

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: Benjamin Holobowicz Jr., PA-C)
) Docket No. MPN 130-1110
)

STIPULATION AND CONSENT ORDER

NOW COME the State of Vermont, by and through Attorney General William H. Sorrell, and Benjamin Holobowicz, Jr., PA-C, and stipulate and agree as follows:

1. Benjamin Holobowicz, Jr., PA-C (“Respondent”) holds Vermont physician assistant license No. 055.0030898. Respondent was first licensed as a physician assistant on March 21, 2007.
2. Jurisdiction in these matters vests with the Vermont Board of Medical Practice (“Board”), pursuant to 26 V.S.A. §§ 1353-61, 1733-39, 3 V.S.A. §§ 809-814, and other authority.

Findings of fact

3. The Board opened the above-captioned matter upon learning of a patient’s adverse medical outcome from a Burlington Free Press newspaper article.
4. On September 13, 2008 at approximately 8:30 a.m., a patient presented at the Bellows Falls Urgent Care Center (“BFUCC”) with a chief complaint of shortness of breath.
5. A nurse administered a 12-lead electrocardiogram (“EKG”), which indicated an ST elevation myocardial infarction.

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6. Neither the treating nurse nor the physician assistant detected the fact that the EKG printout did not include a patient name and was dated June 15, 2007 at 15:00:52. The EKG printout did not document the results of the EKG administered to the patient on September 13, 2008.

7. Based upon the EKG results and the patient's increased blood pressure and heart rate, the treating physician assistant's impression was acute coronary syndrome, acute anteroseptal myocardial infarction.

8. The treating physician assistant ordered the patient to be transferred to the Springfield Hospital Emergency Department at approximately 10:00 a.m. for further evaluation and treatment.

9. When Respondent arrived to examine the patient, he was presented with the EKG printout from the BFUCC. Upon the patient's arrival at the Springfield Hospital Emergency Department, someone had affixed a sticker to the EKG printout that included the patient's identifying information and was dated September 13, 2008. The date and time of June 15, 2007 at 15:00:52 was still visible at the top of the EKG printout.

10. As a result of the sticker showing the patient's name and the correct date, Respondent did not notice the EKG printout had information indicating it was an EKG from another date.

11. Two additional EKGs were performed at Springfield Hospital and showed rapid atrial fibrillation with runs of ventricular tachycardia, not ST elevation myocardial infarction.

12. After physically examining the patient, Respondent called the cardiology fellow at Dartmouth Hitchcock Medical Center ("DHMC") for a consultation and advised that the patient's first EKG showed an ST elevation myocardial infarction and the Springfield Hospital EKGs demonstrated rapid atrial fibrillation with runs of premature ventricular contractions. Respondent did not provide copies of the EKGs to the cardiology fellow to review, and the cardiology fellow did not request them.

13. The cardiology fellow told Respondent that the patient was experiencing a rapidly evolving transmural infarction.

14. The cardiology fellow recommended that Respondent administer thrombolytics and heparin.

15. Based upon the cardiology fellow's recommendation, Respondent ordered the administration of thrombolytics and heparin.

16. After the medication was administered, the patient was transported to DHMC for further treatment.

17. The patient then suffered an intracranial hemorrhage.

Conclusions of law

18. It is unacceptable medical practice for a licensee to fail to recognize that an EKG printout shows a date and time other than the date and time the EKG was administered to a patient and to use it to diagnose that patient. Such conduct may constitute the gross failure to use and exercise that degree of care, skill, and proficiency which is commonly exercised by the

ordinary skillful, careful, and prudent physician assistant engaged in similar practice under the same or similar circumstance in violation of 26 V.S.A. § 1354(a)(22).

19. Consistent with Respondent's cooperation with the Board, he agrees 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, pursuant to 26 V.S.A. §§ 1354(a)(22).

