

BEFORE THE VIRGINIA BOARD OF MEDICINE

IN RE: MEGAN DOW MCPHEE, M.D.
License Number: 0101-254988
Case Number: 202643

ORDER

JURISDICTION AND PROCEDURAL HISTORY

Pursuant to Virginia Code §§ 2.2-4019 and 54.1-2400(10), a Special Conference Committee of the Virginia Board of Medicine (“Board”) held an informal conference on December 10, 2020, in Henrico County, Virginia, to inquire into evidence that Megan Dow McPhee, M.D., may have violated certain laws and regulations governing the practice of medicine in the Commonwealth of Virginia.

Megan Dow McPhee, M.D. appeared at this proceeding and was represented by Gerald C. Canaan, II, Esquire.

NOTICE

By letter dated August 10, 2020, the Board sent a Notice of Informal Conference (“Notice”) to Dr. McPhee notifying her that an informal conference would be held on September 23, 2020. The Notice was sent by certified and first class mail to the legal address of record on file with the Board. At Dr. McPhee’s request, the informal conference was continued to December 10, 2020.

Upon consideration of the evidence, the Board adopts the following Findings of Fact and Conclusions of Law and issues the Order contained herein.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Megan Dow McPhee, M.D. was issued License Number 0101-254988 to practice medicine on September 16, 2013, which is scheduled to expire on May 31, 2022.

2. Dr. McPhee violated Virginia Code § 54.1-2915(A)(4) and (14) in that she is unfit and unsafe to practice medicine due to mental or physical incapacity and/or illness, as evidenced by the following:

- a. See Confidential Exhibit.
- b. See Confidential Exhibit.
- c. See Confidential Exhibit.
- d. See Confidential Exhibit.
- e. See Confidential Exhibit.
- f. See Confidential Exhibit.
- g. See Confidential Exhibit.
- h. See Confidential Exhibit.
- i. See Confidential Exhibit
- j. See Confidential Exhibit

k. Respondent's diagnoses of bipolar disorder, traumatic brain injury, Hashimoto's disease, diabetes, and arthritis require treatment and monitoring.

3. Dr. McPhee stated that prior to medical school, she never had mental health issues and had always been healthy. By her second year of medical school, she experienced trauma and depression. She took voluntary leave in 2001 and was diagnosed with bipolar disorder and stabilized with lithium. She returned to medical school and completed the remaining three years without issue. She entered an obstetrics/gynecology residency and had twin boys in her third year of residency. She was diagnosed with Hashimoto's disease and Sjogren's syndrome. She finished her residency and went to Alaska as a single mother of a child with challenges. She did experience depression at that time and was hospitalized. She went to the University of Virginia for a second residency and did fine until the

end of her residency, at which time she took voluntary leave. She stated that she had been stable since that time, followed by an outpatient psychiatrist.

4. Dr. McPhee stated that she did well until January 25, 2020. She explained that a family member had exhibited extreme behavioral issues at a young age, at which time he began seeing a psychiatrist. As the family member got older, the behavior escalated to more threatening and hurtful behavior toward the family and others, and cruelty to animals. Despite the reported dramatic incidents, Board records reflect that Dr. McPhee did not take the family member regularly for psychiatric appointments.

5. See Confidential Exhibit.

6. Dr. McPhee violated Virginia Code §§ 54.1- 2915(A)(1) and (18) and 54.1-111(A)(6) in that on her application for licensure to practice medicine in Virginia, dated July 10, 2013, she falsely answered “no” to Question 10, which asked “do you have a physical disease, mental disorder, or any condition, which could affect your performance of professional duties,” when, in fact, she had a history of mental illness that required treatment and medication while in medical school and after graduation. Dr. McPhee explained that she read the question as asking “would she ever become impaired from this illness” rather than whether she had been impaired in the past. She noted that the Washington State licensure application asked if she was currently or could become impaired, and she viewed the question on the Virginia application as similar. She sees now that the question is phrased differently, and she should have answered differently.

7. By letter dated November 9, 2020, Karl W. Northwall, M.D., the medical director at the hospital at which Dr. McPhee currently works, reported that she is a “very competent psychiatrist; has exceptional clinical skills;” and is “trusted by the other members of her team to make appropriate clinical decisions.”

