

**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
PHYSICAL THERAPISTS**

IN RE:)
Francesca Mihok) **Docket No. 2019-125**
License No. 040.0102993)

STIPULATED VOLUNTARY SURRENDER OF LICENSE

NOW COME the State of Vermont, by and through Prosecutor Traci Leibowitz, and Respondent Francesca Mihok, by and through her counsel, Beth Danon, Esq., who hereby Stipulate and Agree as follows:

Authority

1. The Administrative Law Officer ("ALO") has jurisdiction to hear matters involving allegations of unprofessional conduct by Physical Therapists pursuant to 3 V.S.A. §§127, 129, 129a; 26 V.S.A. Chapter 38; the Administrative Rules for Physical Therapists (the "ARPT"); and the Rules of the Vermont Office of Professional Regulation ("OPR").

Stipulated Facts and Violations

2. Francesca Mihok ("Respondent") of Burlington, Vermont is licensed by the State of Vermont as a Physical Therapist under license number 040.0102993. This license was originally issued on November 5, 2014, and expires on September 30, 2020.
3. During the relevant period, Respondent worked as a Physical Therapist at Phoenix Physical Therapy in South Burlington, Vermont. Phoenix Physical Therapy (the "Facility") specializes in treatment of pelvic issues including pelvic pain, incontinence and pelvic floor muscle dysfunction.
4. On January 31, 2019, Respondent treated a patient ("Patient"). This was Patient's first visit to the Facility.
5. Respondent greeted Patient in the lounge/waiting area of the office.
6. Patient was taken back to a practice room for an evaluation.
7. Respondent performed an evaluation of Patient in the practice room. The evaluation consisted of two parts. First, an educational portion where Respondent and Patient exchanged information verbally. Second, Respondent performed an internal examination of Patient's pelvic floor musculature.

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8. Respondent complimented Patient's physical appearance twice during the evaluation.
9. Respondent first complimented Patient's physical appearance during the educational portion of the evaluation. Patient was fully clothed.
10. Respondent then stepped out of the practice room to allow Patient to undress and drape herself with a gown. Patient did so.
11. Respondent re-entered the practice room and complimented Patient's physical appearance a second time stating that Patient was "beautiful" and that she must get that compliment a lot. Respondent admits that she handled this badly, as she used it as conversation opener, but realized after she said it that it was awkward and inappropriate.
12. Respondent then completed a manual internal pelvic floor muscle exam of Patient with the Patient's oral consent to do so.
13. On February 5, 2019, Patient contacted the Facility. Patient cancelled all future appointments with the Respondent, stating that Respondent's comments made her uncomfortable and that they were inappropriate.
14. Respondent's employment at the Facility was terminated following this incident.
15. Respondent explains that the comments were made in an attempt to make small talk and in hindsight realized they were inappropriate.
16. During the years Respondent was employed at the Facility, Respondent received positive evaluations completed by patients. Specifically, 24 patients, through voluntary, anonymous evaluations, stated that Respondent was proficient at making them feel comfortable during treatment.

Violation One: 3 V.S.A §129a(b)(1) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care.

17. The State re-alleges and incorporates Paragraphs 2 through 16 above.
18. As a licensed Physical Therapist, the Respondent is required to provide safe and acceptable patient care.
19. Paragraphs 2 through 16 demonstrate Respondent's failure to provide safe and acceptable patient care.

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20. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(1).

Violation Two: 3 V.S.A §129a(b)(2) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (2) failure to conform to the essential standards of acceptable and prevailing practice.

21. The State re-alleges and incorporates Paragraphs 2 through 16 above.
22. As a Physical Therapist, Respondent is required to treat all individuals with respect and dignity. American Physical Therapy Association's Code of Ethics for the Physical Therapist, Principle #1.
23. Paragraphs 2 through 16 demonstrate that Respondent failed to conform to this essential standard when she treated Patient in an inappropriate manner.
24. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(2).

Understandings

1. Respondent admits that the facts above are true and desires to voluntarily surrender her license. The Parties reach a full and final Stipulation pursuant to these Understandings, the Acceptance of Voluntary Surrender, and Order below.
2. Respondent understands that the ALO must review and accept the terms of the Stipulated Voluntary Surrender of License. If the ALO rejects any portion, the entire Stipulated Voluntary Surrender of License shall be null and void.
3. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced her right to a fair and impartial hearing in the future if this agreement is not accepted by the ALO.
4. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
5. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulated Voluntary Surrender of License.

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6. Respondent voluntarily enters into this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulated Voluntary Surrender of License.
7. Respondent voluntarily waives her right to a contested hearing before the ALO and waives any right to appeal from this Stipulated Voluntary Surrender of License.
8. Respondent agrees that the Acceptance of Voluntary Surrender and Order set forth below may be entered by the ALO.

ACCEPTANCE OF VOLUNTARY SURRENDER AND ORDER

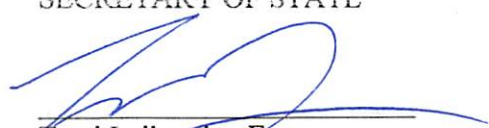
Based on the Stipulation above, it is **ORDERED AND ADJUDGED** as follows:

- A. The ALO hereby **ACCEPTS** Respondent's **VOLUNTARY SURRENDER** of her license to practice as a Physical Therapist in the State of Vermont.
- B. Any future application for licensure shall be subject to the licensing requirements of that particular profession. If a future application for licensure in the State of Vermont is approved, that license may be **CONDITIONED** pursuant to whatever terms are found to be reasonable at the time of Respondent's application for licensure, taking into account the stipulated facts above.
- C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- D. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

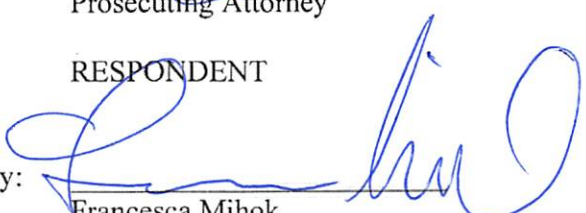
STATE OF VERMONT
SECRETARY OF STATE

Dated: 2-11-2020

By: 
Traci Leibowitz, Esq.
Prosecuting Attorney

RESPONDENT

Dated: February 6, 2020

By: 
Francesca Mihok

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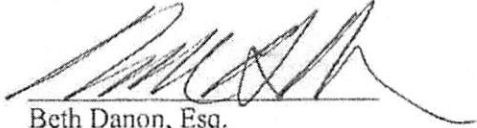
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APPROVED AS TO FORM:

Dated: 02-07-2020

COUNSEL FOR RESPONDENT

By:


Beth Danon, Esq.

APPROVED AND SO ORDERED:

Dated: 2/11/20

ADMINISTRATIVE LAW OFFICER

By:


Michael Kupersmith, Esq.

Date of Entry: 2. 11. 2020

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