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BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

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| MARY CRAVES-HOLLANDS, |) | Case No. DEMO-04-0029 |
| |) | |
| Appellant, |) | FINDINGS OF FACT, CONCLUSIONS OF |
| |) | LAW AND ORDER OF THE BOARD |
| v. |) | |
| |) | |
| DEPARTMENT OF SOCIAL AND HEALTH |) | |
| SERVICES, |) | |
| |) | |
| Respondent. |) | |

I. INTRODUCTION

1.1 **Hearing.** This appeal came on for hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair, and GERALD L. MORGEN, Member. The hearing was held at the Department of Social and Services, 1737 Airport Way South, Seattle, Washington, on August 23 and 30, 2005.

1.2 **Appearances.** Appellant Mary Craves-Hollands was present and was represented by Edward Earl Younglove III, Attorney at Law, of Parr, Younglove, Lyman & Coker, PLLC. Emily Caulkins, Assistant Attorney General, represented Respondent Department of Social and Health Services.

1.3 **Nature of Appeal.** This is an appeal from a disciplinary sanction of demotion for the causes of neglect of duty, inefficiency and incompetence. Respondent alleges that Appellant failed to demonstrate satisfactory work performance in her position as a supervisor.

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2 **II. FINDINGS OF FACT**

3 2.1 Appellant Mary Craves-Hollands is a permanent employee for Respondent Department of
4 Social and Health Services. Appellant and Respondent are subject to Chapters 41.06 and 41.64
5 RCW and the rules promulgated thereunder, Titles 356 and 358 WAC. Appellant filed a timely
6 appeal with the Personnel Appeals Board on September 2, 2004.

7
8 2.2 Appellant began her employment with the Department of Social and Health Services in
9 1990 as a Social Worker (SW) 2. Appellant was later promoted to an SW 3 position and eventually
10 to a position as an SW 4 supervisor. For a period of about 18 months, Appellant also worked in an
11 acting manager/trainer position.

12
13 2.3 In August 1997, Appellant began working in an SW 4 position at the Home and Community
14 Services Office where she was responsible for supervising a unit of lower level social workers and
15 community nurse consultants. The social workers Appellant supervised were responsible for
16 conducting functional assessments on elderly and disabled adults to determine their needs and
17 develop service plans. Appellant's responsibilities included providing training to her staff on how
18 to conduct assessments, how to prepare the assessment reports and explaining agency policies and
19 procedures. Appellant was also responsible for reviewing all cases transferred in and out of her
20 unit, and preparing attendance reports, in addition to numerous other quality assurance reports.

21
22 2.4 Sonya Sanders, Deputy Regional Administrator, began supervising Appellant in
23 approximately 1998. Ms. Sanders found that Appellant's initial performance was satisfactory, and
24 Appellant demonstrated her knowledge of her position's function. However, Ms. Sanders noted a
25 decline in Appellant's performance a number of years ago. Appellant was repeatedly absent from
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1 work, and she was failing to meet the expectations of her position. In addition, Appellant's
2 subordinates began to convey their concerns regarding Appellant's performance to Ms. Sanders.
3 These complaints included Appellant's inability to track information and her failure to inform them
4 of policy and procedure changes. In addition, staff indicated that Appellant provided others with
5 inaccurate information, and spent excessive amount of work time sharing personal details of her life
6 with others. Staff indicated they were falling behind in their duties because they were covering for
7 Appellant. Ms. Sanders was also covering Appellant's duties, including preparation of attendance
8 reports for Appellant's staff.

9
10 2.5 Ms. Sanders addressed these concerns with Appellant, and she noted improvements in
11 Appellant's attendance and performance; however, these improvements were only temporary. Ms.
12 Sanders also addressed Appellant's inordinate number of absences due to illness. Ms. Sanders
13 inquired about Appellant's need for accommodation, offered her the assistance of the Employee
14 Advisory Service, and encouraged her to meet with human resources staff. However, Appellant
15 indicated that she could not afford a leave of absence and indicated she was not disabled. In May
16 2003, Ms. Sanders counseled Appellant regarding her excessive absences, and she placed her on
17 medical verification.

18
19 2.6 In 2002-2003, DSHS was undertaking a major change in how social workers were to
20 conduct eligibility and needs assessments of clients. Consequently, social workers were required to
21 conduct more comprehensive assessments and evaluations of clients utilizing a new computerized
22 program, known as the "CARE tool." To facilitate the training of staff, social worker supervisors
23 were first provided training in the use of the CARE tool. In addition to formalized training
24 provided to social workers at all levels, the department sent staff from Quality Assurance to meet

1 with social workers to answer questions and provide additional training in the field. Training
2 manuals and a toll free help desk for questions were resources also available to all staff.

