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STATE OF WASHINGTON  
PERSONNEL APPEALS BOARD  
HOME PAGE [www.wa.gov/pab](http://www.wa.gov/pab)

August 7, 1998

CERTIFIED P-520-771-041  
P-520-771-042

Marilyn Brown Singer  
Attorney at Law  
20111 Singer Rd. SW  
Vashon Island, WA 98070-5500

RE: William Dalton v. Department of Corrections, Dismissal Appeal,  
Case No. DISM-97-0013

Dear Ms. Singer:

Enclosed is a copy of the order of the Personnel Appeals Board in the above-referenced matter.  
The order was entered by the Board on August 7, 1998.

Sincerely,

A handwritten signature in black ink that reads "Don Bennett".

Don Bennett  
Executive Secretary

DB:tmp  
Enclosure

cc: William Dalton  
Elizabeth Delay Brown, AAG  
Jennie Adkins, DOC



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BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

WILLIAM DALTON,	)	Case No. DISM 97-0013
Appellant,	)	FINDINGS OF FACT, CONCLUSIONS OF
v.	)	LAW AND ORDER OF BOARD
DEPARTMENT OF CORRECTIONS,	)	
Respondent.	)	

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I. INTRODUCTION

1.1 **Hearing.** This appeal came on for hearing before the Personnel Appeals Board, HOWARD N. JORGENSEN, Vice Chair, and ROGER F. SANFORD, Member. The hearing was held at the office of the Personnel Appeals Board in Olympia, Washington, on July 7 and 8, 1998.

Subsequent to the hearing, but prior to the signing of this order, the offices held by the members of the Board changed and the signatures on this order reflect the current positions.

1.2 **Appearances.** Appellant William Dalton was present and was represented by Marilyn Brown Singer, Attorney at Law. Respondent Department of Corrections was represented by Elizabeth Delay Brown, Assistant Attorney General.

1.3 **Nature of Appeal.** This is an appeal from a disciplinary sanction of immediate suspension followed by dismissal for neglect of duty, gross misconduct, and willful violation of agency policy and the WAC's and RCW's pertaining to nursing laws and standards. Respondent alleges that

1 Appellant injected a correctional officer with Tetanus/Diphtheria Toxoids instead of Tuberculin  
2 Purified Protein Derivative when administering a tuberculosis screening test.

3  
4 1.4 Citations Discussed. WAC 358-30-170; Baker v. Dep't of Corrections, PAB No. D82-084  
5 (1983); McCurdy v. Dep't of Social & Health Services, PAB No. D86-119 (1987); Rainwater v.  
6 School for the Deaf, PAB No. D89-004 (1989); Skaalheim v. Dep't of Social & Health Services,  
7 PAB No. D93-053 (1994); Holladay v. Dep't of Veterans Affairs, PAB No. D91-084 (1992).

8  
9 **II. FINDINGS OF FACT**

10 2.1 Appellant William Dalton was a Registered Nurse 2 and permanent employee for  
11 Respondent Department of Corrections at the McNeil Island Corrections Center. Appellant and  
12 Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder,  
13 Titles 356 and 358 WAC. Appellant filed a timely appeal with the Personnel Appeals Board on  
14 March 13, 1997.

15  
16 2.2 Appellant began his employment as a Registered Nurse (RN) 2 with the Department of  
17 Corrections (DOC) in March 1987. Appellant worked from 12 a.m. to 8 a.m. Appellant's  
18 responsibilities as an RN 2 included providing patient care to inmates. As part of his duties,  
19 Appellant also administered routine tuberculosis tests to DOC staff.

20  
21 2.3 The department requires all nurses to chart/document when medication or injections are  
22 administered. Charting errors and/or medication errors have occurred at the institution. (Testimony  
23 of Belinda Stewart, Patricia Callaghan, Nancy Armstrong and others).

24  
25 2.4 Appellant's employment history indicates that by letter dated July 9, 1991, he was reduced  
26 in pay for one month for neglect of duty and willful violation of policy after he was observed

1 sleeping while on duty and for leaving a door to the hospital ward day room open. Appellant also  
2 received a letter of reprimand dated April 12, 1996 for sleeping while on duty. (Exh. R1, Atts. 7  
3 and 8).

4  
5 2.5 By letter dated February 18, 1997, Superintendent Belinda D. Stewart, immediately  
6 suspended Appellant effective March 5, 1997, followed by his dismissal, effective March 6, 1997.  
7 The termination letter alleged that Appellant injected Correctional Officer (CO) Karen Heyer with  
8 Tetanus/Diphtheria Toxoids (TDT) instead of Tuberculin Purified Protein Derivative (PPD) when  
9 administering a tuberculosis screening test. (Exh. R-1).

10  
11 2.6 On June 4, 1996, CO Heyer made arrangements to receive a routine tuberculosis (TB) test at  
12 the institution's Health Services center. CO Heyer arrived at the hospital during Appellant's shift.  
13 She was escorting an inmate who was scheduled to receive medication.

14  
15 2.7 On the ward at that time were Appellant and CO Joyce Fink. CO Fink, in the presence of  
16 the inmate and CO Heyer, told Appellant to get a "dull needle" and Appellant remarked, "no, let's  
17 get the one with the barbed wire." CO Heyer did not initially believe that the comment had been  
18 directed at her.

19  
20 2.8 CO Heyer was responsible for filling out a Tuberculin Screening form prior to being  
21 administered the (TB) test. Because the inmate was present, CO Heyer refused to fill out any  
22 personal information, which included her home address, phone number, date of birth and social  
23 security number, in the presence of the inmate. The bottom half of the form is completed by the  
24 nurse administering the tuberculosis test.

1 2.9 In anticipation of CO Heyer's arrival, Appellant had already gathered the necessary supplies  
2 to administer the TB injection, including a syringe and a serum vial from a refrigerator on the ward.  
3 Because CO Heyer would not complete the form prior to the test, Appellant administered the  
4 injection to CO Heyer and returned the vial to the refrigerator and disposed of the syringe.  
5 Appellant asked CO Heyer to complete the section of the form which asked about her history of  
6 tuberculosis screening while he attended to the inmate in another area. When Appellant returned, he  
7 took the screening form from CO Heyer, obtained the vial from the refrigerator and completed the  
8 "For Official Medical Use Only" section of the form. Appellant included the date the injection was  
9 administered, June 4, 1997, his name, the brand name (Connaught) and the lot number of the serum  
10 (6A81015). (Testimony of Appellant and Exh. R-1, Att. 1, p. 16).

11  
12 2.10 When CO Heyer was injected with the serum on June 4 she experienced an immediate  
13 stinging sensation. After the completion of her work shift, CO Heyer began to experience a painful  
14 aching in her arm which worsened as the day progressed. (Testimony of Karen Heyer).

15  
16 2.11 On June 5, CO Heyer returned to the institution's Health Services center and asked  
17 Registered Nurse Van Horn to look at her arm. RN Van Horn noted that CO Heyer had started to  
18 develop a red, raised circle on her arm and told CO Heyer that it looked like she was having a  
19 positive reaction to the TB test. RN Van Horn recommended that CO Heyer wait several more  
20 hours and then have her arm checked again. (Testimony of Karen Heyer).

