

STATEMENT OF DECISION

Respondent:	Ms Robin Burgun
--------------------	-----------------

Under s41B(5) of the *Health Care Complaints Act 1993*, the Health Care Complaints Commission has removed from this Statement of Decision material which is considered to be confidential.

1 Background

- 1.1 On 3 March 2021, Ms Robin Joy Burgun was charged with *Dishonestly obtain financial advantage or cause disadvantage by deception* (Law Part Code 70974), s192E(1)(a) of the *Crimes Act 1900*. It was alleged that:
 - 1.1.1 Between 3:37pm and 3:40pm on 22 February 2021 at Junee, Ms Robin Joy Burgun did, by deception, that is, by removing Patient A’s credit card from his wallet, dishonestly obtain a financial advantage / cause a financial disadvantage, to wit spend a total of \$117.85 by purchasing a carton of Victoria Bitter and Tobacco from Junee IGA.
- 1.2 The matter was listed before Junee Local Court on 7 May 2021. Ms Burgun plead guilty to the offence.
- 1.3 The offence occurred while Ms Burgun provided services to a resident at the Residential Aged Care Facility at the Junee Hospital (the facility), where she was employed as an Assistant in Nursing (**AIN**).
- 1.4 On 7 May 2021, Ms Burgun was convicted of the offence and sentenced to a Community Correction Order for a period 12 months to commence on 7 May 2021 and expiring on 6 May 2022. Ms Burgun was ordered to pay compensation of \$117.85 payable to Patient A.

2 The Complaint

- 2.1 On 9 March 2021, the Commission received a complaint from Murrumbidgee Local Health District, alleging that Ms Burgun had used Patient A’s bank card to make unauthorised purchases at Junee IGA. The matter was reported to the facility by Patient A’s wife and then reported to NSW Police.

3 Respondent

- 3.1 Ms Burgun is a 54-year-old AIN who was employed by Murrumbidgee Local Health District at Junee Hospital.

4 Investigation

- 4.1 In her capacity as an AIN, Ms Burgun is an unregistered health practitioner and subject to the Code of Conduct for unregistered health practitioners (**Code of Conduct**) set out in Schedule 3 of the *Public Health Regulation 2012*.

Security: Sensitive

Health Care Complaints Commission

- 4.2 The Commission's investigation focused on whether Ms Burgun has breached the Code of Conduct and whether she poses a risk to the health or safety of members of the public.
- 4.3 The relevant clause of the Code of Conduct is:
- Clause 3(1): *A health practitioner must provide health services in a safe and ethical manner.*
- 4.4 During the investigation, the Commission obtained information from NSW Police, Junee Local Court and Murrumbidgee Local Health District.

5 Summary of Evidence

Police Investigation

- 5.1 The Police Fact Sheet sets out the following evidence:
- 5.1.1 Police attended Junee IGA and spoke with the manager on shift who determined the items obtained, their times and the card which was used being Patient A's card. The manager and Police observed CCTV footage depicting Ms Burgun using the bank card to make the abovementioned transactions.
- 5.1.2 Police obtained a copy of the CCTV footage before attending Junee Hospital and speaking with the Facility Manager. The Facility Manager checked the roster and observed Ms Burgun to have been on dayshift on 22 February 2021 finishing at 3:30pm. The Facility Manager also provided a statement formally identifying the accused in the CCTV footage from Junee IGA.
- 5.1.3 On 3 March 2021, Ms Burgun participated in an Electronically Recorded Interview at Junee Police Station. She admitted to Police that she took a key card from Patient A's wallet and used it for her own benefit before returning it to his wallet the following day.
- 5.1.4 Ms Burgun was charged with the offences following the interview.

Criminal proceedings

- 5.2 On 3 March 2021, Ms Burgun was charged with one count of *Dishonestly obtain financial advantage etc by deception* under s192E(1)(b) of the *Crimes Act 1900*.
- 5.3 Ms Burgun entered a plea of guilty at the first opportunity on 7 May 2021.
- 5.4 On 7 May 2021, Ms Burgun was convicted on the offence and sentenced to a Community Correction Order for a period 12 months to commence on 7 May 2021 and expiring on 6 May 2022. Ms Burgun was ordered to pay compensation of \$117.85 payable to Patient A.

Security: Sensitive

Health Care Complaints Commission

6 Submissions

- 6.1 The Commission wrote to Ms Burgun on 5 July 2021, proposing to take action under sections 41A and 41B of the Act and inviting submissions under section 40 of the Act. Ms Burgun was provided with a draft copy of the Statement of Decision in this matter.
- 6.2 No submissions were received by Ms Burgun in relation to the proposed action within the 28-day statutory timeframe. Accordingly, the Commission determined to proceed with the proposed action.

7 Findings

- 7.1 In providing services as an AIN at Junee Hospital, Ms Burgun was afforded significant trust by the residents and their families, to provide a safe environment and to deliver appropriate health care to residents who were particularly vulnerable. Ms Burgun abused her position of trust, using her access to a resident's personal belongings to steal his bank card and to make unauthorised transactions for her own financial gain.
- 7.2 While Ms Burgun made admissions in relation to Patient A's bank card to NSW Police, she was not forthcoming about her use of the key card. She only admitted to the crime against Patient A when she was arrested by Police on 3 March 2021. At that time, Ms Burgun was apologetic for her actions.
- 7.3 Ms Burgun entered a guilty plea to the offence on 7 May 2021.
- 7.4 The Commission considers that based on the evidence outlined above, Ms Burgun has breached clause 3(1) of the Code of Conduct, in that she failed to provide health services in a safe and ethical manner. The Commission also considers that Ms Burgun poses a significant risk to the health and safety of members of the public.

8 Determination

- 8.1 Based on the evidence and findings outlined above, the Commission makes the following prohibition order under section 41A(2)(a) of the Act:

Ms Robin Burgun, an Assistant in Nursing, is permanently prohibited from providing, or causing to be provided, any health services, either in paid employment or voluntarily, to any member of the public.

- 8.2 For the purposes of this order, a health services carries the same meaning as defined under section 4 of the Act.

- 8.3 The Commission also issues the following public statement under section 41(2)(b) of the Act:

*The NSW Health Care Complaints Commission (**Commission**) investigated the conduct of Ms Robin Joy Burgun. Ms Burgun was employed as an Assistant in Nursing (**AIN**) at the Residential Aged Care Facility at Junee Hospital (**the Facility**).*

In her capacity as an AIN, Ms Burgun is considered to be an unregistered health practitioner and subject to the Code of Conduct for unregistered

Security: Sensitive

Health Care Complaints Commission

health practitioners (Code of Conduct) set out in schedule 3 of the Public Health Regulation 2012.

As an AIN, Ms Burgun was employed to attend to the personal care needs of aged care residents at the Facility under limited or indirect supervision. Ms Burgun had access to patients' rooms, including the rooms of Patient A. Patient A was a permanent resident within the facility under constant 24 hour Palliative care where he is bed bound.

In relation to Patient A, Ms Burgun admitted that at around 3:00pm on 22 February 2021, she removed Patient A's key card from the top draw of his bedside table before attending the local IGA and used it, without permission, to make two transactions totaling \$117.85 for her own benefit.

This conduct occurred while Ms Burgun provided care to Resident A at the Facility.

On 3 March 2021 Ms Burgun was charged with one count of Dishonestly obtain financial advantage or cause disadvantage by deception under s192E(1)(b) Crimes Act 1900.

Ms Burgun pled guilty and, on 7 May 2021 Ms Burgun was convicted of the offences and sentenced to a Community Correction Order for a period 12 months to commence on 7 May 2021 and expiring on 6 May 2022. Ms Burgun was ordered to pay compensation of \$117.85 payable to Patient A.

The Commission's investigation found that in providing services as an AIN to elderly residents, Ms Burgun was afforded significant trust by the residents of the Facility and their families to provide a safe environment and deliver appropriate health to residents who were particularly vulnerable.

Ms Burgun deliberately took advantage of her professional position and capacity to access the personal effects of the patient's entrusted into her care for her own financial gain.

Ms Burgun has failed to cooperate with the Commission's investigation or to express any insight into the seriousness of her breach of trust.

The Commission considers that based on Ms Burgun's conviction and conduct, she has breached clause 3(1) of the Code of Conduct, in that she failed to provide health services in a safe and ethical manner. The Commission also considers that Ms Burgun poses a significant risk to the health and safety of members of the public.

Accordingly, the Commission makes the following prohibition order under section 41A(2)(a) of the Health Care Complaints Act 1993 (Act):

Ms Robin Burgun, an Assistant in Nursing, is permanently prohibited from providing, or causing to be provided, any health services, either in paid employment or voluntarily, to any member of the public.

Security: Sensitive

This document has been classified according to the NSW Government's Digital Information Security Policy and any use should be in accordance with this policy. For more information about the Commission's classification of information please see our website, www.hccc.nsw.gov.au.

Health Care Complaints Commission

For the purposes of this order, a health services carries the same meaning as defined under section 4 of the Act.

- 8.4 Under section 41D of the Act, the Commission will provide a copy of this Statement of Decision to:
- The Australian Health Practitioners Regulation Agency (AHPRA);
 - Each professional Council in NSW.
- 8.5 The Commission has determined to make this statement of decision publicly available under s41B(3)(c) of the Act.



Tony Kofkin
Executive Director, Complaints Operations
1 September 2021

Security: Sensitive

This document has been classified according to the NSW Government's Digital Information Security Policy and any use should be in accordance with this policy. For more information about the Commission's classification of information please see our website, www.hccc.nsw.gov.au.