcribed it onto the new Physician Order Form. N.T. pp. 59-60, 97, 169-170; AA Ex. 3.
10. The prescriber must countersign the newly issued telephone order on the Physician Order Form within twenty-four hours. N.T. pp. 63, 101-102; AA Ex. 3.
11. When the prescriber and Registered Nurse meet face-to-face to discuss the discrepancy between the faxed Physician Order Form and the new Physician Order Form, any resulting order is called a verbal order. The prescriber must handwrite the verbal order onto the Physician Order Form and must sign it. N.T. pp. 97, 101, 150-151, 170.

⁵ “TO” is the abbreviation for “Telephone Order.” N.T. pp. 59-60.

12. The prescriber also signs, dates, and writes the time on the bottom of the Physician Order Form, under all orders, indicating the form is ready to be faxed back to the pharmacy. Subsequently, a nurse, such as appellant, transcribes all of the orders from the Physician Order Form onto the patient's Medication Administration Record, the document utilized to record patient care orders, treatments, and medications. N.T. pp. 24-25, 38-39, 79-80; AA Ex. 3.

13. On a daily basis, an audit of the Physician Order Forms and Medication Administration Records should be performed by the nurses on the 11:00 p.m. to 7:00 a.m. shift. Any discrepancies between the two documents must be recorded onto a Medical Administration Verification Form. N.T. pp. 30-31, 126; AA Ex. 1.

14. On or about September 14, 2019, Licensed Practical Nurse Deborah Voytek provided Acting Nurse Manager Tara Fariello with a Medication Administration Verification Form indicating there were orders added to five separate Physician Order Forms after the Medication Administration Record was completed. N.T. pp. 32-34, 68, 127, 129; AA Exs. 1, 2.

15. Voytek showed Fariello the Physician Order Forms for each of the five dates listed on the Medication Verification Form. N.T. pp. 37-38; AA Exs. 1, 2.
16. The May 3, 2019, Physician Order Form 19698 contains four medical orders for the patient. Appellant wrote the fourth order and the prescriber, Dr. Rudolph's, name. The order is not dated or timed, does not indicate "TO," and does not indicate appellant's name or job title. There is no verification stamp and Dr. Rudolph did not countersign the order itself. N.T. pp. 39-43, 45, 64, 114, 151; AA Ex. 2.
17. The June 7, 2019 Physician Order Form 17405 provides three orders for the patient. Appellant wrote the second and third order and Dr. Rudolph's name after both orders. The orders are not dated or timed, do not indicate "TO," and do not indicate appellant's name or job title. There is no verification stamp and Dr. Rudolph did not countersign the orders. N.T. pp. 44-46, 64, 114, 151; AA Exs. 1, 2.
18. The August 2, 2019 Physician Order Form 17405 contains three patient orders. Appellant wrote the second and third orders and Dr. Rudolph's name.

The orders are not dated or timed, do not indicate “TO,” and do not indicate appellant’s name or job title. There is no verification stamp and Dr. Rudolph did not countersign the orders. N.T. pp. 37-38, 45-49, 64, 114, 151; AA Exs. 1, 2.

19. The August 2, 2019 Physician Order Form 23186 provides one order, written by appellant. Appellant also wrote Dr. Rudolph’s name after the order. The order is not dated or timed, does not indicate “TO,” and does not indicate appellant’s name or job title. There is no verification stamp and Dr. Rudolph did not countersign the order itself. N.T. pp. 37-38, 46-47, 64, 48-49, 114, 151; AA Exs. 1, 2.
20. The September 10, 2019 Physician Order Form 23178 has two orders, both written by appellant. Appellant also wrote Dr. Rudolph’s name after the orders. The orders are not dated or timed, do not indicate “TO,” and do not indicate appellant’s name or job title. There is no verification stamp and Dr. Rudolph did not countersign the orders. N.T. pp. 37-38, 49-50, 64, 114, 151; AA Exs. 1, 2.
21. Dr. Rudolph signed the bottom of each of the five Physician Order Forms at 6:45 a.m. prior to the start of appellant’s dayshift. Appellant wrote each of the

additional orders onto the five Physician Order Forms during her dayshift. N.T. pp. 37-38, 146; AA Ex. 2.

22. None of the five Physician Order Forms contain documentation indicating the orders appellant handwrote onto them were issued either by telephone or verbally by Dr. Rudolph. N.T. pp. 114, 151.
23. At the end of her shift, Fariello provided the Medication Administration Verification Form to her Nurse Manager.⁶ N.T. p. 34.
24. On September 18, 2019, appellant attended her Pre-Disciplinary Conference. Comm. Ex. A; AA Ex. 6.
25. During the Pre-Disciplinary Conference, appellant acknowledged she wrote the orders onto each Physician Order Form. She also stated Dr. Rudolph was aware she had written each order. N.T. p. 200.

⁶ Fariello did not testify as to the name of her Nurse Manager.

