

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MATHEW LEE, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF HEALTH SERVICES, Respondent.

Case ID: 2.0188

Case Type: PA

DECISION NO. 41287

Appearances:

Matthew Lee, S6024 State Road 154, Hill Point, Wisconsin, appearing on his own behalf.

Nicloe Porter, Legal Counsel, 1 W. Wilson Street, P.O. Box 7850, Madison WI 53707-7850 Department of Administration, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Health Services.

DECISION AND ORDER

On November 3, 2025, Mathew Lee filed an appeal with the Wisconsin Employment Relations Commission asserting he had been suspended for one day without just cause by the State of Wisconsin Department of Health Services (DHS).

A hearing was held on January 15, 2026, in Reedsburg, Wisconsin by Commission Chairman Peter G. Davis. The parties made closing argument at the conclusion of the hearing.

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

FINDINGS OF FACT

1. Mathew Lee (Lee) is employed by the State of Wisconsin Department of Health Services (DHS) as a Psychiatric Care Technician-Advanced at the Sand Ridge Secure Treatment Center. He had permanent status in class at the time of his suspension.

2. On May 19, 2025, on Unit BC at Sand Ridge,, a patient's electronic health record was accidentally removed for three hours from the Cerner application. During these three hours, Lee

did not notice the patient's electronic health record was missing and did not enter a live census on the patient during that time. His failure to notice resulted in the patient's safety and security not being electronically accounted for on multiple census rounds.

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 did have just cause within the meaning of Wis. Stat. § 230.34(1)(a) to suspend Mathew Lee for one day.

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

ORDER

The one-day suspension of Mathew Lee by the State of Wisconsin Department of Health Services is affirmed.

Issued at Madison, Wisconsin, this 28th day of January 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Chairman

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.

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

The State has the burden of proof to establish that Lee 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).

Lee does not deny the conduct summarized in Finding of Fact 2. While he contests that he violated any written policy, he admits that he knew part of his job was to insure that there was a contemporaneous electronic record created regarding a patient's status/whereabouts every 30 minutes. He did not do so because he failed to notice that a patient's electronic record had been mistakenly deleted by others. His failure was misconduct.

Lee accurately notes that a co-worker engaged in the exact same misconduct and only received a Letter of Expectation (LOE). Thus, Lee claims disparate treatment. DHS presented credible testimony that the co-worker received an LOE because he immediately took full responsibility for the error whereas Lee did not.

The Commission agrees with DHS that when assessing the level of discipline to impose under the just cause standard, DHS can consider the degree to which an employee takes responsibility for misconduct. Lee does not disagree but argues that he also took responsibility for his misconduct. In support of his argument, Lee points to the following exchange that occurred at the end of his disciplinary interview.

Q34: Was there anything you could have done different during the incident on 05/19/25?

A34: If I physically did what the OJT Josiah did and brought the tablet with to do a census in real time this outcome may be different.

The Commission agrees with DHS that the exchange quoted above falls far short of Lee taking responsibility for the misconduct and also notes the comment occurred long after the incident (thus was not “immediate” and did not parallel the co-worker’s actions) and arguably exists only because a question was posed by the interviewer. Therefore, the Commission concludes that there was a valid just cause related basis for the differing DHS treatment of the two employees.

A one-day suspension is the lowest level of discipline that DHS had the option of imposing on Lee. The Commission is satisfied that a one-day suspension meets the just cause standard for a response to Lee’s misconduct and it is hereby affirmed.

Issued at the City of Madison, Wisconsin, this 28th day of January 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Chairman