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

CRAIG A ESTES	**HEARING NUMBER:** 17BUI-09595
Claimant	
and	**EMPLOYMENT APPEAL BOARD DECISION**
CATHOLIC HEALTH INITIATIVES IOWA	
Employer	

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: 96.5-2-A, 96.3-7

D E C I S I O N

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, 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** with the following **MODIFICATION**:

The Board strikes the third paragraph (second full paragraph) appearing on page 4 of the Administrative Law Judge’s decision.

We concur with the Administrative Law Judge in his findings and specifically in the holding that misconduct was proven by the Employer. We write additional explanation now only to clarify the standard for misconduct is not a variable one.

We emphasize that the legal standard for misconduct is not changed by the fact that the Claimant works in the health care field. The facts that the work done by persons working the Claimant’s job for this Employer is very important, and that specific rules apply to this kind of work do indeed factor into our analysis. These requirements set the standards of behavior which the employer has a right to expect of employees. Thus

intentionally deciding to skip writing down what you are doing as you are doing it might not be a violation of the standard of behavior an employer has a right to expect for a fast food manager, it would be a violation such standards for a nurse administering medications. Beyond that, however, the law remains the same. Mere incapacity, mere negligence, and isolated instances of poor judgment are not disqualifying even in the health care field. For example, the cases discussing these principles include commercial drivers who have to be specially licensed and whose job performance can endanger lives. *E.g. Lee v. Employment Appeal Board*, 616 NW2d 661 (Iowa 2000). The cases even include one with an error in nursing care. *Infante v. Iowa Dept. of Job Service*, 364 N.W.2d 262, 265 (Iowa App. 1984). The definition of misconduct does not change from case to case. Rather the application of that definition changes. So the “standards of behavior which the employer has the right to expect of employees” certainly does take into account that we are in the health care field. But whether a worker has shown a “willful or wanton disregard” for those standards is the same no matter what the job is. *See Navickas v. Unemployment Comp. Review Bd.,* 787 A. 2d 284 (Pa. 2001); *Messer & Stilp v. Dept. Of Employment Sec*., 910 NE 2d 1223 (Ill. App. 2009); *Kakkanatt v. Oklahoma Employment Sec. Com'n*, 183 P. 3d 1032 (Okla App. 2008). Here we conclude that the Employer has shown the Claimant to be guilty of “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” and therefore affirm the Administrative Law Judge. 871 IAC 24.32(1)(a).

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

RRA/fnv