

COMMONWEALTH OF MASSACHUSETTS
Division of Administrative Law Appeals

MCBA,¹

Petitioner

v.

Docket No. DPPC-24-0118

Disabled Persons Protection Commission,

Respondent

Appearance for Petitioner:

MCBA, *Pro Se*

Appearance for Respondent:

Andrew Levrault, Esq.
Disabled Persons Protection Commission
300 Granite Street, Suite 404
Boston, MA 02184

Administrative Magistrate:

Timothy M. Pomarole, Esq.

SUMMARY OF DECISION

The Petitioner appeals a decision by the Disabled Persons Protection Commission (“DPPC”) that she be placed on a registry of abusers. The DPPC has not met its burden of proving by a preponderance of the evidence that the Petitioner committed “registerable abuse” for purposes of M.G.L. c. 19C, § 15. The DPPC may not place her on the registry of abusers.

¹ A pseudonym. I do not use her name because of the Confidentiality Order entered in this case and the general requirements of confidentiality in M.G.L. c. 19C, § 15. Because of the order, the statute, and the applicable regulations, pseudonyms will be used for the names of the alleged victim and the witnesses as well.

DECISION

The Petitioner appeals a determination by the DPPC that she should be placed on the DPPC Abuser Registry.

I held a hearing on May 9, 2025 via the WebEx conferencing platform. I admitted Exhibits A-R into evidence. In addition to the Petitioner, the following witnesses testified:

- KC: the program manager for Brockton Area Multi Services Inc.;
- CA: a residential counselor who worked at the home where MCBA worked; and
- KF: a senior investigator with the Department of Developmental Services ("DDS").

I had neglected to record the first half of the hearing, so the testimony of KC and CA was not recorded. The testimony of KF and the Petitioner was recorded. I invited the parties to furnish proposed findings of fact in any post-hearing submissions.

On June 24 and 25, the parties filed post-hearing submissions, at which point the record was closed.

The DPPC's post-hearing submission includes a detailed recitation of facts. The Petitioner's submission, for the most part, did not attempt to recapitulate the evidence. For KC's and CA's testimony, I rely on the DPPC's post-hearing brief and my own notes, which were consistent with one another.

FINDINGS OF FACT

Based on the evidence presented by the parties, along with reasonable inferences drawn therefrom, I make the following findings of fact:

- A. WD, the Petitioner, and Attleboro Residence
 1. The alleged victim, WD, is a woman in her early fifties who receives services from

the Department of Developmental Services ("DDS") and resides at a group residence for adults with disabilities located in Attleboro ("Attleboro Residence"), Massachusetts. The residence is operated by Brockton Area Multi Services, Inc. ("BAMSI"). (KC Test.; Exhibit C).

2. WD has intellectual and developmental disabilities. Her diagnoses include cerebral palsy, a mood disorder, schizophrenia, and an unspecified thought disorder. (Exhibit G).
3. WD has lived at the Attleboro residence for about seven years. (KC Test.).
4. The Attleboro Residence is a one-floor, ranch-style home, with four bedrooms and two bathrooms. (KC Test.; KF Test.).
5. There are four women, including WD, living at the Attleboro residence. (KC Test.).
6. One of WD's housemates is CO. WD and CO are best friends. They will sometimes quarrel like sisters. (CA Test.; KC Test.).
7. CO has been involved in "at least ten prior investigations." In the "course of several of her investigations, she was not found to be reliable" by DDS investigators. (KF Test.).²
8. WD is anxious, which manifests itself in hand-shakes and tremors. (Exhibit G).
9. When she is at home, WD spends much of her time in her room. (Petitioner Test.; Exhibit C).

² The DPPC may refer the investigation of certain complaints concerning caregivers to DDS investigators. (KF Test.).

10. WD is fixated on her hygiene products, such as shampoo and bodywash. She is often anxious that other individuals will use her products. Accordingly, she stores them in a separate location from her housemates' hygiene products. (KC Test.; Exhibit C).

11. WD has positive relationships with her housemates and with the staff. She is helpful in the home. (Exhibit G).

12. WD does not have a history of alleging abuse by staff. (CA Test.).

13. Although WD's individual support plan ("ISP") says that she has a "fantastic memory," the section of the ISP entitled "Clinical" also states that WD "may need assistance in maintaining clarity of what has occurred in the past, she at times may confuse pieces of different stories or activities. It is important that staff work with her on maintaining accuracy in her discussions and clarify any confusions. [WD] may also get upset when directly challenged on a statement she has made to others. Staff approach is very important in this situation."

(Exhibit G).³

14. The section of WD's ISP outlining what a caregiver needs to know in order to provide effective support states that WD "may at times embellish stories or fill in parts of it with untruths. Staff should always follow up with caregiver/parents/staff if an issue occurs to ensure that [WD] is not mistaken in parts of her conversations when something happens like a mistake, behavior,

³ An ISP is prepared by an individual's DDS service coordinator and contains information about the individual, the care they are to receive, and goals and objectives for the person's care and growth. (KF Test.).

injury, etc." (Exhibit G).

15. At the time relevant to this appeal, the Attleboro residence was staffed by KC and five residential counselors, including the Petitioner. Two staff members are typically on duty when all four residents are at home. (KC Test.).

16. Residential counselors are responsible for assisting residents with their activities of daily living. They are supposed to foster a home-like atmosphere for the residents while promoting their safety and rights. (KC Test.).

17. Residential counselors are trained on how to deal with behavioral challenges by residents, de-escalation techniques, and mandated reporting. (KC Test.; CA Test.).

18. There are three shifts: 7:30 am – 3:30 pm (first shift); 2:30 pm – 11:30 pm (second shift); and 11:30 pm – 7:30 am (third shift). There is some variability in the shifts, however, depending on the circumstances. (KC Test.).

19. At the time of the events at issue in this appeal, the Petitioner had worked at the Attleboro residence for several years and had been working for BAMSI for fifteen years. Like other BAMSI employees, the Petitioner has been trained on how to respond to difficult behaviors by the individuals within their care. (Petitioner Test.; Exhibit M).

20. The Petitioner voiced her disagreements with KC over various matters. Two specific disagreements resulted in KC reporting the Petitioner to the BAMSI central office: (a) one concerning where the Petitioner should do the grocery shopping; and (b) the other related to whether KC could require the Petitioner to

check the residents' medication not only for her shift, but for all of the shifts, when KC was planning on going on vacation. (KC Test.; Petitioner Test.).

B. The Events of December 9 and Their Aftermath

21. On December 9, 2023, the Petitioner worked a double shift, from 8:00 am to 11:30 pm. Another staff member worked from 8:00 am to noon. CA also worked that day, and started her shift at 2:30 pm. (KC Test.; CA Test.; Exhibit C).
22. The Petitioner had heard from CO that WD was accusing the Petitioner of using WD's hygiene products on another resident. On December 9, at some point before 2:30 pm, the Petitioner asked CO to accompany her to WD's room. The Petitioner confronted WD about the accusations. The Petitioner may have raised her voice when she did so. WD denied making the accusations. CO disputed WD's denial. WD and CO then argued back and forth, and the Petitioner left the room. (Exhibit C; Exhibit O).
23. At some point after the Petitioner's encounter with WD and CO in WD's room, WD asked the Petitioner for a hug. When they hugged, a small amount of water in the mug the Petitioner had been holding spilled on WD. (Exhibit C; Exhibit O).
24. When CA arrived for her shift that day, she encountered the Petitioner agitated about the accusations made by WD. (CA Test.; Exhibit N).
25. KC was not working that day (a Saturday; she usually worked Monday through Friday). KC received a call from the Petitioner. She could not talk at that time, so at 2:52 pm, she texted the Petitioner in response. The following text exchange ensued:

KC: Hi [Petitioner] I'm out right now and can't really talk, what's the matter?

Petitioner: Ok sorry about that it's [WD] kept seeing it stold her stuff in her room she told [CO] don't tell me i was so upset about that that's why I called you.

KC: I don't understand, [WD] thinks someone stole something?

Petitioner: I was so mad i never go to her room never without her because i knew she said that about [another residential counselor] before, so now it's my turn.

KC: Just pay her no mind I will talk to her on Monday, I'm sorry,

Petitioner: Thank you [KC] she needs [the text exchange reproduced in the record is cut off at that point]

(Exhibit D).

26. It was not out of the ordinary for residential counselors to reach out to KC about residents outside of KC's normal working hours. (Petitioner Test.).

27. WA, a residential counselor, reported to work at 11 pm on December 9 to work a double shift scheduled to conclude at 4:00 pm on December 10. She saw WD at 7:00 am on December 10, when she administered WD's medication, but did not notice anything unusual. Later that day, around 1:00 pm, she noticed that WD had a black eye. She twice asked WD how she got the black eye. Both times, WD said she did not know. WA did not report the black eye to anyone because she thought it was an accident. (Exhibit C).

28. The Petitioner noticed WD's black eye when she showed up to work on December 10. She asked WD what happened, and WD responded that she

“woke up that way.” (Exhibit O).⁴

29. SC, another residential counselor, noticed WD’s black eye on December 10 at approximately 4:00 pm, when she arrived at the Attleboro residence for a double shift. She asked WD what had happened and WD responded that she did not know. (Exhibit C).

30. When SC asked the Petitioner and WA what had happened, they said they did not know. SC did not report the black eye to KC at that point because she assumed that the Petitioner or WA had already done so. (Exhibit C).

31. On the morning of December 11, SC saw that WD’s eye looked worse and texted KC a photograph of WD’s eye because she wanted to make sure KC knew about it. (KC Test.; Exhibit C; Exhibit F).

32. KC responded to the residence that morning and spoke with WD. WD informed KC that the Petitioner had entered her room on the afternoon of December 9th along with CO. WD further stated that the Petitioner accused WD of spreading rumors that the Petitioner had used WD’s bodywash on another resident. WD told KC that the Petitioner shook her and hit her eye several times during the encounter. WD also said that the Petitioner also threw water on her. WD reported that CO was standing in the doorway. (KC Test.; Exhibit C).

33. KC also spoke with CO. CO’s account was similar to WD’s, but CO stated that she, CO, was struck in the eye too. (KC Test.; Exhibit C). The Petitioner did not strike

⁴ There is no evidence that the Petitioner contacted anyone about WD’s black eye. If she did not, the record does not indicate the reason why she might not have done so.

CO in the eye. (Exhibit C).⁵

34. On December 11, 2023, CA provided a written statement, alleging that when she arrived for her shift on December 9, the Petitioner was sitting in the kitchen speaking loudly about WD saying that she was using WD's bodywash on other residents and that she, the Petitioner, shook WD and told her to go to her room. CA further reported that when she went in to check in on WD while vacuuming, WD was hiding under her blankets, her "left arm was shaking uncontrollably, more than normal," and she was visibly upset. WD reportedly told CA that she was "OK." According to CA, WD left her room only three times that afternoon and evening: twice to receive medication and once for dinner. CA stated that she thought that WD was not acting like her normal self. (Exhibit E).⁶

35. Shaking a resident would have been inappropriate and inconsistent with the training residential counselors receive. (KF Test.).

36. CA did not reach out to KC or anyone else about what she reportedly saw and heard on December 11, 2023. (CA Test.).

37. The daily log notes for December 9 and December 10, containing comments from the first- and second-shift residential counselors, do not note any concerns

⁵ Other than this stray statement, there is no suggestion in the record that the Petitioner struck CO. And none of the reports include any reference to any injuries to CO.

⁶ When CA spoke to the DDS investigator who was investigating this matter, she told him that the Petitioner had referred to WD as an "evil woman." (KF Test.). Although I credit KF's account of what he had been told, I do not make any finding that the Petitioner, in fact, called WD an "evil woman."

about, or issues with, WD. In fact, the entry for second shift, which was written by CA, notes: “[WD] did work on her crossword[,] took shower and ate all dinner!” (Exhibit H).

38. When WD attended her day program on December 11, a program staff member saw the black eye and asked WD what had happened. WD responded that a staff member at her home had punched her in the eye four times. (Exhibit C).

