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7 **CERTIFIED PROFESSIONAL GUARDIAN BOARD**

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9 **PAMELA PRIVETTE,**  
10 **CPG No. 9714,**

11 **Respondent.**

**CPGB No. 2013-052, 2013-060,<sup>1</sup> and 2014-003**

**Complaint Regarding Disciplinary Action**

***Disciplinary Regulation 510<sup>2</sup>***

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13 The Certified Professional Guardian Board (“Board”) alleges that Pamela Privette, CPG No.  
14 9714 (“Respondent”), has violated the Standards of Practice (SOP). The Board hereby initiates  
15 this disciplinary proceeding pursuant to General Rule 23 (GR 23) and Disciplinary Regulation  
16 510 for Certified Professional Guardians.

17 **1. JURISDICTION**

18 **1.1** At all times relevant herein, Pamela Privette, CPG No. 9714 (“Respondent”), was a  
19 certified professional guardian pursuant to General Rule (GR) 23 practicing in the state of  
20 Washington.

21 **1.2** All professional guardians who practice in the state of Washington are subject to the  
22 rules and regulations established pursuant to GR 23.

23 **1.3** The Board has the duty and power to review any allegation that a certified professional  
24 guardian or certified professional guardianship agency has violated any applicable statute,

25 <sup>1</sup> AOC received a grievance on Aug. 9, 2013, regarding the incapacitated person E.B. who was also the  
26 subject of CPGB No. 2011-018. Initially, AOC reopened CPGB No. 2011-018, but to avoid confusion between  
the two grievances, the second grievance has been assigned CPGB 2013-060 going forward.

<sup>2</sup> Certified Professional Guardian Board Disciplinary Regulations govern all proceedings and are found at:  
[http://www.courts.wa.gov/programs\\_orgs/Guardian/?fa=guardian.display&fileName=regindex&Reg=500](http://www.courts.wa.gov/programs_orgs/Guardian/?fa=guardian.display&fileName=regindex&Reg=500).

1 fiduciary duty, standard of practice, rule, regulation, or other requirement governing the  
2 conduct of professional guardians. Pursuant to DR 510.1, the Board has reviewed the  
3 grievances captioned above and approved the filing of a complaint regarding disciplinary  
4 action against Respondent.

5 1.4 The Board may impose sanctions upon a finding of a violation, including  
6 decertification or lesser remedies or actions. GR 23(c)(2)(viii).

## 7 2. STATEMENT OF FACTS

8 2.1 CPGB No. 2013-060 – Guardianship of E.B. The Court appointed Respondent  
9 guardian of E.B. on February 28, 2011. On or about August 9, 2013, the Board received a  
10 grievance regarding Respondent's actions in the *Guardianship of E.B.* Upon review, the Board  
11 opened Certified Professional Guardian Board (CPGB) Grievance No. 2013-060.

### 12 Management of the Estate and Application for Public Benefits

13 2.1.1 E.B. is an elderly woman with Alzheimer's and dementia. Due to increased  
14 care needs, Respondent moved her to Evergreen Nursing and Rehabilitation (Evergreen) on or  
15 about April 29, 2013.

16 2.1.2 On or about April 30, 2013, Respondent signed an Admission Agreement with  
17 Evergreen in which she designated E.B. as a private pay client and agreed to pay \$7,595 per  
18 month for E.B.'s care.

19 2.1.3 On or about July 1, 2013, the balance in E.B.'s guardianship bank account was  
20 \$7,436.30, which was less than the monthly rate of \$7,595. Respondent did not make any  
21 payment to Evergreen for E.B.'s care during the month of July 2013. Neither did respondent  
22 apply for Medicaid during the month of July.

1 2.1.4 Respondent finally made a partial payment of \$5,200 to Evergreen on  
2 August 12, 2013; thereby reducing E.B.'s assets below the \$2,000 resource limit for  
3 Medicaid clients.<sup>3</sup>

4 2.1.5 Respondent applied for Medicaid on August 14, 2013, and DSHS approved  
5 E.B.'s application on August 30, 2013. In Guardian's Amended Report filed with the Court on  
6 August 19, 2013; however, Respondent represented to the court that she had applied for  
7 Medicaid as of July 2013, and that E.B. was *currently* a Medicaid client.

