

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: Susan S. Wiedenkeller
a/k/a Susan S. Markush

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Docket Nos. MPN 159-0803
MPN 79-1001

AMENDMENT TO STIPULATION AND CONSENT ORDER

NOW COME Susan S. Wiedenkeller, a/k/a Susan S. Markush (Respondent), and the State of Vermont, by and through Attorney General William H. Sorrell and the undersigned Assistant Attorney General, James S. Arisman, and agree and stipulate as follows:

1. Susan S. Wiedenkeller, formerly held Physician Assistant Certificate Number 055-0030389, issued by the Vermont Board of Medical Practice (Board) on January 30, 1998. Respondent last was certified by the Board for practice as a physician assistant (hereinafter "PA") at the Gifford Medical Center in Randolph, Vermont.
2. Respondent has not practice as a physician assistant since 2003.
3. Respondent voluntarily agreed to a Stipulation and Consent Order, entered by the Vermont Board of Medical Practice on May 4, 2005, revoking Respondent's certification as a physician assistant in this State.
4. Jurisdiction vests with the Vermont Board of Medical Practice (Board) by virtue of 26 V.S.A. §§ 1311, 1353, 1354, 1361, 1398, 1733, 1736, and 1737.

I. Background.

5. The Stipulation and Consent Order entered by the Board of Medical Practice revoking Respondent's Vermont physician certification on May 4, 2005 concerned two matters. One matter related to quality of patient care and medical record keeping. The other

matter involved criminal charges against Respondent in connection with an arson fire that occurred on or about September 13, 2002 at a residential structure then-owned by Respondent in Strafford, Vermont. The dwelling in question was wholly consumed by fire. Respondent subsequently made a claim for and received an insurance settlement for the loss by fire of the dwelling and contents. Following investigation, Respondent was charged on April 22, 2003 with (a) first degree arson (felony), 13 V.S.A. § 502; (b) burning to defraud an insurer (felony) 13 V.S.A. § 506; and (c) unlawful mischief (felony), 13 V.S.A. § 3701.

6. Respondent on January 22, 2004 pled guilty in Vermont District Court to: (a) first degree arson, 13 V.S.A. § 502, a felony; and (b) an amended charge of unlawful mischief, 13 V.S.A. § 3701, misdemeanor. The State dismissed the remaining felony charge of burning to defraud an insurer, 13 V.S.A. § 506. In pleading guilty, Respondent admitted that she had set fire to and burned the structure in question.

7. Following Respondent's guilty plea, the court deferred sentencing for four years on the first-degree arson charge and placed Respondent on probation.¹ The court also entered a sentence of actual incarceration on the unlawful mischief charge of 100 to 120 days and that sentence subsequently was served in its entirety by Respondent. Respondent also was ordered to perform 250 hours of community service as a condition of the deferred sentence agreement. Prior to Respondent's plea and sentencing on January 22, 2004, she paid full financial restitution to all victims of her unlawful conduct. Subsequent to her plea

1. Per agreement, if Respondent fulfilled all deferred sentence conditions, the arson charge was to be dismissed on or about January 22, 2008, the adjudication of guilt on this charge was to be stricken, and the public records in connection with the arson charge were to be expunged.

and sentencing, she sent letters of apology to all public agencies that responded to the fire at her property.

II. Respondent's Petition to Amend.

8. On November 4, 2008, Respondent through counsel filed with the Board of Medical Practice a petition to amend certain provisions of her May 4, 2005 Stipulation and Consent Order with the Vermont Board of Medical Practice. Respondent's petition included the following representations, which were provided to update the Vermont Board on Respondent's efforts to address various factors that the Vermont Board had identified as matters for consideration, in the event of an application for certification from Respondent:

- a. Since 2003 Respondent has engaged in employment, volunteer work, care of her own family, and some therapeutic counseling;
- b. Respondent has pursued continuing medical education and maintained her national certification as a physician assistant;
- c. On September 12, 2006, the Vermont District Court. Zimmerman, J., reduced the length of Respondent's probationary period from four years to 33 months, and discharged Respondent from further probation. The felony Arson count was dismissed, and the judge ordered that the Arson count be expunged from Respondent's criminal record. Thus, Respondent's present criminal record reflects only a conviction on one count of Unlawful Mischief.²

9. Respondent relocated to the Commonwealth of Massachusetts. Respondent considered a return to practice but learned from the Massachusetts Board of Registration in Medicine, that it would not consider an application for certification from an applicant whose out-of-state certification included a restriction of any kind. Respondent asserts that Paragraph 48 of her present agreement with the Vermont Board of Medical Practice

2. The Vermont Board of Medical Practice has not investigated or sought to verify any of the representations set forth in Respondent's petition.

constitutes a restriction that is an impediment to her even being able to apply for certification in Massachusetts.³

10. The parties agree that the acknowledgement language of Paragraph 48, and any restriction that might be deemed to be set forth therein, are unnecessary to the protection of the Vermont health, safety, and welfare. Thus, Paragraph 48 is surplusage that may be stricken in its entirety, without affecting other terms of Respondent's present Stipulation and Consent Order with the Vermont Board of Medical Practice.

11. Therefore, Pursuant to this agreement, Paragraph 48 of Respondent's May 4, 2005 Stipulation and Consent Order with the Vermont Board of Medical Practice shall be amended by striking that paragraph in its entirety, as well as any restriction of licensure that may be deemed to exist therein. Respondent agrees that all other terms of her May 4, 2005 Stipulation and Consent Order shall remain the same. Respondent expressly acknowledges and agrees that such amendment by the Vermont Board of Medical Practice in no way shall affect or limit the usual discretion and authority of the Vermont Board of Medical Practice for review, consideration, and decisions as to certification of any application she might submit at some future date. Respondent warrants that she seeks the instant amendment of her agreement solely to remove any impediment that the subject language of Paragraph 48 may present and that she has no current plan to reside or practice in the State of Vermont.

12. Respondent is aware that upon approval, this agreement shall become an enforceable order of the Board of Medical Practice.

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3. Paragraph 48 reads as follows, "Should the Vermont Board at a later date, after due consideration, and in its sole discretion, agree to issue a physician assistant certification to Respondent, she understands and agrees that such certification shall be designated as "conditioned" and shall be subject to specific practice conditions."

13. The parties jointly agree that should the terms and conditions of this Stipulation and Consent Order be deemed acceptable to the Vermont Board of Medical Practice, the Board may enter an order amending Respondent's May 4, 2005 Stipulation and Consent Order with the Vermont Board of Medical Practice, by striking in its entirety Paragraph 48, with all other provisions of the agreement remaining unchanged and unaffected by such amendment.

Dated at Montpelier, Vermont, this 20th day of February, 2009.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

by:

James S. Arisman
JAMES S. ARISMAN
Assistant Attorney General

Dated at Worthington, MA, ~~XXXXXX~~, this 12 day of Feb., 2009.

Susan S. WiedenKeller
SUSAN S. WIEDENKELLER, P.A.
a/k/a Susan S. Markush
Respondent

Dated at Rutland, VT, Vermont, this 17th day of Feb., 2009.

Karen S. Heald
KAREN S. HEALD, ESQ.
Counsel for Respondent

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FOREGOING, AS TO SUSAN S. WIEDENKELLER, P.A.
a/k/a SUSAN S. MARKUSH
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

Edy R. Dudkin MD _____
Janice E. Ryan RSN _____
Wendell J. Smith _____
W. B. [unclear] _____
Thomas J. Young _____

DATED: March 4, 2009
ENTERED AND EFFECTIVE: March 4, 2009

WIEDENKELLER AMEND STIP/CONSENT: MED BD; JSA/AAG

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