

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF MEDICINE**

IN THE MATTER OF)
)
ESTHER PAPP, M.D.)
)
License No. MTL002070)

FINAL DECISION AND ORDER OF THE BOARD

This matter comes before the District of Columbia Board of Medicine (Board) following Dr. Esther Papp's (Licensee) submission of an affidavit, pursuant to D.C. Official Code § 3-1205.17, voluntarily surrendering her license to practice medicine in the District of Columbia.

On December 23, 2014, the Licensee voluntarily surrendered her license to practice medicine in the District of Columbia. Her affidavit of surrender is attached to this Order.

The Board accepts the surrender of the license and the Board has determined to revoke Licensee's license to practice medicine, pursuant to D.C. Official Code § 3-1205.17(b).

ORDER

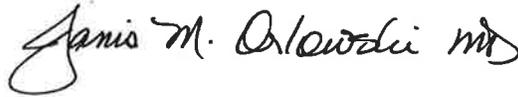
ACCORDINGLY, UPON CONSIDERATION of the foregoing, it is by the District of Columbia Board of Medicine,

ORDERED, that the VOLUNTARY SURRENDER of Esther Papp, License No. MTL002070, BE and is hereby ACCEPTED, pursuant to D.C. Official Code § 3-1205.17; and it is further

ORDERED, that Esther Papp, M.D., License No. MTL002070, BE and is hereby REVOKED, pursuant to D.C. Official Code § 3-1205.17(b); and it is further

ORDERED, that the foregoing is a FINAL ORDER of the District of Columbia Board of
Medicine.

DISTRICT OF COLUMBIA BOARD OF MEDICINE



January 8, 2015

Date

By: Janis M. Orłowski, M.D., M.A.C.P.
Chairperson

Copies to:

Esther Papp, M.D.
33998 Linda Rosea Rd.
Temecula, CA 92592

Andrew Caridas
Zuckerman Spaeder, LLP
1800 M Street NW, Suite 1000
Washington, DC 20036-5802

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF MEDICINE

IN RE: :
ESTHER PAPP, M.D. :
LICENSE NO: MTL002070 :
Respondent :

AFFIDAVIT OF ESTHER PAPP

I, ESTHER PAPP, M.D., am over the age of eighteen, and I am competent to state the following:

1. Pursuant to D.C. Code §1205.17, I am submitting this Affidavit.
2. I desire to surrender my District of Columbia medical license, MTL002070
3. I take this action freely and voluntarily, and this choice is not the result of duress or coercion. I do not wish to exercise my rights to a hearing in this matter and therefore waive all rights to a hearing.
4. I have received advice of counsel in making my decision to surrender my license.


ESTHER PAPP, M.D.

State of California)
County of Riverside) ss.

Sworn and subscribed before me on this 23rd day of December, 2014.




NOTARY PUBLIC SEAL
My Commission Expires: 02/06/2015

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF MEDICINE**

IN RE:

ESTHER PAPP, M.D.

LICENSE NO: MTL002070

Respondent

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CONSENT ORDER

This matter comes before the District of Columbia Board of Medicine (the Board) following Dr. Esther Papp, M.D.'s resignation from her residency program while she was subject to a Negotiated Settlement Agreement with the Board. As explained in more detail below, the Board has jurisdiction over this matter pursuant to the Health Occupations Revision Act (HORA). D.C. Official Code § 3-1201.01, *et seq.* (2009).

Background

On January 24, 2014, the Board granted a medical training license (MTL002070) to Esther Papp, M.D., Respondent herein. Applicant previously held a medical training license (MTL000521) issued in August 2012 which expired on July 31, 2013, when she took medical leave from the program.

Following the grant of the medical training license, Respondent resumed her clinical duties in the post graduate medical training program at The George Washington University School of Medicine and Health Sciences in a residency program in emergency medicine. By letter dated August 4, 2014, Dr. Colleen Roche, M.D., Residency Program Director, informed the Board that Respondent resigned from the emergency medicine residency program, effective August 1, 2014. Respondent confirmed her resignation from that program by letter dated

September 6, 2014. The Board granted Respondent's medical training license (MTL002070) under certain circumstances, following the entry of a negotiated settlement agreement (NSA). By resigning from the residency program at the George Washington University School of Medicine, Respondent is unable to fulfill the terms of the NSA.

Conclusions of Law

The HORA authorizes the Board to regulate the practice of Medicine in the District of Columbia. The Board has broad jurisdiction to regulate the practice of medicine and to impose a variety of disciplinary sanctions upon a finding of a violation of the HORA. D.C. Official Code, § 3-1201.03; *Mannan v. District of Columbia Board of Medicine*, 558 A.2d 329, 333 (D.C.1989). The Council of the District of Columbia, in amending the HORA, "intended to strengthen enforcement of its licensing laws." *Davidson v. District of Columbia Board of Medicine*, 562 A.2d 109, 113 (D.C.1989). And the HORA "was designed to 'address modern advances and community needs with the paramount consideration of protecting the public interest.'" *Joseph v. District of Columbia Board of Medicine*, 587 A.2d 1085, 1088 (D.C.1991) (quoting Report of the D.C. Council on Consumer and Regulatory Affairs on Bill 6-317, at 7 (November 26, 1985)) (emphasis added by court). Indeed, the Board has jurisdiction over "former licensees" as well "present licensees." *Davidson*, 562 A.2d at 113. To construe the HORA otherwise would be "to reach an unreasonable result." *Id.* (citing *Berkley v. United States*, 370 A.2d 1331, 1332 (D.C.1977)). Moreover, "nothing in the [HORA] or its legislative history indicates that 'licensee' was intended to refer only to someone who is licensed at the time the Board issues its final decision or order." *Davidson*, 562 A.2d at 114. The HORA "also authorizes discipline to be imposed after a voluntary surrender of a license." *Id.* Voluntarily allowing one's license to expire "accomplishes the same result." *Id.* The purposes of the HORA "would be defeated if a

