

**Kelly Natale, P.A.
2014 Sams Way
Annapolis, Maryland 21403**

April 26, 2013

Andrea L. Mathias, M.D., M.P.H., Chair
Maryland State Board of Physicians
4201 Patterson Avenue, 4th Floor
Baltimore, Maryland 21215-2299

RE: Surrender of License to Practice as a Physician Assistant
License Number: C02017
Case Number: 2009-0104

Dear Dr. Mathias and Members of the Board:

Please be advised that I have decided to **SURRENDER** my license to practice as a Physician Assistant in the State of Maryland, License Number C02017, effective on the date executed by the Board. I wish to make it clear that I have voluntarily, knowingly, and freely chosen to submit this Letter of Surrender to avoid further prosecution of the disciplinary charges the Maryland State Board of Physicians (the "Board") issued against me under a Notice of Violation of Consent Order (the "Notice"), dated March 5, 2013, as a result of my substance abuse issues.

I understand that upon surrender of my license, I may not give medical advice or treatment to any individual, with or without compensation, and cannot otherwise engage in the practice as a Physician Assistant in the State of Maryland as it is defined in the Maryland Physician Assistants Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ."), §§ 15-101 *et seq.*, (2009 Repl. Vol. & 2012 Supp.) and other applicable laws. In other words, as of the effective date of this Letter of Surrender, I understand that the surrender of my license means that I am in the same position as an unlicensed individual in the State of Maryland.

I understand that this Letter of Surrender is a **PUBLIC DOCUMENT** and upon the Board's acceptance, becomes a **FINAL ORDER** of the Board.

My decision to surrender my license to practice as a Physician Assistant in the State of Maryland arises from an investigation of my license by the Board and the Office of the Attorney General. The investigation resulted in the issuance of the Notice against me under Board Case Number 2009-0104. A copy of the Board's Notice, dated March 5, 2013, is attached hereto and incorporated herein as Exhibit A.

I acknowledge that the Board originally initiated an investigation and voted to issue disciplinary charges against me under Health Occ. § 15-314(3) for committing

acts that could serve as the basis for disciplinary action under Health Occ. § 14-404(a)(3)(ii) and § 14-404(a)(7). Specifically, the Board charged me with unprofessional conduct and habitual abuse of controlled dangerous substances (CDS).

Subsequent to the issuance of the charges, the Board and I agreed to resolve the charges by executing a public Consent Order (the "Consent Order"), dated May 28, 2009. A copy of the Consent Order was attached to and incorporated in the Notice as Exhibit 1. The Consent Order contained Findings of Fact and Conclusions of Law consistent with the charges, placed me on probation, and required me to comply with certain conditions.

Subsequent to the execution of the Consent Order, the Board issued the Notice against me for violation of the Consent Order. By the Notice, the Board charged me with violating the following conditions of the Consent Order: enrollment in the Board's Rehabilitation Program for a minimum of five (5) years as well as full compliance with all Program recommendations and requirements; and abstinence from alcohol, CDS, or other mood-altering substances.

I acknowledge that if the case were to proceed to an evidentiary hearing, the Board would submit evidence to support the investigatory findings that I violated the Consent Order. I acknowledge that for all purposes relevant to licensure of Physician Assistants, those investigative findings will be treated as if proven and constitute findings that I violated the Consent Order.

I understand that by executing this Letter of Surrender I am waiving any right I may have to contest the Notice in a formal evidentiary hearing at which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf and all other substantive and procedural protections provided by law, including the right to appeal.

Should the Board accept this Letter of Surrender, I agree not to practice as a Physician Assistant in the State of Maryland unless I am subsequently reinstated by the Board. I affirm that I am not currently practicing as a Physician Assistant in any capacity or location in the State of Maryland.

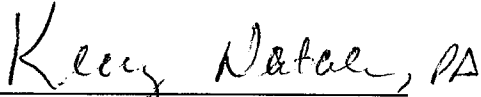
I understand that the Board will advise the Federation of State Medical Boards, the National Practitioners' Data Bank, and the Healthcare Integrity and Protection Databank of this Letter of Surrender, and in any response to any inquiry, that I have surrendered my license in lieu of further disciplinary action. I also understand that in the event I apply for licensure in any form in any other state or jurisdiction, this Letter of Surrender and the underlying investigative documents may be released or published by the Board to the same extent as a final order that would result from disciplinary action, pursuant to Md. Code Ann., State Gov't., §§ 10-611 *et seq.* (2009 Repl. & 2012 Supp.), and that this Letter of Surrender is considered a disciplinary action by the Board.

I affirm that as of the date of this Letter of Surrender, I will present to the Board my original Physician Assistant license number C02017, and my most recent wallet-sized renewal card. I acknowledge that on or before the date the Board accepts this Letter of Surrender, I shall deliver to the Board: (1) any and all Medical Assistance prescription forms in my possession; (2) any prescription forms and pads in my possession; (3) any prescription forms or pads on which my name and Drug Enforcement Administration Registration Number are imprinted; and (4) any CDS in my possession, other than those prescribed by a licensed physician for me.

I further recognize and agree that by submitting this Letter of Surrender, my license will remain surrendered for a minimum of three (3) years. I understand that when applying for reinstatement, I approach the Board in the same posture as one whose license has been revoked based on the investigative findings contained herein and that my petition may be accepted or denied by the Board in its sole discretion.

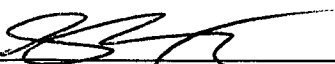
I understand that if the Board reinstates my license to practice as a Physician Assistant, the Board may set additional terms and conditions that shall apply to my reinstated or new license, which may include the imposition of probation.

I acknowledge that I may not rescind this Letter of Surrender in part or in its entirety for any reason whatsoever. Finally, I wish to make clear that I have been given and I have taken the opportunity to consult with and be advised by counsel before signing this Letter of Surrender. I understand both the nature of the Board's actions and this Letter of Surrender fully. I acknowledge that I understand and comprehend the language, meaning, and terms and effect of this Letter of Surrender. I make this decision knowingly and voluntarily.



Kelly Natale, P.A.
D.O.B. 9/17/1957

Read and approved:



Sarah Marquardt, Esq.
Whiteford Taylor Preston
Attorney for Kelly Natale, P.A.

NOTARY

STATE OF MARYLAND
CITY/COUNTY OF Anne Arundel

I HEREBY CERTIFY that on this 26th day of April, 2013,
before me, a Notary Public of the State and City/County aforesaid, personally appear
Kelly Natale, P.A., and declared and affirmed under the penalties of perjury that signing
the foregoing Letter of Surrender was her voluntary act and deed.

AS WITNESS my hand and official seal.



Notary Public

SUNG K. GIL, NOTARY PUBLIC
ANNE ARUNDEL COUNTY, MARYLAND
My Commission Expires August 29, 2015

My Commission expires: _____

ACCEPTANCE

On this 3rd day of MAY, 2013, I, Andrea L.
Mathias, M.D., on behalf of the Maryland State Board of Physicians, accept Kelly Natale,
P.A.'s **PUBLIC SURRENDER** of her license to practice as a Physician Assistant in the
State of Maryland.

Andrea Mathias, MD MPH
Andrea L. Mathias, M.D., M.P.H.
Chair
Maryland State Board of Physicians
*by eye
w/ permission*

IN THE MATTER OF * BEFORE THE
KELLY NATALE, P.A. * MARYLAND STATE
Respondent * BOARD OF PHYSICIANS
Certificate Number: C02017 * Case Number: 2009-0104

* * * * *
NOTICE OF VIOLATION OF CONSENT ORDER

The Maryland State Board of Physicians (the "Board") hereby charges KELLY NATALE, P.A. (the "Respondent") (D.O.B. 09/17/1957), Certificate Number C02017, with violating her Consent Order (the "Consent Order"), dated May 28, 2009, under the Maryland Physician Assistants Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 15-101 *et seq.* (2009 Repl. Vol.), and pursuant to the compliance provision of the Consent Order, which provides the following:

ORDERED that a violation of any of the [probationary conditions] and/or a conviction, plea of guilty or nolo contendere to any criminal offense, other than a minor traffic violation, during the probationary period shall constitute a violation of probation and a violation of this Consent Order and, the Board, in its discretion, after notice and opportunity for a hearing, may impose additional sanctions...

Specifically, the Board charges that the Respondent has violated the following probationary terms and conditions of the Consent Order:

- a. No later than ten (10) business days of the date this Consent Order is executed, the Respondent shall enter into a Board-monitored Rehabilitation Agreement with the Board's Rehabilitation Program (the "Program") and that Agreement shall have a minimum duration of five (5) years. The Respondent shall fully, timely, and satisfactorily cooperate and comply with all Program recommendations and requirements, including but not limited to, the terms and conditions of all Rehabilitation Agreement(s) and Rehabilitation Plan(s) entered into with the Program, complete abstinence, weekly random monitored chemical screens, self-help

fellowship meetings and in-patient and outpatient substance abuse treatment if recommended by the Program.

