

Before the
Administrative Hearing Commission
State of Missouri



STATE BOARD OF NURSING,)	
)	
Petitioner,)	
)	
vs.)	No. 11-0938 BN
)	
AIDA LAWRENCE,)	
)	
Respondent.)	

DECISION

Aida Lawrence is subject to discipline because she diverted lidocaine and propofol from her place of employment and injected herself with these substances while on call.

Procedure

The State Board of Nursing (“Board”) filed a complaint on May 23, 2011, seeking this Commission’s determination that cause exists to discipline Lawrence’s license as a registered nurse (“RN”). Lawrence filed her answer on June 23, 2011.

This Commission convened a hearing on the complaint on August 17, 2012. Stephan Cotton Walker represented the Board. David J. Moen represented Lawrence.

The matter became ready for our decision on December 10, 2012, when the Board filed its final written argument.

Findings of Fact

1. Lawrence is licensed by the Board as an RN and was so at all times relevant to these findings.
2. Lawrence is registered as a certified registered nurse anesthetist (“CRNA”)¹ and was so at all times relevant to these findings.
3. Lawrence was employed as a CRNA by Cameron Regional Medical Center (“Medical Center”) in Cameron, Missouri, at all times relevant to these findings.
4. On December 2, 2010, Lawrence was on duty at the Medical Center. Her shift ended at 5:00pm, but she remained on call.
5. At approximately 6:15pm, while on call, housekeeping personnel discovered Lawrence on the floor of a bathroom at the Medical Center. Lawrence was unconscious and had a tourniquet around her right arm and a 20cc syringe stuck in her arm. Further, there was blood on her hand, her clothing, the wall, and the floor. The syringe contained between 0.5cc to 1cc of pink colored propofol. Propofol is a milky white substance that appears pink when combined with blood.
6. A nurse and physician were immediately called to care for Lawrence. While she was being cared for, after gaining consciousness, Lawrence claimed she simply passed out due to diarrhea. There was no evidence of diarrhea in the bathroom. When further questioned by the physician regarding her condition, she continued to be evasive.
7. A urine screen revealed Lawrence was positive for lidocaine and propofol.
8. Lidocaine comes in the form of a patch and is used for pain and requires a prescription. Lawrence did not have a prescription for lidocaine.

¹ The record is unclear as to which nationally recognized certifying body Lawrence was registered with to be a CRNA.

9. Propofol is a hypnotic used for surgery. Prescriptions are not written for propofol because it is only used when directly injected by a health care provider into a patient.

Lawrence's self-injection of propofol was improper.

10. Both propofol and lidocaine are present on multiple anesthesia carts at the Medical Center. Lawrence used her position as a CRNA to divert this medication from those carts.

11. Although she was on call, Lawrence was incapable of caring for patients in her self-induced condition on the evening of December 2, 2010.

Conclusions of Law

We have jurisdiction to hear the case.² The Board has the burden of proving that Lawrence has committed an act for which the law allows discipline.³ The Board alleges that there is cause for discipline under § 335.066:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit or license required by sections 335.011 to 335.096 or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

* * *

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by sections 335.011 to 335.096;

* * *

(12) Violation of any professional trust or confidence[.]

²Section 621.045. Statutory references are to RSMo. Supp. 2012 unless otherwise noted.

³*Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App., E.D. 1989).

Credibility

This Commission must judge the credibility of witnesses, and we have the discretion to believe all, part, or none of the testimony of any witness.⁴ When there is a direct conflict in the testimony, we must make a choice between the conflicting testimony.⁵ We find Lawrence not credible. At the hearing, she testified that she was unconscious because she was depressed and was withdrawing blood from her arm and spraying it on the bathroom floor. However, at the time this incident occurred, upon regaining consciousness, she claimed she was unconscious due to diarrhea. Because of her conflicting statements, we found in favor of the Board's witnesses when there was conflicting testimony.

Professional Standards – Subdivision (5)

In its complaint, the Board limits its allegations under this subdivision to misconduct, dishonesty, and fraud. Therefore, we limit our analysis under this subdivision to these issues.

Misconduct means “the willful doing of an act with a wrongful intention[;] intentional wrongdoing.”⁶ Lawrence willfully committed acts with a wrongful intention by diverting medication, consuming this medication without a valid prescription or other authorization, and lying about the reason for her unconscious state, claiming it was due to diarrhea. Lawrence committed misconduct.

Fraud is an intentional perversion of truth to induce another, in reliance on it, to part with some valuable thing belonging to him.⁷ It necessarily includes dishonesty, which is a lack of integrity or a disposition to defraud or deceive.⁸ Lawrence intentionally perverted the truth by

⁴ *Harrington v. Smarr*, 844 S.W.2d 16, 19 (Mo. App., W.D. 1992).

⁵ *Id.*

⁶ *Missouri Bd. for Arch'ts, Prof'l Eng'rs & Land Surv'rs v. Duncan*, No. AR-84-0239 (Mo. Admin. Hearing Comm'n Nov. 15, 1985) at 125, *aff'd*, 744 S.W.2d 524 (Mo. App., E.D. 1988).

⁷ *State ex rel. Williams v. Purl*, 128 S.W. 196, 201 (Mo. 1910).

⁸ MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY 359 (11th ed. 2004).

stating she passed out due to diarrhea with the intent to take from the Medical Center lidocaine, propofol, and compensation for being on call despite being in a self-induced condition that prohibited her care of patients. Her lie regarding diarrhea was clearly fraud. Furthermore, these acts display a lack of integrity as well as a disposition to defraud and deceive. Therefore, Lawrence committed fraud and acted with dishonesty.

Lawrence is subject to discipline under § 335.066.2(5) for misconduct, fraud, and dishonesty.

Professional Trust – Subdivision (12)

Professional trust is the reliance on the special knowledge and skills that professional licensure evidences.⁹ It may exist not only between the professional and his clients, but also between the professional and his employer and colleagues.¹⁰ Employers must trust CRNAs to not divert lidocaine and propofol from their place of employment. Furthermore, both employers and patients must trust CRNAs to not place themselves in self-induced unconscious states when on call to treat patients. In doing both, Lawrence violated professional trust. She is subject to discipline under § 335.066.2(12).

Summary

Lawrence is subject to discipline under § 335.066.2(5) and (12).

SO ORDERED on May 10, 2013.

\s\ Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner

⁹*Trieseler v. Helmbacher*, 168 S.W.2d 1030, 1036 (Mo. 1943).

¹⁰*Cooper v. Missouri Bd. of Pharmacy*, 774 S.W.2d 501, 504 (Mo. App., E.D. 1989).