

1 STATE OF ALASKA
2 DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
3 DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
4 BEFORE THE BOARD OF PHARMACY

5 In the matter of:)
6)
7 MICHELLE BUTLER,)
8 Respondent)

Case No. 2014-001106

9 CONSENT AGREEMENT, DECISION AND ORDER

10 IT IS HEREBY AGREED by the Department of Commerce, Community and Economic
11 Development, Division of Corporations, Business and Professional Licensing (Division), and Michelle
12 Butler (Butler) as follows:

- 13 1. **Licensure.** Butler holds Alaska Pharmacist Technician's License Number 3284 which was first
14 issued to her on July 7, 2010, and which will expire on June 30, 2014, unless renewed.
- 15 2. **Admission/Jurisdiction.** Butler admits and agrees that the Board of Pharmacy (Board) for
16 the State of Alaska has jurisdiction over the subject matter of her license in Alaska and over the
17 agreement.
- 18 3. **Facts.** Butler admits the following facts:
 - 19 a. To renew her Alaska pharmacist technician's license for the July 1, 2012 - June 30,
20 2014 (2012-2014) licensing period, AS 08.80.165 and 12 AAC 52.300(c) require Butler
21 to submit documentation that she has met all continuing education requirements under 12
22 AAC 52.325 *et seq.* These requirements include the completion of 10 contact hours of
23 acceptable continuing education during the concluding license period (July 1, 2010 to June 30,
24 2012).
 - 25 b. As part of the 2012-2014 Biennial Pharmacist Technician's License Renewal application,
Butler indicated she met the continuing education requirements in 12 AAC 52.325 *et seq.*
during the license period from July 1, 2010 through June 30, 2012.
 - c. On the renewal application, Butler certified by her signature dated June 6, 2012 the
information furnished in the license renewal application is true and correct. Butler's Alaska
pharmacist technician's license was renewed in reliance upon the information in that
application.
 - d. Under 12 AAC 52.350(a), Butler's renewal application was among the group randomly
selected for audit to monitor compliance with the continuing education requirements of 12
AAC 52. Following the renewal of her license, Butler was instructed to provide proof of
completion of the contact hours claimed on the renewal application.
 - e. In response to the audit, Butler submitted documentation of 8 contact hours of continuing
education completed between July 1, 2010 - June 30, 2012 that meet the requirements of 12
AAC 52.325 *et seq.*, as shown in Appendix A.

- 1 f. In addition, Butler submitted documentation purporting to show completion of 3 contact hours
2 of continuing education. However, these hours do not meet the requirements of 12 AAC
3 52.340, and cannot be used to satisfy the terms of her audit.
- 4 g. Butler admits that she lacks 2 contact hours of acceptable continuing education completed
5 between July 1, 2010 – June 30, 2012 to meet the continuing education requirements to
6 lawfully renew her Alaska pharmacist technician’s license for the 2012-2014 licensing period.
- 7 h. Butler acknowledges that as an Alaska-licensed pharmacist technician, it is her responsibility
8 to be continually aware of all laws and regulations pertaining to the practice of a pharmacist
9 technician in Alaska. Butler further acknowledges her individual responsibility as an Alaska-
10 licensed pharmacist technician to obtain the minimum number of credit hours of continuing
11 education that meet the requirements of 12 AAC 52.325 *et seq.* required to renew her license
12 during the concluding license period and to maintain evidence of compliance with the
13 continuing education requirement, under 12 AAC 52.325 *et seq.*
- 14 j. Butler admits that as a result of the above facts, grounds exist for the possible revocation,
15 suspension, and imposition of other disciplinary sanctions to her Alaska pharmacist
16 technician’s license pursuant to AS 08.01.075, AS 08.80.261, and 12 AAC 52.350(d).

17 **4. Formal Hearing Process.** It is the intent of the parties to the Consent Agreement to provide for
18 the compromise and settlement of all issues which could be raised by an Accusation to revoke,
19 suspend, or impose disciplinary sanctions against the license through a formal hearing process.

