

**BEFORE THE WEST VIRGINIA MEDICAL IMAGING AND
RADIATION THERAPY TECHNOLOGY BOARD OF EXAMINERS**

**WEST VIRGINIA MEDICAL IMAGING
AND RADIATION THERAPY
TECHNOLOGY BOARD OF EXAMINERS,**

Complainant,

v.

Case No. 12-FY-2019

TAMMY ASHBY,

Respondent.



CONSENT AGREEMENT AND ORDER

After due investigation of a complaint, the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners (“Board”) determined there was probable cause to believe that Tammy Ashby (“Respondent”) exhibited unethical and unprofessional conduct in connection with the practice of medical imaging, in violation of the provisions of W. Va. Code §§ 30-23-1 *et seq.* and W. Va. Code R. §§ 18-1-1 *et seq.* Respondent was provided with written notice of the allegations against her pursuant to the rules of the Board and the laws of this State.

Now, in lieu of a hearing, the parties have reached an agreement for the resolution of this matter and the parties agree to entry of the following Order in disposition of this matter.

FINDINGS OF FACT

The Board hereby adopts the following findings of fact:

1. The Board is a regulatory board created for the purpose of regulating the practice of medical imaging and radiation therapy. W. Va. Code § 30-23-1 *et seq.*

2. In order to carry out its regulatory duties, the Board is empowered to suspend, revoke, or otherwise discipline an individual's medical imaging license pursuant to W. Va. Code § 30-23-24 and W. Va. Code R. §§ 18-4-1 *et seq.*

3. Respondent is a licensee of the Board, holding License No. 1567, and is subject to the license requirements of the Board.

4. On or about January 17, 2018, in the District Court of Garrett County, Maryland, Respondent pleaded guilty to the felony criminal offense of "THEFT-SCHEME: 10K TO UND 100K" and was sentenced to three years probation and ordered to pay \$34,433.90 in restitution to her previous employer.

5. On February 2, 2018, Respondent renewed her license with this Board via an online application form and therein answered "No" to the following question: "Have you been convicted of a felony in this state or any other state within the past five (5) years?"

6. In July 2018, Respondent was publicly reprimanded by the American Registry of Radiologic Technologists ("ARRT") for the above-described felony conviction.

7. On January 14, 2019, Respondent renewed her license with this Board via an online application form and therein answered "No" to the following question: "Have you been convicted of a felony in this state or any other state within the past five (5) years?" Respondent also failed to disclose that she had been publicly reprimanded by ARRT.

8. On or about January 21, 2019, the Board discovered that Respondent had been publicly reprimanded by ARRT for a felony conviction. The Board thereafter obtained public court documents regarding that felony conviction.

9. The Board initiated a complaint via letter to Respondent dated April 12, 2019.

10. Respondent answered the board-initiated complaint via correspondence dated April 18, 2019. Respondent claimed that she failed to disclose the felony conviction when renewing her license because she “misread the question,” to wit, “I read the renewal as the State of West Virginia felony.”

11. On May 16, 2019, Respondent attended an informal conference with the Board’s Ethics Committee and further addressed both the felony conviction and the two times she failed to disclose it to the Board.

12. The Board, at its meeting on May 23, 2019, voted to find probable cause for a violation of W. Va. Code §§ 30-23-24(a)(1), (10) and W. Va. Code R. §§ 18-4-4, 18-5-5.

CONCLUSIONS OF LAW

1. The Board has jurisdiction to take disciplinary action against Respondent.
2. Based upon the facts and matters set out in the above *Findings of Fact*, and pursuant to W. Va. Code § 30-23-24, the Board may revoke, suspend, or otherwise discipline the Respondent’s license to practice medical imaging technology.
3. Respondent’s actions, as set forth in the above *Findings of Fact*, constitute violations of W. Va. Code §§ 30-23-24(a)(1), (10) and W. Va. Code R. §§ 18-4-4, 18-5-5.

CONSENT

I, Tammy Ashby, by affixing my signature hereto, acknowledge the following:

1. I have had the opportunity to consult with counsel and execute this *Consent Agreement* voluntarily, freely, without compulsion or duress, and mindful that it has legal consequences.
2. No person or entity has made any promise or given any inducement whatsoever to encourage me to make this settlement other than as set forth herein.

3. I am aware that I may pursue this matter through appropriate administrative and/or court proceedings, and I am aware of my legal rights regarding this matter, but intelligently, knowingly, and voluntarily waive such rights.

4. I waive any defenses including, but not limited to, laches, statute of limitations, and estoppel, that I may have otherwise claimed as a condition of this agreement.

5. I acknowledge that the execution of this document constitutes disciplinary action by the Board. It is therefore considered to be public information, and information regarding this matter is available to any employer, prospective employer, or any other individual who may inquire as to the status of my license.

6. I admit that my actions were a violation of the statutes and rules of the Board.

The Respondent, Tammy Ashby, by affixing her signature hereto, agrees to the following:

ORDER

On the basis of the foregoing, the Board does hereby **ORDER** and **DECREE** that:

1. Respondent is hereby **REPRIMANDED** for her actions in this matter.
2. Within thirty (30) days of entry of this *Consent Agreement and Order*, Respondent shall pay to the Board a monetary fine of Two Hundred Fifty Dollars (\$250.00).
3. Within thirty (30) days of entry of this *Consent Agreement and Order*, Respondent shall reimburse the Board for all of the administrative and legal expenses incurred by the Board in the investigation and disposition of this case, which expenses amount to Seven Hundred Fifty Dollars and Zero Cents (\$750.00).

4. The Board is bound by agreement and law to report the results of all disciplinary actions, including the instant matter, for posting to the Board's website, to the West Virginia Secretary of State's Office, and ARRT.

5. This document is a public record as defined in W. Va. Code § 29B-1-2(5).

6. Respondent acknowledges that failure to comply with this *Consent Agreement and Order* may result in additional disciplinary action.

7. This *Consent Agreement and Order* constitutes the entire agreement between the parties.

WEST VIRGINIA MEDICAL IMAGING AND RADIATION THERAPY TECHNOLOGY BOARD OF EXAMINERS

By: Tuanya L. Layton
Tuanya Layton, Chairperson

Entered: 7/16/2019
Date

REVIEWED AND AGREED TO BY:

Tammy Ashby, Respondent
Tammy Ashby, Respondent
7/3/19
Date

This day personally appeared before me, Tammy Ashby, whose name is signed to the foregoing document and who is known to me, having acknowledged before me that the statements in the foregoing document are complete, true, and correct, to the best of her knowledge and belief, and executed the document voluntarily on the date shown above.

Given under my hand and seal on this the 3RD day of JULY, 2019.

My Commission expires: January 5, 2023

MARGARET ANN ROBEY
Notary Public
Garrett County
Maryland
My Commission Expires Jan. 05, 2023

Margaret Ann Robey
Notary Public