

IN THE MATTER OF	*	BEFORE THE
MARY KATE FERGUSON, PA-C	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: C01577	*	Case Number: 7716-0010A

* * * * *

ORDER AFTER SHOW CAUSE HEARING

On August 26, 2015, Mary Kate Ferguson, PA-C, entered into a Disposition Agreement with Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) wherein she agreed to enroll in the Maryland Professional Rehabilitation Program (“MPRP”), comply with all of MPRP’s recommendations, and fulfill all conditions of the Participant Rehabilitation Agreement. On January 25, 2019, Panel A issued an Amended Violation of Board Order and Notice to Show Cause, charging Ms. Ferguson with violating the terms and conditions of the Disposition Agreement based on her failure to comply with her MPRP Participant Rehabilitation Agreement.¹ On February 13, 2019, Panel A held a show cause hearing where Ms. Ferguson was represented by counsel and admitted that she violated the Disposition Agreement.²

FINDINGS OF FACT

Background

Ms. Ferguson was initially licensed in Maryland as a physician assistant on April 25, 1994. On May 17, 2015, Ms. Ferguson submitted an application for the renewal of her physician

¹ The Amended Violation of Board Order and Notice to Show Cause superseded the December 14, 2018 Violation of Board Order and Notice to Show Cause.

² Because Ms. Ferguson acknowledges the violations of her Participant Rehabilitation Agreement, the violations are undisputed. Therefore, it is unnecessary to detail the nature of the violations in this Order.

assistant license. The Board opened an investigation based on information contained in Ms. Ferguson's renewal application. The Board's 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 the DUI convictions.

Disposition Agreement

Pursuant to the terms of the Disposition Agreement, Ms. Ferguson agreed to enter into a Participant Rehabilitation Agreement with MPRP. The Disposition Agreement states, "The Respondent shall comply with the Participant Rehabilitation Agreement into which she entered with MPRP and will fulfill all conditions of the Participant Rehabilitation Agreement[.]" The Disposition Agreement further provides,

AGREED, that if the Respondent fails to comply with any term or condition of this Agreement, a Board panel, after notice and an opportunity to be heard, may take any action prescribed under Section 15-314(a) of the Maryland Medical Practice Act which includes a reprimand, probation, or the suspension or revocation of the Respondent's physician assistant licensure.

On September 18, 2015, Ms. Ferguson entered into a five-year Participant Rehabilitation Agreement with MPRP.

Violation of Disposition Agreement

In June of 2018, MPRP reported to the Board that Ms. Ferguson had violated her Participant Rehabilitation Agreement. By letter dated June 11, 2018, the Board requested a response from Ms. Ferguson regarding the report of her violation. In a letter to the Board, dated June 16, 2018, Ms. Ferguson admitted that she violated her Participant Rehabilitation Agreement and provided an explanation to the Board regarding the circumstances surrounding the violation.

Ms. Ferguson stated that she was “recommitting” to the Participant Rehabilitation Agreement and detailed steps she was taking to address the violation.

By email dated November 5, 2018, MPRP reported to the Board that Ms. Ferguson had violated her Participant Rehabilitation Agreement for a second time. In a letter dated November 12, 2018, Ms. Ferguson provided an explanation to the Board regarding the circumstances of the violation, indicated that it was “an honest mistake,” and reiterated her commitment to stay in compliance with her Participant Rehabilitation Agreement.

On January 7, 2019, MPRP reported to the Board that Ms. Ferguson had violated her Participant Rehabilitation Agreement for the third time. In a letter dated January 10, 2019, Ms. Ferguson acknowledged that she violated her Participant Rehabilitation Agreement, provided an explanation to the Board regarding the circumstances of the violation, and acknowledged that she needed an intensive program.

Show Cause Hearing

On January 25, 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. At the hearing, Ms. Ferguson admitted that she violated the Disposition Agreement. Ms. Ferguson requested the Panel to refrain from suspending her license and, instead, impose a sanction of a reprimand and five years of probation. The administrative prosecutor, on behalf of the State, advocated for a minimum sanction of a reprimand and five years of probation.

