



DEPARTMENT OF VETERANS AFFAIRS
UNDER SECRETARY FOR HEALTH
WASHINGTON DC 20420

SEP 26 2008

Lou Ann Atkins
Director
VA Ann Arbor Healthcare System
2215 Fuller Road
Ann Arbor, MI 48105

Dear Ms. Atkins:

I am responding to the issues raised in your memorandum of April 4, 2008 concerning the grievance and request for arbitration filed by AFGE Local 2092 regarding the grievant's proficiency rating and the denial of a step increase as a result of the grievant's proficiency rating.

Pursuant to delegated authority, I have decided on the basis of the enclosed decision paper that the issues presented by this grievance are matters concerning or arising out of professional conduct or competence (i.e. direct patient care and clinical competence) and compensation within the meaning of 38 U.S.C. § 7422(b).

Sincerely yours,

A handwritten signature in cursive script that reads "Michael J. Kussman".

Michael J. Kussman, MD, MS, MACP
Under Secretary for Health

Title 38 Decision Paper – Ann Arbor Healthcare System
VA – 08 –

FACTS

On February 22, 2007, _____, RN at the VA Ann Arbor Healthcare System (VAAHS) received a memorandum from her supervisor, MICU Manager _____, that she would be receiving a low satisfactory rating under “Interpersonal Relationships” in her next proficiency report and be under a performance improvement plan (PIP).¹ (Attachment A) The memorandum identified reports of contact and electronic messages from staff members in support of the performance deficiencies. (Attachment B) These staff members described Ms. _____’s behavior as unprofessional, rude and disruptive toward her co-workers. In one report of contact, Dr. _____ stated to Ms. _____ that his concern was how Ms. _____’s behavior impacted patient care.

In a follow-up memorandum dated August 3, 2007, Ms. _____ notified Ms. _____ that she would, in fact, receive a low satisfactory rating in her August 5, 2007 proficiency report because she continued to demonstrate interpersonal relationships and customer service to co-workers and patient’s families that was unbecoming of a VAAHS employee and that she was not upholding the facility’s customer service philosophy and gold standard service despite being previously warned of her low satisfactory rating. (Attachment C) Ms. _____ stated further that Ms. _____ would no longer be able to perform the following functions: MICU charge nurse; code team responder; blitz mock code volunteer; MICU Recruitment/Retention chair; and PCS Recruitment/Retention Committee member. The August 3rd memorandum makes the following reference to a patient family complaint:

The report of contact that Ms. _____ submitted dated July 23, 2007 under the office door contradicts the report about the patient family complaint and is accusatory to a fellow MICU nurse based on hearsay that Ms. _____ supposedly learned from somebody.

On August 7, 2007, Ms. _____ received her proficiency report for the period of August 5, 2006 to August 5, 2007, which contained an overall rating of “low satisfactory” based on the same rating in Category II, Interpersonal Relationships. (Attachment D) In the narrative evaluation for that category, Ms. _____ wrote, “Ms. _____ demonstrates interpersonal relationship and customer service to co-workers and patient families that is neither becoming of a VAAHS employee nor upholding the VAAHS customer service philosophy and gold service despite notification of low satisfactory rating in interpersonal category dated February 22, 2007.” In accordance with VA Handbook 5013, Part II,

¹ In fact, management met with Ms. _____ to discuss the PIP but never issued it to her.