



became aware of underperformance issues at Berrien County DPH. Specifically, Dr. Grow noted that with regard to generating fees and performing services, Berrien County DPH lagged behind Cook County DPH, a department servicing an area with community demographics comparable to those of Berrien County. *Testimony of Dr. William Grow.*

3. In June 2014, Jennifer Walden, a Berrien County DPH employee under Ms. Hughes' direct supervision, requested an exit interview upon leaving the department for a full-time position. Ms. Carla Taylor, Human Resources Manager with South Health District, conducted this interview on June 18, 2014. During the exit interview, Ms. Walden alleged that Petitioner had been seriously mismanaging Berrien County DPH. According to Ms. Walden, Ms. Hughes refused to schedule client appointments on Thursdays and Fridays, often refused to take walk-ins for invalid reasons, and, in general, demonstrated a lack of work ethic, competence, and professionalism. *Testimony of Dr. William Grow.*

4. At Dr. Grow's direction, South Health District staff members commenced a preliminary investigation into Ms. Walden's allegations. This investigation entailed a review of summary data from January 2, 2014 to June 30, 2014, including client appointments, services rendered to clients, Women's Infants and Children Supplemental Nutrition Program ("WIC") appointment schedules, and overall clinic activity. After reviewing the relevant summary data, Dr. Grow determined that Ms. Walden's allegations had sufficient documentary support to merit further investigation. *Testimony of Dr. William Grow.*

5. In reviewing the daily appointment schedule for Berrien County DPH, Dr. Grow noted that comparatively few appointments were scheduled for Thursdays and Fridays. For example, more than thirty clients were scheduled for Monday, Tuesday, and Wednesday during the week of January 6, 2014, but, during that same week, only five clients were scheduled for Thursday and three for Friday. Berrien County DPH appeared to have consistently scheduled clients in this manner through June 30, 2014. *Testimony of Dr. William Grow; Respondent's Exhibit 4.*

6. On July 7, 2014, South Health District commenced a more thorough investigation into Ms. Hughes and Berrien County DPH. During this investigation, Dr. Grow and staff members of South Health District conducted separate interviews with Ms. Hughes and employees under her direct supervision at Berrien County DPH. *Respondent's Exhibit 3; Testimony of Dr. William Grow.*

7. Several employees reported during their interviews that Ms. Hughes had failed to create a professional work place. Employees also reported that Ms. Hughes turned away clients for invalid reasons, directed non-licensed persons to complete tasks that required the attention of licensed professionals, and refused to schedule clients on Thursdays and Fridays. These reports were consistent with the allegations conveyed by Ms. Walden during her exit interview. *Respondent's Exhibit 3; Testimony of Dr. William Grow.*

8. Based on the information obtained during the interviews, Dr. Grow concluded that the initial allegations against Ms. Hughes were substantiated and Ms. Hughes was placed on suspension with pay pending further investigation. *Testimony of Dr. William Grow.*

9. After reviewing additional documentation, Dr. Grow and South Health District staff members concluded that the original allegations against Ms. Hughes were supported by clear evidence and that corrective action was therefore warranted. *Respondent's Exhibit 1; Testimony of Dr. William Grow.*

10. Dr. Grow, South Health District Nurse Manager Lisa Thomas, and Carla Taylor, met with Ms. Hughes on August 4, 2014. Ms. Hughes was informed during this meeting that, due to misconduct, negligence, and inefficiency in performing her job duties, she would be demoted to the position of Nurse Specialist, with a five percent decrease in pay, and reassigned to a different department to undergo training and mentoring. Ms. Hughes was given a list of the charges precipitating her demotion in writing and informed of her right to appeal the decision. The notice of adverse action included an enumerated list of alleged misconduct on the part of Ms. Hughes:

- (1) Failed to provide guidance to staff on proper monitoring of the automated schedule for the clinic.
- (2) No patient services are scheduled and/or provided on specific days of each week. Patients are only scheduled after permission is obtained by nurse manager or nurse on duty. Walk-in patients and WIC clients are inappropriately being placed in the scheduling system. This gives the appearance of being at capacity and not able to see other patients.
- (3) You have been observed to have refused to see a client once you have looked at them from your office. You have also been observed telling a walk-in to come back at a later date or go see his/her own doctor, refusing services. On one occasion you requested district staff to come to Berrien County (56 mile round trip) to initiate services that are clearly a County Health Department Service. You and your staff should be capable of providing these services to the clients.
- (4) You have been observed speaking to your subordinates in a harsh and inappropriate manner if there were clients on the schedule that you did not remember giving permission to place on the schedule.
- (5) It was reflective in the summaries that you would have non-medical staff members to complete medical forms for submission to the South Health District Program.
- (6) There is no evidence of referring clients to the local programs that could supplement services. You have been witnessed destroying some referrals completed by the outreach worker for Children 1st and Ages and Stages developmental screener.
- (7) During the investigation you were asked if you scheduled patients on Thursday and Friday's and your reply was "Right." However, evidence indicated that you in fact do not schedule patients on Thursdays and Fridays. You were also asked who manages your clinic failures, or no

shows, and do you call your failed appointments? Your answer was that Debbie manages the no shows and that she does make calls to reschedule. However, evidence showed that no one calls the failed appointments. Therefore, your answers are deceptive.

*Respondent's Exhibit 2.*

11. Ms. Hughes requested a review of the adverse action, which was conducted on August 13, 2014 by Elsie Napier, Deputy Health Director for the South Health District. Ms. Napier upheld the decision to demote Ms. Hughes, whereupon Ms. Hughes requested a fair hearing. *Testimony of Dr. William Grow; Testimony of Elsie Napier.*

12. On September 8, 2014, Ms. Hughes was reassigned to Tift County DPH and to the Hahira Clinic, a satellite clinic location for Lowndes County DPH, to commence retraining. She worked under the supervision of three nurse managers. Traci Mullis, RN, and Mecca Reeves, RN, supervised Ms. Hughes at Tift County DPH. Teresa Lavind, RN, supervised Ms. Hughes at the Hahira Clinic. *Testimony of Dr. William Grow.*

13. On October 16, 2014, after approximately one month had passed since Ms. Hughes' reassignment, Dr. Grow requested a meeting with Ms. Hughes' supervisors in order to assess the progress of her retraining and to ensure that she was performing satisfactorily in her new position. *Testimony of Dr. William Grow.*

14. Ms. Hughes' supervisors submitted written evaluations of her performance, which Dr. Grow reviewed at the meeting. In their evaluations of Ms. Hughes, the supervisors rated her performance as "unsatisfactory." All three indicated that, based on their observations of Ms. Hughes, they felt that she exhibited a lack of skills that posed a potential danger to clients. Dr. Grow immediately placed Ms. Hughes on administrative leave with pay. *Respondent's Exhibit 5; Testimony of Dr. William Grow*

15. In a letter dated November 18, 2014, Ms. Hughes was informed that she would be dismissed from employment with South Health District/Tift County DPH effective December 5, 2014 for negligence and inefficiency in the performance of required job duties. This letter advised Ms. Hughes of her right to an internal review of the adverse action. *Respondent's Exhibit 5.*

16. According to the November 18, 2014 adverse action letter, the determination that Ms. Hughes had been negligent and inefficient in performing her assigned duties was supported by the following instances of misconduct:

- On October 1, 2014, you were observed by a primary preceptor nurse, Mecca Reeves, at Tift County Health Department giving an injection inaccurately to a patient at Bradley Place Assisted Living. You were observed prepping the patient by wiping their arm from shoulder to the elbow then proceeded to give the shot in an area below the deltoid muscle which is not correct, and endangers the welfare of our clients.

- On October 15, 2014, while Traci Ledden and Shellie Cleghorn were seeing a new TB client, you were observed hovering over them and giving incorrect medication information to the clients. This caused confusion with the clients and staff, which creates a liability on the department and endangers the welfare of the patients.
- On October 15, 2014, you participated in a school flu clinic at the Northside Primary School with other staff members from Tift [C]ounty Health Department. You were observed by Mecca Reeves opening up numerous band aids, and continued to until told that that was enough. Instead of putting syringes in an organized fashion according to needle size, you proceeded to draw up flu vaccines in syringes, mixing them up and creating an unorganized work station, which can potentially cause error endangering the welfare of the patients.
- You were observed by Teresa Lavind, Nurse Supervisor, not to be clear as to whether or not you needed to have a clean environment when providing services to clients. This endangers the welfare of our patients.
- Incomplete charting within the allotted timeframe. On September 30, 2014 you recorded a patient[']s name incorrectly on the progress notes. On October 2, 2014, you did not complete HIV counseling on [a] documentation chart. On October 7, 2014 you did not document STD testing, findings, treatment, did not complete progress note, and problem list per Program guidelines. On October 1, 2014 you were guided and assisted in completing medical records after [a] client left. Assistance in completing the charting was done at each of the above dates.

