

STATE OF NEW YORK : COUNTY OF MONROE
CITY COURT : CITY OF ROCHESTER

THE PEOPLE OF THE STATE OF NEW YORK

-against-

MISDEMEANOR
INFORMATION

ERICHA BROWN

Defendant.

Jason Rice, Special Investigator in the Office of the Attorney General, Medicaid Fraud Control Unit, 144 Exchange Boulevard, Suite 600, Rochester, New York, being duly sworn, accuses the defendant of the following crimes:

Counts 1, 2 and 3 : Wilful Violation of Health Laws, in violation of section 12-b(2) of the Public Health Law committed as follows :

Your deponent deposes and says, upon personal knowledge, and upon information and belief, the sources of which are the affidavits of Kimberly Wear, Ed Neal, Rola O'Meally, Christina Cenname, and Joseph Small attached hereto, my conversations with the defendant, reduced to a written report and attached hereto, and review of the records of the St Ann's Home, including a video recording, that the defendant, a Certified Nurse Aide ("CNA") employed by St. Ann's Home, a residential health care facility located at 1500 Portland Avenue, Rochester New York, in willful violation of sections 2803-c 18(6) 12(b)2, of the Public Health Law, and the regulations promulgated thereunder, to wit: 10 NYCRR 415.3, violated the right to private communications, right to privacy in treatment and in caring for the personal needs of AMM (initials of the patient/victim), violated AMM's right to receive courteous, fair, and respectful care and treatment, violated her right to a dignified existence, and defendant disclosed patient information, as defined by section 18(1)(e) of the Public Health Law, to a person or entity other than the patient to wit; AMM, of such information, or to other qualified persons without a copy of the subject's written authorization, in that;

Your deponent is informed by Registered Nurse Kimberly Wear, the Assistant Director of Nursing at St. Ann's Home that the defendant was employed as a CNA at St. Ann's Home from September 12, 2011 to October 1, 2011. Your deponent is further informed by Kimberly Wear that AMM, age 92, a patient of St. Ann's Home from June 15, 2009, to the present, suffers from mental disease or defect, to wit; dementia, is unable to care for herself and is mentally incompetent to give an informed legal consent. Your deponent is informed by Kimberly Wear, Ed Neal, Rola O'Meally, and Christina Cenname, employees at St. Ann's Home, that on or about October 24, 2012, they observed on the defendant's Facebook page, a video of St Ann's resident AMM. Your deponent observed a video recording of patient AMM as described below, that was previously posted on the defendant's Facebook page on or about October 24, 2012, Facebook ID number 1459354267, link: <http://www.facebook.com/ericha.brown>. On or about December 2012, your deponent observed defendant's Facebook page which did not have a privacy setting.

Your deponent viewed the video of this incident which shows the following, with audio:

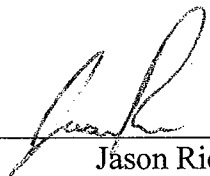
- Patient AMM sitting in a wheelchair in a common area of St. Ann's Home
- A hand briefly tugged the back of the patient's hair
- More than one voice that are heard but not seen which appear to be directed at said patient stating in sum and substance, "...the boss lady said that if you don't wash the dishes she will the slap the black off you...and she called you a bitch".
- A voice stated to the patient in sum and substance, "you owe me an apology, I'm so tired of you attacking me all the time".
- A voice stated to the patient in sum and substance, "she is a troublemaker, this lady is playing mind games with you, she will have you jumping out the window".
- A voice stated to the patient in sum and substance, "you was drunk last night, you bust up that lady in the face, you were drunk on Gin...lady was bleeding and all".

Upon information and belief, Facebook is an online worldwide social networking service. Facebook users must register before using the site, after which they may create a personal profile, add other users as friends, and exchange messages, including automatic notifications when they update their profile. Additionally, users may join common-interest user groups, organized by workplace, school or college, or other characteristics, and categorize their friends into lists such as "People From Work" or "Close Friends". As a result thereof, a user of Facebook can interact with other Facebook users, view the information on other user's profile pages and consequently, Facebook is not private and many people can see it. Upon information and belief, as of September 2012, Facebook has over one billion active users. Joseph Small, the holder of Power of Attorney for AMM in October 2012, informed your deponent that he did not give the defendant permission or authority to post a video of AMM on Facebook (see attached affidavit).

On or about September 12, 2011, the defendant signed, initialed and dated documents kept in the ordinary course of business St. Ann's Nursing Home entitled *New Employee Orientation Summary Sheet*—indicating that on that same date, the defendant attended an in-service training class at St. Ann's Home on resident's rights where she was instructed that nursing home residents have a right to privacy and a right to be treated with dignity and respect, and an employee handbook receipt document, where the defendant acknowledged receipt of and understanding of the policies contained in the employee handbook of St. Ann's Home. (See the attached documents.)

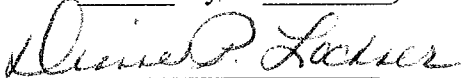
Section 6.01 of the handbook entitled Resident Relations states; "Our professional ethic requires that each employee maintain the highest degree of confidentiality when handling resident affairs. In order to maintain this professional confidence, no employee shall disclose resident information...to outsiders, including other residents/employees...". (See Attached) On September 14, 2011, the defendant signed and dated a document, kept in the ordinary course of business of the St. Ann's Home, entitled *As an employee of St Ann's, I will:*. This document states under the heading of Confidentiality/Privacy that an employee of St Ann's will "Never disclose personal information on those we serve...Keep written/electronic information out of view of others...Display concerns for a customer's privacy...". (See Attached)

The defendant stated to your deponent that her employee orientation at St. Ann's included training on Resident's Rights and the Patient Bill of Rights (PHL section 2803(c)). The defendant told your deponent she knew the Patient Bill of Rights and the Patient's expectation of privacy. She explained to your deponent that with the Patient Bill of Rights, all private and medical matters with a resident are kept in house at St. Ann's and "what happens there stays there." The defendant stated to your deponent that taking pictures or videos of any residents or their personal information is a violation of their privacy. The defendant admitted to your deponent that she knew the video was on her old iPhone. The defendant admitted that she recorded the video and posted the video on Facebook. The defendant identified to your deponent the above described video with AMM as the same video the defendant posted on her Facebook page.



Jason Rice

Sworn to and subscribed before
me this 22ND day of JULY, 2013.



Dianne P. Lochner
Notary Public, State of New York
Qualified in Monroe County
My Commission Expires June 30, 2014

STATE OF NEW YORK : COUNTY OF MONROE
CITY COURT : CITY OF ROCHESTER

THE PEOPLE OF THE STATE OF NEW YORK

-against-

AFFIDAVIT

ERICHA BROWN,

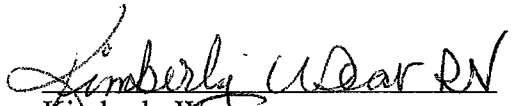
Defendant.

CITY OF ROCHESTER)
COUNTY OF MONROE) SS.:
STATE OF NEW YORK)

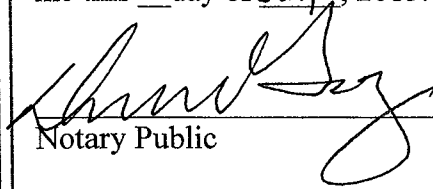
I, Kimberly Wear have been a Registered Nurse for the past 19 years and I have been employed as the Assistant Director of Nursing at the St. Ann's Home, located at 1500 Portland Avenue, Rochester New York, for approximately two years. AMM (initials of the patient/victim referred to in the misdemeanor information), age 92, has been a patient residing at St. Ann's Home from April 28, 2009, to the present.

As the Assistant Director of Nursing at St. Ann's Home, I am familiar with the medical chart and medical condition and diagnosis of AMM. Since AMM has been a resident of St. Ann's Home, including October 24, 2012, the patient suffers from mental disease or defect, amongst other serious medical ailments, to wit; dementia, is unable to care for herself and is mentally incompetent to give an informed legal consent.

On or about October 24, 2013, at the St. Ann's Home, present in my office was Ed Neal, Director Human Resources at St. Ann's. At that time, we viewed a video on an iPad of patient AMM, the same video as described in this misdemeanor information. This iPad was logged onto the Facebook account of Maria Gonzalez and the video of AMM that we viewed was from the Facebook page of defendant Ericha Brown, a certified nurse aide formerly employed at St. Ann's Home.


Kimberly Wear

Sworn to and subscribed before
me this 19 day of July, 2013.


Notary Public

DEBORAH GRAY
NOTARY PUBLIC-STATE OF NEW YORK
No. 01GR6256852
Qualified in Ontario County
My Commission Expires March 05, 2016

STATE OF NEW YORK : COUNTY OF MONROE
CITY COURT : CITY OF ROCHESTER

THE PEOPLE OF THE STATE OF NEW YORK

-against-

AFFIDAVIT

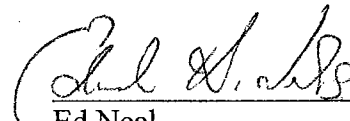
ERICHA BROWN,

Defendant.

CITY OF ROCHESTER)
COUNTY OF MONROE) SS.:
STATE OF NEW YORK)

I, Ed Neal am employed at the St. Ann's Home, located at 1500 Portland Avenue, Rochester New York, as the Director of Human Resources. AMM (initials of the patient/victim referred to in the misdemeanor information), age 92, has been a patient residing at St. Ann's Home from April 28, 2009, to the present.

On or about October 24, 2013, present in my office at St. Ann's, was Maria Gonzalez and Rola O'Meally, also employees of St. Ann's. At that time, we all viewed a video on my office desk top computer of patient AMM. My computer was logged onto the Facebook account of Maria Gonzalez and the video of AMM that we viewed was from the Facebook page of defendant Ericha Brown, a certified nurse aide formerly employed at St. Ann's Home. Soon thereafter at the St. Ann's Home, myself and Kimberly Wear, the Assistant Director of Nursing at St. Ann's, viewed the above video from my iPad. The above video of AMM is same video as described in this misdemeanor information.


Ed Neal

Sworn to and subscribed before
me this 19 day of July, 2013.


Notary Public

DEBORAH GRAY
NOTARY PUBLIC-STATE OF NEW YORK
No. 01GR6256852
Qualified in Ontario County
My Commission Expires March 05, 2016

STATE OF NEW YORK : COUNTY OF MONROE
CITY COURT : CITY OF ROCHESTER

THE PEOPLE OF THE STATE OF NEW YORK

-against-

AFFIDAVIT

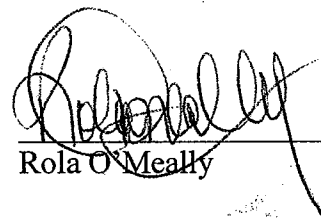
ERICHA BROWN,

Defendant.

CITY OF ROCHESTER)
COUNTY OF MONROE) SS.:
STATE OF NEW YORK)

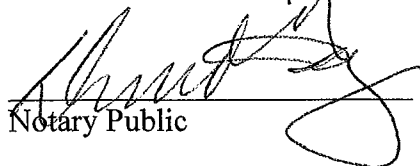
I, Rola O'Meally am employed as the Director of ADS and Dementia Services at the St. Ann's Home, located at 1500 Portland Avenue, Rochester New York. AMM (initials of the patient/victim referred to in the misdemeanor information), age 92, has been a patient residing at St. Ann's Home from April 28, 2009, to the present.

On or about October 24, 2012, at the St. Ann's Home, I had a conversation with Maria Gonzalez, a certified nurse aide employed at that time at St. Ann's. I then observed on the phone of Maria Gonzalez, a video of patient AMM on Maria Gonzalez's Facebook account that was on the Facebook page of Ericha Brown, a certified nurse aide formerly employed at St. Ann's Home. Soon thereafter, at the office of Ed Neal, Director of Human Resources at St. Ann's, Mr. Neal, Maria Gonzalez and I viewed the same video of patient AMM on Ed Neal's office desk top computer. This computer was logged onto the Facebook account of Maria Gonzalez and the video of AMM that we viewed was from the Facebook page of defendant Ericha Brown. The above video of AMM is same video as described in this misdemeanor information.