CONCLUSIONS OF LAW

Panel A concludes that Ms. Ferguson violated the terms and conditions of the August 26, 2015 Disposition Agreement by failing to comply with the terms of her MPRP Participant Rehabilitation Agreement. Pursuant to the terms of the Disposition Agreement, the Panel is authorized to impose additional sanctions on Ms. Ferguson's license, ranging from a reprimand to revocation.

SANCTION

In determining the appropriate sanction in this case, the Panel has taken into consideration the presentations of both parties at the show cause hearing and the close proximity in time of the three admitted violations. Both the State and Ms. Ferguson advocated for continued treatment and participation with MPRP. The Panel has serious concerns as a result of the three violations in approximately a six-month period and finds that a six-month suspension with continued participation in MPRP, followed by a five-year period of probation, is appropriate and needed.

ORDER

On an affirmative vote of a majority of a quorum of Disciplinary Panel A, it is hereby

ORDERED that the August 26, 2015 Disposition Agreement is terminated; and it is further

ORDERED that Ms. Ferguson's license to practice as a Physician Assistant in Maryland (License Number C01577) is **SUSPENDED**³ for a minimum of **SIX (6) MONTHS**.⁴ During the period of suspension, Ms. Ferguson shall comply with all of the following terms and conditions:

³ During the suspension period, Ms. Ferguson shall not:

- (1) practice as a Physician Assistant;
- (2) take any actions after the effective date of this Order to hold herself out to the public as a current provider of medical services;
- (3) authorize, allow or condone the use of Ms. Ferguson's name or provider number by any health care practice or any other licensee or health care provider;

1. Ms. Ferguson shall remain enrolled in MPRP and continue in her Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP, as follows:

A. 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;

B. Ms. Ferguson's failure to comply with any term or condition of the Participant Rehabilitation Agreement(s) or Participant Rehabilitation Plan(s) constitutes a violation of this Order;

C. 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 records and files in a public order. A failure to, or withdrawal of consent is a violation of this Order;

D. 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; and

2. Ms. Ferguson shall establish and implement a procedure by which Ms. Ferguson's patients may obtain their medical records without undue burden and notify all patients of that procedure; and it is further

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

ORDERED that, after a minimum of six months has passed and Ms. Ferguson has fully and satisfactorily complied with all terms and conditions of the suspension, Ms. Ferguson may submit a written petition for termination of suspension. After determination that Ms. Ferguson

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- (4) function as a peer reviewer for the Board or for any hospital or other medical care facility in the state;
 - (5) dispense medications; or
 - (6) perform any other act that requires an active Physician Assistant license.

⁴ If Ms. Ferguson's license expires during the period of suspension, the suspension and any conditions will be tolled.

has complied with the relevant terms of the suspension, the disciplinary panel may administratively terminate Ms. Ferguson's suspension through an order of the disciplinary panel; and it is further

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

1. Ms. Ferguson shall remain enrolled in MPRP and continue in her Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP, as follows:

A. 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;

B. Ms. Ferguson's failure to comply with any term or condition of the Participant Rehabilitation Agreement(s) or Participant Rehabilitation Plan(s) constitutes a violation of this Order;

C. 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 records and files in a public order. A failure to, or withdrawal of consent is a violation of this Order;

D. 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; and

2. Ms. Ferguson shall comply with the Maryland Physician Assistants Act, Md. Code Ann., Health Occ. §§ 15-101—15-502, and all federal and state laws and regulations governing the practice of medicine in Maryland; and it is further

⁵ If Ms. Ferguson's license expires during the period of probation, the probation and any conditions will be tolled.

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

ORDERED that, after a minimum of five years has passed and Ms. Ferguson has fully and satisfactorily complied with all terms and conditions of the probation, Ms. Ferguson may submit a written petition for termination of probation. After consideration of the petition, the probation may be terminated through an order of the 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 there are no pending complaints relating to the charges; 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 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 followed by an exceptions process before a disciplinary panel; and if there is no genuine dispute as to a material fact, Ms. Ferguson shall be given a show cause hearing before Panel A; 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 on 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; and it 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 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 Order After Show Cause Hearing is a public document. *See* Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

04/11/2019
Date

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