

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

ERIN WENGER, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0817

Case Type: PA

DECISION NO. 41269

Appearances:

Erin Wenger, N89W15282 Cleveland Avenue, Menomonee Falls, Wisconsin, appearing on her own behalf.

Nicole M. Porter, 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 Corrections.

DECISION AND ORDER

On August 28, 2025, Erin Wenger filed an appeal with the Wisconsin Employment Relations Commission asserting she had been suspended for one day without just cause by the State of Wisconsin Department of Corrections (DOC). The matter was assigned to Commission Examiner Anfin J. Wise. On September 16, 2025, pursuant to Wis. Stat. § 227.46(3)(a), Examiner Wise was given final authority to issue the Commission's decision.

A Zoom hearing was held on November 25, 2025, by Examiner Wise. The DOC made oral argument at the conclusion of the hearing. On December 4, 2025, Wenger submitted a written closing argument.

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

FINDINGS OF FACT

1. Erin Wenger (Wenger) is employed by the State of Wisconsin Department of Corrections (DOC) as a Nurse Clinician 2 at Waupun Correctional Institution (WCI), and she had permanent status in class at the time of her suspension.

2. The DOC is a state agency responsible for the operation of various correctional facilities including WCI, a maximum-security facility located in Waupun, Wisconsin.

3. On April 16, 2025, Wenger dispensed and administered medication to a coworker without authorization or consultation with a provider. This is outside the scope of nursing practice and a violation of DOC policies and procedures.

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 Corrections had just cause within the meaning of Wis. Stat. § 230.34(1)(a) to suspend Erin Wenger for one day.

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

ORDER

1. The one-day suspension of Erin Wenger by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin, this 12th day of December 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Anfin J. Wise, 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.

Erin Wenger had permanent status in class at the time of her suspension and her appeal alleges that the suspension was not based on just cause.

The State has the burden of proof to establish that Wenger was guilty of the alleged misconduct and whether 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).

On April 16, 2025, after observing an officer develop an adverse reaction to OC spray and struggle to catch his breath, Wenger brought the officer to the Health Services Unit and administered a prescription medication. Wenger did not consult a provider or receive authorization to dispense and administer a prescription medication to the officer. As a Nurse Clinician 2, dispensing prescription medication without a valid physician's order is outside the scope of nursing practice and a serious breach of professional practice. Additionally, according to DOC policies and procedures, providing medical care for a staff member outside life saving measures is prohibited. Thus, misconduct has been established.

We now turn to Wenger's defense. Wenger asserts that she received approval to treat the officer from the Assistant Health Services Manager, Ashley Haseleu. However, at the hearing, Haseleu credibly testified that Wenger notified her about what was happening and denied giving Wenger permission to treat the officer. Haseleu was under the impression that the treatment had already occurred and that Wenger was simply notifying her of what was going on. While there may have been miscommunication between the two, Wenger ultimately admitted being aware that she must have a valid order from a provider to administer prescription medication. And Haseleu is a nurse, not a provider with the authority to prescribe medication or authorize another nurse to administer a prescribed medication to a patient. Therefore, we reject this argument.

Turning now to a just cause consideration of the level of discipline Wenger received. The Commission finds that Wenger's misconduct does provide just cause for progressive discipline and the imposition of a one-day suspension. It is expressly noted that a one-day is the first step in the progressive disciplinary schedule. Therefore, the one-day suspension is affirmed.

Issued at Madison, Wisconsin, this 12th day of December 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Anfin J. Wise, Hearing Examiner