21  
22 2.12 CO Heyer continued to experience pain and throbbing throughout the rest of the evening.  
23 She contacted her physician to inquire about the pain and why she was having such severe  
24 symptoms. That same evening, CO Heyer went to the emergency room of a local area hospital  
25 where she was told that it looked like she was having a positive reaction to the TB test. CO Heyer  
26

1 underwent a "sputum" test and chest x-rays. These tests revealed that CO Heyer did not have  
2 tuberculosis. (Testimony of Karen Heyer and Exh. A-9).

3  
4 2.13 On June 7, 1996, CO Heyer visited the Tacoma-Pierce County Health Department where her  
5 arm was examined. CO Heyer was told that she was having a positive reaction to the TB test. This  
6 examination occurred within 72 hours after the TB test was administered. (Testimony of Karen  
7 Heyer and Exh. A-9).

8  
9 2.14 By memo dated June 16, 1996, CO Heyer reported the incident to Nancy Armstrong,  
10 Infection Control Nurse. (Exh. R1, Att. 1, p. 14). A preliminary investigation into the matter did  
11 not verify that CO Heyer had received anything other than a TB test. (Testimony of Nancy  
12 Armstrong).

13  
14 2.15 On July 31, 1996, CO Heyer re-tested for TB at the MICC's Health Services department.  
15 On August 2, 1996, CO Heyer's arm was examined by nursing staff at the Health Services  
16 department and the results indicated that she was negative for TB. (Testimony of Karen Heyer and  
17 Exh. R-1, Att. 1, p. 21).

18  
19 2.16 The affected area of CO Heyer's arm eventually developed a "white, hard lump."  
20 (Testimony of Karen Heyer, Nancy Armstrong and Patricia Callaghan).

21  
22 2.17 In March 1996, CO Heyer witnessed an incident in which it was alleged that Appellant had  
23 been sleeping or giving appearance of sleeping during work hours. Based on the comments she  
24 heard on June 4, the pain she experienced, and her previous role as a witness against Appellant, CO  
25 Heyer feared that Appellant might have been retaliating against her by injecting her with a dirty  
26 needle or with something other than the tuberculosis serum.

1  
2 2.18 On September 5, 1996, during a routine review of paperwork, Nancy Armstrong discovered  
3 that the Tuberculin Screening form completed by Appellant on June 4, 1996 indicated that he had  
4 injected CO Heyer with a serum from lot number 6A81015. Ms. Armstrong did not recognize the  
5 lot number as that of the tuberculosis serum. (Exh. R-1, Att. 1, p. 16). A call into the Connaught  
6 Laboratory, the maker of the serum, indicated that Lot Number 6A81015 was for Tetanus and  
7 Diphtheria Toxoids. (Testimony of Jan White and Exh. R-1, Att. 1, p. 19). Based on this  
8 information, Ms. Armstrong initiated an Employee Conduct Report dated September 9, 1996,  
9 alleging that Appellant injected CO Heyer with Tetanus/Diphtheria Toxoids instead of Tuberculin  
10 Purified Protein Derivative. (Testimony of Nancy Armstrong and Exh. R-1, Att. 1, pp. 1 and 2).

11  
12 2.19 Respondent presented conflicting evidence and testimony regarding the issue of whether an  
13 individual who has a positive reaction to a TB test can subsequently test negative to a TB re-test (a  
14 "false positive"). Testimony from Patricia Callaghan, RN 2, and Nancy Armstrong, Infection  
15 Control Nurse, indicates that when a person has tested positive for TB they will not subsequently  
16 test negative. Conversely, Respondent also provided Exhibit R1, Attachment 9, regarding  
17 Tuberculin skin tests which indicates results are to be read within 48 to 72 hours after the injection  
18 is administered. The information also indicates as follows:

19  
20 *False-positive reactions.* A small percentage of tuberculin reactions may be due to  
21 errors in administering the test or reading the results; however, false-positive results  
22 are more commonly attributable to the presence in PPD of antigens that are shared  
23 with other mycobacteria.

24 (R1, Att. 9, pp. 12 and 14).

1 2.20 The Board finds that although only a "small percentage," there is a possibility that an  
2 individual can have a "false-positive" reaction to a TB test resulting from an error in administering  
3 the test or reading the results.

4  
5 2.21 Superintendent Stewart concluded that Appellant had administered a Tetanus/Diphtheria  
6 injection rather than a TB injection based CO Heyer's symptoms, Appellant's own charting notes  
7 which indicated that he had administered the Tetanus serum, and because CO Heyer subsequently  
8 tested negative when re-tested for TB. Based on his misconduct, Superintendent Stewart concluded  
9 that Appellant's inattention to his duties created a liability and risk to the institution. Superintendent  
10 Stewart did not find credible Appellant's assertion that he made a charting error. She believed that  
11 while others at the institution had made charting/medication errors, those individuals had come  
12 forward and/or admitted their errors, whereas Appellant consistently denied his medication error.  
13 Superintendent Stewart determined that dismissal was warranted based on the totality of the  
14 circumstances, including the egregious nature of Appellant's error, the department's attempts to  
15 correct his previous misconduct, the position of responsibility he held as a senior RN.

### 16 17 III. ARGUMENTS OF THE PARTIES

18 3.1 Respondent argues that Appellant neglected his duty when he erroneously injected CO  
19 Heyer, who was to be screened for tuberculosis, with the wrong serum. Respondent argues that the  
20 symptoms CO Heyer experienced subsequent to receiving the injection were not consistent with a  
21 tuberculosis injection. Respondent contends that a person cannot first test positive to a TB test and  
22 subsequently test negative to a follow-up TB test as did CO Heyer. Respondent argues that  
23 Appellant's error caused CO Heyer a great deal of pain and stress and that his misconduct caused  
24 the agency to pay CO Heyer's medical bills. Respondent argues that the ECR was initiated against  
25 Appellant in a timely manner since Respondent did not have actual confirmation that Appellant had  
26 administered something other than a tuberculosis serum until Appellant's charting notes were



1 discovered in September 1996 with the entry that the injection administered was a tetanus serum.  
2 Respondent asserts that based on the totality of the circumstances and Appellant's previous  
3 disciplinary and corrective history, termination was the appropriate sanction.

4  
5 3.2 Appellant argues that he injected CO Heyer with the correct serum and that he simply  
6 retrieved the wrong vial from the refrigerator and erroneously charted the wrong lot number on the  
7 screening form. Appellant argues that other nursing staff had made similar medication and or  
8 charting errors and that the department had not terminated them. Appellant further argues that the  
9 department had knowledge of the alleged medication error in June 1996, but failed to initiated the  
10 ECR until September 1996. Appellant further alleges that the department treated him disparately  
11 and that the discipline imposed against him was retaliatory for safety complaints he had reported to  
12 the Department of Labor and Industries. Appellant argues that in light of his charting error,  
13 termination is too severe.