person otherwise subject to the Board's jurisdiction could evade discipline by voluntarily surrendering his license under [the HORA] or allowing the license to expire." *Id.* (citing *Harrison v. J.H. Marshall & Assocs., Inc.*, 271 A.2d 404, 406 (D.C.1970)). This remedial scheme underlying licensure statutes such as the HORA includes not only regulating an individual's ability to practice medicine in the jurisdiction in which the individual is licensed, "but also alerting other jurisdictions of a person's conduct." *Davidson*, 562 A.2d at 114 (citing 42 U.S.C. §§ 11132, 11134 (1988 Supp.) (effective November 4, 1987) (requiring state boards of medicine to report disciplinary actions to central national data bank)).

Moreover, it is widely held that a professional license is a privilege, earned upon meeting the licensure requirements of the profession. *Pouyeh v. Univ. of Alabama/Dept. of Ophthalmology*, 2014 WL 2740314, at *7 (N.D.Ala.2014); see also *Texas Medical Board v. Wiseman*, 2014 WL 4966457, at *1 (Tex.App-Austin 2014) ("[t]he right to practice medicine is a privilege and is not a natural right[.]") (citing *Burkhalter v. Texas State Bd. of Med. Examiners*, 918 S.W.2d 1, 3(Tex.App.-Austin 1996, no writ)); and *Garozzo v. Missouri Dept. of Ins., Financial Institutions & Professional Registration, Div. of Finance*, 389 S.W.3d 660, 665 (2013) ("Missouri courts have held consistently that a professional license is a privilege and not a vested right.") (and cases cited therein)). Thus, "there can be no such thing as a vested right in the practice of medicine." *State v. Davis*, 92 S.W. 484, 489 (1906).

Here, Respondent has resigned from the residency before its completion while she was under a Negotiated Settlement Agreement under which she was initially granted a medical training license. As already explained above, Respondent's resignation from the program does not negate the Board's ability or its lawful authority to regulate Respondent's conduct as a licensee of the Board. By resigning from the residency program, Respondent cannot fulfill the

terms of the Negotiated Settlement Agreement, and therefore violated the terms the Negotiated Settlement Agreement under D.C. Official Code, § 3-1205.14(a)(27).

Accordingly, Respondent's conduct and violation of the HORA provide a basis in fact and law to warrant disciplinary action. In lieu of initiating formal proceedings against Respondent, the Board has determined to issue this Consent Order permitting Respondent to surrender her post graduate physician license (medical training license).

ORDER

ACCORDINGLY, based upon the foregoing, it is by the District of Columbia Board of Medicine hereby,

ORDERED, that Respondent shall surrender her post graduate physician license, License No: MTL002070; and it is further

ORDERED, that Respondent shall execute an Affidavit of Surrender, attached hereto and incorporated herein by reference, and return the executed Affidavit of Surrender within 10 calendar days of receipt of this Consent Order and Affidavit of Surrender; and it is further

ORDERED, that upon receipt of the Affidavit of Surrender, the Board shall issue a final order under D.C. Official Code § 3-1205.17(b), revoking Respondent's license, License No. MTL002070.

DISTRICT OF COLUMBIA BOARD OF MEDICINE

1-8-15
Date

Janis M. Orłowski
By: Janis M. Orłowski, M.D., M.A.C.P.
Chairperson

CONSENT OF RESPONDENT

- My signature on the foregoing Consent Order signifies my acceptance of the terms and conditions of the Consent Order and my agreement to be bound by its provisions. EP (initial)
- I acknowledge the validity of this Consent Order, as if made after a hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my behalf, and to all other substantive and procedural due process protections provided by the laws of the District of Columbia and the United States of America. EP (initial)
- I also recognize that I am waiving my right to appeal any adverse ruling of the Board had this matter gone to a hearing. EP (initial)
- I expressly acknowledge that by signing this Consent Order, I am voluntarily waiving my right to require the Board to charge me through a notice of intent to take disciplinary action with a violation of this agreement and to require the government to prove such violation by a preponderance of the evidence before suspending my license based upon the failure to satisfactorily fulfill the terms of the Consent Order. EP (initial)
- I also expressly acknowledge by signing this Consent Order, I am waiving my right to confront witnesses, give testimony, to call witnesses on my behalf, and to other substantive and procedural due process protections provided by the laws of the District of Columbia and the United States of America. EP (initial)
- I further expressly acknowledge that by signing this Consent Order, I am waiving my right to appeal this Consent Order, as well as waiving any and all rights, whatsoever, I would have to challenge or appeal that Board's decision to suspend my license based on the failure to satisfactorily fulfill the terms of the Consent Order. EP (initial)
- I acknowledge that in the event that the Board suspends my license based on the failure to satisfactorily fulfill the terms of the Consent Order, my sole remedy and recourse will be to respond within the time period set forth in this Consent Order with proof of my compliance and that if I fail to do so, my sole remedy and recourse will be to comply with the terms of this Consent Order to the satisfaction of the Board. EP (initial)
- I have had an opportunity to review this document and to consult with my own legal counsel. I choose willingly to sign this Consent Order, and I understand its meaning and effect. EP (initial)

12/23/14
Date



Esther Papp, M.D.
License No. MTL002070

Sworn and subscribed to before me this 23rd day of December, 2014.





Notary Public (SEAL)
My Commission Expires: 02/06/2015

This Consent Order is a disciplinary action and accordingly shall be a public document distributed as appropriate.