8. By letter dated November 4, 2020, Carla M. Farris, M.S.W., a clinical colleague, reported that Dr. McPhee is a “first-rate provider” whose “dedication to her job and patients [is] quite remarkable.” In addition, Ms. Farris stated, “she is exceptional in her psychiatric formulation, as well as devising a safe and effective management plan for her patients.”

9. By letter dated November 11, 2020, Dr. McPhee’s treating psychiatrist reported she has been compliant with her medications and is functioning well in her current position.

10. Pursuant to Virginia Code § 54.1-2400.2(K), the Board considered whether to disclose or not disclose Dr. McPhee’s health records or health services.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Virginia Board of Medicine hereby ORDERS as follows:


1. Within 45 days from entry of this Order, Dr. McPhee shall provide evidence satisfactory to the Board of entry into the Virginia Health Practitioners’ Monitoring Program (“HPMP”).

2. Dr. McPhee shall remain in HPMP and comply fully with the terms of her contract(s), and any addenda thereto, until she successfully completes the program. In accordance with Dr. McPhee’s contract, the Board will be notified of any noncompliance with, or dismissal or resignation from, HPMP.

3. Any violation of this Order or any statute or regulation governing the practice of medicine shall constitute grounds for further disciplinary action.

Pursuant to Virginia Code §§ 2.2-4023 and 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD


Jennifer Deschenes, J.D., M.S.
Deputy Executive Director, Discipline
Virginia Board of Medicine

ENTERED: 12/28/2020

NOTICE OF RIGHT TO APPEAL

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have 30 days from the date you are served with this Order to which to appeal this decision by filing a Notice of Appeal with William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300 Henrico, Virginia 23233. The service date shall be defined as the date you actually received this decision or the date it was mailed to you, whichever occurred first. In the event this decision is served upon you by mail, three days are added to that period.

APPROVED
VIRGINIA BOARD OF MEDICINE
SPECIAL CONFERENCE COMMITTEE MINUTES DECEMBER 10, 2020

*Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 201
Henrico, VA*

CALL TO ORDER: A Special Conference Committee of the Board was called to order at 9:10 a.m.

MEMBERS PRESENT: James Arnold, D.P.M., Chair
Jane Hickey, J.D.
Brenda Stokes, M.D.

STAFF PRESENT: Jennifer L. Deschenes, Deputy Executive Director, Discipline
Jennie F. Wood, Case Manager, Discipline
Anne Joseph, Adjudication Specialist

MATTER: **Megan Dow McPhee, M.D.** **License No.: 0101-254988**
Case No.: 202643

DISCUSSION: Dr. McPhee appeared before the Committee in person in accordance with a Notice of the Board dated August 10, 2020. Dr. McPhee was represented by Gerald C. Canaan, II, Esquire.

The Committee fully discussed the allegations in the Notice with Dr. McPhee.

CLOSED SESSION: Upon a motion by Ms. Hickey, and duly seconded by Dr. Stokes, the Committee voted to convene a closed meeting pursuant to §2.2-3711.A (27) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of Dr. McPhee. Additionally, he/she moved that Ms. Deschenes and Ms. Wood attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations.

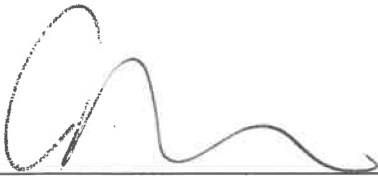
RECONVENE: Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code, the Committee re-convened in open session and announced its decision.

DECISION: Upon a motion by Dr. Stokes, and duly seconded by Ms. Hickey, the Committee made certain findings of fact and conclusions of law and voted to subject Dr. McPhee's license to certain terms and conditions; enter the Health Practitioners' Monitoring Program.

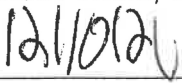
VOTE: The vote was unanimous.

ADJOURNMENT: The Committee adjourned at 1:25 p.m.

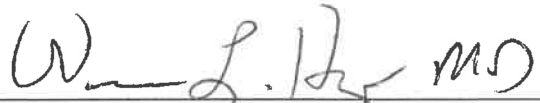
As provided by law this decision shall become a Final Order thirty (30) days after service of such Order on Dr. McPhee, unless a written request to the Board for a formal hearing on the allegations made against him is received from Dr. McPhee, within such time. If service of the Order is made by mail three (3) additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of the Special Conference Committee shall be vacated.



