



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

RECEIVED

JAN 09 1996

Department of Corrections
Division of Human Resources

January 3, 1996

Donna L. Evans


PERSONAL SERVICE ---
CONFIDENTIAL

Ms. Evans:

This is official notification of your immediate suspension, at 12:01 a.m. on January 8, 1996 through 12:00 midnight on January 22, 1996, followed by your dismissal effective at 12:01 a.m. on January 23, 1996, from your position as a Licensed Practical Nurse 3 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 and (i) Willful violation of published employing agency or Department of Personnel rules and regulations, RCW 356-34-040 Dismissal -- Notification and RCW 356-34-050 Suspension -- Followed by dismissal.

Specifically, you neglected your duty, committed act(s) of gross misconduct and willfully violated published employing agency rules when you, by your own admission during the administrative review of this incident, accessed and dispensed medication inappropriately, and without proper documentation (i.e., Primary Encounter Report, PER), from the MICC mini-pharmacy tackle box when you removed 10 Furosemide 40 mg tablets sometime between June 28, 1995, and July 14, 1995, without having been directed or ordered to do so by a PA or Physician. This incident is described in detail in the Employee Conduct Report (ECR) completed on December 5, 1995 (Attachment 1).

The mini-pharmacy is a restricted area, providing accessibility to narcotics and prescription/legend drugs on an emergency basis for appropriately licensed health services staff from 6 p.m. to 6 a.m. (during off duty hours for pharmacy staff). Pharmacy staff began tracking medications, that were not documented with an associated PER, beginning in May, 1995. Specifically, Pharmacy Assistant Jan White was tasked with daily checking of the tackle box, that was located in the mini pharmacy, documenting when the tamper-evident seal was broken. When the seal was broken, she checked the

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McNeil Island Corrections Center



profile being
faxed
12/15/95

FAX (206) 512-6609

Date: 12/14/95

To: K Walters

From: KC Deuel

Number of Pages (including this page): 9

Additional Information:

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The mini-pharmacy is a restricted area, providing accessibility to narcotics and prescription/legend drugs on an emergency basis for appropriately licensed health services staff from 6 p.m. to 6 a.m. (during off duty hours for pharmacy staff). Pharmacy staff began tracking medications, that were not documented with an associated PER, beginning in May, 1995. Specifically, Pharmacy Assistant Jan White was tasked with daily checking of the tackle box, that was located in the mini pharmacy, documenting when the tamper-evident seal was broken. When the seal was broken, she checked the enclosed vials for replenishment of medications as needed. She also noted and reported to her supervisor, any discrepancies in the number of tablets that were undocumented (i.e., no PER was completed). On June 27, 1995, Ms. White found the tamper-evident seal broken and found that seven Furosemide tablets were missing (between June 5, 1995 and June 27, 1995). No PER's were written during this time for the drug. On June 28, 1995, Ms. White restocked the tackle box in Vial No. 2 with 25 tablets of Furosemide 40mg. On July 14, 1995, Ms. White found the tamper-evident seal on the tackle box broken. She counted the tablets and found only 15 of the 25 that had been placed in the vial. No PER's were written for the missing 10 tablets.

Vial No. 2, when the final discrepancy was discovered on July 14, 1995, was properly stored and delivered to James Cooper of the MICC Intelligence and Investigations office. When checked, it yielded clear fingerprints that were identified as your own.

There is no documentation establishing the medication that you removed was dispensed appropriately to the MICC inmate population, nor have you provided any supporting documentation of legitimate reasons you would have taken the tablets. In fact, you admitted to me that you failed to follow procedure by preparing the PERS for signature when you gathered medications upon the direction of a PA or Physician.

A Pharmacy In-Service Memorandum, dated March 3, 1994, (Attachment 2), which you

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admit having knowledge of, states, in pertinent part:

"A PER must be written for any item issued from the after-hours Pharmacy (or ER) and signed by a PA/MD.

Leave a PER for anything that was removed from the tackle box and the bottle that was used in the refill box under the pill line cart along with the broken seal."

WAC 246-838-030 Standards of conduct for discipline, which outlines the level of standards of professional conduct for licensed practical nurses, (Attachment 3) states, in pertinent part:

"The licensed practical nurse assumes a measure of responsibility, trust and the corresponding obligation to adhere to the standards of conduct, which include, but are not limited to the following:

(1) . . . shall be responsible and accountable for his or her own nursing judgements, actions . . .

(5) The licensed practical nurse shall not abide, abet or assist any other person in violating or circumventing the laws or rules pertaining to the conduct and practice of licensed practical nursing.

(10) The licensed practical nurse shall report unsafe acts and practices, unsafe practice conditions, and illegal acts to the appropriate supervisory personnel . . .

(12) The licensed practical nurse shall make accurate, intelligible entries into records required by law, employment, or customary practice . . .

(18) The licensed practical nurse shall respect the property of the . . . employer and shall not take . . . drugs for his or her own use or benefit.

(19) The licensed practical nurse shall not obtain, possess, distribute or administer legend drugs . . . to any person, including self, except as directed by a person authorized by law to prescribe drugs.

RCW 18.130.180 Unprofessional Conduct (Attachment 4) 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:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not.

(7) Violation of any state or federal statute or administrative rule regulating the profession in question including any . . . rule defining or establishing standards of . . . professional conduct or practice.

(23) Current misuse of:

(c) Legend drugs."

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RCW 18.79.270 Licensed Practical Nurse – Activities allowed (Attachment 5) states, in pertinent part:

"A licensed practical nurse under his or her license may perform nursing care, . . . and in the course thereof may, under the direction of a licensed physician . . . physician assistant, . . . administer drugs, medications, . . . when selected to do so by one of the licensed practitioners designated in this section, . . . if the order given is reduced to writing within a reasonable time and made a part of the patient's record."

On September 10, 1993, you signed for your receipt (Attachment 6) of the DOC Employee Handbook, which states, in pertinent part on pages two through four (Attachment 7):

"CODE OF ETHICS

High moral and ethical standards among correctional employees are essential for the success of the department's programs. The Department of Corrections subscribes to a code of unflinching honesty, respect for dignity and individuality of human beings, and a commitment to professional and compassionate service."

DOC Policy 801.001 Ethics (Attachment 8) states, in pertinent part:

"POLICY

Restrictions:

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Additional restriction placed upon employees include, but are not limited to the following:

2. Employees shall not use state resources for personal benefit or to benefit another except as may be required during the execution of their official duties.

Responsibilities

Violations of the State Ethics Law and/or this policy may lead to corrective or disciplinary action up to and including dismissal."

You have a duty to follow the licensing standards and uphold the professional conduct entrusted to you as a licensed practical nurse. You also have a duty to follow procedure that is designed to support you in accomplishment of your professional service to the DOC inmate population, using resources properly and not for your personal use.

Your actions in this matter were irresponsible, unprofessional, unethical and counterproductive to achieving the Department's mission to provide fair and equitable treatment to inmates while they are under our supervision. You neglected your duty to follow the professional standards of your licensure which includes honest and responsible execution of your duties and the expectations of your employer. By your actions you did not properly complete associated paperwork when you accessed drugs in the mini-pharmacy tackle box and lied about accessing the medications. Your behavior was a willful violation of published agency rules and regulations as identified, a neglect of your duty as outlined in the licensing guidelines cited and rises to the level of gross misconduct.

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As a result of the administrative review held on November 17, 1995, I determined, and verbally notified you and your representatives at that time, that misconduct had occurred. We convened in a Loudermill hearing on November 20, 1995, to discuss your possible termination. You were allowed an opportunity to fully discuss and refute the charges and/or to present reasons why your termination was not appropriate. Throughout that meeting you demonstrated that you do not accept your responsibilities in this matter, stating that everyone was lax and that's just the way it was done. By your actions and your repeated failure to recognize your lack of responsibility in this matter, you have lost my trust in your ability to honestly and professionally perform your duties. I find your attitude and defense of your actions and admitted failure to follow procedure intolerable and unprofessional. This is not the standard of professional performance that I expect of staff, especially staff with access to controlled substances and who are responsible for the medical health and welfare of the inmate population.

In addition, you provided no defense or plausible explanation for your fingerprints to be on Vial No. 2, when the 10 missing Furosemide tablets were discovered. I can only conclude that you have lied about your contention that you did not access the vial, and you stole the tablets and used them inappropriately. Therefore, I find that your immediate suspension, followed by termination is fully warranted.

Attachments one through eight are attached hereto and by this reference, made a part of 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 State Corrections Employee 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.

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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: Tom Rolfs, Director, Division of Prisons
Jennie Adkins, Director, Division of Human Resources
Donna Grazzini, WWC Area Personnel Manager
Linda Dalton, Sr. Assistant Attorney General
Katherine Deuel, MICC Personnel Officer
Employee Personnel File

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Supervisory Report

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On July 14, 1995, Ms. White found the tamper-evident seal on the tackle box broken. In the presence of Health Care Manager Robert Cloke, Ms. White counted the Furosemide 40mg tablets in the tackle box, again wearing vinyl gloves and conducting a double count. The count was 15 tablets, indicating that 10 tablets had been removed between June 28, 1995, and July 14, 1995. Again, no PERs were written for this drug during this time period.

With HCM Cloke observing, Ms. White placed the empty vial that contained the Furosemide 40mg into a brown paper bag, to be turned over to I&I. Correctional Investigator Jim Cooper picked up the bag containing this empty vial on approximately July 18, 1995. Between the time the vial was placed in the paper bag and the time Mr. Cooper took possession of the bag, it was secured in the main Pharmacy. For purposes of this report, this vial will be referred to as "vial 2."

On July 24, 26, 27, and 28, 1995, Ms. White found the tamper-evident seal on the tackle box broken. On each date, using vinyl gloves, Ms. White counted the Furosemide 40mg tablets and found 25 tablets present on each of those dates, indicating no tablets had been removed since July 14, 1995.

The Pharmacy only stocks Furosemide in a 40mg tablet or a 20mg injection. If inmates are prescribed a 20mg dose in tablet form, a 40mg tablet is halved. The 40mg tablets are scored for that purpose.

Pharmacy staff researched all PERs written during that time period to determine if Donna Evans had legitimately accessed the Mini-Pharmacy and issued any type of pharmaceutical from the tackle box during the time period of May 25-July 14, 1995. They found only one PER written by Ms. Evans on July 14, 1995, where she removed a Motrin 600mg for an inmate under the order of PA Bartram (Attachment D). As Motrin 600mg is not a legend drug, it is not secured in the tackle box itself, but is secured in the Mini-Pharmacy.

In addition to the Furosemide 40mg tablets missing from the tackle box, two different inmates had diuretics missing from their prescriptions at pill line. One inmate [REDACTED] was missing 2 Furosemide 40mg tablets between July 13 - 28, 1995. The exact date cannot be determined, as the discrepancy was noted when the prescription was turned into the Pharmacy for refill before the issued amount should have been consumed. Another inmate [REDACTED] had all 30 tablets of HCTZ 25mg missing from pill line on August 3, 1995, from a prescription that was filled by the Pharmacy on August 1, 1995. This was discovered by RN Sharon Stevens when she compared the prescriptions present in the pill line room to the log. Ms. White

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checked the log and found that the inmate had not signed for receipt of his prescription (required for all pill line medications), nor had it been returned to the Pharmacy (Attachment E).

Both of these inmates were received on the incoming chain from WCC on June 29, 1995, and had been prescribed daily doses of Furosemide (Lasix) at WCC. As part of the medical process on incoming chains, that prescription information was documented on a PER by Donna Evans (Lake), as she processed the incoming chain on that date (Attachment F). The prescriptions were written by WCC medical staff.

On October 4, 1995, I interviewed Chief Nurse Pat Callaghan regarding who had access to the pill line room on August 1 - 3, 1995. Ms. Callaghan stated that RN Stevens had been assigned to the pill line during that time, but that other nursing staff often assist, including those assigned to the Annex pill line. Ms. Evans was assigned to the Annex pill line on those days. Health Services currently only documents the nurse in charge of the main institution pill line, so there is no record of which other staff may have assisted during those days.

Ms. Callaghan stated that she had observed, and other nursing staff had reported to her, that Ms. Evans was often "hanging around" the Mini-Pharmacy. Ms. Evans' regular work schedule is 8am to 4pm, Monday through Friday. The main Pharmacy is open during all those times.

On September 28, 1995, I interviewed Jim Cooper, as I&I had an ongoing investigation into medications missing from the Mini-Pharmacy. Mr. Cooper relayed that on June 30, 1995, he placed a pill vial (vial 1) from the Mini-Pharmacy into evidence. He contacted the Washington State Patrol Crime Lab to see if they would process the vial for fingerprints, which they agreed to do. Mr. Cooper then requested hospital staff fingerprint cards from the Personnel Office, but subsequently learned that the WSP identification section should have fingerprint cards for state employees.

On July 18, 1995, Mr. Cooper took vial 1 to the Crime Lab for processing, along with a list of personnel having access to the Mini-Pharmacy (Attachment G). Later that day he was notified by lab personnel that, due to turnover in their staff, fingerprint cards had not been consistently maintained on file. Mr. Cooper then re-requested fingerprint cards from employee personnel files. On August 16, 1995, Mr. Cooper delivered vial 2 to the Crime Lab for processing.

On or about August 7, 1995, Mr. Cooper received word from lab personnel that the fingerprint cards from the employees' personnel files were not sufficient for latent print

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identification purposes, and that "major case prints" would be needed. Mr. Cooper discussed this with the Superintendent, who decided to have all Health Services staff fingerprinted, which was done.

Mr. Cooper stated that the Crime Lab indicated the fingerprints on vial 1 were not sufficient to make a positive identification, but that vial 2 contained identifiable prints. On September 11, 1995, Mr. Cooper informed the Superintendent that he had received the latent print written report from the Crime Lab, and that two latent fingerprint lifts on vial 2 were identified as the right palm of Donna Evans (AKA Turner, Lake). A re-lift of one of the latent lifts contained one identifiable latent impression which was negative in comparison to the fingerprint cards submitted. The complete lab report is included as Attachment H.

On October 30, 1995, I interviewed Donna Evans regarding the ECR allegations. Also present was her attorney, John C. Cain. Ms. Evans confirmed that her work hours are 8 a.m. to 4 p.m., Monday through Friday, and that she has worked at MICC since 1992.

I asked Ms. Evans to describe to me what a "PER" was and how it was used. Ms. Evans described that the form was a Primary Encounter Report that was used by doctors and nurses to document patient care for inmates. The form is to be used for any type of encounter, including lab draws and infractions issued. She stated that was the "ultimate goal" but that PERs are not always completed, e.g., replacement of hearing aid batteries. Ms. Evans stated that it doesn't always happen [PER completed] with the tackle box. Ms. Evans further related that if there was an immediate need in the emergency room, a Physician's Assistant would order the nurse to obtain something from the mini-pharmacy, but that she would depend on the PA to complete the PER. Ms. Evans stated that training on the use of the PER was part of the on-the-job training she received at MICC.

Ms. Evans stated that it was common to access the mini-pharmacy, but not the tackle box, when the main pharmacy was open when Health Services was in the old hospital building, as pill line was set up and ran from the mini-pharmacy. With the move to the new building, pill line is separate from the mini-pharmacy.

Ms. Evans stated that in both the old and new buildings, the main pharmacy was closed 1 or 2 times per week at 1 p.m. Ms. Paulson refutes this statement, saying the pharmacy may have closed early while they were in the old location, but such closures were "few and far between" and with the move to the new location there are two pharmacy shifts.

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EMPLOYEE CONDUCT REPORT

THIS FORM TO BE USED IN COMPLIANCE WITH POLICY DIRECTIVE NO. 857.005

*Received
Jury
for Court
9-22-95*

INSTRUCTIONS AND TIME LIMITS:

1. The person making the report shall provide a clear description of the incident under "Description of Incident" and, with any witness(es) or person(s) having knowledge, shall sign in the space provided and submit to the supervisor of the involved employee within fourteen (14) calendar days after the date of discovery of an employee's alleged misconduct.
2. The form shall be submitted to the employee involved who shall complete the "Employee's Statement" and return the report to his/her supervisor within seven (7) calendar days following the date of receipt.
3. The appropriate supervisor shall review the facts of the incident, complete the "Supervisor's Report" and submit the report to the Office Head within seven (7) calendar days following the date of receipt.
4. The Office Head or designated representative shall review and within thirty (30) calendar days following the date of receipt determine whether misconduct has occurred. This shall be reported under "Administrative Comments" and shared with the employee. When the supervisor and Office Head are the same person, the supervisor's supervisor shall complete the Administrative Comments.

EMPLOYEE INVOLVED Donna Evans	ORGANIZATIONAL UNIT Hospital Services
POSITION TITLE RN	DATE OF INCIDENT September 11, 1995
	TIME OF INCIDENT <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM

DESCRIPTION OF INCIDENT:

The allegations outlined below came to my attention on September 11, 1995.

It is alleged that you removed 20 furseamide 40 mg tablets from the sealed tackle box in the mini-pharmacy between the months of December 1994 and May 25, 1995.

