



DEPARTMENT OF VETERANS AFFAIRS
Veterans Health Administration
Washington DC 20420

JAN 23 2008

In Reply Refer To:

Juan A. Morales, RN
Interim System Director
VA Tennessee Valley Healthcare System
1310-24th Avenue South
Nashville, TN 37212

Marsha Joy Steward
AFGE Local 2400
1310 24th Avenue South
Nashville, TN 37212-2637

Dear Mr. Morales and Ms. Joy:

I am responding to the issue raised in your memoranda of April 24, 2007, and May 18, 2007, concerning a grievance filed by AFGE Local 2400 regarding the five day suspension issued to Mr.

Pursuant to delegated authority, I have decided on the basis of the enclosed decision paper that the issue presented is a matter concerning or arising out of professional conduct or competence and thus exempted from collective bargaining by 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

Enclosure

cc: Deputy Under Secretary for Health for Operations and Management (10N)

Title 38 Decision Paper
VA Tennessee Valley Healthcare System
VA 07-05

FACTS:

 RN, was assigned to the Surgical Intensive Care Unit (SICU) in the Tennessee Valley VA Medical Center (VAMC) in December 2006. Mr. M was a patient in the SICU from December 2006 to January 2007. While Mr. M was in the SICU, Mr. was his nurse.

On January 8, 2007, RN, completed a Report of Adverse Event/Special Incident about an event between Mr. and patient M. (Attachment 1) Ms reported that she spoke with Mr. M who told her that has helped me out a lot, but I could see where he might piss some people off. (Attachment 1) I was talking to my son earlier and he snatched the phone right out of my hand and proceeded to talk to him. My son was upset about it but I had to tell him it was okay." (Attachment 1) Ms. indicated that the patient did not seem upset with Mr. and believed that Mr. had helped him a great deal. (Attachment 1) Mr. M was concerned that his son, Rocco, was upset by the alleged incident. (Attachment 1)

On January 9, 2007, Mr. spoke with Mr. M for approximately 30 minutes concerning possible verbal abuse committed by Mr. (Attachment 2) Based on the Report of Contact (ROC) executed by Mr. Mr. M said "I'm upset over the manner which he spoke to me", referring to one incident in which he was speaking to his son and having difficulty holding the phone. (Attachment 2) Mr. M stated that Mr. "snatched the phone out of his hands then he said don't you know how to hold it and what's the matter with you." (Attachment 2) Mr. went on to say "you're being lazy and you're not going to get away with that" and "what do I have to do, are you going to listen." (Attachment 2) Mr. M indicated that his son overheard the conversation and became upset. (Attachment 2) Later in the conversation, Mr. M said that at the Nashville VA "professionalism is excellent and the nurses' only interest is getting you back on your feet." (Attachment 2) He also said that "everyone has been superb with me" and that he was very "impressed" with his stay there. (Attachment 2)

A second ROC was completed on January 9, 2007, by Ms. Nurse Practitioner, CT and RN, Nurse Manager – SICU, who met with Mr. M, Mr. M's son, Rocco, and his daughter-in-law, Vicki, concerning the allegations of verbal abuse by Mr. (Attachment 3) Rocco relayed that while he was on the phone with his father, he overheard Mr say "what the fuck is wrong with you? Pick up the God Damn phone and talk with your son!" (Attachment 3) Mr. M said that he needed help, to which Mr. responded "I'm not gonna God Damn help you. Pick up the phone. You were just joking and telling stories." (Attachment 3)