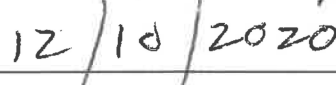
James Arnold, D.P.M., Chair



Date



William L. Harp, M.D., Executive Director



Date



COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director

Department of Health Professions

Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463

www.dhp.virginia.gov
TEL (804) 367- 4400
FAX (804) 527- 4475

August 25, 2020

Gerald C. Canaan, II, Esquire
Byrne Legal Group
313 East Broad St., Ste. E
Richmond, VA 23219

Via Email & First Class Mail
jcanaan@byrnelegalgroup.com

RE: Megan D. McPhee, M.D.; License No. 0101-254988; Case No. 202643
Rescheduling of Informal Conference

Dear Mr. Canaan:

The Virginia Board of Medicine ("Board") is in receipt of your email correspondence received August 24, 2020, noting your representation of Dr. McPhee and requesting a continuance of the informal conference currently scheduled to convene on September 23, 2020.

After careful consideration, it has been determined that your request should be granted. Dr. McPhee's informal conference is rescheduled for **Thursday, December 10, 2020, at 9:00 a.m.**

Should Dr. McPhee wish to submit additional information for consideration by the Committee, you must submit eight (8) copies to the attention of Jennie F. Wood, Discipline Case Manager, Virginia Board of Medicine, Perimeter Center, 9960 Mayland Drive, 3rd Floor, Henrico, Virginia 23233, by **November 13, 2020**. Your documents may not be submitted by facsimile or e-mail.

If you have any further questions regarding this matter, please contact Anne Joseph, Adjudication Specialist, at (804) 367-4474; or email at anne.joseph@dhp.virginia.gov.

Sincerely,

Jennifer L. Deschenes, JD, MS
Deputy Executive Director, Discipline
Virginia Board of Medicine

cc: Megan Dow McPhee, M.D.
Anne Joseph, Adjudication Specialist
Lorraine McGehee, Deputy Director, APD
Bryan Horowitz, Sr. Investigator, Enforcement
Tamika Hines, Case Manager - FOIA



COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463

www.dhp.virginia.gov
TEL (804) 367- 4400
FAX (804) 527- 4475

August 10, 2020

Megan Dow McPhee, M.D.
23 Ferguson Dr
Lynchburg, VA 24502

UPS OVERNIGHT MAIL

RE: Case Number 202643

Dear Megan Dow McPhee:

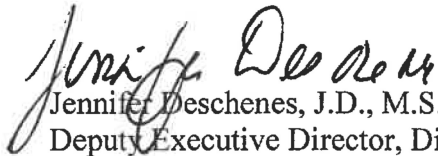
Attached is a Notice of Informal Conference and Statement of Allegations.

Information regarding the following may be found at
www.dhp.virginia.gov/medicine/medicine_Hearings.htm:

- Frequently Asked Questions about Disciplinary Proceedings;
- Directions to the Department of Health Professions Conference Center;
- Instructions for Requesting Subpoenas;
- The Board's Sanctioning Reference Points;
- The text of the Administrative Process Act;
- The text of all statutes and regulations cited herein.

If you have any questions, you may contact Anne Joseph, Adjudication Consultant, at (804) 367-4474 or anne.joseph@dhp.virginia.gov. Please notify the Board office of your intent to attend this proceeding.

Sincerely,


Jennifer Deschenes, J.D., M.S.
Deputy Executive Director, Discipline
Virginia Board of Medicine

cc: Anne Joseph, Adjudication Consultant, Administrative Proceedings Division
Lorraine McGehee, Deputy Director, Administrative Proceedings Division
Bryan Horowitz, Senior Investigator, Division of Enforcement

Board of Audiology & Speech-Language Pathology – Board of Counseling – Board of Dentistry – Board of Funeral Directors & Embalmers
Board of Long-Term Care Administrators – Board of Medicine – Board of Nursing – Board of Optometry – Board of Pharmacy
Board of Physical Therapy – Board of Psychology – Board of Social Work – Board of Veterinary Medicine
Board of Health Professions

BEFORE THE VIRGINIA BOARD OF MEDICINE

IN RE: **MEGAN DOW MCPHEE, M.D.**
License Number: **0101-254988**
Issue Date: **September 16, 2013**
Expiration Date: **May 31, 2022**
Case Number: **202643**

**NOTICE OF INFORMAL CONFERENCE
AND STATEMENT OF ALLEGATIONS**

You are hereby notified that an Informal Conference has been scheduled before the Board of Medicine ("Board") regarding your license to practice medicine in the Commonwealth of Virginia.