It is additionally alleged that you removed two furseamide tablets between May 25, 1995 and June 5, 1995; and between June 5, 1995 and June 27, 1995 you removed seven more furseamide tablets. It is further alleged that between June 27, 1995 and July 14, 1995 that you removed ten furseamide 40 mg tablets from the sealed tackle box in the mini-pharmacy.

It is alleged that the furseamide 40 mg tablets were removed for your personal use and that Primary Encounter Reports were not completed. There has been no offender prescriptions of furseamide 40 mg tablets since December of 1994.

INITIATED BY:			
NAME (PLEASE PRINT) GARY D. JONES	POSITION TITLE Assoc. Supt.	SIGNATURE <i>Gary D. Jones</i>	DATE 9-22-95
WITNESS(ES):			
NAME JAMES L COOPER	POSITION TITLE CORR INVE	SIGNATURE <i>James L Cooper</i>	DATE 9-22-95
NAME	POSITION TITLE	SIGNATURE	DATE

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Attachment 1-1029

DATE DELIVERED TO EMPLOYEE 9-22-95 BY Gayle Jones

EMPLOYEE'S STATEMENT:

I deny any & all allegations as stated on this ECR.

Signature of Employee: Danna [Signature] Date: 9/25/95

SUPERVISOR'S REPORT: DATE RECEIVED BY SUPERVISOR 9-27-95 BY: Gayle Jones

See attached report

Signature & Title of Supervisor: Aimee [Signature] Date: 11/6/95
Business Manager

ADMINISTRATIVE COMMENTS: DATE RECEIVED BY OFFICE HEAD 11-6-95 BY: Marilyn [Signature]

We met on November 17, 1995, in the administrative review of this employee conduct report (ECR). Also present were your union representative, Kurt Hansen, your attorney, John Cain, and MICC personnel officers Katherine Deuel and Arturo Haro. I have determined misconduct could not be substantiated on the first three allegations. However, misconduct did occur when you removed 10 furseamide tablets from the MICC mini-pharmacy tackle box sometime between June 27, 1995 and July 14, 1995, and that you failed to complete a PER documenting that removal.

Signature of Office Head: Belinda [Signature] Date: 12-5-95

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Investigation

On October 3, 1995, I interviewed Pharmacist Supervisor Linda Paulson and Pharmacy Assistant A Jan White in the MICC Mini-Pharmacy. During the week of May 8-12, 1995, an empty bottle of Furosemide 40mg tablets was returned from the tackle box to the Pharmacy for refill. Furosemide (trade name Lasix) is a potent type of diuretic, usually prescribed for high blood pressure. The empty bottle appeared unusual to Pharmacy staff, as they could not recall an inmate being prescribed that drug. Their research via the pharmacy computer database revealed that no inmate had been issued this particular drug since December 17, 1994 (Attachment C), and no PERs had been prepared for issues of this drug from the tackle box. At this point, Pharmacy staff began counting all three types of diuretics (Furosemide, HCTZ, and Spironolactone) each time the tamper-evident seal on the tackle box was broken. Each count was conducted in the presence of other staff.

On May 25, 1995, Ms. White placed 25 Furosemide 40mg tablets into a new, sterile, labeled container. Ms. White wore vinyl gloves during this process, used a wiped-clean, sterile vial double-counted the pills, and replaced the container in the tackle box. The two other diuretics maintained in the tackle box were also double-counted (HCTZ 25mg = 45 tablets and Spironolactone 25mg = 29 tablets).

On June 5, 1995, Pharmacy staff checked the tackle box and found the tamper-evident seal broken. The diuretics were double-counted by Ms. White, and 23 tablets of Furosemide 40mg were present, indicating that 2 tablets had been removed between May 25, 1995, and June 5, 1995. There were no PERs written during this time period for that medication, and no MICC inmates had been prescribed that medication since December 17, 1994, when one tablet was issued from the tackle box in an emergency situation. None of the other two diuretics were missing.

On June 27, 1995, Pharmacy staff again found the tamper-evident seal broken on the tackle box. Wearing vinyl gloves, Ms. White double-counted the diuretics and found the Furosemide 40mg vial contained only 16 tablets, indicating that 7 tablets had been removed between June 5, 1995, and June 27, 1995. Again, no PERs were written during this time period for this drug and no inmates had been prescribed that drug. The original Furosemide 40mg vial was placed in a plastic "zip-lock" bag and turned over to the MICC Intelligence and Investigations office (I&I) and placed into evidence on June 30, 1995. For purposes of this report, this vial will be referred to as "vial 1."

On June 28, 1995, Ms. White, again wearing vinyl gloves and using a wiped-clean, sterile, labeled bottle, restocked the tackle box with 25 tablets of Furosemide 40mg.

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Supervisory Report

Donna Evans (AKA Turner, Lake) ECR issued September 22, 1995

Missing Drugs from Mini-Pharmacy tackle box

Background

This background information was obtained by interviewing Pharmacist Linda Paulson and Pharmacy Assistant Jan White.

The Mini-Pharmacy is a small, secure room located separate from, but adjacent to the main Pharmacy, on the third floor of the Education Services Building. The Mini-Pharmacy contains various types of over-the-counter medications, controlled drugs (schedule 2 through 5 narcotics), various syringes and needles in a padlocked container, medicine which requires refrigeration, and a "tackle box" containing various prescription medications, commonly known as "legend" drugs, as each prescription bottle is marked with "Warning: State or Federal law prohibits transfer of this drug to any person other than the person for whom it was prescribed." (Attachment A)

The main function of the Mini-Pharmacy is to provide Health Care staff access to various drugs when the main Pharmacy is closed, i.e., evenings and weekends. The main Pharmacy operates on a 12/5 schedule (approximately 6:30am to 6:00pm, Monday through Friday). By Pharmacy Board regulations, a pharmacy itself cannot be accessed by persons who are not licensed Pharmacists (or assistants). Thus, the Mini-Pharmacy contains those medicines which may be prescribed and/or administered by licensed medical practitioners during hours that the Pharmacy is closed. Consequently, all licensed medical staff (Dr. Buck, Physician's Assistants, RNs, LPNs and Pharmacy staff) have a key to the Mini-Pharmacy. A total of 31 staff are known to have access to the Mini-Pharmacy, covering three shifts, seven days per week.

The tackle box maintained in the Mini-Pharmacy closely resembles a fishing-type tackle box approximately 30" by 12" by 18". The box is secured by a tamper-evident seal. Only Pharmacy staff have access to the supply of those seals. At the beginning of each work shift, Pharmacy staff inspect the tackle box to determine if it had been accessed during the off-hours. If the Mini-Pharmacy is accessed during off-hours, specific written procedures are in place which require the person who accesses the area to complete a Primary Encounter Report (PER) to document what medication(s) was issued to which inmate(s). The Pharmacy uses the PER as part of their source documents to maintain a database of all pharmaceuticals issued to each inmate. The procedures are documented in a March 1, 1994, "Pharmacy In-service Memo," which was part of training provided by Ms. Paulson to all licensed health care practitioners, including Ms. Evans (Attachment B). When the main Pharmacy is open, there is no reason to access the tackle box. This memo also states that personal use of medications from MICC is prohibited.

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Attachment 1-20/95

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I asked Ms. Evans if she could recall accessing the tackle box during her regular work shift during December 1994 and July 1995. She stated she knew she had. She described that it was common to access the mini-pharmacy and/or tackle box if pill line medication came up short. She further stated that PERs were supposed to be filled out for items removed, but they typically were not. I described this scenario to Ms. Paulson who stated it was not procedure to make up for short pill line by using either the mini-pharmacy or the tackle box. Ms. Paulson stated that could happen in the rare instance where medication was immediately needed, but it would only be one dose. It is not common practice.

Ms. Evans stated that "everybody" could go through the mini-pharmacy, as all licensed health care staff have a key to that room. There is no sign-in sheet to indicate who accessed the room. Ms. Evans stated that she had "heard" there was now a sign-in sheet for pill line.

At this point, Mr. Cain began asking some questions of Ms. Evans to facilitate her sharing additional information. He asked if there were inmates who had been prescribed 20mg doses of furosemide. Ms. Evans stated there had been three inmates since last December [1994] that had been on a 20mg dose, and that 40mg tablets were split. She stated one inmate whose name she remembered was something like [REDACTED] and that she remembers him from the incoming chain. There was an inmate [REDACTED] who arrived on the June 29, 1995 chain from WCC, however his prescription was for 40mg furosemide, not 20mg. Ms. Evans processed that inmate in (Attachment F). My research with pharmacy staff indicated that there were three inmates since December 1994 who had been prescribed furosemide:

- (1) Inmate [REDACTED] had been taking furosemide 20mg dosage in November 1994, but that dosage was increased to 40mg in mid-December 1994 (Attachment I). Inmate [REDACTED] was transferred to WSR on December 19, 1994. Only one of the furosemide 40mg tablets given to this inmate were taken from the tackle box, that being on December 17, 1994.
- (2) Inmate [REDACTED] came to MICC from WCC (June 29, 1995) with a prescription of furosemide 20mg (Lasix trade name). Medication issues to this inmate are documented in the pharmacy database (Attachment J). Inmate [REDACTED] is still at MICC.

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- (3) Inmate [REDACTED] came to MICC from WCC (June 29, 1995) with a prescription of furosemide 40mg (Lasix trade name). Medication issues to this inmate are documented in the pharmacy database (Attachment K). Inmate [REDACTED] transferred to Lincoln Park Work Release on August 16, 1995.

When asked to describe the tackle box seal, Ms. Evans stated that anybody can seal it and that in the old hospital, the breakable plastic seal tabs were stored in a drawer. She stated she did not know where the seals were stored in the new building. She further stated that the tackle box is not always resealed and it has gone for "days" without being resealed. I questioned Ms. Paulson regarding these statements and Ms. Paulson reaffirmed her earlier statements that in both locations the seals were locked in the pharmacy and only pharmacy staff resealed the tackle box. Ms. Paulson also stated that the longest period of time the tackle box would go unsealed was if it were to be accessed after the pharmacy closed on a Friday, and until pharmacy staff arrived the following Monday.

Ms. Evans also stated that furosemide tablets were kept in the Emergency Room crash cart. I questioned Health Care Manager Robert Cloke regarding this statement. Mr. Cloke personally inspected the cart and questioned a Physician's Assistant and a Nurse. Furosemide is available on the crash cart in 20mg injectable form only. Tablets are not, and have not been available on the crash cart.

Ms. Evans further stated that the Pharmacy counts have not always been accurate when issues were made to the tackle box, and that counts have also been short on pill line, issuable medications (over-the-counter type), and narcotics. No specifics were provided.

Mr. Cain asked Ms. Evans to describe what furosemide (Lasix) was and how it was used. Ms. Evans stated that it was used for heart patients to control fluid retention, as it takes excess fluid out of the system. She stated the drug was not available over-the-counter, but that a close over-the-counter product would be Aqua-Ban, which is a water pill. I questioned Ms. Paulson to determine the pharmacological validity of that comparison. Ms. Paulson researched the Aqua-Ban formula and reported that it contains 100mg caffeine and 325mg ammonium chloride as its active ingredients. A direct comparison between the products cannot be made, as they are two completely different compounds.

Mr. Cain then asked if Ms. Evans had experienced recent weight loss and why/how. Ms. Evans stated that due to "family problems" she had recently lost 60 pounds since

0839

Attachment 18 of 29

Supervisory Report

Donna Evans (AKA Turner, Lake) ECR issued September 22, 1995

Missing Drugs from Mini-Pharmacy tackle box

Page 8

November 1994. She stated that she accomplished and maintained that weight loss through a combination of changed diet habits and an exercise regimen. She stated that she modified her diet to include more chicken and rice and participates in daily exercise such as going to the gym, speed walking, racquetball, swimming, weightlifting, etc. Ms. Evans stated that she did not exercise prior to her weight loss. Ms. Evans stated that [REDACTED] in her ankles was aggravated by her prior weight.

Mr. Cain then stated that they may have additional names to provide me who would be helpful in completion of this investigation. After a brief, private discussion with Ms. Evans, Mr. Cain stated they did not wish to give me any names until they had a chance to get permission from those people. I made sure Mr. Cain had correct phone numbers for me and for my fax machine. As of this date, no further contact has occurred with either Mr. Cain or Ms. Evans regarding these names.

0840

Attachment 190829

Supervisory Report - Supplemental Information
Donna Evans (AKA Turner, Lake) ECR issued September 22, 1995
Missing Drugs from Mini-Pharmacy tackle box

On Monday, November 13, 1995, upon arriving at work there was a fax from Ms. Evans' attorney (sent November 10, 1995, a state holiday) indicating that his office had not provided me with names of other individuals who may have pertinent information regarding this issue. He provided the names of Bill Dalton, Sherry Van Horn, Yoshi Parker, and Sharon Kiesel.

Yoshi Parker

Mr. Parker no longer works for the Department of Corrections.

Bill Dalton

On November 15, 1995, I interviewed Bill Dalton, RN, by telephone, after explaining to him that his name was referred to me by Ms. Evans' attorney. Mr. Dalton stated that he did not witness anything, as he works a different shift (midnight to 8am, Wednesday thru Sunday) than Ms. Evans.

Mr. Dalton characterized the pharmacy operation as "sloppily run." He stated that the pharmacy is prone to miscounting, and that the tackle box had been left unsecured in the old hospital building for a one-week period. He further stated that when working with pill line that prescriptions would run out over the weekend, and that bags of issuable medications were "obviously short." During a 4-week period he stated he wrote five memos concerning pill line shortages. I asked if he knew for certain that the shortages were due to pharmacy errors. He stated that was an assumption on his part.

Regarding access to the tackle box in the new pharmacy location, he stated it could be left unsecured over a weekend if the seal was broken Friday night. I asked about documentation prepared for accessing the tackle box and he stated there was no guarantee that documentation would be prepared.

Mr. Dalton estimated that it has been four to five years since he worked the same shift as Ms. Evans.

When asked if he had any other information to provide, he stated that "I can't see her [Donna Evans] being that dumb." He further stated that she is a military dependent and could get that drug free or at a very reduced cost.

Mr. Dalton also stated that Judy Perry, a nurse in lower E unit, told him that they are now required to count pills coming from the pharmacy due to numerous miscounts.

0841

Attachment 1 10/29

Supervisory Report - Supplemental Information
Donna Evans (AKA Turner, Lake) ECR issued September 22, 1995
Missing Drugs from Mini-Pharmacy tackle box
Page 2

* Sherry Van Horn

I contacted Ms. Van Horn on November 15, 1995, and indicated that her name had been referred to me by Ms. Evans' attorney. Ms. Van Horn declined to discuss the matter.

Sharon Kiesel

I spoke with Ms. Kiesel on November 16, 1995. Ms. Kiesel stated that she had no direct knowledge of the new hospital/pharmacy procedures. Ms. Kiesel did work as a pharmacy assistant at MICC in the old hospital.

Ms. Kiesel stated that the tackle box was not sealed until after she started working at MICC. She further indicated that during the time she worked in the pharmacy that PERs were inconsistently done.

Ms. Kiesel indicated that she and Ms. Evans were good friends and that Pat Callaghan would do anything to get Ms. Evans out, as Ms. Evans helped Ms. Kiesel during some personnel issues.

Ms. Kiesel stated that Ms. Evans had recently lost a significant amount of weight and had done so through diet and exercise.

Ms. Kiesel stated that she thinks they [hospital supervisors] were "watching" Ms. Evans. She also stated that Ms. Evans is very [REDACTED] over this situation.

→ Ms. Kiesel indicated that there have been many instances of missing medications before, without this type of investigation occurring.

Other Information

I also contacted the Washington State Poison Control Center for an independent comparison of furosemide and Aqua-Ban. (See page 7 of supervisory report. Ms. Evans stated the latter was a close over-the-counter version of the former.) I asked for a rough comparison of how many Aqua-Ban tablets would give an equivalent diuretic effect of a 40mg furosemide.

The Poison Control Center staff researched both drug formulas and related to me that no comparison could be made, as the drugs have completely different compounds and work differently. Staff indicated that my question was like asking "how many pineapples would it take to make a watermelon."

0842

Attachment 1 Nov 29

Attachment A

McNEIL ISLAND CORRECTION CENTER PHARMACY
P.O. BOX 88900 STEILACOOM, WA 98388 512-8647
McNEIL ISLAND CORRECTION CENTER PHARMACY IS A FEDERAL AGENCY AND IS NOT A PRIVATE BUSINESS.

0843

Attachment 1-12-08-29

Attachment B

Pharmacy Inservice Memo
March 1, 1994
Page 2

I. PRESCRIPTION ORDERS (PER'S)

A. REQUIRED ELEMENTS ON EACH PER

- 1. Patient name and ID number.
- 2. Birthdate.
- 3. Allergies.

~~WAC~~ 246-875-020 lists minimum required information on a patient medication record ... "Any patient allergies, idiosyncrasies, or chronic condition which may relate to drug utilization. If there is no patient allergy data... indicate none or "NKA" (no known allergy)..."