#### 14 15 IV. CONCLUSIONS OF LAW

16 4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter  
17 herein.

18  
19 4.2 In a hearing on appeal from a disciplinary action, Respondent has the burden of supporting  
20 the charges upon which the action was initiated by proving by a preponderance of the credible  
21 evidence that Appellant committed the offenses set forth in the disciplinary letter and that the  
22 sanction was appropriate under the facts and circumstances. WAC 358-30-170; Baker v. Dep't of  
23 Corrections, PAB No. D82-084 (1983).

1 4.3 The Board concludes that Respondent did not have reasonable knowledge of Appellant's  
2 alleged medication error until September 5, 1996, and that Respondent issued an ECR against  
3 Appellant within the appropriate time frames.

4  
5 4.4 Neglect of duty is established when it is shown that an employee has a duty to his or her  
6 employer and that he or she failed to act in a manner consistent with that duty. McCurdy v. Dep't  
7 of Social & Health Services, PAB No. D86-119 (1987).

8  
9 4.5 Gross misconduct is flagrant misbehavior which adversely affects the agency's ability to  
10 carry out its functions. Rainwater v. School for the Deaf, PAB No. D89-004 (1989).

11  
12 4.6 Willful violation of published employing agency or institution or Personnel Resources  
13 Board rules or regulations is established by facts showing the existence and publication of the rules  
14 or regulations, Appellant's knowledge of the rules or regulations, and failure to comply with the  
15 rules or regulations. Skaalheim v. Dep't of Social & Health Services, PAB No. D93-053 (1994).

16  
17 4.7 A preponderance of the evidence has failed to establish that the serum Appellant  
18 administered to CO Heyer was Tetanus/Diphtheria Toxoid and not Tuberculin Purified Protein  
19 Derivative.

20  
21 4.8 The record establishes that CO Heyer's arm was examined within the requisite 48 to 72  
22 hours by staff of an emergency room hospital and by the Pierce County Health Department. These  
23 individuals consistently noted that CO Heyer's reaction appeared to be positive reaction to a TB  
24 test. Respondent has provided no evidence that these individuals found or documented that CO  
25 Heyer's reaction to the TB test was unusual or questionable. Furthermore, although nursing staff at  
26 the department testified that they had never seen a similar reaction to a TB test, no one in the

1 department examined CO Heyer's arm within the requisite period. The record failed to establish  
2 that CO Heyer's symptoms were consistent with a Tetanus/Diphtheria injection.

3  
4 4.9 Evidence supplied by Respondent indicates that "false positive" reactions to TB tests,  
5 although rare, do occur and can result from errors in administering the test, reading the results of the  
6 test, or due to the presence in PPD of antigens that are shared with other mycobacteria. Based on a  
7 preponderance of the evidence, the Board concludes that Appellant made a charting error.  
8 Appellant's charting error does constitute a neglect of his duty to accurately chart medication he had  
9 administered.

10  
11 4.10 Although Appellant's charting error was a neglect of his duty, Respondent has failed to meet  
12 its burden of proof that Appellant's action constituted gross misconduct or willful violation of the  
13 WACs and RCWs pertaining to nursing laws and standards.

14  
15 4.11 Appellant's contention that the department retaliated against him based on his involvement  
16 in a safety complaint is not substantiated by the record.

17  
18 4.12 In determining whether a sanction imposed is appropriate, consideration must be given to  
19 the facts and circumstances, including the seriousness and circumstances of the offenses. The  
20 penalty should not be disturbed unless it is too severe. The sanction imposed should be sufficient to  
21 prevent recurrence, to deter others from similar misconduct, and to maintain the integrity of the  
22 program. An action does not necessarily fail if one cause is not sustained unless the entire action  
23 depends on the unproven charge. Holladay v. Dep't of Veterans Affairs, PAB No. D91-084 (1992).

24  
25 4.13 Respondent failed to meet its burden of proof that Appellant administered the wrong serum  
26 and has not proven that Appellant's termination is warranted. The Board concludes that under the

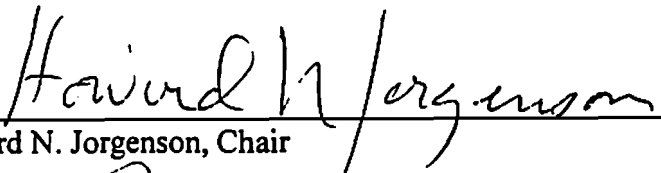
1 facts and circumstances of this case, Appellant's charting error does warrant disciplinary sanction.  
2 We find that a 15-day suspension is sufficient to prevent recurrence, to deter others from similar  
3 misconduct and to maintain the integrity of the program. Therefore, the disciplinary sanction  
4 should be modified to a 15-day suspension.

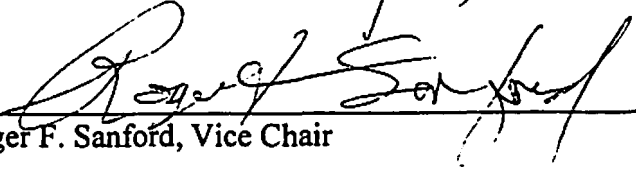
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6 **V. ORDER**

7 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of William Dalton is granted in  
8 part and Appellant is suspended for a period of 15 days.

9  
10 DATED this 7th day of August, 1998.

11  
12 WASHINGTON STATE PERSONNEL APPEALS BOARD

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Howard N. Jorgenson, Chair

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17 Roger F. Sanford, Vice Chair

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STATE OF WASHINGTON  
PERSONNEL APPEALS BOARD  
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July 31, 1998

Ms. Marilyn Brown Singer  
Attorney at Law  
20111 Singer Road S.W.  
Vashon Island, WA 98070

Re: William Dalton v. Department of Corrections, Case No. DISM 97-0013

Dear Ms. Singer:

The Board has reviewed your Request for Instruction Regarding Submission of Stipulated Exhibit Post Hearing. Based on the information provided in your request, the Board has decided it is not necessary to enter the document as an exhibit.

If you have any further questions, please contact me at 360-664-0387.

Sincerely,

A handwritten signature in cursive script that reads "Maria L. Aponte".

Maria L. Aponte  
Special Assistant to the Board

cc: Elizabeth DeLay Brown



I certify that on the date July 14, 1998 I faxed copies of the attached to the parties named below. I declare under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

July 14, 1998, at Vashon Island, WA

Marilyn Brown Singer

**BEFORE THE PERSONNEL APPEALS BOARD  
STATE OF WASHINGTON**

WILLIAM DALTON )

Appellant )

v )

STATE OF WASHINGTON,  
DEPARTMENT OF CORRECTIONS )

Respondent. )

Case No. DISM-97-0013

REQUEST FOR INSTRUCTION  
REGARDING SUBMISSION OF  
STIPULATED EXHIBIT POST  
HEARING

TO: THE PERSONNEL APPEALS BOARD AND

TO: ELIZABETH DELAY BROWN AND

TO: DEPARTMENT OF CORRECTIONS

WILLIAM DALTON, RESPONDENT, by and through his attorney of record, Marilyn Brown Singer, hereby requests instruction regarding whether or not he should submit a stipulated post-hearing exhibit.

