

Gary Sibert

Board of Nursing, Sunset Advisory Commission Hearing

November 10, 2016

Presentation by

Gary Sibert, Registered Nurse (RN)

Army Infantry Officer: 1978 – 1998 (Retired with an Honorable Discharge)

Associate Degree Registered Nursing Program: 2000 – 2001

Cardiovascular Intensive Care Unit (ICU) RN: 2002 – 2003

Neonatal ICU RN: 2004 -2010

Hospice Case Manager RN: 2011 – 2012

Board of Nursing, Nurse Investigator: September 2013 – May 2016

Honorable Senate, House, and Public Members: Thank you for this opportunity to present concerns I have with the Board of Nursing. I am Gary Sibert, Registered Nurse, and this is my wife Debbie. We've been standing together for 35 years and I wish for her to stand with me today, if ok.

Senator Schwetner, my wife and I are 11 year residents of Georgetown and helped elect you to the House in 2010 and the Senate in 2012. We appreciate your service. I will make contact with your Georgetown office next week to follow-up on my presentation.

I am here today to say the BON is grossly misusing its nurse investigators daily by requiring them to perform a significant amount of administrative functions which require zero nursing education and experiences and zero critical thinking. This results in decreased efficiency, production, and morale. This significantly lengthens the amount of time from case opened to case closed and allows nurses who have committed practice violations to continue their practice without sanction for a longer period of time than necessary, sometimes months and even years. Also, it causes nurses who have not committed practice violations to wait months, even years, for closure without sanction.

I am very proud that I retired as an Army Infantry Officer, after 20 years of honorable service, in 1998. I served in multiple command and staff assignments. The Army taught me many things to include how to structure an organization, small or large, to best use all available resources, most important of which is human resources, to best accomplish multiple requirements and goals.

My mother died in hospice care, lung cancer, in late 1995. The care the hospice nurses provided to her inspired me to seek paramedic certification in the state of Texas. I attended night and weekend courses and clinicals during the last two years of my Army service and I achieved my paramedic certification in May 1998.

After working as a transport ambulance paramedic for several months, I decided to become a RN. I had never forgotten the care the hospice nurses provided my mother and family. I completed an Associate Degree Registered Nursing Program, Del Mar College, Corpus Christi, TX in 2001. I practiced as a Cardiovascular ICU RN for two years, then began practice as a Neonatal ICU RN first in Corpus Christi then here in Austin. I began providing care to our most fragile patients, neonates, some born at 23 weeks gestational age, and requiring intensive amounts of care and support, from both medical professionals and families. I witnessed a medical miracle as a NICU nurse when a mother delivered a 360 gram, 26 week gestational age neonate. 360 grams is 12 ounces, 12 ounces, he fit in the palm of my hand. I am happy to say he graduated the NICU at 43 weeks gestational age and is living a near normal life as a healthy nine year old child.

I had back surgery late 2010, this ended my bedside nursing career at Dell Children's Hospital. Two months after surgery I began to practice as a Case Manager, RN, for a local hospice company. In 1995 I sensed that I might some day be a hospice RN.

I began my employment as a nurse investigator, Enforcement, with the BON, September 2013. The first many months I was a very happy and motivated employee. Skylar Caddell, the number two person in Enforcement, a great mentor and teacher, trained me to review case files: file folders containing patient, family, or facility complaints, BON developed allegations, medical records, witness statements, and other relevant documents. He trained me to create written case reviews in which I would state the allegations, summarize witness statements, identify relevant evidence, and make a recommendation to sanction the nurse, if applicable.

I created case reviews for case files two, three, and even a couple that were four years old. Daily, I used my nursing education and experiences, and critical thinking skills, I emphasize critical thinking skills, to create these case reviews. Again, I was a very happy and motivated employee.

As the months went by I began creating fewer and fewer case reviews as I began to learn and perform more investigator duties. After several months I realized that much of what I was doing daily was administrative in nature. I was using my nursing education and experiences, and critical thinking skills, less and less often. I discussed this with several fellow investigators, criminal justice and nurse, and they agreed that much of what we were doing daily required no formal education or critical thinking. On any given day 60% – 75 % of my time was consumed by administrative functions. About two years ago I believe management recognized its investigators were consumed with administrative functions and that the production of case reviews was inadequate. Tony Diggs, Director of Enforcement,

deemed every Thursday to be case review Thursday. Meaning that on Thursdays investigators must work on case reviews only.

About that time, I discussed my concern with my supervisor and team members in a team meeting. I proposed that an administrative technician be added to each of the four investigative teams. We all agreed that adding an admin tech to each team would allow investigators to spend more time on case reviews thus enabling improved efficiency, productivity, and morale.

