



State of New Jersey
DEPARTMENT OF HEALTH

PO BOX 360
TRENTON, N.J. 08625-0360

www.nj.gov/health

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

JUDITH M. PERSICHILLI, RN, BSN, MA
Commissioner

DEBBIE DEBREAUX,

Petitioner

v.

DEPARTMENT OF HEALTH,

Respondent.

FINAL AGENCY DECISION

OAL DKT. No. HLT 04506-19

AGENCY DKT. No.: 18-11928

In this matter, certified nurse aide Debbie Debreaux contests the determination by the Department of Health (Department) that she abused a nursing home resident who was under her care. The Department lodged the abuse charges against Ms. Debreaux after concluding that on or about October 24, 2018, she roughly and forcefully pushed and handled a nursing home resident while rendering care to him causing injury to the resident's left arm. Based upon the Department's findings, it proposed to revoke Ms. Debreaux's nurse aide certification.

After receiving notice of the charges, Ms. Debreaux requested a hearing to contest the Department's enforcement action. Accordingly, the matter was transmitted to the Office of Administrative Law and assigned to the Honorable Susana E. Guerrero, ALJ. Thereafter, Judge Guerrero held a hearing where she admitted documents into evidence

and heard testimony from six witnesses, including the nursing home resident that was allegedly abused. After hearing the matter, Judge Guerrero left the record open for the receipt of closing statements. After receiving closing submissions from the parties, Judge Guerrero closed the record on July 31, 2019.

On January 10, 2020, Judge Guerrero issued her Initial Decision, which affirmed the Department's charge of abuse against Ms. Debreaux. Specifically, Judge Guerrero found that while rendering care to a nursing home resident, Ms. Debreaux roughly and forcefully pushed and handled the resident after the resident advised her that he could not turn over as she requested because of an injury to his arm and even after he told her that she was hurting him and to take it easy. The ALJ then reviewed these findings of fact against the definition of "abuse," which 42 C.F.R. 488.301 defines as "the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish" and "willful," which is also defined at 42 C.F.R. 488.301 as the individual acting deliberately. From this analysis, the ALJ found that Ms. Debreaux's actions were not only willful but that they also caused the resident to experience pain and mental anguish. With these findings, the ALJ concluded that the Department established, by a preponderance of credible evidence, that Ms. Debreaux's actions constituted abuse.

Counsel for the Petitioner requested an extension of time to file Exceptions to the Initial Decision, which was granted. However, neither party filed Exceptions to the Initial Decision.

As the Commissioner of the Department of Health, I have considered the record for this matter and Judge Guerrero's Initial Decision, and having made an independent

evaluation of the record, I accept and adopt the Findings of Fact and Conclusions of Law that are contained in the Initial Decision and incorporate the same herein by reference that Debbie Debreaux abused a nursing home resident.

Pursuant to 42 C.F.R. 483.156(c)(1)(iv), a finding of abuse shall be placed next to Debbie Debreaux's name on the New Jersey Nurse Aide Registry.

Parties have the right to appeal this Final Decision within 45 days to the New Jersey Superior Court, Appellate Division, Richard J. Hughes Justice Complex, P.O. Box 006, Trenton, New Jersey 08625-0006.

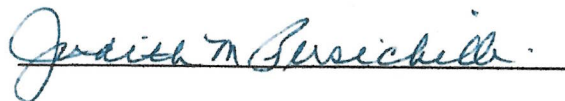
THEREFORE, it is on this 24th day of February, 2020

ORDERED:

The Initial Decision of the Administrative Law Judge is hereby **ADOPTED**; and

FURTHER ORDERED:

That any action required by this decision shall be promptly implemented by appropriate department staff.



Judith M. Persichilli, RN, BSN, MA
Commissioner