

BOARD OF MEDICAL PRACTICE

In re: James M. Cartwright, AA-C) Docket No. MPC 161-1015
)
)

STIPULATION AND CONSENT ORDER

NOW COME James M. Cartwright, AA-C, and the State of Vermont, by and through Vermont Attorney General Thomas J. Donovan, Jr., and hereby stipulate and agree to the following in the above-captioned matter:

1. James M. Cartwright, AA-C (“Respondent”) held Vermont certification number 135.0000035 originally issued by the Vermont Board of Medical Practice on February 4, 2015.
2. Jurisdiction in this matter rests with the Vermont Board of Medical Practice (“the Board”), pursuant to 26 V.S.A. §§ 1353-1357, 1658-1659 and 3 V.S.A. §§ 809-814, and other authority.

FINDINGS OF FACT

3. The Board opened this matter in October of 2015 after receiving an “Anesthesiologist Assistant Notification to the Board of Termination of Employment Contract” from Respondent’s supervising anesthesiologist notifying the Board that Respondent’s employment contract with Southwestern Vermont Medical Center had been terminated on October 2, 2015. The matter was assigned to the Central Investigative Committee of the Board (“the Committee”).
4. Respondent was certified as an anesthesiologist assistant by the Board from February 4, 2015 through October 2, 2015. During this time, he worked as an anesthesiologist assistant at the Southwestern Vermont Medical Center.

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5. The Board was informed that, on January 26, 2017, Respondent entered into a public Plea Agreement with the United States of America (“Plea Agreement”). In the Plea Agreement, Response entered a guilty plea to a charge of conspiracy to possess with the intent to distribute a quantity of a mixture and substance containing a detectable amount of acetyl fentanyl, a controlled substance analogue, in violation of 21 U.S.C. § 846.
6. Respondent was not certified as an anesthesiologist assistant by the Board during the time that he engaged in the criminal conduct that led to the criminal charges and Plea Agreement. Respondent was also not certified as an anesthesiologist assistant by the Board at the time that he entered into the Plea Agreement.
7. Paragraph 11 of the Plea Agreement sets forth facts that Respondent admitted to be true, and able to be proven beyond a reasonable doubt. Included in these facts is a statement that, on December 22, 2014, federal and local enforcement agents entered and searched Respondent’s home. The facts in the plea agreement describing the December 22, 2014 search of Respondent’s home make it clear that Respondent knew that he was the subject of a criminal investigation at that time.
8. On January 3, 2015, Respondent submitted an Application for Certification as an Anesthesiologist Assistant to Board. Question number 90 on said application states: “To your knowledge, are you currently the subject of a criminal investigation that has not yet resulted in charges against you? If yes, provide the jurisdiction, a description of the matter under investigation, and the date you became aware of the investigation.” Respondent’s response to question number 90 was “no.”

CONCLUSIONS OF LAW

9. Fraud or misrepresentation in applying for or procuring an anesthesiologist assistant certificate constitutes unprofessional conduct. 26 V.S.A. § 1658(a)(1).
10. Respondent's response to question number 90 in his Application for Certification as an Anesthesiologist Assistant was a misrepresentation. Paragraph 11 of his Plea Agreement establishes that he did know that he was a subject of a criminal investigation at the time that he completed and submitted his Application to the Board.
11. Respondent acknowledges that it is the Board's position that if the State were to file charges against him it could satisfy its burden at a hearing and a finding adverse to him could be entered by the Board.
12. Respondent agrees that the Board may enter as its facts and/or conclusions paragraphs 1 through 8 above, and further agrees that this is an adequate basis for the Board's actions set forth herein. Any representation by Respondent herein is made solely for the purposes set forth in this agreement.
13. Therefore, in the interest of Respondent's desire to fully and finally resolve the matter presently before the Board, he has determined that he shall enter into this agreement with the Board. Respondent enters no further admission here, but to resolve this matter without further time, expense and uncertainty; he has concluded that this agreement is acceptable and in the best interest of the parties.
14. Respondent acknowledges that he is knowingly and voluntarily entering into this agreement with the Board. He acknowledges and agrees that at all times and in all communications and proceedings related to this matter before the Board he has had

the right to be represented by counsel. Respondent has carefully reviewed and considered this Stipulation and Consent Order.

15. Respondent agrees and understands that by executing this document he is waiving any right to challenge the jurisdiction and continuing jurisdiction of the Board in this matter, to be presented with a specification of charges and evidence, to cross-examine witnesses, and to offer evidence of his own to contest any allegations by the State.
16. The parties agree that upon their execution of this Stipulation and Consent Order, and pursuant to the terms herein, the above-captioned matter shall be administratively closed by the Board. Thereafter, the Board will take no further action as to this matter absent non-compliance with the terms and conditions of this document by Respondent.
17. This Stipulation and Consent Order is conditioned upon its acceptance by the Vermont Board of Medical Practice. If the Board rejects any part of this document, the entire agreement shall be considered void. Respondent agrees that if the Board does not accept this agreement in its current form, he shall not assert in any subsequent proceeding any claim of prejudice from any such prior consideration. If the Board rejects any part of this agreement, none of its terms shall bind Respondent or constitute an admission of any of the facts of the alleged misconduct, it shall not be used against Respondent in any way, it shall be kept in strict confidence, and it shall be without prejudice to any future disciplinary proceeding and the Board's final determination of any charge against Respondent.

18. Respondent acknowledges and understands that this Stipulation and Consent Order shall be a matter of public record, shall be entered in his permanent Board file, shall constitute an enforceable legal agreement, and may and shall be reported to other licensing authorities, including but not limited to: the Federation of State Medical Boards Board Action Databank and the National Practitioner Data Bank. In exchange for the actions by the Board, as set forth herein, Respondent expressly agrees to be bound by all terms and conditions of this Stipulation and Consent Order.

19. The parties therefore jointly agree that should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Board, it may enter an order implementing the terms and conditions herein.

ORDER

WHEREFORE, based on the foregoing, and the consent of Respondent, it is hereby ORDERED that:

1. Respondent shall be reprimanded for the conduct set forth above.
2. Respondent shall pay an administrative penalty of \$500.00 consistent with 26 V.S.A. § 1659(d)(5). Payment shall be made to the “State of Vermont Board of Medical Practice,” and shall be sent to the Vermont Board of Medical Practice office, at the following address: David Herlihy, Executive Director, Vermont Board of Medical Practice, P.O. Box 70, Burlington VT 05402-0070. The payment shall be due no later than two years after Respondent is released from prison.


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SIGNATURES


DATED at Montpelier, Vermont, this 23rd day of March, 2018.

STATE OF VERMONT

THOMAS J. DONOVAN, JR
ATTORNEY GENERAL

By: 
Kassandra P. Diederich
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609-1001

DATED at Pensacola, Florida, this 26 day of March, 2018.


James M. Cartwright, AA-C
Respondent

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AS TO JAMES M. CARTWRIGHT, AA-C
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

Tim M. Tully
Margaret Susan Grand
Ed Perry
Richard B. ...
John ...
John ...
W. ...
John ...
W.A. ...

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DATED: May 2, 2018
ENTERED AND EFFECTIVE: May 2, 2018
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