

Findings of Fact

1. Respondent has not filed Vermont personal income tax returns for the years 2006, 2007, and 2008, as required by 32 V.S.A. §5861. Exhibit A, Affidavit of Brenda Vovakes, Director of Tax Compliance (Exh. A) ¶5.

2. For tax year 2006, Dr. Preis requested an extension of time to file her return until August 15, 2007, and accompanied this request with a payment of \$500. She failed to file that return or to make any additional payments towards any tax liability that may be owed on that return or for any subsequent period. Exh. A ¶6.

3. Respondent was in violation of her obligation to make quarterly payments of non-withheld taxes for tax years 2006, 2007, and 2008, as required by 32 V.S.A. § 5856. Exh. A ¶7.

4. In December 2008, the Department of Taxes contacted Respondent in writing, seeking to obtain the unfiled annual tax returns. The efforts of the Department were unsuccessful, and Respondent subsequently failed to respond to the Department's communications or to file the missing tax returns. Exh. A ¶10.

5. Respondent is not in compliance with her obligations to file tax returns and pay personal income taxes as required by 32 V.S.A. §§5861 & 5871. Exh. A ¶4, 5.

6. Due to her failure to file the required tax returns for the years 2006, 2007, and 2008 and to pay the tax owed, Dr. Preis has not been in good standing with respect to her tax obligations as that term is defined in 32 V.S.A. §3113(f) since August 16, 2007, which was the date that the extension of time to file the 2006 tax return expired. Exh. A ¶¶8, 11.

Conclusions of Law and Decision

Vermont state tax law requires that “an agency *shall* revoke or suspend any license or other authority to conduct a trade or business (including a license to practice a profession) issued to any person if the agency finds that taxes ... have not been paid and that the taxpayer's liability for such taxes is not under appeal.” 32 V.S.A. §3113(f). All that is required as *prima facie* evidence of the alleged failure to pay is a written representation to that effect from the Department of Taxes. *Id.* The affidavit of Brenda Vovakes, Director of Tax Compliance, admitted as Exhibit A provides that evidence.

Respondent has failed to file Vermont income tax returns for the past three years and has failed to pay the taxes due for those years. Although there is a hardship provision in the statute, it applies only to unpaid taxes due; it is not available for failure to file tax returns. 32 V.S.A. §3113(g)(4). In any case, the Respondent has not pleaded hardship.

Under the applicable law and the facts of this case, the Board is without discretion and must suspend the Respondent's license unless the taxpayer's tax liability is under appeal. 32 V.S.A. §3113(f). No evidence was adduced that any such appeal is pending.

Accordingly, the Board is suspending Dr. Preis's license to practice medicine until such time as the Department of Taxes certifies to the Board that she in *good standing* with regard to her taxes. In order to be in good standing, the Respondent must (1) file all returns and (2) pay all taxes due, appeal her tax liability, or arrange a payment plan with the Department of Taxes and stay current with the payments. 32 V.S.A. §3113(g)(1-3).

The Board of Medical Practice urges Respondent to communicate immediately with the Vermont Department of Taxes regarding the filing of the missing tax returns and to make the necessary arrangements for payment of outstanding tax liabilities. Failure to take the necessary steps to achieve compliance with her outstanding tax obligations will unnecessarily extend the period of her license suspension.

ORDER

In accordance with the Findings of Fact and Conclusions of Law set forth above:

1. The Motion to Suspend or Revoke Medical License is **GRANTED** and the license to practice medicine of Respondent Karen Preis, M.D., is hereby **SUSPENDED**, pursuant to 32 V.S.A. § 3113(f), pending further order of the Board.

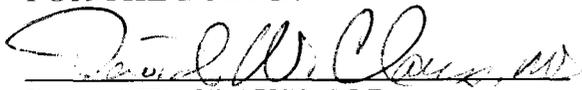
2. This Order of suspension of licensure shall be deemed entered and effective at the time it is served personally on the Respondent or, if personal service cannot be effected, by leaving copies at the Respondent's office or home with some person of suitable age and discretion.

3. During the pendency of this **SUSPENSION**, and until further order of the Board of Medical Practice, Respondent may **NOT** see patients, counsel patients, evaluate or assess patients, prescribe for patients, or hold herself out in any way as currently and validly licensed to practice medicine in the State of Vermont. Any such acts by Respondent would be deemed to be in violation of this Order and could subject Respondent to further sanctions. Referrals of patients by Respondent to other physicians for care shall not be deemed to be in violation of this order.

4. Board investigative staff are directed to monitor Respondent's compliance with this order.

FOR THE BOARD:

DATE:



DAVID W. CLAUSS, M.D.

6/5/09

Chair, Vermont Board of Medical Practice