

COMMONWEALTH OF MASSACHUSETTS

Division of Administrative Law Appeals

Ciarra Hairston-Jackson,
Petitioner

v.

Docket No. PHNA-25-0042

Department of Public Health,
Respondent

ORDER ALLOWING SECOND MOTION FOR SUMMARY DECISION

The Petitioner, Ciarra Hairston-Jackson, appeals a decision by the Department of Public Health (“the department”) to list on the Nurse Aide Registry (“the Registry”) its finding that Ms. Hairston-Jackson misappropriated patient property. On May 16, 2025, the department filed a motion for summary decision, which I denied. On March 6, 2026, the department filed a second motion for summary decision. That same day, Ms. Hairston-Jackson filed a response.

Attached to the department’s second motion for summary decision are five exhibits that I admit into evidence:

Exhibit 1 - Investigation Report Form

Exhibit 2 - Incident Form and Application for Criminal Complaint

Exhibit 3- Docket Sheet

Exhibit 4- Conditional Tender of Plea or Admissions Form,

Exhibit 5- Notice of Probation Violation and Hearing

I also admit two additional documents contained in the administrative record: (1) the department's June 21, 2024 letter to Ms. Hairston-Jackson advising her that it would place her on the Nurse Aide Registry (Exhibit 6); and (2) Ms. Hairston-Jackson's March 6, 2026 response to the department's motion (Exhibit 7).

Undisputed Facts

Ms. Hairston-Jackson is a home health aide. (Exhibit 1). She is alleged to have stolen a check made out to another individual who performed home health services for her client, forged the payee's signature, and deposited the check into her own account. (Exhibit 1).

On June 21, 2024, the department sent Ms. Hairston-Jackson a letter advising her that it had determined that the allegations against her were valid. It also stated:

Under State and Federal Law (M.G.L. c. Chapter 111, section 72J) and 42 USC 139r(e)(2), the Department must list all valid findings of abuse, neglect or misappropriation of resident or patient property on the Nurse Aide Registry. A finding of abuse, neglect, or misappropriation of resident or patient property listed on the Registry will prohibit any Massachusetts long-term care facility or home health agency from employing you in any capacity at any time in the future.

The letter advised her that she could request a hearing to dispute the allegations. (Exhibit 6). Ms. Hairston-Jackson requested a hearing. (Exhibit 7).

On July 8, 2024, a criminal complaint issued in the Westfield District Court on charges of (1) larceny over \$250 from a person over sixty-years-of-age, in violation of G.L. c. 266, § 30(5); (2) forgery of a check, in violation of G.L. c. 266, § 1; and (3) uttering a false check, in violation of G.L. c. 267, § 5. (Exhibit 3). These charges concern the same conduct underlying the department's finding that Ms. Hairston-Jackson

misappropriated patient property.

On July 14, 2025, Ms. Hairston-Jackson entered into an admission to sufficient facts as to all three charges. (Exhibits 3-4). The Court entered a continuance without a finding as to the charges. (*Id.*). Ms. Hairston-Jackson was sentenced to one year of administrative probation. (*Id.*). She subsequently received notice that she had violated her probation. The hearing on the probation violation has been rescheduled. (Exhibits 3, 5).

Discussion

Summary decision is warranted where “there is no genuine issue of fact relating to all or part of a claim or defense and [the moving party] is entitled to prevail as a matter of law.” 801 CMR § 1.01(7)(h). Summary decision is sometimes described as “the functional equivalent of summary judgment in civil proceedings.” *King v. Office of Attorney Gen. – Fair Labor Div.*, No. LB-12-367 (Div. Admin. Law App. Jan. 29, 2014).

The moving party must demonstrate the absence of any genuine issues of material fact. 801 CMR 1.01(7)(h); *see also* Mass. R. Civ. P. 56. Inferences from these materials must be drawn in the light most favorable to the opposing party. *Beatty v. NP Corp.*, 31 Mass. App. Ct. 606, 607 (1991). Nevertheless, conclusory statements and allegations not based on personal knowledge will not defeat a motion for summary judgment. *Madsen v. Erwin*, 395 Mass. 715, 721 (1985) (citation omitted).

