

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE**

2019 DEC 18 PM 2:11

**Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs**

File No.: 19-49-013542

vs.

**Karl W. McIntosh, M.D.,
Respondent**

CONSENT AGREEMENT AND ORDER

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and **Karl W. McIntosh, M.D.** ("Respondent") stipulate as follows in settlement of the above-captioned case.

APPLICABLE LAW

1. This matter is before the State Board of Medicine ("Board") pursuant to Medical Practice Act of 1985, act of December 20, 1985, P.L. 457, No. 112, ("Act"), *as amended*, 63 P.S. §§ 422.1-422.53; the Medical Care Availability and Reduction of Error ("Mcare") Act, Act of March 20, 2002, P.L. 154, No. 13, *as amended*, 40 P.S. §§ 1303.101-1303.910; the Criminal History Record Information Act, Act of July 16, 1979, P.L. 116, No. 47 ("CHRIA"), *as amended*, 18 Pa. C.S. §§ 9101 – 9183; and/or the Act of July 2, 1993, P.L. 345, No. 48 ("ACT 48"), *as amended*, 63 P.S. §§ 2201-2207.

LICENSURE STATUS

2. At all relevant and material times, Respondent held the following license to practice as a medical physician and surgeon in the Commonwealth of Pennsylvania: license no.

MD058130L, which was originally issued on March 26, 1996, and which expired on December 31, 2008.

STIPULATED FACTS

3. The Respondent admits that the following allegations are true:

a. Respondent's license may be continually reactivated, renewed, or reinstated upon the filing of the appropriate documentation and payment of the necessary fees.

b. Respondent's current address is 2204 Old Kennett Road, Wilmington, DE 19807.

c. On or about November 28, 2017, the Delaware Office of Attorney General filed an Information in the Superior Court of the State of Delaware, in and for New Castle County, in the matter of State of Delaware v. Karl W. McIntosh.

d. A true and correct copy of the Information is attached and incorporated as **Exhibit A**.

e. As referenced in the Information, Count I charged Respondent with Forgery Third Degree, a misdemeanor in violation of Title 11, Section 861(b)(3) of the Delaware Code of 1974, as amended.

f. Annotated under Count I of the Information is the following:
"KARL W. McINTOSH, on or between the 24th day of July 2012 and the 31st day of December 2014, in the County of New Castle, State of Delaware, intending to defraud, deceive or injure another person, did make, complete, execute, authenticate, issue or transfer written instruments in the form of medical records of MICHAEL GOLDBERG,

ALLISON GOLDBERG, LEXI GOLDBERG, JARED GOLDBERG, DANIEL RHOADES, DAVID J. RHOADES, KORTNEY RHOADES, DAVID W. RHOADES, TRACY NADAL, GAVAN NADAL-TODD, and KELTON NADAL-TODD, or other persons or entities, which purported to be the acts of the aforementioned persons, who did not authorize those acts.”

g. On or about September 12, 2019, the Superior Court of the State of Delaware, in and for New Castle County, issued a sentencing order in the matter of State of Delaware v. Karl W. McIntosh.

h. A true and correct copy of the sentencing order is attached and incorporated as **Exhibit B**.

i. As referenced in the sentencing order, Respondent was adjudicated guilty of the misdemeanor of Forgery Third Degree.

j. As referenced in the sentencing order, Respondent was placed on probation for a period of one (1) year.

k. As referenced in the sentencing order, Respondent was ordered to be evaluated for substance abuse and to follow any recommendation for treatment, counseling and screening.

l. As referenced in the sentencing order, Respondent was ordered to undergo a mental health evaluation and to comply with all recommendations for counseling and treatment.

ALLEGED VIOLATIONS

4. The Commonwealth alleges that the Board is authorized to suspend, revoke, or otherwise restrict Respondent's license under Sections 41 and 42 of the Act, 63 P.S. §§ 422.41 &

422.42; and/or impose a civil penalty upon Respondent under Sections 39 through 42 of the Act, 63 P.S. §§ 422.39-422.42, and/or Section 5(b)(4) of ACT 48, 63 P.S. § 2205(b)(4); and/or impose the costs of investigation upon Respondent under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated Section 41(3) of the Act, 63 P.S. § 422.41(3), in that Respondent was convicted of a misdemeanor relating to a health profession in a court of another state.