Rola O'Meally

Sworn to and subscribed before
me this 19 day of July, 2013.



Notary Public

DEBORAH GRAY
NOTARY PUBLIC-STATE OF NEW YORK
No. 01GR6256852
Qualified in Ontario County
My Commission Expires March 05, 2016

STATE OF NEW YORK : COUNTY OF MONROE
CITY COURT : CITY OF ROCHESTER

THE PEOPLE OF THE STATE OF NEW YORK

-against-

AFFIDAVIT

ERICHA BROWN,

Defendant.

CITY OF ROCHESTER)
COUNTY OF MONROE) SS.:
STATE OF NEW YORK)

Christine - ce

I, ~~Tina~~ Cenname, am employed as an Assistant Director of Nursing at St. Ann's Home, located at 1500 Portland Avenue, Rochester New York. AMM (initials of the patient/victim referred to in the misdemeanor information), age 92, has been a patient residing at St. Ann's Home from April 28, 2009, to the present.

On or about October 24, 2012, at the St. Ann's Home, me and Lisa White, also employed at St. Ann's Home, observed on the desktop computer of Lisa White, a video of patient AMM that was on the Facebook page of Ericha Brown, a certified nurse aide formerly employed at St. Ann's Home. The above video of AMM is same video as described in this misdemeanor information. At this time I recorded the video on my cell phone and then subsequently deleted the video from my phone when I discovered that another employee at St. Ann's recorded the same video.

Christine Cenname
~~Tina Cenname~~
Christine
- ce

Sworn to and subscribed before
me this 22 day of July, 2013.

[Signature]
Notary Public

DEBORAH GRAY
NOTARY PUBLIC-STATE OF NEW YORK
No. 01GR6256852
Qualified in Ontario County
My Commission Expires March 05, 2016

STATE OF NEW YORK : COUNTY OF MONROE
CITY COURT : CITY OF ROCHESTER

THE PEOPLE OF THE STATE OF NEW YORK

-against-

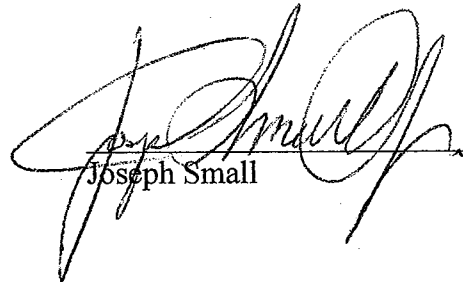
AFFIDAVIT

ERICHA BROWN,

Defendant.

CITY OF ROCHESTER)
COUNTY OF MONROE) SS.:
STATE OF NEW YORK)

I, Joseph Small, am the great grandson of AMM, a resident at the St. Ann's Home located at 1500 Portland Avenue Rochester, New York. From on or about April 28, 2009, to the present, I am the holder of the Power of Attorney for AMM--the same individual referred to in the misdemeanor information this affidavit is attached to. As the Power of Attorney for AMM, I did not give Ericha Brown or any other employee at St. Ann's Nursing Home, permission or authority to record a video of AMM and post the video on Facebook on October 24, 2012, or on any other date.



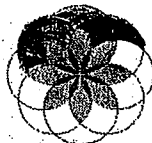
Joseph Small

Sworn to and subscribed before
me this ^{23rd} day of July, 2013.



