

BEFORE THE IOWA BOARD OF NURSING HOME ADMINISTRATORS

IN THE MATTER OF)	NO. 11-003
)	
Steve Drobot,)	
)	
Respondent.)	NOTICE OF HEARING AND STATEMENT OF CHARGES

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 02223 on July 17, 2003. Respondent’s license is current and is set to expire on December 31, 2011. Respondent’s address as reported to the Board is 2305 Cae Drive, Iowa City, Iowa 52246.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on **April 12, 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 12th 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 Windmill Manor in Coralville, Iowa, from December 1, 2008 through March 19, 2010. The below-listed events took place at Windmill Manor 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. He was also responsible for ensuring that the highest degree of quality care practicable was delivered to residents.

3. In November and December of 2009, two Residents (MR and FR) in the Facility's dementia unit engaged in sexual conduct with one another on two occasions. (These occasions will hereinafter be referred to as the "November Incident," and the "December Incident," respectively.)

4. The Residents were not capable of consenting to sexual conduct.

5. Both Incidents were reported to Respondent.

6. Neither Incident was handled consistent with Facility policy and procedures regarding alleged abuse reporting and investigations.

7. Neither Incident was reported to the Department of Inspections and

Appeals as dependent adult abuse.

8. The Facility's Director of Nursing actively falsified resident records regarding the November Incident.

9. The December Incident involved sexual intercourse. This was not documented in Residents' records.

10. The Director of Nursing warned staff not to report the Incidents to DIA.

11. In response to the December Incident, Respondent required MR's family to monitor MR in the evenings.

12. MR and FR were not adequately monitored after the December Incident by staff.

13. Facility staff did not possess adequate training for working in a CCDI (Chronic Confusion and Dementing Illness) unit. See 481 IAC 58.54(6).

14. MR was abruptly involuntarily discharged from the Facility in March 2010. Proper notification was not given pursuant to Iowa Administrative Code 481—58.40. MR's family was asked to come care for MR pending discharge as the Facility did not have adequate staff.

15. The above-listed concerns indicate serious deficiencies in Respondent's supervision and management of the Facility, which resulted in harm to residents.

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.