- 4. Complete directions.

WAC 246-875-020 "The complete directions for use of the drug. The term "as directed" is prohibited pursuant to RCW 18-64246 and 69.41.050."

RCW 18.64.246 "To every box, bottle, jar, tube or other container of a prescription which is dispensed there shall be fixed a label bearing... name of the prescriber, his directions..."

* Prescriptions which do not list patient allergies and/or complete directions for medication use will not be filled by the pharmacy. OTC items are not exempt (according to the State Board of Pharmacy) because we must process everything here as a prescription.

- 5. Current medications.
- 6. Housing unit.

The pharmacy computer is not tied in to OBTS. We need to know where to send the prescription and we get this information from the PER.

- 7. Specific quantity to be dispensed.

This is especially important if the dosage is variable and prn. Example: 1-2 tablets Q 4-6H prn x 7 days. These directions are acceptable, but a specific quantity to issue must be written.

- 8. Signature of prescriber.

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Pharmacy Inservice Memo
March 1, 1994
Page 3

* Scan each PER for these elements before turning it into the Pharmacy. This will save time and efforts to back-track.

- B. There have been problems with changes being made on the yellow PER but not documented in the profile. Examples: Lisinopril changed to Vasotec or Erythromycin changed to Tetracycline.
1. The prescriber who makes the change must follow through on documentation.
 2. The changes must be initialed or signed.
 3. WAC 246-875-040... "Any order modified in the system must carry in the audit trail the unique identifier of the person who modified the order... that the changes be accurately documented in the record system, without destroying the original record or its audit trail."
 4. The pharmacy will photocopy any PER's with changes and put the copies in the appropriate prescriber's box. This is to serve as a reminder to follow through on documentation.
- C. USE OF "PRN" ON PILL LINE MEDICATIONS
1. If the directions are not written as 'prn, the inmate will be infraacted for failure to come to pill line.
 2. Consider whether this is your intention when prn is not written.
 3. If you write for a pill line medication, be sure to let the inmate know this so they understand that they must come to pill line. Example: Flexeril
- D. MISSING PER'S
1. Occasionally the pharmacy does not receive a PER for items that must be entered on the patient's computer profile and accounted for by inventory.
 2. Commonly missed items are: injections, TB tests, issued meds, crash cart or ER meds, office procedures.
 3. If in doubt, write a PER and give the yellow copy to the pharmacy.

0845

E. NO MEDICATIONS TO STAFF

1. No exceptions.

Field Instruction MICC 600-025 "...medications will not be issued to staff members by the institution medical department for personal use."

2. PER's written by our prescribers for staff do not meet legal requirements of OBRA regulations - according to the State Board of Pharmacy.
3. Only emergency aid may be rendered pursuant to patient removal from the island by boat or med-i-vac to another emergency facility. Example: heart attack, stroke, broken leg.
4. These same regulations apply to Health Services personnel. Personal use of any medication from this facility by any staff is prohibited.
5. No exceptions.

II. AFTER-HOURS PHARMACY (MINI-PHARMACY)

A. ITEMS ARE NOT TO BE ISSUED FROM THE AFTER-HOURS PHARMACY WHILE THE MAIN PHARMACY IS OPEN.

1. If a stat dose is needed (other than a controlled substance) get it from the main pharmacy.

~~B.~~ A PER MUST BE WRITTEN FOR ANY ITEM ISSUED FROM THE AFTER-HOURS PHARMACY (OR ER) AND SIGNED BY PA/MD.

1. Be sure to indicate how many tablets, bottles, tubes, etc. Be specific always! Example: Maalox 30cc prn, Acetaminophen 5 gr. take 1 or 2 tablets q4 if needed. Issued. - What was issued here? How many?
2. Be sure to write "issued" so that the pharmacy does not double issue the prescription.
3. All of these issued prescriptions are entered on the inmate's pharmacy computer profile and the inventory accounted for and replaced. Therefore, it is very important that these PER's are turned in to the pharmacy.

0846

C. THE MINI-PHARMACY IS A RESTRICTED AREA.

1. Do not use this area for a break room or to work on projects.
2. Do not prop the door open.
3. Do not allow inmates physical or visual access to this area.
4. Limit use of the phone in this room because it is only an extension of the main pharmacy line and restricts the pharmacy's ability to place or receive calls if someone is using the phone.

~~X~~ D. TACKLE BOX

1. A small quantity of various medications which are not prepackaged are kept in the tackle box.
2. Only licensed prescribers (PA or MD) may label medications from the tackle box to be issued to inmates (this is a dispensing function).
3. Nurses may only administer a stat dose from the tackle box. They may not label a package for the inmate to take with them. Nurses may not dispense.
4. Labeling a package is a dispensing function, this is why the brown bags on the peg-board are pre-labeled.
- ✓ 5. Leave a PER for anything that was removed from the tackle box and the bottle that was used in the refill box under the pill line cart along with the broken seal.

E. INSULIN

1. If a bottle of insulin is running low, please request a refill from the pharmacy. Include the inmate's number and/or prescription number.
2. Do not use the emergency stock for routine refills.
3. If you must use an emergency bottle, please leave a note for the pharmacy so that we have accountability and can enter this on the appropriate computer profile and replace stock.
4. Date all bottles when opened. Request a new refill if a bottle is one month old

0847

Attachment 116 of 29

F. RETURNS OR GO-BACKS VS. REFILLS

1. Note - there are two separate boxes in the mini-pharmacy.
 - a) Put refills and PER's in the box under the pill line cart.
 - b) Put returns (go-backs) in the box on the counter, far left corner.
2. Please indicate some reason for a return or go-back. Leave a note or write on the label. Examples: transferred, left MICC, sent to F-unit, went to Annex, refused, discontinued, confiscated, etc.
3. Do not leave medications in the break room, upstairs areas, or medical records. These are not secure areas. Put the items in the return box in the mini-pharmacy.

G. FUTURE OF THE AFTER-HOURS PHARMACY

1. We will soon be going to a two-label system for issued medications. More on this later.
2. Stock in the mini-pharmacy is being reassessed and will be reduced. Staff input is solicited.

III. EMERGENCY ROOM

- A. ALL PHARMACY STOCK USED OR ISSUED FROM THE EMERGENCY ROOM, CRASH CART, OR RESPONSE BAG NEEDS TO BE ACCOUNTED FOR BY A PER. Exceptions: Lidocaine injections, Hydrogen Peroxide (unless the bottle is issued to the inmate) and topical anti-infectives used for dressings.

B. EYE TRAY

1. An inventory of pharmacy items kept in the eye tray is taped to the top of the box.
2. The eye tray will be kept sealed so that pharmacy knows the stock is complete.
3. If an item is used or issued, write a PER for the pharmacy and indicate "issued from eye tray".

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Pharmacy Inservice Memo
March 1, 1994
Page 7

IV. PILL LINE ISSUES RELATED TO ISSUED MEDS

- A. A new policy will soon go into effect which will require inmates to pick up their prescriptions within 24 hours or be infracted. We are waiting for policy rewrite/okay for inmate notification before this becomes official.
1. In the meantime, start letting inmates know of this as new orders are written.
 2. Start letting new chain inmates know.
- B. WHEN A PRESCRIPTION IS NOT IN THE ISSUE BOX
1. Most prescriptions turned in for refill are ready by 11:30 pill line, and most new prescriptions turned in that morning are ready by 11:30. All prescriptions are finished before the pharmacy closes (unless the order is turned in after 3:15 p.m.).
 2. Therefore, if something appears to be missing or not filled, make a note of it so that it can be tracked down or call the pharmacy during noon pill line if time allows.
 3. It is not acceptable to tell the inmate to check back later without follow-up because often the order did not get pulled from the profile, or an order was not written, or the refill bag did not get turned in to the pharmacy.
 4. If for some reason the pharmacy cannot fill a prescription (because it is too soon, or an item is on order, etc), the pharmacy will write a note to the inmate which will be put in the issue box.

0849

Attachment 118029

MCNEIL ISLF CORRECTIONS *Attachment C*
 PO BOX 8890
 STEILACOOM, WA 98388
~~Drug: FUROSEMIDE~~ as of : Sep 22 1995
 NDC # : 00172-2907-80 Qua

from 12/19/94 through 05/25/95
 for : FUROSEMIDE 40MG ZENITH
 quantity on hand : 757
 Schedule : 6
 Package Size : 1000

Rx number	Patient Information	Doctor Information	Date filled	Quantity
Price	Pharmacist			

SIG -> STAT DOSE GIVEN FROM TACKLEBOX 12.17.94				
211175	[REDACTED]	BARTRAM, PA/CPE	12/19/94*	1
0.02	L/J			
M I C C				
HOLD		BB1725007		
[REDACTED]				

End of audit trail - Total quantity dispensed = 1

* This is an entry date on the computer
 medication was actually issued on
 12/17/94 Saturday

Linda Pearson, RPh 0850
 Attachment 119029

Attachment D

DATE	TIME	FACILITY	[REDACTED]	ALLEGENIES	PLAN NO
1/1/82	1:50	WTC	[REDACTED]	W.K.P.A.	
7:48 - 4:18					
C/O [REDACTED] X 2 days.					
E sound monitored.					
Stated within is electrical					
D-slaves					
V.O. T. [REDACTED]					
[REDACTED] Station [REDACTED] 1/1					
[REDACTED] [REDACTED] 1/1					
[REDACTED] [REDACTED]					
[REDACTED]					
[REDACTED]					

0851

Attachment 1 20 of 29

Attachment E

MCNEIL ISLAND CORRECTIONS
DELIVERY REPORT FOR : 08/01/1995

FACILITY : M I C C
CITY, ST, ZIP : STEILACOOM, WA 98388
PHONE : 206-588-5281
BEDS : 1 TO 2000

RX#	ROOM NO.	PATIENT	DRUG NAME	QTY
			ANALGESIC BALM 30GM FOU	30
			DIMETAPP EXTENTABS	10
			IBUPROFEN 600MG BOOTS	20
			CYCLOBENZAPRINE 10MG GG	5
			PHENYLGESIC TAB	20
			ACETAMINOPHEN 500MG MCNEI	40
			ACETAMINOPHEN 500MG MCNEI	20
			ACETAMINOPHEN 500MG MCNEI	2
			ACETAMINOPHEN 500MG MCNEI	29
			PSEUDOPHEDRINE 50MG GL	15
			TRIAMTERENE/HCTZ 75/50 SC	30
			BENZYL PEROX. GEL 10% RUB	43
			ERY-TAB 500MG	30
			MALOX SUSPENSION 5 OZ.	150

8-3-95

used directly to
inmate
maxwell (re issue) # 230455



0852

Attachment 12/8/29

3-24-98

DATE 6/29/95	FACILITY WCC 1200	PLAN RX UKDA
Reviewed per chain from WCC		
Instructed on medical & dental		1) Lasix 40mg QD x 30 days
SK. No C/O at this time.		
States has degenerative heart		2) Potassium 10.15g QD x 30 days
failure. PRN 5/25/95		
M. Note: Last lab work 5-18-95		
DK CHF	Discovered at M - Back for sleep	- Put all above at pill line on a note
DOC: 3-435 (REV. 4/91)		PRIMARY ENCOUNTER REPORT
		Start 6/29/95

3-21-93

DATE 6/29/95	TIME 1145	FACILITY WCC	PLAN RX UKDA
Reviewed per chain from WCC			giant 6/29
Instructed on medical & dental			Pill line 9 noon
SK. States is on B/P monitor		1) Lasix 40mg QD x 30 days	
C/O put well		2) Monitor #1 7oz QD PRN x 30 days	
Chest X-Ray		3) Nitro 1/50 1 sub Q PRN x 90 days	
M. Note: H/O cardiac disease			
HTN on diet			
Patrol admin last lab 4/15/95			
G. Br. Back Plug ASAP			
DOC: 3-435 (REV. 3/94)		PRIMARY ENCOUNTER REPORT	x 30 days

QD = every day

0853

Attachment 122x29

CHASE RIVELAND
Secretary



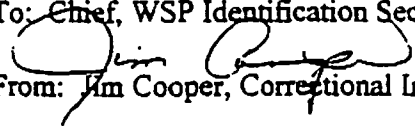
Attachment 6

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

McNEIL ISLAND CORRECTIONS CENTER
P. O. Box 900 • Steilacoom, Washington 98388-0900

July 13, 1995

To: Chief, WSP Identification Section

From:  Jim Cooper, Correctional Investigator

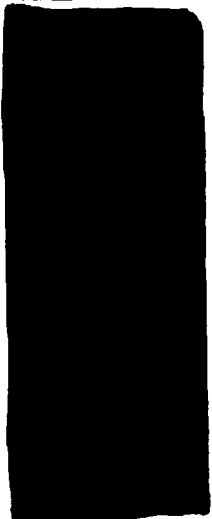
Subject: Identification of Fingerprints

This office is currently conducting an investigation into stolen/missing medications from the Mini Pharmacy, McNeil Island Hospital.

Between 05-25-95 and 06-27-95, person(s) unknown have removed a total of approximately nine tablets from a vial containing furosemide 40mg tablets. This vial is kept in a tackle box, which is sealed, and is behind locked doors of the Mini Pharmacy. Every time the seal of the box is broken the contents of the box is counted by the pharmacist, and that is who discovered these tablets to be missing.

This office is submitting the vial that contained the tablets to see if fingerprints can be lifted from it, and also a list of all personnel that have access to the Mini Pharmacy for comparison to any prints found on the vial.

List of personnel having access to Mini Pharmacy:

<u>Name</u>	<u>SSAN</u>	<u>DOB</u>
Robert Cloke		5-12-38
Harper Buck		7-13-34
Bruce Barrett		8-6-42
Perry Bartram		1-6-45
Lynn Houseworth		1-1-48
Dinah Sacay		3-24-50
Ricky Silverman		7-31-45
Patricia Callaghan		12-25-46
Nancy Armstrong		5-28-46
Patricia Arnold		10-29-21
Sherre Badders		1-2-54
William Dalton		11-5-42
Pamela Davenport		8-29-52
PrimaDonna Ems		10-29-57

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Attachment 123 of 129

Name	SSAN	DOB
✓ Kenneth Haire		6-22-43
✓ Carol Hoke		4-15-43
Lenora Horton		11-7-54
Barbara Jackson		1-16-47
Donna Lake		7-27-48
✓ Judy Lobdell		4-27-55
✓ Kim Mattson		5-13-60
Deena Oestman		2-4-52
Yoshi Parker		10-14-50
✓ Sharon Stephens		2-1-62
✓ Diana Stoddard		7-23-66
✓ Sherry VanHorn		11-7-48
Linda Paulson		5-21-55
✓ Jan White		1-7-52
Dennis Noel		9-7-55
Maurice Emery		8-10-52
Sherry Race		3-23-45

That is the complete list of personnel who have known access to the Mini Pharmacy.

Thank you for your assistance in this matter.

0855

Attachment 124 of 29

Attachment H

Washington State Identification Section
PO BOX 42633
Olympia, WA 98504-2633
Telephone (206) 705-5128



Date Received : 08/16/95
WASIS LP # : 95-1244B
Agency Case # : 010095I01

LATENT PRINT REPORT

Requesting Agency : MCNEIL ISLAND CORR CNTR Agency No. : WA027065C
By : JIM COOPER Title : INVEST
Address : P. O. BOX 900 STEILACOOM WA 98388
Evidence Description :

7-LATENT LIFTS.

Received: MAIL (Certified # _____ UPS reg. # _____) IN PERSON Y
Processing Required: N Type _____

Suspects:	DOB	DOB
	05/12/38	01/06/45
	07/13/34	01/01/48
	08/06/42	03/24/50

Examination Results:

The latent lift I marked "1" contains one identifiable latent impression which is identified as the right palm of Donna EVANS, AKA/ TURNER, LAKE, dob: 07-29-48.

The latent lift I marked "2" contains one identifiable latent impression which is identified as the right palm of EVANS. The latent lift I marked "2" is a relift of the latent lift I marked "1".

The remaining lift contains no latent impressions of value for identification purposes.

The three lifts were recovered from pill bottle #1.

The latent lift I marked "2" contains one identifiable latent impression which is negative in comparison to the inked fingerprint and inked major case prints of all suspects.

The three remaining lifts contain no latent impressions of value for identification purposes.

Examiner: Eileen Slavin *Eileen Slavin* Date 08-30-95
Reviewed By: George C. Millar *George C. Millar* Date 08-30-95
Reviewed By: Robert S. Johnson *Robert S. Johnson* Date 08-30-95

Photo Taken: Y By SLAVIN

If examination and comparison of this evidence will require a court appearance, at least one week's notice is necessary for the preparation of presentation materials.

