

**Before the  
New Hampshire Board of Medicine  
Concord, New Hampshire 03301**

**In The Matter Of:**

**Gayle Spelman, P.A.**

**License No.: 0214**

(Adjudicatory/Disciplinary Proceeding)

**Docket No.: 17-03**

**FINAL DECISION AND ORDER**

Before the New Hampshire Board of Medicine ("Board") is the adjudicatory/disciplinary proceeding of Gayle Spelman, P.A. ("Respondent" or "Ms. Spelman").

**Background Information:**

The New Hampshire Board of Medicine ("Board") first granted a license to practice as a physician assistant in the State of New Hampshire to Ms. Spelman on February 2, 1994. Respondent holds license number 0214.

On September 11, 2017 the Board issued a Final Decision and Order ("Final Order") finding, after an adjudicatory hearing, that the respondent committed professional misconduct under a number of provisions of the physician assistant practice act and under Board rules. Specifically, that she failed to report employment termination and change in supervision to the Board, that she failed to notify the Board of a change in business address, and she practiced without a valid license and misrepresented her license status to an employer.

As a result of the Board's finding, Respondent was reprimanded. The Board's order also imposed continuing education and supervision requirements that were to be completed within a specified time period.

Board records indicated that Respondent failed to complete those requirements within the specified time period. Additionally, after the Board's order, the respondent submitted a license renewal application that indicated a factually inaccurate answer to an application question.

Based upon the information gathered, the Board found that there was a reasonable basis for commencing an adjudicatory/disciplinary proceeding against Respondent pursuant to RSA 328-D:6, RSA 328-D:7, and the Medical Administrative Rules ("Med") 206.

On July 13, 2018, the Board issued a Notice of Hearing. This hearing was conducted on September 5, 2018.

The Board commenced the adjudicatory/disciplinary hearing at 1:00 p.m. with Gilbert Fanciullo, M.D., Physician Member, as the Presiding Officer. Other Board members present<sup>1</sup> were:

Emily R. Baker, M.D., Physician Member, President  
Daniel P. Potenza, M.D., Physician Member, Vice President  
John Wheeler, Physician Member  
Michael Barr, M.D., Physician Member  
Jonathan Ballard, M.D., M.P.H., Medical Director, Office of the Commissioner,  
NH Department of Health and Human Services, Board Member  
David C. Conway, M.D., Physician Member  
Susan M. Finerty, P.A., Physician Assistant Member  
Nina C. Gardner, Public Member  
Donald L. LeBrun, Public Member

Attorney John F. Brown of the Administrative Prosecutions Unit ("APU") of the Office of the Attorney General served as Hearing Counsel. Ms. Spelman was represented by Attorney Jason D. Gregoire of Sheehan Phinney. The Parties agreed to a *Stipulation of Facts & Applicable Law* which was submitted to the Board as Hearing Counsel's Exhibit 10. The parties agreed to Hearing Counsel's exhibits, 1 through 10 which were accepted into the record of the case. The Respondent did not submit any exhibits for the Board's consideration. The hearing was captured by stenographic record. Hearing Counsel noted that Respondent stipulated to all the facts in the Notice of Hearing. Given the stipulation, hearing counsel presented no witnesses.

Ms. Spelman read a statement on her own behalf discussing life events that may have led to Respondent's violation of the September 11, 2017 Final Order. She stated a sincere apology and that her violations of the Final Order were not intentional, but that at least one of the violations was out of her control, explaining that she could not have secured a Registered Supervisory Physician and Alternate Registered Supervisory Physician without securing a job, which she did not do by the deadline of 90 days within the effective date of the Final Order. Ms. Spelman also explained that she did not intentionally lie on her renewal application, but answered "no" to the question "in the past 12 months, have you terminated a relationship with a registered supervisory physician or terminated employment for any reason?" because she had previously reported the termination and supervision loss to the Board. Ms.

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<sup>1</sup> These same Board members also deliberated and voted on this Final Decision and Order.

Spelman also indicated that her attorney would assure that any future deadlines the Board places on her will be met.

Sally Garhart, M.D., Medical Director of the New Hampshire Professionals Health Program ("NH PHP") testified on Ms. Spelman's behalf indicating that while Ms. Spelman was in the NH PHP, she was in compliance and also attended the NH PHP annual meeting.

**Findings of Fact:**

The Board finds that Ms. Spelman has a disregard for deadlines the Board has placed on her and is concerned that these behaviors will be repeated in the future.

