

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: Karen Preis, M.D.

Docket No.: MPS 135-1108

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**AMENDED SPECIFICATION OF CHARGES AND
MOTION TO SUSPEND OR REVOKE MEDICAL LICENSE**

The State of Vermont, Petitioner, by and through Attorney General William H. Sorrell, and undersigned Assistant Attorney General, James S. Arisman, alleges the following in the above-captioned matter involving Respondent Preis.

1. Karen Preis, M.D., Respondent, holds Vermont medical license No. 042-0004451, originally issued by the Board of Medical Practice on October 22, 1971. Respondent is a psychiatrist, practicing in Burlington, Vermont.

2. The Vermont Board of Medical Practice possesses jurisdiction in this matter pursuant to 26 V.S.A. §§ 1353-1361, 1398 and 32 V.S.A. § 3113.¹

I. Background and Allegations.

A. 2008 License Renewal Application.

3. On or about November 25, 2008, Respondent Preis certified in signing her 2008 physician medical license renewal application that she was in "good standing" as to her Vermont tax obligations. See Exhibit 1, attached (with confidential identifying information redacted). The 2008 Vermont medical license renewal application states the following regarding taxes:

1. On April 24, 2009, the State of Vermont amended its charges against Respondent Preis to correct several erroneous citations to "32 V.S.A. § 3112", each place these appeared in the State's initial filing against Respondent. The proper citations should have been to 32 V.S.A. § 3113. The amended charges include the correct citations.

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

Title 32 § 3113 requires that “A professional license or other authority to conduct a trade shall not be issued or renewed unless the person certifies that he or she is in good standing with the Department of Taxes. ‘Good standing’ means that no taxes are due and payable and all returns have been filed, the tax liability is on appeal, the taxpayer is in compliance with a payment plan approved by the Commissioner of Taxes, or the licensing authority determines that immediate payment of taxes would impose unreasonable hardship.”

4. Immediately below the above written statement, as set forth in the 2008 renewal application, Respondent marked her application to indicate that she was in “good standing”. Respondent signed and dated the renewal application, certified as to the truth and accuracy of all information provided, and acknowledged, “I understand that providing false information or omission of information is unlawful and may jeopardize my license/certification/registration status.” Respondent at the time of signing the 2008 license renewal application knew or should have known that she was not in “good standing” as to her taxes.

B. Allegations by Tax Department.

5. On or about April 15, 2009, the Vermont Board of Medical Practice received notice from the Vermont Department of Taxes alleging that as of that date, Respondent Preis, in fact, was **not** in “good standing” with regard to taxes due and payable to the State of Vermont. The Department of Taxes alleged in its notice to the Board of Medical Practice that Respondent Preis “[had] **not** been in good standing with respect to taxes since October 15, 2007.” (Emphasis added.)

6. The April 15, 2009 notice to the Board from the Department of Taxes requested that the Board of Medical Practice **suspend or revoke** the medical license of Respondent Preis until such time as she was deemed by the Department of Taxes to be in “good standing” with respect to taxes due and payable to the State of Vermont.

7. Respondent had earlier claimed in a letter dated December 2, 2008, to Board Director William Wargo, that before submitting her 2008-2010 medical license renewal application she had "paid all monies that were owed as agreed upon in my meeting with the Tax Department in January 2007" and had "answered all [application] questions in good faith" as to whether or not she was in "good standing" as to her Vermont tax obligations.

8. On December 8, 2008, the Director of Compliance for the Vermont Department of Taxes alleged in writing to the Board, "Karen Preis was not in good standing with respect to any and all taxes payable to the Commissioner of Taxes", on November 25, 2008 when Respondent signed her renewal application, "because all [tax] returns have not been filed." A Board investigator spoke to the Director of Compliance and learned that Respondent had not filed Vermont tax returns for calendar years 2006 and 2007.

9. On or about December 23, 2008, Director Wargo wrote to Respondent and requested that she immediately resolve her outstanding matters with the Tax Department and come into "good standing" with that Department. Director Wargo provided Respondent the appropriate name and contact information for follow-up with the Tax Department.

10. Notwithstanding the above communication, Respondent failed to file a Vermont income tax for calendar year 2008.

C. Basis for Board Action.

11. The Department of Taxes deems a taxpayer, who fails to file an annual tax return, as **not** to be in "good standing" regarding "any and all taxes payable". The failure to file a tax return by a taxpayer renders it impossible for the Department of Taxes to calculate and enforce individual tax obligations.

