

# LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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## BEFORE THE LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

**NUMBER: 15-A-005**

**IN THE MATTER OF:**

**KENDALL MARIE THOMAS, PA.  
(Certificate No. PA. 200647)**

**ADMINISTRATIVE HEARING  
HELD ON SEPTEMBER 21, 2015**

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### DECISION AND ORDER

This matter comes before the Board pursuant to an Administrative Complaint which charges Respondent Kendall Marie Thomas, PA with violations of the Physician Assistant Practice Act and related Rules and Regulations. The matter was heard before a panel consisting of Drs. Amusa, Burdine, Clark, Farris, and Valentine with George M. Papale, Independent Counsel presiding. The Respondent was present and represented by legal counsel.

The Complaint charges the Respondent with the following:

1. R. S. 37:1360.33 (5) A habitual user of intoxicants or drugs to such an extent that he is unable to safely perform as a physician assistant.
2. LAC 46:XLV: §4513 A (13) Inability to perform of function as a physician assistant with reasonable skill or safety to patients because of excessive use or abuse of drugs, including alcohol.
3. R. S. 37:1360.33 (3) Violates provision of this Part or any regulations adopted by the Board pursuant to this Part.

### FINDINGS OF FACTS

Counsel for Complainant and Respondent presented the panel with exhibit books which were received in evidence.

Complainant called Cathy Storm, Board Investigation and Compliance Officer, who testified concerning the Board's receipt of a police report stating that Kendall Marie Thomas, PA (hereinafter "Ms. Thomas" or "Respondent") had been arrested for DWI on January 31, 2005. Ms. Storm testified concerning the Board investigation including her letter to Ms. Thomas requesting that she contact the Physicians Health Program (PHP). Ms. Storm testified that she received information from the PHP in May 2015 that Ms. Thomas had contacted the PHP, had gone to Palmetto Addiction Recovery Center (PARC) and had completed an inpatient evaluation.

Ms. Storm had been advised that the evaluation recommended an intensive outpatient treatment program and a two-year monitoring contract with the PHP. At that time Ms. Storm also was advised that Ms. Thomas had been mailed the PHP contract, would be signing it and she thought the LSBME case would be closed. Ms. Thomas did not sign the PHP's monitoring contract and, in June 2015, the PHP sent Ms. Thomas' case back to the LSBME. Thereafter Ms. Storm obtained information concerning Ms. Thomas' evaluation at PARC, including a positive PEth test and, as summarized on Complainant's Exhibit 13, submitted a request for the summary suspension of Respondent's Physician Assistant License. The Board suspended Ms. Thomas's license on July 2, 2015.

Louis Cataldie, M.D., Medical Director of the Physicians Health Foundation of Louisiana (PHFL), confirmed that Ms. Thomas presented to the PHFL on April 16, 2015, and, at that time, gave a history that she had not had alcohol since her DWI arrest in January. At the request of the PHFL, Ms. Thomas submitted to a Peth test and a urine drug screen. The urine drug screen was negative but the PEth test was positive at a level of 214.1 with a cutoff level of 20. Dr. Cataldie, an addictionologist, testified that the 214.1 PEth result was indicative of excessive alcohol intake within a 2 to 3 week period prior to the test. Dr. Cataldie testified that a test result over 100 is taken seriously and he was in agreement that Ms. Thomas should have an evaluation at an approved facility.

Dr. Cataldie received the report of Ms. Thomas' evaluation at PARC from its Medical Director, Jay A. Weiss, M.D. and testified that he concurred with the recommendations on the second page of the report. Dr. Cataldie testified that Respondent and her attorney were seeking to modify the contract language but that he did not have the authority to do so. He did agree to limit the abstinence part of the agreement to a period of two years as requested by Respondent.

Dr. Weiss, an expert in evaluating substance abuse disorders, testified about the Respondent's evaluation and assessment by the multidisciplinary team during Ms. Thomas' three day inpatient stay at PARC. Dr. Weiss considered Respondent's two DWI arrests within 10 years, the positive PEth test and her continuing to drink alcohol, notwithstanding her enrollment in a diversion program to be "red flags" relating to her alcohol use. Dr. Weiss opined that the PEth level of 214.1 on April 16, 2015 was compatible with binge drinking within 2-3 weeks prior to the test and was not consistent with Respondent's history of having about four beers on her birthday on April 10, 2015 and no alcohol use thereafter.

It was Dr. Weiss' opinion that Respondent's reported ADHD was not a diagnosis which was supported by Respondent's history or by the psychological testing performed at PARC. Dr. Weiss also considered that the prescription of Vyvance PRN which she received from her supervising physician was not appropriate and that Ms. Thomas's use of Vyvance with alcohol placed Respondent at significant risk.

