

# DECISION DIGEST

*Actual cases and rulings from Princeton Claims Management*

**NJHA**  
HEALTHCARE  
BUSINESS SOLUTIONS

JANUARY 2017

## FALSIFICATION OF A PATIENT RECORD

### **B**ackground

A hospital patient observer (employee) was discharged for failing to follow its employer's observation policy and falsifying a patient log.

The employee was required to make in-person observations of a mentally unstable patient every fifteen minutes. On the night in question, the employee documented 21 entries in the patient's log indicating she had observed a calm and friendly patient. A video camera in the patient's room also provided additional surveillance at the nurse's station. That evening a nurse discovered potential signs of a disturbance in the patient's room and referred to the patient observation log and videotape. The patient was observed on camera attempting to harm herself with a bed sheet. The employee was never seen on video tape entering the patient's room. The employer questioned the employee and she contended she personally observed the patient, as she had documented. Later she admitted she only checked on the patient via the video monitor. Since the employee misrepresented her observations of a patient, she was terminated for failing to follow policy and falsifying a patient's record.

### **P**rocess

The former employee (claimant) filed an unemployment claim and was held disqualified for severe misconduct due to the patient record falsification. The claimant filed an appeal contending she did observe the patient on the video monitor and should not have been disqualified for the severe level of misconduct because no harm came to the patient.

The claimant, the employer's witnesses and agent, Princeton Claims Management (PCM) appeared for the hearing. The claimant acknowledged she did not go into the patient's room as she documented in the log, although she watched the patient on the monitor. The employer contended these actions were in violation of the hospital's policy, which requires in-person observation of patients. Additionally, documenting that an observation was in-person, when it was not, is falsification of the patient's record. Although the patient was not harmed, his safety was compromised by the employee's decision to mislead the employer. This action could establish gross misconduct termination for a fourth degree crime under the NJ Code of Criminal Justice.

### **J**udgment

The examiner rejected the gross misconduct disqualification, as the claimant's actions, while egregious did not constitute a crime. The ruling held that "the claimant's failure to observe the patient and her repeated falsification of the observation log was a deliberate disregard of the employer's policies and intentional attempt to prevent the employer from detecting her failure to perform her job." Further, "these actions were malicious and within her control" and while not criminal, constituted severe misconduct in accordance with N.J.S.A. 43:21-5(b).

*This case illustrates that although a discharge for "falsification of a record relating to the care of a medical patient in order to deceive or mislead" can establish a fourth degree crime, the gross misconduct disqualification is rarely imposed under these circumstances, as the behavior is viewed as malicious, not criminal.*

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