12. The Vermont Board of Medical Practice possesses authority to suspend or revoke

the license to practice medicine of a physician who has been found to have engaged in unprofessional conduct. 26 V.S.A. § 1361(a)&(b). Further, the Board of Medical Practice is **required** by law **not to renew** a professional license unless the applicant has certified in writing that he or she “is in good standing with respect to or in full compliance with a plan to pay, any and all taxes due as of the date such declaration is made.” See 32 V.S.A. § 3113(b). Finally, the Board of Medical Practice must revoke or suspend a license to practice medicine if the Board “finds that taxes administered by the [Commissioner of Taxes] have not been paid and the taxpayer’s liability for such taxes is not under appeal.” 32 V.S.A. § 3113(f). “For purposes of such findings, the written representation to that effect by the commissioner to the [Board] shall constitute prima facie evidence thereof.” *Id.*

13. Under law, an individual is in “good standing” with respect to any and all taxes payable only when:

- “no taxes are due and payable and all returns have been filed”;
- “the liability for any taxes due and payable is on appeal”;
- “the person is in compliance with a payment plan approved by the commissioner”; or
- “the agency [the Board of Medical Practice] finds that requiring immediate payment of taxes due and payable would impose an **unreasonable hardship**.”²

32 V.S.A. § 3113(g).

14. Since December 2, 2008, the Board of Medical Practice has received no further

2. By law, “If the agency [the Board] finds an unreasonable hardship, it may condition renewal on terms which will place the person in good standing with respect to any and all taxes as soon as reasonably possible.” 32 V.S.A. § 3113 (g)(4). Respondent, by letter dated December 2, 2008, wrote to Board Director Wargo, “I request that you not take any action at this time which would interrupt my ability to care for my patients as this would place immeasurable hardship on me and would be very harmful to my patients.” The State assumes that it is likely that Respondent may seek to renew or supplement her earlier request to the Board for “hardship” treatment with regard to her tax obligations. The State assumes that a “hardship” petition from Respondent, if deemed to be timely, could be heard and decided at the same time as any hearing on the State’s charges and motion.

communication or information from Respondent Preis regarding her tax standing or her claim of hardship.

15. On or about April 13, 2009, the undersigned Assistant Attorney General unsuccessfully attempted to contact Respondent by telephone but was able to leave a voicemail message for Respondent asking her to return the call and discuss her tax standing with the undersigned. However, Respondent failed to return this call or in any way follow-up with the undersigned regarding her Vermont tax status. As of the date of this Specification of Charges, Respondent is not in good standing with the Department of Taxes and allegedly has not filed tax returns for calendar years, 2006, 2007, and 2008.

II. Statutory Violations.

Count 1

16. Paragraphs 3 through 15, above, are repeated and incorporated by reference.

17. By certifying that she was in "good standing" as to her Vermont tax obligations in her 2008 medical license renewal application, Respondent provided an answer that materially was not true and accurate; and/or provided materially false information; and/or omitted material information and, thereby, fraudulently or deceptively procured a medical license from the Board of Medical Practice. Such conduct is unprofessional. 26 V.S.A. § 1354(a)(1).

Count 2

18. Paragraphs 3 through 15, above, are repeated and incorporated by reference.

19. By certifying that she was in "good standing" as to her Vermont tax obligations in her 2008 medical license renewal application, Respondent (a) made a false or fraudulent representation to obtain a license to practice medicine; and/or (b) engaged in

unprofessional or dishonorable conduct that is a basis for suspension or revocation of her Vermont medical license. 26 V.S.A. § 1398.

Count 3

20. Paragraphs 3 through 15, above, are repeated and incorporated by reference.

21. By certifying that she was in “good standing” as to her Vermont tax obligations in her 2008 medical license renewal application, Respondent made a material misrepresentation to the Board and thereby engaged in conduct which evidence unfitness to practice medicine. Such conduct is unprofessional. 26 V.S.A. § 1354(a)(7).

Count 4

22. Paragraphs 3 through 15, above, are repeated and incorporated by reference.

23. By failing to timely file one or more Vermont tax returns when due and thereafter filing for renewal of her Vermont medical license , Respondent failed to comply with provisions of state statutes governing the practice of medicine. 26 V.S.A. § 1354(a)(27). Such conduct is unprofessional.

Count 5

24. Paragraphs 3 through 15, above, are repeated and incorporated by reference.

25. By certifying that she was in “good standing” in her 2008 medical license renewal application as to her Vermont tax obligations, Respondent provided a false and/or misleading answer and thereby improperly induced the Vermont Board of Medical Practice in 2008 to renew her medical license, contrary to 32 V.S.A. § 3113(b). Such renewal of licensure is in contravention of law and public policy and, thereby, is void.

