

**COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS**

Middlesex, ss.

Department of Public Health,
Petitioner,

Docket No.: PHNA-23-0416

v.

Ariana Franck,
Respondent.

Appearances:

For Petitioner: Nimesha Perera, Esq.

For Respondent: Ariana Franck

Administrative Magistrate:

John G. Wheatley

SUMMARY OF DECISION

The Department of Public Health (DPH) met its burden of proving that the respondent, Ariana Franck, misappropriated a patient's property, specifically a credit card that she used to purchase merchandise at retail stores without the patient's knowledge or consent. Accordingly, DPH may enter her name and the pertinent details in the nurse aide registry.

DECISION

This matter involves a determination by the Department of Public Health (DPH) that Ariana Franck, a homemaker, misappropriated a patient's property, specifically a credit card. DPH must enter such findings on the nurse aide registry established pursuant to G. L. c. 111, § 72J, which in consequence would prohibit Franck's employment by a Massachusetts homemaker agency, home health agency, or long-term care facility. Franck requested an adjudicatory hearing to challenge DPH's determination. See G. L. c. 111, § 72J; 105 Code Mass. Regs. § 155.013.

I held an evidentiary hearing on September 6, 2024. DPH called two witnesses to testify: (1) DPH investigator Tasia Proulx; and (2) Achai Petrie, a human resources representative from the homemaker agency that employed Franck. I admitted 11 exhibits into evidence at the hearing, which are listed in the attached appendix.

STATEMENT OF FACTS

Based on the evidence presented, I find the facts as follows.

1. During the relevant period, Ariana Franck was employed as a homemaker for Connected Home Care LLC. (Exhibits 1 & 3; Petrie Testimony.)
2. On October 6, 2022, Franck provided homemaking services to Patient 1¹ at her home in Peabody, including vacuuming and cleaning, from 3:00-5:00 in the afternoon. (Exhibit 7; Petrie Testimony.)
3. In mid-November 2022, Patient 1 reported to the Peabody Police Department and to Connected Home Care that several items of jewelry were missing from her home. She also discovered that unauthorized charges were made to her credit card for purchases at Macy's and SD Laced retail stores at the Northshore Mall in Peabody, totaling over \$1,500. The jewelry she was missing included a small silver ring with diamond chips, a small amethyst earring with diamonds, and some other earrings. Patient 1 reported that, aside from her son, the only other person who had entered her apartment was a cleaner from Connected Home Care named Ariana. (Exhibits 8 & 9; Petrie Testimony.)
4. Patient 1 recalled an incident during Franck's visit to her home on October 6 when Franck

¹ A pseudonym is used for the name of the patient involved.

went into her bedroom to vacuum. Patient 1 noticed a pause in the vacuuming where she could hear the machine running idle, without being moved around on the floor. Later, Patient 1 discovered a drawer left open on a side table in her bedroom and an earring that she kept in that drawer lying on the ground. She also discovered that one of her rings was missing from the drawer. (Exhibit 9.)

5. The credit card transactions at issue occurred on October 6, 2022, between 6:24 p.m. and 6:50 p.m. (i.e., less than two hours after Franck had left Patient 1's home). The Macy's transactions² took place between 6:24 p.m. to 6:27 p.m., and the SP Laced transactions occurred between 6:47 p.m. to 6:50 p.m. (Exhibit 8.)
6. Video surveillance and still images from SP Laced depict Franck and a female accomplice (whom the police identified as Ashley Franck) using Patient 1's credit card to purchase merchandise at the store.³ The still images show the two women looking at clothing and footwear in the store. Ariana Franck is seen carrying a large shopping bag from Macy's. Video surveillance shows the two women standing together at the checkout counter while a store clerk bags their merchandise. A second store clerk is seen assisting Ashley Franck to make payment using Patient 1's credit card. The first clerk then placed the bagged goods

² It is unclear whether the merchandise was purchased in a single transaction or in multiple transactions at each store. The officer's narrative in the police report refers to "transactions" at both Macy's and SP Laced, and I therefore use the plural form for consistency. It is immaterial, however, whether the merchandise was purchased in one or more transactions at each store.

