BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

GERALDINE GOODRICH, Appellant, v. UNIVERSITY OF WASHINGTON, Respondent.	Case No. SUSP-99-0025 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF THE BOARD

I. INTRODUCTION

1.1 **Hearing.** This appeal came on for hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair, and GERALD L. MORGEN, Vice Chair. The hearing was held at the Harborview Medical Center Personnel Office, Room 16, Seattle, Washington, on December 21, 2000. LEANA D. LAMB, Member, did not participate in the hearing or in the decision in this matter.

1.2 **Appearances.** Appellant Geraldine Goodrich did not appear and no representative appeared on her behalf. Jeffrey W. Davis, Assistant Attorney General, represented Respondent University of Washington.

1.3 **Nature of Appeal.** This is an appeal from a disciplinary sanction of a three-day suspension without pay for neglect of duty, insubordination and breach of confidentiality.

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1.4 **Citations Discussed.** WAC 358-30-170; WAC 251-12-240(1); Baker v. Dep't of Corrections, PAB No. D82-084 (1983); McCurdy v. Dep't of Social & Health Services, PAB No. D86-119 (1987); Countryman v. Dep't of Social & Health Services, PAB No. D94-025 (1995); Aquino v. University of Washington, PAB No. D93-163 (1995).

II. FINDINGS OF FACT

2.1 Appellant Geraldine Goodrich is a Unit Service Coordinator and permanent employee for Respondent University of Washington. Appellant and Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder, Titles 251 and 358 WAC. Appellant filed a timely appeal with the Personnel Appeals Board on September 3, 1999.

2.2 Appellant has worked as a Unit Service Coordinator/Cardiac Monitor Technician since March 1987. In her position, Appellant is responsible for providing clerical support, including physician order transcription, maintaining patient records, stamping forms, posting reports, answering phones and patient intercoms, greeting and directing visitors, assisting patients at the front nursing station counter, delivering and picking up supplies and specimens, and performing related duties as directed by the nursing staff.

2.3 Appellant has received the following formal and informal disciplinary action:

- On January 26, 1999, Appellant received a letter of reprimand regarding her work performance and her inability to fulfill her scheduled work time. Appellant was directed to review her work schedule and report to work as scheduled;
- On December 30, 1998, Appellant was suspended one day for neglect of duty, insubordination and inefficiency because of continuing performance deficiencies;
- On November 16, 1998, Appellant received a letter of expectations regarding her unsatisfactory work performance for engaging in non-work related activities during work time;

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- On July 21, 1998, Appellant received a letter of concern regarding her inability to begin her work shift on time.

Allegation #1

2.4 On April 8, 1999, Appellant was scheduled to begin her work shift at 8 a.m. Appellant did not report to work at 8 a.m. and at 8:30 a.m., Carol Hilger, Registered Nurse 3, called Appellant's home. Appellant stated that she believed that she was not scheduled to begin work until 4 p.m. Appellant reported to work at 10 a.m. Appellant's work schedule was posted on March 8, 1999. Appellant admitted to her supervisor that she had not reviewed the schedule as directed.

Allegation #2

2.5 On March 26, 1999, Sharon Geist, Nurse Manager II, met with Appellant. During the meeting, Ms. Geist noted that Appellant had approximately four to five dozen pieces of photocopied patient medical records in an attaché book bag. When asked why she was in possession of confidential patient information, Appellant responded to Ms. Geist that it was to demonstrate the quality of the work she performed.

2.6 Respondent has adopted Policy No. 115.2, which informs staff that patient records are strictly confidential and are to be "maintained in a controlled, secure, and confidential manner."

Allegation #3

2.7 Appellant's responsibilities include checking the supply closets and filing cabinets, ordering necessary supplies and ensuring that appropriate levels of supplies are available. On May 13, 1999, Appellant ordered a box of chart dividers when three boxes were already in the supply closet, and two packages of Cardiology request forms when six packages were available. Appellant failed to order Hemodialysis order forms which were completely gone.

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Allegation #4

2.8 On May 15, 1999, Appellant was involved in a verbal altercation with Meal Host Stephanie Rouley. During the incident, Ms. Goodrich raised her voice in the presence of patients, visitors and other staff. Suni Drake, Registered Nurse III, directed Appellant to complete an incident report and discuss the incident with Ms. Geist. However, Appellant contacted Ms. Rouley's supervisor, Nutrition Services Supervisor Mary Hegdahl. Appellant did not notify nor provide Ms. Geist with a report regarding the incident until June 7, 1999.

