

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**LUCRETIA M OWENS**  
Claimant

**MERCY MEDICAL CENTER**  
Employer

**APPEAL 16A-UI-10007-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/14/16**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the September 6, 2016, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was discharged from employment for wanton carelessness in performing her work. The parties were properly notified of the hearing. A telephone hearing was held on September 29, 2016. The claimant, Lucretia M. Owens, participated. The employer, Mercy Medical Center, participated through Laura Dooley, director of HR; Hope Covington, nurse manager; and Tawnya Salsbery, director of renal, diabetes, and endocrinology. Employer's Exhibit 1 through 10 were received and admitted into the record without objection.

**ISSUE:**

Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as a dialysis patient care tech 2, from December 30, 2014, until August 18, 2016, when she was discharged for failing to administer a medication to three patients.

On August 15, 2016, claimant was charged with initiating dialysis treatments for 48 patients. Part of initiating the dialysis treatment involves administering a heparin bolus. Claimant failed to administer the necessary heparin bolus for three patients. Claimant testified that another employee was supposed to check that the task had been completed and sign off on it. The employer discovered this when Covington came on shift, walked through the treatment room, and saw a syringe that still contained the heparin bolus sitting on the dialysis machine for one patient. Covington pointed this out to claimant, and the two verified that claimant failed to administer the medication to two other patients as well. Claimant proceeded to give the medication to the three patients at that point. Covington reported this issue to Salsbery. Claimant testified that she had recently returned from FMLA leave, and she was feeling overwhelmed.

The employer's policy requires that claimant administer the heparin bolus before the dialysis treatment commences. (Exhibit 4) Claimant was trained on this policy. (Exhibit 5) Salsbery testified about the multiple risks involved if a patient receives the heparin bolus later in the treatment, rather than at the outset. If the heparin bolus is given too late, the patient faces the potential of having bleeding when the needle is removed, because the heparin is still active. This can lead to the patient needing hospitalization or a blood transfusion. Additionally, if the heparin bolus is administered too late, patient could leave with heparin active in the system, and then fall and hit their head and have brain bleeding and death. Claimant was trained on these risks. (Exhibit 5)

Claimant received a final written warning on August 11, 2016. (Exhibit 2) This final written warning was issued in part because claimant failed to follow the Fresenius Treatment Initiation procedure on July 11 and July 13, which includes the heparin bolus. Claimant testified she did not recall failing to do this, due to the number of patients she treats. Claimant was aware of the final written warning and knew her job was in jeopardy.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was discharged for disqualifying, job-related misconduct. Benefits are withheld.

Iowa Code § 96.5(2)a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:
  - a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

- a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Co.*, 453 N.W.2d 230 (Iowa Ct. App. 1990). Misconduct must be "substantial" to warrant a denial of job insurance benefits. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate disregard of the employer's interests. *Henry v. Iowa Dep't of Job Serv.*, 391 N.W.2d 731 (Iowa Ct. App. 1986). Poor work performance is not misconduct in the absence of evidence of intent. *Miller v. Emp't Appeal Bd.*, 423 N.W.2d 211 (Iowa Ct. App. 1988).

Claimant's repeated failure to accurately perform her job duties after having been warned is evidence of negligence or carelessness to such a degree of recurrence as to rise to the level of disqualifying job-related misconduct. See Iowa Admin. Code r. 871-24.32(1)a. On August 15, claimant failed to properly administer the heparin bolus to three patients. Even if another employee was supposed to verify that this had been completed at the proper time, claimant admits it was her job responsibility to perform that task. Claimant had been warned for failing to perform this task just days earlier, and she knew her job was in jeopardy. While claimant may have been overwhelmed after recently returning from leave and dealing with multiple patients, her circumstances do not alleviate her responsibility to properly perform her job. The employer has established that claimant was discharged due to disqualifying job-related misconduct. Benefits are withheld.

**DECISION:**

The September 6, 2016, (reference 01) unemployment insurance decision is affirmed. Claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

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