39. WD was treated by her physician for her black eye. WD gave her physician an account of what had happened that was consistent with the account she provided to KC. (Exhibit L).

40. Starting sometime after December 9, WD became more anxious for several months. After December 9, both WD and CA expressed concerns that the Petitioner, who was placed on leave and subsequently terminated, would return. (KC Test.; CA Test.).

C. DPPC Investigation and Proceedings

41. On December 11, 2023, the DPPC opened DPPC Case No. I-45913, which concerns the allegations at issue in this matter. (Exhibit A).

42. The investigation of the allegations in DPPC Case No. I-45913 was referred to DDS. The allegations were investigated by KF. (KF Test.).⁷

43. When KF asked WD about the source of the injury, WD provided an account that

⁷ KF interviewed several individuals in the course of his investigation. In what follows, I do not discuss all of these interviews. Much of the substance is reflected, however, in the preceding findings, many of which are based on the investigative report KF prepared.

was substantially the same as that which she had provided to KC. WD stated that the impact and injury caused her pain. WD reported that the Petitioner also threw water from a water bottle on her. WD told KF that she was fearful of the Petitioner and did not want the Petitioner to remain in the home as a staff member. (Exhibit C; Exhibit L).

44. KF spoke with CO. He was familiar with CO from prior investigations and knew that CO had been deemed unreliable in past investigations. (KF Test.).

45. CO told KF that the Petitioner had asked CO to accompany her to WD's room. CO also told KF that she witnessed the Petitioner rip the covers off WD, shake her, and then punch her in the eye. CO demonstrated the punches to KF. (KF Test.; Exhibit C).

46. To test CO's reliability, KF asked CO if the Petitioner threw water from a glass of water at WD. CO responded, consistent with WD's statement, that it was from a water bottle. (KF Test.; Exhibit C).

47. When KF interviewed the Petitioner, she stated that she brought CA along with her to WD's room to discuss the allegation that she had been using WD's bodywash on other residents. The Petitioner denied any type of physical confrontation with WD and denied throwing water on her. She stated that she is a "200 lbs. woman and would have caused serious damage to [WD] if she hit her." She reported that she had told CA about her encounter with WD, but denied that she told CA that she shook WD or that she threw water at her. (Exhibit C; KF Test.).

48. The Petitioner stated that she had a good relationship with CA. When KF asked her why “everyone” (presumably WD, CO, and CA) was lying, the Petitioner “could not provide an answer.” (Exhibit C).

49. KF spoke with WD’s DDS service coordinator, who told him that WD does not fabricate stories, and her physician, who told KF that she considered WD a reliable reporter. (KF Test.).

50. The DPPC determined, as a result of KF’s investigation, that the Petitioner engaged in “registerable abuse” of WD. (Exhibit C).

51. On January 24, 2024, the DPPC mailed the Petitioner a Notice of Right to Respond, which contained a copy of the Investigation Report in DPPC Case No. I-45913 outlining the DPPC’s investigation and its conclusions, along with instructions for filing a Petition for Review. (Exhibit L).

52. The Petitioner submitted a timely petition on February 6, 2024. In her petition, the Petitioner states: “I HAVE NEVER EVER put hands on my clients in such a way and never would in a million years.” (Exhibit M (caps in original)).

53. In her petition, the Petitioner also stated that the “the manager” (KC, presumably) was hostile to her and this caused other staff to be unfriendly towards her. The Petitioner also remarked that she felt targeted by other staff at the residence and that staff members would try to get her into trouble. She further stated that WD was not a reliable reporter and would repeat what she had been told. (Exhibit M).

54. On February 28, 2024, the DPPC issued its Petition Decision, affirming its

determination that the Petitioner had engaged in registrable abuse. (Exhibit N).

55. On March 14, 2024, the Petitioner filed a timely appeal of the DPPC's Petition Decision with the Division of Administrative Law Appeals pursuant to M.G.L. c. 19C, § 5.

D. District Court Proceedings

56. Detective James Butler investigated the allegations against the Petitioner for the Attleboro Police Department. He interviewed WD, CO, KC, CA, SC, and the Petitioner. (Exhibits O-P).

57. On March 26, 2024, the Petitioner was charged with assault and battery on a disabled person over 60 years of age, in violation of M.G.L. c. 265, § 13K(a ½). (Exhibit Q).

58. The Petitioner retained private counsel to represent her. (Exhibit Q; Petitioner Test.).

59. On August 12, 2024, the Petitioner entered an "Admission to Facts Sufficient for a Finding of Guilty" to the charged offense, which resulted, per a plea agreement, to the charge being continued without a finding. The Petitioner acknowledged that she entered into her admission to sufficient facts freely and voluntarily. (Exhibit Q; Exhibit R).

60. The Petitioner agreed to sufficient facts because the ongoing court proceedings were causing her anxiety and she could not afford to pay her attorney. She was aware that she could have been represented by a public defender, but believed that they did not "do much." (Petitioner Test.).

CONCLUSION AND ORDER**A. The Legal Framework**

The DPPC has determined that the Petitioner has committed abuse and abuse per se and that her name should be placed on “a registry of care providers against whom [DPPC] has made a substantiated finding of registrable abuse.” M.G.L. c. 19C, § 15(b). The DPPC bears the burden in this appeal to “establish[] registrable abuse by the care provider, based on a preponderance of the evidence.” M.G.L. c. 19C, § 15(c).

“Registrable abuse” is defined as

an act or omission of a care provider that results in serious physical or emotional injury or constitutes abuse per se of a person with an intellectual or developmental disability; provided, however, that “registrable abuse” shall not include instances in which the commission, upon weighing the conduct of the care provider and its outcome, determines that the incident was isolated and unlikely to reoccur and that the care provider is fit to provide services or supports to persons with intellectual or developmental disabilities.

M.G.L. c. 19C, § 15(a).

The parties do not dispute that WD is a “person with an intellectual or developmental disability” and that the Petitioner was a “care provider” within the meaning of the statute. Accordingly, this appeal turns on whether the Petitioner caused WD a “serious physical or emotional injury” or engaged in “abuse per se.”

A “serious physical injury” is defined as an “[i]mpairment of the physical condition of a Person with a Disability.” 118 CMR 2.02. A “serious emotional injury” is “injury to the intellectual functioning or emotional state” of a person with a disability. “Abuse per se” includes “the intentional, wanton or reckless application of a physical force in a manner that inflicts physical pain or Serious Emotional Injury.” 118 CMR 2.02.

B. DPPC's Theory of the Case

The DPPC contends that the Petitioner inflicted a serious physical and emotional injury on WD and engaged in abuse per se by shaking WD and repeatedly punching her, causing her to suffer a bruised eye. The DPPC's theory is that the Petitioner became so enraged by WD's accusation that the Petitioner was using her bodywash on other residents that she punched and shook her. Before addressing the evidence upon which the DPPC relies, I first make some general observations about DPPC's theory of the case.

Although the DPPC was not required to proffer a motive for the Petitioner's alleged actions, evidence of a motive – or the lack of same – is relevant to the question of whether the Petitioner engaged in the conduct alleged. *Cf. Commonwealth v. Brea*, 488 Mass. 150, 165 (2021) (observing that motive is not an element of crime of homicide, but the presence or absence of motive may be relevant to determinations regarding issues such as identity of perpetrator and intent).

The conduct alleged was extreme and shocking. If it occurred, it did not represent a poor spur-of-the-moment response to aggressive or surprising behavior. It would have instead been a violent reprisal for a perhaps irritating, but essentially inconsequential, rumor. Why would the Petitioner, trained to deal with a variety of difficult behaviors and with ten years of experience, risk her career and betray the trust placed in her by violently attacking a developmentally disabled women in her care on such slight provocation?

The DPPC's theory is that the Petitioner attacked WD because she was very angry about the rumor WD spread – that anger being displayed in her conversation with CA and her text exchange with KC. This is a dubious explanation.

