

BEFORE THE IOWA BOARD OF NURSING HOME ADMINISTRATORS

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IN THE MATTER OF ) NO. 11-001  
)  
**Cynthia Gentz,** )  
) **NOTICE OF HEARING**  
) **AND STATEMENT OF CHARGES**  
Respondent. )

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COMES NOW the Iowa Board of Nursing Home Administrators (“Board”) and hereby files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) 11.6.

Respondent was issued Iowa nursing home administrator license number 02271 on October 13, 2004. Respondent’s license is current and is set to expire on December 31, 2013. Respondent’s address as reported to the Board is 789 X Avenue, Ames, Iowa 50014.

**A. TIME, PLACE AND NATURE OF HEARING**

Hearing. A disciplinary contested case hearing shall be held on **May 31, 2012**, before the Board of Nursing Home Administrators. The hearing shall begin at **9:00 a.m.**, and shall be located in the Lucas State Office Building, Fifth Floor Board Conference Room 526, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Nursing Home Administrators, 5th Floor, Lucas State Office Building, 321 East 12<sup>th</sup> Street, Des Moines, Iowa, 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 641 IAC chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC 11.17.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: September Lau, Assistant Attorney General, Iowa Attorney General's Office, Hoover State Office Building, 2nd Floor, Des Moines, Iowa 50319.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file

with the Board office and serve upon all parties in the case.

## **B. LEGAL AUTHORITY AND JURISDICTION**

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 155, and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 147, 155, and 272C and 645 IAC chapter 144.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 645 IAC 11.21.

## **C. SECTIONS OF STATUTES AND RULES INVOLVED**

### **Count I**

Respondent is charged pursuant to Iowa Code section 147.55(2) and 645 IAC 144.2(3) with professional incompetence, including (a) “a substantial lack of knowledge or ability to discharge professional obligations within the scope of practice,” (b) “a substantial deviation from the standards of learning or skill ordinarily possessed and applied by other nursing home administrators in the state of Iowa acting in the same or similar circumstances,” (c) “a failure to exercise the degree of care which is ordinarily exercised by a nursing home administrator acting in the same or similar circumstances,” and (d) “failure to conform to the minimal standard of acceptable and prevailing practice of a licensed nursing home administrator in this state.”

### **Count II**

Respondent is charged pursuant to Iowa Code section 147.55(9) and 645 IAC

144.2(12) with negligence in the practice of the profession.

### **Count III**

Respondent is charged pursuant to Iowa Code section 147.55(9) and 645 IAC 144.2(14) with violation of a regulation, rule or law of this state, another state, or the United States which relates to the practice of nursing home administrators.

#### **D. FACTUAL CIRCUMSTANCES**

1. Respondent served as nursing home administrator for the Abington on Grand (the Facility) in Ames, Iowa, from November 12, 2008, to on or about January 20, 2011. The below-listed events took place at the Abington during that time.

2. As the administrator, Respondent was responsible for the day-to-day operation of the Facility and for ensuring that the Facility was operated in compliance with all state and federal laws and regulations governing the Facility. She was also responsible for ensuring that the highest degree of quality care practicable was delivered to residents.

3. Multiple failures to adequately assess Residents' needs and provide proper care.

a. Resident B's health care plan did not address this Resident's severe emotional response to the dying of this Resident's spouse.

b. Although policies were in place dealing with elopement, staff response to Resident B's November elopement did not adhere to these procedures, and Resident B, although a known wanderer, was not at that time on the Facility list of known wanderers.

c. Resident #1 and Resident #12 had no care plan in place addressing

sexually inappropriate behavior although they frequently exhibited such behavior.

4. Failure to notify resident family.

a. Under Iowa Administrative Code 481—58.20, responsible parties shall immediately notify Residents' family when there are adverse changes in a Resident's condition requiring physician notification.

b. Resident A required a new order for oxygen. Their physician was notified and the order obtained on November 1, 2010. The family was not immediately notified.

5. Failure to report elopement.

a. Iowa Code section 135C.26 requires health facilities to notify the Department of Inspections and Appeals of any accident causing injury within 24 hours of its occurrence.

b. Iowa Administrative Code 481—58.15(4) requires health facilities to maintain incident record reports whenever there is injury (or where apparent injury may have occurred), covering all unusual occurrences at a facility. Such incident report is to be kept on file at the facility.

c. Resident B eloped twice (in August 2010 and November 2010). No incident report was generated for either elopement.

d. Resident B's elopement in November resulted in that Resident being missing for many hours in cold temperatures. Resident B was admitted to the ER and treated for hypothermia and frostbite. Resident B had suffered a mild heart attack. The incident was not reported to DIA.

6. Failure to have policies and procedures in place addressing resident-on-

resident abuse, and failure to report such abuse.

a. Throughout 2010, three residents at the facility engaged in sexual activity with one another. No facility policy existed relating to resident-on-resident sexual abuse. Staff of the facility believed some of the sexual contact to be consensual, although the participants in that activity had limited cognitive and decision-making ability.

b. Iowa Code section 235B.3(2) requires nursing home staff to report dependent adult abuse to the Department of Human Services. Section 235B.3(3) requires nursing home staff to also report such abuse to their supervisors.

c. Staff did not report the sexual contact to DHS as dependent adult abuse, nor did they report the abuse to their supervisors.

7. The above-listed concerns led to Facility citations in August and November of 2010.

8. The above-listed concerns indicate global problems with Respondent's supervision and management of the Facility.

#### **E. SETTLEMENT**

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC chapter 12. If you are interested in pursuing settlement of this matter, please contact September Lau, Assistant Attorney General, at (515) 281-7175.

#### **F. PROBABLE CAUSE FINDING**

On this 13th day of February, 2012, the Iowa Board of Nursing Home Administrators found probable cause to file this Notice of Hearing and Statement of

Charges.