26. During the Pre-Disciplinary Conference, appellant accepted responsibility for failing to follow policy and said she was trying to assist the physician who had failed to reorder non-medical items for the patients. N.T. p. 200.
27. After the Pre-Disciplinary Conference, Human Resource Officer William Abda spoke with Dr. Rudolph, who stated he did not know appellant had written additional orders onto the five Physician Order Forms. N.T. pp. 200, 206.
28. Abda consulted Serafini who presented several mitigating factors, including appellant's satisfactory work performance, lack of prior disciplinary actions, and lack of time and attendance issues. Serafini recommended a Level One ADLS. N.T. pp. 196-198.
29. Abda reviewed the appointing authority's disciplinary policy and also considered additional mitigating factors including appellant's length of service and contrition during her Pre-Disciplinary Conference. Abda agreed with Serafini's recommendation for a one-day ADLS. N.T. pp. 197, 203, 204.

DISCUSSION

At issue before the Commission is whether the appointing authority had good cause to issue appellant a Level One – Alternative Discipline in Lieu of Suspension (hereinafter “ADLS”), equivalent to a one-day suspension. The appointing authority charges appellant with failure to follow general instructions or procedures based upon adding orders to the Physician Order Form that did not follow the policy of a verbal order or telephone order.

In an appeal challenging the suspension of a regular status employee, the appointing authority has the burden to present sufficient evidence to demonstrate the suspension was issued for good cause. *White v. Commonwealth, Department of Corrections*, 110 Pa. Commw. 496, 532 A.2d 950 (1987); 71 P.S. §2603(c). Good cause must relate to an employee’s competence and ability to perform her job duties, *Department of Corrections v. Ehnot*, 110 Pa. Commw. 608, 532 A.2d 1262 (1987), or must result from conduct that hampers or frustrates the execution of the employee’s duties. *McCain v. Department of Education*, 71 Pa. Commw. 165, 454 A.2d 667 (1983).

The appointing authority presented the testimony of Acting Nurse Manager Tara Fariello and Human Resource Officer 2 William Abda. Appellant testified on her own behalf.

Fariello explained the proper documentation process when an order is not included on the Physician Order Form provided by the pharmacy. Every twenty-eight to thirty days, the pharmacy will fax a pre-printed Physician Order Form to the Nursing Office. N.T. pp. 37-39, 147; AA Ex. 2. Prescribers review the

pre-printed Physician Order Form and can add, delete, or change any order therein. N.T. pp. 38-39, 79, 149; AA Ex. 1. If a Registered Nurse finds a discrepancy between the Physician Order Form sent by the pharmacy and the one modified by the prescriber, she must speak with the prescriber either by telephone or face-to-face. N.T. pp. 95-97. When the prescriber issues an order by telephone, the Registered Nurse transcribes it onto the new Physician Order Form, writes the time and date, the name of the prescriber, the letters "TO," and her full name and title; she then uses a verification stamp to indicate the order was received from the prescriber and properly transcribed onto the new Physician Order Form. N.T. pp. 97, 169-170; AA Ex. 3. Within twenty-four hours, the prescriber must countersign the newly issued telephone order on the Physician Order Form. N.T. pp. 101-102; AA Ex. 3. If the prescriber and Registered Nurse meet face-to-face to discuss the discrepancy between the faxed Physician Order Form and the new Physician Order Form, the prescriber must handwrite the verbal order onto the new Physician Order Form and must sign it. N.T. pp. 97, 101, 150-151, 170. At the bottom of the form, the prescriber signs, dates, and writes the time. Subsequently, a nurse such as appellant, transcribes all of the orders from the Physician Order Form onto the patient's Medication Administration Record, the document utilized to record patient care orders, treatments, and medications. N.T. pp. 24-25, 38-39, 79-80; AA Ex. 3.

Fariello provided testimony about how the documents at issue came to her attention. On a daily basis, an audit of the Physician Order Forms and Medication Administration Records should be performed by the nurses on the 11:00 p.m. to 7:00 a.m. shift; any discrepancies between the two documents must be recorded onto a Medical Administration Verification Form. N.T. pp. 30-31, 126; AA Ex. 1. On or about September 14, 2019, Licensed Practical Nurse Deborah Voytek provided Fariello with a Medication Administration Verification Form

indicating there were orders added to five separate Physician Order Forms after the Medication Administration Record was completed. N.T. pp. 32-34, 68, 127, 129; AA Exs. 1, 2.

When Fariello saw the Physician Order Forms for each of the five dates listed on the Medication Verification Form, she noted each of the additional orders was handwritten by appellant and appellant handwrote the doctor's name; thus, these orders were not in Dr. Rudolph's handwriting, and therefore, nothing indicated they were verbal orders. She noted there was nothing on the document indicating the orders were received by telephone because there was no date, time, "TO," verification stamp, or physician's signature next to the order. Further, Fariello noticed Dr. Rudolph signed the bottom of each of the five Physician Order Forms at 6:45 a.m., before appellant began her shift. *See*, Findings of Fact 16 through 22.

