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New Jersey Department of Health

By: Francis X. Baker
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SHAUL LIESER,

Petitioner,

v.

NJ DEPARTMENT OF HEALTH

Respondent.

STATE OF NEW JERSEY
OFFICE OF ADMINISTRATIVE LAW

OAL DOCKET NO.: HLT 01285-2021 S

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into between Petitioner, Shaul A. Lieser (hereinafter, "Petitioner") represented by Richard A. West, Esq., and Respondent, the New Jersey Department of Health (hereinafter, "Respondent" or "the Department"), represented by Gurbir S. Grewal, Attorney General of New Jersey, by Francis X. Baker, Deputy Attorney General. Collectively, Petitioner and Respondent are "the Parties".

WHEREAS, in December 2020, Petitioner indicated on his EMT re-certification application that the New Jersey Board of Nursing ("BON") had taken disciplinary action against his nursing license; and

WHEREAS, consistent with its regulatory authority and policy, the Department's Office of Emergency Medical Service ("OEMS") opened an investigation in response to this information; and

WHEREAS, OEMS's preliminary investigation revealed that the disciplinary action taken by the BON arose out of substantiated instances of sexual misconduct occurring in October 2017, as a result of which the BON (1) suspended Petitioner's nursing license for one year, effective December 7, 2018, (2) assessed a civil monetary penalty, and (3) required Petitioner to enroll in and remain compliant with the Recovery and Monitoring Program ("RAMP") and Professional Problem-Based Ethics program;

WHEREAS, under N.J.A.C.8:40A-10.2, the Commissioner or her designee may summarily suspend a person's EMT-Basic and/or EMT-Instructor certification when, in her opinion, the continued certification of that person poses an immediate or serious threat to the public health, safety or welfare; and

WHEREAS, based on the findings of OEMS's investigation, the Department issued a Notice of Summary Suspension to Petitioner on January 6, 2021 suspending his EMT certification pending completion of OEMS's investigation; and

WHEREAS, by letter dated January 22, 2021, Petitioner requested emergent relief to contest the summary suspension of his EMT certification; and

WHEREAS, the Department timely transmitted Petitioner's request for emergent relief to the OAL; and

WHEREAS, pursuant to a Consent Order filed February 12, 2021, Petitioner's nursing license was reinstated by the BON on the condition that he continue to remain enrolled in and comply with all of the terms and conditions of participation in the RAMP until his successful completion of and discharge from the program; and

WHEREAS, the parties have voluntarily agreed to settle the penalty violations enumerated above in keeping with the public policy of New Jersey that encourages settlement.

NOW, THEREFORE, the Parties agree to settle the enforcement action enumerated above on the following terms:

1. Petitioner agrees to continue complying with all requirements of the Consent Order entered into between him and the BON on February 12, 2021. Petitioner will remain enrolled in the RAMP and continue to comply with all program requirements until he is discharged from the program. The Petitioner shall provide the Department with proof of discharge from the RAMP program upon completion. If Petitioner materially breaches any provision of the Consent Order or fails to comply with any RAMP program requirement, Petitioner shall be obligated to notify OEMS within 24 hours. Such notification shall occur by email to Candace Gardner, Chief of Clinical Education and Licensure (candace.gardner@doh.nj.gov).
2. For a period of six full months, all of Petitioner's patient interactions as an EMT shall be supervised by at least one other certified EMT. Petitioner shall not be permitted to ride in the back of an ambulance with a patient without the supervision of at least one other certified EMT. The six-month period of

supervision shall not begin until (1) this Agreement has been fully executed by both parties, **and** (2) Petitioner notifies the Department that he has resumed providing direct patient care as a regular, practicing EMT. Such notification shall occur by email to Candace Gardner, Chief of Clinical Education and Licensure (candace.gardner@doh.nj.gov).

3. In the same notification advising that he has resumed providing direct patient care, Petitioner shall notify the Department of all agencies by which he is employed and/or for which he is volunteering as an EMT. If Petitioner begins working and/or volunteering for a new or different agency at any point during the six months he is required to be supervised under this Agreement, Petitioner must notify the Department within 24 hours of beginning work/volunteering for the new agency. Such notification shall occur by email to Candace Gardner, Chief of Clinical Education and Licensure (candace.gardner@doh.nj.gov).
4. Petitioner shall cause the supervising EMT and/or EMS provider to notify OEMS immediately if they observe or are otherwise made aware that Petitioner has engaged in professional and/or sexual misconduct while administering care to a patient. Such notification shall occur by email to Candace Gardner, Chief of Clinical Education and Licensure (candace.gardner@doh.nj.gov).
5. Upon execution of this Settlement Agreement through the completion of the Petitioner's supervision, the Petitioner's EMT certification shall be re-instated as provisional. Upon completion of the provisional period, the Petitioner shall submit a letter to the Department, requesting re-instatement of his non-provisional status with verification from all BLS agencies, for which he was supervised. The agency shall verify the completion status and time frame of supervision.
6. Upon execution of this Settlement Agreement, Petitioner agrees that his request for an administrative hearing to contest the summary suspension of his EMT certification is hereby withdrawn with prejudice.

7. Petitioner, for himself and on behalf of his insurers, agents, employees, heirs, executors, personal representatives, successors and assigns, agrees to the terms described in this Agreement, in final settlement of any claims Petitioner has or may have with respect to the summary suspension of his EMT certification.
8. Pursuant to N.J.A.C. 1:1-19.1, the Parties hereby stipulate to the dismissal of this administrative appeal of the summary suspension of Petitioner's EMT certification, with prejudice.
9. This Settlement Agreement constitutes the entire agreement and understanding between and among the Parties hereto with respect to its subject matter, and supersedes any prior or contemporaneous representations, whether oral or written.
10. The Parties agree that this Settlement Agreement is intended to be a final resolution of all issues related to the January 6, 2021 Notice of Summary Suspension.
11. The Parties hereby waive any claim for payment of counsel fees incurred in connection with this Settlement.
12. By signing this Settlement Agreement, each party represents and warrants that they are authorized to execute this Agreement.
13. This Settlement Agreement is entered into in lieu of a final determination of such claims and allegations of fact concerning the January 6, 2021 Notice of Summary Suspension in the aforementioned contested matter. The entering into, terms of, and promises exchanged in this Settlement Agreement are not intended to be and shall not be construed as, an admission or concession of any fact, claim or liability of any party. The terms of this Settlement Agreement are intended to avoid further litigation in this proceeding.
14. This Settlement Agreement does not constitute precedent in any subsequent matter involving these or any other parties.

15. This Settlement Agreement may be signed in counter parts and shall be deemed fully executed and effective when all parties have executed at least one of the counterparts, even though no single counterpart bears all such signatures. Facsimile and/or electronic signatures are acceptable and shall be treated as if they are originals.

3-31-21
Date



Shaul A. Lieser
Petitioner

04/07/2021
Date

David J. Adinero

David Adinero, M.D.
Deputy Commissioner, Public Health Services
New Jersey Department of Health

3-31-21
Date

Richard A. West

Richard A. West, Esq.
Attorney for Petitioner
As to form

4/1/21
Date

Francis X. Baker

Francis X. Baker
Deputy Attorney General
Attorney for Respondent
As to form