PROPOSED ORDER

5. The parties, intending to be legally bound, consent to the issuance of the following Order in settlement of this matter:

a. The Board finds that it is authorized to suspend, revoke, or otherwise restrict Respondent's license under Sections 41 and 42 of the Act, 63 P.S. §§ 422.41 & 422.42; and/or impose a civil penalty upon Respondent under Sections 39 through 42 of the Act, 63 P.S. §§ 422.39-422.42, and/or Section 5(b)(4) of ACT 48, 63 P.S. § 2205(b)(4); and/or impose the costs of investigation upon Respondent under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated Section 41(3) of the Act, 63 P.S. § 422.41(3), in that Respondent was convicted of a misdemeanor relating to a health profession in a court of another state.

PERMANENT VOLUNTARY SURRENDER

b. In consideration for not imposing other disciplinary sanctions (which could include the revocation of Respondent's license to practice as a medical physician and surgeon and the imposition of civil penalties and/or the costs of investigation), the Parties propose, and the Board hereby accepts, the **PERMANENT VOLUNTARY SURRENDER** of Respondent's license to

practice as a medical physician and surgeon in the Commonwealth of Pennsylvania, along with any other licenses, registrations, certificates, approvals, authorizations, or permits (hereinafter referred to collectively as "authorizations to practice the profession") issued by the Board to Respondent at the time this Consent Agreement is adopted by the Board. Respondent acknowledges that with the permanent voluntary surrender of his authorizations to practice the profession, Respondent is surrendering any and all property rights he may have in those authorizations to practice the profession and will no longer be eligible to renew those authorizations to practice the profession. As further stated consideration for the Commonwealth not seeking other disciplinary sanctions against Respondent, Respondent agrees to:

(1) cease practicing as a medical physician and surgeon in the Commonwealth on and after the effective date of this Consent Agreement, and shall not indicate any ability to practice the profession in the Commonwealth in any manner whatsoever in the future,

(2) Unless otherwise specified in this agreement, Respondent agrees to not apply, at any time in the future, for the reactivation, reinstatement, reissuance, or the issuance of any authorization to practice issued by the Board and further directs that the board should not consider,

and may deny without hearing, any application for an authorization to practice filed with the Board,

(3) not work as an unlicensed assistant to any person holding an authorization from the Board to practice the profession,

(4) not possess a controlling interest in any organization requiring an authorization from the Board to practice the profession,

(5) not possess a controlling interest in any organization whose employees require an authorization from the Board to practice the profession when conducting the business of the organization,

c. For purposes of this paragraph, the term 'controlling interest' shall include being an owner, officer, manager, director, partner, member, or associate, as well as owning any quantity of outstanding corporate stock sufficient to control or direct the actions of the firm.

d. Respondent shall, within ten (10) days of adoption of this Consent Agreement and Order, surrender Respondent's wall certificate, biennial renewal certificate and wallet card (or notarized affidavit of their loss or destruction) by mailing them to:

Keith E. Bashore, Prosecuting Attorney
Pennsylvania Department of State
PO Box 69521
Harrisburg PA 17106-9521

or by delivering them in person at:

Bureau of Professional and Occupational Affairs
One Penn Center
2601 North 3rd St.
Harrisburg, Pennsylvania

e. This Order constitutes disciplinary action by the Board and shall be reported to other licensing authorities and any applicable national licensing databank as a disciplinary action by the Board.

f. This case shall be deemed settled and discontinued upon the Board issuing an Order adopting this Consent Agreement.

ADMISSIBILITY OF CONSENT AGREEMENT IN FUTURE PROCEEDINGS

6. Respondent agrees that if Respondent is charged with a violation of an Act enforced by this Board in the future, this Consent Agreement and Order shall be admitted into evidence without objection in that proceeding.

ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING

7. Respondent acknowledges receipt of an Order to Show Cause in this matter.

Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and knowingly and voluntarily waives the following rights related to that hearing: to be represented by counsel at the hearing; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

ACKNOWLEDGMENT OF RIGHT TO ATTORNEY

8. Respondent acknowledges that he is aware that he has the right to consult with, and/or be represented by, private legal counsel of Respondent's choosing and at Respondent's expense when reviewing, considering and accepting the terms of this Consent Agreement. Respondent had an opportunity to consult with Attorney Victor F. Battaglia regarding this Consent Agreement.