20 **5. Waiver of Rights.** Butler agrees she has the right to consult with an attorney of her own
21 choosing and that she has a right to an administrative hearing on the facts in the case. Butler
22 understands and agrees that by signing the Consent Agreement, she is waiving her rights to a
23 hearing. Further, Butler understands and agrees that she is relieving the Division of any burden it
24 has of proving the above facts. Butler further understands and agrees that by signing the Consent
25 Agreement, she is voluntarily and knowingly giving up her right to present oral and
documentary evidence, to present rebuttal evidence, to cross-examine witnesses against, and to
appeal the Board’s decision to Superior Court.

6. Effect of Nonacceptance of Agreement. Butler and the Division agree that the Consent
Agreement is subject to the approval of the Board. They agree that if the Board rejects the
agreement, it will be void and an accusation may be filed. If the agreement is rejected by the
Board, it will not constitute a waiver of Butler’s right to a hearing on matters alleged in an
accusation and any admissions contained herein will have no effect. Butler agrees that if the
Board rejects the agreement, the Board may decide the matter after a hearing, and its consideration
of the agreement alone shall not be grounds for claiming the Board is biased against her, that it
cannot fairly decide the case, or that it has received ex parte communication.

7. Consent Agreement, Decision and Order. Butler agrees that the Board has the authority to
enter into the Consent Agreement and to issue the following Decision and Order. Butler and the
Division agree that the Board may adopt the proposed Decision and Order in its entirety, or may
reduce the proposed penalty and adopt the balance of the proposed decision.

1 **DECISION AND ORDER**

2 **IT IS HEREBY ORDERED** that for her failure to comply with the continuing education
3 requirements of 12 AAC 52, as indicated on her 2010-2012 license renewal application, Butler
4 shall:

- 5 1) Be assessed a civil fine of **\$2,500.00** with **\$2,450.00** of that amount suspended subject to her
6 compliance with the all of the terms and conditions of the agreement, as described in section **A**
7 below. A violation of the agreement will result in the reinstatement of the suspended portion
8 of the fine under the conditions described in paragraph **G** of the agreement; and
- 9 2) Satisfy the continuing education requirements under 12 AAC 52 to renew the license for the
10 2012-2014 licensing period in accordance with the terms of the agreement, as described in
11 section **B** below; and
- 12 3) Have her pharmacist technician's license suspended and its reinstatement being subject to the
13 terms and conditions of the agreement described in section **C** below; and
- 14 4) Receive a reprimand from the Board as described in section **D** below; and
- 15 5) Comply with the terms of a mandatory audit of compliance with the continuing education
16 requirements for the next two periods that the license is subject to renewal. Satisfactory
17 documentation to verify Butler's compliance with the continuing education requirements must
18 be received prior to the processing of her renewal application.

19 **A. Civil Fine**

20 Butler shall pay the unsuspended portion of the civil fine in the amount of **\$50.00 within 90**
21 **days** of the date the agreement is adopted by the Board. The civil fine shall be paid in the
22 form of a cashier's check, personal check, or money order made payable to the State of
23 Alaska.

24 Payment of the civil fine will be sent to the attention of Charles Ward, Paralegal,
25 Department of Commerce, Community and Economic Development, Division of
Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-
0806.

Nonpayment of the fine in accordance with these terms will constitute a violation of the
agreement and will result in the reinstatement of any suspended amount in accordance with
paragraph **G** of the agreement.

B. Compliance with the Continuing Education Requirement

With the audit, Butler has provided documentation to verifying her completion of 8
approved contact hours completed between July 1, 2010 and June 30, 2012 as shown in
Appendix A.

Butler agrees to complete the remaining 2 contact hours of continuing education in an
approved program and report the completion to the Board **within 90 days** of the date the
Board sends notification of the acceptance of the agreement.

Any continuing education contact hours used to satisfy the requirement **may not** be applied
as hours to fulfill the continuing education requirement of any subsequent renewal period
of the license.