Dr. Weiss considered the results of a second PEth test on the specimen taken from Ms. Thomas at PARC on April 28, 2015 at a level of 56 to be evidence of Respondent drinking alcohol in a lesser amount in the period of 2 to 3 weeks prior to that test. Dr. Weiss testified that it was his opinion that Ms. Thomas' alcohol use under physically hazardous conditions (driving) (with DWI arrests within 10 years), tolerance and mild withdrawal symptoms supported the diagnosis of "Alcohol use disorder, Mild". Based on the above diagnosis and the PARC evaluation, Dr. Weiss stated his opinion that Ms. Thomas was not able to practice as a PA with skill and safety unless she participated in an intensive outpatient treatment program for six months and signed a two-year monitoring program contract with the PHP.

The Respondent called her supervising physician, Jeffrey Overdyke, M.D. a psychiatrist at the psychiatric unit in Willis-Knighton Hospital. Dr. Overdyke, who had worked with Ms. Thomas on a daily basis for a year and a half testified that she had not shown any signs of alcohol abuse or impairment while at work on the unit. He also disagreed with the evaluation of Dr. Weiss and the diagnosis of alcohol use disorder. Dr. Overdyke acknowledged that he was not an addictionologist and, although he sees patients with the diagnosis of substance abuse, he refers their treatment to others. In questioning by the panel, Dr. Overdyke admitted that he had prescribed the Vyvance for Ms. Thomas as a patient but had not done a thorough clinical evaluation which would establish ADHD or a diagnosis which would warrant the prescription of the controlled medication. Dr. Overdyke was not familiar with the requirement for physicians to check the PHP prior to prescribing this medication and was not aware of the PEth test. In addition, Dr. Overdyke admitted that he had not interviewed Ms. Thomas concerning the frequency or amounts of her alcohol intake.

Richard R Roniger, M.D., a psychiatrist testified concerning his July 30, 2015 psychiatric evaluation of Ms. Thomas which he performed on referral from Dr. Overdyke. Dr. Roniger testified that he gave Ms. Thomas no psychiatric diagnosis based on his interview and review of the records from PARC and Dr. Overdyke's May 10, 2015 email to Dr. Cataldie, which Dr. Roniger cited in his August 6, 2015 report. Although Dr. Roniger opined that he did not think that PARC's assessment and recommendations were clinically justified, he also acknowledged that he does not treat drug or alcohol addiction and that he only evaluated the respondent for an hour.

In considering all of the evidence, including the testimony of Dr. Overdyke and Dr. Roniger, the panel finds that Respondent's diagnosis of "Alcohol use disorder, Mild" was established by a preponderance of the evidence. In making this finding, the panel finds the

testimony of Dr. Weiss the more creditable and consistent with the objective evidence of two positive PEth performed 12 days apart.

The panel also determined that the Respondent's testimony disclosed inconsistencies regarding the frequency and the amounts of her alcohol use subsequent to her recent DWI arrest. During her interview she first stated that she had no alcohol use since the arrest and then respondent testified that she went back to acknowledge her alcohol use at the party in Las Vegas on April 10, 2015. However, Respondent also consumed alcohol while in Italy on a trip with her mother during the week of March 22, 2015. According to Dr. Weiss' evaluation, Respondent used Vyvance again following that trip because of jet lag and returning to work.

Respondent testified that her use of Vyvance was only on a PRN basis. This is an inappropriate usage even if there had been a legitimate diagnosis of ADHD . The symptoms described by Ms. Thomas, including workplace stress and difficulty sleeping, do not provide a clinical justification for the use of Vyvance. When questioned by the panel about this type of prescribing, Ms. Thomas admitted that she would not recommend this in her practice as a PA nor does she believe she has a diagnosis of ADHD. The panel also finds that Ms. Thomas minimizes her alcohol use and how her alcohol use impacts her abilities to safely operate a motor vehicle as well as her ability to practice safely as a Physician Assistant.

Accordingly, the panel finds by a preponderance of the evidence, that Respondent is a habitual user of intoxicants (alcohol) to an extent that she is unable to safely perform as a Physician Assistant.

The panel also notes the Respondent's acknowledgment that, with the exception of certain contractual language in the monitoring contract, she was in agreement with the five recommendations itemized on the second page of Dr. Weiss's May 5, 2015 report to Dr. Cataldie, including her discontinuance of the Vyvance.

### **CONCLUSIONS OF LAW**

Based on the preceding findings of fact, the panel concludes that Respondent is a habitual user of intoxicants or drugs to such an extent that she is unable to safely perform as a physician assistant in violation of R. S. 37:1360.33 (5); that Respondent is unable to perform a function as a physician assistant with reasonable skill or safety to patients because of excessive use or abuse of drugs, including alcohol in violation of LAC 46:XLV: §4513 A (13) and has violated a provision of this Part and a regulation adopted by the Board pertaining to this Part in violation of R. S. 37:1360.33 (3).

