



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

RE: Cynthia L. Dyess, MD
Master Case No.: M2011-330
Document: Statement of Charges

Regarding your request for information about the above-named practitioner, 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
MEDICAL QUALITY ASSURANCE COMMISSION**

In the Matter of the License to Practice
as a Physician and Surgeon of:

CYNTHIA L. DYESS, MD
License No. MD00026806

Respondent

No. M2011-330

STATEMENT OF CHARGES

FILED
MAR 14 2011
Adjudicative Clerk

The Disciplinary Manager of the Medical Quality Assurance Commission (Commission) is authorized to make the allegations below, which are supported by the evidence contained in file number 2010-147747. The patient referred to in this Statement of Charges is identified in the attached Confidential Schedule.

1. ALLEGED FACTS

1.1 On September 22, 1989, the state of Washington issued Respondent a license to practice as a physician and surgeon. Respondent is a non-board certified physician practicing psychiatry, including psychoanalysis. Respondent's license expired on April 26, 2009.

1.2 In a letter dated July 27, 2010, a Commission investigator informed Respondent that the Commission had received an anonymous complaint alleging that Respondent had married Patient A, and that Respondent and Patient A were now living in California. The Commission investigator requested that Respondent provide a narrative statement addressing several questions regarding Respondent's medical and possible romantic relationship with Patient A, and requesting her medical and billing records regarding Patient A. The Commission investigator requested that Respondent provide this information within 14 days. Respondent did not provide the information requested by the Commission.

1.3 In a letter dated August 10, 2010, the Commission investigator reiterated the July 27, 2010, request for a statement and records, giving Respondent until August 20, 2010, to respond.

1.4 Following the August 10, 2010, Commission letter there were several communications between Respondent's attorney and the Commission's investigator and staff attorney.

1.5 By letter dated September 28, 2010, the Commission investigator made a final request for Respondent's written statement and her medical records for Patient A. The Commission investigator gave Respondent until October 10, 2010, to respond.

1.6 In a written statement dated October 19, 2010, Respondent reduced her refusal to writing. Respondent relied upon her articulation of California law to refuse to provide records of a patient she allegedly cared for in the state of Washington prior to moving to California.

1.7 Respondent has not produced the information, including medical records, requested by the Commission.

2. ALLEGED VIOLATIONS

2.1 Based on the Alleged Facts, Respondent has committed unprofessional conduct in violation of RCW 18.130.180(8)(a) and (b), which provide:

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

- ...
- (8) Failure to cooperate with the disciplining authority by:
- (a) Not furnishing any papers or documents;
 - (b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority;
- ...;
-

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

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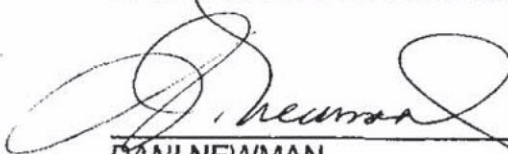
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3. NOTICE TO RESPONDENT

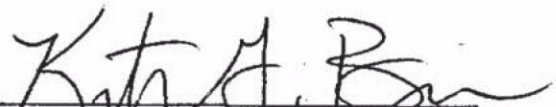
The charges in this document affect the public health, safety and welfare. The Disciplinary Manager of the Commission directs that a notice be issued and served on Respondent as provided by law, giving Respondent the opportunity to defend against these charges. If Respondent fails to defend against these charges, Respondent shall be subject to discipline and the imposition of sanctions under Chapter 18.130 RCW.

DATED: March 14, 2011.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION



DANI NEWMAN
DISCIPLINARY MANAGER



KRISTIN G. BREWER, WSBA # 38494
ASSISTANT ATTORNEY GENERAL

CONFIDENTIAL SCHEDULE

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

Patient A





STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

RE: Cynthia L. Dyess, M.D.
Master Case No. M2011-330
Document: Final Order

Regarding your request for information about the above-named practitioner, 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: **NONE**

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**STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION**

In the Matter of:

CYNTHIA L. DYESS, M.D.,
Credential No. MD00026806,

Respondent.

Master Case No. 2011-330

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND FINAL ORDER
(Waiver of Hearing)

APPEARANCES:

Cynthia L. Dyess, M.D., Respondent, pro se

Department of Health Medical Program, by
Kristin Brewer, Assistant Attorney General

PRESIDING OFFICER: Christopher G. Swanson, Health Law Judge

On April 20, 2011, this matter came before the Presiding Officer on delegation from the Medical Quality Assurance Commission (Commission) for a Final Order on waiver of hearing. License Suspended.

ISSUES

Did the Respondent commit unprofessional conduct as defined in RCW 18.130.180(8)(a) and (b)?

If the Respondent committed unprofessional conduct, what are the appropriate sanctions under RCW 18.130.160?

SUMMARY OF PROCEEDING

The Presiding Officer considered the following documents:

Exhibit A: The Statement of Charges.

Exhibit B: The Respondent's Answer to Statement of Charges.

FINDINGS OF FACT,
CONCLUSION OF LAW
AND FINAL ORDER
(Waiver of Hearing)

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- Exhibit C: The complaint form and statement submitted by a confidential complainant, with complainant's identity redacted. Included with the complaint form is a printout of the results of the Complaint's Whitepages.com internet search for Patient A and a speaker biography regarding Patient A.
- Exhibit D: The Respondent's California Medical Board on-line physician profile.
- Exhibit E: A memorandum dated September 28, 2010, regarding a telephonic interview of complainant by the Department's Investigator.
- Exhibit F: A written letter from the complainant to the Department investigator, dated September 28, 2010.
- Exhibit G: A Letter from the Department Investigator Tim Slavin to the Respondent, dated July 27, 2010, requesting a narrative statement addressing specific questions, and requesting a complete copy of the Respondent's medical and billing records pertaining to Patient A.
- Exhibit H: A letter from the Department Investigator Tim Slavin to the Respondent, dated August 10, 2010, with certified mail receipt indicating delivery on August 16, 2010, again requesting a written response and medical records.
- Exhibit I: A Letter from counsel for the Respondent Philip VanDerhoef to the Department Investigator Tim Slavin, dated September 1, 2010, acknowledging that the time for response had been extended to September 10, 2010.
- Exhibit J: A letter from the Department Investigator Tim Slavin to the Respondent's counsel, dated September 28, 2010, notifying the Respondent that if the Department does not receive the Respondent's statement and the medical records for Patient A by October 10, 2010, the investigator will notify the Department's staff attorney of the Respondent's non-cooperation.

- Exhibit K: A cover letter from the Respondent's counsel, dated October 20, 2010, with an enclosed copy of a "Statement of Cynthia Lee Dyess, M.D.," signed and dated October 19, 2010.
- Exhibit L: A report from the American Medical Association, and a *printout of the Respondent's licensing screen from the Washington State Department of Health Integrated Licensing & Regulatory System*, demonstrating the Respondent's licensure and board certification as described in Paragraph 1.1 of the Statement of Charges.

I. PROCEDURAL BACKGROUND

1.1 On March 14, 2011, the Disciplinary Manager of the Department of Health Medical Program (Department) filed a Statement of Charges with the Medical Quality Assurance Commission (Commission), alleging unprofessional conduct under RCW 18.130.180(8)(a) and (b).

1.2 On April 1, 2011, the Adjudicative Services Unit received the Respondent's Answer to the Statement of Charges, in which the Respondent waived her right to a settlement conference and formal hearing.

1.3 On April 14, 2011, the Commission delegated the final decision making authority in this case to a presiding officer designated by the Adjudicative Services Unit.

1.4 The Disciplinary Manager for the Department submitted a Declaration with attached exhibits. The Presiding Officer reviewed the submitted exhibits, including the Respondent's written statement (*See Exhibit B*). Based upon that review, the Presiding Officer enters the following:

II. FINDINGS OF FACT

2.1 On September 22, 1989, the state of Washington issued the Respondent a license to practice as a physician and surgeon. The Respondent is a non-board certified physician practicing psychiatry, including psychoanalysis. The Respondent's license expired on April 26, 2009.

2.2 In a letter dated July 27, 2010, a Department of Health investigator informed the Respondent that the Department had received an anonymous complaint alleging that the Respondent had married Patient A, and that the Respondent and Patient A were now living in California. The Department investigator requested that the Respondent provide a narrative statement addressing several questions regarding the Respondent's medical and possible romantic relationship with Patient A, and requested her medical and billing records regarding Patient A. The Department investigator requested that the Respondent provide this information within 14 days. The Respondent did not provide the information requested by the Department.

2.3 In a letter dated August 10, 2010, the Department investigator reiterated the July 27, 2010 request for a statement and records, giving the Respondent until August 20, 2010, to respond.

2.4 Following the Department's August 10, 2010 letter, there were several communications between the Respondent's attorney, the Department's investigator, and the Department's staff attorney.

2.5 By letter dated September 28, 2010, the Department's investigator made a final request for the Respondent's written statement and her medical records for Patient A. The Department's investigator gave the Respondent until October 10, 2010, to respond.

2.6 In a written statement dated October 19, 2010, the Respondent reduced her refusal to writing. The Respondent relied upon her articulation of California law to refuse to provide records of a patient she allegedly cared for in the state of Washington prior to moving to California.

2.7 The Respondent has not produced the information, including medical records, requested by the Department.

III. CONCLUSIONS OF LAW

3.1 The Commission (and by delegated authority, the Presiding Officer) has jurisdiction over the Respondent's license to practice as a physician and surgeon. RCW 18.130.040.

3.2 The Respondent filed a response to the Statement of Charges within the time frame allowed by WAC 246-11-270(1)(a)(i) or WAC 246-11-270(3), affirmatively waiving her right to a hearing. The Commission may issue a dispositive order based on the evidence presented. RCW 18.130.090(1) and RCW 34.05.440.

3.3 The Commission delegated final decision making authority in this matter to a presiding officer of the Adjudicative Services Unit, consistent with RCW 18.130.050(10).

3.4 Based upon the Findings of Fact, the Respondent has committed unprofessional conduct under RCW 18.130.180(8)(a) and (b).

3.5 Sufficient grounds exist to take disciplinary action against the Respondent's license. RCW 18.130.160 and 18.130.180.

IV. ORDER

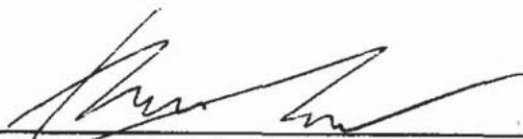
Based on the Findings of Fact and Conclusions of Law, it is ORDERED that:

The Respondent's license to practice as a physician and surgeon in the state of Washington is INDEFINITELY SUSPENDED.

V. COMPLIANCE WITH SANCTION SCHEDULE

The Presiding Officer applies WAC 246-16-800, *et seq.*, to determine appropriate sanctions. In default and waiver hearing orders indefinite suspension may be imposed. WAC 246-16-800(2)(b)(iv). An indefinite suspension is imposed in this waiver hearing order, and is consistent with the sanctions rules and appropriate for a case in which the Respondent has failed to comply with the Department's request for the production of documents necessary to address the underlying complaint.

Dated this 21 day of April, 2011.


CHRISTOPHER G. SWANSON, Health Law Judge
Presiding Officer

CLERK'S SUMMARY

<u>Charge</u>	<u>Action</u>
RCW 18.130.180(8)(a)	Violated
RCW 18.130.180(8)(b)	Violated

NOTICE TO PARTIES

This order is subject to the reporting requirements of RCW 18.130.110, Section 1128E of the Social Security Act, and any other applicable interstate or national reporting requirements. If discipline is taken, it must be reported to the Healthcare Integrity Protection Data Bank.

Either party may file a **petition for reconsideration**. RCW 34.05.461(3); 34.05.470. The petition must be filed within 10 days of service of this order with:

Adjudicative Service Unit
P.O. Box 47879
Olympia, WA 98504-7879

and a copy must be sent to:

Department of Health Medical Program
P.O. Box 47866
Olympia, WA 98504-7879

The petition must state the specific grounds for reconsideration and what relief is requested. WAC 246-11-580. The petition is denied if the Presiding Officer does not respond in writing within 20 days of the filing of the petition.

A **petition for judicial review** must be filed and served within 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, the above 30-day period does not start until the petition is resolved. RCW 34.05.470(3).

FINDINGS OF FACT,
CONCLUSION OF LAW
AND FINAL ORDER
(Waiver of Hearing)

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The order is in effect while a petition for reconsideration or review is filed. "Filing" means actual receipt of the document by the Adjudicative Service Unit. RCW 34.05.010(6). This order is "served" the day it is deposited in the United States mail. RCW 34.05.010(19).

For more information, visit our website at <http://www.doh.wa.gov/hearings>.