Both Fariello- and Human Resource Officer Abda testified regarding the consequences of failing to follow the proper procedures for writing orders onto a Physician Order Form. Fariello explained medical orders must be properly documented because they provide directives to all staff about how to properly care for patients. N.T. pp. 51-52. Abda testified appellant's decision to write orders onto the Physician Order Form without following the proper procedure could result in patient billing issues. N.T. p. 203.

Abda testified regarding appellant's Pre-Disciplinary Conference and resulting discipline. Abda explained appellant's repeated failure to follow policy by writing orders without the doctor's signature after them could have resulted in removal. N.T. pp. 196-197; AA Ex. 7. However, during her Pre-Disciplinary

Conference, appellant accepted responsibility for failing to follow policy and stated she was trying to assist the physician who had failed to reorder non-medical items for the patients. N.T. p. 200.

After the Pre-Disciplinary Conference, Abda spoke with Dr. Rudolph who stated he was not aware appellant had added any of the orders to the Physician Order Forms. N.T. pp. 200-201. Abda also spoke to appellant's prior supervisor, Registered Nurse Supervisor Gregory Serafini, who provided several mitigating factors including appellant's satisfactory work performance, lack of prior disciplinary actions, and lack of time and attendance issues. N.T. p. 197. Serafini recommended a one-day Alternative Discipline in Lieu of Suspension. N.T. pp. 196-198.

Because Serafini presented the mitigating factors, Abda determined removal was not appropriate, yet a written reprimand was insufficient discipline. N.T. p. 197. Abda considered additional mitigating factors including appellant's length of service and contrition during her Pre-Disciplinary Conference. N.T. pp. 203, 204. Abda agreed with Serafini's recommendation for a one-day ADLS. N.T. pp. 197.

In response to the charges, appellant contends that while the orders she wrote onto the five Physician Order Forms are neither telephone orders nor verbal orders, they are actually "transfer orders;" transfer orders are orders she transferred from the previous months' Physician Order Form to the current months' Physician Order Form while Dr. Rudolph sat next to her. N.T. pp. 306-307, 311-313. Appellant clarified to say Dr. Rudolph often did not properly review the Physician Order Form sent by the pharmacy and thus did not always write all of the patient's

orders onto the new Physician Order Form. N.T. pp. 303- 305, 310-313. Appellant asserts she would notice the missing order while Dr. Rudolph was in the Nursing Office with her and he would authorize her to write the order onto the new Physician Order Form. N.T. pp. 305-306. After she wrote the order onto the new Physician Order Form, Dr. Rudolph signed the bottom of the form. N.T. pp. 306-307. According to appellant, she was following the nursing practice by transferring the orders. N.T. pp. 305-309, 311.

However, Fariello credibly⁷ testified the nursing policy refers to transfer of orders as it pertains to transferring the documents from one ward to the other, in alignment with a patient's movement to a different ward. N.T. pp. 102-103, 152-159; AA Exs. 3, 4. In addition, Fariello credibly testified regarding the proper method for accepting a verbal order from the prescriber; including the requirement that the prescriber sign the order itself. None of the orders in question were signed by the prescriber.

Appellant also argues the Medication Administration Verification form is supposed to be completed on a more regular basis and she has never been questioned about her process in the past. N.T. p. 309. The Commission notes that regardless of whether there should have been additional checks to the Physician Order Forms, the orders she wrote onto the five Physician Order Forms do not follow the policy because they do not have any indication they were received verbally or over the telephone.

⁷ The Commission has the inherent power to determine the credibility of witnesses and the value of their testimony. *McAndrew v. State Civil Service Commission (Department of Community and Economic Development)*, 736 A.2d 26 (Pa. Commw. Ct. 1999).

Upon review of the record, the Commission finds the appointing authority has presented sufficient evidence to support the charge of failing to follow general instructions or procedures. In this regard, we specifically find Fariello's testimony credible concerning the transcription process for both telephone and verbal orders. We further find Fariello and Abda credible regarding the potential harm to patients and billing errors. Abda provided credible testimony regarding the determination of appellant's discipline. Appellant's failure to properly transcribe physician's orders on multiple occasions clearly reflects negatively upon her competence and ability to perform her job duties. *Ehnot, supra*. Accordingly, we enter the following:

CONCLUSION OF LAW

The appointing authority has presented evidence establishing good cause for suspension under Section 2603 of the Civil Service Act of 2018.

ORDER

AND NOW, the State Civil Service Commission, by agreement of its members, dismisses the appeal of Jessica E. Scochin challenging her Level One - Alternative Discipline In Lieu of Suspension from regular Registered Nurse employment with the Clarks Summit State Hospital, Department of Human Services

and sustains the action of the Clarks Summit State Hospital, Department of Human Services in the Level One - Alternative Discipline in Lieu of Suspension of Jessica E. Scochin from regular Registered Nurse employment.

State Civil Service Commission

Gregory M. Lane
Commissioner

Bryan R. Lentz
Commissioner

Mailed: October 26, 2020