

**STATE OF VERMONT  
BOARD OF MEDICAL  
PRACTICE**

In re: Karen Preis, M.D.

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Docket No.: MPS 135-1108

**DECISION AND ORDER SUSPENDING LICENSE**

This order responds to the State's Specification of Charges and Motion to Suspend or Revoke Medical License, dated September 28, 2009, in the above-captioned matter.

**Procedural History**

In response to charges brought by the State, by Order dated June 5, 2009, the Board of Medical Practice (the Board) suspended Respondent Karen Preis's license to practice medicine until such time as the Department of Taxes certified to the Board that it considered her in "good standing" with regard to her state income taxes. By letter dated June 30, 2009, the Department of Taxes notified the Board that Dr. Preis had returned to good standing, and on July 1, 2009, the Board issued an order reinstating her license.

On September 28, 2009, the State filed another Specification of Charges and Motion to Suspend or Revoke Medical License on the same grounds, alleging that Respondent was no longer in good standing with regard to her Vermont tax obligations. These Charges were personally served on Dr. Preis on September 29, 2009, and a hearing was noticed for November 4, 2009.

Appearances: Marjorie Power, Esq., served as Presiding Officer. Assistant Attorney General James S. Arisman appeared for the State of Vermont. Respondent did not appear, nor was there an appearance by counsel representing her.

The Board members hearing this matter are identified in the Board meeting minutes of November 4, 2009. The members of the Board's South Investigative Committee did not participate in this decision, and two other members of the Board recused themselves.

The Board has based its decision and order on the following Findings of Fact and Conclusions of Law.

**Findings of Fact**

1. The Findings of Fact in the Board's Decision and Order in this docket, dated June 5, 2009, are herein incorporated by reference.
2. On or about June 30, 2009, Dr. Preis filed her Vermont personal income tax returns for the years 2006 and 2007, which had not been previously filed as required by 32 V.S.A. §5861. These returns were accompanied by a partial payment of \$500 that was applied to the outstanding taxes for 2006. There are remaining unpaid tax obligations for

years 2006 and 2007. Exhibit A, Second Affidavit of Brenda Vovakes, Director of Tax Compliance, dated November 3, 2009 (Exh. A) ¶¶6-7.

3. Dr. Preis filed an extension request for her 2008 tax return that estimated that taxes would be owed for that year. Exh. A ¶8.

4. On or about June 30, 2009, Dr. Preis signed an agreement with the Department of Taxes. Dr. Preis agreed to file her 2008 income tax return on or before August 5, 2009, and to begin making monthly arrearage payments of \$1000, beginning on the same date and continuing until all the outstanding taxes, penalties, and interest were paid in full. Exh A ¶¶10-11 and Exhibit 2 to Exh. A.

5. As of November 3, 2009, Dr. Preis has failed to file her 2008 tax returns or to make any of the monthly arrearage payments due under the agreement up to the date of the hearing. Exh. A ¶¶9, 12.

6. In consequence of her noncompliance with the terms of the agreement and her outstanding tax liabilities for 2006 through 2008, the Department of Taxes has determined that Dr. Preis is not in good standing as defined in 32 V.S.A. §3113(f).

#### **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) [Emphasis added]. 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 affidavits of Brenda Vovakes, Director of Tax Compliance, admitted in this docket provide that evidence.

Respondent has failed to file Vermont income tax returns for 2008 and has failed to pay the taxes due for the past three 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 again suspending Dr. Preis's license to practice medicine until such time as the Department of Taxes certifies to the Board that she is 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 and *comply* with a payment plan with the Department of Taxes. 32 V.S.A. §3113(g)(1-3).

The Board is concerned about Dr. Preis's repeated failures to comply with the law regarding the payment of her taxes and about her failure to respond to multiple communications from the Tax Department, the Attorney General's Office, and the Board. At such time as the Respondent should return to good standing as regards her taxes,

entitling her to the reinstatement of her license, the Board may consider conditioning her license: (1) to require the maintenance of her good standing, with the possibility that any future failure to meet her tax obligations will subject her to revocation of her license to practice medicine, and (2) such additional conditions that the Board may find appropriate under the circumstances obtaining at that time.

The Board of Medical Practice urges Respondent to communicate immediately with the Vermont Department of Taxes regarding the filing of the missing tax return 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(1), 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:



4/05/09

DAVID W. CLAUSS, M.D.

Chair, Vermont Board of Medical Practice