

**BEFORE THE STATE PERSONNEL BOARD
IN THE MATTER OF**

WILLIAM HAMILTON,)	
)	
Appellant,)	
)	
v.)	Case No: 25-11-RCS
)	
ALABAMA DEPARTMENT OF MENTAL HEALTH,)	
)	
)	
Appellee.)	

RECOMMENDED ORDER TO THE STATE PERSONNEL BOARD

The recommended order arises from an employment termination action by the Alabama Department of Mental Health (hereinafter “DMH”). DMH terminated the employment of William Hamilton (hereinafter “Hamilton” or “the Employee”) based upon his violation of DMH policies and State Personnel Board work rules. The evidence presented during the hearing showed that more probably than not, Hamilton’s actions were sufficient to justify his dismissal from DMH.

A hearing was held on June 20, 2025, at DMH’s James I. Harrison Jr., Parkway office in Tuscaloosa, Alabama. Jessica Champion, Esq., and Edward Hixon, Esq., appeared as counsel on behalf of DMH. Jason Manasco, Esq., appeared as counsel on behalf of Hamilton.

At the beginning of the hearing, DMH introduced into evidence, exhibits marked as DMH's Exhibits 1-7.¹ Hamilton did not proffer any additional exhibits. The undersigned informed the parties that Hamilton's personnel file at the Alabama State Personnel Department is included in the record as evidence in this cause.

DMH called as witnesses:

- 1) Kathy Thompson, Human Resources for Taylor Hardin;
- 2) Antanetta Dubose, Mental Health Technician;
- 3) Jonathan Pressley, DMH Clinical Investigator; and
- 4) Daphne Kendrick, Facility Director of Taylor Hardin.

Hamilton testified on his own behalf.

I. PROCEDURAL HISTORY AND CHARGES

Hamilton was dismissed from employment with DMH on April 18, 2025. *See* April 18, 2025, dismissal letter ("dismissal letter") signed by DMH Facility Director, Daphne Kendrick ("Kendrick").²

In DMH's dismissal letter to Hamilton, DMH alleged:³

¹ Due to the sensitive nature of, and/or the privacy protected material DMH Exhibit 6 is hereby placed UNDER SEAL and is not available for public inspection without appropriate Court Order, an Order from the Administrative Law Judge acting under the authority of the State Personnel Board, or an Order of the State Personnel Board.

² DMH Exhibit 2.

³ *Id.*

...

On March 25, 2025, it was alleged that you were engaged in a verbal altercation with a patient. As a result of this report, an investigation was conducted, and camera data reviewed. The investigation was completed and there is sufficient evidence to support the alleged violation of the above policies.

...

Hamilton timely appealed his dismissal to the Alabama State Personnel Board, pursuant to *Ala. Code 1975, § 36-26-27(a)*. On June 20, 2025, the undersigned conducted a *de novo* hearing (“the hearing”), at which ore tenus and documentary evidence was received.

II. FACTUAL BACKGROUND

Having reviewed the documentary evidence and having heard the testimony presented at the hearing and having observed the witnesses’ demeanor and assessed their credibility, the undersigned finds the greater weight of the evidence supports the following findings of facts.⁴

A. Employee’s Personnel File⁵

⁴ All references to exhibits and testimony are intended to assist the State Personnel Board in considering this recommended order and are not necessarily the exclusive sources for such factual findings.

⁵ See generally SPB Rules 670-X-18-.02(5) and 670-X-19-.01(1)(b) (employee’s work record, including performance and disciplinary history, and length of service considered in dismissing employee).

Hamilton began his employment with DMH in 2010, as a Mental Health Worker I. On June 26, 2012, Hamilton resigned from DMH after expressing his intent to move back to New York City. In July 2013, Hamilton was rehired as a Mental Health Worker I. In March 2019, Hamilton was promoted to Mental Health Worker II. In July 2021, Hamilton was promoted to Mental Health Worker, Lead. On March 1, 2024, the Mental Health Worker, Lead job title was changed to Mental Health Tech, Lead. Hamilton remained in that classification until his dismissal.

Hamilton’s annual performance appraisals (“APA”) while at DMH reflect:

<u>Date Ending</u>	<u>Total Score</u>	<u>Category</u>
11/24	27.5	Exceeds Standards
11/23	28.7	Exceeds Standards
11/22	28.75	Exceeds Standards
01/22 ⁶	27.5	Exceeds Standards
07/20	27.5	Exceeds Standards
09/19 ⁷	31.6	Exceeds Standards
05/18	27.0	Exceeds Standards
05/17	27.0	Exceeds Standards
05/16	30.0	Exceeds Standards
05/15	27.0	Exceeds Standards
05/14	28.3	Exceeds Standards
09/13 ⁸	30.0	Exceeds Standards
08/11	25.0	Meets Standards

⁶ Final Probationary Appraisal as Mental Health Worker, Lead.

⁷ Final Probationary Appraisal as Mental Health Worker II.

⁸ Final Probationary Appraisal as Mental health Worker I.

Hamilton did not have prior disciplinary history while working for DMH. He was investigated on one prior incident, but ultimately the allegations were unsubstantiated.

B. DMH Policies/Procedures Forming the Basis of the Charges

DMH's Policy #19-10 provides, in pertinent part:

I. POLICY:

Any form of recipient abuse, neglect, exploitation or mistreatment will not be tolerated. The ADMH will immediately investigate and provide for appropriate legal and administrative actions based upon such investigation in any state-operated facility. (Reference ADMH Incident Management Plan)

II. PURPOSE:

This policy establishes standards for addressing findings of recipient abuse, neglect, mistreatment, exploitation, and other similar incidents in all ADMH facilities. While this policy also attempts to ensure consistent and equitable treatment of both employees and recipients, it is not intended to ignore extenuating circumstances and the individuality of situations that arise; but rather, to be the starting point and common ground from which decisions are to be made.

III. STANDARDS:

⁹ Final Probationary Appraisal as Mental Health Worker I.

1. It is the responsibility of ADMH employees to treat all recipients with dignity and respect, to ensure that all recipients receive appropriate care and treatment, and to provide all recipients with protection from abuse and neglect, mistreatment or exploitation. (Reference Department Policy Number 20-40, "Protection from Harm").

2. Employees found in violation of this policy shall be subject to disciplinary actions as follows. Facilities will utilize progressive discipline as appropriate to the extent possible (See ADMH Policy Number 60-40, "Progressive Discipline"); however, the ADMH reserves the right to take more or less stringent disciplinary action as applicable to the offense(s) by the employee.

...

DMH's Policy #70-5 provides, in pertinent part:

I. POLICY:

All Department employees will adhere to accepted standards of professional and personal conduct. Violation of these standards may result in disciplinary action.

II. STANDARDS:

1. The listing of violations below is not meant to be all inclusive and does not imply that discipline may not be imposed for other sufficient reasons. Unacceptable conduct is defined as, but not limited to, the following:

a. Client abuse, mistreatment, neglect and exploitation

...

dd. Violation of specific Department/Division/Facility

rules, regulations, and policies.

...

DMH's Policy #70-6 provides, in pertinent part:

I. POLICY:

Unprofessional behavior by staff members, whether manifested actively or passively, can adversely affect patient care. DMH shall limit such adverse effects by enforcing the Code of Conduct and related policies and procedures which include education, referral for treatment, accountability and a disciplinary process. It is also the intention of this policy to provide protection for staff members from allegations of unprofessional behavior when none exists.

Employees that are determined to have exhibited unprofessional behavior are subject to disciplinary action.

...

Definitions:

...

Acceptable behavior is behavior that is honest, courteous, fosters a culture of excellence; maintains morale and contributes to staff retention with the ultimate goal of safe and effective patient care.

Inappropriate behavior means conduct that is unwarranted and is reasonably interpreted to be demeaning or offensive. For the purposes of this policy inappropriate behavior triggers an action limited to education/counseling by the supervisor/designee. However, persistent, repeated inappropriate behavior can become a form of harassment and thereby become disruptive, and subject to treatment as "disruptive behavior".

Examples of inappropriate behavior include, but are not limited to, the following:

- Belittling or berating statements;
- Name calling;
- Deliberate lack of cooperation without good cause;
- Intentionally degrading or demeaning comments regarding patients and their families, nurses, physicians, hospital personnel and/or the hospital.

Disruptive behavior is a style of verbal or non-verbal interaction manifested actively or passively with other staff members, family members, or patients that directly, indirectly or potentially interferes with patient care. Disruptive behavior includes conduct that interferes with one's ability to work with other members of the health care team. Disruptive behavior triggers the implementation of progressive disciplinary actions.

Examples of disruptive behavior include, but are not limited to, the following:

- Physically threatening language directed at anyone in the hospital;
- Physical contact with another individual that is threatening or intimidating;
- Throwing instruments, charts or other things;
- Threats of violence or retribution;
- Sexual harassment; and
- Other forms of harassment including, but not limited to, persistent inappropriate behavior.

...

SPB General Work Rules Forming the Basis of the Charges

Rule 670-X-19-.01 provides, in part:

(1) In addition to any special rules issued by the various appointing authorities for the guidance of their employees, the following standard general work rules shall apply to all classified employees:

(a) Violations that normally result in disciplinary actions of increasing severity:

...

8. Violation of specific department rules.

(b) More serious violations that may result in suspension or discharge on the first offense.

...

10. Serious violation of any other department rule.

...

12. Disruptive conduct of any sort.

...

C. Facts Forming the Basis of Dismissal

On Tuesday, March 25, 2025, Hamilton was working at Taylor Hardin as a supervisor. Early that morning, Hamilton was notified that patient R.B. was in the bathroom filling up a trash can with water and pouring it into a toilet. Hamilton intervened, as the supervisor, and interacted with R.B. in the hallway just outside the bathroom. The incident in the hallway was video recorded by a facility camera.

The Video:

The video depicted R.B. entering the bathroom at approximately 4:11 a.m. Two other patients entered after him a few minutes later. The last to enter, left the bathroom first at approximately 4:18 a.m. There are time jumps in the video, perhaps to shorten the size of the file, or motion activated. At approximately 4:25 a.m., R.B. exits the bathroom and walks to the water fountain. He drinks some water, loiters in the hallway and then drinks more water. At 4:26 a.m. while still in the hallway, R.B. is approached by a female staff member. She goes to the entrance of the bathroom and then turns to talk with R.B. R.B. says something to her as she walks by to leave and then the worker turned back around and said something to R.B. Immediately after that exchange, R.B. returned to the bathroom, around 4:26 a.m., and the worker walked away.

At 4:34 a.m., R.B. emerged from the bathroom carrying a trash can. He walked past the camera and down the hallway out of sight. He returned a short time later and reentered the bathroom with the trash can. At approximately 4:35 a.m. another patient entered the bathroom, remained there for one minute and then exited. At 4:38 a.m. the female staff member walked deliberately to the bathroom entrance and stood in the doorway, facing inside. She then entered the bathroom. After a brief moment, she reemerged from the bathroom and spoke to someone off camera.

Shortly after that exchange, she returned to the bathroom and Hamilton quickly followed her. At 4:39 a.m., Hamilton entered the bathroom. The female staff member exited the bathroom leaving R.B. and Hamilton inside the bathroom. The female staff member appeared to be talking with another staffer.

Just before 4:40 a.m., R.B. exits the bathroom with Hamilton close behind, gesturing speaking loudly, as noticed by his mouth movements. R.B. stopped at the water fountain and took another drink of water. Hamilton, the female staff member and the other staffer all walked away off camera. R.B. lingered at the water fountain for almost a whole minute and then returned to the bathroom. At 4:42 a.m. the female staff member and the other staffer returned to the doorway of the bathroom. The female worker stuck her head inside, looked briefly and then walked back to the entrance of the hallway. The female staff member listened to something told to her by the other staffer and then both walked off camera.

At 4:44 a.m., R.B. emerged from the bathroom and went to the water fountain. He wet some paper in the water fountain, wrung it out and then returned to the bathroom and threw the wet paper into the bathroom. R.B. returned to the water fountain and took a long drink. At 4:45:36 a.m., R.B. re-entered the bathroom. At 4:47 a.m., another female employee came out of a door on the side of the bathroom hallway and stood by the chair at the end of the hall, just outside the bathroom where

R.B. was located. She sat down and covered herself with a blanket or jacket.

At the same time, a patient exited the bathroom and R.B. followed. About that same time, Hamilton walked toward R.B. R.B. walked to the water fountain and drank water while Hamilton spoke to him and gestured toward him with his finger. R.B. stopped drinking long enough to respond, and Hamilton continued. Hamilton continued to shake his finger at R.B. and walked closer to him while R.B. stood upright at the water fountain and began to respond.

The two exchanged words as Hamilton continued to inch closer to R.B., continuing to gesture with his finger. The two men continued to speak to one another, seemingly in disagreement. Hamilton continued to move toward R.B. whenever R.B. moved backward. Watching the tiles on the floor, it appears Hamilton tried to stay within one tile of R.B. At 4:48 a.m., Hamilton got even closer and their feet were right next to each other. Both men used their hands to gesture, though Hamilton began pointing inward while R.B. held his hands palm upward, like asking “why?” Hamilton’s hand gestures became more frequent and forceful. At 4:49 a.m., the female staff member sitting in the chair stood up and approached the two men. The female staff member tried to get R.B. to follow her, but he did not. She returned and placed her hand on Hamilton while looking in the direction of the camera. She was intervening into the exchange. Hamilton’s gestures continued to be forceful and he

did appear to point at R.B.'s face. Around 4:49 a.m. R.B. attempted to retreat to put distance between himself and Hamilton. Hamilton followed and remained close to R.B. The female staff member stayed in contact with Hamilton and moved with him, still attempting to de-escalate the exchange. The female staff member placed her hand on Hamilton's chest. R.B. retreated further, Hamilton followed, and the female staff member continued to push against Hamilton. Around 4:49:46, the female staff member placed herself between R.B. and Hamilton as another male staff member rounded the corner.

Hamilton continued to gesture and speak toward R.B. in an aggressive manner as both staff members placed hands on Hamilton to attempt to keep him distanced from R.B. The male staffer essentially gave up and allowed Hamilton to get back in R.B.'s face while gesturing strongly. At this point, R.B. was in a corner of the hallway by the chair. Around 4:50 a.m., the male staff member turned and walked away as Hamilton spoke loudly in the direction of R.B. and the female staff member. By this time three other staff members emerged on camera and the original male staff member returned. This entire time, Hamilton refused to stop what appears to be yelling at R.B. and strongly gesturing. At 4:50 a.m. all of the other staff leave R.B. and Hamilton at the end of the hallway. Both still gesturing and disagreeing. Staff left Hamilton and R.B. in the corner of the hallway for several minutes.

Ultimately, around 4:53 a.m., Hamilton let R.B. out of the corner and instructed him down the bathroom hallway and away from the bathroom area.

The Investigation:

Jonathan Pressley, Clinical Investigator, (“Pressley”) was assigned by Facility Director Daphne Kendrick (“Kendrick”) to investigate the incident. R.B. alleged Hamilton cussed him out. Pressley could not substantiate that allegation. He interviewed staff, reviewed witness statements and reviewed the video footage. After his investigation, Pressley concluded that while Hamilton did not engage in “verbal abuse” he did mistreat R.B. and failed to follow DMH rules and procedures. Pressley indicated Hamilton did not appear in the video to de-escalate the situation, rather Hamilton’s repeated movements to close the gap with R.B. and his vigorous gestures were aggravating postures. Pressley was also concerned that the incident in the hallway was disruptive because it caused several staff who were 1:1 with other patients to leave their assigned patients to go into the hallway to assess the incident. DMH employee Edward Long provided a written statement that said, “...I was telling Hamilton its not worth losing your job behind R.B. mocking and been aggressive to him and thats when I left...”¹⁰ Long was seen in the video attempting

¹⁰ DMH Exhibit 7, Bates # 171.

to intervene for a moment and then walking away.

Tya Mingo (“Mingo”) was the female staff member that first confronted R.B. in the bathroom. In her statement she indicated R.B. told her “I’m not doing nothing” and stayed in the bathroom.¹¹ Mingo then indicated in her statement Hamilton intervened and she walked away. She did not indicate in her written statement that R.B. was cussing or threatening her.

Antonetta Dubose, a Mental Health Technician (“Dubose”), testified at the hearing. Dubose was identified as the female staff member that intervened between Hamilton and R.B. Dubose testified she came out of a room where she was 1:1 and heard Hamilton and R.B.; however, the video showed her sitting in a chair at the end of the hallway when Hamilton and R.B. began their confrontation. Dubose testified Hamilton tried to redirect R.B. She testified Hamilton told R.B. he was tired of him disrespecting female staff and R.B. continued to talk. Dubose described Hamilton’s interaction with R.B. as, “fussed at him like a child.” Dubose heard R.B. tell Hamilton he was allowed to fill the trash can up with water and pour it into a toilet on other shifts. Dubose admitted she placed her hand on Hamilton’s arm and when R.B. walked away, Hamilton followed. Dubose also heard employee Long try to get Hamilton to leave. Dubose testified Hamilton is from New York and his tone is loud

¹¹ DMH Exhibit 7, Bates # 172.

in general. In her statement, Dubose wrote, "I came in on the end of the situation." The camera data proved differently. Dubose also wrote, "I try to get Hamilton to move but he wouldn't, and then I tried to get R.B. to move and he wouldn't..."¹²

Hamilton's statement included, "When staff came and got between [us] I told them don't, (sic) them to move back out of the way because it don't look good on camera. I[t] look like we having a physical altercation..."¹³

Kendrick testified she concluded Hamilton violated DMH Policies 70-5, 70-6 and 19-10 after her review of the video footage. Kendrick believed R.B. was demeaned by Hamilton's conduct toward him. Kendrick was concerned that Hamilton continued to move into R.B.'s personal space, even as R.B. retreated. Kendrick was also concerned that at least two staff members attempted to separate Hamilton and R.B. Kendrick testified it is her job to ensure the safety of patients and staff and she exercised her discretion in discipline to separate Hamilton from State service.

Hamilton testified he continued to close the gap with R.B. to prevent R.B. from charging him. Hamilton remarked that he was very good at reading how a patient may come at him. Hamilton testified neither he nor R.B. felt threatened,

¹² DMH Exhibit 7, Bates # 173.

¹³ DMH Exhibit 7, Bates # 177.

though the video showed R.B. move backward on multiple occasions and Hamilton immediately move toward him. Hamilton testified he was from New York and does not have an inside voice.

Kathy Thompson, who works in Human Resources at Taylor Hardin, (“Thompson”) testified employees are continually trained and re-trained on how to de-escalate situations and crisis intervention. Thompson testified staff are trained on how to deal with resistant or combative patients as well as patients who fail to follow directions. Staff are also trained on how to respond if they feel themselves get frustrated. Thompson indicated Hamilton was trained through the RELIAS training software and averred that he understood DMH’s policies and procedures.

III. ISSUE

Did DMH produce sufficient evidence to warrant Hamilton’s dismissal?

IV. DISCUSSION

The purpose of the administrative appeal is to determine if the termination of the employee’s employment is warranted and supported by the evidence. *Kucera v. Ballard*, 485 So. 2d 345 (Ala.Civ.App. 1986); *Thompson v. Alabama Dept. of Mental Health*, 477 So. 2d 427 (Ala.Civ.App. 1985); *Roberson v. Personnel Bd. of the State of Alabama*, 390 So. 2d 658 (Ala.Civ.App. 1980). In *Earl v. State Personnel Board*, 948 So. 2d 549 (Ala.Civ.App. 2006), the Alabama Court of Civil

Appeals reiterated:

“[D]ismissal by an appointing authority ... is reviewable by the personnel board only to determine if the reasons stated for the dismissal are sustained by the evidence presented at the hearing.”

