

CERTIFIED PROFESSIONAL GUARDIAN BOARD

)	CPGB No. 2010-005, 2010-006, 2010-007,
)	2010-008, 2009-013
LORI A. PETERSEN, CPG No. 9713,)	
)	Disciplinary Proceeding Complaint
)	(DR 510)
Respondent)	
_____)	

Pursuant to General Rule 23 (GR 23) and the Disciplinary Regulations for Certified Professional Guardians, the Certified Professional Guardian Board (“Board”) alleges violations of the Disciplinary Regulations (DR) by Lori Petersen (“Respondent) as follows:

1. Jurisdiction

1.1 At all times relevant herein, the Respondent was a certified professional guardian (CPG) pursuant to GR 23, CPG No.9713. Respondent was certified on November 5, 2001.

1.2 The Board is responsible for reviewing any allegation that a certified professional guardian has violated an applicable statute, fiduciary duty, standard of practice, rule, or regulation. Pursuant to its Disciplinary Regulations, the Board may impose discipline, sanctions, costs and other remedies upon a finding of violation, or may recommend that the Washington Supreme Court impose discipline, sanctions and costs when the recommendation is for suspension or decertification of the certified professional guardian.

2. Background Facts

2.1 On December 1, 2009, the Board received a grievance from a family member regarding Respondent's conduct in the *Guardianship of D.S.*, Spokane County Superior Court Case No. 09-4-00115-6. On or about December 3, 2009, the Standards of Practice Committee ("SOPC") opened a grievance against the Respondent under Certified Professional Guardian Board (CPGB) Number (No.) 2009-013.

2.2 On March 22, 2010, the Board received a grievance from an adult family home owner regarding Respondent's conduct in three separate cases:

Guardianship of E.R., Spokane County Superior Court Case No. 09-4-00294-2

Guardianship of D.S., Spokane County Superior Court Case No. 09-4-00115-6

Guardianship of J.S., Spokane County Superior Court Case No. 09-4-00177-6

On or about June 20, 2010, the SOPC opened grievances on the three cases, CPGB No. 2010-007, 2010-006, and 2010-005, respectively.

2.3 On April 15, 2010, the Board received a second grievance from a family member regarding Respondent's conduct in the *Guardianship of D.S.*, Spokane County Superior Court Case No. 09-4-00115-6. On or about June 20, 2010, the SOPC opened a grievance, CPGB No. 2010-008.

Guardianship of E.R., Spokane County Superior Court Case No. 09-4-00294-2

2.4 Respondent was appointed E.R.'s guardian on May 12, 2009. E.R. was admitted to the Peterson Place Adult Family Home (Peterson Place) on May 28, 2009. On July 18, 2009, the owner of Peterson Place contacted Respondent to notify her that they were sending E.R. to the hospital because E.R. was a danger to himself and others and was unsafe in the adult family home. Respondent contacted the hospital and requested that the hospital return E.R. to the adult family home when he was stable. Respondent also contacted the owner of Peterson Place and informed her that she did not have the right to refuse to re-admit E.R. and E.R. was returned to Peterson Place. Later that day, E.R. was again sent to the hospital because the AFH provider was unable to manage his behavior. Records

indicate that while E.R. was at the hospital, he was restrained in order to manage his behavior.

Peterson Place did not take him back, and he spent several days at the hospital before Respondent could find placement for him.

Guardianship of D.S., Spokane County Superior Court Case No. 09-4-00115-6

2.5 Respondent was appointed D.S.'s guardian on March 18, 2009. D.S. had family members who were involved in her life, but were unwilling to become her guardian because they either lived out of state or traveled as part of their jobs. On or about February 8, 2009, D.S. was moved into Peterson Place, the same Adult Family Home described above.

2.6 In mid to late August 2009, D.S.'s granddaughter visited her and asked whether D.S. would be receiving new eyeglasses because her current pair was scratched and the lenses popped out during cleaning. When the adult family home owner contacted Respondent for permission, Respondent suggested to the adult family home owner that because D.S. had dementia, she did not read and did not need new glasses. Respondent said that she would not buy new glasses for D.S. and that if the granddaughter wanted them, she could buy them. Respondent also accused the adult family home owner of violating HIPAA and stated that the adult family home owner did not have permission to speak with any of D.S.'s family or friends.

2.7 On or about October 6, 2009, D.S. was hospitalized for a few days with a urinary tract infection. Respondent did not inform the family of D.S.'s hospitalization. D.S.'s family considered hospitalization to be the kind of situation that they should have been informed about and decided to seek the appointment of a replacement guardian.

2.8 On October 27, 2009, Mary Lou Rief, RN, an independent contractor who worked with Respondent, visited Peterson Place and faxed Ms. Petersen a short memo stating that D.S. had chronic urinary tract infections, there was no 24-hour-awake staff and that D.S. should be moved to another

adult family home with 24-hour staffing. At the bottom of this memo, Ms. Rief wrote, "Go Lori Go— Hope this helps."

2.9 On or about October 30, 2009, Respondent notified Peterson Place that she would be moving D.S. immediately. Respondent did not discuss the possibility of re-negotiating the care contract with Peterson Place to require that 24-hour-awake care be provided to D.S. D.S.'s primary care provider, an Advanced Registered Nurse Practitioner (ARNP), recorded no concerns about the quality of care. D.S.'s doctor stated that it was normal for an incontinent person to have periodic urinary tract infections and that it was not an indication of poor care. There is no evidence that Respondent contacted D.S.'s primary care provider about the risks of moving a client with dementia or about the need for 24-hour-awake staff prior to making the decision to move D.S.

2.10 On or about October 31, 2009, D.S.'s daughter informed the adult family home owner of Peterson Place that Respondent had agreed to allow D.S. to remain at Peterson Place with hospice involvement. Hospice evaluated D.S. and recommended that she be checked every two hours by staff and that hospice could not provide this monitoring. Hospice also noted that, consistent with proper care being provided, D.S. had no skin breakdown issues. Hospice declined to accept D.S. into the program because she was not in the final stages of dementia.

2.11 Residential Care Services (RCS), a state agency, initiated an unannounced investigation of Peterson Place Adult Family Home (AFH) on November 2, 2009. RCS completed a complaint inspection of the adult family home on November 19, 2009 and issued a report December 1, 2009. Respondent alleged that Peterson Place did not employ 24-hour-awake staff and that residents required that level of care. RCS issued no findings against the adult family home about the lack of 24-hour-awake staff or about residents requiring that level of care. The report noted that staff was providing care at night per the care plans for the residents.

2.12 On November 6, 2009, the adult family home owner was informed by Respondent that D.S. would be moved that day because Peterson Place did not have 24-hour-awake staff. There was no consultation with D.S.'s family regarding the decision to move, and, in fact, D.S.'s family opposed a move. Ms. Rief notified D.S.'s granddaughter and daughter on the day of the move, and the rest of the family was notified by mail.

Guardianship of J.S., Spokane County Superior Court Case No. 09-4-00177-6

2.13 Respondent was appointed J.S.'s temporary guardian on April 1, 2009 and was appointed as guardian at the guardianship hearing on May 29, 2009. J.S. was eighteen years old with a neurological disorder that caused legal blindness. He was receiving special education services from his school district. Respondent moved him to Peterson Place on May 1, 2009. Respondent did not attend the end of the school year IEP (Individual Education Plan) meeting for J.S. She said that she had a conflict, but did not seek to re-schedule the meeting at a time when she could attend.

2.14 In June 2009, Respondent failed to register J.S. in his new school district. He was eligible for special services and activities during the summer. Her failure to register him meant that he did not receive those services. In September, Respondent again failed to register J.S. in the new school district though he was eligible to attend school until he was 21 years old.

2.15 On October 30, 2009, Respondent moved J.S. from Peterson Place to a hospice facility. The reason she gave was that he needed 24-hour-awake care. Respondent did not seek to re-negotiate the care contract with Peterson Place to require that 24-hour-awake care be provided. J.S. was not consulted about the move and was not aware of why he was being moved. He was aware that he had been sent to a hospice facility, though there is no evidence that he needed hospice services. He was sent without his reclining wheelchair which he used to sleep in because he had fallen out of bed in the past. A friend of J.S.'s picked up his wheelchair from Peterson Place and took it to the hospice facility

because the hospice facility could not reach Respondent to have Respondent bring the wheelchair to him. J.S. was extremely distressed about the sudden move and was reported to have sobbed for hours.