20. Respondent agrees that the Board may enter as its facts and/or conclusions in this matter Paragraphs 1 through 17, above, and further agrees that this is an adequate basis for the Board actions set forth herein. Any representation by Respondent herein is made solely for the purposes set forth in this Stipulation and Consent Order ("Stipulation").

21. 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 the instant Stipulation 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.

22. Respondent acknowledges that he is knowingly and voluntarily agreeing to this Stipulation. He acknowledges that he has had the advice of counsel regarding this matter and in reviewing this Stipulation. Respondent is fully satisfied with the legal representation he has received in this matter.

23. Respondent agrees and understands that by executing this Stipulation 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.

24. The Board and Respondent agree that upon their execution of this Stipulation 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 Stipulation by Respondent and except as otherwise provided herein.

25. This Stipulation is conditioned upon its acceptance by the Board. If the Board rejects any part of this Stipulation, the entire Stipulation shall be considered void. Respondent agrees that if the Board does not accept this Stipulation 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 Stipulation, 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, and it shall be without prejudice to any future disciplinary proceeding and the Board's final determination of any charge against Respondent.

26. Respondent acknowledges and understands that this Stipulation

shall be a matter of public record, shall be entered in his permanent Board file and shall constitute an enforceable legal agreement.

27. 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.

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

Order

Wherefore, based on the foregoing Findings of Fact, Conclusions of Law, and the consent of Respondent, it is hereby ordered that:


a. Respondent shall successfully complete a continuing medical education course approved by the Committee or the Board that primarily addresses medical error prevention. Respondent shall complete the course within one year of the entry of the Stipulation. Upon Respondent's successful completion of the class, he shall provide the Committee with official proof thereof.

b. Respondent shall pay an administrative penalty of \$1,000.00 to the Board within thirty days of the entry of the Stipulation.

Dated at Montpelier, Vermont, this 17th day of March, 2013.

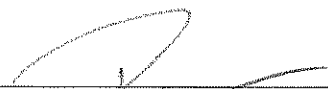
STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL


by: 

Kurt A. Kuehl
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609-1001

Dated at Sunapee N.H., Vermont, this 30th day of March, 2013.

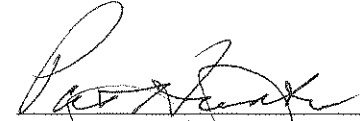

BENJAMIN HOLOBOWICZ, JR., PA-C
Respondent

Dated at Burlington, Vermont, this 28th day of March, 2013.


Shireen T. Hart, Esq.
Primmer Piper Eggleston & Cramer, P.C.
P.O. Box 1489
Burlington, VT 05401
Counsel for Respondent


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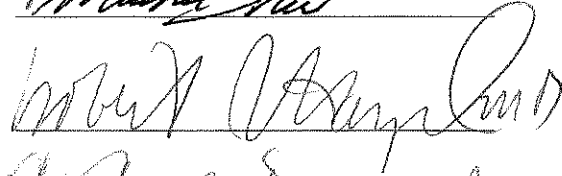
AS TO BENJAMIN HOLOBOWICZ, JR., PA-C
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE



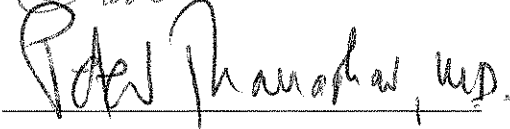


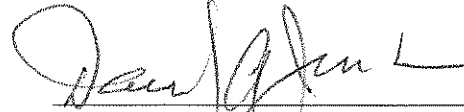


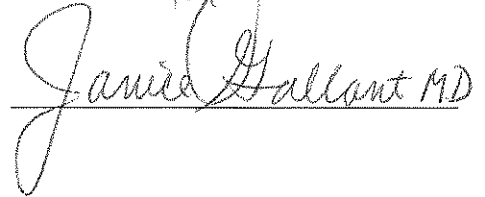












DATED: May 1, 2013

ENTERED AND EFFECTIVE: May 1, 2013

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