Notary Public

Dianne P. Lochner
Notary Public, State of New York
Qualified in Monroe County
My Commission Expires June 30, 20 14



S T. A N N ' S
C O M M U N I T Y
Full of Life

New Employee Orientation Summary Sheet

Name: Erica Brown Date: 9/12/11

In-Service/ Handout		Employee Initials
ID Badge	I have received my Permanent Picture ID.	EB
Employee Handbook	I have received the EE handbook and am responsible for the content.	EB
Payroll Deposit Form	As an employee I can enroll at any time.	EB
Spirit of Caring/ AIDET	I have attended this in-service	EB
Standards of Behavior	I have attended this in-service	EB
Benefits/ Health and Dental Insurance Coverage	I have received information on benefits/ health and dental coverage and am aware that I must sign up in the HR office for this coverage.	EB
Person Centered Care	I have attended the in-service.	EB
Dementia	I have attended the in-service.	EB
Ethics	I have attended the in-service.	EB
Corporate Compliance/ HIPAA	I have attended the in-service.	EB
Residents Rights	I have attended the in-service.	EB
Infection Control	I have attended the in-service.	EB
Conscious Choking Victim	I have attended the in-service.	EB
Quality	I have attended the in-service.	EB
Security/ Protective Services	I have attended the in-service.	EB
Accident Prevention/ Lock-out/ Tag-out/ Hazardous Communications	I have attended the in-service.	EB
Fire Safety	I have attended the in-service.	EB

EMPLOYEE HANDBOOK RECEIPT

I acknowledge receipt of the St. Ann's Community's Employee Handbook which describes community policies, my employee benefits and my obligations.

I understand that the policies contained in this handbook are not intended to create a contract of employment nor is any other communication by a management representative, either expressed or implied, intended to be a contract.

I understand that this handbook is not a guarantee of employment for any set period and that either I or the community may terminate my employment at any time, with or without reason. Furthermore, I understand that the policies and benefits described in this handbook may be added to, revised or deleted at any time.

I agree to read and study the contents of this manual. It is understood that St. Ann's Community retains the right to make decisions involving employment as needed in order to conduct its work in a manner that is beneficial to the employees and the community.

Ericha Bann

Employee's Signature

09/12/11

Date

6.01 RESIDENT RELATIONS

The professional treatment of our residents as well as the impression that we make on our community are important. Our community's reputation is based on product excellence and quality service. To maintain our reputation as an industry leader requires the active participation and cooperation of every employee.

EACH EMPLOYEE'S RESPONSIBILITY

The opinions and attitudes that residents and potential residents have toward our community may be determined for a long period of time by the actions of one employee. Each employee must be sensitive to the importance of providing courteous treatment in all working relationships.

CONFIDENTIALITY OF RESIDENT MATTERS

Our professional ethic requires that each employee maintain the highest degree of confidentiality when handling resident/employee affairs. In order to maintain this professional confidence, no employee shall disclose resident/employee information, including resident records, to outsiders, including other residents/employees, third parties and member's of one's own family.

RESIDENT'S BILL OF RIGHTS

St. Ann's believes that each resident, regardless of age or physical condition, has the right to personal dignity, independence, courtesy, privacy and respect. Their histories, medical status, and personal affairs are strictly confidential and should not be discussed with anyone other than authorized persons directly concerned with their care.

Upon employment and during annual in-services, the Resident's Bill of Rights will be reviewed with you. A copy of this document is provided to you during your orientation.

6.01 RESIDENT RELATIONS (Continued)

QUALITY SERVICE

Quality service can only be achieved when every employee understands that residents are critically important to the success of our community.

Some of us have internal residents (co-workers) for whom we provide service and some of us work with individuals external to the community who have given us the privilege of their business. In both situations, we are presented with opportunities each day to show care and concern for these people through both words and actions and to use our abilities to turn potential problems into winning situations.



As an employee of St. Ann's, I will:

Appearance

- Wear my ID badge above my waist and visible at all times.
- Keep a neat, clean appearance at all times.
- Keep a clean and organized work area.
- Take my breaks in designated employee areas.
- Keep all personal phone calls limited to phones that are specifically designated for employee use.
- Keep food & drinks in appropriate areas, not in my public work area.
- Follow my department's dress code.
- Maintain the cleanliness of the facility & grounds.
- Promote a positive image of St. Ann's, both in the workplace as well as in the Community.

Attitude

- Use eye contact whenever appropriate.
- Acknowledge all people in groups, Example: When entering an elevator, say "Hello Everyone".
- Always use positive tone in my voice.
- Always be aware of myself, my habits, my actions and my movements.
- Remain polite under even the most strained circumstances; rudeness is never acceptable.
- Do my best everyday, not allowing my personal life to interfere with my work performance.

