

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

**TRACY L PAULS**  
Claimant

**APPEAL NO. 18A-UI-08210-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARE INITIATIVES**  
Employer

**OC: 06/17/18**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Tracy Pauls (claimant) appealed a representative's July 23, 2018, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits after her separation from employment with Care Initiatives (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for July 23, 2018. The claimant participated personally. The employer was represented by Alyce Smolsky, Hearing Representative and participated by Valerie Frank, Administrator, and Natalie Trinkle, Director of Nursing. The employer offered and Exhibit 1 was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on November 30, 2016, as a full-time registered nurse/charge nurse. She signed for receipt of the employer's Nursing Guidelines and Procedure Manual on December 3, 2016. The Manual provides procedures for insuring the proper administration of medication to the resident. Employees are instructed to check medication three times before dispensing.

On February 15, 2017, the employer issued the claimant a written warning for failure to obtain signatures on the employer's medication and treatment documents. The employer notified the claimant that further infractions could result in further corrective actions. On December 28, 2017, the employer issued the claimant a written warning for leaving pills in a cup in a resident's room after the claimant left the room. The employer notified the claimant that further infractions would result in termination from employment.

On June 9, the employer discovered the claimant had copied the wrong dosage in a resident's medication administration record (MAR). The doctor reduced the resident's amount of medication from ten milligrams to five milligrams. The claimant wrote ten milligrams on the resident's MAR. The claimant thought her error was stupid and it should not have happened.

On June 11, 2018, the employer discovered that the claimant and other nurses were giving a resident an inadequate dose of medication. The MAR for the resident indicated the resident should receive ten milligrams of medication. The nurses did not detect that one pill from the pharmacy was one-quarter of the resident's dose of medicine. The nurses were giving the resident one pill rather than four pills. The claimant felt she should have caught the error but she was in a hurry.

On June 13, 2018, the director of nursing terminated the claimant for repeated medication errors.

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

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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 Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). Repeated failure to follow an employer's instructions in the performance of duties is misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). An employer has a right to expect employees to follow instructions in the performance of the job. The claimant disregarded the employer's right by repeatedly failing to follow the employer's instructions and check her work before administering medication. The claimant's disregard of the employer's interests is misconduct. As such the claimant is not eligible to receive unemployment insurance benefits.

**DECISION:**

The representative's July 23, 2018, decision (reference 01) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs