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BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

ALASKA STATE COMMISSION FOR)
HUMAN RIGHTS, PAULA M.)
HALEY, EXECUTIVE DIRECTOR,)
ex rel., DENISE KICHURA,)
)
Complainant,)
)
v.)
)
PALMER-WASILLA HEALTH)
SYSTEM, LLC,)
)
Respondent.)
)

ASCHR No. J-11-005

ACCUSATION

Paula M. Haley, Executive Director of the Alaska State Commission for Human Rights, *ex rel.* Denise Kichura, hereby alleges the following against Respondent

Palmer-Wasilla Health System, LLC:

1. Respondent, Palmer-Wasilla Health System, LLC (“PWHS”), is a Delaware limited liability company doing business in Alaska that provides home nursing and hospice care services in Southcentral Alaska.
2. Denise Kichura was employed by PWHS as a part-time per diem nurse from February 2010 to November 2010. That position did not include medical benefits.
3. During the time Ms. Kichura was employed by PWHS, Marianne Sullivan was employed by PWHS as Ms Kichura’s immediate supervisor, and Mary

1 Tilly was employed by PWHS as PWHS's program administrator and Ms. Kichura's
2 second-line supervisor.

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4 4. In the summer of 2010, Ms. Tilly subjected Ms. Kichura to multiple
5 unwelcome and offensive comments and touching of a sexual nature.

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7 5. For example, while at work, Ms. Tilly asked Ms. Kichura if she were
8 wearing underwear. Ms. Tilly patted Ms. Kichura on her buttocks on several occasions
9 despite Ms. Kichura advising her that this touching was unwelcome. In addition, Ms.
10 Tilly touched Ms. Kichura on the breasts after she asked Ms. Kichura if she had had
11 breast augmentation surgery. When Ms. Kichura told Ms. Tilly to stop touching her, Ms.
12 Tilly stated that she wanted to see what part of Ms. Kichura's chest was bra compared to
13 what part was her breasts. Ms. Tilly suggested to Ms. Kichura that they get a room at a
14 resort and drink wine together.
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17 6. Ms. Tilly's conduct and comments were so severe and pervasive that they
18 had the effect of altering the terms and conditions of Ms. Kichura's employment.
19

20 7. Other employees at PWHS, including Ms. Sullivan, witnessed Ms. Tilly's
21 unwelcome sexual touching and behavior toward Ms. Kichura.

22 8. In the summer of 2010, Ms. Tilly invited Ms. Kichura to apply for a full-
23 time nursing position with medical benefits at PWHS.
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25 9. During the summer and fall, Ms. Kichura complained about the unwelcome
26 and offensive sexual comments and touching to Ms. Sullivan and to members of PWHS's
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1 management, including Paula Sparkman and Russell Follis. Ms. Sparkman advised Ms.
2 Kichura to direct any complaints she had about Ms. Tilly to Ms. Tilly to handle.

3
4 10. Ms. Sullivan witnessed Ms. Tilly touch Ms. Kichura on Ms. Kichura's
5 buttocks and chest and Ms. Sullivan also complained about the unwelcome and offensive
6 sexual touching to Ms. Sparkman and Mr. Follis.

7
8 11. After Ms. Kichura and Ms. Sullivan complained about Ms. Tilly's
9 unwelcome and offensive comments and touching, Ms. Tilly advised Ms. Kichura that no
10 full-time nursing position was available. Ms. Tilly told Ms. Sullivan that Ms. Kichura
11 was a not a team player and not the right person for the full-time nursing position.

12
13 12. Ms. Kichura was not hired as a full-time nurse at PWHS.

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15 13. On September 10, 2011, and September 13, 2010, after Ms. Kichura
16 complained about Ms. Tilly's unwelcome and offensive conduct, Ms. Kichura received
17 two Employee Disciplinary Action notices signed by Ms. Tilly.

18
19 14. Despite multiple complaints by Ms. Kichura and Ms. Sullivan, PWHS
20 failed to timely investigate and take adequate remedial action to stop Ms. Tilly's
21 unwelcome and offensive comments and touching.

