

**STATE OF WASHINGTON
DEPARTMENT OF HEALTH
NURSING CARE QUALITY ASSURANCE COMMISSION**

In the Matter of

JERRI ANNE MARTIAN
Credential No. RN.RN.00116189

Respondent

No. M2017-1258

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
FINAL ORDER OF DEFAULT
(Failure to Respond)**

This matter is before the presiding officer, on designation by the Nursing Care Quality Assurance Commission (Commission), for final order of default. Based on the record, the presiding officer issues the following:

1. FINDINGS OF FACT

1.1 Respondent was issued a credential to practice as a registered nurse by the state of Washington in March 25, 1994. Respondent's credential is currently active.

1.2 The Department submitted the Declaration of Helen Budde, health services consultant, with attached exhibits.

1.3 On or about January 2, 2015, the Respondent commenced nurse delegation duties for Client A, a non-verbal 16 year-old quadriplegic with diagnoses that included encephalitis, respiratory problems, bi-lateral blindness, and autism. The examinations and care provided to Client A occurred at Client A's residence.

1.4 On or about April 2, 2015, the Respondent saw Client A at a second scheduled appointment.

1.5 The Respondent was scheduled to see Client A for a third appointment on July 2, 2015, but that appointment did not happen because of "scheduling issues." The Respondent did not see Client A again until on or about September 16, 2015.

1.6 The Respondent was supposed to see Client A again in December 2015, but did not because she could not reach Client A's guardian by phone. The Respondent did not see Client A again.

1.7 On or about March 9, 2016, Client A was admitted to a hospital in Yakima, Washington, with severe bed sores and pneumonia, and was extremely emaciated

weighing approximately 55 pounds. Client A was later transferred to Children's Hospital in Seattle, Washington, but died there after the ventilator was removed.

1.8 On April 19, 2018, the Commission served Respondent with a copy of the following documents at Respondent's last known address:

- A. Statement of Charges;
- B. Notice of Your Legal Rights;
- C. Answer to Statement of Charges and Request for Settlement and Hearing;

1.9 The Answer was due in the Adjudicative Clerk Office by May 9, 2018.
RCW 18.130.090.

1.10 To date, the Adjudicative Clerk Office has not received the Answer to Statement of Charges.

1.11 The Commission has no reason to believe Respondent is now on active duty in the U.S. armed forces.

2. CONCLUSIONS OF LAW

2.1 The Commission has jurisdiction over Respondent and over the subject matter of this case, RCW 18.130.040.

2.2 Respondent did not file a request for hearing within the time allowed. RCW 18.130.090(1). Respondent is in default, and the Commission may issue a final order based on the evidence presented. RCW 18.130.090(1) and RCW 34.05.440.

2.3 Respondent has committed unprofessional conduct in violation of RCW 18.130.180(4), (7) and WAC 246-840-710(2)(a), (2)(i), (3)(b), WAC 246-840-930(17), (18), WAC 246-840-960(1)(a), (1)(b), and WAC 246-840-970(1).

2.4 The above violation provides grounds for imposing sanctions under RCW 18.130.160.

3. COMPLIANCE WITH SANCTION RULES

3.1 The disciplining authority applies WAC 246-16-800, *et seq.*, to determine appropriate sanctions. WAC 246-16-800(2)(b)(iv) provides that "indefinite suspension may be imposed in default and waiver of hearing orders."

3.2 The sanction of indefinite suspension adequately addresses the alleged facts of this case and is an appropriate sanction.

4. ORDER

The COMMISSION ORDERS:

4.1 Respondent's credential to practice as a nurse in the state of Washington is **INDEFINITELY SUSPENDED**.

4.2 Respondent may petition for reinstatement pursuant to RCW 18.130.150.

The Commission may agree to an order of reinstatement. If the Commission does not agree, a hearing may be held on the petition. An order of reinstatement based on agreement or following a hearing may impose any terms and conditions listed in RCW 18.130.160 deemed necessary by the Commission to protect the public and/or rehabilitate Respondent's practice.

4.3 Prior to reinstatement of Respondent's credential she shall complete thirty-four and one half (34.5) hours of pre-approved continuing education as follows:

- A. *Four and one half (4.5) hours of continuing education in the area of effective delegation; and*
- B. *Thirty (30) hours of continuing education in the area of clinical supervising.*

The continuing education shall be in addition to mandatory continuing education. Respondent shall provide the Commission with proof of completion of the above continuing education within thirty (30) days of completion.

4.4 Respondent shall submit course summaries from each course taken within thirty (30) days of completion of the course(s). The course summary for each course should include at a minimum: a typewritten document clearly stating the name of the course and date of completion; the stated learning objective(s) in the course; a paragraph for each learning objective briefly demonstrating the Respondent's understanding of the course materials and how each objective was met; and, how the material can be applied to Respondent's practice.

4.5 If Respondent petitions for reinstatement, the Commission may place further sanctions on Respondent's credential. Such sanctions may include, but are not limited to the following: probation, employment restrictions, and quarterly supervisor reports.

4.6 Any documents required by this Default Order shall be sent to Nursing Care Quality Assurance Commission Compliance at PO Box 47864, Olympia, WA 98504-7864.

4.7 Respondent shall assume all costs of complying with this Order.

4.8 The effective date of this Order is that date the Adjudicative Clerk Office places the signed order into the U.S. mail.

5. NOTICE TO PARTIES

This Order will be reported to the National Practitioner Databank (45 CFR Part 60), Nursys® (www.nursys.com), and elsewhere as required by law. It is a public document and will be placed on the Department of Health's website and otherwise disseminated as required by the Public Records Act (Chap. 42.56 RCW) and the Uniform Disciplinary Act. RCW 18.130.110.

Any Party may file a petition for reconsideration. RCW 34.05.461(3); RCW 34.05.470. The petition must be filed within ten (10) days of service of this Order with:

Adjudicative Clerk Office
Adjudicative Service Unit
PO Box 47879
Olympia, WA 98504-7879

and a copy must be sent to:

State of Washington
Department of Health
Nursing Care Quality Assurance Commission
PO Box 47864
Olympia, WA 98504-7864

The petition must state the specific grounds upon which reconsideration is requested and the relief requested. The petition for reconsideration is considered denied twenty (20) days after the petition is filed if the Adjudicative Clerk Office has not responded to the petition or served written notice of the date by which action will be taken on the petition.

A petition for judicial review must be filed and served within thirty (30) days after service of this Order. RCW 34.05.542. The procedures are identified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. A petition for reconsideration is

not required before seeking judicial review. If a petition for reconsideration is filed, however, the thirty (30) day period will begin to run upon the resolution of that petition. RCW 34.05.470(3).

The Order remains in effect even if a petition for reconsideration or petition for review is filed. "Filed" means actual receipt of the document by the Adjudicative Clerk Office. RCW 34.05.010(6). This Order was "served" upon you on the day it was deposited in the United States mail. RCW 34.05.010(19).

DATED: June 7, 2018

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
NURSING CARE QUALITY ASSURANCE
COMMISSION



PRESIDING OFFICER

PRESENTED BY:



TIMOTHY TALKINGTON, WSBA #41297
STAFF ATTORNEY