

## Shortcuts In Patient Care Are Legally Unsound

### Avoiding Liability Bulletin - December 15, 2016

Probably all of you at one time or another have been tempted to take a shortcut here or there in patient care. Perhaps you are running late in leaving your shift or your nurse-patient ratio is much too high on a particular day. The temptation may be attractive for a second or two, but is never worth the risk, as the LPN learned in the following case.<sup>1</sup>

Taniela Kivalu was an LPN at a nursing home for approximately two years. He had been disciplined twice by the nursing home for two separate errors he performed while administering medications.

During a 10-hour shift that began at 4:00 p.m., Mr. Kivalu documented in a patient's chart that he had given ordered Morphine at 4:00 a.m. and at 6:00 a.m. during the 10-hour shift. The documentation was done at the beginning of the shift and long before the Morphine was to be administered.

The patient died at 3:15 a.m. before those two doses could be administered.

When Kivalu's supervisor was informed of his actions, she terminated him from his position, basing the termination on a violation of the home's policy (medications were to be charted when given) and applicable state regulations governing the administration and documentation of narcotics.<sup>2</sup>

Mr. Kivalu filed for unemployment insurance benefits. They were denied based on one of the exceptions for a former employee to obtain such benefits: misconduct. His appeal of that decision within the state Department of Commerce and Labor was upheld.

The LPN then appealed the final decision of the Department to the Supreme Court of Idaho.

The Supreme Court of Idaho also affirmed the decision of the Department, stating that the employer's policy was very clear about how medications should be administered and documented. Having failed to follow the policy, his misconduct made him ineligible for unemployment insurance benefits.

Throughout the legal proceedings, Kivalu said he was aware of the employer's policy but was justified in not following it because it was a busy shift that evening and he made a conscious decision to pre-chart in order to save time.<sup>3</sup>

The Court supported the Department's finding that there was nothing in the employer policy that would allow such shortcuts. Instead, the LPN's decision to violate the policy was done in

“complete disregard of the expected behavioral standard”.

Although this LPN’s shortcut prohibited him from obtaining unemployment insurance, there are other implications the case highlights. Consider these points if you are ever drawn to taking a shortcut while providing patient care:

1. Shortcuts in patient care can also lead to violations of your state’s nurse practice act and regulations;
2. Shortcuts do not comply with nursing standards of practice;
3. Shortcuts can lead to patient injury, and, as a result, a possible lawsuit against you alleging professional negligence; and
4. Shortcuts undermine your nursing colleagues’ safe practice and place them at risk for liability because they rely on what you documented or what care you said you provided in delivering their own care.

Perhaps Gary Busey said it best: “If you take shortcuts, you get cut short”.

## FOOTNOTES

1. Kivalu v. Life Care Centers of America, No. 31442, Supreme Court of Idaho, 2005.
2. Id.
3. Id.

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