3
4 2.7 Because of her experience as a social worker, Appellant had extensive experience
5 conducting client assessments in the field utilizing the department's prior assessment tool. As a SW
6 supervisor, Appellant was not required to conduct client assessments on a routine basis; however,
7 she was required to learn the CARE tool assessment system in order to train her subordinates and
8 answer questions. Appellant attended a five-day CARE tool training in March 2003, and half day
9 training in December 2003.

10
11 2.8 Effective February 26, 2004, Ms. Sanders placed Appellant on a three-month work plan
12 which identified areas for improvement in Appellant's job performance. The plan was effective
13 February 26, 2004 through May 26, 2004 and, in pertinent part, addressed the requirements that
14 Appellant complete and turn in reports on time, attend all requisite meetings, conduct reviews of
15 cases transferred in and out of her unit, complete CARE training, and go to the field with a CARE
16 trainer and conduct a CARE assessment.

17
18 2.9 At the end of the work plan period, Ms. Sanders conducted a special evaluation of
19 Appellant's work performance. Ms. Sanders found that although Appellant attended the CARE
20 training for a second time (in March 2004), she was unable to satisfactory conduct a CARE
21 assessment in the field; she displayed inappropriate behavior during meetings, such as nodding off
22 or walking out; she failed to review all cases transferred into her unit, and therefore, failed to
23 accurately document the transfer of cases in her reports; and she failed to satisfactorily review
24 assessments conducted by her subordinates. Ms. Sanders found that Appellant failed to show

1 marked improvement in her performance, and forwarded the result of Appellant's evaluation to
2 Greg Heartburg, Regional Administrator for Home and Community Services.

3
4 2.10 In determining whether Appellant's deficient performance warranted disciplinary action,
5 Mr. Heartburg reviewed the performance evaluation, consulted with Ms. Sanders, and considered
6 concerns Appellant's staff voiced about Appellant. In general, Appellant's staff expressed that the
7 morale of the unit was very low, and they did not feel they were receiving the proper training or
8 guidance from Appellant. Mr. Heartburg testified that prior to undertaking any disciplinary action,
9 the concerns regarding Appellant were addressed with her, and Ms. Sanders offered Appellant
10 leave, referred her to the Employee Advisory Service, and asked whether she needed
11 accommodation. However, Appellant declined and indicated that she needed to be at work.

12
13 2.11 Mr. Heartburg personally observed the decline in Appellant's work performance after he
14 received reports compiled by Appellant that contained inaccurate data. As a result, reports he was
15 responsible for compiling and submitting that had a direct impact on the department's mission were
16 inaccurate as well. Mr. Heartburg concluded that Appellant's failure to perform at the level
17 required of an SW 4 had a negative impact on the department's responsibility to ensure that
18 accurate data was gathered and reported and that correct eligibility determinations were made so
19 clients received the correct services.

20
21 2.12 Mr. Heartburg reviewed Appellant's employment history, including a March 4, 2004 letter
22 of reprimand she received for failing to follow the directives that she either report to work on March
23 2, 2004, or report her absence at the beginning of the shift and that she provide medical verification
24 from her doctor for her absences beginning February 17, 2004. Although Mr. Heartburg recognized
25 that Appellant had previously been a model employee, he found that her performance for a number
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1 of years had deteriorated to a point where she no longer functioned effectively in an independent
2 supervisory role. Therefore, Mr. Heartburg concluded that demotion to Social Worker 3 position
3 would remove Appellant's supervisory responsibilities and allow her to focus on conducting
4 assessments and effectively learn the CARE tool. By letter dated August 11, 2004, Mr. Heartburg
5 notified Appellant of her demotion from her position as a Social Worker 4 to a position as a Social
6 Worker 3. Mr. Heartburg charged Appellant with neglect of duty, inefficiency and incompetence
7 for failing to demonstrate satisfactory work performance in her position as a supervisor.

8 9 **III. ARGUMENTS OF THE PARTIES**

10 3.1 Respondent argues that Appellant failed to adequately perform her job despite her
11 experience and tenure with the office. Respondent asserts that although Appellant fulfilled some of
12 the requirements of the work plan, her overall performance was deficient in crucial areas of her
13 work, including her inability to adequately review her staff's assessments, her inability to
14 satisfactorily complete an assessment herself, and her failure to report accurate information in her
15 reports. Respondent argues that Appellant's substandard work performance had a negative impact
16 on her subordinates, because she was unable to provide them with updated information or act as a
17 mentor to them. Respondent argues that because Appellant could not perform the duties of a
18 supervisor, the appointing authority's decision to demote her to a non-supervisory social worker
19 position was the appropriate sanction.