Prior to the close of the hearing held in this matter on July 7-8, 1998, the Board approved the submission of a letter believed to have been from Ms. Belinda Stewart to Ms. Barbara O'Connor. The letter addressed the issue of a question asked of Ms. Stewart at the hearing, whether or not she had made a statement regarding an employee going to an outside agency not being tolerated.

Upon cross-examination, Ms. O'Connor was asked a question, the

*Law Offices of*  
**MARILYN BROWN SINGER**  
20111 Singer Rd SW  
Vashon Island, WA 98070  
(206) 463-5993 Fax (206) 463-5743

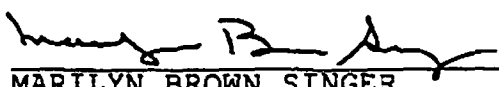
REQUEST FOR INSTRUCTION  
dalton req

1 spirit of which was, was she certain the letter was from Ms. Stewart?  
 2 I believe she responded that she was not completely sure. When Ms.  
 3 Brown was asked by the Board if she wished to see the exhibit prior  
 4 to its being submitted to the Board, Ms. Brown stipulated that it  
 5 could be forwarded to the Board without her review.

6 The letter referenced by Ms. O'Connor, however, was from  
 7 supervisor, Patricia Callaghan, not Ms. Stewart. Therefore, prior to  
 8 submitting this letter, Respondent respectfully requests instruction  
 9 from the Board as to whether or not this letter is approved as an  
 10 exhibit.

11  
 12  
 13 DATED this 14th day of July, 1998.

14 LAW OFFICES OF MARILYN BROWN SINGER

15 By:   
 16 MARILYN BROWN SINGER  
 17 W.S.B.A. #20682  
 18 Attorney for Appellant

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1 I, Rebecca A. Turner, certify that on July 6, 1998, I mailed  
2 a copy of this document, postage prepaid, to all parties or  
3 their counsel of record. I certify under penalty of perjury,  
4 under the laws of the State of Washington, that the  
5 foregoing is true and correct.

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RECEIVED

JUL 07 1998

PERSONNEL  
APPEALS BOARD

8 **BEFORE THE PERSONNEL APPEALS BOARD**  
9 **STATE OF WASHINGTON**

10 WILLIAM DALTON,

11 Appellant,

12 v.

13 DEPARTMENT OF CORRECTIONS,

14 Respondent.

NO. PAB NO. DISM-97-0013

RESPONDENT'S PROPOSED  
WITNESS AND EXHIBIT LIST

15 Respondent, State of Washington Department of Corrections, in compliance with the  
16 Statement of Results of the Prehearing Conference, hereby designates the following witnesses and  
17 exhibits that may be used in the Respondent's case in chief:

18 WITNESS LIST

- 19 1. William Dalton  
20 2. Nancy Armstrong, RN3  
21 3. Pat Callaghan, RN2  
22 4. Karen Heyer, CO2  
23 5. Martin Lyon HC Mgr.  
24 6. Belinda Stewart, Superintendent  
25 7. Jan White, Pharm. Asst.

26 EXHIBIT LIST

1. Disciplinary letter dated February 18, 1997 with attachments.

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Respondent reserves the right to supplement this witness and exhibit list.

DATED this 6<sup>th</sup> day of July, 1998.

CHRISTINE O. GREGOIRE  
Attorney General

  
ELIZABETH DELAY BROWN  
Assistant Attorney General  
WSBA No. 21521

Received at hearing on 7/8/99

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**BEFORE THE PERSONNEL APPEALS BOARD  
STATE OF WASHINGTON**

WILLIAM DALTON  
Appellant

Case No. DISM-97-0013

V  
STATE OF WASHINGTON,  
DEPARTMENT OF CORRECTIONS  
Respondent.

APPELLANT'S WITNESS LIST


The Respondent, William Dalton may call all or some of the following witnesses in any order:

- |                                      |                       |
|--------------------------------------|-----------------------|
| ✓ William Dalton,                    | Joyce Fink            |
| Kim Field (potential expert witness) | ✓ Edward Geiger •     |
| ✓ Lenora Horton ••                   | Judy Lobdell          |
| ✓ Barbara O'Connor •                 | ✓ Patrick O'Connor •• |
| Mark Olson, adverse witness          | ✓ Jeff Spann •        |
| Rowena Trim                          | Sherri VanHorn •      |

Appellant reserves the right to call as an adverse witness any witness named by the State and reserves the right to amend his witness list for rebuttal witnesses and for good cause shown.

DATED this 2nd day of July, 1998.

LAW OFFICES OF MARILYN BROWN SINGER

By:   
MARILYN BROWN SINGER  
W.S.B.A. #20682  
Attorney for Appellant

*Law Offices of*  
**MARILYN BROWN SINGER**  
20111 Singer Rd SW  
Vashon Island, WA 98070  
(206) 463-5993 Fax (206) 463-5743  
WSBA #20682

1 I, Rebecca A. Turner, certify that on July 6, 1998, I mailed  
 2 a copy of this document, postage prepaid, to all parties or  
 3 their counsel of record. I certify under penalty of perjury,  
 4 under the laws of the State of Washington, that the  
 5 foregoing is true and correct.

*Rebecca A. Turner*

8 **BEFORE THE PERSONNEL APPEALS BOARD**  
 9 **STATE OF WASHINGTON**

10 WILLIAM DALTON,

NO. PAB NO. DISM-97-0013

11 Appellant,

RESPONDENT'S PROPOSED  
 WITNESS AND EXHIBIT LIST

12 v.

13 DEPARTMENT OF CORRECTIONS,

14 Respondent.

15 Respondent, State of Washington Department of Corrections, in compliance with the  
 16 Statement of Results of the Prehearing Conference, hereby designates the following witnesses and  
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- 22 4. Karen Heyer, CO2
- 23 5. Martin Lyon HC Mgr.
- 24 6. Belinda Stewart, Superintendent
- 25 7. Jan White, Pharm. Asst.

26 EXHIBIT LIST

- 1. Disciplinary letter dated February 18, 1997 with attachments.

RESPONDENT'S PROPOSED WITNESS  
 AND EXHIBIT LIST

1


ATTORNEY GENERAL OF WASHINGTON  
 Labor & Personnel Division  
 905 Plum St. SE, Bldg. 3  
 PO Box 40145  
 Olympia, WA 98504-0145  
 (360) 664-4167

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Respondent reserves the right to supplement this witness and exhibit list.

DATED this 6<sup>th</sup> day of July, 1998.

CHRISTINE O. GREGOIRE  
Attorney General

  
ELIZABETH DELAY BROWN  
Assistant Attorney General  
WSBA No. 21521

RECEIVED  
JUL 01 1998  
PERSONNEL  
APPEALS BOARD

BEFORE THE PERSONNEL APPEALS BOARD  
STATE OF WASHINGTON

WILLIAM DALTON,  
  
Appellant,  
  
v.  
  
