

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

ANTHONY HYING, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF HEALTH SERVICES, Respondent.

Case ID: 2.0184

Case Type: PA

DECISION NO. 41230

Appearances:

Anthony Hying, 909 Lincoln Green Ct., DeForest, Wisconsin, appearing on his own behalf.

David Makovec, Attorney, Department of Administration, 101 East Wilson Street, 10th Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Health Services.

DECISION AND ORDER

On June 24, 2025, Anthony Hying filed an appeal with the Wisconsin Employment Relations Commission asserting that he had been discharged without just cause by the State of Wisconsin Department of Health Services (DHS). The matter was assigned to Commission Examiner Katherine Scott Lisiecki. On July 11, 2025, pursuant to Wis. Stat. § 227.46(3)(a), Examiner Lisiecki was given final authority to issue the Commission's decision.

A Zoom hearing was held on September 5, 2025, by Examiner Lisiecki. The parties submitted written closing arguments on September 16, 2025.

Being fully advised on the premises and having considered the matter, the Commission makes and issues the following:

FINDINGS OF FACT

1. Anthony Hying (Hying) was employed by the State of Wisconsin Department of Health Services (DHS), Mendota Mental Health Institute (MMHI), as a social worker. At the time of his discharge, he had permanent status in class.

2. On December 12, 2024, Hying told a coworker: “What the fuck does the DON [Director of Nursing] have to do with what my job is?” and “I’m doing my job, doing the best I can, and I don’t understand what the big fucking deal is.”

3. On January 3, 2025, Hying yelled at his supervisor, made loud and angry statements, and banged his fists on the table.

4. Following an investigation, the DHS discharged Hying for workplace violence and threats, threatening or attempting to inflict mental anguish on another person, intimidating, harassing, or using profane or abusive language in dealing with others.

Based on the above and foregoing Findings of Fact, the Commission makes and issues the following:

CONCLUSIONS OF LAW

1. The Wisconsin Employment Relations Commission has jurisdiction over this appeal pursuant to Wis. Stat. § 230.44 (1)(c).

2. The State of Wisconsin Department of Health Services had just cause within the meaning of Wis. Stat. § 230.34 (1)(a) to discharge Anthony Hying.

Based on the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following:

ORDER

The discharge of Anthony Hying by the State of Wisconsin Department of Health Services is affirmed.

Issued at Madison, Wisconsin this 21st day of October 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Katherine Scott Lisiecki, Hearing Examiner

MEMORANDUM ACCOMPANYING DECISION AND ORDER

Section 230.34(1)(a), Stats., states in pertinent part:

An employee with permanent status in class . . . may be removed, suspended without pay, discharged, reduced in base pay or demoted only for just cause.

Section 230.44(1)(c), Stats., provides that a State employee with permanent status in class:

may appeal a demotion, layoff, suspension, discharge or reduction in base pay to the commission . . . if the appeal alleges that the decision was not based on just cause.

Hying had permanent status in class at the time of his discharge and his appeal alleges that the discharge was not based on just cause.

The State has the burden of proof to establish that Hying was guilty of the alleged misconduct and that the misconduct constitutes just cause for the discipline imposed. *Reinke v. Personnel Bd.*, 53 Wis.2d 123 (1971); *Safransky v. Personnel Bd.*, 62 Wis.2d 464 (1974).

Hying was employed as a social worker by DHS at Mendota Mental Health Institute (MMHI). On December 12, 2024, Hying told coworker Tobey Johnson: “What the fuck does the DON [Director of Nursing] have to do with what my job is?” and “I’m doing my job, doing the best I can, and I don’t understand what the big fucking deal is.” In the hearing, Hying did not deny making those statements.

On January 3, 2025, Hying yelled at his supervisor, Seenia Thao, made loud and angry statements, and banged his fists on the table, causing Thao to fear for her safety. Lauren Bradbury, who works in the office next to Thao, testified that she heard Hying’s raised voice and closed fists pounding on a table. She testified that she heard Hying say, “I can write the fucking job description then!”

State of Wisconsin Work Rule #14 prohibits employees from intimidating, interfering with, harassing, demeaning, treating discourteously, or bullying. Serious Act of Misconduct #1 prohibits employees from harassing a person while on duty. HR Policy and Procedure 703, the Respectful Workplace Policy, prohibits bullying and harassment. Harassment is defined as “unwelcome and/or inappropriate verbal, physical, or visual conduct that creates a hostile, intimidating or offensive working environment.” Administrative Directive 73.2, Workplace Violence and Threats, prohibits employees from engaging in violent conduct or making threats of violence, implied or direct.

Here, Hying’s comments about the Director of Nursing were demeaning and discourteous. However, his conversation with his supervisor was far more serious. His angry comments and behavior were inappropriate verbal and physical conduct, which created a hostile and intimidating

working environment. His loud and angry statements, combined with his threatening gesticulations – such as banging his fists on the table – were an implied threat of violence. Together, these incidents demonstrate an escalating pattern of inappropriate behavior towards coworkers.

Hying argues that he was overburdened with work, his mental health suffered, and MMHI failed to provide him with reasonable accommodations. However, having violent outbursts while on duty is never an acceptable response to being overworked. Further, Administrator Gynger Steele testified that Hying’s supervisor referred him to the Employee Assistance Program. She testified that Hying could have taken leave if his mental health was suffering; he had the right to apply for FMLA.

Hying was demeaning and discourteous when he told a coworker, “What the fuck does the DON have to do with what my job is?” on December 12, 2024. On January 3, 2025, Hying harassed his supervisor while on duty when he yelled at her, made loud and angry statements, and banged his fists on the table. MMHI deputy director Javon Alyasiri credibly testified that Hying showed a pattern of escalating behavior. MMHI director Gregory van Rybroek testified that being personally stable is important for MMHI employees, because MMHI patients are incredibly dangerous. Hying previously received a one-day suspension for failing to maintain required documentation. Given the serious nature of Hying’s misconduct, and given that these two incidents reveal an escalating pattern of behavior, this misconduct warrants two skips in progression, from a three-day suspension to discharge. Therefore, there is just cause for the discharge, and the discharge is affirmed.

Issued at Madison, Wisconsin this 21st day of October 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Katherine Scott Lisiecki, Hearing Examiner