Here, the department contends that because it is undisputed that Ms. Hairston-Jackson admitted to sufficient facts as to the larceny, forgery, and uttering charges against her, it is entitled to summary decision.

Pursuant to G.L. c. 111, § 72J and 105 CMR 155.016, the department is required to establish and maintain a Registry for home health aides (and others). The Registry is required to list *findings*¹ and *adjudicated findings*² that a home health aide misappropriated patient property, as well as any admissions to sufficient facts to support a guilty finding made in a court of law by an individual accused of misappropriation of patient property. 105 CMR 155.016(C). Furthermore, the department must disclose information regarding findings or adjudicated findings of misappropriation of patient property by a home health aide, as well as any information regarding admissions to sufficient facts to support a guilty finding made by home health aides in a court of law. 105 CMR 155.016(D). The applicable regulation prohibits any facility, home health agency, homemaker agency or hospice program from hiring or employing a home health aide if the aide's name appears in the Registry with a finding or adjudicated finding of misappropriation of patient property or if the aide admitted to sufficient facts to support a guilty finding of such misappropriation in a court of law. 42 C.F.R. § 483.13.³

¹ A *finding* is "the Department's determination, at the conclusion of its investigation, that an allegation of . . . misappropriation of patient or resident property against an accused is valid or not." 105 CMR 155.003.

² An *adjudicated finding* is "the determination of a hearing officer at the conclusion of a hearing as to whether or not a . . . home health aide . . . misappropriated patient or resident property." 105 CMR 155.003.

³ 105 CMR 155.010(E)(4) states, in part: "Except as provided in 105 CMR 155.014(A)(2)" Please note that 105 CMR 155.014(A) does not contain a sub-part (2).

The statute and regulations taken together provide that a home health aide can be placed on the Registry in three circumstances. The first situation in which a home health aide must be placed on the Registry is after a finding by the department that an allegation of misappropriation against the accused home health aide is valid. 105 CMR 155.016(C)(1). Second, a home health aide must be placed on the Registry after an adjudicated finding by DALA that the accused home health aide did in fact misappropriate patient property. *Id.* Finally, a home health aide must be placed on the Registry if a court of law finds him or her guilty, or if he or she enters a guilty plea or nolo contendere plea, or if he or she admits to facts sufficient to support a guilty finding of misappropriation of patient property. 105 CMR 155.016(C)(4). Generally, any of the above-listed events results in a home health aide's name being placed on the registry; and both federal and state law prohibit the hiring of a home health aide whose name appears on the Registry, regardless of how the home health aide's name came to be placed there. 42 C.F.R. § 483.13; 105 CMR 155.010(E)(4); *see generally* G.L. c. 111, § 72J.

In the present case, Ms. Hairston-Jackson is appealing the department's June 21, 2024 finding that the allegation that she misappropriated patient property is valid. Her appeal of the department's finding in the present circumstances, however, has been made moot by her admission to facts sufficient to support a guilty finding of misappropriation in Westfield District Court. Under the regulations, the admission to sufficient facts warrants the placement of her name on the Registry. 105 CMR 155.016(C)(1); 105 CMR 155.016(C)(4). Thus, in this case, an appeal of the department's

finding is of no avail because Ms. Hairston-Jackson's admission to sufficient facts in a court of law provides an independent ground for her being placed on the Registry. In light of her admission, an appeal of the department's finding would be purely academic and an exercise in futility because regardless of the outcome, Ms. Hairston-Jackson would still required to be placed on the Registry as a matter of law.

Therefore, because an independent justification exists for Ms. Hairston-Jackson's placement on the Registry, the department's motion for summary decision is allowed. Ms. Hairston-Jackson's appeal of the department's finding of resident abuse against her is dismissed as moot.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Timothy M. Pomarole

Timothy M. Pomarole, Esq.
Administrative Magistrate

Dated: May 29, 2026

Notice: Ryan T. Gibbons, Esq. (via-email)
Ciarra Hairston-Jackson (via e-mail)