Communication

- Always speak with a respectful tone of voice.
- Address everyone using proper titles that they prefer; such as "Mr./Mrs./Dr./Ed".
- Identify myself. Phone greeting as follows: Greeting, Area, Name, "How can I help you?"
- Use appropriate language for the workplace, avoiding slang. Use of suggestive language, or any crude words is not acceptable.
- Recognize different styles of communication, compromise when needed.
- Silence all electronics during meetings.
- Always give my full attention to the person I am speaking with.
- Give the right information, at the right time, to the right person.
- Communicate happenings, shift to shift.
- Use the chain of command when issues cannot be resolved one on one.
- Coach in private, Commend in public.

Confidentiality/Privacy

- Never disclose personal information on those we serve or any employee at anytime.
- Keep written/electronic information out of view of others. Follow HIPAA regulations.
- Correctly sign off of computers when not in use. Passwords are not to be shared under any circumstance.
- Knock and wait a moment before entering a resident's room or a coworker's office.
- Properly dispose of personal information of those we serve.
- Display concerns for a customer's privacy, it will convey my respect for them.
- Inform residents that I am closing curtains/doors for their privacy.

Diversity

SAC celebrates our diverse population and the hands on education it provides - join us in celebrating each other.

- Display tolerance, sensitivity and impartiality toward others' cultures and backgrounds.
- Respect everyone's heritage, race, creed, gender, age, disability and/or sexual orientation.
- Provide interpreters, amplification devices, closed caption television or the like as needed.
- Prohibit language that demeans anyone's heritage, race, creed, gender, age, disability and/or sexual orientation.

Ownership

- Keep work areas neat & clean; be sure they are ready for the next person.
- Maintain all equipment in my work environment.
- Treat my workplace as if it were my home.
- Explore cost saving/time saving options that could better the Community.
- Adhere to procedures/policies, HIPAA, etc.
- Be proactive in offering assistance where there is a need, even when it's beyond my role.
- Be aware of and work to achieve my departmental goals. I will be an owner.
- Speak positively of SAC and my coworkers.
- Be proud of what I do and where I work.
- Use "I" or "me", rather than "we" or "they", when discussing difficult issues.

Performance Improvement/Development

- Complete mandatory job requirements and training on time.
- Be on time, maintain good attendance and adapt to the needs of department and facility.
- Actively participate in department meetings as scheduled and provide constructive feedback to promote growth and excellence.
- Participate in opportunities for self-development including external and in-house educational offerings or in-services.
- Seek and welcome feedback about my job performance and take responsibility for acting upon opportunities to become a more effective and efficient employee.
- Be a life long learner and never stop seeking to expand my skill set.

Safety Awareness/Security

- Practice safe hygiene, body mechanics (use equipment or get a coworker to help), universal precautions (PPE).
- Be aware of all safety policies and procedures, immediately correct or report all safety hazards, and personally take responsibility for maintaining the facilities to ensure a safe, accident-free environment.
- Be prepared for emergencies; I will know the correct actions to take.
- Report faulty equipment to the appropriate department.
- If unsure, ask someone.
- Ensure customers are identified properly before appointments, tests, procedures, transporting, medications, meals, etc.
- Always support and maintain an alcohol, tobacco and drug free environment.
- Zero tolerance for resident abuse or neglect.
- Be aware of outside persons in the community. If I don't know them, I will ask.

Teamwork

- Maintain a positive work environment, it's everyone's job.
- Be a part of the solution, not the problem.
- Respectfully care for each other and those we serve. I will treat every coworker, student, volunteer, vendor and physician as a professional, realizing that we each have an area of expertise.
- Be flexible and supportive- I will be an example of cooperation by holding myself and others accountable.
- Lead by example.
- Welcome new employees by offering to help and setting the example of what's expected in the workplace.
- Refrain from gossiping and complaining; address concerns or issues with the appropriate staff.