DEPARTMENT OF CORRECTIONS,  
  
Respondent.

NO. DISM-97-0013  
  
CERTIFICATE OF SERVICE


I certify that I served a copy of the Subpoenas for Nancy Armstrong, Pat Callaghan, Karen Heyer, Martin Lyon, Belinda Stewart, and Jan White on all parties or their counsel of record on June 30, 1998 as follows:

- US Mail Postage Prepaid via Consolidated Mail Service
- ABC/Legal Messenger
- State Campus Delivery
- Hand delivered by:

TO: Marilyn Brown Singer  
Attorney at Law  
20111 Singer Rd SW  
Vashon Island WA 98070-5500

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 30<sup>th</sup> day of June, 1998 at Olympia, WA.

  
LYNNA HICKERSON

ORIGINAL

RECEIVED

JUL 01 1998

PERSONNEL  
APPEALS BOARD

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BEFORE THE PERSONNEL APPEALS BOARD  
STATE OF WASHINGTON

WILLIAM DALTON,  
  
Appellant,  
  
v.  
  
DEPARTMENT OF CORRECTIONS,  
  
Respondent.

NO. DISM-97-0013  
  
CERTIFICATE OF SERVICE

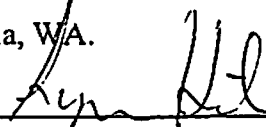
I certify that I served a copy of the Subpoenas for Nancy Armstrong, Pat Callaghan, Karen Heyer, Martin Lyon, Belinda Stewart, and Jan White on all parties or their counsel of record on June 30, 1998 as follows:

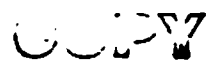
- US Mail Postage Prepaid via Consolidated Mail Service
- ABC/Legal Messenger
- State Campus Delivery
- Hand delivered by:

TO: Marilyn Brown Singer  
Attorney at Law  
20111 Singer Rd SW  
Vashon Island WA 98070-5500

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 30<sup>th</sup> day of June, 1998 at Olympia, WA.

  
\_\_\_\_\_  
LYNNA HICKERSON



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BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

WILLIAM DALTON,	)	Case No. DISM-97-0013
Appellant,	)	
v.	)	AMENDED NOTICE OF SCHEDULING
DEPARTMENT OF CORRECTIONS,	)	
Respondent.	)	

Amended notice is hereby given of scheduling the hearing on the appeal before the Personnel Appeals Board. The hearing will be held in the Personnel Appeals Board Hearing Room, 2828 Capitol Boulevard, Olympia, Washington, on Tuesday and Wednesday, July 7 and 8, 1998, beginning at 9 a.m. each day.

The parties shall arrive at the hearing location thirty (30) minutes before the hearing time for the purpose of exchanging copies of, and when possible, stipulating to exhibits. The parties shall bring six (6) copies of the premarked exhibits which they intend to offer into evidence. Whenever possible, the parties should exchange witness lists prior to the day set for the hearing.

If the services of an interpreter are needed, notify Personnel Appeals Board staff at least two weeks prior to the hearing. The hearing site is barrier free and accessible to the disabled.

DATED this 21st day of May, 1998.

WASHINGTON STATE PERSONNEL APPEALS BOARD

*Teresa Parsons*  
 \_\_\_\_\_  
 Teresa Parsons, Hearings Coordinator  
 (360) 664-0479

cc: William Dalton, Appellant  
Marilyn B. Singer, Attorney  
Elizabeth Delay Brown, AAG  
Jennie Adkins, DOC

Personnel Appeals Board  
2828 Capitol Boulevard  
Olympia, Washington 98504

## The Washington Public Employees Association • 1-800-544-WPEA

Mailing Address – P.O. Box 7159 • Olympia, WA 98507 • Location – 140 Percival St. NW, Olympia  
Telephone: (360) 943-1121 • FAX (360) 357-7627 • Toll Free (800) 544-9732

RECEIVED  
MAR 12 1998  
PERSONNEL  
APPEALS BOARD

March 10, 1998

Personnel Appeals Board  
Attn.: Don Bennett, Executive Secretary  
2828 Capitol Blvd.  
PO Box 40911  
Olympia, WA 98504-0911

Re: William Dalton v. Department of Corrections  
PAB Case No. DISM-97-0013

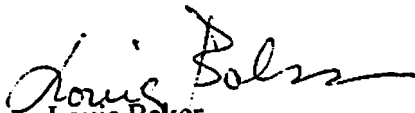
Dear Mr. Bennett:

This letter confirms that WPEA is withdrawing representation and will not be representing WILLIAM DALTON in the above mentioned appeal. Any further correspondence on this issue can be directed to Mr. Dalton at his home address listed below:

William Dalton  
5304 18<sup>th</sup> Street N.W.  
Gig Harbor, WA 98335

Thank you for your attention to this matter.

Very truly yours,

  
Louis Baker  
Paralegal for WPEA

- C: Mr. William Dalton  
Eugene L. St. John – WPEA Executive Director  
Mark S. Lyon – WPEA Legal Counsel  
Kirk Burress, Representation Services Committee  
Bob Hall, MICC Chapter President  
Ken Brett – WPEA Staff Rep  
File

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BEFORE THE PERSONNEL APPEALS BOARD  
STATE OF WASHINGTON

WILLIAM DALTON,	)	Case No. DISM-97-0013
Appellant,	)	NOTICE OF SCHEDULING
v.	)	
DEPARTMENT OF CORRECTIONS,	)	
Respondent.	)	


Notice is hereby given of scheduling the hearing on the appeal before the Personnel Appeals Board. The hearing will be held in the Personnel Appeals Board Hearing Room, 2828 Capitol Boulevard, Olympia, Washington, on **Tuesday, July 7, 1998, beginning at 9 a.m.**

The parties shall arrive at the hearing location thirty (30) minutes before the hearing time for the purpose of exchanging copies of, and when possible, stipulating to exhibits. The parties shall bring six (6) copies of the premarked exhibits which they intend to offer into evidence. Whenever possible, the parties should exchange witness lists prior to the day set for the hearing.

If the services of an interpreter are needed, notify Personnel Appeals Board staff at least two weeks prior to the hearing. The hearing site is barrier free and accessible to the disabled.

DATED this 17th day of February, 1998.