0856

Attachment 1250/29

Washington State Identification Section
PO BOX 42633
Olympia, WA 98504-2633
Telephone (206) 705-5128

Data Received : 08/16/95
WASIS LP # : 95-1244B
Agency Case # : 010095I01

LATENT PRINT REPORT

Requesting Agency : MCNEIL ISLAND CORR CNTR

Agency No. : WA027065C

Suspects

DOB

(Continued)

07/31/45
12/25/46
05/28/46
10/29/21
01/02/54
11/05/42
08/29/52
10/29/57
06/22/43
04/15/43
11/07/54
01/16/47
07/27/48
04/27/55
05/13/60
02/04/52
10/14/50
02/01/62
07/23/66
11/07/48
05/21/55
01/07/52
09/07/55
08/10/52
03/23/45

LAKE, DONNA/AKA TURNER, EVANS

Examination Results :

(Continued)

The four lifts were recovered from pill bottle #2.

0857

Attachment 12607.29

Sep 22, 1995
Full listing

MCNEIL ISLAND CLINICAL DIRECTIONS
PO BOX 88900
STEILACOOM WA 98388

Attachment I

[REDACTED]

Room: HOLD
History #: [REDACTED] DOB: 01/01/1901

Rx no	NDC #	Drug name	Date	R/F	Doctor	Qty	Price	RFH
211175	00172290780	FUROSEMIDE 40MG ZE	12/19/94	0	BARTRAM,	1	0.02	L/J
		Sig-) STAT DOSE GIVEN FROM TACKLEBOX	12.17.94					(Cash)
210984	00172290780	FUROSEMIDE 40MG ZE	12/13/94	0	HOUSEWORT	4	0.09	L/J
		Sig-) TIT QAM PL						(Cash)
210920	00574000210	ASPIRIN EC 325MG	12/13/94	0	HOUSEWORT	20	0.14	L/J
		Sig-) (ISSUED BY PA) 12.14.94						(Cash)
210919	00641038225	FUROSEMIDE 20MG/2M	12/15/94	0	HOUSEWORT	1	0.75	L/J
		Sig-) 20MG INJECTION GIVEN 12.14.94						(Cash)
210903	00187074631	INSTA-GLUCOSE	12/14/94	0	HOUSEWORT	62	4.77	L/J
		Sig-) (ISSUED BY PA) 12.14.94						(Cash)
210731	00006071368	VASOTEC 10mg	12/13/94	0	SACAY, PA	20	19.15	L/A
		Sig-) TIT BID -NOTE INCREASE IN STRENGTH-						(Cash)
210635	00172290780	FUROSEMIDE 40MG ZE	12/12/94	0	SACAY, PA	3	0.06	ME
		Sig-) 1 TABLET (40 MG) QAM DURING DIABETIC PL						(Cash)
210634	00172290780	FUROSEMIDE 40MG ZE	12/12/94	0	SACAY, PA	1	0.02	ME
		Sig-) ISSUED STAT DOSE FROM PHARMACY 12.12.94 AT 1645/ME						(Cash)
210521	00172290780	FUROSEMIDE 40MG ZE	12/12/94	0	SACAY, PA	1	0.02	LP.
		Sig-) 1/2 TABLET (20MG) STAT DOSE GIVEN						(Cash)
209923	00187074631	INSTA-GLUCOSE	12/05/94	0	SACAY, PA	62	4.77	L/J
		Sig-) (ISSUED BY PA) 12.4.94						(Cash)
209770	00187074631	INSTA-GLUCOSE	12/01/94	2	HOUSEWORT	62	0.15	L/A
		Sig-) PRN FOLLOW DIRECTIONS ON TUBE						(Cash)
		(Cash)	12/05/94			62	4.77	L/J
		(Cash)	12/02/94			2	0.15	L/A
209596	00003183310	NOVOLIN REGULAR (H	11/29/94	0	BUCK, MD	10	16.32	M/A
		Sig-) FOLLOW DIABETIC LOG SHEET						(Cash)
209591	00002831501	HUMULIN NPH INSULI	11/29/94	0	BUCK, MD	10	14.83	M/A
		Sig-) FOLLOW DIABETIC LOG SHEET						(Cash)
209585	00574000210	ASPIRIN EC 325MG	11/29/94	0	BUCK, MD	40	0.29	M/A
		Sig-) TIT QD -MAY T 1-2 Q6H PRN						(Cash)
209583	00456032501	LEVOTHYROXINE 0.15	11/29/94	0	BUCK, MD	30	6.72	M/A
		Sig-) TIT QAM						(Cash)
209578	00006071268	VASOTEC 5mg	11/29/94	0	BUCK, MD	50	45.59	M/A
		Sig-) T2T QAM & 1 TABLET HS						(Cash)
209574	00172290780	FUROSEMIDE 40MG ZE	11/29/94	0	BUCK, MD	7	0.15	M/A
		Sig-) T 1/2 TABLET (20MG) QAM						(Cash)
End of profile-----Total Charges = \$							113.75	
Total Credits = \$							0.00	

Cash : 113.75

* entry date on Computer - actual dispense date is listed below = 12/17/94 - Saturday.

0858

Linda Paulson RPh
Attachment 127029

Attachment J

Jct 03, 1995
From:05.01.95 To:08.03.95

MCNEIL ISLAND CORRECTIONS
PO BOX 88900
STEILACOOM WA 98388

██████████
I C C Room: 1779
History #: ██████████ DOB : 03/24/1948

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*****
Rx no   NDC #       Drug name          Date   R/F Doctor   Qty   Price RPH
*****
229964  00074776313  POTASSIUM CL 10MEQ 07/26/95 2   BARTRAM,    10    3.37 A/J
      Sig-)T1T QD PL                                     (Cash)
      (Cash)                                           08/02/95
      (Cash)                                           10    3.37 L/J
229963  00172290780  FUROSEMIDE 40MG ZE 07/26/95 2   BARTRAM,     5    0.11 A/J
      Sig-)T 1/2 TABLET (20MG) DAILY PL             (Cash)
      (Cash)                                           08/02/95
      (Cash)                                           5    0.11 L/J
229890  00182175110  TRIPROL/PSEUDO TAB 07/25/95 0   BUCK, MD    20    0.45 ME
      Sig-)T 1/2 OR 1 TABLET Q6H PRNF HAY FEVER     (Cash)
229190  00182175110  TRIPROL/PSEUDO TAB 07/03/95 1   SACAY, PA    6    0.13 M/D
      Sig-)T 1/2 TABLET Q6H OR 1 TABLET BID ( Q 12 HOURS ) PRN (Cash)
      (Cash)                                           07/10/95
      (Cash)                                           6    0.13 L/J
227949  00074776313  POTASSIUM CL 10MEQ 06/29/95 1   SACAY, PA   15    4.69 M/D
      Sig-)T1T QD ON AM OR NOON PILL LINE (STARTING 6/30) PL (Cash)
      (Cash)                                           07/13/95
      (Cash)                                           15    5.06 M/D
227947  00172290780  FUROSEMIDE 40MG ZE 06/29/95 2   SACAY, PA    5    0.11 M/D
      Sig-)T 1/2 TABLET (20MG) QD ON AM OR NOON PILL LINE (STARTING... (Cash)
      (Cash)                                           07/13/95
      (Cash)                                           5    0.11 M/D
      (Cash)                                           07/05/95
      (Cash)                                           5    0.11 M/D
End of profile-----Total Charges = $    17.75
                        Total Credits = $    0.00

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Cash : 17.75

0859

Attachment 1 280/29

Attachment K

Oct 04, 1995
From: 06.29.95 To: 10/04/95

MCNEIL ISLAND CORRECTIONS
PO BOX 88900
STEILACOOM WA 98388

M I L L

Room: HOLD

History #: [REDACTED]

DOB : 03/31/1933

Rx no	NDC #	Drug name	Date	R/F	Doctor	Qty	Price	RPH
231685	00172290780	FUROSEMIDE 40MG ZE	08/15/95	0	SILVERMAN	7	0.15	L/D
		Sig->T 1/2 TABLET (20MG) QAM					(Cash)	
230499	00172290780	FUROSEMIDE 40MG ZE	08/01/95	0	BUCK, MD	11	0.24	L/D
		Sig->T 1/2 (20MG) QAM PL					(Cash)	
230340	00172290780	FUROSEMIDE 40MG ZE	07/31/95	0	BARTRAM,	3	0.06	LP.
		Sig->T1T DAILY IN THE MORNING OR NOON FOR 3 DAYS BEGINNING 07/29/95					(Cash)	
230069	00677112501	APAP/ISOMETH/DICH	07/27/95	2	BARTRAM,	5	1.02	ME.
		Sig->M I D R					(Cash)	
230067	00067033079	MAALOX SUSPENSION	07/27/95	6M	BARTRAM,	150	0.39	ME.
		Sig->SW AND T 2 TSPS QID [MAY REFILL ONCE A WEEK]					(Cash)	
228216	00045045170	ACETAMINOPHEN 500M	07/03/95	1	SILVERMAN	20	1.18	M/D
		Sig->T1T QD PRN PL					(Cash)	
		(Cash)	07/19/95			20	1.18	M/D
228015	00173034442	ZANTAC 150MG	06/30/95	5	SILVERMAN	30	49.60	L/J
		Sig->T1T QAM & EVENING PL					(Cash)	
		(Cash)	08/15/95			29	46.29	L/D
		(Cash)	08/02/95			30	49.50	LP.
		(Cash)	07/13/95			30	49.50	M/D
229014	57267090542	NITRO PATCHES 0.2M	06/30/95	5	SILVERMAN	15	21.91	L/J
		Sig->AP 1 PATCH QAM, WEAR FOR 12 HOURS, THEN REMOVE PL					(Cash)	
		(Cash)	08/15/95			14	21.27	L/D
		(Cash)	08/09/95			15	22.78	L/J
		(Cash)	07/26/95			15	22.78	M/D
		(Cash)	07/10/95			15	21.91	L/J
229013	00026884151	ADALAT CC 30MG E/R	06/30/95	5	SILVERMAN	30	26.11	L/J
		Sig->T2T QAM PL					(Cash)	
		(Cash)	08/15/95			29	24.37	L/D
		(Cash)	08/09/95			30	26.11	L/D
		(Cash)	07/26/95			30	26.11	M/D
		(Cash)	07/13/95			30	26.11	M/D
229012	00781137101	METOPROLOL 50MG GE	06/30/95	5	SILVERMAN	15	6.69	L/J
		Sig->T1T QAM PL					(Cash)	
		(Cash)	08/15/95			14	6.25	L/D
		(Cash)	08/09/95			15	6.69	L/D
		(Cash)	07/26/95			15	6.69	M/D
		(Cash)	07/13/95			15	6.69	M/D
227901	00071057013	NITROSTAT 0.4MG #2	06/29/95	3M	SACAY, PA	25	3.51	D/M
		Sig->T1T SL PRN FOR 90 DAYS					(Cash)	
		(Cash)	08/15/95			25	3.51	L/D
227900	00067033079	MAALOX SUSPENSION	06/29/95	1M	SACAY, PA	150	0.39	D/M
		Sig->TAKE 2 TBS Q4H PRN FOR 30 DAYS					(Cash)	
		(Cash)	07/05/95			150	0.39	M/D
227899	00172290780	FUROSEMIDE 40MG ZE	06/29/95	2	SACAY, PA	10	0.22	D/M
		Sig->STARTING 6/30 T1T QD FOR 30 DAYS ON MORNING OR NOON PILL...					(Cash)	
		(Cash)	07/13/95			10	0.22	M/D
		(Cash)	07/05/95			10	0.22	M/D

End of profile-----Total Charges = \$ 480.24

0860

Attachment 12902

Pharmacy Inservice Memo
March 1, 1994
Page 2

I. PRESCRIPTION ORDERS (PER'S)

A. REQUIRED ELEMENTS ON EACH PER

1. Patient name and ID number.
2. Birthdate.
3. Allergies.

~~WAC 246-875-020~~ lists minimum required information on a patient medication record ... "Any patient allergies, idiosyncrasies, or chronic condition which may relate to drug utilization. If there is no patient allergy data... indicate none or "NKA" (no known allergy)..."

4. Complete directions.

WAC 246-875-020 "The complete directions for use of the drug. The term "as directed" is prohibited pursuant to RCW 13-64246 and 69.41.050."

RCW 13.64.246 "To every box, bottle, jar, tube or other container of a prescription which is dispensed there shall be fixed a label bearing...name of the prescriber, his directions..."

* Prescriptions which do not list patient allergies and/or complete directions for medication use will not be filled by the pharmacy. OTC items are not exempt (according to the State Board of Pharmacy) because we must process everything here as a prescription.

5. Current medications.
6. Housing unit.

The pharmacy computer is not tied in to OBTS. We need to know where to send the prescription and we get this information from the PER.

7. Specific quantity to be dispensed.

This is especially important if the dosage is variable and prn. Example: 1-2 tablets Q 4-6H prn x 7 days. These directions are acceptable, but a specific quantity to issue must be written.

8. Signature of prescriber.

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Pharmacy Inservice Memo
March 1, 1994
Page 3

* Scan each PER for these elements before turning it into the Pharmacy. This will save time and efforts to back-track.

B. There have been problems with changes being made on the yellow PER but not documented in the profile. Examples: Lisinopril changed to Vasotec or Erythromycin changed to Tetracycline.

1. The prescriber who makes the change must follow through on documentation.
2. The changes must be initialed or signed.
3. ✓WAC 246-875-040... "Any order modified in the system must carry in the audit trail the unique identifier of the person who modified the order... that the changes be accurately documented in the record system, without destroying the original record or its audit trail."
4. The pharmacy will photocopy any PER's with changes and put the copies in the appropriate prescriber's box. This is to serve as a reminder to follow through on documentation.

C. USE OF "PRN" ON PILL LINE MEDICATIONS

1. If the directions are not written as prn, the inmate will be infraacted for failure to come to pill line.
2. Consider whether this is your intention when prn is not written.
3. If you write for a pill line medication, be sure to let the inmate know this so they understand that they must come to pill line. Example: Flexeril

D. MISSING PER'S

1. Occasionally the pharmacy does not receive a PER for items that must be entered on the patient's computer profile and accounted for by inventory.
2. Commonly missed items are: injections, TB tests, issued meds, crash cart or ER meds, office procedures.
3. If in doubt, write a PER and give the yellow copy to the pharmacy.

0862

Attachment 2 Zoff

E. NO MEDICATIONS TO STAFF

1. No exceptions.

Field Instruction MICC 600-025 "...medications will not be issued to staff members by the institution medical department for personal use."

2. PER's written by our prescribers for staff do not meet legal requirements of OBRA regulations - according to the State Board of Pharmacy.
3. Only emergency aid may be rendered pursuant to patient removal from the island by boat or med-i-vac to another emergency facility. Example: heart attack, stroke, broken leg.
4. These same regulations apply to Health Services personnel. Personal use of any medication from this facility by any staff is prohibited.
5. No exceptions.

II. AFTER-HOURS PHARMACY (MINI-PHARMACY)

A. ITEMS ARE NOT TO BE ISSUED FROM THE AFTER-HOURS PHARMACY WHILE THE MAIN PHARMACY IS OPEN.

1. If a stat dose is needed (other than a controlled substance) get it from the main pharmacy.

~~*~~ B. A PER MUST BE WRITTEN FOR ANY ITEM ISSUED FROM THE AFTER-HOURS PHARMACY (OR ER) AND SIGNED BY PA/MD.

1. Be sure to indicate how many tablets, bottles, tubes, etc. Be specific always! Example: Maalox 30cc prn, Acetaminophen 5 gr. take 1 or 2 tablets q4 if needed. Issued. - What was issued here? How many?
2. Be sure to write "issued" so that the pharmacy does not double issue the prescription.
3. All of these issued prescriptions are entered on the inmate's pharmacy computer profile and the inventory accounted for and replaced. Therefore, it is very important that these PER's are turned in to the pharmacy.

C. THE MINI-PHARMACY IS A RESTRICTED AREA.

1. Do not use this area for a break room or to work on projects.
2. Do not prop the door open.
3. Do not allow inmates physical or visual access to this area.
4. Limit use of the phone in this room because it is only an extension of the main pharmacy line and restricts the pharmacy's ability to place or receive calls if someone is using the phone.

~~X~~ D. TACKLE BOX

1. A small quantity of various medications which are not prepackaged are kept in the tackle box.
2. Only licensed prescribers (PA or MD) may label medications from the tackle box to be issued to inmates (this is a dispensing function).
3. Nurses may only administer a stat dose from the tackle box. They may not label a package for the inmate to take with them. Nurses may not dispense.
4. Labeling a package is a dispensing function, this is why the brown bags on the peg-board are pre-labeled.
- ✓ 5. Leave a PER for anything that was removed from the tackle box and the bottle that was used in the refill box under the pill line cart along with the broken seal.

E. INSULIN

1. If a bottle of insulin is running low, please request a refill from the pharmacy. Include the inmate's number and/or prescription number.
2. Do not use the emergency stock for routine refills.
3. If you must use an emergency bottle, please leave a note for the pharmacy so that we have accountability and can enter this on the appropriate computer profile and replace stock.
4. Date all bottles when opened. Request a new refill if a bottle is one month old

0864

F. RETURNS OR GO-BACKS VS. REFILLS

1. Note - there are two separate boxes in the mini-pharmacy.
 - a) Put refills and PER's in the box under the pill line cart.
 - b) Put returns (go-backs) in the box on the counter, far left corner.
2. Please indicate some reason for a return or go-back. Leave a note or write on the label. Examples: transferred, left MICC, sent to F-unit, went to Annex, refused, discontinued, confiscated, etc.
3. Do not leave medications in the break room, upstairs areas, or medical records. These are not secure areas. Put the items in the return box in the mini-pharmacy.

G. FUTURE OF THE AFTER-HOURS PHARMACY

1. We will soon be going to a two-label system for issued medications. More on this later.
2. Stock in the mini-pharmacy is being reassessed and will be reduced. Staff input is solicited.

III. EMERGENCY ROOM

- A. ALL PHARMACY STOCK USED OR ISSUED FROM THE EMERGENCY ROOM, CRASH CART, OR RESPONSE BAG NEEDS TO BE ACCOUNTED FOR BY A PER. Exceptions: Lidocaine injections, Hydrogen Peroxide (unless the bottle is issued to the inmate) and topical anti-infectives used for dressings.

B. EYE TRAY

1. An inventory of pharmacy items kept in the eye tray is taped to the top of the box.
2. The eye tray will be kept sealed so that pharmacy knows the stock is complete.
3. If an item is used or issued, write a PER for the pharmacy and indicate "issued from eye tray".

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Pharmacy Inservice Memo
March 1, 1994
Page 7

IV. PILL LINE ISSUES RELATED TO ISSUED MEDS

- A. A new policy will soon go into effect which will require inmates to pick up their prescriptions within 24 hours or be infracted. We are waiting for policy rewrite/okay for inmate notification before this becomes official.
 1. In the meantime, start letting inmates know of this as new orders are written.
 2. Start letting new chain inmates know.
- B. WHEN A PRESCRIPTION IS NOT IN THE ISSUE BOX
 1. Most prescriptions turned in for refill are ready by 11:30 pill line, and most new prescriptions turned in that morning are ready by 11:30. All prescriptions are finished before the pharmacy closes (unless the order is turned in after 3:15 p.m.).
 2. Therefore, if something appears to be missing or not filled, make a note of it so that it can be tracked down or call the pharmacy during noon pill line if time allows.
 3. It is not acceptable to tell the inmate to check back later without follow-up because often the order did not get pulled from the profile, or an order was not written, or the refill bag did not get turned in to the pharmacy.
 4. If for some reason the pharmacy cannot fill a prescription (because it is too soon, or an item is on order, etc), the pharmacy will write a note to the inmate which will be put in the issue box.

0866

Attachment 2 60/6

to meet the basic needs of the client, and gives nursing care under the direction and supervision of the registered nurse or licensed physician to clients in routine nursing situations. In more complex situations the licensed practical nurse functions as an assistant to the registered nurse and carries out selected aspects of the designated nursing regimen.

A routine nursing situation is one that is relatively free of scientific complexity. The clinical and behavioral state of the client is relatively stable and requires abilities based upon a comparatively fixed and limited body of knowledge.

In complex situations, the licensed practical nurse facilitates client care by meeting specific nursing requirements to assist the registered nurse in the performance of nursing care.

The functions of the licensed practical nurse makes practical nursing a distinct occupation within the profession of nursing. The licensed practical nurse has specific roles in nursing in direct relation to the length, scope and depth of his or her formal education and experience. In the basic program of practical nursing education, the emphasis is on direct client care.

With additional preparation, through continuing education and practice, the licensed practical nurse prepares to assume progressively more complex nursing responsibilities.

[Statutory Authority: RCW 18.78.050, 91-01-078 (Order 109B), recodified as § 246-838-020, filed 12/17/90, effective 1/31/91; 84-01-061 (Order PL 452), § 308-117-020, filed 12/19/83. Formerly WAC 308-116-010.]

WAC 246-838-026 Mandatory reporting. The board of practical nursing does not intend to cause every nursing error to be reported or that mandatory reporting take away the disciplinary ability and responsibility from the employer of the practical nurse.

(1) Any person, including health care facilities and agencies and state or local government, who is aware of a conviction or has made a determination or finding that a practical nurse has committed an act constituting unprofessional conduct as defined in RCW 18.130.180, including violation of chapter 246-838 WAC, shall report such conviction, determination or finding to the board.

(2) Any person, including health care facilities and agencies and state or local government, who has information that a practical nurse may not be able to practice with reasonable skill and safety as a result of a mental or physical condition, shall report such information to the board.

[Statutory Authority: RCW 18.78.054 and 18.130.070, 91-13-023 (Order 175B), § 246-838-026, filed 6/11/91, effective 7/12/91.]

* **WAC 246-838-030 Standards of conduct for discipline.** The standards of conduct for discipline serve as guidelines for the licensed practical nurse. Violation of these standards may be grounds for disciplinary action pursuant to RCW 18.130.180(7). The licensed practical nurse assumes a measure of responsibility, trust and the corresponding obligation to adhere to the standards of conduct, which include, but are not limited to the following:

(1) The licensed practical nurse, functioning under the direction and supervision of other licensed health care professionals as provided in RCW 18.78.010(5), shall be responsible and accountable for his or her own nursing judgments, actions and competence.

(2) The licensed practical nurse shall practice practical nursing in the state of Washington only with a current Washington license.

(3) The licensed practical nurse shall not permit his or her license to be used by another person for any purpose.

(4) The licensed practical nurse shall have knowledge of the statutes and rules governing licensed practical nurse practice and shall function within the legal scope of licensed practical nurse practice.

(5) The licensed practical nurse shall not aid, abet or assist any other person in violating or circumventing the laws or rules pertaining to the conduct and practice of licensed practical nursing.

(6) The licensed practical nurse shall not disclose the contents of any licensing examination or solicit, accept or compile information regarding the contents of any examination before, during or after its administration.

(7) The licensed practical nurse shall delegate activities only to persons who are competent and qualified to undertake and perform the delegated activities, and shall not delegate to unlicensed persons those functions that are to be performed only by licensed nurses.

(8) The licensed practical nurse, in delegating functions, shall supervise the persons to whom the functions have been delegated.

(9) The licensed practical nurse shall act to safeguard clients from unsafe practices or conditions, abusive acts, and neglect.

(10) The licensed practical nurse shall report unsafe acts and practices, unsafe practice conditions, and illegal acts to the appropriate supervisory personnel or to the appropriate state disciplinary board.

(11) The licensed practical nurse shall respect the client's privacy by protecting confidential information, unless required by law to disclose such information.

(12) The licensed practical nurse shall make accurate, intelligible entries into records required by law, employment or customary practice of nursing, and shall not falsify, destroy, alter or knowingly make incorrect or unintelligible entries into client's records or employer or employee records.

(13) The licensed practical nurse shall not sign any record attesting to the wastage of controlled substances unless the wastage was personally witnessed.

(14) The licensed practical nurse shall observe and record the conditions of a client, and report significant changes to appropriate persons.

(15) The licensed practical nurse may withhold or modify client care which has been authorized by an appropriate health care provider, only after receiving directions from an appropriate person, unless in a life threatening situation.

(16) The licensed practical nurse shall leave a nursing assignment only after properly reporting to and notifying appropriate persons and shall not abandon clients.

(17) The licensed practical nurse shall not misrepresent his or her education and ability to perform nursing procedures safely.

(18) The licensed practical nurse shall respect the property of the client and employer and shall not take equipment, materials, property or drugs for his or her own

use or benefit nor shall the licensed practical nurse solicit or borrow money, materials or property from clients.

(19) The licensed practical nurse shall not obtain, possess, distribute or administer legend drugs or controlled substances to any person, including self, except as directed by a person authorized by law to prescribe drugs.

(20) The licensed practical nurse shall not practice nursing while affected by alcohol or drugs, or by a mental, physical or emotional condition to the extent that there is an undue risk that he or she, as a licensed practical nurse, would cause harm to him or herself or other persons.

(21) It is inconsistent for a licensed practical nurse to perform functions below the minimum standards of competency as expressed in WAC 246-838-260.

[Statutory Authority: RCW 18.78.050, 92-17-023 (Order 296B), § 246-838-030, filed 8/10/92, effective 9/10/92. Statutory Authority: RCW 18.78.050 and 18.130.050, 92-02-046 (Order 231B), § 246-838-030, filed 12/27/91, effective 1/27/92. Statutory Authority: RCW 18.78.050, 91-01-078 (Order 109B), recodified as § 246-838-030, filed 12/17/90, effective 1/31/91. Statutory Authority: RCW 18.78.050, 18.130.050 (1) and (12) and 1986 c 259 § 19, 128 and 131, 86-18-031 (Order PM 612), § 308-117-025, filed 8/27/86. Statutory Authority: RCW 18.78.050, 36-01-084 (Order PL 574), § 308-117-025, filed 12/18/85.]

WAC 246-838-040 Licensure qualifications. (1) In order to be eligible for licensure by examination the applicant shall have satisfactorily completed an approved practical nursing program, fulfilling all the basic course content as stated in WAC 246-838-240, or its equivalent as determined by the board. Every applicant must have satisfactorily completed an approved practical nursing program within two years of the date of the first examination taken or the applicant must meet other requirements of the board to determine current theoretical and clinical knowledge of practical nursing practice.

(2) An applicant who has not completed an approved practical nurse program must establish evidence of successful completion of nursing and related courses at an approved school preparing persons for licensure as registered nurses, which courses include personal and vocational relationships of the practical nurse, basic science and psychosocial concepts, theory and clinical practice in medications and the nursing process, and theory and clinical practice in medical, surgical, geriatric, pediatric, obstetric and mental health nursing. These courses must be equivalent to those same courses in a practical nursing program approved by the board.

(3) A notice of eligibility for admission to the licensing examination may be issued to all new graduates from board approved practical nursing programs after the filing of a completed application, payment of the application fee, and official notification from the program certifying that the individual has satisfactorily completed all requirements for the diploma/certification.

(4) All other requirements of the statute and regulations shall be met.

[Statutory Authority: RCW 18.130.050 and 18.78.050, 94-08-050 § 246-838-040, filed 4/1/94, effective 5/2/94; 91-13-023 (Order 175B), § 246-838-040, filed 6/11/91, effective 7/12/91. Statutory Authority: RCW 18.78.050, 91-01-078 (Order 109B), recodified as § 246-838-040, filed 12/17/90, effective 1/31/91. Statutory Authority: RCW 18.78.050, 18.78.054, 18.78.060, 18.78.072, 18.78.090, 18.78.225, 18.130.050 and 70.24.270, 88-24-017 (Order PM 768), § 308-117-030, filed 12/1/88. Statutory Authority: RCW 18.78.050, 18.78.054, 18.78.060, 18.130.050 and SHB 1404, 1988 c

(41/94)

211, 88-18-005 (Order PM 768), § 308-117-030, filed 8/25/88. Statutory Authority: 18.78.050, 18.78.060 and 18.130.050, 88-08-034 (Order PM 718), § 308-117-030, filed 4/1/88. Statutory Authority: RCW 18.78.050, 84-01-061 (Order PL 452), § 308-117-030, filed 12/19/83. Formerly WAC 308-116-295.]

WAC 246-838-050 Licensing examination. (1) In order to be licensed in this state, all practical nurse applicants shall take and pass the National Council Licensure Examination (NCLEX) for Practical Nurses.

(2) The executive secretary of the board shall negotiate with the National Council of State Boards of Nursing, Inc. (NCSBN) for the use of the NCLEX.

(3) The examination shall be administered in accord with the NCSBN security measures and contract. All appeals of examination results shall be managed in accord with policies in the NCSBN contract.

[Statutory Authority: RCW 18.78.050, 93-21-006, § 246-838-050, filed 10/7/93, effective 11/7/93; 92-17-023 (Order 296B), § 246-838-050, filed 8/10/92, effective 9/10/92; 91-01-078 (Order 109B), recodified as § 246-838-050, filed 12/17/90, effective 1/31/91. Statutory Authority: RCW 18.78.050, 18.78.054, 18.78.060, 18.130.050 and SHB 1404, 1988 c 211, 88-18-005 (Order PM 768), § 308-117-040, filed 8/25/88. Statutory Authority: RCW 18.78.050, 34-01-061 (Order PL 452), § 308-117-040, filed 12/19/83.]

WAC 246-838-060 Release of results of examination. (1) Applicants shall be notified regarding the examination results by mail only. The results will not be released until the candidate's official transcript is on file with the board.

(2) Applicants who pass shall receive a license to practice as a licensed practical nurse provided all other requirements are met.

(3) Applicants who fail shall receive a letter of notification regarding their eligibility to retake the examination.

(4) In addition to a listing of the names of graduates indicating whether each passed or failed the examination, each practical nursing program in Washington shall receive a statistical report of the examination results of applicants from that school and a report of state and national statistics.

(5) Examination results for all candidates will be maintained in the application files in the division of professional licensing services, department of health.

[Statutory Authority: RCW 18.78.050 and 18.130.050, 91-13-023 (Order 175B), § 246-838-060, filed 6/11/91, effective 7/12/91. Statutory Authority: RCW 18.78.050, 91-01-078 (Order 109B), recodified as § 246-838-060, filed 12/17/90, effective 1/31/91. Statutory Authority: RCW 18.78.050, 18.78.054, 18.78.060, 18.130.050 and SHB 1404, 1988 c 211, 88-18-005 (Order PM 768), § 308-117-050, filed 8/25/88. Statutory Authority: RCW 18.78.050, 84-01-061 (Order PL 452), § 308-117-050, filed 12/19/83.]

WAC 246-838-070 Filing of application for licensing examination. (1) All applicants shall file with the Washington state board of practical nursing a completed application, with the required fee. The fee is not refundable.

(2) Applicants shall submit with the application one recent U.S. passport identification photograph of the applicant unmounted and signed by the applicant across the front.

(3) Applicants shall request the school of nursing to send an official transcript directly to the board of practical nursing. The transcript shall contain adequate documentation to verify that statutory requirements are met and shall

[Ch. 246-838-030, 3]

Attachment 3 20/2

monitoring records reported to the disciplining authority for cause as defined in subsection (3) of this section. Monitoring records relating to license holders referred to the program by the disciplining authority or relating to license holders reported to the disciplining authority by the program for cause, shall be released to the disciplining authority at the request of the disciplining authority. Records held by the disciplining authority under this section shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena except by the license holder.

(5) "Substance abuse," as used in this section, means the impairment, as determined by the disciplining authority, of a license holder's professional services by an addiction to, a dependency on, or the use of alcohol, legend drugs, or controlled substances.

(6) This section does not affect an employer's right or ability to make employment-related decisions regarding a license holder. This section does not restrict the authority of the disciplining authority to take disciplinary action for any other unprofessional conduct.

(7) A person who, in good faith, reports information or takes action in connection with this section is immune from civil liability for reporting information or taking the action.

(a) The immunity from civil liability provided by this section shall be liberally construed to accomplish the purposes of this section and the persons entitled to immunity shall include:

- (i) An approved monitoring treatment program;
- (ii) The professional association operating the program;
- (iii) Members, employees, or agents of the program or association;
- (iv) Persons reporting a license holder as being impaired or providing information about the license holder's impairment; and
- (v) Professionals supervising or monitoring the course of the impaired license holder's treatment or rehabilitation.

(b) The immunity provided in this section is in addition to any other immunity provided by law. [1993 c 367 § 3; 1991 c 3 § 270; 1988 c 247 § 2.]

Legislative intent—1988 c 247: "Existing law does not provide for a program for rehabilitation of health professionals whose competency may be impaired due to the abuse of alcohol and other drugs.

It is the intent of the legislature that the disciplining authorities seek ways to identify and support the rehabilitation of health professionals whose practice or competency may be impaired due to the abuse of drugs or alcohol. The legislature intends that such health professionals be treated so that they can return to or continue to practice their profession in a way which safeguards the public. The legislature specifically intends that the disciplining authorities establish an alternative program to the traditional administrative proceedings against such health professionals." [1988 c 247 § 1.]

~~X~~ RCW 18.130.130 Unprofessional conduct. The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary

hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW:

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

(5) Suspension, revocation, or restriction of the individual's license to practice the profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(6) The possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining authority by:

- (a) Not furnishing any papers or documents;
- (b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority; or
- (c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceeding;

(9) Failure to comply with an order issued by the disciplinary authority or a stipulation for informal disposition entered into with the disciplinary authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) Violations of rules established by any health agency;

(12) Practice beyond the scope of practice as defined by law or rule;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW:

(18) The procuring, or aiding or abetting in procuring, a criminal abortion;

(19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

(20) The willful betrayal of a practitioner-patient privilege as recognized by law;

(21) Violation of chapter 19.68 RCW;

(22) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;

(23) Current misuse of:

(a) Alcohol;

(b) Controlled substances; or

(c) Legend drugs;

(24) Abuse of a client or patient or sexual contact with a client or patient;

(25) Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services intended for patients, in contemplation of a sale or for use in research publishable in professional journals, where a conflict of interest is presented, as defined by rules of the disciplining authority, in consultation with the department, based on recognized professional ethical standards. [1993 c 367 § 22. Prior: 1991 c 332 § 34; 1991 c 215 § 3; 1989 c 270 § 33; 1986 c 259 § 10; 1984 c 279 § 13.]

