

BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319

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MARGARET J ZAABEL

Claimant,

and

CARE INITIATIVES

Employer.

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HEARING NUMBER: 10B-UI-16281

EMPLOYMENT APPEAL BOARD  
DECISION

N O T I C E

**THIS DECISION BECOMES FINAL** unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

**SECTION: 96.5-2A**

D E C I S I O N

**UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE**

The employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board, one member dissenting, reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

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John A. Peno

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Elizabeth L. Seiser

AMG/fnv

**DISSENTING OPINION OF MONIQUE F. KUESTER:**

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. Based on the evidence and testimony presented at the hearing, I would find that the claimant's conduct constituted deliberate wrongdoing as misconduct is defined by Iowa law. While it may be conceivable that the final act did not rise to the level of misconduct on its own, the claimant's behavior was cumulative in nature as follows:

- Dispensed incorrect medication to resident;
- Was repeatedly warned that her behavior was unacceptable and her inability to work with others was problematic for herself, co-workers and ultimately the residents;
- And she failed to answer the residents' calls during her shifts

In conclusion, I find all these factors negatively impacted the workplace. I disagree with the administrative law judge's final conclusion that the final incident, alone, compromised patient care. If the claimant's work relationships with co-workers rose to such a level that multiple individuals declined to work with her, including some co-workers declaring that they would forgo their employment, all these factors together could eventually cause patient care to suffer. Based on this record, I would conclude that the employer has satisfied the burden of proof. Benefits should be denied.

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Monique F. Kuester

AMG/fnv