WASHINGTON STATE PERSONNEL APPEALS BOARD

  
 \_\_\_\_\_  
 Teresa Parsons, Hearings Coordinator  
 (360) 664-0479

cc: William Dalton, Appellant  
Marilyn B. Singer, Attorney  
Elizabeth Delay Brown, AAG  
Jennie Adkins, DOC



2828 Capitol Blvd.  
PO Box 40911  
Olympia, WA 98504-0911

STATE OF WASHINGTON  
PERSONNEL APPEALS BOARD

(360) 586-1481  
FAX (360) 753-0139

October 27, 1997

Linda Dalton  
Assistant Attorney General  
P.O. Box 40145  
Olympia, WA 98504-0145

Marilyn B. Singer  
Attorney at Law  
20111 Singer Rd. SW  
Vashon Island, WA 98070-5500

RE: William Dalton v. Department of Corrections, Dismissal Appeal,  
Case No.: DISM-97-0013

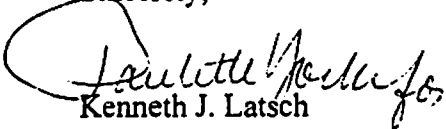
Dear Ms. Dalton and Ms. Singer:

This letter is to advise you that this case has been assigned to Tom Schmidt. He is a mediator contracted by the Personnel Appeals Board. Mr. Schmidt will be contacting you for the purpose of scheduling a mutually agreeable date and time for a mediation.

Mediation is an opportunity to bring the parties together to attempt a settlement of the issues on appeal without the need for a hearing. If settlement efforts are unsuccessful, the meeting will move into the prehearing phase and the parties will select a hearing date, attempt to narrow the scope of the issues to be presented to the board, discuss witness and exhibit lists, and possible stipulations between the parties.

If you have any questions, please contact me.

Sincerely,

  
Kenneth J. Latsch  
Executive Secretary

KJL:py

cc: William Dalton  
Jennie Adkins  
Kenneth Brett  
Tom Schmidt



*Law Offices of*  
**MARILYN BROWN SINGER**  
20111 Singer Road SW  
Vashon Island, WA 98070-5500  
(206) 463-5993 • FAX (206) 463-5743  
1-800-263-8206 Statewide  
mbsinger@msn.com

Marilyn Brown Singer, RN  
Attorney at Law

Roger Lee Marlatt Jr.  
Paralegal

April 30, 1997

**VIA FACSIMILE**

Mr. Kenneth R. Latsch  
Executive Secretary  
Personnel Appeals Board  
2828 Capitol Blvd.  
Olympia, WA 98504-0911

Re: William Dalton v. Department of Corrections  
Dismissal Appeal, Case No. DISM-97-0013

Dear Mr. Latsch:

Enclosed please find my Notice of Appearance in the above matter. Could you please provide me with copies of any documents previously filed with your office regarding this matter.

Very truly yours,

LAW OFFICES OF MARILYN BROWN SINGER



MARILYN BROWN SINGER, RN  
Attorney at Law

MBS/rjm

Enclosure: As stated above

cc: Ms. Linda Dalton  
Mr. William Dalton

dalton.008

*Law Offices of*  
**MARILYN BROWN SINGER**  
20111 Singer Road SW  
Vashon Island, WA 98070-5500  
(206) 463-5993 • FAX (206) 463-5743  
1-800-263-8206 Statewide  
mbsinger@msn.com

**TELECOPIER COVER SHEET**

DATE: April 30, 1997

TO: **MR. KENNETH R. LATSCH**  
**PERSONNEL APPEALS BOARD**

FAX NO: (360) 753-0139

FROM: Marilyn Brown Singer

RE: **WILLIAM C. DALTON**  
**CASE NO. DISM-97-0013**

Transmitted herewith are a total of 3 pages, including this cover sheet. The documents accompanying this telecopy transmission contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of action in reliance on the contents of this telecopied information is strictly prohibited. If you did not receive all of the pages, or if you have received this telecopy in error, please contact the LAW OFFICES OF MARILYN BROWN SINGER immediately at (206) 463-5993. Thank you.

**MESSAGE: Enclosed please find letter dated April 30, 1997, and Notice of Appearance.**  
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**BEFORE THE PERSONNEL APPEALS BOARD  
STATE OF WASHINGTON**

WILLIAM C. DALTON,  
Appellant  
v.  
STATE OF WASHINGTON,  
DEPARTMENT OF CORRECTIONS  
Respondent.


)  
) NO. DISM-97-0013  
)  
) NOTICE OF APPEARANCE  
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TO: KENNETH LATSCH, Executive Secretary, Personnel Appeals Board;  
AND TO: LINDA DALTON, Assistant Attorney General;  
AND TO: BELINDA STEWART, Superintendant, McNeil Island Corrections Center

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the undersigned herewith appears as the attorney for the Respondent, WILLIAM C. DALTON, without waiving objections as to improper service or jurisdiction, and requests that all further pleadings or notices of any nature, except original process, affecting the rights of said Respondent whatsoever, be served upon the undersigned at the address below stated.

DATED this 30th day of April, 1997.

LAW OFFICES OF MARILYN BROWN SINGER

By:   
MARILYN BROWN SINGER  
W.S.B.A. #20682  
Attorney for Respondent

*Law Offices of*  
**MARILYN BROWN SINGER**  
20111 Singer Rd SW  
Vashon Island, WA 98070  
(206) 463-5993 Fax (206) 463-5743

**CERTIFICATE OF SERVICE**

I certify that on April 22, 1997, I caused a copy of this document to be served by U. S. M postage prepaid, on the following:

William Dalton	Kenneth F. Brett	Kathy Deuel, Personnel Officer
5304 18th Street NW	WPEA	McNeil Island Corrections Center
Gig Harbor WA 98335	124 Tenth Avenue SW	1403 Commercial Street PO Box 88900
	Olympia WA 98501	Steilacoom WA 98388-0900

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Signed at Olympia, WA, on April 22, 1997.

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**RECEIVED**  
**APR 24 1997**  
 PERSONNEL  
 APPEALS BOARD



**BEFORE THE PERSONNEL APPEALS BOARD  
STATE OF WASHINGTON**

WILLIAM DALTON,

Appellant,

NO. DISM-97-0013

v.

NOTICE OF APPEARANCE

DEPARTMENT OF CORRECTIONS,


Respondent.

TO:           KENNETH LATSCH, Executive Secretary, Personnel Appeals Board;  
AND TO:      WILLIAM DALTON, Appellant;  
                 KENNETH F. BRETT, Union Representative.

PLEASE TAKE NOTICE that the Respondent, Department of Corrections, without waiving objection as to the sufficiency of service of process or jurisdiction of this Board, does hereby enter its appearance in the above-entitled action, by and through its attorneys, CHRISTINE O. GREGOIRE, Attorney General, and ELIZABETH DELAY BROWN, Assistant Attorney General, and requests that all further pleadings herein be served upon said Respondent at the Office of the Attorney General at the address given below.

DATED this 22<sup>nd</sup> day of April, 1997.

CHRISTINE O. GREGOIRE  
Attorney General

  
 ELIZABETH DELAY BROWN  
 WSBA #21521  
 Assistant Attorney General  
 Attorney for Respondent

**ORIGINAL**



2828 Capitol Blvd.  
PO Box 40911  
Olympia, WA 98504-0911

STATE OF WASHINGTON  
PERSONNEL APPEALS BOARD

(360) 586-1481  
FAX (360) 753-0139

March 24, 1997

Kenneth F. Brett  
Washington Public Employees Association  
124 - 10th Ave. SW  
Olympia, WA 98501

RE: William Dalton v. Department of Correction, Dismissal Appeal, Case No. DISM-97-0013

Dear Mr. Brett:

This letter is to acknowledge receipt of the above entitled appeal by the Personnel Appeals Board on March 13, 1997.