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C. Suspension

Butler agrees to complete the remaining 2 contact hours of continuing education in an approved program and report the completion to the Board **within 90 days** of the date the Board sends notification of the acceptance of the agreement. If she does not do this, her license will be suspended immediately when the 90th day passes. If her license is suspended, it will not be reinstated until such time that satisfactory documentation to verify completion of the continuing education required under the agreement has been received and approved by the board, or its designee.

Butler understands and agrees that in the event the license lapses for non-renewal while it is in suspended status, the license will be considered "lapsed while under suspension," and in order to reinstate the license:

- a. All terms of the agreement must be satisfied;
- b. All requirements pursuant to AS 08.80 and 12 AAC 52 to reinstate a lapsed pharmacist technician's license must be met.

Butler understands and agrees any reinstatement of her license is conditioned upon her compliance with the agreement, with AS 08.80 and all regulations adopted under that chapter pertaining to activities requiring a pharmacist technician's license in Alaska.

If satisfactory documentation that verifies Butler completed the 2 deficient hours of required continuing education on or after July 1, 2012 is received **prior to** the Board's adoption of the Agreement, or **within 90 days** of the date the Board sends notification of the acceptance of the agreement, then the provision to suspend Butler's license **will not** be imposed. All other terms and conditions of the agreement remain unchanged.

D. Reprimand

The Board of Pharmacy issues Butler the reprimand for her failure to complete the continuing education portion of the license renewal application accurately.

To renew the license for the 2012-2014 licensing period, AS 08.80.165 and 12 AAC 52.325(a) require Butler to complete 10 contact hours of continuing education in programs approved under 12 AAC 52.340 during the concluding license period. On her renewal application, Butler certified her compliance with the continuing education requirements in 12 AAC 52.

Subsequent to the renewal of the license, Butler was informed her license renewal application was among the group randomly selected for audit to monitor compliance with the continuing education requirements. Butler was requested to provide documentation to verify completion of the continuing education indicated on her renewal application. In response to the audit, Butler admits that she was unable to verify her completion of the minimum number of acceptable continuing education contact hours required under AS 08.80 and 12 AAC 52 for the renewal of the license.

The Board issues the renewal of these licenses in advance of requiring an applicant to provide documentation to verify completion of the reported continuing education contact hours based upon the applicant's affirmative certification that the requirement has been met. The Board expects each Alaska-licensed pharmacist technician's to be aware of all laws and regulations pertaining to the practice of pharmacy in Alaska and relies upon each

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applicant's honesty and integrity to respond to the question on the renewal application accurately.

Butler is hereby reprimanded for her inaccurate response on the renewal application and her failure to complete the minimum number of continuing education contact hours in approved programs during the concluding license period as indicated on her 2012-2014 license renewal application.

E. Mandatory Audit of Compliance with the Continuing Education Requirement

Butler's renewal application for her Alaska pharmacist technician's license will be subject to a mandatory audit for the following two renewal periods to ensure compliance with the continuing education requirements under AS 08.80 and 12 AAC 52.

It is understood and agreed that Butler's renewal application for the next two license periods will not be processed until documentation to verify Butler's successful completion of the required continuing education has been received and accepted by the Board or its agent (the Division).

Documentation of continuing education submitted for the mandatory audit is subject to Board approval. It is understood that the Board may disallow contact hours accepted by the division to process the renewal of the license. In accordance with 12 AAC 52.350(c), Butler agrees to complete any such disallowed contact hours in an approved program and report the completion to the board **within 90 days** of the date the board sends notification of the disallowed contact hours.

If Butler decides not to apply for renewal of the license during one or both of the renewal periods referenced above, then the terms of the Consent Agreement will remain in effect until such time as the license has been renewed subject to the audit for two renewal periods.

Butler understands that compliance with the mandatory audit must be made in advance of processing her license renewal. Butler accepts responsibility to provide the documentation and understands that she will receive no additional notice with the license renewal applications.

