

BEFORE THE PERSONNEL RESOURCES BOARD
STATE OF WASHINGTON

ABDUR REHMAN,

Appellant,

v.

WASHINGTON STATE UNIVERSITY,

Respondent.

Case No. R-DEMO-15-002

FINDINGS, CONCLUSIONS AND
ORDER OF THE BOARD

I. INTRODUCTION

1.1 **Hearing.** This matter came before the Personnel Resources Board, NANCY HOLLAND YOUNG, Chair, and SUSAN MILLER, Vice Chair, and VICKY BOWDISH, Member. The hearing was held on October 28, 2015, at the Assistant Attorney General's Office, Spokane, Washington.

1.2 **Appearances.** Appellant Abdur Rehman was present and represented himself. Donna Stambaugh, Senior Assistant Attorney General, represented the Respondent, Washington State University (WSU).

1.3 **Nature of Appeal.** This is an appeal of a disciplinary action. Respondent alleges that Appellant provided unacceptable customer service to a client at the Veterinary Teaching Hospital (VTH) and failed to meet workplace standards, expectations and responsibilities.

II. FINDINGS

2.1 Appellant is a permanent part-time Pharmacist 2 at the VTH. Appellant has worked in this position since 2011.

2.3 Appellant received a disciplinary letter dated May 19, 2015, stating he would receive a 5% reduction in pay from June 16, 2015 through September 15, 2015. The letter stated that

1 Appellant's actions were not consistent with the VTH's Pharmacy practices, caused additional
2 work for the pharmacy staff, inconvenienced the client and delayed the filling of a prescription.

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4 2.4 Prior to this action giving rise to appeal, Appellant received a Notice of Counseling on July
5 10, 2014, regarding aggressive behavior towards co-workers.

6
7 2.5 Appellant received a letter of reprimand on January 26, 2015, for changing prescription
8 directions. The letter cited several prescriptions Appellant changed.

9
10 2.6 On February 3, 2015, Appellant received another letter of reprimand. The letter noted that
11 Appellant failed to follow the directives of his supervisor and Pharmacy Manager, James Meyer.

12
13 2.7 There is no written record of training or instruction on pharmacy procedures or policies being
14 provided to Appellant. Respondent maintains that Appellant was aware of customer service
15 standards.

16
17 2.8 On February 25, 2015, Dr. Janne Lyngby, Veterinarian Resident, wrote a prescription for 136
18 mg. of Baytril for a dog owned by Tammie West, a client of the hospital and a Veterinary
19 Technician at the VTH. Since the pharmacy had only flavored tablets and Ms. West's dog was
20 allergic to the flavoring, Ms. West agreed to take the flavored tablets until the non-flavored
21 tablets arrived. A pharmacy worker, Janet VanNuland, entered the additional instructions into
22 their database, Vetstar. The instructions stated, "Refill with coated tabs, not taste tabs."

23
24 2.9 On March 3, 2015, the pharmacy received 68 mg. non-flavored tablets. Ms. VanNuland
25 attached a note to a bottle stating the client and patient's name. Ms. West was notified that the
26 non-flavored tablets were ready for pick up. Ms. West testified she drove 45 minutes from her
27 home to pick up the new prescription.

1 2.10 When Ms. West arrived at the VTH, Appellant was the pharmacist on duty. Ms. West
2 testified that Appellant would not refill the prescription using the new tablets without a new
3 prescription from the doctor because the dosage instructions needed to be changed from two
4 tablets per day (136 mg. each), to four tablets per day (68 mg. each).

5
6 2.11 Ms. West testified that because her dog needed the medication and Appellant would not
7 fill the new prescription with non-flavored tablets, she asked Appellant to refill the prescription
8 with the flavored tablets until she contacted Dr. Lyngby about a new prescription.

9
10 2.12 Appellant filled the prescription with 136 mg of flavored Baytril.

11
12 2.13 A pre-disciplinary meeting was held on April 23, 2015, to address Appellant's decision
13 concerning Ms. West's prescription. Present at the meeting was Michael Malcolm, Director of
14 Administrative Services and the VTH's Appointing Authority, and Bonnie Wilmoth, Human
15 Resources Consultant.

16
17 2.14 Prior to the pre-disciplinary meeting, Ms. West was contacted by Ms. Wilmoth and Mr.
18 Malcolm to discuss her interactions with Appellant on March 3, 2015 and March 5, 2015.

19
20 2.15 Throughout the appeal, the Board heard testimony from many of WSU's management
21 staff. Testimony indicated Appellant did not follow standards, expectations and responsibilities
22 in service to the VTH.

23
24 **III. ARGUMENTS OF THE PARTIES**

25
26 3.2 Appellant does not deny he could have refilled Ms. West's prescription. Rather, he contends
27 that Appellant did not want to wait for him to change the instructions from two tablets to four
28 tablets daily and produce a new prescription number. Appellant further contends that he was
29 unaware of the dog's allergies since it was not noted on the bottle or in Vetstar. Appellant trusted

1 Ms. West's professional experience as a Veterinary Technician, so agreed with her decision to
2 fill the original flavored prescription until a new one was written.