Our Mission

To enhance the independence, physical and spiritual well-being of older adults by providing a variety of high quality, cost effective services delivered by caring people dedicated to meeting the needs of the Greater Rochester Community. St. Ann's Community is committed to the Catholic tradition of excellence in care and services for seniors.

Our Vision

St. Ann's will be the provider and employer of choice for comprehensive geriatric care and senior services.

Our Values

Excellence * Partnership * Leadership * Spirituality * Customer Satisfaction * Contribution to the Rochester Community

Erinna Brown

Signed

9/14/11

Date

State of New York
Office of the Attorney General
Medicaid Fraud Control Unit

Date: May 10, 2013

Ericha Brown, CNA, [REDACTED]
[REDACTED] having been apprised of the identity of the investigators, was interviewed at her residence, and provided the following information:

Brown worked the day shift as a CNA on the second floor of St. Ann's Community Home from approximately September 2011 to October 2011 before quitting. Brown also worked at the Jewish Home during her employment at St. Ann's working the evening shift. Brown was employed at the Jewish Home until May 2012 when she left the Jewish Home due to a car accident, and is currently unemployed.


Brown recalled her new employee orientation at St. Ann's that included training in medicines, feedings, break, reviewing the Resident's Rights and Patient Bill of Rights. Brown does not remember receiving the employee handbook, but states she most likely had to receive it. Brown was shown a copy of the St. Ann's "New Employee Orientation Summary Sheet" and identified her initials, "EB", as having attended or received training. The summary sheet has Brown's initials signing off that she received the employee handbook and was responsible for the content. Brown also initialed next to having attended the Resident's Rights in-service training.

Brown was aware of the Patient Bill of Rights and the Patient's expectation of privacy. Brown explained that with the Patient Bill of Rights, all private and medical matters with the resident are kept in house at St. Ann's and "what happens there stays there." Brown acknowledged that privacy includes that employees do not and should not take pictures or videos of any residents or their personal information.

When confronted with the video of the resident on Brown's Facebook page, she explained that the video was with a resident (name unknown), Michelle (LNU), Shannon (LNU), Brown and others sitting around cracking jokes. Brown stated that she knew the video was on her old iPhone but did not take the video, and that it was Michelle who recorded the video. Brown had initially stated "Michelle used my phone to record the video, and one of my cousins posted the video."

When asked how her cousins knew to tagged Michelle and Shannon in the video and that she had worked with them, Brown replied she did not know how her cousins knew to tag Michelle and Shannon. Brown recalled that Michelle's last name was Miller at this time, and continued to relay that it was Michelle who recorded the video. Brown was asked how and why her cousins would write "I miss these mornings" with the video on Facebook, Brown had replied

On: May 9, 2013 At: Rochester, NY File# RO12-1714

By: SI Arthur J. Vasile 
SI Jason Rice: jr  Date dictated: May 10, 2013

that she did not know why her cousins would write that. Brown changed her response from placing the blame on her cousins and stated to the Investigators, "Yeah, I posted it, but I didn't record it, it was Michelle."

Brown was adamant that she did not record the video and that it was Michelle who recorded the video. Brown was asked that since she did not record the video then was she the individual that pulled the resident's hair, Brown immediately stated that it was Shannon, another CNA.

Brown continued to explain to the Investigators that it was Michelle who recorded the video and that Shannon was the individual who pulled the resident's hair. During midsentence explaining that it was not her (Brown) who recorded the video, Brown stopped, and stated "I recorded the video." Brown was then asked if Michelle took the video, Brown stated that Michelle did not record the video, and clarified that it was her who posted it on Facebook and recorded.

Brown voluntarily signed over the iPhone that was used to record the video to the Investigators. Brown provided the Investigators with a written statement that she (Brown) did record and post the video to her Facebook page.

Brown provided no further information at this time.

SWORN STATEMENT

STATE OF NEW YORK)
COUNTY OF) ss.:

Date 5/9/13 Time 11:10



I, Erica Brown, being duly sworn, depose and say that I
am 23 years of age, born on 9/27/89. My address is 61 ~~Wilcox~~ ^{Winterroth St} ~~CB~~
Rochester NY 14609, my occupation is Unemployed,
and my level of education is ~~High School~~ ^{CB} High School Degree.

