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

PROTHONOTARY  
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Department of State

Commonwealth of Pennsylvania	:		
Bureau of Professional and	:		
Occupational Affairs	:	Docket No.:	2221-49-11
	:		
vs.	:		
	:	File No.:	11-49-10751
Randy A Hutchins, PA-C	:		
Respondent	:		

**CONSENT AGREEMENT AND ORDER**

**PARTIES**

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and Randy A Hutchins, PA-C ("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, Act of December 20, 1985, P.L. 457, No. 112, ("Act"), 63 P.S. §§ 422.1 - 422.53, *as amended*; the Medical Care Availability and Reduction of Error ("Mcare") Act, Act of March 20, 2002, P.L. 154, No. 13, 40 P.S. §§ 1303.101-1303.910, *as amended*; and/or the Act of July 2, 1993, P.L. 345, No. 48 ("ACT 48"), 63 P.S. §§ 2201-2207, *as amended*.

**LICENSURE STATUS**

2. At all relevant and material times, Respondent held the following license to practice as a medical physician assistant in the Commonwealth of Pennsylvania: license no. MA000246L, which was originally issued on July 18, 1980, and which is currently set to expire on December 31, 2012.

**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 last known office address, as on file with the Board is:  
412 Hayes Street, Chester, PA 19013

c. From on or about August 1, 2009 until on or about February 23, 2010 Respondent was employed as a physician assistant for Kermit Barron Gosnell, MD (Dr. Gosnell.)

d. Respondent did not have, at any time during the course of his employment with Dr. Gosnell, a written agreement approved by the Board.

e. On or about May 3, 2010 Respondent met with Professional Conduct Investigator Sherilyn Gillespie (PCI Gillespie) and admitted to her that from on or about August 1, 2009 until on or about February 23, 2010, while employed as a physician assistant for Dr. Gosnell, he would see patients, usually for chronic pain, approximately three nights per week.

f. During the May 3, 2010 interview, Respondent admitted that initially he saw an average of 25 patients per evening but by September 2009 the number of new chronic pain patients was 30 or more per night.

g. During the May 3, 2010 interview, Respondent admitted that during the course of his employment as a physician assistant he created a standardized three page form for Dr. Gosnell that Respondent would use to complete intake information on new chronic pain patients and would note his impressions on the

form as to whether pain medications should be prescribed to that particular patient. Attached as **Exhibit A** and incorporated herein by reference is a true and correct copy of the three page form created by Respondent.

h. During the May 3, 2010 interview, Respondent admitted to PCI Gillespie that during the course of his employment with Dr. Gosnell, he would occasionally assist with ultrasounds on patients.

i. During the May 3, 2010 interview, Respondent advised PCI Gillespie that on or about July 22, 2009 he provided Dr. Gosnell with all the necessary paperwork so that his written agreement could be submitted to the Board and he could commence work on or about August 1, 2009.

j. During the May 3, 2010 interview, Respondent provided PCI Gillespie with a copy of an Application for Registration as Supervising Physician. Attached as **Exhibit B** and incorporated herein by reference is a true and correct copy of the Application for Registration as a Supervising Physician provided to PCI Gillespie by Respondent.

k. During the May 3, 2010 interview, Respondent provided PCI Gillespie with a letter dated December 20, 2009 to Dr. Gosnell from Respondent wherein Respondent requested that Dr. Gosnell provide him with "the letter from the State naming you as my supervisor." Attached as **Exhibit C** and incorporated herein by reference is a true and correct copy of the December 20, 2009 letter.

l. During the May 3, 2010 interview, Respondent provided PCI Gillespie with a letter dated January 19, 2010 to Dr. Gosnell from Respondent wherein he again requested the letter from Dr. Gosnell. Attached as **Exhibit D** and

incorporated herein by reference is a true and correct copy of the January 19, 2010 letter.

m. During the May 3, 2010 interview, Respondent provided PCI Gillespie with a follow-up letter to Dr. Gosnell dated February 15, 2010 wherein he tendered his resignation because Dr. Gosnell did not provide the "requested document." Attached as **Exhibit E** and incorporated herein by reference is a true and correct copy of the February 15, 2010 letter.

n. On or about September 21, 2011, Respondent was interviewed by Stephen Dougherty, an investigator with the U.S. Department of Justice, Drug Enforcement Administration, FBI agent, Jason Huff and Assistant U.S. Attorney Joan Burnes (herein collectively federal investigators.)

o. During the September 21, 2011 interview with federal investigators, Respondent admitted that he was hired by Dr. Gosnell to formulate records which would indicate to anyone who examined the patient records that there were legitimate reasons for Dr. Gosnell prescribing narcotic controlled substances.

p. During the September 21, 2011 interview with federal investigators, Respondent admitted that none of the patients he saw needed the medications they were seeking.

