

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ALLIE R KRAUS**  
Claimant

**DELAWARE COUNTY MEMORIAL  
HOSPITAL**  
Employer

**APPEAL 15A-UI-11305-SC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/13/15**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Allie Kraus (claimant) filed an appeal from the October 2, 2015, (reference 01) unemployment insurance decision that denied benefits based upon the determination Delaware County Memorial Hospital discharged her for violation of a known company policy. The parties were properly notified about the hearing. A telephone hearing was held on October 26, 2015. The claimant participated on her own behalf. The employer participated through Human Resources Director Joan Funke, Medical Services Director/HIPAA Privacy Officer Rose Mary Hunt, and Provider Support Coordinator Michelle Paris.

**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: The claimant was employed full-time as a Patient Care Representative beginning June 15, 2015, and was separated from employment on September 17, 2015, when she was discharged. The claimant's job included assisting patients to their exam rooms to await medical care.

On September 15, 2015, Patient B was seen at the clinic. While assisting Patient B, the claimant congratulated her status as a soon-to-be-aunt. Patient B asked how the claimant knew that Patient A was pregnant. The claimant explained she knew about the pregnancy because Patient A was also a patient at the clinic, she had seen the baby bump, and her sister-in-law might have told her about it. Patient B reported her interaction with the claimant to Patient A.

Patient A contacted Medical Services Director/HIPAA Privacy Officer Rose Mary Hunt to complain about the claimant's conversation with Patient B. Hunt conducted an investigation by taking the statement of Patient A, interviewing the claimant, and speaking with Patient B. Patient B explained she had asked the claimant how she knew about the pregnancy as Patient A had not told anyone about the pregnancy other than Patient B and her spouse. Hunt determined the claimant had committed a HIPAA violation. She turned over her findings to

Human Resources Director Joan Funke and Provider Support Coordinator Michelle Paris. They made the decision to terminate the claimant's employment as the employer has a zero tolerance policy for HIPAA violations. The claimant would have been aware of the HIPAA policy through training conducted by Hunt.

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

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct. Benefits are denied.

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).

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). 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). 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).

Workers in the medical or dependent care profession, reasonably have a higher standard of care required in the performance of their job duties. The employer's patients have a legal right to privacy related to their medical information. The claimant's disclosure of personal medical information is a violation of this right and is a deliberate disregard of the employer's interests in protecting patient information and providing good patient experiences. Accordingly, benefits are denied.

**DECISION:**

The October 2, 2015, (reference 01) unemployment insurance decision is affirmed. The 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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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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