WAIVER OF CLAIM OF COMMINGLING AND OTHER CONSTITUTIONAL CLAIMS

9. Respondent expressly waives any constitutional rights and issues, such as commingling of prosecutorial and adjudicative functions by the Board or its counsel, which may arise or have arisen during the negotiation, preparation and/or presentation of this Consent Agreement. Respondent specifically agrees that if the Board rejects this agreement, it may assume that the facts and averments as alleged in this Consent Agreement are true and correct for the limited purpose of recommending a sanction, based on those assumed facts, that would be acceptable to the Board before hearing the case. In the event that the Board does assume the facts and averments as alleged in this Consent Agreement are true for purposes of making a recommendation as to an acceptable sanction, such action shall not constitute commingling of prosecutorial and adjudicative functions by the Board or its counsel, and the Respondent expressly waives any constitutional rights and issues related to alleged commingling, bias, or violation of due process rights to have an unbiased and impartial adjudicator in any subsequent hearing. If a hearing is subsequently held, neither this Consent Agreement nor the proposed terms of settlement may be admitted into evidence and any facts, averments, and allegations contained in the Consent Agreement must be proven at hearing unless otherwise separately stipulated. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

NO MODIFICATION OF ORDER

10. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

AGREEMENT NOT BINDING ON OTHER PARTIES

11. The Office of General Counsel has approved this Consent Agreement as to form and legality; however, this Consent Agreement shall have no legal effect unless and until the Board issues the stipulated Order.

EFFECT OF BOARD'S REJECTION OF CONSENT AGREEMENT

12. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

ENTIRE AGREEMENT

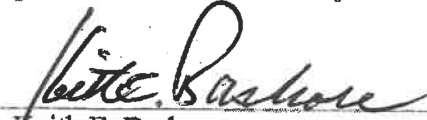
13. This agreement contains the whole agreement between the participants; provided however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

AGREEMENT DOES NOT PREVENT ADDITIONAL DISCIPLINE BASED ON OTHER COMPLAINTS

14. Nothing in this Order shall preclude the Prosecution Division for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Consent Agreement;


VERIFICATION OF FACTS AND STATEMENTS

15. Respondent verifies that the facts and statements set forth in this Consent Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.




Keith E. Bashore
Prosecuting Attorney

DATED: 11/25/19



Karl W. McIntosh, M.D.
Respondent

DATED: Nov 19 2019



Victor F. Battaglia
Attorney for Respondent
DATED: Nov 19, 2019

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

THE STATE OF)
DELAWARE) **INFORMATION BY THE ATTORNEY**
) **GENERAL**
 v.)
) **I.D. # 1612008954**
KARL W. McINTOSH)

The Attorney General of the State of Delaware by Information hereby alleges that **KARL W. McINTOSH** did commit the following offense(s):

COUNT I, A MISDEMEANOR

N19090514I

FORGERY THIRD DEGREE, in violation of Title 11, Section 861(b)(3) of the Delaware Code of 1974, as amended.

KARL W. McINTOSH, on or between the 24th day of July 2012 and the 31st day of December 2014, in the County of New Castle, State of Delaware, intending to defraud, deceive or injure another person, did make, complete, execute, authenticate, issue or transfer written instruments in the form of medical records of **MICHAEL GOLDBERG, ALLISON GOLDBERG, LEXI GOLDBERG, JARED GOLDBERG, DANIEL RHOADES, DAVID J. RHOADES, KORTNEY RHOADES, DAVID W. RHOADES, TRACY NADAL, GAVIN NADAL-TODD, and KELTON NADAL-TODD**, or other persons or entities, which purported to be the acts of the aforementioned persons, who did not authorize those acts.

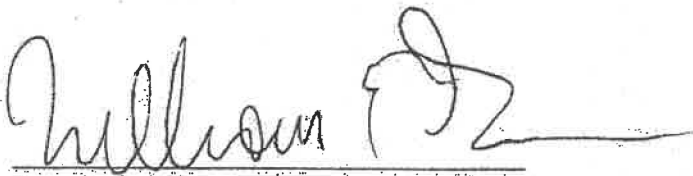
**EXHIBIT
A**

COUNT II, A MISDEMEANOR

FALSIFYING BUSINESS RECORDS, in violation of Title 11, Section 871 of the Delaware Code of 1974, as amended.