It is true that the Petitioner was quite angry about WD's accusation, but based on the testimony and my observations of the Petitioner's demeanor during the hearing, it appears that she forms strong opinions about various subjects, voices those opinions in an emphatic and vehement fashion, and may get angry. Accordingly, although one might view the anger the Petitioner displayed as disproportionate to the situation, it does not necessarily appear out of proportion to her baseline reactions to behavior she considers unreasonable or objectionable. The fact that the Petitioner was angered by WD's accusation and made her displeasure known does not mean that she was angry enough to lay hands on a resident in her care.

Moreover, I do not consider it probable that the Petitioner would have asked CO to accompany her to WD's room and then violently attack WD in full view of CO, who also happened to be WD's best friend. It is not impossible that the Petitioner was so transported by anger that she disregarded CO's presence, but, as indicated above, I do not find that hypothesis probable.

In addition, if the Petitioner had, in fact, attacked WD, it is not likely that she would have contacted her supervisor after the fact and volunteered that she was "so upset" and "so mad" about WD's accusation. And, even if she did, she would have likely sought to minimize what had occurred or attempted to justify it. Instead, the Petitioner appears to have been focused not on her encounter with WD, but on responding to the

substance of WD's bodywash allegation itself: she insisted that she never goes to WD's room without WD because she wishes to avoid such allegations by WD.

None of the foregoing observations, individually or collectively, are dispositive. They must be considered alongside, and in the light of, the evidence supporting DPPC's position, to which I now turn.

C. The DPPC's Evidence

The DPPC's principal supporting evidence is: (1) the statements of WD and CO; (2) the testimony of CA; (3) the implausibility of the Petitioner's explanations for why WD, CO, and CA made their statements; and (4) the Petitioner's admission to sufficient facts in her criminal case. I discuss each of these in turn.

1. *The statements of WD and CO*

I begin with WD. At the hearing, KC and CA described WD as a reliable reporter.⁸ I do not give this characterization much evidentiary weight in this case in view of the statements in WD's ISP that she might "embellish stories or fill in parts of it with untruths," that she may "confuse pieces of different stories or activities," and that she "may also get upset when directly challenged on a statement she had made to others."

In any case, people who are otherwise reliable reporters sometimes say things that are inaccurate, incomplete, or untrue. And it is difficult to assess the accuracy of

⁸ In addition, WD's service coordinator told KF that WD does not fabricate stories and WD's physician characterized her as a reliable reporter.

WD's account because she did not testify and the record does not indicate that WD was pressed on her statements.⁹

The DPPC argues that WD's consistency in her accounts of her encounter with the Petitioner is a sign of her reliability. WD does not appear to have been entirely consistent in her reports, however, since she initially said that she did not know how she got the black eye and that she just "woke up that way." But even the consistency in the narratives she provided about her encounter with the Petitioner in her room is not suggestive of reliability. WD's version of events is not complicated and, as I noted above, there is no indication it was subject to any testing.

Turning to CO, I assign little weight to CO's statements corroborating WD's account. I appreciate KF's forthrightness in acknowledging that CO had been deemed unreliable in the past. My assessment of her credibility relies just as much, however, on the lack of reliability displayed in *this* case: CO falsely or mistakenly told KC that the Petitioner punched her (CO) as well. That is a significant detail. The fact that she either lied or was confused about such a basic and important detail undermines the overall credibility of her account.

2. CA's Testimony

I turn next to CA's testimony that the Petitioner was angry about WD's accusation and admitted shaking her. I credit her statement that WD was angry. I do not credit her testimony that the Petitioner admitted shaking WD.

⁹ It is perhaps understandable that WD was not pressed on her statements. WD's ISP indicates that she may have become upset by efforts to probe her account of events.

It is notable that CA did not report to KC (or anyone else) that the Petitioner had confessed to engaging in that sort of abusive behavior. I am unpersuaded by CA's explanation that the reason she did not report anything is that she had not witnessed what had happened and WD had no visible injuries on December 9. She did not need to have witnessed the shaking – by her account, an agitated Petitioner confessed to it. Nor is it of any consequence that there were no visible physical injuries – according to CA, when she checked in on WD, she had found her visibly upset and hiding under the covers and noticed that her “left arm was shaking uncontrollably, more than normal.” And she says that, later that evening, she noticed that WD was not acting like her normal self. CA's explanation is unconvincing.

