

BOARD OF MEDICAL PRACTICE

Kellie Michelle Marlow, PA-C)
) Docket No. MPS 150-0917
)

STIPULATION AND CONSENT ORDER

NOW COME Kellie Michelle Marlow, PA-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. Kellie Michelle Marlow, PA-C (“Respondent”) holds Vermont physician assistant license number 055.0031161 originally issued by the Vermont Board of Medical Practice on February 6, 2013.
- 2. Jurisdiction in this matter rests with the Vermont Board of Medical Practice (“the Board”), pursuant to 26 V.S.A. §§ 1353-1357, 1736-1737; 3 V.S.A. §§ 809-814, and other authority.

FINDINGS OF FACT

- 3. Respondent submitted her initial Application for Licensure as a Physician Assistant to the Board on January 4, 2013. Question number 59 on the initial application for Respondent’s Vermont physician assistant license (“license”) states: “Have you ever discontinued your education, training or clinical practice for a period of more than three (3) months NOT including premedical education?” Respondent’s response was, “No.”
- 4. Respondent submitted her renewal application for her license on January 10, 2014. Question number 53 on the renewal application states: “Have you ever discontinued your education, training or clinical practice for a period of more

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than three (3) months NOT including premedical education?" Respondent's response was, "No."

5. Respondent's license was suspended for three months as per a March 1, 2017 Stipulation and Consent Order with the Board. Respondent was required to submit an application for reinstatement of her license after serving her suspension.
6. Respondent submitted her application for reinstatement of her license on July 14, 2017. Question number 60 on Respondent's application for reinstatement of her license states: "Have you ever discontinued your education, training or medical practice for a period of more than three (3) months NOT including premedical education?" Respondent's response was, "Yes." Her explanation for the discontinuation of medical practice for more than three months was her voluntary surrender of her Vermont license via a Cessation of Practice Agreement with the Board in April of 2015.
7. Applicants who submit initial or reinstatement applications to the Board are required to submit a curriculum vitae with the application. Respondent's curriculum vitae indicates that she was practicing as a physician assistant in California from February of 2008 through January of 2012.
8. During the Board's review and consideration of Respondent's application for reinstatement of her license, it was discovered that Respondent may have been out of clinical practice for more than three years prior to her initial application for her Vermont license.

9. The Board opened this matter in September of 2017 to investigate whether Respondent misrepresented her responses to the questions quoted above on her initial, renewal and reinstatement license applications. This matter was assigned to the South Investigative Committee of the Board ("Committee").
10. On October 13, 2017, Respondent submitted a written response to the Committee's question of whether she was out of clinical practice for more than three months prior to submitting her initial license application. In her response, Respondent admitted to being out of active clinical practice from February of 2010 through February of 2013.
11. It is the Respondent's position that, at the time of her applications, the fact she was employed, but not practicing due to an injury, led her to incorrectly believe she was "clinically practicing" within the meaning of the question.
12. The Committee's investigation concluded that Respondent's responses to question number 59 on her initial license application, question number 53 on her renewal license application, and question number 60 on her reinstatement license application were misrepresentations. Respondent also misrepresented the dates of her clinical practice history in California on her curriculum vitae that she submitted with her applications. Respondent had three opportunities to report the three years that she was out of clinical practice, yet failed to do so and continued to misrepresent her clinical practice history to the Board.

CONCLUSIONS OF LAW

13. It is unprofessional conduct for a licensee to engage in misrepresentation in applying for a license, or in applying for a periodic renewal of a license. 26 V.S.A. § 1736(a)(1).
14. Respondent agrees that the Board may enter as its facts and/or conclusions paragraphs 1 through 12 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.
15. Therefore, in the interest of Respondent's desire to fully and finally resolve the matter presently before the Board, she has determined that she shall enter into this instant agreement with the Board. Respondent enters no further admission here, but to resolve this matter without further time, expense and uncertainty; she has concluded that this agreement is acceptable and in the best interest of the parties.
16. Respondent acknowledges that she is knowingly and voluntarily entering into this agreement with the Board. She acknowledges she has had the advice of counsel regarding this matter and in the review of this Stipulation and Consent Order. Respondent is fully satisfied with the legal representation she has received in this matter.
17. Respondent agrees and understands that by executing this document she 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

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evidence, to cross-examine witnesses, and to offer evidence of her own to contest any allegations by the State.

18. 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.
19. 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, she 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.
20. Respondent acknowledges and understands that this Stipulation and Consent Order shall be a matter of public record, shall be entered in her 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

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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.

21. 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.

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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 \$2,000.00 consistent with 26 V.S.A. § 1361(b). 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 18 months after this Stipulation and Consent Order is approved by the Board.

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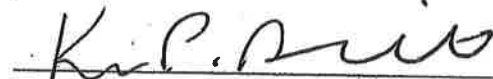
SIGNATURES

DATED at Montpelier, Vermont, this 30th day of October, 2017.

STATE OF VERMONT

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

By:



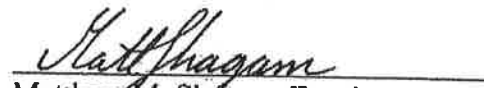
Kassandra P. Diederich
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609-1001

2017, DATED at Burlington, Vermont, this 29 day of October,



Kellie Michelle Marlow PA-C
Respondent

DATED at South Burlington, Vermont, this 27th day of October, 2017.



Matthew M. Shagam, Esquire
Counsel for Respondent
Rich Cassidy Law, P.C.
1233 Shelburne Road
Suite D5
South Burlington, VT 05403

AS TO KELLIE MICHELE MARLOW, PA-C
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

Ted M. [Signature]

Mary Susan [Signature]

[Signature]

Brend [Signature]

Wendy [Signature]

David [Signature]

[Signature]

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DATED:

November 1st, 2017

ENTERED AND EFFECTIVE:

November 1st, 2017