Application to scope of practice—Captions not law—1991 c 332: See notes following RCW 18.130.010.

Severability—1986 c 259: See note following RCW 18.130.010.

RCW 18.130.185 Injunctive relief for violations of RCW 18.130.170 or 18.130.180. If a person or business regulated by this chapter violates RCW 18.130.170 or 18.130.180, the attorney general, any prosecuting attorney, the secretary, the board, or any other person may maintain an action in the name of the state of Washington to enjoin the person from committing the violations. The injunction shall not relieve the offender from criminal prosecution, but the remedy by injunction shall be in addition to the liability of the offender to criminal prosecution and disciplinary action. [1993 c 367 § 8; 1987 c 150 § 3; 1986 c 259 § 15.]

Severability—1987 c 150: See RCW 18.122.901.

Severability—1986 c 259: See note following RCW 18.130.010.

RCW 18.130.186 Voluntary substance abuse monitoring program—Content—License surcharge. (1) To implement a substance abuse monitoring program for

(1994)

license holders specified under RCW 18.130.040, who are impaired by substance abuse, the disciplinary authority may enter into a contract with a voluntary substance abuse program under RCW 18.130.175. The program may include any or all of the following:

(a) Contracting with providers of treatment programs;

(b) Receiving and evaluating reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment;

(d) Referring impaired license holders to treatment programs;

(e) Monitoring the treatment and rehabilitation of impaired license holders including those ordered by the disciplinary authority;

(f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired license holders; and

(g) Performing other activities as agreed upon by the disciplinary authority.

(2) A contract entered into under subsection (1) of this section may be financed by a surcharge on each license issuance or renewal to be collected by the department of health from the license holders of the same regulated health profession. These moneys shall be placed in the health professions account to be used solely for the implementation of the program. [1993 c 367 § 9; 1989 c 125 § 3.]

RCW 18.130.190 Practice without license—Investigation of complaints—Cease and desist orders—Injunctions—Penalties. (1) The secretary shall investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by the chapters specified in RCW 18.130.040. In the investigation of the complaints, the secretary shall have the same authority as provided the secretary under RCW 18.130.050.

(2) The secretary may issue a notice of intention to issue a cease and desist order to any person whom the secretary has reason to believe is engaged in the unlicensed practice of a profession or business for which a license is required by the chapters specified in RCW 18.130.040. The person to whom such notice is issued may request an adjudicative proceeding to contest the charges. The request for hearing must be filed within twenty days after service of the notice of intention to issue a cease and desist order. The failure to request a hearing constitutes a default, whereupon the secretary may enter a permanent cease and desist order, which may include a civil fine. All proceedings shall be conducted in accordance with chapter 34.05 RCW.

(3) If the secretary makes a final determination that a person has engaged or is engaging in unlicensed practice, the secretary may issue a cease and desist order. In addition, the secretary may impose a civil fine in an amount not exceeding one thousand dollars for each day upon which the person engaged in unlicensed practice of a business or profession for which a license is required by one or more of the chapters specified in RCW 18.130.040. The proceeds of such fines shall be deposited to the health professions account.

(4) If the secretary makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the secretary may issue a temporary cease

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(Ch. 18.130—p. 9)

nurse anesthetist. "Protocol" means a statement regarding practice and documentation concerning such items as categories of patients, categories of medications, or categories of procedures rather than detailed case-specific formulas for the practice of nurse anesthesia.

(2) In the context of the definition of licensed practical nursing practice, this chapter shall not be construed as:

(a) Prohibiting the incidental care of the sick by domestic servants or persons primarily employed as housekeepers, so long as they do not practice practical nursing within the meaning of this chapter;

(b) Preventing a person from the domestic administration of family remedies or the furnishing of nursing assistance in case of emergency;

(c) Prohibiting the practice of practical nursing by students enrolled in approved schools as may be incidental to their course of study or prohibiting the students from working as nursing assistants;

(d) Prohibiting auxiliary services provided by persons carrying out duties necessary for the support of nursing services, including those duties that involve minor nursing services for persons performed in hospitals, nursing homes, or elsewhere under the direction of licensed physicians or the supervision of licensed registered nurses;

(e) Prohibiting or preventing the practice of nursing in this state by a legally qualified nurse of another state or territory whose engagement requires him or her to accompany and care for a patient temporarily residing in this state during the period of one such engagement, not to exceed six months in length, if the person does not represent or hold himself or herself out as a licensed practical nurse licensed to practice in this state;

(f) Prohibiting nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of a church by adherents of the church so long as they do not engage in licensed practical nursing practice as defined in this chapter;

(g) Prohibiting the practice of a legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof, while in the discharge of his or her official duties. [1994 1st sp.s. c 9 § 424.]

RCW 18.79.250 Advanced registered nurse practitioner—Activities allowed. An advanced registered nurse practitioner under his or her license may perform for compensation nursing care, as that term is usually understood, of the ill, injured, or infirm, and in the course thereof, she or he may do the following things that shall not be done by a person not so licensed, except as provided in RCW 18.79.260 and 18.79.270:

(1) Perform specialized and advanced levels of nursing as recognized jointly by the medical and nursing professions, as defined by the commission;

(2) Prescribe legend drugs and Schedule V controlled substances, as defined in the Uniform Controlled Substances Act, chapter 69.50 RCW, within the scope of practice defined by the commission;

(3) Perform all acts provided in RCW 18.79.260;

(4) Hold herself or himself out to the public or designate herself or himself as an advanced registered nurse

practitioner or as a nurse practitioner. [1994 1st sp.s. c 9 § 425.]

RCW 18.79.260 Registered nurse—Activities allowed. A registered nurse under his or her license may perform for compensation nursing care, as that term is usually understood, of the ill, injured, or infirm, and in the course thereof, she or he may do the following things that shall not be done by a person not so licensed, except as provided in RCW 18.79.270:

(1) At or under the general direction of a licensed physician and surgeon, dentist, osteopathic physician and surgeon, podiatric physician and surgeon, physician assistant, osteopathic physician assistant, or advanced registered nurse practitioner acting within the scope of his or her license, administer medications, treatments, tests, and inoculations, whether or not the severing or penetrating of tissues is involved and whether or not a degree of independent judgment and skill is required;

(2) Delegate to other persons engaged in nursing, the functions outlined in subsection (1) of this section;

(3) Instruct nurses in technical subjects pertaining to nursing;

(4) Hold herself or himself out to the public or designate herself or himself as a registered nurse. [1994 1st sp.s. c 9 § 426.]

~~**RCW 18.79.270 Licensed practical nurse—Activities allowed.** A licensed practical nurse under his or her license may perform nursing care, as that term is usually understood, of the ill, injured, or infirm, and in the course thereof may, under the direction of a licensed physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician and surgeon, physician assistant, osteopathic physician assistant, advanced registered nurse practitioner acting under the scope of his or her license, or at the direction and under the supervision of a registered nurse, administer drugs, medications, treatments, tests, injections, and inoculations, whether or not the piercing of tissues is involved and whether or not a degree of independent judgment and skill is required, when selected to do so by one of the licensed practitioners designated in this section, or by a registered nurse who need not be physically present; if the order given is reduced to writing within a reasonable time and made a part of the patient's record. [1994 1st sp.s. c 9 § 427.]~~

RCW 18.79.280 Administration of drugs, injections, inoculations, tests, treatment allowed. It is not a violation of chapter 18.71 RCW or of chapter 18.57 RCW for a registered nurse, at or under the general direction of a licensed physician and surgeon, or osteopathic physician and surgeon, to administer prescribed drugs, injections, inoculations, tests, or treatment whether or not the piercing of tissues is involved. [1994 1st sp.s. c 9 § 428.]

RCW 18.79.290 Catheterization of public and private school students—Rules. (1) In accordance with rules adopted by the commission, public school districts and private schools that offer classes for any of grades kindergarten through twelve may provide for clean, intermittent bladder catheterization of students or assisted self-catheter-

D LAKE
Employee Name (Please Print)

**ACKNOWLEDGEMENT OF RECEIPT OF
DOC EMPLOYEE HANDBOOK**

I acknowledge receipt of the June 1993 Washington State Department of Corrections Employee Handbook and agree to become familiar with and have a thorough knowledge and understanding of the contents.

[Handwritten Signature]
Employee Signature

9/10/93
Date

Original - Personnel File

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Attachment 6 1061

- Provide for restitution;
- Be accountable to the citizens of the state;
- Meet the national standards appropriate to the State of Washington.

CODE OF ETHICS

High moral and ethical standards among correctional employees are essential for the success of the department's programs. The Department of Corrections subscribes to a code of unflinching honesty, respect for dignity and individuality of human beings, and a commitment to professional and compassionate service.

DEPARTMENT EXPECTATIONS

As a new employee of the department, you will have many things to learn, not the least of which will be the expectations of your supervisor, your co-workers, and the agency as a whole. To assist you with this responsibility, following is a list of some departmental expectations for your study. Familiarize yourself with the list so that you may understand and fulfill the duties of your position.

As a representative of the Department of Corrections, you will be expected to:

- Positively represent Washington State government to everyone you meet. You are our best public relations agent;
- Dress appropriately for your job classification and duties. Clothing may not have mottos, logos, or advertisements that may be offensive or in conflict with the goals of the Department;
- Wear issued uniforms only as authorized;
- Be a good citizen, obey laws while on and off-duty. Your conduct off duty may reflect on your fitness for duty;
- Treat fellow staff with dignity and respect;
- Be impartial, understanding and respectful to offenders;
- Serve each offender with appropriate concern for their welfare and with no purpose of personal gain;

- Report all personal contact from offenders, their families, or known associates, outside your job in accordance with department procedures;
- Report through the proper chain of command any corrupt or unethical behavior which could affect an offender or the department's integrity;
- Remain constantly alert in all situations;
- Custody staff: remain at your job/post until properly relieved;
- Let your supervisor know about any personal, emergency use of equipment or phones;
- Obtain appropriate permission before removing any state property from state premises;
- Conduct yourself and perform your duties safely;
- Smoke only in designated smoking areas.

It is also important as a new employee, that you understand some of the specific prohibitions that the department must enforce. You are not allowed to:

- Discriminate against any offender, employee, prospective employee, or volunteer on the basis of race, color, religion, gender, sexual orientation, age, creed, national origin, marital status, veteran status or disability;
- Use profanity or inflammatory remarks with offenders or individuals with whom you work;
- Report to work under the influence of alcohol or drugs;
- Traffic or bring any article of contraband into an institution, facility or office;
- Barter or make personal deals with offenders, offender families or visitors;
- Engage in personal relationships with offenders, their family members, or close personal associates;



TITLE

ETHICS

Page 1 of 3

EFFECTIVE DATE: January 1, 1995

AUTHORITY:

General authority of the Secretary of Corrections to manage and direct the Department, RCW 72.09.050.

PURPOSE:

This policy provides direction to Department of Corrections employees to assist them in making appropriate choices, acting in a manner that demonstrates high ethical standards, and complying with provisions of the State Ethics Law, Chapter 42.52 RCW.

This policy is not intended to supplant other directions provided employees in the form of policies, procedures, field instructions, the Employee Handbook, desk manuals, and other official documents of the Department.

APPLICABILITY:

All employees of the Department.

DEFINITION:

Gift - A gift is defined as anything of economic value for which no consideration is given in return. For purposes of this policy, the following items are excluded from the definition of gift:

- a. Items from family, friends, or other employees if their clear purpose is not to influence the employee's performance or non-performance of their official duties.
- b. Unsolicited plaques and awards of appreciation.
- c. Items of nominal value, regularly and normally offered by an organization (to customers, potential customers, or the general public) as samples or for public relations or advertising purposes.
- d. Food and beverages on infrequent occasions in the ordinary course of meals, when related to official duties.

POLICY:

In keeping with the Department role of responsibly serving the people of the state of Washington, Department employees are expected to maintain high professional and ethical standards at all times.

The Department has adopted a statement of values that exemplifies standards and principles that serves to guide individual behavior. (The Employee Handbook contains information on these and other areas of responsibility and expectations.)

The State Ethics Law, Chapter 42.52 RCW provides specific requirements that, when followed, will help ensure that no employees obtain personal gain or private advantage from their official position. Employees are to avoid actions that create even the appearance of using their position for personal gain or private advantage for themselves or another person.

Restrictions:

The following four restrictions provide overall direction. Any specific situation must be viewed within the context of these general provisions.

1. Employees shall not have a financial or other interest, or engage in any business or professional activity that is in conflict with their official duties.
2. Employees shall not use their official position to secure special privileges for themselves or any other person.
3. Employees shall not receive any compensation from a source except the state, for performing or deferring the performance of any official duty.

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4. Employees shall not accept any gifts.

Additional restrictions placed upon employees include, but are not limited to, the following:

1. Employees shall not disclose confidential information to an unauthorized person or use confidential information for personal benefit or to benefit another.
2. Employees shall not use state resources for personal benefit or to benefit another except as may be required during the execution of their official duties.
3. Employees shall not use state resources for political campaigns.
4. Former employees shall not accept employment or compensation from an employer contracting with the Department (within one year of leaving state employment) if during the two years immediately preceding termination of state employment they negotiated or administered a contract with the new employer in excess of \$10,000 and their duties with the new employer would include fulfilling or implementing that contract.
5. Former employees shall not (within two years following the termination of state employment) have a beneficial interest in a contract or grant which was expressly authorized or funded by executive action in which the employee participated.
6. Employees may not assist another person in a transaction involving the state if they participated in that transaction or such transaction was within their job responsibilities anytime within the past two years except as may be required during the execution of their official duties.

Responsibilities:

Employees are responsible for knowing and adhering to applicable ethics laws, policies, and directives and for making choices that exemplify an adherence to high ethical standards. It is incumbent upon employees to bring to the attention of their supervisor any actual or potential violations of this policy. When in doubt, employees should consult with their supervisor and/or personnel officer.

Violations of the State Ethics Law and/or this policy may lead to corrective or disciplinary action up to and including dismissal.

Appointing authorities or their designees will be a single point of contact in their organization who will respond to questions and/or complaints regarding this policy and other ethics-related issues.

The personnel office will assist in the identification and resolution of potential problems and interpretation of ethics-related laws, policies, and directives.

Alleged violation(s) of the State Ethics Law may also be filed directly with the Executive Ethics Board at the following address:

Executive Ethics Board
1125 Washington Street
Post Office Box 40100
Olympia, Washington 98504-0100

The Board has the authority and responsibility for investigating such complaints and may take punitive action against the employee and/or agency if violations occurred.



TITLE

ETHICS

Page 3 of 3

REFERENCE:

The State Ethics Law (Chapter 42.52 RCW); DOC Employee Handbook; DOC Policy 857.005 - Corrective Action/Disciplinary Action.

Other related policies: 210.060 - Donations; 280.515 - Records Management - Disclosure of Public Records; 806.005 - Memberships in Professional and Nonprofit Organizations; 815.005 - Criminal Record Disclosure and Utilization; 816.010 - Employment of Relatives; 854.025 - Outside Employment; 854.050 - Employee Participation as Board Members; 854.075 - Employee Relationships with DOC Offenders.

SUPERSESSION:

DOC Policy 854.005 Conflict of Interest-Employees, Offenders, and Organizations dated January 1, 1993; and DOC Policy 100.600 Confidentiality dated December 1, 1987.

Chase Riveland, Secretary

Date



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

RECEIVED

JAN 09 1996

Department of Corrections
Division of Human Resources

January 3, 1996

Donna L. Evans
[REDACTED]

PERSONAL SERVICE ---
CONFIDENTIAL

Ms. Evans:

This is official notification of your immediate suspension, at 12:01 a.m. on January 8, 1996 through 12:00 midnight on January 22, 1996, followed by your dismissal effective at 12:01 a.m. on January 23, 1996, from your position as a Licensed Practical Nurse 3 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 and (i) Willful violation of published employing agency or Department of Personnel rules and regulations, RCW 356-34-040 Dismissal -- Notification and RCW 356-34-050 Suspension – Followed by dismissal.

Specifically, you neglected your duty, committed act(s) of gross misconduct and willfully violated published employing agency rules when you, by your own admission during the administrative review of this incident, accessed and dispensed medication inappropriately, and without proper documentation (i.e., Primary Encounter Report, PER), from the MICC mini-pharmacy tackle box when you removed 10 Furosemide 40 mg tablets sometime between June 28, 1995, and July 14, 1995, without having been directed or ordered to do so by a PA or Physician. This incident is described in detail in the Employee Conduct Report (ECR) completed on December 5, 1995 (Attachment 1).