F. Compliance with Laws

Butler will obey all laws pertaining to her Alaska pharmacist technician's license and the practice of pharmacy in Alaska and any such violation which occurs during the period that the agreement is in effect will constitute a violation of the agreement.

G. Violation of Agreement

Should Butler fail to comply with any term or condition of the agreement, then the suspended portion of the civil fine will be reinstated, in addition to any other applicable fines or penalties authorized by law.

If a suspended portion of the civil fine is reinstated under the paragraph, then payment is immediately due and must be paid in the form of a cashier's check or money order payable to the State of Alaska and sent to the address of the board. The nonpayment of any such reinstated amount shall be grounds for the denial of the renewal of the license.

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Further, it is agreed that the violation of the agreement shall result in the automatic suspension of Butler's Alaska pharmacist technician's license. If her license is automatically suspended under the paragraph, she shall be entitled to an administrative hearing regarding the issue of the suspension in accordance with AS 44.62.

In the event Butler's license lapses for nonrenewal while in a suspended status, the license will be considered "lapsed while under suspension" and to reinstate the license:

- 1) all terms of the Consent Agreement must be satisfied; and
- 2) all requirements pursuant to AS 08.80 and 12 AAC 52 to reinstate a lapsed pharmacist technician's license must be met.

Butler agrees that failure to comply with a request by the Board or its agent to allow review of Butler's compliance with the conditions of the Consent Agreement shall be deemed a violation of the terms of the agreement.

H. Address of the Board

All communication concerning the Consent Agreement should be addressed to:
Charles Ward, Paralegal
Department of Commerce, Community and Economic Development
Alaska Division of Corporations, Business and Professional Licensing
P.O. Box 110806
Juneau, AK 99811-0806

It is the responsibility of the licensee to keep the Board's agent advised in writing of any changes of her current mailing address, current physical address, and telephone number. Failure to do so will be considered a violation of the agreement and shall constitute grounds for automatic suspension of her license in accordance with paragraph F above.

J. Good Faith

All parties agree to act in good faith to carry out the stated intentions of the Consent Agreement.

THE AGREEMENT SHALL TAKE EFFECT IMMEDIATELY UPON ITS ADOPTION BY THE BOARD and is a public record of the Board and the State of Alaska. The State may provide a copy of the agreement to any person, professional licensing board, federal, state, or local government agency, or other entity making a relevant inquiry. The disciplinary action taken by the Board in the agreement will be reported to the National Association of Boards of Pharmacy (NABP), U.S. Department of Health and Human Services/Healthcare Integrity and Protection Data Bank (HIPDB) and any other entity as may be required by law.

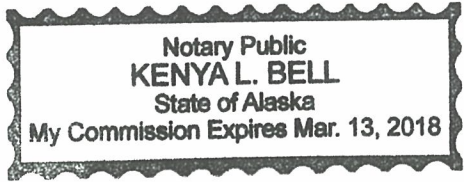
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ACCEPTANCE OF AGREEMENT

I, Michelle Butler am hereby entering into the Consent Agreement voluntarily and of my own free will. I declare that I am not under the influence of any medication, drugs or other substances that would affect my ability to consider the action clearly and rationally. I further declare that there have been no promises or threats made to me by anyone to compel me to sign the document. I have read the Consent Agreement in its entirety and understand its contents and agree to be bound by its terms and conditions.

DATED: 6/16/14 Michelle Butler
Michelle Butler

SUBSCRIBED AND SWORN TO before me the 16 day of June, 2014, at Anchorage, Alaska.



Kennya Bell
Notary Public in and for Alaska
My Commission Expires: 3.13.18

On behalf of the State of Alaska, Department of Commerce, Community and Economic Development, the undersigned, having read the Consent Agreement in its entirety, approves the terms and conditions of the agreement subject to its adoption by order of the Board of Pharmacy.

DATED the 27th day of June, 2014, at Juneau, Alaska.