*Respondent's Exhibit 5.*

17. Ms. Hughes exercised her right to an internal review of the dismissal. Elsie Napier conducted an internal review on November 25, 2014. After interviewing Ms. Hughes and reviewing pertinent documentation, Ms. Napier upheld the decision to dismiss Ms. Hughes from employment with Berrien County DPH. In a letter dated December 1, 2014, Ms. Napier advised Ms. Hughes that she would be dismissed from employment effective December 15, 2014. This letter informed Ms. Hughes of her right to appeal the decision to the Office of State Administrative Hearings. Ms. Hughes appealed her dismissal on or about December 16, 2014.<sup>1</sup>

18. At the hearing of this matter, Ms. Hughes contended that Respondent had failed to show that she had been negligent or inefficient in performing her assigned duties. She asserted that her practice of scheduling clients on Mondays, Tuesdays, and Wednesdays was typical of other departments' scheduling practices and that it did not violate any of Respondent's standards or policies. She denied allegations that she refused walk-in clients for invalid reasons, that she spoke to her employees in an unprofessional manner, or that she failed to refer clients to local programs. With regard to allegations that she directed non-licensed personnel to complete medical forms, Ms. Hughes averred that she directed non-licensed personnel to fill in only demographic information, which she contended did not require the attention of licensed

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<sup>1</sup> Ms. Hughes' appeal of her demotion and her subsequent appeal of her dismissal were consolidated at the evidentiary hearing with the consent of both parties.

professionals. She attributed the poor performance of Berrien County DPH to factors beyond her control. *Testimony of Regina Hughes.*

19. Ms. Hughes further contended that she had not been negligent or inefficient in performing her duties upon reassignment to Tift County and the Hahira Clinic. According to Ms. Hughes, the training she received upon reassignment entailed very little direction or oversight from her supervisors, and was administered primarily on a computer. Ms. Hughes testified that her supervisors provided her with no feedback with regard to how she was performing or how she needed to improve. *Testimony of Regina Hughes.*

20. Ms. Hughes asserted that, according to Respondent's own policy, it is required to administer progressive discipline for all but the most egregious conduct (e.g., drug use). Therefore, she argued, Respondent's adverse actions in demoting and thereafter terminating her were improper because they were instituted immediately and without warning. *Testimony of Regina Hughes.*

### **III. Conclusions of Law**

1. Under Georgia law, "[c]lassified employees . . . may be dismissed from employment or otherwise adversely affected as to compensation or employment status only if such action is taken in accordance with the rules and regulations of the State Personnel Board governing adverse actions and appeals for classified employees." O.C.G.A. § 45-20-8(a) (2014). The procedure for adverse action against a classified employee's employment must include, at a minimum, providing the classified employee with reasons for the adverse action and "an opportunity to file an appeal and request a hearing which may be held before either the [State Personnel Board] or an administrative law judge." O.C.G.A. § 45-20-8(b) (2014).

2. State Personnel Board (SPB) Rule 26 defines "adverse action" as "a disciplinary action taken by an [employer] which results in the suspension without pay, demotion, reduction in salary, or dismissal of a permanent employee." Ga. Comp. R. & Regs. 478-1-.26(1). Pursuant to SPB Rule 26, employers may take adverse action against a classified employee for "negligence or inefficiency in performing assigned duties." Ga. Comp. R. & Regs. 478-1-.26(3)(a).

3. An employee against whom adverse action is proposed must be provided with written notice at least fifteen (15) days prior to the effective date of the adverse action and an opportunity to respond to the charges before a responsible official of the employer, who shall issue a notice of determination of final action in writing to the employee. Ga. Comp. R. & Regs. 478-1-.26(5), (6). The notice of proposed action and the written determination must include the information prescribed in SPB Rule 26. Ga. Comp. R. & Regs. 478-1-.26(5), (7).


4. In the present case, Respondent's demotion and subsequent dismissal of Ms. Hughes was done in compliance with SPB Rules. After receiving reports that Ms. Hughes was mismanaging Berrien County DPH, Dr. Grow commenced thorough investigations. Upon receiving credible evidence indicating that Ms. Hughes was performing her duties in a negligent and inefficient manner, Dr. Grow demoted her and reassigned her for training. When Ms. Hughes' supervisors thereafter reported that she was not benefiting from the training, and that her lack of skill and competence posed a threat to Respondent's clients, Dr. Grow decided to dismiss her from employment. In reviewing these facts, the undersigned concludes that Respondent properly

demoted and dismissed Ms. Hughes for negligence and inefficiency in performing her assigned duties. Further, Respondent's adverse action comported with the procedural requirements expressed in SPB Rule 26.

#### **IV. Decision**

In accordance with the foregoing Findings of Fact and Conclusions of Law, Respondent's action is **AFFIRMED**.

**SO ORDERED**, this 6<sup>th</sup> day of April, 2015.

  
**BARBARA A. BROWN**  
**Administrative Law Judge**