Count 6

26. Paragraphs 3 through 15, above, are repeated and incorporated by reference.

27. By her failure to timely file one or more Vermont tax returns, as well as pay all Vermont taxes when due as calculated under such filings, as described in Paragraphs 3 through 15, above, Respondent acted contrary to the provisions of 32 V.S.A. § 3113(f). Respondent's Vermont medical license thereby is subject to suspension or revocation by the Board of Medical Practice.

Petitioner, the State of Vermont, for the reasons set forth above, moves the Vermont Board of Medical Practice to enter an order (a) **SUSPENDING OR REVOKING** the Vermont medical license of Respondent Preis until such time as the Board has received from the Commissioner of Taxes certification that Respondent is in good standing with respect to any and all filings and Vermont taxes due and payable; and (b) following receipt of such certification, to enter a further order conditioning Respondent's Vermont medical license to require that she remain in full, continuing "good standing" status in the future as to any and all Vermont taxes due and payable.

Dated at Montpelier, Vermont this 24th day of April 2009.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

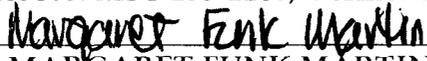
by:


JAMES S. ARISMAN
Assistant Attorney General

* * *

Charges Issued

Foregoing Amended Charges, Filed by the State of Vermont, as to Karen Preis, M.D., Docket No. MPS 135-1108, Vermont Board of Medical Practice, Are Hereby Issued.


MARGARET FUNK MARTIN
Secretary, Board of Medical Practice

June 3rd 2009
Dated

Office of the
ATTORNEY
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109 State Street
Montpelier, VT
05609

STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

STATE OF VERMONT
Tax Matter
In re Karen Preis, M.D.
MPS 135-1108
EXHIBIT A

In Re:

Karen Preis, M.D.)

MPS 135-1108

AFFIDAVIT OF BRENDA VOYAKES

I, Brenda Voyakes, being duly sworn depose and say:

1. I am the Director of Compliance for the Vermont Department of Taxes. As Director of Compliance, I am responsible for supervising the collection of Vermont Taxes.
2. I am custodian of all Department of Taxes' files and records pertaining to delinquent tax accounts. Included within these files are individual income tax records pertaining to the delinquent taxes.
3. I have reviewed the Department files and records relating to the income tax liability of Karen Preis, M.D..
4. As of June 2, 2009, Dr. Preis is not in compliance with her obligation to file and pay personal income taxes as required by 32 V.S.A. §5861, 5871.
5. Dr. Preis has failed to file Vermont personal income tax returns for the years 2006, 2007 and 2008 as required by 32 V.S.A. § 5861.
6. For tax year 2006, Dr. Preis requested an extension of time to file her return until August 15, 2007, and accompanied this request with an extension payment of \$500.00. This action demonstrated her acknowledgement that a return was required. However, she has failed to file the return or to make any additional payments towards any tax liability that may be owed on that return.
7. Dr. Preis is 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.

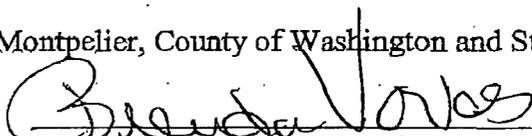
8. As a result of Dr. Preis' failure to file requisite tax returns for the years 2006, 2007 and 2008 and to pay the tax obligations owed on those returns, Dr. Preis is a person not in good standing with respect to taxes as that term is defined in 32 V.S.A. § 3113(f).

9. As a result of her failure to file requisite tax returns, there can be no showing of unreasonable hardship pursuant to 32 V.S.A. § 3113(g)(4). The hardship provision relates strictly to situations where an agency finds that immediate payment of taxes would constitute an unreasonable hardship. There is no hardship provision for the filing of tax returns.

10. In December, 2008, the Department contacted Dr. Preis by letter seeking to obtain the missing tax returns. These efforts have been unsuccessful and Dr. Preis has failed to respond to the Department's letters or to file the missing tax returns.

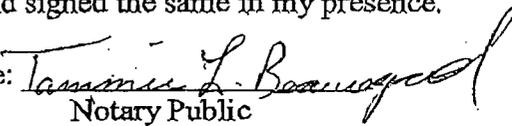
11. Dr. Preis has not been in good standing with respect to taxes since, at least, August 16, 2007 which was the date that the extension of time to file the 2006 tax return expired.

Dated this 2nd day of June, 2009, at Montpelier, County of Washington and State of Vermont.


Brenda Vovakes, Director of Tax Compliance

STATE OF VERMONT)
)SS
COUNTY OF WASHINGTON)

On the 2nd of June, 2009, appeared before me Brenda Vovakes who swore that the matters contained in the foregoing affidavit are true, and signed the same in my presence.

Before me: 
Notary Public
My commission expires
February 10, 2011