q. During the September 21, 2011 interview, Respondent admitted to lying to PCI Gillespie and to fabricating documents provided to her during the course of their interview; specifically, Respondent admitted that he prepared the Application for Registration as a Physician Assistant as well as the December 20,

2009, January 19 and February 15, 2010 letters, approximately one week before his interview with PCI Gillespie. See **Exhibits B, C, D and E**.

r. During the September 21, 2011 interview with federal investigators, Respondent admitted that he never gave the Application for Registration as a Physician Assistant or the letters to Dr. Gosnell. See **Exhibits B, C, D and E**.

s. Respondent, despite knowing he did not have a written agreement, provided medical services to patients.

t. At no time relevant herein did the Board receive a written agreement between Dr. Gosnell and Respondent. Attached as **Exhibit F** is a true and correct copy of a certification from the Board verifying that it never received a written agreement.

u. During the September 21, 2011 interview with federal investigators, Respondent admitted that after he examined his first couple of patients Respondent knew that Dr. Gosnell's practice was a "script mill."

v. Respondent, despite not having a written agreement, and knowing that Dr. Gosnell's practice was a script mill, continued to work for Dr. Gosnell.

#### **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. §§ 422.39-422.42; 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 the Act at:

- a. 63 PS §422.13(e) in that he provided medical services that were not pursuant to a written agreement with an approved physician;
- b. 63 PS §422.41(6) and the Board's regulations at 49 Pa Code §18.142 in that Respondent failed to have a written agreement in accordance with the requirements set forth in the Board's regulations;
- c. 63 PS §422.41(7) in that Respondent knowingly maintained a professional connection or association with Dr. Gosnell in violation of the Act because he knew that he did not have a written agreement with the Board and that Dr. Gosnell's office was a "script mill"; and
- d. 63 PS §422.41(8) in that Respondent is guilty of unprofessional conduct in that he knowingly worked as physician assistant when he did not have a written agreement in accordance with the Act and the Board's regulations and knowingly continued to work as a physician assistant when he knew that Dr. Gosnell's office was a "script mill."

**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. §§ 422.39-422.42; 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 the Act at:

(1) 63 PS §422.13(e) in that he provided medical services that were not pursuant to a written agreement with an approved physician;

(2) 63 PS §422.41(6) and the Board's regulations at 49 Pa Code §18.142 in that Respondent failed to have a written agreement in accordance with the requirements set forth in the Board's regulations;

(3) 63 PS §422.41(7) in that Respondent knowingly maintained a professional connection or association with Dr. Gosnell in violation of the Act because he knew that he did not have a written agreement with the Board and that Dr. Gosnell's office was a "script mill"; and

(4) 63 PS §422.41(8) in that Respondent is guilty of unprofessional conduct in that he knowingly worked as physician assistant when he did not have a written agreement in accordance with the Act and the Board's regulations and knowingly continued to work as a physician assistant when he knew that Dr. Gosnell's office was a "script mill."

**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 assistant 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 assistant 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 assistant 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, director, partner, 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:

Anita P. Shekletski  
Senior Prosecutor in Charge  
Bureau of Professional and Occupational Affairs  
P.O. Box 2649  
Harrisburg, PA 17105-2649

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 to 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. To the extent that Respondent is not represented by legal counsel, Respondent has knowingly elected to proceed without the assistance of legal counsel.

**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;

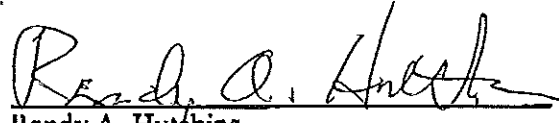
**VERIFICATION OF FACTS AND STATEMENTS**

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.

  
Anita P. Shekletski  
Senior Prosecutor in Charge  
Department of State

DATED: 8/28/12

  
Randy A. Hutchins

DATED: 9/22/12

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

Commonwealth of Pennsylvania  
Bureau of Professional and  
Occupational Affairs

vs.

Randy A Hutchins, PA-C  
Respondent

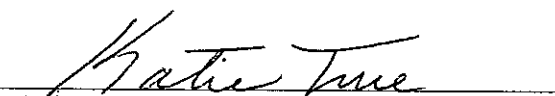
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**ORDER**

AND NOW, this 14<sup>th</sup> day of September 2012, 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


  
Katie True  
Commissioner

For the Commonwealth:

Respondent:

Date of mailing:  
121611/MasterGeneralSat122710

BY ORDER:  
STATE BOARD OF MEDICINE

  
James W. Freeman, M.D.  
Chair

Anita P. Shekletski, Esquire  
2601 North Third Street  
P. O. Box 2649  
Harrisburg, PA 17105-2649

Martin Kleinman, Esquire  
1600 Cherry Street  
Philadelphia, PA 19103

September 17, 2012