...

- f. For the entire duration of the probationary period, the Respondent shall completely abstain from the ingestion of alcohol, Controlled Dangerous Substances ("CDS") or other mood-altering substances unless the Respondent is a bona fide patient of a licensed health care practitioner who has been provided a copy of this Consent Order[.]

The pertinent provisions of the Respondent's Rehabilitation Agreement (the "Agreement"), dated February 3, 2010, provide the following:

- (14) ...The Board has defined non-compliant actions/symptoms to be:
 - a. Failure to report or submit to a scheduled toxicology screen or to provide an adequate sample for screening;
 - b. Confirmed positive toxicology screen for substances which I am prohibited from using;

...

- (17) I agree to remain in the Program for the entire monitoring period of the Agreement.

ALLEGATIONS OF FACT¹

The Board bases its charges on the following facts that the Board has reason to believe are true:

BACKGROUND

1. At all times relevant to these charges, the Respondent was certified to practice as a physician assistant ("P.A.") in the State of Maryland. The Respondent was initially

¹ The allegations set forth in these charges are intended to provide the Respondent with notice of the alleged charges. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with these charges.

certified to practice as a P.A. in the State of Maryland on or about December 31, 1998, and her certificate is active through June 30, 2013.

2. The Respondent came to the attention of the Board in mid-2008 after it received a Termination of Delegation Agreement report stating that the Respondent had been terminated based on conduct involving substance abuse. Upon receiving the complaint, the Board opened an investigation of the Respondent.

3. The Board's investigation revealed that the Respondent had a history of drug addiction. The Respondent underwent inpatient treatment in 2001, and afterward sought outpatient treatment on an ongoing basis. In 2002, the Respondent signed an agreement with her supervisor to abstain from alcohol and narcotics. However, her subsequent history was characterized by irregular attendance at her counseling group, at least one relapse with opiates, and multiple urine toxicology screens testing positive for alcohol. Finally, in July 2008, the Respondent was discovered taking a used needle box containing narcotics from her workplace without permission. When confronted, the Respondent left the premises and apparently left the box of needles in a dumpster. She was terminated shortly thereafter.

4. On or about February 19, 2009, the Board charged the Respondent with violating Health Occ. § 15-314(3) for committing acts which could serve as the basis for disciplinary action under Health Occ. § 14-404(a)(3)(ii) ("unprofessional conduct in the practice of medicine"); and Health Occ. § 14-404(a)(7) ("is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article").

5. Subsequent to the issuance of charges, the Respondent entered into a Consent Order with the Board, dated May 28, 2009, in which the Board concluded and the Respondent acknowledged that she had violated the above-mentioned statutes. The Board suspended the Respondent for a minimum of three (3) months and placed her on probation for a minimum of five (5) years, subject to certain terms and conditions. (A copy of the Consent Order, dated May 28, 2009, is attached hereto and incorporated herein as Exhibit 1.)²

VIOLATIONS OF CONSENT ORDER

I. Probationary Condition (a)

A. Alcohol Use

6. Probationary condition (a) of the Respondent's Consent Order requires that the Respondent "fully, timely, and satisfactorily cooperate and comply with all Program recommendations and requirements, including but not limited to, the terms and conditions of all Rehabilitation Agreement(s)..." Provision (14) of the Agreement states that failure to submit to a scheduled toxicology screen and/or a confirmed positive toxicology screen for prohibited substances constitutes non-compliance. Thus, failure to submit to a toxicology screen and/or producing a positive toxicology test result would constitute violations of probationary condition (a) of the Consent Order.

1. ² On October 9, 2009, the Board issued an Order Terminating Suspension, which lifted the suspension of the Respondent's certificate and incorporated the probationary terms and conditions of the Consent Order. (A copy of the Board's Order Terminating Suspension is attached hereto and incorporated herein as Exhibit 2.)

