

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

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

v.

Case No. 04-FY-2023

**CHERYL RUSSELL,
Respondent.**

CONSENT AGREEMENT AND ORDER

After due investigation of a written complaint, the West Virginia Medical Imaging & Radiation Therapy Technology Board of Examiners (Board) determined that there was probable cause to believe that Cheryl Russell (Respondent) performed medical imaging procedures in West Virginia without a valid West Virginia medical imaging license in violation of the provisions of W. Va. Code § 30-23-2(a), and W. Va. Code § 30-23-22. 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 hearing, the parties have reached an agreement as to the appropriate disposition of this matter, with consideration to the necessary safeguards for protection of the public, and do hereby agree to the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Cheryl Russell is a licensee of the Board, License No. 5679 (radiography and MRI), and is subject to the license requirements of said Board.

2. On October 5, 2022, the Board initiated a complaint against Respondent pursuant to W. Va. Code § 30-23-25 for performing medical imaging procedures in West Virginia without a valid West Virginia medical imaging license.

3. Respondent is employed at West Virginia University Medicine as a medical imaging technologist.

4. The Board learned that Respondent worked on August 1, 2022, through September 29, 2022, as a medical imaging technologist without a West Virginia medical imaging license. Respondent indicated during the informal hearing in this matter that during this time frame, she worked three days per work.

5. Respondent's medical imaging license expired on July 31, 2022.

6. Respondent renewed her license on October 5, 2022.

7. Respondent indicated in her written response to this matter and during the informal hearing conference that she inadvertently missed the license renewal deadline because she did not realize that her license was not successfully renewed due to technical difficulties. She submitted payment for her license renewal and thought she had completed the renewal process on July 27, 2022.

8. On October 5, 2022, the Board received an email response from Drew Rager, MRI Manager, Rockefeller Neuroscience Institute, WVU, indicating that his department did not realize that Respondent had been working without a license until October 4, 2022.

9. An Informal Conference was held on October 20, 2022, regarding this matter before the Board's Ethics Committee. In attendance to discuss the facts and circumstances of this matter were the following: Respondent and Holly Sabatino, Neuroradiology/MRI Administrator; Drew Rager, MRI Manager; Alice Howlett, MRI Supervisor; Dawn Broadwater, and Neuroradiology/MRI Administrator Assistant. Respondent's supervisors have implemented checks to ensure that technologists do not work with an expired license.

10. The Board's Ethics Committee recommended a finding of probable cause in violation of W. Va. Code § 30-23-2(a) and 30-23-22.

11. The Board's Ethics Committee further acknowledged that Respondent has taken full responsibility for her actions.

12. The Board, at its October 20, 2022, meeting, did by unanimous vote, find probable cause that Respondent violated W. Va. Code § 30-23-2(a) and 30-23-22.

13. Respondent's actions constitute a violation of W. Va. Code § 30-23-2(a) and 30-23-22.

14. The Board and Respondent desire to resolve this complaint through the use of this negotiated Consent Agreement and Order as follows:

CONCLUSIONS OF LAW

1. That the Board has jurisdiction to take disciplinary action against Respondent.
2. The Board is a regulatory board created for the purpose of regulating the practice of medical imaging and radiation therapy technology. W. Va. Code § 30-23-6.

3. In order to carry out its regulatory duties, the Board is empowered to suspend, revoke or otherwise discipline an individual's license because of authority granted to it by W. Va. Code § 30-23-24.

4. That based upon the allegations set forth above in the *Findings of Fact* section, the Board is authorized to suspend, revoke or otherwise restrict the license. W. Va. Code § 30-23-24.

5. Respondent's actions violate W. Va. Code § 30-23-2(a) and 30-23-22. Such conduct is therefore grounds for disciplinary action.

CONSENT OF LICENSEE

Respondent, by affixing her signature hereto, acknowledges the following:

1. Respondent acknowledges that the Board has jurisdiction over her and her conduct which precipitated this Consent Agreement and Order.

2. Respondent has been given the opportunity to consult with counsel and execute this Consent Agreement voluntarily, freely, without compulsion or duress and is mindful that it has legal consequences.

3. That no person or entity has made any promise or given any inducement whatsoever to encourage Respondent to make this settlement other than as set forth herein.

4. Respondent is aware that she may pursue this matter through appropriate administrative and/or court proceedings, and is further aware of her legal rights regarding this matter, but intelligently, knowingly and voluntarily waives such rights.

5. Respondent expressly acknowledges that the entire agreement is contained in this Consent Agreement and Order and that no representations, promises, or inducements have been made by or to Respondent other than as appear in this Consent Agreement and Order.

6. Respondent acknowledges that this Consent Agreement and Order is a public document available for inspection by the public in accordance with the provisions set forth in the West Virginia Freedom of Information Act (W. Va. Code § 29B-1-1, *et seq.*) and may be reported to other governmental agencies, professional boards and organizations.

7. Respondent waives any defenses including, but not limited to, laches, statute of limitations, and estoppel, that she may have otherwise claimed as a condition of this Consent Agreement and Order.

8. The Respondent, Cheryl Russell, by affixing her signature herein, 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 action in this matter.
2. Respondent shall reimburse the Board for administrative and legal expenses in the amount of \$250.00 incurred by the Board in the investigation and disposition of this case within thirty (30) days of entry of this *Consent Agreement and Order*.
3. 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.
4. That this document is a public record as defined in W. Va. Code § 29B-1-2(5).
5. This *Consent Agreement and Order* constitutes the entire agreement between the parties.

WEST VIRGINIA MEDICAL IMAGING &
RADIATION THERAPY TECHNOLOGY
BOARD OF EXAMINERS

By:

Tyson Judy
Tyson Judy, Chairperson

Entered:

11/17/22
DATE

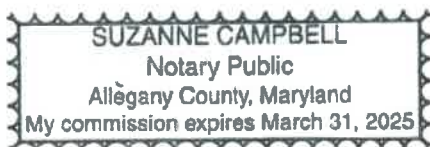
Agreed to by:

Cheryl Russell
Cheryl Russell, Respondent

11-10-22
DATE

Sworn and subscribed before me this 10 day of November 2022.

by Cheryl Russell
My Commission expires: 03/31/2025



Suzanne Campbell
Notary Public