KARL W. McINTOSH, on or between the 24th day of July 2012 and the 31st day of December 2014, in the County of New Castle, State of Delaware, intending to defraud, did make or cause to be made, false entries in the business records of Highmark BCBS Delaware Inc., an enterprise, and Concord Behavioral Health, Inc. an enterprise.

KATHLEEN JENNINGS
ATTORNEY GENERAL



DEPUTY ATTORNEY GENERAL

~~NI 909513 I~~
NI 909515 I

Alias: No Aliases

DOB: 05/18/1964

SBI: 00694276

CASE NUMBER:

N1612008954

IN AND FOR NEW CASTLE COUNTY
CRIMINAL ACTION NUMBER:

N19-09-0515I

FALSIFY BUS REC(M)

N19-09-0514I

FORGERY 3RD ISS(M)

NOLP remaining charges including ID/CRA: 1709008131
ALL SENTENCES OF CONFINEMENT SHALL RUN CONSECUTIVE

SENTENCE ORDER

NOW THIS 12TH DAY OF SEPTEMBER, 2019, IT IS THE ORDER OF
THE COURT THAT:

The defendant is adjudged guilty of the offense(s) charged.
The defendant is to pay the costs of prosecution and all
statutory surcharges.

AS TO N19-09-0515-I : TIS
FALSIFY BUS REC

Effective September 12, 2019 the defendant is sentenced
as follows:

- The defendant is placed in the custody of the Department
of Correction for 1 year(s) at supervision level 5

- Suspended for 1 year(s) at supervision level 2

AS TO N19-09-0514-I : TIS
FORGERY 3RD ISS

- The defendant is placed in the custody of the Department
of Correction for 1 year(s) at supervision level 5

- Suspended for 1 year(s) at supervision level 2

APPROVED ORDER

1

September 24, 2019 9:48

EXHIBIT
B

CERTIFIED AS A TRUE COPY
ATTEST: KENNETH P. CREEDON
PROTHONOTARY
BY [Signature]

SPECIAL CONDITIONS BY ORDER

STATE OF DELAWARE

VS.

KARL W MCINTOSH

DOB: 05/18/1964

SBI: 00694276

CASE NUMBER:

1612008954

The defendant shall pay any monetary assessments ordered during the period of probation pursuant to a schedule of payments which the probation officer will establish.

Defendant shall be evaluated for substance abuse and follow recommendation for treatment, counseling and screening.

Defendant shall receive mental health evaluation and comply with all recommendations for counseling and treatment deemed appropriate.

For the purposes of ensuring the payment of costs, fines, restitution and the enforcement of any orders imposed, the Court shall retain jurisdiction over the convicted person until any fine or restitution imposed shall have been paid in full. This includes the entry of a civil judgment pursuant to 11 Del.C. 4101 without further hearing.

Should the defendant be unable to complete financial obligations during the period of probation ordered, the defendant may enter the work referral program until said obligations are satisfied as determined by the Probation Officer.

NOTES

The Defendant is to have no physical, electronic or other contact with the victims listed in the indictment;

JUDGE VIVIAN L MEDINILLA

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE**

**Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs**

File No.: 19-49-013542

vs.

**Karl W. McIntosh, M.D.,
Respondent**

ORDER

AND NOW, this 17th day of December, 2019, the **STATE BOARD OF MEDICINE** ("Board") adopts and approves the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

**BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**


K. Kalonji Johnson
Acting Commissioner

For the Commonwealth:

For the Respondent:

Date of mailing:

**BY ORDER:
STATE BOARD OF MEDICINE**


Keith E. Loiselle
Chair

Keith E. Bashore, Prosecuting Attorney
Pennsylvania Department of State
P. O. Box 69521
Harrisburg, PA 17106-9521

Victor F. Battaglia, Esquire
Biggs and Battaglia
921 North Orange Street
P.O. Box 1489
Wilmington, DE 19899

December 19, 2019