7. On or about September 12, 2011, the Respondent failed to submit to a toxicology screen. The Respondent blamed her failure on confusion regarding the lab's closing time.
8. Subsequently, on five occasions in 2012 (on or about July 12, August 24, September 4, September 6, and November 1), the Respondent's toxicology screens tested positive for ethyl glucuronide ("EtG"), a metabolite indicating alcohol use.
9. On or about September 6, 2012, based on the Respondent's preceding positive tests, a Medical Review Officer (MRO) interviewed the Respondent. The Respondent refused to admit to using alcohol. Instead, she explained the results by saying that she was using an alcohol-containing mouth rinse prescribed by her dentist in anticipation of oral surgery. The Respondent told the interviewer she had "stopped the mouth wash" and cancelled the surgery. Her dentist confirmed that the prescription was legitimate, and the MRO opined that the test results could be explained by the mouth rinse.
10. On or about November 1, 2012, the Respondent again tested positive for EtG. Nevertheless, the Respondent continued to deny alcohol use and blamed the result on the prescription mouth rinse.
11. On or about November 7, 2012, at the request of the Program, the Respondent signed a Voluntary Practice Cessation Agreement.
12. On or about November 9, 2012, the MRO interviewed the Respondent a second time. The Respondent called the test "unfair" and "demanded [the MRO] call the test a mistake." She presented several explanations: (1) resumed use of the mouth rinse at the direction of her dentist; (2) the result was an error; or (3) she "must have a metabolic

problem that causes her to have high EtG.” The MRO stated in his report that he knew of no such condition.

13. The Respondent's failure to submit to a scheduled toxicology screen and confirmed positive toxicology results indicating alcohol use constitute a failure to comply with provision (14) of the Agreement, in violation of probationary condition (a) of the Consent Order.

B. Early Withdrawal from the Program

14. Probationary condition (a) of the Consent Order, dated May 28, 2009, further mandated full compliance with the Agreement and ordered that the Agreement “shall have a minimum duration of five (5) years.”

15. Provision (17) of the Agreement states “I agree to remain in the Program for the entire monitoring period of the Agreement.” Nevertheless, the Respondent withdrew from the Program on or about November 20, 2012.

16. On or about November 13, 2012, the Respondent wrote to her Case Manager at the Program that she could not comply with the program's recommendation to begin inpatient treatment at a facility in Texas. Shortly thereafter, the Respondent reiterated her decision, writing, “I do appreciate your concern and acknowledge that this will result in dismissal” from the Program. The next day, when asked to confirm her position, she wrote, “I confirm that I will not comply with your recommendation...”

17. On November 19, 2012, the Program offered the Respondent a final opportunity to reconsider her refusal and her “intention to disenroll” from the Program. The next day, the Respondent rejected the recommendation for inpatient treatment, and gave her final answer, stating, “I acknowledge and understand that I am dismissed from the program.”

18. The Respondent's refusal to comply with the recommendation of and premature withdrawal from the Program constitute a violation of condition (a) of the Consent Order.

II. Probationary Condition (f)

19. The positive toxicology test results indicate that the Respondent used alcohol in violation of probationary condition (f) of the Consent Order. In particular, the November 1, 2012, test result of approximately 12,200 ng/ml EtG, was far higher than the Respondent's previous positive results. According to the MRO, such a high test result could be explained only by "heavy drinking on the same day or previous day or two."

20. In addition, while the Respondent initially denied drinking, she later admitted to drinking alcohol virtually every night for most of 2012 and attempting to conceal her habit from the Board and the Program.

21. In a letter addressed to the Board, dated November 14, 2012, the Respondent wrote, "I regret to inform you that I have violated the Board's 2009 Consent order by drinking alcohol and testing positive on ETG tests. I then lied about it to the MPRP..." In the same letter, however, she maintained that "there is no regular/chronic alcohol use."

22. In a follow up letter to the Board, dated November 27, 2012, the Respondent added that her "non-compliance was due to an overwhelming family issue," her brother's struggle with cancer.

23. Finally, in a November 28, 2012 email to her Case Manager at the Program, the Respondent more candidly admitted the extent of her drinking. Her latest period of drinking began in December, 2011. From there, the Respondent began "a very dangerous, risk-taking habit, initially occasionally but then May 2012, nightly 1-2 drinks."

She admitted that she "tried to beat the system," by blaming any positive test results on the mouth rinse.

24. The Respondent's use of alcohol constitutes a violation of probationary condition (f) of the Consent Order.


NOTICE OF POSSIBLE SANCTIONS

If, after a hearing, the Board finds that the Respondent has violated the probationary terms and conditions of her Consent Order, the Board may impose disciplinary sanctions against the Respondent's certificate, including reprimand, suspension, or revocation, may place the Respondent on probation, and/or may impose a monetary penalty.

NOTICE OF SHOW CAUSE HEARING

A Show Cause Hearing in this matter has been scheduled for May 22, 2013 at 2:00 p.m., at the Board's Office, 4201 Patterson Avenue, Baltimore, Maryland 21215.

March 5, 2013
Date



Christopher Anderson
Administrative Prosecutor
Office of the Attorney General
Health Occupations Prosecution and Litigation Division
300 West Preston St., Suite 201
Baltimore, Maryland 21201