In light of the exhibits presented, as well as the testimonies of Ms. Spelman and Dr. Garhart, the Board finds the following facts:

- The Board first granted Ms. Spelman a license to work as a physician assistant in New Hampshire on February 2, 1994.
- The Board has issued Ms. Spelman a Letter of Concern on December 5, 2012 for violating Med 609.03 and Med 602.04(a) in failing to report her termination from Planned Parenthood of Northern New England and her change of supervisory relationships. The letter went on to inform Respondent that the Board retains the right to discipline her in the future for this conduct. Thus, she was aware of the Board's authority in disciplining physician assistants.
- On September 11, 2017, the Board issued a Final Decision and Order finding, after an adjudicatory hearing, that the respondent committed professional misconduct under a number of provisions of the physician assistant practice act and under Board rules. Specifically, that she failed to report employment termination and change in supervision to the Board, that she failed to notify the Board of a change in business address, and she practiced without a valid license and misrepresented her license status to an employer. As a result, Respondent was reprimanded. The Board's order also imposed continuing education and supervision requirements that were to be completed within a specified time period.

- On July 13, 2018, the Board issued a Notice of Hearing for failure to complete the requirements in the September 11, 2017 Final Decision and Order within the specified time period and for submitting a license renewal application that indicated a factually inaccurate answer to an application question. The hearing was conducted on September 5, 2018 at 1:00 P.M.

**Rulings of Law:**

**Applicable Laws:**

RSA 328-D:1, III states in pertinent part:

"Physician assistant" or "P.A." means a person qualified ... to provide patient services under the supervision and direction of a licensed physician in a variety of medical care settings.

RSA 328-D:6, I states:

"Grounds for Discipline ... The board, after hearing, may take action against any person licensed under this chapter upon finding that the licensee ... Has knowingly provided false information on any application for professional licensure, whether by making any affirmative statement which was false at the time it was made or by failing to disclose any fact material to the application."

RSA 328-D:6, IV states:

"Grounds for Discipline ... The board, after hearing, may take action against any person licensed under this chapter upon finding that the licensee ... Has engaged in dishonest or unprofessional conduct or has been grossly or repeatedly negligent in practicing his or her profession or in performing activities ancillary to the practice of his or her profession or any particular aspect or specialty thereof, or has intentionally injured a patient while practicing his or her profession or performing such ancillary activities."

Med 608.01(b)(8) states:

"Renewal Application ... Persons seeking renewal of a physician assistant license shall file an application for renewal which contains, on or as an attachment to the application, the following ... Whether the applicant has terminated a relationship with a registered supervisory physician or terminated employment for any reason during the past twelve months."

Med 609.01(a)(5) states:

"Professional misconduct by physician assistants shall include the following ... Engaging in dishonest, unprofessional or immoral conduct related to the performance of physician assistant activities."

**Rulings:**

The Board makes the following findings by a preponderance of the evidence:

- A. On December 11, 2017, Respondent engaged in professional misconduct by failing to obtain a RSP and ARSP as required by the board order issued September 11, 2017, in violation of RSA 328-D:6, (IV) and/or Med 609.01, (a)(5).
- B. On December 11, 2017, Respondent engaged in professional misconduct by failing to complete ten (10) CME credits in medical ethics as required by the Board order issued September 11, 2017, in violation of RSA 328-D:6, (IV) and/or Med 609.01, (a)(5).
- C. On December 30, 2017, Respondent submitted a license renewal application to the Board that contained inaccurate information in violation of RSA 328-D:6, (I) and/or Med 608.01, (b)(8).

**Disciplinary Action:**

After making its findings of fact and rulings of law, the Board deliberated on the appropriate disciplinary action. (Notice of Hearing, paragraph 6D - "If any of the above allegations are proven, whether and to what extent Respondent should be subjected to one or more of the disciplinary sanctions authorized by RSA 328-D:7.")

Based upon the above, the Board finds the following:

IT IS ORDERED that the Respondent is Reprimanded.

IT IS FURTHER ORDERED that, Respondent's RSP and ARSP shall submit quarterly reports to the Board which include information regarding Respondent's clinical skills, beginning ninety (90) days from the effective date of this Order, continuing indefinitely.

IT IS FURTHER ORDERED that Respondent shall furnish a copy of this Final Decision and Order to any employer, any state licensing, certifying or credentialing authority to which she may apply for employment and/or privileges or to any current employer or credentialing authority. This must be complied with within 30 days from the effective date of this Final Decision and Order, and continue for as long as she holds a New Hampshire license.

IT IS FURTHER ORDERED that the Respondent's violation of any of the requirements set forth in this Order shall be a separate basis for disciplinary action by the Board and will result in revocation of her New Hampshire license.

IT IS FURTHER ORDERED that this Final Decision and Order shall become a permanent part of the Respondent's file, which is maintained by the Board as a public document.

IT IS FURTHER ORDERED that this Final Decision and Order shall take effect as an Order of the Board on the date an authorized representative of the Board signs it.

BY ORDER OF THE BOARD

Date: 9/19/2018

  
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Penny Taylor, Administrator  
Authorized Representative of the  
New Hampshire Board of Medicine