3
4 3.3 Appellant asserts there is no policy in place to handle situations like this, pointing to the
5 testimony of Ms. West that stated the dosage instructions on a prescription dated April 17, 2015,
6 filled by another pharmacist for the same medication and patient, was more detrimental to her dog
7 than this case giving rise to this appeal.

8
9 3.4 Respondent argues that Appellant refused to fill the prescription with non-flavored tablets,
10 undermining the VTH's customer service standard and pharmacy practices. Ms. West testified if
11 Appellant had offered to change the instructions from two to four tablets daily, she would have
12 waited for the new order rather than subject her dog to allergic reactions. Respondent asserts
13 Appellant should have verified the instructions by contacting Dr. Lyngby, who was in the office the
14 day Ms. West came to pick up the prescription. Respondent contends that the Appellant had
15 everything he needed to help Ms. West, including knowledge of the dog's allergies.

16 17 **IV. CONCLUSIONS**

18 4.1 The Personnel Resources Board has jurisdiction over the parties and the subject matter.

19
20 4.2 In a hearing of an appeal for a disciplinary action, Respondent has the burden of supporting
21 the charges upon which the action was initiated by proving by a preponderance of the credible
22 evidence that Appellant committed the offenses set forth in the disciplinary letter and that the
23 sanction was appropriate under the facts and circumstances (WAC 357-52-110).

24
25 4.3 When considering whether there was just cause for a disciplinary action, we consider factors
26 such as whether the employee was aware of the expectations, rules, or policies allegedly violated,
27 whether the employee was aware of the need to comply with the rule or policy or to improve
28 performance, whether the employee had an opportunity to demonstrate compliance or
29 improvement, whether the discipline was imposed for good reason, whether the disciplinary process

1 and procedures followed were appropriate and whether the sanction imposed was sufficient to
2 prevent recurrence, to deter others from similar misconduct and to maintain the integrity of the
3 program.

4
5 4.4 Appellant testified that he had enough information to fill the prescription and that in the past
6 he has contacted doctors with questions about changes in dosage on new prescriptions. Rather than
7 follow the instructions on the bottle and in Vetstar and contact Dr. Lygby for clarification,
8 Appellant did not fill the prescription. The fact that Ms. West was notified that her refill was ready
9 only to have Appellant refuse to fill it caused a good deal of frustration for Ms. West and
10 undermined VTH customer service standards.

11
12 4.5 In determining whether a sanction imposed is appropriate, consideration must be given to
13 the facts and circumstances, including the seriousness and circumstances of the offenses. The
14 penalty should not be disturbed unless it is too severe. The sanction imposed should be sufficient to
15 prevent recurrence, to deter others from similar misconduct and to maintain the integrity of the
16 program. *Holladay v. Dept. of Veterans Affairs*, PAB No. D91-084 (1992).

17
18 4.6 The Board finds that Appellant had enough information to help the client if he had contacted a
19 doctor about the note left in Vetstar and on the bottle. For this reason, we find that disciplinary
20 action was warranted.

21
22 4.7 However, the Board finds that under the unique facts and circumstances of this case, a three
23 month reduction in salary is too severe for this offense. Respondent cites in the disciplinary letter:
24 “You have a duty to carry out your responsibilities in a timely, trustworthy, and efficient and
25 effective manner in providing service to the Veterinary Teach Hospital and its clients.” While
26 Appellant may have been aware of the importance of timeliness, trustworthiness, efficiency and
27 effectiveness and had an obligation to adhere to these attributes, they are in and of themselves
28 difficult characteristics to measure without associated procedures and protocols.

1 Appellant was disciplined for poor customer service by not changing dosage instructions on a
2 prescription, yet was reprimanded by letter dated January 26, 2015, for changing the instructions on
3 several prescriptions. Training and/or written expectations addressing prescription changes and
4 customer service would have provided Appellant clear protocols and offered Respondent a better
5 gauge for corrective action. Lack of pharmacy protocols was also evident by Ms. West's testimony
6 that the dosage instructions written by another pharmacist was more detrimental to her dog than
7 Appellant's refusal to refill with non-flavored tablets.

8
9 Therefore, Appellant's reduction in salary should be modified to 5% for one month. This sanction
10 should be sufficient to prevent recurrence, to deter others from similar misconduct and to maintain
11 the integrity of the program.

12
13 **V. ORDER**

14 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Abdur Rehman is granted in
15 part and the disciplinary sanction is modified to a 5% reduction for one month.

16 DATED this ____ day of _____, 2015.

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18
19 WASHINGTON PERSONNEL RESOURCES BOARD

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21 _____
NANCY HOLLAND YOUNG, Chair

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23 _____
SUSAN MILLER, Vice Chair

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25
26 _____
VICKY BOWDISH, Member