TYPE OF PROCEEDING:	This is an informal conference before a Special Conference Committee ("Committee") of the Board.
DATE AND TIME:	September 23, 2020 11:30 A.M.
PLACE:	Virginia Department of Health Professions Perimeter Center - 9960 Mayland Drive 2 nd Floor - Virginia Conference Center Henrico, Virginia 23233

LEGAL AUTHORITY AND JURISDICTION:

1. This informal conference is being held pursuant to Virginia Code §§ 2.2-4019 and 54.1-2400(10). This proceeding will be convened as a public meeting pursuant to Virginia Code § 2.2-3700.

2. At the conclusion of the proceeding, the Committee is authorized to take any of the following actions:

- Dismiss the case and exonerate you;
- Reprimand you;
- Require you to pay a monetary penalty;
- Place you on probation and/or under terms and conditions;
- Refer the matter to the Board of Medicine for a formal administrative hearing.

ABSENCE OF RESPONDENT AND RESPONDENT'S COUNSEL:

If you and/or your legal counsel do not appear at the informal conference, the Committee may proceed to hear this matter in your absence and may take any of the actions outlined above.

RESPONDENT'S LEGAL RIGHTS:

You have the following rights:

- The right to the information on which the Committee will rely in making its decision;
- The right to be represented by counsel at this proceeding;
- The right to subpoena witnesses and/or documents;
- The right to present relevant evidence on your behalf.

INFORMAL CONFERENCE MATERIALS:

- The informal conference materials (documents) serve as the basis for the allegations against you. The Committee will consider these materials at the informal conference.
- **These materials have been sent to you via UPS Overnight Mail.**
- **Bring this Notice and the documents with you to the informal conference.**

FILING DEADLINES:

- The deadline for filing any materials you wish to have considered at the informal conference is **September 4, 2020**.
- Submit all correspondence to Jennie F. Wood, Discipline Case Manager, at the Board of Medicine, **9960 Mayland Drive, Suite 300, Henrico, Virginia 23233**.
- Include the case number in all correspondence.

REQUEST FOR A CONTINUANCE

- Deadline for requesting a continuance: **August 31, 2020**.
- Must be made in writing to Jennifer L. Deschenes, Discipline Deputy Director, at **9960 Mayland Drive, Suite 300, Henrico, Virginia 23233**.
- Will be granted only for good cause shown

STATEMENT OF ALLEGATIONS

The Board alleges that:

1. At all times relevant hereto, Megan Dow McPhee, M.D. (“Respondent”), was licensed to practice medicine in the Commonwealth of Virginia.

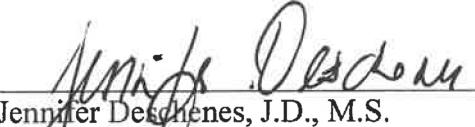
2. Respondent violated Virginia Code § 54.1-2915(A)(2), (4), and (14) in that she is unfit and unsafe to practice medicine due to substance abuse and/or mental or physical incapacity and/or illness, as evidenced by the following:

- a. See Confidential Exhibit.
- b. See Confidential Exhibit.
- c. See Confidential Exhibit.
- d. See Confidential Exhibit.
- e. See Confidential Exhibit.
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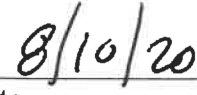
i. Respondent’s diagnoses of bipolar disorder, traumatic brain injury, Hashimoto’s disease, lupus, diabetes, and psoriatic arthritis require treatment and monitoring.

3. Respondent violated Virginia Code §§ 54.1- 2915(A)(1), (16), and (18) and 54.1-111(A)(6) in that on her application for licensure to practice medicine in Virginia, dated July 10, 2013, she falsely answered “no” to Question 10, which asked “do you have a physical disease, mental disorder, or any condition, which could affect your performance of professional duties,” when, in fact, she had a history of mental illness that required treatment and medication while in medical school and after graduation.

Pursuant to Virginia Code § 54.1-2400.2(K), the Board considered whether to disclose or not disclose Respondent's health records or health services.



Jennifer Deschenes, J.D., M.S.
Deputy Executive Director, Discipline
Virginia Board of Medicine



Date