

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELINDA C DIAZ**

Claimant

**APPEAL NO: 13A-UI-05047-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CENTRAL IOWA HOSPITAL CORP**

Employer

**OC: 04/07/13**

**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(1) – Definition of Misconduct

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated April 24, 2013, reference 01, that held she was discharged for misconduct on April 2, 2013, and benefits are denied. A telephone hearing was held on June 17, 2013. The claimant, Attorney Corey Walker, and witnesses, Ron Dennis, and Suzanne Drummond, participated. Wanda Marshall, Manager, Amanda Banks, HR representative, and Kami Petitgoue, Attorney, participated for the employer. Employer Exhibits 1 & 2 was received as evidence.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant began employment on October 19, 2005, and last worked for the employer as a full-time RN on April 2, 2013. The employer is subject to patient/hospital HIPAA regulations. The employer has a policy for discipline and corrective action for a breach of protective patient information (HIPAA). Claimant received the policy. The policy requires a written waiver/consent to disclose the information to a non-family member.

The employer issued claimant a written corrective action of notification on February 17, 2011 for violation of protection patient information. Claimant received and signed for it.

On March 29, 2013 an employee(s) reported to the employer that it overheard a claimant telephone conversation where she shared patient condition information. Supervisor Marshall questioned the employee nurses who heard the conversation in an employee lounge area. She also questioned claimant who admitted the conversation with her mother who did not have written authorization to receive it.

Claimant's mother and the patient are life-long friends and neighbors. Her mother learned the patient was in surgery and called claimant at the hospital. Claimant later called her mother and shared patient condition information with her mother.

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

Iowa Code section 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.

871 IAC 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.

The administrative law judge concludes the employer established claimant was discharged for misconduct in connection with employment on April 2, 2013 for violation of policy.

The employer put claimant on notice of its patient protective information policy enforcement with a writing warning on February 17, 2011. Claimant either knew or should have known that a failure to obtain a written patient waiver to disclose confidential condition information is a violation. The March 29, 2013 violation coupled with the prior warning does constitute job disqualifying misconduct.

While it is commonly known that non-family members might have a closer relationship with a person than family, the employer policy requires a written consent for disclosure of patient condition information that is not present in this matter. While claimant contends the employer was motivated to discharge her based on a job-related disability issue, the discharge merits rests on whether the violation(s) did occur.

**DECISION:**

The department decision dated April 24, 2013, reference 01, is affirmed. The claimant was discharged for misconduct on April 2, 2013. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs