

STATE OF VERMONT  
BOARD OF MEDICAL PRACTICE

In re: Jessica Biggie, M.D.            )  
  )  
  )        Licensing Matter

STIPULATION AND CONSENT ORDER

NOW COME Jessica Biggie, M.D. (“Applicant”), by and through undersigned counsel, Primmer Piper Eggleston & Cramer PC, and the State of Vermont, by and through Attorney General Thomas J. Donovan and undersigned counsel, Assistant Attorney General Margaret O. Vincent, and stipulate as follows:

1. Jessica Biggie, M.D., Applicant, filed an application for a Vermont medical license and the application was completed in May of 2018. Applicant presently has a Voluntary Agreement Not to Practice Medicine in the Commonwealth of Massachusetts.
2. Applicant and the Complaint Counsel, on behalf of the Complaint Committee for the Board of Registration in Medicine, agreed to a Proposed Consent Order in July of 2017. The Board of Registration did not accept the Consent Order and a disciplinary action is still pending against Applicant in the Commonwealth of Massachusetts.
3. Jurisdiction rests in the Vermont Board of Medical Practice (the “Board”) pursuant to 26 V.S.A. §§ 1353, 1391, 1398 and 3 V.S.A. §§ 809 and 814(c) and (d).

BACKGROUND

4. Applicant graduated from State University of New York Upstate Medical University in May of 1995. Applicant obtained a license to practice medicine in Massachusetts in November 2000. Applicant’s license was in good standing until 2016.

5. Applicant disclosed on her application for a Vermont medical license that on September 22, 2016, she entered into a Voluntary Agreement Not to Practice Medicine with the Commonwealth of Massachusetts Board of Registration in Medicine (herein referred to as the Massachusetts Board). (*see Exhibit A*)
6. The Voluntary Agreement was then followed by a Proposed Consent Order agreed to by the Applicant and the Complaint Counsel for the Massachusetts Board, on behalf of the Complaint Committee, in July of 2017. (*see Exhibit B*)
7. The Proposed Consent Order contained the following Findings of Fact regarding the Applicant;
  - a. Applicant exercised questionable judgment when dispensing and/or prescribing medications to high school students at the boarding school where she was a physician.
  - b. Applicant reportedly had a practice of retaining discontinued medication prescribed for a student.
  - c. Applicant would later give a portion of the retained medication to another student as a trial medication without issuing a new prescription.
  - d. Applicant kept the discontinued medication in “stock”. The stock medication was kept in a lock box in the Applicant’s locked office.
  - e. The matter was referred to the DEA and the Massachusetts Department of Children and Families (DCF).
  - f. Both the DEA and DCF conducted investigations and neither took any action against the Applicant.
  - g. Applicant was willing to admit that she used inappropriate language in the presence of staff members and shared personal matters with colleagues while working in the clinic.

8. The Massachusetts Complaint Committee, which included two members of the Massachusetts Board, approved the Proposed Consent Order and forwarded it to the full Massachusetts Board which considered it on October 12, 2017.
9. The Massachusetts Board did not accept the Proposed Consent Order that would have imposed a reprimand as the sanction.
10. The Massachusetts Board advised Applicant that, in lieu of the reprimand recommended by the Complaint Committee and based on the very same set of facts, they would require the following sanctions in any Consent Order:
  - a. An indefinite suspension with a five-year Probation Agreement;
  - b. The Probation Agreement must include:
    - i. A requirement for monitoring in a Massachusetts group practice setting, including Board-approval of the monitor and Board-approval of the practice setting; and
    - ii. That there would be no early termination of the Probation Agreement; and
  - c. A condition of any stay of the indefinite suspension would be completion of an evaluation by Physician Health Services (PHS), and incorporation of any recommendations of that evaluation in the Probation Agreement. The Board reserved the right to require other conditions in the Probation Agreement, depending on the results of the PHS evaluation.
11. The Applicant was willing to sign the new proposed Consent Order with the above listed sanctions except she asked that the condition that she only practice in Massachusetts be lifted. Applicant had a job offer to work in a group practice setting at Brattleboro Memorial Hospital in Brattleboro, Vermont.
12. Applicant resides in Greenfield Massachusetts which is 10 miles from Brattleboro, Vermont.

13. As of now, the Massachusetts Board is not willing to lift the condition that she only practice in Massachusetts.
14. Applicant met with the PHS, and in February of 2018, PHS provided a letter to Applicant stating that it had not identified a health issue for which a PHS monitoring contract would be indicated.
15. When Applicant learned that storing unused medication that had been discontinued for one student and using it as a trial prescription for another student was not an acceptable practice she immediately and voluntarily discontinued the practice. The practice was discontinued before she was aware of the investigation by the Massachusetts Board.

## **II. Agreement as to Terms and Conditions of Vermont Licensure**

16. Applicant is knowingly and voluntarily agreeing to this Stipulation and Consent Order. She agrees and understands that by executing this document she is waiving at this time any rights of due process that she may possess with regard to the issuance to her of a Vermont medical license. She agrees that the Vermont Board of Medical Practice possesses and shall continue to maintain jurisdiction in this matter, including any required action to enforce the terms herein.
17. Applicant acknowledges that at all times she has had the right to be represented by counsel in this matter. Applicant agrees that she personally has read and carefully reviewed this document. Applicant agrees to accept and fully abide by the terms and conditions set forth below while this agreement remains in force.
18. Applicant agrees that the terms and conditions of this agreement shall be imposed concurrently with the issuance of Applicant's Vermont medical license.
19. Applicant understands and agrees that that the Vermont medical license issued pursuant to this agreement shall be issued with the designation "conditioned." The conditions shall last until such time as the Board has received two years of timely and satisfactory monitoring reports as

called for by this agreement and approves a petition by Applicant to remove the conditions.

After one-year Applicant may petition the Board to lift the conditions and the Board may, in its discretion, elect to approve such petition based upon monitoring reports and terminate the conditions early. Petitions regarding the conditions must be submitted through the assigned Committee.

20. Applicant agrees that she shall immediately notify the Vermont Board of Medical Practice as to any resolution in the Massachusetts matter as well as if any new allegations or findings are made by that Board.
21. Applicant has informed the Board that if she is granted a conditioned license she will be employed by Brattleboro Memorial Hospital. Applicant shall inform the Board immediately if she is no longer employed by Brattleboro Memorial Hospital and shall not practice medicine in any other practice setting in the State of Vermont without the approval of the assigned Committee or Board.
22. Applicant agrees to a practice monitor. The practice monitor is Dr. Kathleen McGraw, Chief Medical Officer at Brattleboro Memorial Hospital Physician Group. Any change in the practice monitor shall be subject to the approval of the assigned Committee or the Board.
23. Applicant shall be responsible for ensuring that the practice monitor complies with the terms and obligations of the Practice Monitoring Agreement that shall be signed by both Applicant and the practice monitor. The Practice Monitoring Agreement is attached hereto as "Exhibit C".
24. Applicant shall comply with the terms and obligations of the Practice Monitoring Agreement.
25. The practice monitor shall report her findings in writing to the assigned Committee on a quarterly basis. The practice monitor's first report shall be submitted to the assigned Committee

no later than 30 days after Applicant's ninetieth day of work at Brattleboro Memorial Hospital and within 30 days of each successive quarter.

26. The practice monitoring shall continue for two (2) years from the date of the approval of this Stipulation and Consent Order. At the end of the two- (2) year monitoring period, Applicant shall submit a written request to the Committee to end the requirement for monitoring.

Applicant may submit a written request to end the requirement for monitoring after 1 year based upon favorable and timely monitoring reports, and in its discretion the Board may elect to end the monitoring requirement early. The practice monitoring requirement will not cease until the Committee has approved, in writing, Applicant's request to end the monitoring. Petitions regarding the conditions must be submitted through the assigned Committee.

27. Applicant shall provide a copy of this Stipulation and Consent Order to the practice monitor.

28. Applicant shall be solely responsible for all costs associated with the practice monitor.

Applicant shall be responsible for ensuring that the practice monitor's reports are timely submitted to the Committee.

29. Applicant agrees that her agreement with the practice monitor shall provide that the practice monitor immediately notify the Board if there is any indication that the Applicant has engaged in practice that does not meet the standard of care or violates any Vermont or federal law or regulation regarding the prescribing or dispensing of prescription medications. Applicant must also immediately notify the Board if the practice monitor informs her of a belief that the Applicant may have engaged in practice that does not meet the standard of care or violates any Vermont or federal law or regulations regarding the prescribing or dispensing of prescription medications.

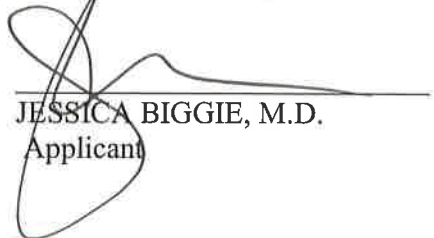
30. Applicant agrees to allow a Board member, an investigator for the Board, or an Assistant Attorney General to speak with Applicant's practice monitor regarding her practice. The agreement with the practice monitor must include Applicant's consent to having the practice monitor speak with a Board representative and the practice monitor's agreement to do so.
31. The parties agree that this Stipulation and Consent Order shall be a public document, shall be made part of Applicant's licensing file, and shall be reported as a conditioned license to other licensing authorities and/or entities including, but not limited to, the National Practitioner Data Bank and the Federation of State Medical Boards.
32. This Stipulation and Consent Order is subject to review and acceptance by the Vermont Board of Medical Practice and shall not become effective until presented to and approved by the Board. If the Board rejects any part of this Stipulation and Consent Order, the entire agreement shall be considered void. However, should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Board, the parties request that the Board enters an order adopting the facts and/or conclusions herein and all terms and conditions of licensure as set forth herein, including that this license is conditioned.
33. Applicant agrees that all terms and conditions herein may be adopted as an enforceable order of the Board. Applicant agrees that the Board of Medical Practice shall retain continuing jurisdiction in this matter and may enforce as necessary all terms and conditions herein.

Dated at Burlington, Vermont, this 3 day of July, 2018.

STATE OF VERMONT  
THOMAS J. DONOVAN  
ATTORNEY GENERAL

by: Margaret O. Vincent  
MARGARET O. VINCENT  
Assistant Attorney General

Dated at Brattleboro VT, this 29<sup>th</sup> day of June, 2018.



A handwritten signature in black ink, appearing to read 'Jessica Biggie', written over a horizontal line.

JESSICA BIGGIE, M.D.  
Applicant



A handwritten signature in blue ink, appearing to read 'Shireen Hart', written over a horizontal line.

SHIREEN HART  
Attorney for Applicant



ORDER

The Vermont Board of Medical Practice, so Orders, that the Vermont Medical License of Jessica Biggie, M.D., shall be a Conditioned License subject to the above Terms and Conditions.

FOREGOING, AS TO JESSICA BIGGIE, M.D.  
APPROVED AND ORDERED  
VERMONT BOARD OF MEDICAL PRACTICE

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<u>_____</u>	<u>_____</u>

DATED: July 11<sup>th</sup>, 2018

ENTERED AND EFFECTIVE: July 11<sup>th</sup>, 2018

Exhibit A

in Medicine

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Docket No. 16-133

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 In the Matter of )  
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 )  
 JESSICA BIGGIE, M.D. )  
 Registration No. 205038 )  
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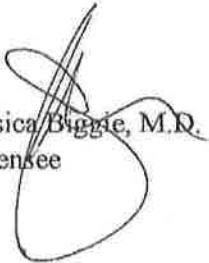
VOLUNTARY AGREEMENT NOT TO PRACTICE MEDICINE

1. I agree to cease my practice of medicine in the Commonwealth of Massachusetts effective immediately.
2. This Agreement will remain in effect until the Board of Registration in Medicine (Board) determines that this Agreement should be modified or terminated; or until the Board takes other action against my license to practice medicine; or until the Board takes final action on the above-referenced matter.
3. I am entering this Agreement voluntarily.
4. I understand that this Agreement is a public document and may be subject to a press release.
5. I understand that this action is non-disciplinary but will be reported by the Board to the appropriate federal data banks and national reporting organizations, including the National Practitioner Data Bank and the Federation of State Medical Boards.
6. Any violation of this Agreement shall be prima facie evidence for immediate summary suspension of my license to practice medicine.
7. I understand that by voluntarily agreeing not to practice medicine in the

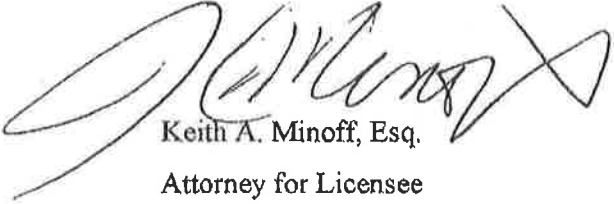
Commonwealth of Massachusetts pursuant to this Agreement, I do not waive my right to contest any allegations brought against me by the Board and my signature to this Agreement does not constitute any admissions on my part. Nothing contained in this Agreement shall be construed as an admission or acknowledgment by me as to wrongdoing of any kind in the practice of medicine or otherwise.

8. I agree to provide a complete copy of this Agreement, within twenty-four (24) hours of notification of the Board's acceptance of this Agreement, by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in-state or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which I practice medicine; any in-state or out-of-state health maintenance organization, with which I have privileges or any other kind of association; any state agency, in-or-out-of state, with which I have a provider contract; any in-state or out-of-state medical employer, whether or not I practice medicine there; the Drug Enforcement Administration Boston Diversion Group; Massachusetts Department of Public Health Drug Control Program; and the state licensing boards of all states in which I have any kind of license to practice medicine. I will certify to the Board within seven (7) days that I have complied with this directive. The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above or any other affected entity, of any action it has taken.

9. This Agreement represents the entire agreement between the parties at this time.

  
Jessica Buggie, M.D.  
Licensee

9/22/16  
Date

  
Keith A. Minoff, Esq.  
Attorney for Licensee

9/22/16  
Date

Accepted by the Board of Registration in Medicine this 22nd day of September,  
2016.

Board Chair or Designee

Ratified by vote of the Board of Registration in Medicine this 22nd day of  
September, 2016.

Board Chair or Board Member

Agreement Not to Practice Medicine

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SENT CERTIFIED MAIL 10/11/16 

Exhibit B

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

Board of Registration in Medicine

Adjudicatory No.

\_\_\_\_\_ )  
 In the Matter of )  
 )  
 Jessica M. Biggie, M.D. )  
 \_\_\_\_\_ )

CONSENT ORDER

Jessica M. Biggie, M.D. (Respondent) and the Complaint Counsel agree that the Board of Registration in Medicine (Board) may issue this Consent Order, in lieu of convening an adjudicatory hearing, with all of the force and effect of a Final Decision within the meaning of 801 CMR 1.01(11)(d). The Respondent admits to the findings of fact specified below and agrees that the Board may make the conclusions of law and impose the sanctions set forth below in resolution of Docket Number 16-133.

BIOGRAPHIC INFORMATION

1. The Respondent was born on June 9, 1963. She graduated from State University of New York Upstate Medical University in May of 1995. She has been licensed in good standing to practice medicine in Massachusetts under certificate number 205038 since November 2000.

FINDINGS OF FACT

2. On April 19, 2016, a statutory report pursuant to G.L. c. 112 §5F was received by the Board regarding the Respondent's questionable judgment when dispensing and/or

prescribing psychiatric medications to high school students at the boarding school where she was the school physician.

3. The Respondent reportedly had a practice of retaining discontinued medication prescribed for a student.
4. The Respondent would later give a portion of the retained medication to another student as a trial medication without issuing a new prescription.
5. The Respondent kept the discontinued medication in "stock". The stock medication was kept in a lock box in the Respondent's locked office.
6. This matter was referred to both the Drug Enforcement Agency (DEA) and the Massachusetts Department of Children and Families (DCF).
7. The DEA conducted their investigation on the school campus, which included a tour of the school's medical clinic and the area where the retained medications were stored and interviews of school staff including the Respondent. After their investigation, the DEA closed the matter and took no action against the Respondent.
8. DCF also conducted an investigation which included interviews of students, staff and the Respondent. The DCF Central Office Clinical Review Team determined that a finding of neglect was not warranted and closed the matter.
9. The Respondent admits that she used inappropriate and offensive language in the presence of staff members. The Respondent also shared personal matters with colleagues while working in the clinic.

### CONCLUSIONS OF LAW

The Respondent has engaged in conduct that undermines the public confidence in the integrity of the medical profession. See *Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979) and *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982).

### SANCTION

The Respondent is hereby reprimanded.

### EXECUTION OF THIS CONSENT ORDER


Complaint Counsel, the Respondent, and the Respondent's counsel agree that the approval of this Consent Order is left to the discretion of the Board. The signature of Complaint Counsel, the Respondent, and the Respondent's counsel are expressly conditioned on the Board accepting this Consent Order. If the Board rejects this Consent Order in whole or in part, then the entire document shall be null and void; thereafter, neither of the parties nor anyone else may rely on these stipulations in this proceeding.

As to any matter in this Consent Order left to the discretion of the Board, neither the Respondent, nor anyone acting on his behalf, has received any promises or representations regarding the same.


The Respondent waives any right of appeal that he may have resulting from the Board's acceptance of this Consent Order.

The Respondent shall provide a complete copy of this Consent Order with all exhibits and attachments within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other


licensed facility, or municipal, state, or federal facility at which he practices medicine; any in- or out-of-state health maintenance organization with whom the Respondent has privileges or any other kind of association; any state agency, in- or out-of-state, with which the Respondent has a provider contract; any in- or out-of-state medical employer, whether or not the Respondent practices medicine there; the state licensing boards of all states in which the Respondent has any kind of license to practice medicine; the Drug Enforcement Administration Boston Diversion Group; and the Massachusetts Department of Public Health Drug Control Program. The Respondent shall also provide this notification to any such designated entities with which the Respondent becomes associated in the year following the date of imposition of this reprimand. The Respondent is further directed to certify to the Board within ten (10) days that the Respondent has complied with this directive.

  
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Jessica M. Biggie, M.D.  
Licensee

7/7/2017  
Date

  
\_\_\_\_\_  
Megan Grew Pimentel, Esq.  
Attorney for the Licensee

7/7/17  
Date

  
\_\_\_\_\_  
Gloria Brooks, Esq.  
Complaint Counsel

7/20/17  
Date

So ORDERED by the Board of Registration in Medicine this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Candace Lapidus Sloane, M.D.  
Chair



Exhibit C

## **PRACTICE MONITORING AGREEMENT**

**Vermont Board of Medical Practice**

**Jessica Biggie, M.D. Licensing Matter**

1. Pursuant to a Stipulation and Consent Order entered into by Dr. Jessica Biggie and the Vermont Board of Medical Practice ("the Board"), Dr. Biggie has retained a practice monitor to monitor her medical practice. The purpose of this Practice Monitoring Agreement is to set forth the terms of the practice monitoring component of Dr.'s Biggie Stipulation and Consent Order. This Agreement will be signed by the practice monitor approved by the assigned Committee ("the Committee") and Dr. Biggie.
2. The practice monitoring shall continue for two (2) years from the start of Dr. Biggie's licensed practice in Vermont. At the end of the two- (2) year monitoring period, Dr. Biggie shall submit a written request to the Committee to end the requirement for monitoring. Dr. Biggie may submit a written request to end the requirement for monitoring after 1 year if she has provided favorable and timely monitoring reports, and in its discretion the Board may elect to end the monitoring requirement early. The practice monitoring requirement will not cease until the Committee has approved, in writing, Dr. Biggie's request to end the monitoring.
3. In the event that the practice monitor can no longer monitor Dr. Biggie's practice, Dr. Biggie shall immediately notify the Committee in writing. Dr. Biggie shall retain the services of a new practice monitor, subject to preapproval by the Committee. Within thirty (30) days of providing written notice to the Committee that the practice monitor can no longer monitor her practice, Dr. Biggie shall provide the Committee with the

name and curriculum vitae of the proposed new practice monitor. The Committee will provide written notification to Dr. Biggie indicating whether it approves of the new proposed practice monitor.


4. Dr. Biggie shall provide the practice monitor with a copy of the fully executed Stipulation and Consent Order.
5. Dr. Biggie shall be responsible for ensuring that the practice monitor does the following:
  - a. The practice monitor shall report her findings in writing to the Committee on a quarterly basis. The practice monitor's first report shall be submitted to the Committee no later than thirty (30) days after Dr. Biggie's ninetieth day of work at Brattleboro Memorial Hospital. Successive reports shall be submitted every ninety (90) days thereafter.
  - b. On a quarterly basis, the practice monitor shall review the treatment records of five (5) randomly selected patients of Dr. Biggie. The practice monitor shall select the five (5) patients' records from a list prepared by Dr. Biggie that identifies all patients for whom Dr. Biggie provided care.
  - c. The following shall be reviewed by the practice monitor and discussed in the practice monitoring reports to determine whether Dr. Biggie's treatment and documentation meets the applicable standard of care: (1) Whether Dr. Biggie's patient charts are well documented. (2) that Dr. Biggie's prescribing and dispensing of medication are in compliance with both Federal and Vermont laws and regulations. The practice monitor is expected to review any

- other documents, records, files, logs, etc. that will provide the requisite information needed to prepare written monitoring reports.
- d. After each quarterly review, Dr. Biggie shall meet with the practice monitor to discuss the quality of the care she provided and her medical records.
- e. The quarterly monitoring reports shall include: (1) Specific findings identifying the documents that were reviewed, as well as the practices observed. (2) Whether Dr. Biggie's treatment, and medical records meet the applicable standards of care, and a comprehensive explanation for such opinion. (3) If applicable, recommended improvements to be made to Dr. Biggie's practice. (4) Confirmation of the date and the length of time that she met with Dr. Biggie to discuss the quality of <sup>her</sup> ~~his~~ treatment and medical records that were reviewed for each quarterly review.
6. Dr. Biggie and the practice monitor agree that the practice monitor shall discuss her observations regarding Dr. Biggie's ability to practice upon request by a Board member, investigators for the Board or an Assistant Attorney General.
7. Dr. Biggie and the practice monitor agree that the practice monitor will immediately notify the Board if there is any indication that Dr. Biggie has engaged in practice that does not meet the standard of care or violates any Vermont or federal law or regulation regarding the prescribing or dispensing of prescription medications.
8. Dr. Biggie and the practice monitor agree that they have both read this Agreement in its entirety and agree to all of the terms and obligations set forth herein.
9. Dr. Biggie and the practice monitor agree that the terms of this Agreement cannot be amended or modified in any way without written approval of the Committee.

DATED at 9:21AM, Vermont, this 5<sup>th</sup> day of July, 2018.

  
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Jessica Biggie, M.D.  
Respondent

DATED at 4<sup>00</sup>pm, Vermont, this 4<sup>th</sup> day of July, 2018.

  
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Dr. Kathleen McGraw  
Practice Monitor