³ Franck was identified in the surveillance video by Patient 1, the investigating police officer (through comparison to Registry of Motor Vehicles records), and the testifying human resources representative from Connected Home Care. (Exhibit 8; Proulx Testimony; Petrie Testimony.)

onto the counter for the women to take. (Exhibits 8, 10, 11; Petrie Testimony.)

7. Franck was charged with larceny and credit card fraud as a result of this incident.⁴ (Exhibit 8.)
8. Connected Home Care did not assign any money handling duties to Franck regarding Patient 1, and Patient 1 did not ask Franck to go shopping for her or authorize Franck to use her credit card. (Exhibit 9; Petrie Testimony.)
9. On December 6, 2022, Connected Home Care terminated Franck's employment. (Exhibit 9; Petrie Testimony.)
10. On May 25, 2023, DPH initiated an investigation concerning the alleged misappropriation of property. (Proulx Testimony.)
11. DPH concluded that the allegation of misappropriation of property was substantiated. (Exhibit 3.)
12. On June 22, 2023, the DPH notified Franck that it determined that the allegation of misappropriation was valid and that it was required to list the finding of misappropriation of patient property on the nurse aide registry. (Exhibit 1.)

DISCUSSION

Under G. L. c. 111, § 72J, and 105 Code Mass. Regs. § 155.016, DPH is required to report documented findings of, among other things, misappropriation of a patient's property by a

⁴ The criminal charges remained pending at the time of the evidentiary hearing.

nurse aide, home health aide, or homemaker.⁵ Misappropriation is defined as the “deliberate misplacement, exploitation or wrongful temporary or permanent use of a patient’s . . . belongings or money without such patient’s . . . consent.” 105 Code Mass. Regs. § 155.003.

The evidence presented established that Franck deliberately took and wrongfully used Patient 1’s credit card without her consent. Franck was a homemaker assigned to provide services to Patient 1 in her home on the same day that unauthorized charges were made to Patient 1’s credit card. Those charges were made less than two hours after Franck completed her work at Patient 1’s home. Franck was captured on store surveillance video and images, together with an accomplice, shopping for and purchasing merchandise using Patient 1’s credit card. Patient 1 did not authorize those charges; nor did she allow Franck to use her credit card. The evidence amply establishes that Franck misappropriated Patient 1’s credit card and fraudulently used the card to purchase merchandise for herself. DPH must therefore include the finding of misappropriation on the nurse aide registry, pursuant to G. L. c. 111, § 72J and 105 Code Mass. Regs. § 155.016. See, e.g., *Hairston-Jackson v. Department of Pub. Health*, No. PHNA-25-0042, 2026 WL 1637179, at *2-*3 (Div. Admin. Law App. May 29, 2026); *Department of Pub. Health v. Bowes*, No. PHNA-24-0350, 2025 WL 1766634, at *2 (Div. Admin. Law App. June 17, 2025).

⁵ A “homemaker” is an “individual hired or employed by a home health agency, a homemaker agency, or a hospice program . . . to provide homemaking services, such as meal preparation, cleaning and laundry” in the patient’s home. 105 Code Mass. Regs. § 155.003.

CONCLUSION

Franck misappropriated Patient 1's credit card. DPH may therefore enter on the nurse aide registry a finding that Franck misappropriated a patient's property, in accordance with G. L. c. 111, § 72J, and 105 Code Mass. Regs. § 155.016.

Dated: August 7, 2026

/s/ John G. Wheatley

John G. Wheatley
Administrative Magistrate
DIVISION OF ADMINISTRATIVE LAW APPEALS
14 Summer Street, 4th Floor
Malden, MA 02148
Tel: (781) 397-4700
www.mass.gov/dala

APPENDIX

Exhibits

1. Notice of Agency Action dated June 22, 2023
2. Respondent's Request for Hearing dated June 25, 2023
3. Department's Investigation Report dated May 30, 2023
4. Department's Incident Report dated June 15, 2023
5. Department's Interview List & Referral Form dated May 30, 2023
6. Department's Surveyor Notes dated May 30, 2023
7. Weekly Schedule for Patient 1 and for Respondent
8. Peabody Policy Report, Incident #22-3922-PF, dated November 14, 2022
9. Home Health, Homemaker and Hospice Program Fax Report Form dated June 12, 2023
10. SP Laced Surveillance Video Footage
11. Still Images from SP Laced