8 Respondent's Fee Advances

9 2.1.6 In the Order Appointing Guardian, dated February 28, 2011, the Court did not  
10 approve any advances of guardian's fees during the pendency of the initial reports. The Order  
11 instructed Respondent to petition the court for approval of fees. The court entered its Order  
12 Approving Initial Reports on October 3, 2011. Respondent's Initial Report to the court  
13 reported a \$6,500 advance.

14 2.1.7 The Order Approving Initial Reports approved total fees in the amount of  
15 \$9,814.38, less the \$6,500 advance. Respondent actually had advanced herself a total of  
16 \$14,000: \$6,500 on May 18, 2011; \$2,500 on May 24, 2011, and \$5,000 on September 27,  
17 2011. Respondent had advanced herself fees in excess of the court's order in an amount of  
18 \$4,185.62.

19 2.1.8 The Order Approving Guardian's Initial Reports, entered by the Court on  
20 October 3, 2011, still did not approve an advance of any fees to Respondent during the  
21 remainder of the reporting period that ended February 27, 2012. Without court approval,  
22 Respondent advanced herself \$350/month beginning on December 1, 2011.

23 2.1.9 After the end of the reporting period on February 27, 2012, but before she  
24 received court approval of her fees, Respondent advanced herself \$13,000 on April 6, 2012. In

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26 <sup>3</sup> WAC 182-513-1350 states that the resource standard used for a single client is \$2,000. Retrieved from  
<http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCHavailres.shtml>

1 her annual report filed on April 28, 2012, Respondent reported advances "to date" to be  
2 \$4,376.85. Actual advances to that date totaled \$18,935.62.<sup>4</sup>

3 2.1.10 Respondent advanced herself an additional \$1,574.44 on May 14, 2012,  
4 bringing the total advances to \$20,510.06. The Order Approving Guardian's First Annual  
5 Report, entered by the Court on May 18, 2012, approved guardian's fees in the total amount of  
6 \$18,951.29, resulting in a net overpayment of \$1,558.77.

7 2.1.11 The Order Approving Guardian's First Annual Report authorized Respondent to  
8 receive monthly advances not to exceed \$250/month during the next reporting period ending  
9 February 27, 2013. Contrary to the court's order, Respondent advanced herself \$350 on June  
10 1, 2012.

11 2.1.12 The second reporting period ended on February 27, 2013. Before obtaining  
12 court approval of her fees on September 6, 2013, Respondent advanced herself \$1,201.25 on  
13 May 1, 2013, and \$1,201.25 again on June 21, 2013.

14 2.1.13 Guardian's Amended Report filed with the Court on August 23, 2013, reported  
15 fees advanced of \$3,400. Actual advances totaled \$6,661.27.<sup>5</sup> On September 6, 2013, the  
16 court approved guardian's fees in the total amount of \$4,601.25 for the reporting period from  
17 February 28, 2012, to February 27, 2013, resulting in a net overpayment of \$2,060.02 to  
18 Respondent.

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23 <sup>4</sup> The \$18,935.62 includes: the \$4,185.62 overpayment referenced in paragraph 2.1.7; advances of  
24 the \$13,000 referenced in paragraph 2.1.9.

25 <sup>5</sup> The \$6,661.27 includes: a total of \$3,400 in monthly advances for the reporting period; the two one-  
26 time payments of \$1,201.25 referenced in paragraph 2.1.12; and an overpayment of \$858.77. Regarding the  
overpayment of \$858.77: Respondent included \$350 monthly advances for March and April 2012 (totaling \$700)  
in the First Annual Report ("advances to date" of April 16, 2012) and then again in the Second Annual Report  
(advances during the reporting period of Feb. 28, 2012-Feb. 27, 2013); therefore, the net overpayment of  
\$1,558.77 is reduced by \$700 to an overpayment of \$858.77.

1 Late Filings

2 2.1.14 E.B. moved to a new care facility on April 29, 2013. Respondent failed to file  
3 the statutory Notice of Change in Circumstances within 30-days of the change. The Notice  
4 was filed on August 21, 2013, almost three months late.

5 2.1.15 Respondent did not file her Guardian's Second Annual Report within the 90-  
6 days grace period after the anniversary date ending May 28, 2013, and Respondent's Letters of  
7 Guardianship expired on June 28, 2013. Respondent acted without court authority until she  
8 obtained new Letters of Guardianship on August 8, 2013.

9 **2.2 CPGB No. 2013-052 – Guardianship of R.M.** The Court appointed Respondent  
10 guardian of R.M. on October 6, 2004. On or about November 27, 2013, the Board received a  
11 grievance from Adult Protective Services (APS) regarding Respondent's actions in the  
12 *Guardianship of R.M.* Upon review, the Board opened CPGB Grievance No. 2013-052.

13 Management of the Estate and Application for Public Benefits

14 2.2.1 R.M. is a developmentally-disabled adult who resides in a group home  
15 supported by Exceptional Foresters Inc. (EFI), a non-profit corporation that provides  
16 community access services to adults with disabilities. R.M. received Social Security benefits  
17 as her primary source of income. She has also received public benefits through Washington  
18 State Department of Social and Health Services (DSHS), including long-term care, food and  
19 medical. R.M. also received community-based services from the Developmental Disabilities  
20 Administration (DDA) through its Core Waiver Program. R.M. had previously been  
21 determined to be eligible for these benefits under a "categorically needy" classification. The  
22 "categorically needy" classification limits resources to \$2,000. To assure continuing eligibility  
23 for these benefits, DSHS reviews R.M.'s finances annually to verify her status.

24 2.2.2 DSHS initiated the annual Eligibility Review by letter to Respondent dated  
25 July 12, 2013. The Eligibility Review required completion of the Eligibility Review form,  
26 proof of income, resources, and expenses, and a telephone interview with DSHS (for food

1 benefits). If the Eligibility Review was not timely completed, R.M.'s services were to be  
2 terminated effective August 31, 2013.

3 2.2.3 R.M. had been receiving Medicaid as part of her medical benefit. Medicaid  
4 eligibility limits resources to \$2,000. DSHS requires notice if a client's resources exceed  
5 \$2,000 on the first day of each month. Respondent allowed R.M.'s resources to accumulate in  
6 excess of \$2,000 during the period beginning August 2012 through October 2013, thus placing  
7 R.M.'s eligibility for public benefits in jeopardy. Because her resources exceeded the limit,  
8 R.M.'s Medicaid benefit was terminated on or about October 10, 2013. R.M. was approved for  
9 other medical coverage through Washington Apple Health, but it provided fewer benefits than  
10 Medicaid.

11 2.2.4 On or about October 10, 2013, R.M.'s application for long-term care and  
12 community access services through DDA was closed because R.M.'s resources exceeded the  
13 \$2,000 limit. Benefits for long-term care were terminated as of October 31, 2013.

14 Respondent's Fee Advances

15 2.2.5 The Order Approving Guardian's Third Report and Accounting, entered on  
16 January 25, 2012, authorized Respondent to advance fees in an amount not to exceed  
17 \$140/month. The current triennial reporting period does not end until October 5, 2014.

18 2.2.6 Without prior court approval, Respondent advanced herself \$1,000 on  
19 October 26, 2013, and \$550 on May 14, 2013.

20 **2.3 CPGB No. 2014-003 -- Guardianship of N.C.** N.C. (aka N.H.) is an elderly woman  
21 with advancing Alzheimer's and dementia. N.C. had been allegedly financially exploited by a  
22 family friend when the court appointed Respondent limited guardian of the estate for N.C. on  
23 February 27, 2012. On or about the same date, the court appointed N.C.'s daughter as limited  
24 guardian of the person. The Board received a grievance from APS on or about January 31,  
25 2014, regarding Respondent's actions in the *Guardianship of N.C.* Upon review, the Board  
26 opened CPGB Grievance No. 2014-003.

1 Management of the Estate and Application for Public Benefits

2 2.3.1 The Order Approving Guardian's Personal Care Plan, Initial Report, and  
3 Inventory entered May 25, 2012, authorized Respondent to liquidate N.C.'s bank, IRA, and  
4 brokerage accounts. The Order identified each account by the last four digits of the account  
5 number.

6 2.3.2 In October 2012, N.C. moved into Merrill Gardens, an assisted living residence.  
7 Respondent signed a Residency and Services Agreement with Merrill Gardens, effective  
8 October 10, 2012. At Merrill Gardens, N.C. had an individual apartment costing \$2,725/month  
9 and received assisted living services costing \$1,300/ month. Following a serious fall in June  
10 2013, N.C. required additional assisted living services increasing her monthly cost to \$1,950.

11 2.3.3 On July 11, 2013, Respondent identified duplicate deposits for \$31,888.36  
12 recorded in N.C.'s check register on July 11, 2012. When the duplicate deposit was reversed,  
13 the correct balance in N.C.'s bank account was \$1,389.94. Despite this sudden change in  
14 N.C.'s financial circumstances, Respondent did not notify the court, did not liquidate N.C.'s  
15 remaining assets, and did not apply for Medicaid. Respondent did not disclose or reconcile  
16 this error in her Final Report to the court, filed on April 29, 2014.

17 2.3.4 Respondent made no payment to Merrill Gardens for N.C. during August and  
18 September 2013. Merrill Gardens began attempts to contact Respondent on September 17,  
19 2013, for an update on N.C.'s resources. Respondent did not return calls and did not  
20 communicate the status of N.C.'s financial situation to the care facility.

21 2.3.5 On September 25, 2013, Respondent deposited two checks totaling \$13,318.23  
22 received from liquidation of N.C.'s brokerage accounts. On September 26, 2013 (the next  
23 day), Respondent paid her current attorney Scott Blinks \$2,500, her former attorney Janet  
24 Moody \$1,085, and herself \$3,270.01.

25 2.3.6 On October 1, 2013, the balance owed to Merrill Gardens was over \$13,000.  
26 Respondent paid Merrill Gardens \$1,111.41 around the 1<sup>st</sup>, but provided no explanation of how

1 she had arrived at that figure. On October 14, 2013, Respondent paid Merrill Gardens  
2 \$5,946.40 again with no explanation of either the payment or N.C.'s financial situation.  
3 Respondent paid Merrill Gardens \$1,111.41 in November and December 2013.

4 2.3.7 On or about November 17, 2013, Respondent applied for Medicaid for N.C.  
5 However, N.C.'s resources exceeded the \$2,000 limit and was not eligible. On December 19,  
6 2013, Merrill Gardens sent Respondent a 30-day Notice to Pay the balance due of \$17,932.62,  
7 or face eviction.

8 Respondent's Fee Advances

9 2.3.8 The Order Appointing Guardian, entered on February 27, 2012, approved  
10 guardian fees not to exceed \$300/month. Respondent advanced herself \$400 on March 26,  
11 2012, and \$400 on May 1, 2012.

12 2.3.9 The Order Approving Guardians' Initial Report, entered on May 25, 2012,  
13 authorized Respondent to advance herself monthly fees not to exceed \$200/month.  
14 Respondent advanced herself \$400 on June 1, 2012; \$300/mo. for July, August, and September  
15 2012; and \$150/mo. for October 2012 through Feb. 2013). After the reporting period ended on  
16 February 27, 2013, but before the court approved her fees on September 6, 2013, Respondent  
17 advanced herself \$3,270.01 on May 1, 2013.

18 2.3.10 Respondent's First Annual Report to the court reported advances of only  
19 \$2,050. The Order Approving Annual Report, entered on September 6, 2013, approved  
20 guardian's fees in the total amount of \$5,320.01, leaving \$3,270.01 as the amount "unpaid."  
21 Although she had already advanced herself the difference of \$3,270.01, Respondent paid  
22 herself again on September 25, 2013. Respondent also advanced her former attorney Janet  
23 Moody \$1,085 in fees prior to the court's approval on October 13, 2013.

24 2.3.11 The Order Approving Annual Report entered on September 6, 2013, allowed  
25 monthly advances of \$175 per month. Contrary to the court order, Respondent advanced  
26

1 herself \$1,200 on November 21, 2013, in cash. According to the check register, Respondent  
2 also advanced her attorney Scott Blinks \$700 in cash on the same day.

3 Late Filings

4 2.3.12 Respondent did not file the guardian's First Annual Report within the 90-days  
5 after the anniversary statutory period ending May 28, 2013. Respondent filed her First Annual  
6 Report on July 2, 2013; however, the Court did not approve Respondent's report. The Court  
7 ordered Respondent to prepare an amended report by August 30, 2013 with additional  
8 information regarding the brokerage accounts.

9 2.3.13 Respondent's Letters of Guardianship expired on June 22, 2013. Respondent  
10 acted without court authority until she obtained new Letters of Guardianship on August 8,  
11 2013.

12 2.3.14 On January 10, 2014, the Court accepted Respondent's conditional resignation  
13 pending filing and approval of Guardian's Final Report and Accounting. The Court ordered  
14 Respondent to submit a final report and accounting regarding her actions within 30-days  
15 ending February 10, 2014. Respondent filed her report over two months late on April 29,  
16 2014.

17 **3. VIOLATIONS OF THE STANDARDS OF PRACTICE**

18 The Board hereby alleges that Respondent has violated the following Standards of Practice:

19 **3.1 Guardian's Duty to the Court.**

20 Based on the facts set forth in paragraphs 2.1 through 2.3, and all subparagraphs  
21 thereto, the Board alleges that Respondent failed to perform duties and discharge her  
22 obligations as a guardian, acted without Letters of Guardianship, filed reports late with  
23 inaccuracies and misrepresentations, and thereby violated her duty to the court as required in  
24 SOP 401.1, 401.2, and 401.3, which provide in pertinent part:

25 **401.1** The guardian shall perform duties and discharge obligations in accordance with  
26 applicable Washington and federal law and the requirements of the court.

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2 **401.2** The guardian shall not act outside the authority granted by the court.

3 **401.3** The guardian shall at all times be thoroughly familiar with RCW 11.88, RCW  
4 11.92, GR 23, these standards, and, any other regulations or laws which govern  
the conduct of the guardian in the management of the affairs of an incapacitated  
person.

5 **3.2 Guardian's Duty to Competently Manage the Estate.**

6 3.2.1 Based on the facts set forth in paragraphs 2.1.3-5, 2.2.3-4, and 2.3.1-7, the  
7 Board alleges that Respondent violated her duty to competently manage the property and  
8 income of the estate primarily for the benefit of the incapacitated person as required in SOP  
9 409.1 and 409.4, which provides in pertinent part:

10 **409.1** The guardian shall assure competent management of the property and income of  
11 the estate. In the discharge of this duty, the guardian shall exercise the highest  
12 level of fiduciary responsibility, intelligence, prudence, and diligence and avoid  
any self-interest. The management of the estate shall be documented by means  
of accurate and complete records of all transactions.

13 **409.4** The guardian shall manage the estate with the primary goal of providing for the  
14 needs of the incapacitated person.

15 3.2.2 Based on the facts set forth in paragraphs 2.1.3-5, 2.2.3-4, and 2.3.7, the Board  
16 alleges that Respondent violated her duty to apply for all public and insurance benefits for the  
17 incapacitated person, which provides in pertinent part:

18 **409.7** The guardian shall apply for all public and insurance benefits for which the  
19 incapacitated person is eligible. When implementing necessary changes in the  
20 incapacitated person's lifestyle, the guardian shall seek to minimize the stress  
of any transition.

21 **3.3 Guardian's Duty to Account for Fees.**

22 Based on the facts set forth in paragraphs 2.1.6-12, 2.2.6, and 2.3.8-11, the Board  
23 alleges that Respondent advanced herself, and others, fees without prior court approval and  
24 failed to properly disclose all compensation received as required by SOP 401.5, 410.2, and  
25 410.3, which provide in pertinent part:  
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