



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

RE: Bart Finkbiner
Master Case No.: M2010-1659
Document: Statement of Charges

Regarding your request for information about the above-named practitioner; attached is a true and correct copy of the document on file with the State of Washington, Department of Health and Adjudicative Clerk Office. These records are considered Certified by the Department of Health.

Certain information may have been withheld pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld:

The identity of the complainant if the person is a consumer, health care provider, or employee, pursuant to RCW 43.70.075 (Identity of Whistleblower Protected) and/or the identity of a patient, pursuant to RCW 70.02.020 (Medical Records - Health Care Information Access and Disclosure)

If you have any questions or need additional information regarding the information that was withheld, please contact:

Customer Service Center
P.O. Box 47865
Olympia, WA 98504-7865
Phone: (360) 236-4700
Fax: (360) 586-2171

You may appeal the decision to withhold any information by writing to the Privacy Officer, Department of Health, P.O. Box 47890, Olympia, WA 98504-7890.

**STATE OF WASHINGTON
DEPARTMENT OF HEALTH
SECRETARY OF HEALTH**

In the Matter of

BART FINKBINER
Credential No. NAR.NA.00153447

Respondent

No. M2010-1659

STATEMENT OF CHARGES

The Executive Director of the Nursing Assistant Program (Program), on designation by the Secretary of Health, makes the allegations below, which are supported by the evidence contained in program file no. 2010-152033. The patient referred to in this Statement of Charges is identified in the attached Confidential Schedule.

1. ALLEGED FACTS

1.1 On March 11, 2003, the state of Washington issued Respondent a credential to practice as a nursing assistant-registered. Respondent's credential is currently active.

1.2 During November 2009 through January 2010, the Respondent was employed at an assisted living home in Shoreline, Washington. The home provides a semi-private, residential living environment for developmentally delayed and/or mentally ill individuals.

1.3 As part of the Respondent's assigned duties, the Respondent assisted Patient A with daily living activities. Patient A is a 57-year-old, developmentally delayed female.

1.4 Beginning in or around November 2009 and continuing until on or about January 23, 2010, the Respondent sexually abused Patient A on multiple occasions. The Respondent penetrated Patient A vaginally and anally with his penis, massaged her breasts, digitally penetrated her vagina, and forced Patient A to take the Respondent's penis into her mouth.

1.5 On December 14, 2010, the Department of Social and Health Services entered a Notice of Preliminary Finding (Notice). The Notice made a finding of abuse or neglect of a vulnerable adult against Respondent.

2. ALLEGED VIOLATIONS

2.1 Based on the Alleged Facts, Respondent has committed unprofessional conduct in violation of RCW 18.130.180(1), (7) and (24) and WAC 246-16-100(1)(a) and (b), which provide in part:

RCW 18.130.180 Unprofessional conduct. The following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

...

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

...

(24) Abuse of a client or patient or sexual contact with a client or patient;

...

WAC 246-16-100 Sexual misconduct.

(1) A health care provider shall not engage, or attempt to engage, in sexual misconduct with a current patient, client, or key party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes but is not limited to:

(a) Sexual intercourse;

(b) Touching the breasts, genitals, anus or any sexualized body part except as consistent with accepted community standards of practice for

examination, diagnosis and treatment and within the health care practitioner's scope of practice;

....


2.2 The above violations provide grounds for imposing sanctions under RCW 18.130.160.

3. NOTICE TO RESPONDENT

The charges in this document affect the public health, safety and welfare. The Executive Director of the Program directs that a notice be issued and served on Respondent as provided by law, giving Respondent the opportunity to defend against these charges. If Respondent fails to defend against these charges, Respondent shall be subject to discipline pursuant to RCW 18.130.180 and the imposition of sanctions under RCW 18.130.160.

DATED AUGUST 3, 2011

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
SECRETARY OF HEALTH



BLAKE MARESH
EXECUTIVE DIRECTOR



MARK TRIPLETT
PROGRAM REPRESENTATIVE

CONFIDENTIAL SCHEDULE

This information is confidential and is NOT to be released without the consent of the individual or individuals named herein. RCW 42.56.240(1).

Patient A:

