

IN THE MATTER OF	*	BEFORE THE MARYLAND
MARY KATE FERGUSON, P.A.	*	STATE BOARD OF
Applicant for Reinstatement after Surrender	*	PHYSICIANS
License No.: C01577	*	Case No.: 8823-0001
* * * * *		* * * * *

**ORDER ON APPLICATION FOR REINSTATEMENT OF PHYSICIAN ASSISTANT
LICENSE AFTER SURRENDER**

I. INTRODUCTION

On July 11, 2019, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (“the Board”) accepted the surrender of the Maryland physician assistant license of Mary Kate Ferguson, P.A. On July 19, 2022, the Board received Ms. Ferguson’s application for the reinstatement of her license. On January 11, 2023, Panel A met with Ms. Ferguson, her counsel, and an Administrative Prosecutor for the State via video conference to consider her application.

II. PROCEDURAL AND FACTUAL HISTORY

Ms. Ferguson was originally licensed to practice as a physician assistant in Maryland on April 25, 1994. Based on information contained in a renewal application submitted by Ms. Ferguson on May 17, 2015, the Board opened an investigation. The investigation revealed that Ms. Ferguson was convicted of Driving Under the Influence (“DUI”) on two occasions in 2014. On August 26, 2015, Ms. Ferguson entered into a non-public Disposition Agreement with the Board in lieu of further investigation into her DUI convictions.

Pursuant to the terms of the Disposition Agreement, Ms. Ferguson agreed to enter into a Participant Rehabilitation Agreement with the Maryland Professional Rehabilitation Program (“MPRP”) and to comply with and fulfill all conditions of the Participant Rehabilitation

Agreement. She also agreed that if she failed to comply with any term or condition of her Disposition Agreement, that after notice and an opportunity to be heard, a Board panel could take further disciplinary action against her physician assistant license. On September 18, 2015, Ms. Ferguson entered into a five-year Participant Rehabilitation Agreement with MPRP.

In June 2018, November 2018, and in January 2019, MPRP reported to the Board that Ms. Ferguson violated her Participant Rehabilitation Agreement on three separate occasions. In letters to the Board, Ms. Ferguson acknowledged each of her three violations, and provided to the Board an explanation of the circumstances surrounding the violations. In January, 2019, Panel A issued an Amended Violation of Board Order and Notice to Show Cause charging Ms. Ferguson with violating the Disposition Agreement based on the three violations of her Participant Rehabilitation Agreement. On February 13, 2019, Ms. Ferguson appeared with counsel at a show cause hearing before Panel A and admitted to all three violations of the Disposition Agreement.

On April 11, 2019, Panel A issued an Order After Show Cause Hearing, concluding, as a matter of law, that she violated the terms and conditions of the August 26, 2015 Disposition Agreement by failing to comply with her Participant Rehabilitation Agreement. Panel A terminated the Disposition Agreement, suspended Ms. Ferguson's license to practice as a physician assistant for a minimum of six months, and required that she remain enrolled in MPRP and continue in her Participant Rehabilitation Agreement. In addition, the Order After Show Cause Hearing required that upon termination of Ms. Ferguson's suspension, she would be placed on probation for a minimum of five years, remain enrolled in MPRP and continue and comply with all terms and conditions of her Participant Rehabilitation Agreement.

On May 29, 2019, MPRP reported to the Board that Ms. Ferguson had again violated her Participant Rehabilitation Agreement. On July 11, 2019, Panel A accepted a Letter of Surrender from Ms. Ferguson in which she acknowledged her failure to comply with the terms and conditions of the April 11, 2019 Order After Show Cause Hearing by violating her Participant Rehabilitation Agreement. In response to the Ms. Ferguson's surrender of her Maryland license, the New York State Board for Professional Medical Conduct issued a Surrender Order regarding Ms. Ferguson's physician assistant license in New York in February 2020.

III. APPLICATION FOR REINSTATEMENT

On July 19, 2022, the Board received Ms. Ferguson's application for the reinstatement of her physician assistant license. On her application, she answered "no" to questions asking whether she had previously surrendered her license or ever had disciplinary action taken against her license.¹ With respect to her employment activities since her surrender, she informed the Board that she had been a caretaker to her grandchildren at her home. In a letter to the Board on July 7, 2022, Ms. Ferguson expressed deep regret for having broken her agreement with the Board, stated that she wished to sincerely apologize for her behavior, and detailed steps she had since taken to recover. On August 5, 2022, Board staff sent Ms. Ferguson a letter informing her of the post-disciplinary reinstatement process and requesting a written response to certain questions including the following:

1. What is your understanding of the nature and circumstances of your conduct which resulted in surrendering your Maryland license?
2. What is your understanding of the Board's concerns with respect to your conduct?
3. Have you accepted responsibility for the action(s) resulting in surrendering your license?

¹ Ms. Ferguson subsequently answered "yes" to those questions when contacted by Board staff.

4. What steps have you taken to lessen the likelihood of recurrence?
5. What efforts have you made to maintain your competency to practice in your area of specialty (i.e. continuing education credits)?

Board staff also asked Ms. Ferguson to explain why she had initially answered “no” on her application to questions regarding the previous surrender or disciplinary action against her license. In addition, she was asked whether she had any employment prospects lined up if her license was reinstated.

On August 15, 2022, the Board received a written response from Ms. Ferguson, in which she acknowledged that she violated her Disposition Agreement and broke her contract with the Board. She discussed the negative impact of her behavior on her career and personal life. Ms. Ferguson asserted that she was now a changed person who had achieved tremendous breakthroughs, believed in herself, and was confident that she could regain trust and continue in her Participant Rehabilitation Plan with MPRP. Regarding Board questions on her initial “no” answers on her application, Ms. Ferguson stated that she assumed the Board already knew about the surrender of her Maryland license, was essentially asking if there were any further actions against her.

Ms. Ferguson also noted that the Board had given her multiple chances given its responsibility for ensuring that licensees are competent and safe to practice. She emphasized that she had taken full responsibility for the actions that led to the surrender of her license, accepted the seriousness of her condition, and described numerous measures she had taken, and continues to take, to lessen the likelihood of recurrence. She provided proof of completing the requisite credit hours for continuing medical education, informed the Board that she would be rehired by

her past employer if she regained her license, and expressed her intention to apply to the NCCPA² to regain her certification.

IV. CONSIDERATION OF APPLICATION

The reinstatement of a physician assistant's license after surrender is discretionary. *See* Md. Code Ann., Health Occ. § 14-409; *Oltman v. Maryland State Board of Physicians*, 182 Md. App. 65, 78 (2008). Panel A must consider whether post-disciplinary reinstatement is in the interest of the health and welfare of the general public and consistent with the best interest of the profession. COMAR 10.32.02.06B(7). Critical issues for the Panel's consideration include Ms. Ferguson's understanding of the nature of her violations, and her acceptance of responsibility for these violations.

Since her surrender, Ms. Ferguson has sought and successfully continued treatment in appropriate programs. Throughout the application process, Ms. Ferguson has expressed insight and reflection into her violations by accepting full responsibility for her actions and conveying remorse for her conduct. In addition, Ms. Ferguson has demonstrated genuine investment in and commitment to her recovery and has been fully engaged in taking extensive measures to appropriately address the issues that led to her violations and the surrender of her license in July, 2019. Ms. Ferguson has also completed the requisite credit hours for continuing medical education.

The Panel concludes that Ms. Ferguson has no current impairing conditions that would adversely impact her ability to practice safely as a physician assistant. Reinstatement with probation and certain probationary conditions is in the interest of the health and welfare of the general public and is consistent with the best interest of the profession. The Panel, therefore,

² NCCPA stands for the National Commission on Certification of Physician Assistants.

grants Ms. Ferguson's application for reinstatement subject to a reprimand, probation, and certain probationary conditions.

V. ORDER

It is thus, by Disciplinary Panel A, hereby

ORDERED that pursuant to Health Occ. § 14-409, the license of Mary Kate Ferguson to practice as a physician assistant in Maryland is **REINSTATED**; and it is further

ORDERED that Ms. Ferguson is **REPRIMANDED**; and it is further

ORDERED that Ms. Ferguson is placed on **PROBATION**³ for a minimum period of **FIVE (5) YEARS**. During the probationary period, Ms. Ferguson shall comply with the following probationary terms and conditions:

1. Ms. Ferguson shall enroll and remain enrolled in the Maryland Professional Rehabilitation Program ("MPRP") as follows:
 - (a) Within **5 BUSINESS DAYS** of the effective date of this Order, Ms. Ferguson shall contact MPRP to schedule a consultation for enrollment;
 - (b) Within **15 BUSINESS DAYS** of the effective date of this Order, Ms. Ferguson shall enter into a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP;
 - (c) Ms. Ferguson shall fully and timely cooperate and comply with all MPRP's referrals, rules, and requirements, including, but not limited to, the terms and conditions of the Participant Rehabilitation Agreement(s) and Participant Rehabilitation Plan(s) entered with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and screenings as directed by MPRP;
 - (d) Ms. Ferguson shall sign and update the written release/consent forms requested by the Board and MPRP, including release/consent forms to authorize MPRP to make verbal and written disclosures to the Board and to authorize the Board to disclose relevant information from MPRP

³ If Ms. Ferguson's license expires while she is on probation, the probationary period will be tolled. COMAR 10.32.02.05C(3).

records and files in a public order. Ms. Ferguson shall not withdraw her release/consent;

- (e) Ms. Ferguson shall also sign any written release/consent forms to authorize MPRP to exchange with (i.e., disclose to and receive from) outside entities (including all of Ms. Ferguson's current therapists and treatment providers) verbal and written information concerning Ms. Ferguson and to ensure that MPRP is authorized to receive the medical records of Ms. Ferguson, including, but not limited to, mental health and drug or alcohol evaluation and treatment records. Ms. Ferguson shall not withdraw her release/consent; and
- (f) Ms. Ferguson's failure to comply with any of the above terms or conditions including terms or conditions of the Participant Rehabilitation Agreement(s) or Participant Rehabilitation Plan(s) constitutes a violation of this Order; and it is further

ORDERED that Ms. Ferguson shall not apply for early termination of probation; and it is further

ORDERED that a violation of probation constitutes a violation of this Order; and it is further

ORDERED that if Ms. Ferguson has fully and satisfactorily complied with all terms and conditions of probation, and upon the Board's receipt of a satisfactory review by MPRP, Ms. Ferguson may submit a written petition for termination of probation to the Board. After consideration of the petition, and a determination that Ms. Ferguson has complied with the relevant terms of this Order of Reinstatement, the probation may be terminated through an order of a disciplinary panel. Ms. Ferguson may be required to appear before the disciplinary panel to discuss her petition for termination. The disciplinary panel may grant the petition to terminate the probation through an order of the disciplinary panel, if Ms. Ferguson has successfully complied with all of the probationary terms and conditions and if there are no pending complaints related to the charges that led to the surrender of her license on July 11, 2019, and it is further

ORDERED that if Ms. Ferguson allegedly fails to comply with any term or condition imposed by this Order, Ms. Ferguson shall be given notice and an opportunity for a hearing. If the disciplinary panel determines that there is a genuine dispute as to a material fact, the hearing shall be before an Administrative Law Judge of the Office of Administrative Hearings. If the disciplinary panel determines that there is no genuine dispute as to a material fact, Ms. Ferguson shall be given a show cause hearing before a disciplinary panel; and it is further

ORDERED that, after the appropriate hearing, if the disciplinary panel determines that Ms. Ferguson has failed to comply with any term or condition imposed by this Order, the disciplinary panel may reprimand Ms. Ferguson, place Ms. Ferguson on probation with appropriate terms and conditions, or suspend or revoke Ms. Ferguson's license to practice as a physician assistant in Maryland. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon Ms. Ferguson; and it is further

ORDERED that Ms. Ferguson is responsible for all costs incurred in fulfilling the terms and conditions of this Order of Reinstatement; and it is further

ORDERED that the effective date of this Order is the date the Order is signed by the Executive Director of the Board or her designee. The Executive Director or designee signs the Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Order, and it is further

ORDERED that this is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Health Occ. §§ 1-607 and 14-411.1, and Gen. Prov. § 4-333(b).

03/08/2023
Date

Signature On File

Christine A. Farrelly, Executive Director
Maryland State Board of Physicians