I sat with Skylar Cadell one afternoon and we penciled out a wiring diagram that included an admin tech with each team. We even discussed a redistribution of investigator duties and requirements. The goal was to increase the production of case reviews. Suggested changes were never made.

During my near three years as an investigator the BON maintained two – four vacant funded nursing positions. It seemed management had a difficult time in attracting and keeping competent nurses. Management realized this and increased the pay for its nurse investigators hoping to attract and keep nurses. The last increase in pay allowed \$100 per month for AD, \$200 per month for BS, and \$500 per month for MS nurses. I believe this was a great step in attracting nurses, but it did little to improve nurse investigator morale. And now we, the taxpayers of the state of Texas, are paying BON nurse investigators \$50,000 to \$60,000 dollars a year to perform administrative functions much of each work day.

About a year ago, during an individual performance meeting with my supervisor and Skylar Caddell, I again recommended adding an admin tech to each team. I suggested that since we maintained vacant funded nursing positions year round that we take two of them and create four admin tech positions. I was told that Mr. Diggs had said that he wanted the investigators to own everything, from start to finish and that there would be no changes. Also, I was warned "You don't want to get Tony mad." Again, no changes.

From that moment forward I was a disgruntled employee and a disgruntled taxpayer. Again, 60% to 75% of my time, daily, was consumed with administrative functions which required zero nursing education and experiences, and zero critical thinking skills. In effect, I was an admin tech, an admin tech making nearly \$60,000 a year, at taxpayers expense.

On May 19, 2016, I sent an email to the BON Director of Operations. I said "I have a couple of concerns I wish to address with you. I first raised these concerns to enforcement management two years ago, and a few times since. Bottom Line: This agency is grossly under using the nursing education and experiences of its nurse investigators. Most of our time is spent performing non-nursing functions. Given that this agency has significantly increased salary compensation for its nurse investigators it is WASTING COUNTLESS THOUSANDS OF TAXPAYER DOLLARS ANNUALLY given my statement above. As a taxpayer I am extremely distressed to know my tax dollars are being wasted! Please listen." The Director of Operations and I never spoke!

A few days later, May 24, my supervisor summoned me to our conference room where I found Mr. Diggs and Skylar Caddell already seated. My supervisor began by stating I was being placed on six month probation. They conjured up an issue with a case review, one of hundreds of case reviews I had completed, an issue with a dropped text to my supervisor, and finally for going out of the chain of command by sending an email to the Director of Operations.

Mr. Diggs said "Gary, it's never going to change. Never. Never." Within a couple minutes Mr. Diggs stated "You can resign immediately or I will terminate you immediately." I replied "I am not resigning." He stated "Your terminated!" Mr. Diggs left the conference room and I returned to my office and began packing. After a couple of minutes I rounded the corner into Skylar Caddell's office and presented my badges to my supervisor and returned to my office to complete packing. Skylar walked in and offered to help me carry my things out of the building. He and I rode the elevator downstairs then he waited on the street corner with my things while I retrieved my car. Skylar placed my things into my car, I said "Thank you, sir" and drove off.

A few weeks late I applied for unemployment benefits. As shocked as I was for being terminated I was more shocked when I received a letter from the Texas Workforce Commission (TWC) stating "Cannot pay you benefits. Our investigation found your employer fired you because your action amounted to insubordination. This is considered misconduct connected with the work." I submitted a written appeal to the TWC and requested a telephone hearing. I was granted a telephone hearing, scheduled for August 31, at 8:30 am.

We conducted the telephone hearing on August 31. Present was the TWC Hearing Officer, the BON Director of Operations, and Skylar Caddell, and my supervisor. I asked if Mr. Diggs was present. The response: "He is unavailable." We conducted the hearing without Mr. Diggs, the Director of Enforcement, the person who terminated me immediately, the person who communicated to TWC that I was terminated for insubordination, the person who said never, never, never, to change, was unavailable.

A few days later I received a letter from TWC stating the decision to deny me unemployment benefits based on insubordination had been reversed; the employer will be billed. I thought state employees had a duty to report waste and recommend changes for improved efficiency, cost savings, and more to their supervisors and report it up the chain of command if necessary.

Bottom line: The Director of Enforcement has created and maintained an entity that is grossly inefficient with wasteful spending. He misuses this agency's most valuable resource – its people. Nurse investigator morale is low and turnover is high. Patient safety in this state is jeopardized

I recommend Mr Diggs be reassigned or retired immediately. Skylar Caddell should be promoted into the position of Director of Enforcement immediately. I believe Mr. Caddell with input from investigators and supervisors is capable of reorganizing enforcement to significantly improve its efficiency, productivity, and morale. This will result in enhanced safety for patients across Texas.

Thank you for your time.