**OCB AWARD NUMBER: 2211**

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| **SUBJECT:** | **ARB SUMMARY # 2211** |
| **TO:** | **ALL ADVOCATES** |
| **FROM:** | **DAVID LONG** |
| **OCB GRIEVANCE NUMBER:** | **35-04-20110528-0017-02-11** |
| **DEPARTMENT:** | **Ohio Department of Youth Services** |
| **UNION:** | **SEIU District 1199** |
| **ARBITRATOR:** | **Susan Grody Ruben** |
| **GRIEVANT NAME:** | **Adrienne Welfle** |
| **MANAGEMENT ADVOCATE:** | **Larry L. Blake** |
| **UNION ADVOCATE:** | **Casey Whitten** |
| **ARBITRATION DATE:** | **1-31-2013** |
| **DECISION DATE:** | **5-1-2013** |
| **DECISION:** | **DENIED**  |
| **CONTRACT SECTIONS:** | **Article 8- Discipline**  |
| **OCB RESEARCH CODES:** | **118.311- Just Cause 118.01- Discipline in General** |

**HOLDING: Grievance DENIED. The Arbitrator found that the Employer had just cause to remove the Grievant. The core issue was whether the Grievant’s actions could harm or potentially harm the youth. The Grievant failed to determine whether the youth had lost consciousness after being attacked. Furthermore, the Grievant did not admit that she was wrong and stood by her decision to send the youth to the hospital in a van. Therefore, the Arbitrator decided that a removal was reasonable and that the grievance should be denied.**

Grievant was a Nurse I, removed from her position for allegedly failing to provide proper medical care to a youth inmate on February 11, 2011. The youth inmate had been attacked by another, leaving the youth injured and in need of medical attention. Grievant responded to care for the attacked youth. Grievant did not ask witnesses or the youth whether or not the youth had lost consciousness. Instead, the Grievant relied on the actions and responses by the youth post-attack to determine that the youth had not lost consciousness. Furthermore, the Grievant indicated that the youth had not lost consciousness on a report, when the Grievant had not asked the youth that question. Therefore, it was alleged that the Grievant should have called an ambulance since the youth and others claim he had lost consciousness, that the Grievant did not evaluate the situation properly since the Grievant did not ask witnesses or the youth if the youth had lost consciousness, and that the Grievant falsified documents by stating in a report that the youth had not lost consciousness.

The Employer claimed that it had just cause to terminate the Grievant’s employment. The Grievant’s actions were egregious and constituted patient abuse and neglect. Additionally, the Grievant failed to provide good patient care by failing to use standard nursing practices and techniques. The youth was medically required to be transported by ambulance. The Employer argued that the youth had suffered a closed head injury, multiple jaw fractures, and was bleeding from the mouth and right ear. Therefore, the Employer asserted that the grievance should be denied.

The Union contended that the investigation was unfairly conducted. The investigator relied too heavily upon one witness who claims that the youth lost consciousness. This witness presumed the youth lost consciousness because the youth was not moving. Furthermore, it is unclear whether this witness remembers the events correctly. Additionally, the youth could have faked losing consciousness for a number of reasons. Video evidence never shows the youth losing consciousness. The youth received proper medical care and was treated in the same manner as if an ambulance was called. Therefore, the Union argued that the grievance should be granted.

The Arbitrator found that the Employer had just cause to remove the Grievant and that the grievance should be denied. The core issue was whether the Grievant’s actions could harm or potentially harm the youth. The Grievant failed to determine whether the youth had lost consciousness after being attacked. The Grievant admitted that she did not question anyone whom was on the scene at the time of the assault whether the youth had fallen unconscious after the attack. If the Grievant had known the youth had lost consciousness, the Grievant claimed that she would have called an ambulance. Furthermore, the Grievant did not admit that she was wrong and stood by her decision to send the youth to the hospital in a van. Therefore, the Arbitrator decided that a removal was reasonable and that the grievance should be denied.