I was employed at St. Ann's Community Home from September to October 2011 as CNA. I attended New employee Orientation where I received training in Patient Bill of Rights and was aware of the privacy Standards within the Patient Bill of Rights for the Residents. On the day in question regarding the Facebook video and recording of the video I was working on the 2nd Floor with Michelle Miller and Shannon Levert. I recorded the video of the resident on my iPhone 3 of the exchange between the resident, Miller, and Levert. Approximately One year after my employment ended at St. Ann's, I posted the

EB
(initials)

video of the Resident on my Facebook page tagging Michelle Miller and Shannon Levert stating "I miss these mornings"

Michelle Miller was not involved in the actual recording or posting of the video to Facebook.

On 9/12/11 I received a copy of the employee handbook from St. Ann's and the Resident's Rights and signed off on the New Employee Orientation Summary Sheet stating so.

I am aware that posting a video teasing and harassing the resident is a violation of the patient Bill of rights.

I made a mistake in posting and recording this video. I deeply regret my actions and will never do anything like this ^{EB} ~~but~~ again.

EB
(initials)

Statement of Ericha Brown
Page 3 of 3

I have read this statement (had this statement read to me) consisting of 3 page(s) and have been given the opportunity to make any corrections necessary. I have initialed each page, and the facts contained herein are true and correct. I have been told and I understand that making a false written statement is punishable as a Class A misdemeanor, pursuant to Section 210.45 of the Penal Law of the State of New York and further that I may be subject to the penalties of perjury.

Signed Ericha Brown

Subscribed and sworn before me
this _____ day of _____ 20_____.

NOTARY PUBLIC
STATE OF NEW YORK

EB
(initials)

EB 9TW
MAY 8, 2013

INVESTIGATOR JASON RICE OF THE NEW YORK STATE ATTORNEY GENERAL, MEDICAL FRAUD CONTROL UNIT 144 EXCHANGE BLVD, SUITE 600, ROCHESTER NEW YORK, 14614, HAS RETAINED A I PHONE 3 FROM ERICHA BROWN OF 61 WINTERMOTA ST, ROCHESTER, NEW YORK.

THE I-PHONE 3 WAS VOLUNTARILY SURRENDERED ON MAY 8, 2013 WITH MY UNDERSTANDING THAT IT WILL BE RETURNED IN THE FUTURE FOLLOWING THE DISPOSITION OF THE ATTORNEY GENERAL'S INVESTIGATION.

Erica Brown
ERICHA BROWN

Jason Rice
INVESTIGATOR RICE

SERIAL # 83111FUEDG

STATE OF NEW YORK OFFICE OF THE ATTORNEY GENERAL
MEDICAID FRAUD CONTROL UNIT

Memorandum

To: RO12-1714

From: SI Jason Rice ^{JR} & SI Arthur J. Vasile ^(AV)

Date: June 26, 2013

Subject: Ericha Brown

On June 26, 2013, the writer and Special Investigator Vasile returned the Subject's iPhone 3GS, Serial Number 831171FUEDG, from the Custody of the writer. Attached is the receipt of return to the Subject.

In addition to returning the Subject's iPhone, the writer had the Subject view and identify a recording of the Facebook video that was provided to this office by St. Ann's Attorney Anna E. Lynch, Esq. Underberg & Kessler LLP on a SanDisk Cruzer Facet 8GB USB Drive, Serial Number BL120623598D. The Subject was shown the recording at approximately 9:45AM on the SanDisk USB Drive provided by Lynch and asked by the writer "Is this the video you recorded?" The Subject replied "Uh huh." The writer played the video further and again asked "Is this the recording of the video?" The Subject again replied "Uh Huh, Yes."

The SanDisk Cruzer Facet 8GB USB Drive, Serial Number BL120623598D, is locked in Evidence Bin R1E2.

/jtr

Cc: C. Wagner W. Falk T. Mcfarland A. Vasile