SUSAN BELL, COMMISSIONER
Department of Commerce, Community and
Economic Development

By: Sara Chambers
Sara Chambers, Director
Division of Corporations, Business and
Professional Licensing

1 STATE OF ALASKA
2 DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
3 DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
4 BEFORE THE BOARD OF PHARMACY

3 In the matter of:)
4 MICHELLE BUTLER,)
5 Respondent)

Case No. 2014-001106

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8 ORDER

9 The Board of Pharmacy, for the State of Alaska, having examined the Consent Agreement and proposed
10 Decision and Order in the matter of MICHELLE BUTLER, Case No. 2014-001106, hereby adopts the
11 Consent Agreement and Decision and Order in the matter , effective immediately.

12
13 DATED the 7th day of AUGUST, 2014, at ANCHORAGE, Alaska.

14 BOARD OF PHARMACY

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17 By: 

18 Chairperson

Michelle Butler
13781 Hunterwood Ln
Eagle River, AK 99577

State of Alaska
Board of Pharmacy
C/O Mr. Charles Ward

June 16, 2014,

Dear Members of the Board of Pharmacy,

I am writing this letter to ask for your consideration concerning the deficiency in my continuing education hours in my last renewal period for my pharmacy technician license. It was my first renewal period since receiving my license.

I was instructed by the pharmacist where I worked to keep a record of the classes they were requiring me to take because they counted for continuing education hours. They indicated that these classes, including those I submitted for my license renewal, would count for my license renewal.

At that time I was new and had no reason not to trust them or the other people that had been practicing there for such a long time. I understand now that it is my personal duty to know that the hours are approved and not simply trust my supervisor's word.

After I responded to the audit of my credit hours, I got a letter from the pharmacy licensing board telling me I was short 2 hours because 3 of my hours were not approved. I then responded with a letter of apology and asked for further instruction about what I needed to do to fix it.

My next contact regarding the continuing education hours was a letter almost two years later explaining that I am having action taken against me. I am asked to sign an agreement regarding the outcome of this matter where I am assessed a fine, given a reprimand, and asked to submit my hours ahead of renewal for the next two renewal cycles.

Although I have signed the agreement to avoid further penalty for missing the deadline, I was surprised that my initial request for clarification went unanswered. I know that you do not need to believe me nor forgive this act. I am asking for consideration, please. Receiving a reprimand and fine for something that was an innocent mistake on my part seems unfair. I now realize that it is important for me to personally verify that all the credits are approved before I submit them. In the future, I will personally verify that all credits are acceptable and will not simply trust the word of someone else, not even my employer, who had an interest in my retaining my license.

Since I received the first notice of my hours being deficient, I have not been working due to a prolonged health issue. I made every effort possible to respond to the notice and comply with state pharmacy regulations. I do wish to retain my pharmacy technician license at this time in hope that I will be able to return to work in this field.

I take this matter very seriously and I try to be honest and work very hard at making sure I do things right. I have learned an important lesson and am asking for your forgiveness, please, and if there is any room for reconsideration regarding the discipline I am to be given.

Sincerely,



Michelle Butler

POWER-PAK C.E.[®]

STATEMENT OF CONTINUING PHARMACY EDUCATION CREDIT

ACCREDITED PROVIDER

NAME:

Postgraduate Healthcare
Education, LLC

ACPE UAN

0430-0000-13-021-H03-T

ACTIVITY TYPE

Knowledge

ACTIVITY INFORMATION

TITLE:

FDA Pharmaceutical Labeling
Requirements: Promoting Safe Use of
"Approved as Safe" Yet Risky Drugs

RELEASE DATE:

8/1/2013

EXPIRATION DATE:

8/31/2015

PARTICIPANT INFORMATION

NAME:

michelle butler

ADDRESS:

13781 Hunterwood Ln

CITY, STATE, ZIP:

Eagle River, AK 99577

CREDIT INFORMATION

CREDITS EARNED:

2.00

QUESTIONS MISSED:

STATEMENT ISSUED ON: 5/31/2014

AUTHORIZED
SIGNATURE



Susanne Batesko, RN, BSN