Id. at 559, quoting *Johnston v. State Personnel Bd.*, 447 So. 2d 752, 755 (Ala.Civ. App. 1983).¹⁴

In determining whether an employee’s dismissal is warranted, the department or agency bears the burden of proving the charges warrant termination by a “preponderance of the evidence.” The law is well settled that a “preponderance of the evidence” standard requires a showing of a *probability* that the employee is guilty of the acts as charged. Thus, there must be more than a mere possibility or one possibility among others that the facts support the disciplinary action at issue. The evidence must establish that *more probably than not*, the employee performed, or failed to properly perform, as charged. *See Metropolitan Stevedore Co. v. Rambo*, 521 U.S. 121, 117 S.Ct. 1953, 138 L.Ed. 2d 327 (1997), (holding that a “significant possibility” falls far short of the APA’s preponderance of the evidence standard). *See also Wright v. State of Tex.*, 533 F. 2d 185 (5th Cir. 1976).¹⁵

¹⁴ The Alabama Court of Civil Appeals went further to hold: “both this court and the circuit court must take the administrative agency’s order as ‘prima facie just and reasonable’ and neither this court nor the circuit court may ‘substitute its judgment for that of the agency as to the weight of the evidence on questions of fact.’” *Id.* at 559, citing Ala., Code 1975, § 41-22-20 (k); *State Dept. of Human Res. v. Gilbert*, 681 So. 2d 560, 562 (Ala.Civ.App. 1995).

¹⁵ In *Bonner v. City of Prichard*, 661 F. 2d 1206, 1209 (11th Cir.1981), the Eleventh Circuit adopted as

An administrative agency must act within its constitutional or statutory powers, supporting its decision with substantial evidence. “Substantial evidence has been defined as such ‘relevant evidence as a reasonable mind might accept as adequate to support a conclusion,’ and it must be ‘more than a scintilla and must do more than create a suspicion of the existence of a fact to be established.’” *Alabama Alcoholic Beverage Control Bd. v. Tyson*, 500 So. 2d 1124, 1125 (Ala. Civ. App. 1986).

In the present case, DMH presented sufficient evidence to prove Hamilton’s dismissal from State service was warranted. Hamilton violated DMH Policy 19-10 by mistreating R.B. Hamilton failed to treat R.B. with dignity and respect as demonstrated in the video evidence. Hamilton also violated DMH Policy 70-5 by exhibiting unacceptable conduct toward R.B. by continuing to yell at him and point his finger at and toward R.B. for an extended period of time, repeatedly. Hamilton’s conduct was not de-escalation, but rather aggravating. Finally, Hamilton violated DMH Policy 70-6 by engaging in disruptive conduct. Hamilton’s confrontation with R.B. caused multiple staff members who were assigned 1:1 to leave their posts to check on the incident. 1:1 is an important responsibility and incidents causing staff

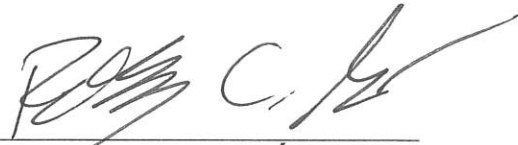
binding precedent all Fifth Circuit decisions handed down prior to the close of business on September 30, 1981.

to leave those posts to check on a situation created a dangerous and disruptive environment. Hamilton also failed to cooperate with his coworkers when they tried to calm him down and separate him from R.B. Disruptive conduct is a violation that may result in dismissal on the first offense pursuant to State Personnel Board Work Rule 670-X-19-.01(b)(12). Discipline was within Kendrick's discretion and Hamilton's conduct toward R.B. provided her grounds to dismiss him for the good of the service.

The undersigned carefully considered mitigation in this case. The undersigned finds no grounds for mitigation exist justifying a lesser disciplinary action than dismissal. Accordingly, the undersigned finds the totality of the evidence warrants dismissal in this case. Therefore, the undersigned recommends to the State Personnel Board that the dismissal be UPHELD.¹⁶

¹⁶ Having found sufficient evidence to uphold dismissal, any/all remaining issues are moot.

Done, this the 21st day of August 2025.



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