Sincerely,

  
Kenneth J. Latsch  
Executive Secretary

KJL:lh

cc: William Dalton  
Linda A. Dalton, AAG  
Jennie Adkins, PO



RECEIVED

MAR 13 1997

PERSONNEL  
APPEALS BOARD

WASHINGTON STATE PERSONNEL APPEALS BOARD  
2828 Capitol Boulevard, Olympia, WA 98501  
Telephone: SCAN - 321-1481  
Off-SCAN - (206)586-1481

This form will help you provide necessary information to the Personnel Appeals Board when you file an appeal. You are not required to use this form; however, appeals must be filed in accordance with the requirements set forth in Chapter 358-20 WAC which appears on the back of this form.

If the space on the form is insufficient or if you wish to provide additional information, you may attach additional pages.

PART I. APPELLANT IDENTIFICATION

1. NAME (Last, first, middle) Print or type

DALTON, WILLIAM

2. HOME ADDRESS (Number and street, city, state and ZIP code)

5304 18TH STREET NW  
GIG HARBOR, WA. 98335

3. HOME PHONE:

5. EMPLOYING AGENCY

4. WORK PHONE: SCAN

Off-SCAN 588-5281

DOC.

PART II. REPRESENTATIVES

An appellant may authorize a representative to act in his/her behalf. The Board must be notified of any change in representation.

6. REPRESENTATIVE'S NAME, ADDRESS AND TELEPHONE NUMBER

KENNETH F. BRETT, WFEA  
1241 10TH AVE SW  
OLYMPIA, WA 98501

PART III. TYPE OF APPEAL

7. Check one of the following to indicate the type of appeal you are filing:

- a. Disciplinary: Dismissal, Suspension, Demotion, Reduction in Pay (circle applicable action(s))
- b. Disability Separation
- c. Merit System Rule or State Civil Service Law violation including Reduction in Force
- d. Allocation (position classification)
- e. Declaratory Ruling (see WAC 358-20-050)

8. Name of agency or agencies that took action you are appealing

DEPT. OF CORRECTIONS



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PART IV.  
FOR RULE VIOLATION OR REDUCTION IN FORCE APPEALS ONLY (see 7c.)

---

9. What Merit System Rules or State Civil Service Laws do you believe were violated?
10. Explain the particular circumstances of the alleged violation.
11. How were you adversely affected by the alleged violation?
12. What remedy are you requesting in this case?

---

PART V. FOR ALLOCATION APPEALS ONLY (see 7d.)

---

13. Has there been a review of your allocation request by the Director of Personnel or designee? \_\_\_\_\_  
If so, by whom? \_\_\_\_\_
14. To which class do you think your position should be allocated?

  
KENNETH A. BRETT

SIGNATURE OF APPELLANT OR REPRESENTATIVE

3-7-97  
DATE SIGNED

# Chapter 358-20 WAC

## APPEALS--FILINGS--DECLARATORY RULINGS

WAC	
358-20-010	Appeal from dismissal, demotion, suspension, reduction, dismissal for abandonment or disability separation.
358-20-020	Appeal from violation of law or rules.
358-20-030	Appeal of allocation or reallocation.
358-20-040	Filing appeals.
358-20-050	Declaratory rulings.

**WAC 358-20-010 Appeal from dismissal, demotion, suspension, reduction, dismissal for abandonment or disability separation.** Any permanent employee who is dismissed, demoted, suspended, reduced, dismissed for abandonment or given a disability separation may appeal to the personnel appeals board. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-20-010, filed 12/16/81.]

**WAC 358-20-020 Appeal from violation of law or rules.** An employee who is adversely affected by a violation of the State Civil Service Law (chapter 41.06 RCW) or of the Merit System Rules (Title 356 WAC) may appeal to the personnel appeals board. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-20-020, filed 12/16/81.]

**WAC 358-20-030 Appeal of allocation or reallocation.** An employee incumbent in a position at the time of its allocation or reallocation or the agency utilizing the position may appeal the determination of the director of personnel or designee issued pursuant to WAC 356-10-060(5). [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-20-030, filed 12/16/81.]

**WAC 358-20-040 Filing appeals.** (1) An appeal must be received in writing at the principal office of the personnel appeals board within 30 days after: (a) the effective date of the disciplinary or dismissal for abandonment action (WAC 358-20-010); (b) notification of disability separation (WAC 358-20-010) (c) notification of the allocation determination of the director of personnel or director's designee made pursuant to WAC 356-10-060(5) (WAC 358-20-030) or (d) the employee could reasonably be expected to have knowledge of the action giving rise to a law or rule violation claim under WAC 358-20-020 or the stated effective date of the action, whichever is later.

(2) The appeal shall include the name and address of the appellant, the name of the employing agency, and a telephone number at which the appellant can be reached. Appellants who are represented shall include the name, address and telephone number of their representative.

(3) An appeal of a violation of the State Civil Service Law or the Merit System Rules must cite the law(s) or rule(s) which the appellant claims has been violated, the particular circumstances of the alleged violation, how the employee is adversely affected by the alleged violation and the remedy requested. [Statutory Authority: RCW 41.64.060. 82-14-007 (Order 82-1), § 358-20-040, filed 6/25/82. Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-20-040, filed 12/16/81.]

**WAC 358-20-050 Declaratory rulings.** (1) As prescribed by RCW 34.04.080, any interested party may petition the personnel appeals board for a declaratory ruling with respect to the applicability to any person, property or state of facts of any statute or rule enforceable by the personnel appeals board. The petition must be filed in the principal office of the personnel appeals board.

(2) Upon receipt of a petition for declaratory ruling, the executive secretary or his/her designee will acknowledge receipt of the petition and send a copy to the other parties.

(3) The personnel appeals board shall consider the petition without argument and within a reasonable time will:

(a) Notify the petitioner that no declaratory ruling will be issued;

(b) Based on the information in the petition, issue a non-binding declaratory ruling; or

(c) Notify the parties of the time for submitting written argument or of a time and place for hearing oral argument. If a hearing is scheduled, the notice will inform the parties whether a decision, when rendered, will be binding between the agency and the petitioner.

(4) After considering argument, the personnel appeals board will:

(a) If written argument was submitted, notify the parties within a reasonable time that no declaratory ruling will be issued or issue a non-binding ruling.

(b) If a hearing is held, notify the parties within a reasonable time that no declaratory ruling will be issued; issue a non-binding ruling; or if the notice so provided, issue a binding ruling.

(5) A declaratory ruling, if issued after argument and stated to be binding, is binding between the agency and the petitioner on the state of facts alleged, unless it is altered or set aside by a court. Such a ruling is subject to review in the superior court of Thurston county in the manner provided in the Administrative Procedure Act (chapter 34.04 RCW) for the review of decisions in contested cases. [Statutory Authority: RCW 41.64.060. 82-14-007 (Order 82-1), § 358-20-050, filed 6/25/82. Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-20-050, filed 12/16/81.]