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23 15. On November 10, 2010, Ms. Kichura resigned her position because her
24 working conditions had become too intolerable to permit her to continue working for
25 PWHS.

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**FIRST CAUSE OF ACTION
SEXUAL HARASSMENT
A VIOLATION OF AS 18.80.220(a)(1)**

16. Paragraphs 1- 15 above are realleged and incorporated herein.

17. Ms. Kichura was subjected to offensive sexual comments and sexual touching by a female supervisor employed by PWHS.

18. The sexual comments and touching were pervasive and severe enough to alter the conditions of Ms. Kichura's employment.

19. The sexual comments and touching were unwelcome.

20. Ms. Kichura complained about the unwelcome and offensive sexual comments and touching to her immediate supervisor and to Respondent's management, but Respondent failed to timely investigate and take corrective action.

21. Ms. Kichura's supervisor complained about the unwelcome and offensive sexual comments and touching to Respondent's management, but Respondent's management failed to timely investigate and take adequate remedial action.

22. Ms. Kichura received two disciplinary notices after she complained about sexual harassment.

23. Ms. Kichura was not hired for a full-time nursing position with benefits after she complained about sexual harassment.

24. Ms. Tilly's comments and conduct, and Respondent's failure to timely investigate and take adequate remedial action after receiving complaints about Ms.

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1 Tilly's comments and conduct, resulted in working conditions so intolerable that Ms.
2 Kichura was compelled to resign from her employment with Respondent.

3
4 25. As a result of her forced resignation, Ms. Kichura suffered damages in
5 the form of lost wages and other benefits.

6
7 **PRAYER FOR RELIEF**

8 Wherefore the Executive Director asks for the following relief:

9 1. That the Commission issue an order declaring that Respondent Palmer-
10 Wasilla Health System, LLC, violated AS 18.80.220(a)(1) by subjecting Ms. Kichura to
11 discrimination based on sex.

12
13 2. That the Commission order Palmer-Wasilla Health System, LLC, to adopt
14 and disseminate a policy of nondiscrimination under the Alaska Human Rights Law.

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16 3. That the Commission order the managers and supervisors of Palmer-
17 Wasilla Health System, LLC, to obtain training of at least six (6) hours on the
18 provisions of the Alaska Human Rights Law that prohibit discrimination in
19 employment, that employees of Palmer-Wasilla Health System, LLC, obtain training of
20 at least two (2) hours on the provisions of the Alaska Human Rights Law that prohibits
21 discrimination in employment, and that such order specify that the trainer or trainers
22 and training curricula be approved by the Executive Director prior to the training being
23 conducted.
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1 4. That the Commission order Palmer-Wasilla Health System, LLC, to
2 eliminate from Ms. Kichura's personnel records all documents and entries relating to the
3 facts and circumstances that led to Ms. Kichura's filing of the above-captioned charge and
4 any of the related events occurring thereafter.

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6 5. That the Commission order Palmer-Wasilla Health System, LLC, to refrain
7 from penalizing Ms. Kichura in any way in future considerations for employment and, if
8 rehired, for transfers, promotions, or upgrading because Ms. Kichura complained about
9 discrimination or because she filed a complaint with the Commission.

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11 6. That the Commission order Respondent Palmer-Wasilla Health System,
12 LLC, to refrain from advising or informing any other employer or potential employer of
13 Ms. Kichura of the facts or circumstances involved in this case.

14
15 7. That the Commission order Palmer-Wasilla Health System, LLC, to pay
16 back pay, including any lost benefits or other remuneration, to Ms. Kichura, plus
17 interest at the applicable legal rate, the exact amount of which will be proven at
18 hearing.

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20 8. That the Commission order Palmer-Wasilla Health System, LLC, to
21 reinstate Ms. Kichura or pay to Ms. Kichura the statutory maximum amount of front
22 pay, including benefits or remuneration, the exact amount of which will be proven at
23 hearing.

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Dated this 25th of September 2013 at Anchorage, Alaska.

ALASKA STATE COMMISSION
FOR HUMAN RIGHTS

signature redacted

By:

Laura Clauson Ferree
Human Rights Attorney
Alaska Bar No. 1305015