Allegation #5

2.9 On May 6, 1997, Appellant was directed to provide a physician's return to work statement upon return to work for each instance of illness. The directive was to remain in effect until her attendance problems improved. However, Appellant's attendance did not improve and she remained under the requirement.

2.10 On May 30, 1999, Appellant called in sick for a scheduled day shift. Following her return to work, Appellant did not provide her supervisor with a return to work statement from her physician as required.

2.11 Ms. Geist recommended that Appellant receive the three day suspension. Ms. Geist credibly testified that Appellant's failure to report for her scheduled shifts negatively impacted patient care and prevented other employees going off shift from leaving for the day. Ms. Geist testified that the confidential patient records in Appellant's possession contained names and diagnoses, none of which were blacked out. Ms. Geist testified that it was not necessary for Appellant to have the records in order to document the work she performed because other documentation, such as physician orders, documented the work performed by employees. Ms. Geist testified that Appellant appeared to randomly order supplies, creating an excess of some supplies and a short supply of

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others. Ms. Geist testified that when supplies were not readily available, it could take several days to order and decreased efficiency and the ability for staff to document orders because forms were not available. Ms. Geist testified that Appellant's involvement in the altercation with another staff member showed a lack of team work and disrupted the work place because it occurred in a public area. Furthermore, Ms. Geist testified that Appellant had a duty to provide her with information related to the incident immediately, rather than pursuing the matter without following the proper communication channels.

2.11 By letter dated August 16, 1999, Tomi S. Hadfield, Chief Operating Officer for Harborview Medical Center, informed Appellant that she was suspended for a total of three days, effective August 31, 1999, for neglect of duty, insubordination, and breach of patient confidentiality.

III. ARGUMENTS OF THE PARTIES

3.1 Respondent argues that it has met its burden of proving the charges, that Appellant's misconduct constitutes neglect of duty, insubordination and breach of confidentiality. Respondent argues that Appellant has received counseling and discipline and that a three-day suspension is appropriate under the circumstances.

3.2 Appellant did not dispute the appropriateness of her three-day suspension.

IV. CONCLUSIONS OF LAW

4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter herein.

4.2 In a hearing on appeal from a disciplinary action, Respondent has the burden of supporting the charges upon which the action was initiated by proving by a preponderance of the credible

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evidence that Appellant committed the offenses set forth in the disciplinary letter and that the sanction was appropriate under the facts and circumstances. WAC 358-30-170; WAC 251-12-240(1); Baker v. Dep't of Corrections, PAB No. D82-084 (1983).

4.3 Neglect of duty is established when it is shown that an employee has a duty to his or her employer and that he or she failed to act in a manner consistent with that duty. McCurdy v. Dep't of Social & Health Services, PAB No. D86-119 (1987).

4.4 Insubordination is the refusal to comply with a lawful order or directive given by a superior and is defined as not submitting to authority, willful disrespect, or disobedience. Countryman v. Dep't of Social & Health Services, PAB No. D94-025 (1995).

4.5 Although it is not appropriate to initiate discipline based on prior formal and informal disciplinary actions, including letters of reprimand, it is appropriate to consider them regarding the level of the sanction which should be imposed here. Aquino v. University of Washington, PAB No. D93-163 (1995).

4.6 Respondent has proven by a preponderance of the credible evidence that Appellant failed to review her work schedule as directed to by the January 26, 1999 letter of reprimand; failed to report for work at her scheduled time; breached patient confidentiality when she inappropriately acquired and used confidential patient records for personal use; failed to adequately perform her duties when she failed to ensure that proper supplies were maintained and ordered; allowed a personal conflict to disrupt unit operation and failed to use the appropriate communication channels to immediately report the incident; and that she failed to provide her supervisor with a physician's slip as required. Respondent has met its burden of proving that Appellant's misconduct constitutes neglect of duty, insubordination and breach of patient confidentiality.

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4.7 Based on Appellant's prior history of misconduct and under the proven facts of this case, we conclude that a three-day suspension without pay is not too severe. Therefore, the appeal should be denied.

V. ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Geraldine Goodrich is denied.

DATED this _____ day of _____, 2001.

WASHINGTON STATE PERSONNEL APPEALS BOARD

_____
Walter T. Hubbard, Chair

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Gerald L. Morgen, Vice Chair

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