CHASE RIVELANE  
Secretary



STATE OF WASHINGTON  
**DEPARTMENT OF CORRECTIONS**  
McNEIL ISLAND CORRECTIONS CENTER  
P.O. Box 900 • Steilacoom, Washington 98388-0900

RECEIVED

FEB 18 1997

W.P.E.A.

February 18, 1997

William Dalton  
5304 18th Street NW  
Glg Harbor WA 98335

PERSONAL SERVICE -  
CONFIDENTIAL

Mr. Dalton:

This is official notification of your immediate suspension effective 12:01 a.m. on February 19, 1997, through midnight March 5, 1997, followed by your dismissal effective 12:01 a.m. on March 6, 1997, from your position of Registered Nurse 2 with the Department of Corrections (DOC), McNeil Island Corrections Center (MICC).

This disciplinary action is taken pursuant to the authority of the Civil Service Laws of Washington State, Chapter 41.06, RCW, and the Merit System Rules, Title 356 WAC (MSR), Section 356-34-010 Disciplinary actions--Causes for Demotion--Suspension--Reduction in salary--Dismissal (1) (a) Neglect of duty, (h) Gross misconduct, (i) Willful violation of published employing agency or Department of Personnel rules or regulations and 356-34-050--Suspension --Followed by dismissal.

Specifically, you neglected your duty, committed gross misconduct and willfully violated agency policy and the WACs and RCW's pertaining to nursing laws and standards when on June 4, 1996, you injected CO Karen Hoyer with Tetanus/Diphtheria Toxoids (TDT) instead of Tuberculin Purified Protein Derivative (PPD) when administering a tuberculosis screening test. The Employee Conduct Report (ECR) completed on October 22, 1996, describing this incident in detail is attached hereto and incorporated by this reference (Attachment 1).

On August 10, 1993, you acknowledged receipt of the DOC Employee Handbook and agreed to become familiar with it (Attachment 2). You failed to meet Department Expectations as outlined on page 3 of the Employee Handbook (Attachment 3) which states in relevant part:

**"DEPARTMENT EXPECTATIONS**

- \* **Conduct yourself and perform your duties safely"**

You were unprofessional by definition in the law relating to nursing care - RCW 18.130.180 Unprofessional Conduct (Attachment 4) which states in pertinent part:

**"The following conduct, acts, or conditions constitute unprofessional conduct for any license holder...under the jurisdiction of this chapter. Which states in pertinent part, but is not limited to the following:**

- (4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed."**

William Dalton  
February 18, 1997  
Page 3 of 3

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William Dalton  
February 18, 1997  
Page 2 of 3

You have a duty to follow the licensing standards and uphold the professional standard of conduct entrusted to you as a registered nurse. Further, you have a duty to perform your duties safely and efficiently by administering the correct medication and dosage per appropriate medical protocol. On June 4, 1996, CO Heyer came to you for a PPD. With her was an inmate she was escorting to get medication. Instead of injecting her with PPD, you injected CO Heyer from a bottle of TDT, not PPD. You then attended to the inmate and when you returned, you charted the injection you gave to CO Heyer. The lot number you recorded on the Tuberculln Screening form contained in Attachment 1, page 16, is the lot number for TDT, as was later verified by a member of the Pharmacy staff. MICC pharmacy staff also verified that the bottles are clearly labeled by name, not just by lot number.

As a result of your negligence, CO Heyer experienced a severe reaction, i.e. a large bump and severe pain radiating up her arm. CO Heyer's physician diagnosed her as having TB and placed her on Isoniazid to treat the TB. According to MICC's infection control nurse, Isoniazid can cause harm to the liver and is only used when absolutely necessary to treat TB. Your actions also caused CO Heyer undue physical and mental suffering, thinking that she had TB.

By injecting CO Heyer with the incorrect toxoid you neglected your duty as a Registered Nurse and willfully violated department expectations and the nursing guidelines cited, which rises to the level of gross misconduct.

Throughout this investigation, you continued to assert that you injected CO Heyer with the PPD and simply made a "charting error" by accidentally writing down the wrong lot number on the form. However, I do not accept your explanation of a charting error. The PPD and TDT bottles are kept side by side in the refrigerator, and by not paying close attention to your duties, it would be a simple matter to take the wrong bottle. Also, in a statement from Registered Nurse Carol Hoke (Attachment 5), she describes a very similar reaction to that of CO Heyer when she was injected with TDT instead of PPD, while working for another state agency.

Subsequently another TB test was administered on CO Heyer, which was negative. You continue to assert that CO Heyer simply had a reaction to the first TB test and not the second; however, according to Registered Nurse Jeanne Thallmayer of Connaught Labs (the manufacturer of both the PPD and TDT), this is untrue (Attachment 6). She stated that if someone were hypersensitive to the PPD, the lot number would not make much difference. She went on to say that it would not be possible for someone to have an extreme reaction to one PPD, and then have a second one result as negative, as was the case with CO Heyer.

William Dalton  
February 18, 1997  
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A pre-termination meeting was held on November 22, 1996 and later reconvened on January 8, 1997. During the January 8, 1997 meeting, I shared with you additional information pertaining to your incident that was not available to me on November 22, 1996. This information is already referenced in Attachments 5 and 6 and included materials provided by Connaught Labs (Attachment 9). You provided no evidence to change my mind that your termination is warranted.

When a Health Care Professional is negligent in the performance of his/her duties, lives are at stake. You neglected your duty to follow the standards of your licensure, which includes the responsible execution of your duties and the expectations of your employer. By your actions, you have lost my trust in your ability to safely perform your duties. Throughout this process, you fail to even acknowledge the possibility that you may have made a mistake. Your arrogance and negligence put a staff member's health at risk and caused her considerable physical and emotional suffering. The next mistake you make could cost someone his/her life, and that is not a risk I can take. Your behavior is so egregious that your immediate suspension, followed by dismissal is fully warranted.

Attachment(s) one through nine are attached hereto and by this reference, made a part hereof as though fully set forth herein.

Under the provisions of WAC 358-20-010 and 358-20-040, you have the right to appeal this action OR to file a grievance per Article 10 of the Collective Bargaining Agreement between the Department of Corrections and the Washington Public Employees Association. If you file an appeal, it must be filed in writing at the Office of the Personnel Appeals Board, 2828 Capitol Boulevard, Olympia, Washington 98501, within thirty (30) days after the effective date stated in the first paragraph of this letter.

The Merit System Rules, WAC's, Department of Corrections policies and the Collective Bargaining Agreement are available for your review upon request.

  
Belinda D. Stewart, Superintendent  
McNeil Island Corrections Center

Attachment(s):

cc: Eldon Vail, Acting Director, Division of Prisons  
Jennie Adkins, Director, Division of Human Resources  
Donna Grazzini, WWC Area Personnel Manager  
Linda Dalton, Sr. Assistant Attorney General  
Rose Mattison, MICC Personnel Officer  
Employee Personnel File