20
21 3.2 Appellant asserts that she became sick, and as a result, her performance deteriorated.
22 Appellant asserts that she recognized that she was sick, and therefore she welcomed the work plan
23 because it provided her with concrete steps she could take to improve her performance. Appellant
24 argues that even though she met all the objectives of the work plan, such as getting her reports in on
25 time, the department nonetheless disciplined her for turning in inaccurate reports. Appellant

1 contends that if the department believed the deterioration in her work performance was the result of
2 her illnesses, then she could have been required to undergo an independent medical examination.

3 4 **IV. CONCLUSIONS OF LAW**

5 4.1 The Personnel Appeals Board has jurisdiction over the parties and the subject matter.

6
7 4.2 In a hearing on appeal from a disciplinary action, Respondent has the burden of supporting
8 the charges upon which the action was initiated by proving by a preponderance of the credible
9 evidence that Appellant committed the offenses set forth in the disciplinary letter and that the
10 sanction was appropriate under the facts and circumstances. WAC 358-30-170; Baker v. Dep't of
11 Corrections, PAB No. D82-084 (1983).

12
13 4.3 Neglect of duty is established when it is shown that an employee has a duty to his or her
14 employer and that he or she failed to act in a manner consistent with that duty. McCurdy v. Dep't
15 of Social & Health Services, PAB No. D86-119 (1987).

16
17 4.4 There is no dispute that Appellant's performance as a supervisor had deteriorated to a point
18 where she no longer functioned at the capacity expected of a supervisor. In her defense, Appellant
19 claims Respondent believed her deficient performance was the result of her medical issues.
20 Although Appellant contends Respondent failed to take any steps to determine if there was a direct
21 correlation with the deterioration in performance and her medical condition, the credible testimony
22 supports that the issue of accommodation was raised with Appellant, but she indicated she was not
23 disabled and that accommodation was unnecessary. Appellant was aware of her duty to meet the
24 agency's performance standards and to comply with the directives of the work plan. Respondent

1 has proven by a preponderance of the credible evidence that Appellant's failure to do so constitutes
2 neglect of duty.

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4 4.5 Inefficiency is the utilization of time and resources in an unproductive manner, the
5 ineffective use of time and resources, the wasteful use of time, energy, or materials, or the lack of
6 effective operations as measured by a comparison of production with use of resources, using some
7 objective criteria. Anane v. Human Rights Commission, PAB No. D94-022 (1995), *appeal*
8 *dismissed*, 95-2-04019-2 (Thurston Co. Super. Ct. Jan. 10, 1997).

9
10 4.6 Respondent has shown that Appellant had experience, training, and resources to complete
11 the duties and performance expectations of her position. Respondent made extensive attempts to
12 help Appellant meet the demands of her position, yet, despite these efforts, Appellant failed to meet
13 minimum standards and she spent excessive work time discussing personal issues with other staff.
14 Respondent has proven that Appellant was inefficient in the use of her available work time.

15
16 4.7 Incompetence presumes a lack of ability, capacity, means, or qualification to perform a
17 given duty. Plaisance v. Dep't of Social and Health Services, PAB No. D86-75 (Kent, Hrg. Exam.),
18 aff'd by Board (1987).

19
20 4.8 Respondent has met its burden of proving the charge of incompetence. Sufficient evidence
21 exists to show that Appellant was no longer capable of meeting the supervisory duties of her
22 position.

23
24 4.9 Although it is not appropriate to initiate discipline based on prior formal and informal
25 disciplinary actions, including letters of reprimand, it is appropriate to consider them regarding the
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1 level of the sanction which should be imposed here. Aquino v. University of Washington, PAB No.
2 D93-163 (1995).

3
4 4.10 In determining whether a sanction imposed is appropriate, consideration must be given to
5 the facts and circumstances, including the seriousness and circumstances of the offenses. The
6 penalty should not be disturbed unless it is too severe. The sanction imposed should be sufficient to
7 prevent recurrence, to deter others from similar misconduct, and to maintain the integrity of the
8 program. Holladay v. Dep't of Veterans Affairs, PAB No. D91-084 (1992).

9
10 4.11 We conclude that Respondent has met its burden of proving that Appellant's failure to
11 adequately and satisfactorily perform her duties as social worker supervisor warrants demotion to a
12 position with no supervisory responsibilities. Therefore, the demotion should be affirmed and the
13 appeal denied.

14
15 **V. ORDER**

16 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Mary Craves-Hollands is
17 denied.

18 DATED this _____ day of _____, 2005.

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20 WASHINGTON STATE PERSONNEL APPEALS BOARD

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23 _____
24 Walter T. Hubbard, Chair

25 _____
26 Gerald L. Morgen, Member

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