In fact, even CA's report of WD's condition on December 9 is doubtful. None of the other residential counselors noted in the shift reports or, apparently, in their interviews with KF, anything unusual about WD's condition on December 9 or 10 – except for WD's black eye. Indeed, CA's shift report not only fails to note any concerns about WD's state or condition, it has a decidedly positive tone, observing that WD “ate all of her dinner!” (Exhibit H (exclamation mark in original)).

Moreover, CA's report that the Petitioner had said that she told WD to go to her room is inconsistent with all of the other testimony that when the Petitioner had her encounter with WD, WD was already in her room.

I find that CA is not a reliable reporter on this issue.

3. The Petitioner's Failure to Explain WD's, CO's, and CA's Statements

The DPPC points out that when KF interviewed the Petitioner, she could not provide an explanation as to why CA, CO, and WD would lie about what they had seen and heard and that in her petition, she seems to make the implausible suggestion that the accusations against her were somehow the product of animosity towards her by KC. While I agree with the DPPC that any theory that the accusations against the Petitioner were orchestrated by KC is far-fetched and unsupported, the fact that the Petitioner cannot proffer convincing explanations for the conduct and motivations of third parties is immaterial.

It is not surprising that a pro se party facing untrue allegations of serious misconduct might proffer explanations for the allegations (e.g., long-simmering tensions with a supervisor boiling over in false accusations) that may be grounded in preexisting interpersonal conflicts, but are implausible to neutral, unconnected observers.

And the fact remains that the DPPC is the party that bears the burden of proof here. Although the relative implausibility of alternative scenarios may sometimes assist a party in meeting its burden of proof, in some cases the record may be simply insufficient for the fact-finder to determine what happened by the evidence's preponderance. The evidence-bearing party does not necessarily win merely because other explanations for the relevant events also fall short.¹⁰

¹⁰ It is also not significant that the Petitioner was the only witness furnishing evidence supportive of her version of events. “[F]acts are to be proved by the character and quality of the testimony and not by the quantity of the evidence or by the number of witnesses.” *Commonwealth v. Fine*, 321 Mass. 299, 302 (1947) (citation omitted).

4. The Petitioner's admission to sufficient facts

An admission to sufficient facts is admissible "as an admission of a party opponent." *Hopkins v. Medeiros*, 48 Mass. App. Ct. 600, 613 (2000). It is not, however, necessarily "conclusive as to the facts admitted." *Id.* (citations omitted). The Supreme Judicial Court has observed that "[f]actors other than consciousness of guilt – including expedience or avoidance of publicity – may motivate a defendant to admit to sufficient facts in exchange for a continuance and eventual dismissal." *Wardell v. Director of Div. of Employment Sec.*, 397 Mass. 433, 437 (1986).

Here, I have found that the Petitioner entered into an admission to sufficient facts because of the financial strain, as well as the stress and anxiety associated with the criminal proceedings. Without wishing to minimize the solemnity that *should* attach to the entry of a plea, I assign the Petitioner's admission to sufficient facts little evidentiary weight in this case.

D. The Petitioner was credible

This decision has so far focused on the evidence presented by the DPPC. I turn briefly to the Petitioner's testimony. The Petitioner denied the accusations against her flatly and without the sort of equivocations that sometimes accompany denials. For example, there was no discernable attempt to deny a physical confrontation while also implying that *if* there had been a physical confrontation it might not have been quite as blameworthy or inexcusable as one might think. Although I do not accept a theory that staff and residents conspired against her and do not necessarily agree with her

assessments of people and events, I am persuaded that she truthfully testified about facts and circumstances as she understood them.

For all of the foregoing reasons, the DPPC has not proved by a preponderance of the evidence that the Petitioner engaged in registrable abuse. The DPPC may not place her on the registry of abusive care providers.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Timothy M. Pomarole

Timothy M. Pomarole, Esq.
Administrative Magistrate

Dated: December 18, 2025