2.16 Friday, July 15, 2010 at 9:00 a.m. Spokane County Superior Court held hearings regarding the allegations in cases involving E.R., D.S., and J.S. The court noted that a major contributing factor in the move of D.S. and J.S. was a desire on Respondent's part to stop doing business with Peterson Place because the owner had refused to take back E.R. The court noted that, "It was then easier for the guardian to move the client rather than work with the complainant (Peterson Place). This put the interests of the guardian above those of the client." With regard to J.S., the court stated, "The lack of deference to the needs and desires of the client are alarming." With regard to Respondent's testimony to the court about D.S., the court stated, "One would hope that a professional guardian would manifest some degree of empathy or compassion for the needs of an incapacitated person. None was present here."

3. Violations of Regulations

3.1 Based on the facts set forth in paragraphs 2.2 and 2.4, Respondent's conduct constitutes grounds for discipline pursuant to 401.9 and 401.10 which provides in pertinent part:

SOP 401.9 The guardian shall cooperate with and carefully consider the views and opinions of professionals, relatives, and friends who are knowledgeable about the incapacitated person.

SOP 401.10 The guardian shall seek independent professional evaluations, assessments, and opinions when necessary to identify the incapacitated person's needs and best interests.

3.2 Based on the facts set forth in paragraphs 2.5 to 2.12, Respondent's conduct constitutes grounds for discipline pursuant to 401.9, 402.1 and 405.2, which provides in pertinent part:

SOP 401.9 The guardian shall cooperate with and carefully consider the views and opinions of professionals, relatives, and friends who are knowledgeable about the incapacitated person.

SOP 402.1 The primary standard is the Substituted Judgment Standard. This means that the guardian shall make reasonable efforts to ascertain the incapacitated person's historic preferences and shall give significant weight to such preferences. Competent preferences may be inferred from past statements or actions of the incapacitated person.

SOP 405.2 The guardian shall actively promote the health of the incapacitated person by arranging for regular preventive care including but not limited to dental care, diagnostic testing, and routine medical examinations.

3.3 Based on the facts set forth in paragraphs 2.13 to 2.15, Respondent's conduct constitutes grounds for discipline pursuant to 401.5, 401.9, 401.12, 401.14 and 404.5, which provides in pertinent part:

SOP 401.5 The guardian shall protect the personal and economic interests of the incapacitated person and foster growth, independence, and self-reliance.

SOP 401.9 The guardian shall cooperate with and carefully consider the views and opinions of professionals, relatives, and friends who are knowledgeable about the incapacitated person.

SOP 401.12 When possible, the guardian will defer to an incapacitated person's autonomous capacity to make decisions.

SOP 401.15 Guardians of the Person shall have meaningful in-person contact with their clients as needed and shall maintain telephone contact with care providers, medical staff, and others who manage aspects of care as needed and appropriate. Meaningful in-person contact shall provide the opportunity to observe the incapacitated person's circumstances and interactions with care givers.

SOP 404.5 The guardian shall, to the extent possible, select residential placements which enhance the quality of life of the incapacitated person, provide the opportunity to maximize the independence of the incapacitated person, and provide for physical comfort and safety.

3.4 Based on the facts and violations set forth above, Respondent's conduct constitutes grounds for discipline pursuant to General Rule (GR) 23(c)(2)(viii) and Disciplinary Regulation (DR) 503, which provide in pertinent part:

GR 23 Rule for Certifying Professional Guardians—Certified Professional Guardian Board

...

(2) Duties and Powers.

...

(viii) Grievances and Discipline. The Board shall adopt and implement procedures to review any allegation that a professional guardian has violated an applicable statute, fiduciary duty, standard of practice, rule, or regulation. The Board may impose sanctions upon a finding of violation. Sanctions may include decertification or lesser remedies or actions designed to ensure compliance with duties, standards, and requirements for professional guardians.

DR 503 A professional guardian may be subject to disciplinary action for any of the following:

DR 503.4 Violation of the oath, duties, or standards of practice of a professional guardian.

4. Prior Record of Discipline

Respondent has a prior record of discipline with the Board. An Agreement Regarding Discipline was approved and ordered by the Board May 12, 2011.

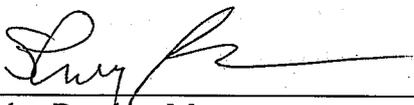
5. Request for Disciplinary Action and Sanctions

Based on the foregoing, it is requested that Respondent be found in violation of the regulations cited above and that disciplinary sanctions, remedies, and costs, including attorney fees and other provable expenses, be imposed on the respondent in accordance with the Disciplinary Regulations.

DATED this 25th day of April, 2012.

Certified Professional Guardian Board

By:



Shirley Bondon, Manager
Court Access Programs