

**STATE OF RHODE ISLAND  
DEPARTMENT OF HEALTH  
THREE CAPITOL HILL  
PROVIDENCE, RHODE ISLAND 02908**

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| <b>In the Matter of:</b>  | : |                                    |
|                           | : |                                    |
|                           | : | <b>Case No.: 24-0743</b>           |
| <b>Erick Sajche Meza,</b> | : | <b>Board of Nursing Assistants</b> |
| <b>Respondent.</b>        | : |                                    |
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**DECISION**

**I. INTRODUCTION**

This matter arose pursuant to a Notice of Pre-hearing and Specification of Charges issued to Erick Sajche Meza (“Respondent”) by the Department of Health (“Department”) on August 9, 2024. The Respondent holds a registration as a nursing assistant pursuant to R.I. Gen. Laws § 23-17.9-1 *et seq.* that was suspended by an Order of Summary Suspension of Nursing Assistant License dated July 16, 2024. Department’s Exhibit Two (2). A hearing was held on October 16, 2024 at which time the Respondent did not appear. Pursuant to Section 4.6.1 of 216-RICR-10-05-4 *Practices and Procedures Before the Rhode Island Department of Health* Regulation (“Hearing Regulation”), service may be made by hand-delivery or first class mail and service is complete upon mailing, even if unclaimed or returned, when sent to the last known address of the party. In this matter, the Respondent was sent notice by regular and certified mail and email.<sup>1</sup> Since the

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<sup>1</sup> When the Summary Suspension was hand delivered, service was able to be made to an address in Greenville, R.I. rather than the Respondent’s address on record with the Department. On September 16, 2024, the notice of the hearing date was sent to the Respondent’s address on record with the Department and the Greenville (Smithfield) address by first class and certified mail and email. The certified mail was attempted to be delivered to the address on record with the Department and the certified mail to the Greenville address was delivered. Department’s Exhibits One (1) (Respondent’s licensing information with address on record with the Department); Two (2) (Summary Suspension with proof of service to Greenville address); Three (3) (notice of hearing to address on record with Department indicating mailing by email and regular and certified mail to addresses on record with the Department); Four (4) (United States Post Office website tracking showing said notice sent by certified mail to address on record was attempted to be delivered and was returned); Five (5); (notice of hearing to Greenville address with Department indicating mailing by email and regular and certified mail to addresses on record with the Department); and Six (6)

Respondent was adequately noticed of hearing, a hearing was held before the undersigned on October 16, 2024.<sup>2</sup> Additionally, Section 4.13.2 of the Hearing Regulation provides that a judgment may be entered based on pleadings and/or evidence submitted at hearing by a non-defaulting party. The Department was represented by counsel who rested on the record.

## **II. JURISDICTION**

The administrative hearing was held pursuant to R.I. Gen. Laws § 42-18-1 *et seq.*, R.I. Gen. Laws § 23-17.9-1 *et seq.*, R.I. Gen. Laws § 42-35-1 *et seq.*, and the Hearing Regulation.

## **III. ISSUE**

Whether the Respondent violated R.I. Gen. Laws § 23-17.9-8 and 216-RICR-40-05-22 *Nursing Assistants, Medication Aides, and the Approval of Nursing Assistant and Medication Aide Training Programs* (“Licensing Regulation”) and if so, what is the appropriate sanction.

## **IV. MATERIAL FACTS**

Based on the pleadings and the exhibits, the Respondent’s registration was summarily suspended on August 9, 2024. On July 4, 2024, the Respondent was employed at a health care facility. On July 4, 2024, the Respondent went into a female resident’s room and engaged in sexual contact and continued even when she told him to stop. The Respondent was in the room for 16 minutes, 5:32 a.m. to 5:48 a.m. The Respondent has been charged with second degree sexual assault of said patient. Department’s Exhibits Two (2) (Summary Suspension); Three (3) and Five (5) (notice of hearing); Seven (7) and Eight (8) (facility complaint and follow up documents); Nine (9) (five (5) day report from facility); 10 (psychiatric evaluation); 11 (police report); 12 (statement to police); 13 (audio of interview with physical therapist to whom the resident reported the assault);

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(United States Post Office website tracking showing said notice sent by certified mail to Greenville address was delivered).

<sup>2</sup> Pursuant to a delegation of authority by the Director of the Department of Health.

14 (interview with said resident); 15 (hallway video); and 17 (criminal information against Respondent).<sup>3</sup>

Laura Serapiglia (“Serapiglia”) testified on behalf of the Department. She testified that during the course of her investigation for the Department into this matter, she ascertained the discrepancy in the time between what time the resident thought the assault occurred and the time on the video showing the Respondent entering the resident’s room was due to the room clock being inaccurate. She testified the resident would have been able to see the inaccurate clock from her bed. She also testified that she determined that the time the Respondent spent in the room at the time of the assault was longer than would have been needed for what he should have been doing for the resident and her roommate. She testified that it should have just taken a couple of minutes rather than 16 minutes for him to do the actual required duties in the room at that time.

## V. DISCUSSION

### A. **Legislative Intent**

The Rhode Island Supreme Court has consistently held that it effectuates legislative intent by examining a statute in its entirety and giving words their plain and ordinary meaning. *In re Falstaff Brewing Corp.*, 637 A.2d 1047 (R.I. 1994). If a statute is clear and unambiguous, “the Court must interpret the statute and must give the words of the statute their plain and ordinary meanings.” *Oliveira v. Lombardi*, 794 A.2s 453, 457 (R.I. 2002) (citation omitted). The Supreme Court has also established that it will not interpret legislative enactments in a manner that renders them nugatory or that would produce an unreasonable result. See *Defenders of Animals v. DEM*, 553 A.2s 541 (R.I. 1989) (citation omitted).

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<sup>3</sup> Due to the resident’s name and confidentiality of the complaint, Department’s Exhibits Seven (7) to 16 are **ORDERED TO BE SEALED**.

## **B. Standard of Review for an Administrative Hearing**

It is well settled that in formal or informal adjudications modeled on the Federal Administrative Procedures Act, the initial burdens of production and persuasion rest with the moving party. 2 Richard J. Pierce, *Administrative Law Treatise* § 10.7 (2002). Unless otherwise specified, a preponderance of the evidence is generally required in order to prevail. *Id.* See *Lyons v. Rhode Island Pub. Employees Council 94*, 559 A.2d 130m 34 (R.I. 1989) (preponderance standard is the “normal” standard in civil cases). This means that for each element to be proven, the fact-finder must believe that the facts asserted by the proponent are more probably true than false. *Id.* When there is no direct evidence on a particular issue, a fair preponderance of the evidence may be supported by circumstantial evidence. *Narragansett Electric Co. v. Carbone*, 898 A.2d 87 (R.I. 2006).

## **C. Relevant Statute and Regulation**

R.I. Gen Laws § 23-17.9-8 provides as follows:

Disciplinary proceedings. – The department may suspend or revoke any certificate of registration issued under this chapter or may reprimand, censure, or otherwise discipline or may deny an application for registration in accordance with the provisions of this section upon decision and after a hearing as provided by chapter 35 of title 42, as amended, in any of the following cases:

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(6) Any other causes that may be set forth in regulations promulgated under this chapter.

Section 22.6 of the Licensing Regulation provides as follows:

A. Pursuant to R.I. Gen. Laws §§ 23-17.9-8 and 23-17.9-9, and upon a decision after a hearing as provided in accordance with the Rhode Island Administrative Procedures Act and the Rules and Regulations Pertaining to Practices and Procedures Before the Rhode Island Department of Health (Part 10-05-4 of this Title), the Department may deny, suspend, or revoke a license issued under this Part, or may reprimand, censure, or otherwise discipline an individual who has been found guilty of violations of the Act or this Part in any of the following cases:

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2. Upon proof that the nursing assistant or medication aide has engaged in unprofessional conduct including, but not limited to, departure from, or failure to conform to, the standards of acceptable and prevailing practice.

**D. Whether Respondent Violated R.I. Gen. Laws § 23-17.9-8 and/or Licensing Regulation**

Based on the pleadings and the undisputed evidence, the Respondent sexually assaulted a patient while employed at a health care facility. The Respondent's actions violated R.I. Gen. Laws § 23-17.9-8(6) (violation of the regulation) in that he violated Section 22.6.1(A)(2) (unprofessional conduct) of the Licensing Regulation.

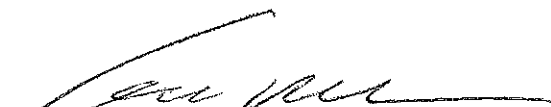
**VI. FINDINGS OF FACT**

1. The Respondent is registered as a nursing assistant pursuant to R.I. Gen. Laws § 23-17.9-1 *et seq.* whose registration was summarily suspended on July 16, 2024.
2. A notice of the date of the hearing was sent by the Department to Respondent on September 16, 2024 to the Respondent's addresses on record with the Department.
3. A hearing was scheduled for October 16, 2024, at which time the Respondent did not appear. As the Respondent had adequate notice of hearing, the undersigned held the hearing that day.
4. The facts contained in Section IV and V are reincorporated by reference herein.

**VII. CONCLUSIONS OF LAW**

Based on the foregoing, the Respondent violated R.I. Gen. Laws § 23-7.9-8 (6) and violated Section 22.6(A)(2) of the Licensing Regulation. Pursuant to R.I. Gen. Laws § 23-17.9-8, the undersigned recommends that the Respondent's registration be revoked effective immediately.

Entered this day 25<sup>th</sup> October, 2024.

  
Catherine R. Warren, Esquire  
Hearing Officer

**ORDER**

I have read the Hearing Officer's Decision and Recommendation in this matter, and I hereby take the following action with regard to the Decision and Recommendation:

  X   ADOPT  
       REJECT  
       MODIFY

Dated: 10/28/2024

Jerome Larkin, MD  
Jerome Larkin, MD  
Director

**NOTICE OF APPELLATE RIGHTS**

**THIS DECISION CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF HEALTH PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS §42-15-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.**

**CERTIFICATION**

I hereby certify on this 29th day of October, 2024 that a copy of the within Decision and Notice of Appellate Rights was sent by first class mail, postage prepaid and certified mail, return receipt requested to Mr. Erick Sajche Meza, 397 Warren Avenue, East Providence, R.I. 02914 and 3 Baxter Lane, Smithfield, R.I. 02828 and by electronic delivery to the Respondent at sajchemezaerick@gmail.com and by electronic delivery to Anita Flax, Esquire, and Linda Esposito, Board Manager, Department of Health, Three Capitol Hill, Providence, RI 02908.

Pamela Lopes