

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

MARGARET BYRD

FILED

APPELLANT

VS.

DEC 04 2014

NO.14-045

MISSISSIPPI DEPARTMENT OF
MENTAL HEALTH

EMPLOYEE APPEALS BOARD

RESPONDENT

ORDER

This cause came on for hearing on November 4, 2014, in Jackson, Mississippi. The Appellant, Margaret Byrd was represented by John R. Reeves, and Gene W. Rowzee, Jr. represented the Mississippi Department of Mental Health ("MDMH").

SUMMARY

Margaret Byrd was employed as a Licensed Practical Nurse at the Jaquith Nursing Home, a facility operated by The MDMH. On September 11, 2014, Byrd was terminated for a Group III, No. 24 offense¹ of, "neglect, exploitation, abuse (verbal, physical, sexual, or mental), or failure to report such conduct toward an individual at any time or under any circumstances." Specifically, MDMH charged Byrd with abuse/unreasonable confinement of a resident by restricting the resident while feeding him by holding him down.

¹ Department of Mental Health Addendum to The Mississippi State Employee Handbook, Effective Date 7/1/2014

This tribunal finds that MDMH's termination of Byrd was supported by the evidence and Byrd's termination is affirmed.

FINDINGS

Byrd usually worked on the 3:00 p.m. to 11:30 p.m. shift at Jaquith Nursing Home in Building 69. Byrd was the only nurse present in Building 69 and the senior medical staff in the building on that shift. Byrd was responsible for supervising the nurse aides.

X lives at Jaquith in Building 69. X has Alzheimer's disease and diabetes. X is 77 years old. X often has issues with sitting down to eat his meals. Consequently X often walks around the facility while he eats. To accommodate X he is provided with finger foods, or an aide will follow him, as he walks, and feed him from a plate. X's diet is supplemented with nutritional drinks.

On July 29, 2014, Byrd was working in the cafeteria during dinner time. On that date X did not want to sit down to eat his dinner. Byrd instructed a nurse aide in training, Mary Hampton, to assist her with feeding X. Byrd instructed Hampton to prevent X from getting up from the table by pushing down his shoulders and restraining him. X became agitated and attempted to push away from the table. X also started yelling and saying "no." Byrd moved X's legs and pressed down his thighs to keep him in the dining chair. Christine Stilson, a Behavioral Health Specialist, heard the

commotion in the cafeteria and went in to see what was happening. She observed the restraint of X and told Byrd that she was restraining X. Even after Stilson's comment, Byrd continued to restrain X, attempting to force feed him. Byrd's testimony that she walked into the cafeteria behind Stilson and saw nurse aides holding down X; as well as the implication that restraint was necessary because X was diabetic was not credible.

Jaquith Nursing Home policy J530-55 defines abuse, in part, as "unreasonable confinement, intimidation . . . with resulting mental anguish" Byrd had received training with regard to Jaquith policies, and specific training on abuse and restraints.

OPINION

MEAB Rule XX provides that "[a]n appealing party shall have the burden of proving that the reasons stated in the notice of the agency's final decision are not true or are not sufficient grounds for the action taken. " Byrd could not meet her burden of proof.

Byrd instructed nurse aides to restrain X and assisted in restraining X. MDMH policy defines abuse as unreasonable confinement with resulting mental anguish. The facts show that X was unreasonably confined and that he expressed mental anguish as a result of that confinement. Byrd's actions constitute a Group III, number 24 Offense of ". . . abuse (verbal, physical, sexual, or mental). . . "

For the foregoing reasons Byrd's termination from MDMH is affirmed.

SO ORDERED THIS THE 3rd DAY OF December, 2014.

MISSISSIPPI EMPLOYEE APPEALS
BOARD

BY:


INGRID DAVE WILLIAMS
Hearing Officer