### **SANCTIONS**

Based on the Findings of Fact and Conclusions of Law:

**IT IS ORDERED** that the license of Kendall Marie Thomas, PA to engage in practice as a Physician Assistant is hereby placed on **PROBATION** for two (2) years, subject to strict compliance with the following terms and conditions:

- 1) **Monitoring Contract.** Within ten (10) days of the date of this Order, Ms. Thomas shall complete and sign the PHP two-year Monitoring Contract which previously was presented to her (Complainant's Exhibit 12 in these proceedings) with the exception that paragraph four of the contract may be modified to provide for a two-year abstinence agreement.
- 2) **Payment of Fine and Costs.** Ms. Thomas shall pay a fine in the amount of \$1500 within thirty (30) days and reimburse the Board for all costs of these proceedings, from the date of the filing of the Administrative Complaint, within six months of the date of the Order.

Failure of strict compliance with the preceding terms by Ms. Thomas shall be deemed adequate and sufficient cause, upon proof of such violation or failure, for such other action deemed appropriate by the Board. Provided adherence to the above terms and conditions, Ms. Thomas shall be subject to strict compliance with the following probationary terms and conditions:

- 1) **Cooperation with the Board's Probation and Compliance Officer.** Probationer shall immediately notify the Board's Probation and Compliance Officer of any change in her current home and professional addresses and telephone numbers and she shall direct all matters required pursuant to this Consent Order to the attention of the Probation and Compliance Officer, with whom she shall cooperate on all matters and inquiries pertaining to her compliance with the terms, conditions and restrictions of this Consent Order.
- 2) **Probation Monitoring Fee.** For each year of the probationary term, probationer shall pay the Board a probation monitoring fee of three Hundred (\$300.00) Dollars. Payment of the initial fee shall be due not later than sixty (60) days from the reinstatement of her license. All subsequent annual payments shall be due on or before the anniversary date of the initial fee payment.
- 3) **Self-Reporting of Violations.** Probationer shall immediately self-report in writing to the probation officer any violation of or failure to adhere to the terms, conditions or restrictions of this Order. Furthermore, probationer shall immediately self-report in writing any personal action or inaction, which constitutes a violation of the Act.
- 4) **Self-Reporting of Other Investigations.** Probationer shall immediately self-report in writing to the probation officer any and all investigations, inquiries, charges, convictions, or disciplinary actions taken by any local, state or federal

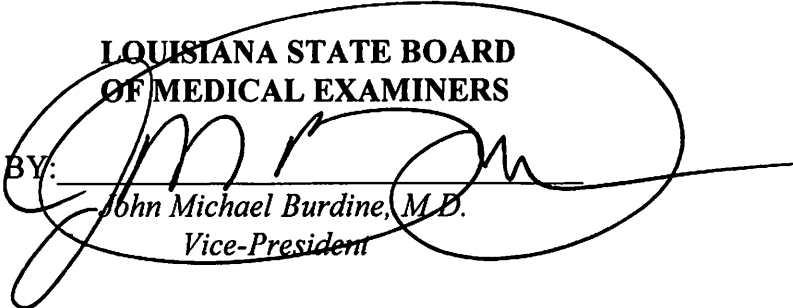
agency, or any institution or facility.

- 5) **Certification of Compliance with Probationary Terms/Personal Appearance before the Board.** At least sixty (60) days prior to the conclusion of the probationary term, Ms. Thomas shall provide the Board with an affidavit certifying that she has complied with each of the terms of probation imposed upon her by this Order and she shall contact the Board and arrange for a personal appearance before the Board or its designee at its meeting preceding the expiration of the probationary term. The probationary term and all of its terms, conditions and restrictions shall be, and shall be deemed to be, extended and continued in full force and effect pending Ms. Thomas' compliance with the requirements of this provision.

**IT IS FURTHER ORDERED** that any violation or failure of strict compliance with any of the terms, conditions or restrictions set forth by this Order by Kendall Marie Thomas, PA shall be deemed adequate and sufficient cause, upon proof of such violation or failure, for the revocation and cancellation of Ms. Thomas's license to practice as a Physician Assistant in the State of Louisiana or for such other action as the Board may deem appropriate, as if such violations were enumerated among the causes provided in La. Rev. Stat §37:1360.33.

**IT IS FURTHER ORDERED** that this Decision and Order shall be and shall be deemed to be, a public record.

NEW ORLEANS, LA, this 7<sup>th</sup> day of December, 2015.

**LOUISIANA STATE BOARD  
OF MEDICAL EXAMINERS**  
BY:   
*John Michael Burdine, M.D.*  
*Vice-President*