The mini-pharmacy is a restricted area, providing accessibility to narcotics and prescription/legend drugs on an emergency basis for appropriately licensed health services staff from 6 p.m. to 6 a.m. (during off duty hours for pharmacy staff). Pharmacy staff began tracking medications, that were not documented with an associated PER, beginning in May, 1995. Specifically, Pharmacy Assistant Jan White was tasked with daily checking of the tackle box, that was located in the mini pharmacy, documenting when the tamper-evident seal was broken. When the seal was broken, she checked the

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CHASE RIVELAND
Secretary



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

✓ RECEIVED
JAN 09 1996
Department of Corrections
Division of Human Resources

January 3, 1996

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[REDACTED]

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enclosed vials for replenishment of medications as needed. She also noted and reported to her supervisor, any discrepancies in the number of tablets that were undocumented (i.e., no PER was completed). On June 27, 1995, Ms. White found the tamper-evident seal broken and found that seven Furosemide tablets were missing (between June 5, 1995 and June 27, 1995). No PER's were written during this time for the drug. On June 28, 1995, Ms. White restocked the tackle box in Vial No. 2 with 25 tablets of Furosemide 40mg. On July 14, 1995, Ms. White found the tamper-evident seal on the tackle box broken. She counted the tablets and found only 15 of the 25 that had been placed in the vial. No PER's were written for the missing 10 tablets.

Vial No. 2, when the final discrepancy was discovered on July 14, 1995, was properly stored and delivered to James Cooper of the MICC Intelligence and Investigations office. When checked, it yielded clear fingerprints that were identified as your own.

There is no documentation establishing the medication that you removed was dispensed appropriately to the MICC inmate population, nor have you provided any supporting documentation of legitimate reasons you would have taken the tablets. In fact, you admitted to me that you failed to follow procedure by preparing the PERS for signature when you gathered medications upon the direction of a PA or Physician.

A Pharmacy In-Service Memorandum, dated March 3, 1994, (Attachment 2), which you admit having knowledge of, states, in pertinent part:

"A PER must be written for any item issued from the after-hours Pharmacy (or ER) and signed by a PA/MD.

Leave a PER for anything that was removed from the tackle box and the bottle that was used in the refill box under the pill line cart along with the broken seal."

WAC 246-838-030 Standards of conduct for discipline, which outlines the level of standards of professional conduct for licensed practical nurses, (Attachment 3) states, in pertinent part:

"The licensed practical nurse assumes a measure of responsibility, trust and the corresponding obligation to adhere to the standards of conduct, which include, but are not limited to the following:

(1) . . . shall be responsible and accountable for his or her own nursing judgements, actions . . .

(5) The licensed practical nurse shall not abide, abet or assist any other person in violating or circumventing the laws or rules pertaining to the conduct and practice of licensed practical nursing.

(10) The licensed practical nurse shall report unsafe acts and practices, unsafe practice conditions, and illegal acts to the appropriate supervisory personnel . . .

(12) The licensed practical nurse shall make accurate, intelligible entries into records required by law, employment, or customary practice . . .

(18) The licensed practical nurse shall respect the property of the . . . employer and shall not take . . . drugs for his or her own use or benefit.

(19) The licensed practical nurse shall not obtain, possess, distribute or administer legend drugs . . . to any person, including self, except as directed by a person authorized by law to prescribe drugs.

RCW 18.130.180 Unprofessional Conduct (Attachment 4) 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:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not.

(7) Violation of any state or federal statute or administrative rule regulating the profession in question including any . . . rule defining or establishing standards of . . . professional conduct or practice.

(23) Current misuse of:

(c) Legend drugs."

RCW 18.79.270 Licensed Practical Nurse – Activities allowed (Attachment 5) states, in pertinent part:

"A licensed practical nurse under his or her license may perform nursing care, . . . and in the course thereof may, under the direction of a licensed physician . . . physician assistant, . . . administer drugs, medications, . . . when selected to do so by one of the licensed practitioners designated in this section, . . . if the order given is reduced to writing within a reasonable time and made a part of the patient's record."

On September 10, 1993, you signed for your receipt (Attachment 6) of the DOC Employee Handbook, which states, in pertinent part on pages two through four (Attachment 7):

"CODE OF ETHICS

High moral and ethical standards among correctional employees are essential for the success of the department's programs. The Department of Corrections subscribes to a code of unfailing honesty, respect for dignity and individuality of human beings, and a commitment to professional and compassionate service."

DOC Policy 801.001 Ethics (Attachment 8) states, in pertinent part:

"POLICY.

Restrictions:

Additional restriction placed upon employees include, but are not limited to the following:

2. Employees shall not use state resources for personal benefit or to benefit another except as may be required during the execution of their official duties.

Responsibilities

Violations of the State Ethics Law and/or this policy may lead to corrective or disciplinary action up to and including dismissal."

You have a duty to follow the licensing standards and uphold the professional conduct entrusted to you as a licensed practical nurse. You also have a duty to follow procedure that is designed to support you in accomplishment of your professional service to the DOC inmate population, using resources properly and not for your personal use.

Your actions in this matter were irresponsible, unprofessional, unethical and counterproductive to achieving the Department's mission to provide fair and equitable treatment to inmates while they are under our supervision. You neglected your duty to follow the professional standards of your licensure which includes honest and responsible execution of your duties and the expectations of your employer. By your actions you did not properly complete associated paperwork when you accessed drugs in the mini-pharmacy tackle box and lied about accessing the medications. Your behavior was a willful violation of published agency rules and regulations as identified, a neglect of your duty as outlined in the licensing guidelines cited and rises to the level of gross misconduct.

As a result of the administrative review held on November 17, 1995, I determined, and verbally notified you and your representatives at that time, that misconduct had occurred. We convened in a Loudermill hearing on November 20, 1995, to discuss your possible

Donna L. Evans
January 3, 1996
Page 5 of 5

termination. You were allowed an opportunity to fully discuss and refute the charges and/or to present reasons why your termination was not appropriate. Throughout that meeting you demonstrated that you do not accept your responsibilities in this matter, stating that everyone was lax and that's just the way it was done. By your actions and your repeated failure to recognize your lack of responsibility in this matter, you have lost my trust in your ability to honestly and professionally perform your duties. I find your attitude and defense of your actions and admitted failure to follow procedure intolerable and unprofessional. This is not the standard of professional performance that I expect of staff, especially staff with access to controlled substances and who are responsible for the medical health and welfare of the inmate population.

In addition, you provided no defense or plausible explanation for your fingerprints to be on Vial No. 2, when the 10 missing Furosemide tablets were discovered. I can only conclude that you have lied about your contention that you did not access the vial, and you stole the tablets and used them inappropriately. Therefore, I find that your immediate suspension, followed by termination is fully warranted.

Attachments one through eight are attached hereto and by this reference, made a part of 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 State Corrections Employee 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.

for - Jacqueline Campbell

Belinda D. Stewart, Superintendent
McNeil Island Corrections Center

Attachment(s)

cc: Tom Rolfs, Director, Division of Prisons
Jennie Adkins, Director, Division of Human Resources
Donna Grazzini, WWC Area Personnel Manager
Linda Dalton, Sr. Assistant Attorney General
Katherine Deuel, MICC Personnel Officer
Employee Personnel File

0882

*** CONFIDENTIAL ***

DEPARTMENT OF CORRECTIONS
DISCIPLINARY ACTION AUTHORIZATION

RECEIVED

DEC 15 1995

Donna L EVANS
Employee's Name

OFFICE OF ATTORNEY GENERAL
LABOR & PERSONNEL DIVISION

<p style="text-align: center;"><u>12/14/95</u> Date Received at Headquarters</p> <p style="text-align: center;"><u>LPN3</u> Employee's Job Classification</p> <p style="text-align: center;"><u>MICC</u> Employee's Job Location</p> <p style="text-align: center;"><u>Kathy Deuel 206-512-6605</u> Assigned Personnel Officer/Phone #</p>	<p style="text-align: center;">RECOMMENDED ACTION:</p> <p>Reduction in Pay: _____ (Percentage/Length)</p> <p>Demotion to: _____ (Job Classification)</p> <p>Suspension: <u>1/1/96 - 1/15/96</u> (Length)</p> <p>Dismissal: _____ (Effective)</p>
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RECEIVED
Summary's Name
DEC 22 1995
Department of Corrections

The attached disciplinary action has been reviewed as noted below. "This information is provided under the attorney/client relationship and invokes that privilege. It should be considered CONFIDENTIAL in nature."

Initials/Title	Date	Approve	Disapprove	Comments
DHR Director <i>JL</i>	12/15/95	✓		<i>Potential issues re fingerprints need comment by AAG's - When we fingerprint employees we give us indication that they will cover.</i>
AAG Valerie Petrie	<i>VP</i> 12/20/95	✓		[REDACTED]
Appropriate Division Director <i>TRK</i>	12/22/95	✓		<i>There is nothing I know of that precludes us asking for fingerprints. Ms. Evans could have refused or even asked why we were taking them. She has known since</i> →
DOC Secretary <i>[Signature]</i>	12/22/95	✓		

Please hand deliver to all reviewers and return to Kristi Walters, DHR, 8th Floor, MS: 41102.

be used for anything other than background checks. Is
this use of fingerprint cards from personnel files a problem
if we haven't notified at outset that they may be used
when investigating possible misconduct?
(MS. 68005)

November 17
~~she~~ ~~was~~ ~~found~~ ~~guilty~~ ~~of~~ ~~misconduct~~. There is no evidence that she has
challenged the findings or use of fingerprints, either after being notified she
engaged in misconduct nor after the Loughmiller hearing Nov. 20.

December 14, 1995

60 Days = Feb. 5, 1996
IMMEDIATE SUSP/DISMISSAL
WPD = NS

Donna L. Evans
[Redacted]

PERSONAL SERVICE --
CONFIDENTIAL

Ms. Evans:

This is official notification of your immediate suspension, at 12:01 a.m. on January 1, 1996 through 12:00 midnight on January 15, 1996, followed by your dismissal effective at 12:01 a.m. on January 16, 1996, from your position as a Licensed Practical Nurse 3 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 and (i) Willful violation of published employing agency or Department of Personnel rules and regulations, RCW 356-34-040 Dismissal -- Notification and RCW 356-34-050 Suspension -- Followed by dismissal.

Specifically, you neglected your duty, committed act(s) of gross misconduct and willfully violated published employing agency rules when you, by your own admission during the administrative review of this incident, accessed and dispensed medication inappropriately, and without proper documentation (i.e., ^{Primary(?)} Personal Encounter Report, PER), from the MICC mini-pharmacy tackle box when you removed 10 Furosemide 40 mg tablets sometime between June 28, 1995, and July 14, 1995, without having been directed or ordered to do so by a PA or Physician, apparently taking the tablets for your personal use. This incident is described in detail in the Employee Conduct Report (ECR) completed on December 5, 1995 (Attachment 1).

X



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

STATE OF WASHINGTON
PERSONNEL APPEALS BOARD

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

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RECEIVED
SEP 25 1996

Department of
Division of Human Resources

September 25, 1996

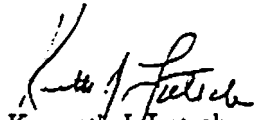
Robert F. Spaulding
Attorney at Law
P.O. Box 7846
Olympia, WA 98507-7846

RE: Donna L. Evans v. Department of Corrections, Dismissal Appeal,
Case No. DISM-96-0005

Dear Mr. Spaulding:

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 September 25, 1996.

Sincerely,


Kenneth J. Latsch
Executive Secretary

KJL:tmp
Enclosure

cc: Donna L. Evans
Valerie B. Petrie, AAG
Jennie Adkins, PO
Kirk Hanson, REP

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BEFORE THE PERSONNEL APPEALS BOARD
STATE OF WASHINGTON

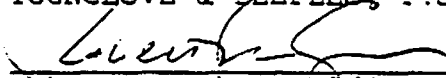
DONNA L. EVANS,)
)
Appellant,) NO. DISM 96-0005
v.)
)
DEPARTMENT OF CORRECTIONS,) MOTION AND ORDER OF DISMISSAL
Respondent.)

MOTION

The appellant hereby notifies the Personnel Appeals Board that she wishes to withdraw the above-entitled appeal.

DATED this 30th day of August, 1996.

SWANSON, PARR, CORDES,
YOUNGLOVE & PEEPLES, P.S.


Robert Frank Spaulding, WSPA#17323
Attorney for Appellant

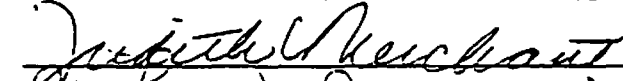

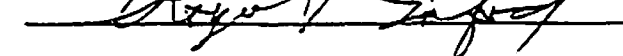
ORDER

This matter came on regularly before the Personnel Appeals Board on the consideration of the request of the appellant to withdraw her appeal. The Board having reviewed the files and records herein, being fully advised in the premises, and it appearing to the Board that the appellant has requested to withdraw her appeal, now, therefore,

IT IS HEREBY ORDERED that the appellant's request to withdraw her appeal is granted and the appeal is dismissed.

DATED this 25th day of September, 1996.

WASHINGTON STATE PERSONNEL APPEALS BOARD

SWANSON, PARR, CORDES,
YOUNGLOVE & PEEPLES, P.S.
ATTORNEYS AT LAW
EASTSIDE PROFESSIONAL PLAZA, SUITE A
924 EAST SEVENTH AVENUE
P. O. BOX 7846
OLYMPIA, WASHINGTON 98507-7846
FACSIMILE (360) 754-8288
(360) 357-7791



FILE M'CC ✓
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JUN 07 1996

Department of Personnel
Division of Human Resources

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

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PO Box 40911
Olympia, WA 98504-0911

STATE OF WASHINGTON
PERSONNEL APPEALS BOARD

June 5, 1996

Robert F. Spaulding
Swanson, Parr, Cordes, et al
P.O. Box 7846
Olympia, WA 98507-7846

Valerie B. Petrie
Assistant Attorney General
P.O. Box 40145
Olympia, WA 98504-0145

Re: Donna L. Evans v. Department of Corrections, Dismissal Appeal,
Case No.: DISM-96-0005

Dear Counsel:

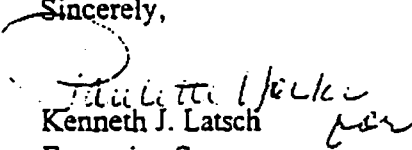
This confirms that a settlement/pre-hearing conference has been scheduled on *June 21, 1996 at 10:00 a.m.*, at the offices of *Swanson, Parr, Cordes, et al, 924 East Seventh Avenue, Olympia WA.*

The reason for the conference is to attempt to settle the issue on appeal to the mutual satisfaction of the parties without the need for a hearing on the matter.

If the settlement efforts are unsuccessful, we will attempt to narrow the scope of the issues to go before the Board for hearing. We will discuss such things as witness lists, possible stipulations, briefing schedules, and a hearing date.

If you have any questions, please call me.

Sincerely,


Kenneth J. Latsch
Executive Secretary

KJL:py

cc: Donna L. Evans
Jennie Adkins
Kirk Hanson



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

STATE OF WASHINGTON
PERSONNEL APPEALS BOARD

2 - TO AMT/PO ✓
RECEIVED MICC
4/8/96 APR - 8 1996

Department of Corrections
Division of Human Resources

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

April 5, 1996

CERTIFIED P 334 178 357
P 334 178 358

Robert F. Spaulding
P.O. Box 7846
Olympia, Washington 98507-7846

Re: Donna L. Evans v. Department of Corrections, Dismissal
Appeal, Case No. DISM-96-0005

Dear Mr. Spaulding:

Enclosed is a copy of the Order Denying Appellant's Motion To
Set Aside Disciplinary Action of the Personnel Appeals Board
in the above-referenced matter. The order was entered by the
Board on April 5, 1996.

Sincerely,


Kenneth J. Latsch
Executive Secretary

KJL/gmh

Enclosure

cc: Donna L. Evans, APP
Valerie B. Petrie, AAG
Jennie Adkins, DOC
Kirk Hanson, WFSE

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BEFORE THE PERSONNEL APPEALS BOARD
STATE OF WASHINGTON

DONNA L. EVANS,

Appellant,

v.

DEPARTMENT OF CORRECTIONS,

Respondent.

)
)
) Case No. DISM-96-0005

)
) ORDER DENYING APPELLANT'S
) MOTION TO SET ASIDE
) DISCIPLINARY ACTION

I. INTRODUCTION

1.1 **Hearing on Motion.** This matter came before the Personnel Appeals Board, CHARLES ALEXANDER, Chair, and ART WANG, Member, for hearing oral argument on Appellant's Motion to Set Aside Disciplinary Action. The hearing was held at the office of the Personnel Appeals Board in Olympia, Washington, on March 18, 1996. NORA REYNOLDS, Vice Chair, did not participate in the hearing or in the decision in this matter.

1.2 **Appearances.** Appellant Donna L. Evans was represented by Robert Frank Spaulding, Swanson, Parr, Cordes, Younglove & Peeples, P.S. Respondent Department of Corrections was represented by Valerie B. Petrie, Assistant Attorney General.

1.3 **Documents Considered.** The Board considered the files and documents in this matter, including:

- (a) [Appellant's] Motion to Set Aside Disciplinary Action, including attached disciplinary letter, filed February 6, 1996;
- (b) [Appellant's] Memorandum of Authorities, filed February 6, 1996;
- (c) Department of Corrections' Response to Motion to Set Aside Disciplinary Action, filed March 8, 1996;

Personnel Appeals Board
2828 Capitol Boulevard
Olympia, Washington 98504

- 1 (d) Declaration of Belinda D. Stewart, filed March 8, 1996; and
2 (e) Declaration of Jacqueline Campbell, filed March 8, 1996.

3 II. SUMMARY

4 2.1 **Facts.** Appellant Donna L. Evans was dismissed from her position as a Licensed Practical
5 Nurse 3 with Respondent Department of Corrections by disciplinary letter signed by a designee
6 "for" the appointing authority, the Superintendent of McNeil Island Corrections Center. The
7 handwritten signature was in the name of the person the superintendent had designated to be in
8 charge of the institution while she was on holiday leave. The handwritten word "for" appeared over
9 the typed signature block containing the name and title of the appointing authority. The terms of the
10 disciplinary letter make it clear that the superintendent conducted the predisciplinary hearing and
11 made the decision to terminate Appellant. The superintendent's affidavit provides that she reviewed
12 and approved the letter, directed that it be processed, and directed that it be signed by her designee.
13 The designee had not participated in the personnel decisions involved here. It is undisputed that the
14 superintendent's appointing authority could not be delegated to her designee.

15
16 2.2 **Nature of Appeal.** Appellant moved to set aside the disciplinary sanction of dismissal
17 based on the lack of signature by the appointing authority.

18
19 2.3 **Summary of Appellant's Argument.** Appellant contends that the disciplinary letter was
20 not valid because it lacked the appointing authority's signature, pursuant to Carrell.

21
22 2.4 **Summary of Respondent's Argument.** Respondent contends that no signature is required,
23 pursuant to Georgian, and that the designee's signature was merely a ministerial act, pursuant to
24 David.

1 2.5 **Primary Issue.** Whether a disciplinary sanction is valid when it is imposed in a disciplinary
2 letter which is not personally signed by the appointing authority.

3
4 2.6 **Citations Discussed.** RCW 41.06.170(2), 42.23.005, 42.23.100; WAC 356-34-020, 356-34-
5 045; Nichols v. Dep't of Agriculture, PAB No. D82-65 (1982), rev'd Thurston Co. Super. Ct. No.
6 82-2-01501-3 (1984); Carrell v. Dep't of Social & Health Services, PAB No. D90-116 (1991),
7 appeal dismissed as moot, Thurston Co. Super. Ct. No. 91-2-02786-9 (1992) [Carrell is overruled
8 insofar as it is inconsistent with this decision]; Georgian v Dep't of Social & Health Services, PAB
9 No. S91-002 (1993); David v. Dep't of Corrections, PAB No. D92-008 (1993); Burkett v.
10 Washington State Patrol, PAB No. L93-051 (1995), appeal filed Thurston Co. Super. Ct. No. 95-2-
11 01534-1).

12
13 2.7 **Summary of Board's Decision.** The Board traces the history of precedents on the issue of
14 disciplinary letters not personally signed by the appointing authority. In Nichols, the Board's
15 approval of the signature of a deputy director was reversed on other grounds in Superior Court. In
16 Carrell, a majority of the Board ruled that the handwritten signature "for" the superintendent by a
17 person who lacked appointing authority voided the disciplinary action. It is unclear from the record
18 whether the Board was aware that the designee had merely signed for the superintendent without
19 otherwise participating in the decision. In Georgian, a majority of the Board held that a signature
20 was not required by an appellant or union representative in filing an appeal. In David, the Board
21 upheld discipline in which the appointing authority made the disciplinary decisions and a
22 subordinate signed the letter as an authorized ministerial act.

23
24 The requirements in RCW 41.06.170(2) and in WAC 356-34-020 et seq. are for "specified charges
25 in writing," not for a specific personal signature by the appointing authority. Moreover, in contrast
26

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Olympia, Washington 98504

1 to the decision-making function which initiates, directs, and is responsible for the contents of the
2 letter, the act of signing "for" the appointing authority is merely a ministerial act. Carrell is
3 overruled insofar as it is inconsistent with this decision.

4
5 2.8 **Conclusion.** Appellant's motion to set aside the disciplinary action is denied

6
7 **III. DISCUSSION**

8 3.1 This motion presents the Board squarely with the issue of whether a disciplinary sanction is
9 valid when it is imposed in a disciplinary letter which is not personally signed by the appointing
10 authority.

11
12 By disciplinary letter dated January 3, 1996, Appellant Donna L. Evans was notified of her
13 immediate suspension and dismissal as a Licensed Practical Nurse 3 with Respondent Department
14 of Corrections at the McNeil Island Corrections Center. The letter concluded with the typed
15 signature block:

16 Belinda D. Stewart, Superintendent
17 McNeil Island Corrections Center

18
19 Above the signature block in handwritten script appear the words "for - Jacqueline Campbell."
20 Jacqueline Campbell, who was designated to be in charge of the institution while Stewart was on
21 holiday leave, signed the letter "for" Belinda D. Stewart, but otherwise was not involved with the
22 disciplinary action. (Declaration of Campbell). Although not personally signed by her, the terms of
23 the letter make it explicitly clear that Stewart conducted the predisciplinary hearing in this matter
24 and made the decision to terminate Appellant. Moreover, her affidavit further provides that she
25 reviewed and approved the letter, directed that it be processed, and directed that it be issued under

26
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1 her signature while she was on holiday leave by the person she left in charge. (Declaration of
2 Stewart).

3
4 It is undisputed that Stewart was the appointing authority and that appointing authority could not be
5 delegated to Campbell.

6
7 This issue has come before the Personnel Appeals Board on several occasions, although not as
8 clearly and directly as here. We take this opportunity to attempt to clarify our interpretation.

9
10 3.2 In Nichols v. Dep't of Agriculture, PAB No. D82-65 (1982), rev'd Thurston Co. Super. Ct.
11 No. 82-2-01501-3 (1984), the appellant moved to set aside a suspension on the basis that the Deputy
12 Director had signed the letter while the Director was out of state. The Board denied the motion. It
13 considered RCW 42.23.005, which authorized the Director to appoint a Deputy Director to have
14 general supervision over the department in the Director's absence. The Board simply stated: "In the
15 absence of the Director, the signature of the Deputy Director on the notice of suspension was
16 appropriate." However, the Board's decision was reversed on appeal. The Thurston County
17 Superior Court reinstated the Appellant "for the reason that neither the Director . . . nor the Deputy
18 Director, in the Director's absence, is the appointing authority of the appellant for purposes of
19 appointment or discipline." Instead, the court held that, under former RCW 43.23.100, the
20 supervisor of grain was the appointing authority, although discipline may require the approval of the
21 Director.

22
23 3.3 In Carrell v. Dep't of Social & Health Services, PAB No. D90-116 (1991), appeal dismissed
24 as moot, Thurston Co. Super. Ct. No. 91-2-02786-9 (1992), the disciplinary letter for a reduction in
25
26

1 pay had a typed signature block for Thomas Fritz, Superintendent of Eastern State Hospital, but the
2 handwritten signature was "Alden H. Miller, M.D. for Thomas Fritz, Superintendent."

3
4 Appellant moved to dismiss for failure of the Respondent to perfect the disciplinary action because
5 Dr. Miller was not the appointing authority. The Hearings Examiner granted the motion, ruling that
6 "[t]he failure of DSHS to exercise the disciplinary authority through a proper subdelegate voids its
7 action." (Disposition of Motion, Disposition of Case on Motion, Disposition of Motion to
8 Reconsider, slip op. at 4 (Vache', Hrgs. Exam.)(1991)).

9
10 Respondent moved for reconsideration and provided an affidavit from Fritz that he personally
11 conducted the Personnel Conduct Report hearing, determined that misconduct had occurred,
12 determined the level of discipline, directed the disciplinary letter to be prepared, reviewed the letter,
13 and approved its content. The affidavit also stated that Acting Superintendent Miller was not
14 involved in the matter in any way except that he was Fritz's "official designee only for the purpose
15 of signature," because Fritz was gone that day.

16
17 The Hearings Examiner acknowledged the "close question," but denied the motion to reconsider: "I
18 conclude that the attempt to delegate even the signing authority is improper; under WAC 356-34-
19 010, 011. I am guided by Judge Doren's [sic] decision in Nichols . . . reversing the Personnel
20 Appeals Board on a strikingly similar set of facts." Id. at 5-6. We assume that the Hearings
21 Examiner was aware of the result in the Nichols appeal, but did not have the benefit of knowing that
22 the court's reasoning was significantly different.

23
24 Following a hearing on exceptions to the Board, the majority affirmed the Hearings Examiner's
25 ruling on the original motion without reference to the motion for reconsideration. The Board ruled:

26
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2828 Capitol Boulevard
Olympia, Washington 98504

1 One motion dealt with the failure of the Appointing Authority to sign the disciplinary
2 letter. The Hearings Examiner ruled that the failure of Department of Social and
3 Health Services (DSHS) to exercise disciplinary authority through as [sic] proper
4 subdelegation voids its action. For this reason, he granted the Appellant's motion
5 and set aside the Respondent's disciplinary action against the Appellant. We affirm,
6 however we make no ruling regarding the ability of the Appointing Authority to take
7 action.

8 Findings, Conclusions and Order of Board Following Hearing on Exceptions, at 1-2.

9 It is unclear from the record whether the Board was aware that Dr. Miller had merely signed for the
10 Superintendent without otherwise participating in the decision. A dissenting opinion cited RCW
11 41.06.170(2), WAC 356-34-020, and WAC 356-34-045 that there must be "specified charges in
12 writing," but that there was no requirement for a signature. It also argued that the statute required
13 the employee's appeal to be in writing, but that the Board accepted appeals signed by an employee's
14 representative and had never required a signature from the employee. *Id.* (Wilson, dissenting).

15 3.4 In an Intermediate Order Denying Motion to Dismiss in Georgian v. Dep't of Social &
16 Health Services, PAB No. S91-002 (1993), the Board considered a converse scenario suggested by
17 the dissent in Nichols, in which neither the appellant nor a union representative signed the appeal.
18 A majority of the Board held that "there is no rule which requires any signature." The majority
19 distinguished Carrell, stating: "It was not the fact that Dr. Miller signed the action letter which was
20 determinative of the outcome, but rather that Dr. Miller took the disciplinary action." This
21 statement appears to be based on the majority decision in Carrell, but not on the underlying decision
22 of the Hearings Examiner in that case. A concurring opinion in Georgian recommended overruling
23 Carrell. *Id.* (Wilson, concurring).

1 3.5 In David v. Dep't of Corrections, PAB No. D92-008 (1993), the disciplinary letter for a
2 reduction in pay was signed in handwriting "D.A. Dunnington for" over the typewritten signature
3 block "Richard Bosse, Superintendent." The Superintendent testified that he made the finding of
4 misconduct, determined which sanction to impose, and reviewed preliminary drafts of the
5 disciplinary letter. He delegated, in writing, appointing authority to Associate Superintendent
6 Dunnington in his absence. The Hearings Examiner denied Appellant's motion to set aside the
7 discipline, concluding that the delegation and exercise of the appointing authority by the Associate
8 Superintendent was proper. Findings of Fact, Conclusions of Law and Recommended Decision
9 (Woods, Hrgs. Exam.). After a hearing on exceptions, the Board modified the decision, concluding
10 that the Superintendent did not have authority to delegate his appointing authority. However, the
11 Board upheld the discipline, noting only that the signature was "an authorized ministerial act."
12 There is no indication in the record that Nichols, Carrell, or Georgian were brought to the Board's
13 attention. The Board's decision merely states:

14 In this case, it was the appointing authority who determined that misconduct
15 occurred and instructed that the Appellant should be reduced in pay. The subsequent
16 signing of the disciplinary letter "for Richard Bosse" (emphasis added) in
Superintendent Bosse's absence was an authorized ministerial act.

17 Id. (emphasis in original).
18

19 In Burkert v. Washington State Patrol, PAB No. L93-051 (1995), appeal filed Thurston Co. Super.
20 Ct. No. 95-2-01534-1, a reduction in force notice was signed by the Deputy Chief, who had
21 appointing authority, although the agency policy provided that "[n]otification shall be signed by the
22 Chief." The Board denied Appellant's motion for summary reinstatement because the Deputy Chief
23 had delegated authority, as opposed to being only the Chief's designee. Again, none of the
24 precedents discussed above were brought to the Board's attention.
25
26

1 3.6 We conclude that Appellant's motion should be denied. As noted in the dissenting opinion
2 in Carrell and in the majority opinion in Georgian, the requirements in RCW 41.06.170(2) and in
3 WAC 356-34-020 et seq. are for "specified charges in writing," not for a specific personal signature
4 by the appointing authority. Moreover, in contrast to the decision-making function which initiates,
5 directs, and is responsible for the contents of the letter, the act of signing "for" the appointing
6 authority is merely a ministerial act. David. Carrell is overruled insofar as it is inconsistent with
7 this decision.

8
9 Having reviewed the files and records in this matter and being fully advised in the premises, the
10 Board enters the following:

11
12 IV. ORDER

13 NOW, THEREFORE, IT IS HEREBY ORDERED that Appellant's Motion to Set Aside
14 Disciplinary Action is denied.

15
16 DATED this 5th day of April, 1996.

17
18 WASHINGTON STATE PERSONNEL APPEALS BOARD

19 Charles Alexander
20 Charles Alexander, Chair

21 Art Wang
22 Art Wang, Member
23

0898



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JAN 23 1996

Department of Corrections
Division of Human Resources

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

STATE OF WASHINGTON
PERSONNEL APPEALS BOARD

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

January 22, 1996

*C- Donna G.
Kathy D.
Jony
aw
2/2/96*

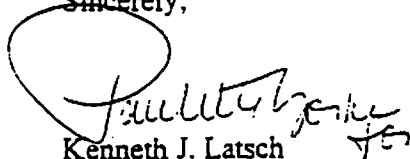
Mr. Kirk Hanson
Washington Federation of State Employees
10116 - 36th Avenue Ct. SW #205
Tacoma, WA 98499

RE: Donna L. Evans v. Department of Corrections, Dismissal Appeal,
Case No. DISM-96-0005

Dear Mr. Hanson:

This letter is to acknowledge receipt of the above entitled appeal by the Personnel Appeals Board on January 10, 1996.

Sincerely,


Kenneth J. Latsch
Executive Secretary

KJL:tmp

cc: Donna L. Evans
Swanson, Parr, Cordes, et. al.
Linda A. Dalton, AAG
Jennie Adkins, PO



131M-46-0005

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APPEAL FORM

WASHINGTON STATE PERSONNEL APPEALS BOARD
2828 Capitol Boulevard
P. O. Box 40911
Olympia, WA 98504-0911

PH: SCAN 321-1481
(206) 586-1481
FAX: (206) 753-0139

JAN 10 1996
PERSONNEL
APPEALS BOARD

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.

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

PRINT OR TYPE - SIGN ON PAGE 2

PART I APPELLANT IDENTIFICATION

NAME: Donna L. Evans (AKA Turner, Lake)
(Last name, first name, middle initial)

HOME ADDRESS [Redacted]
(Number and street)

[Redacted]
(City, state and ZIP code)

PHONE NUMBERS: WORK: (SCAN): [Redacted] (Off-SCAN): (206)588-5281
HOME: (Include area code) [Redacted]

EMPLOYING AGENCY OR INSTITUTION: McNeil Island Corrections Center/DOC

Agency or institution that took action you are appealing: Department of Corrections

PART II REPRESENTATIVE'S NAME, ADDRESS AND TELEPHONE NUMBER

Kirk Hanson
10116 36th Ave Ct., Suite 205
Tacoma, WA 98499
(206)581-4402

Swanson, Parr, Cordes, Younglove, Peeples, P.S.
PO Box 7846
Olympia, WA 98507
(360)357-7791

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

PART III TYPE OF APPEAL

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

- X a. Disciplinary: (check applicable action(s)).
X Dismissal X Suspension Demotion Reduction in Pay.
b. Disability Separation
c. Rule or Law Violation (complete PART IV. of this form)
d. Reduction in Force/Layoff (complete PART IV. of this form)
e. Allocation (position classification) (complete PART V. of this form)
f. Declaratory Ruling (see WAC 358-20-050)
g. Exemption of Position

0900

PART IV. FOR RULE VIOLATION OR REDUCTION-IN-FORCE APPEALS ONLY

What Rule(s) or Law(s) do you believe were violated?

Explain the particular circumstances of the alleged violation.

How were you adversely affected by the alleged violation?

What remedy are you requesting in this case?

PART V. FOR ALLOCATION APPEALS ONLY

Has there been a review of your allocation? Yes or No

Is so, by whom? _____

What is your present classification? _____

To which class do you think your position should be allocated? _____

Ruth Hanson

SIGNATURE OF APPELLANT OR REPRESENTATIVE

1/9/96
DATE SIGNED