

JUL 27 2004

BOARD OF
AUD/HAD/S

IN THE MATTER OF

*

BEFORE THE STATE BOARD

LARISSA S. MELNYK, S.L.P.

*

OF EXAMINERS FOR

License No. 03601

*

AUDIOLOGISTS, HEARING AID

Respondent

*

DISPENSERS AND SPEECH-

*

LANGUAGE PATHOLOGISTS

* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists (the "Board"), and subject to Md. Health Occ. Ann. § 2-101, et seq., (the "Act"), (2000 Repl. Vol.) the Board charged Larissa S. Melnyk, S.L.P., (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of the following provisions of § 2-314:

Subject to the hearing provisions of § 2-315 of this subtitle, the Board may deny a license or limited license to any applicant, reprimand any licensee or holder of a limited license, place any licensee or holder of a limited license on probation, or suspend or revoke a license or limited license if the applicant or licensee, or holder:

- (3) Commits fraud or deceit in the practice of ... speech-language pathology;
- (10) Commits any act of unprofessional conduct, as defined by the regulations of the Board, or violates any code of ethics adopted by the Board;
- (11) Violates any lawful order given or regulation adopted by the Board;
- (12) Violates any provision of this title;

- (16) Willfully makes or files a false report or record in the practice of audiology, the provision of hearing aid services, or the practice of speech-language pathology[;].

The Board further charged that the Respondent violated the following section of its Code of Ethics, Code Md. Regs. tit. 10 § 41.02 (January 6, 2003):

.02 Ethical Responsibilities

- A. The licensee shall consider paramount the welfare of individuals served professionally.

The Respondent was given notice of the issues underlying the Board's charges by letter dated February 19, 2004. Accordingly, a Case Resolution Conference was held on May 20, 2004, and was attended by Richard Robinson, SPL, Steve Syche, Audiologist, and Kim Webster, SLP, Board members, Barbara Curtis, Administrator of the Board, and Suellen Wideman, Assistant Attorney General, Acting Counsel to the Board. Also in attendance were the Respondent and her attorney, Nancy E. Gregor, and the Administrative Prosecutor, Roberta Gill.¹

Following the Case Resolution Conference, the parties and the Board agreed to resolve the matter by way of settlement. The parties and the Board agreed to the following:

¹ Also in attendance, in an observational manner only were Jazmine Murchinson, Ms. Gill's student mentee, and André Melnyk, the Respondent's husband.

FINDINGS OF FACT

1. At all times relevant to the charges herein, Respondent was licensed to practice speech-language pathology in the State of Maryland. The Respondent was first licensed on May 22, 1998. The Respondent's license expires May 31, 2006.

2. At all times relevant hereto, the Respondent was employed as a speech-language pathologist at the Frederick County Developmental Center, Frederick County Infants and Toddlers Program (FCITP) in Frederick County, Maryland. The Respondent was hired in August 1999 and worked there until her resignation in December 2002.

3. On October 30, 2002, the parent of a child that had received services from the FCITP contacted a program manager to inquire about public and private speech and language services for her son. The parent was concerned that she had not received this vital information while her son was in the program. Upon checking the file, the program manager looked in the patient's file and discovered that the parent had reportedly received the information and had signed a "six month treatment plan."

4. While examining the file, the program manager noticed that the signatures on the "initial" and "six month" treatment plans appeared to be different. When she asked the Respondent if she wished to share any information with her about why the signatures appeared to be different before she sent a copy of the plan to the parent, the Respondent stated that she saw no differences and that the document could be sent to the parent. Thereafter, the program manager prepared a cover letter and copies of the treatment plans and placed them in the "outgoing" mail basket to be sent to the family.

5. On December 4, 2002, the parent contacted the program manager by certified mail and then by telephone, inquiring why the matter had not been followed up.

The parent reported that she had not received the documents following their discussion on October 30, 2002. The parent stated that the Respondent had hand-delivered the documents to her shortly after their telephone conversation of October 30th and that the Respondent disclosed that she had forged the parent's signature and asked the parent not to tell her supervisor.

6. Thereafter, the Respondent continued to call the parent's home for several consecutive days. The parent stated that the Respondent had been crying uncontrollably, begging the parent not to tell her supervisor that she—the Respondent—had signed the document as the parent.²

7. The Director of the FCITP met with the Respondent, along with the program manager, the Assistant County Attorney and the Director of Human Resources. The Director of the FCITP informed the Respondent that she was placed on administrative leave with pay pending the outcome of the investigation of the forgery of the parent's signature. The Respondent admitted at that meeting that she had forged the document.³

8. As set forth above, a licensee, who forges patient treatment documents and tries to involve others in the dishonest scheme, is in violation of the Act and regulations thereunder.

² The parent also related that she and the Respondent had socialized on a couple of occasions prior to that incident, including having the parent color the Respondent's hair.

³ The ramifications were that all documentation by the Respondent was questioned as to whether the assessments were actually conducted and whether the parents were informed of their options. For example, whereas the patient involved in this instance could have received free speech language sessions, his parents had to pay for private sessions because of his termination from the program by the Respondent's signature. Frederick County agreed to reimburse the parents for six of those private sessions.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that the Respondent violated § 2-314 (3), (10), (11), (12) and (16) of the Act. The Board also finds that the Respondent violated Code Md. Regs. tit. 10 § 41.02.02 A.

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 6 day of August, 2004, by a majority of a quorum of the Board,

ORDERED that the Respondent is hereby **REPRIMANDED**.

ORDERED that, once the Respondent begins working again as a speech language pathologist,⁴ the Respondent be placed on two years' Probation, subject to the following conditions:

1. The Respondent shall take, pass and document to the Board a Board-pre-approved ethics course;
2. The Respondent shall take, pass and document to the Board a Board-pre-approved early intervention course;
3. The Respondent shall pay to the Board a fine/monetary penalty of Five Hundred Dollars (\$500);

⁴ The Respondent is not presently working as a speech-language pathologist due to the recent birth of her baby. Once she begins to work, she is to notify the Board of said employment in order to start the commencement of the probationary period.

4. The Respondent's records shall be subject to a periodic review by the Board or an agent thereof.

ORDERED that the Consent Order is effective as of the date of its signing by the Board, in all aspects other than the start of the Probationary period and any conditions thereunder; and be it

ORDERED that should the Board receive in good faith information that the Respondent has substantially violated the Act or if the Respondent violates any conditions of this Order or of Probation, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including suspension or revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order or of Probation shall be on the Respondent to demonstrate compliance with the Order or conditions; and be it

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice of speech-language pathology in Maryland; and be it further

ORDERED that, at the end of the Probationary period, the Respondent may petition the Board to be reinstated without any conditions or restrictions on her license, provided that she can demonstrate compliance with the conditions of this Order. Should the Respondent fail to demonstrate compliance, the Board may impose additional terms and conditions of Probation, as it deems necessary;

ORDERED that for purposes of public disclosure, as permitted by Md. State Govt. Code Ann. §10-617(h) (Repl. Vol. 1999), this document consists of the contents of the

foregoing Findings of Fact, Conclusions of Law and Order and that the Board may also disclose same to any national reporting data bank that it is mandated to report to.


Richard M. Robinson, Chair
State Board of Examiners for
Audiologists, Hearing Aid Dispensers
and Speech-Language Pathologists

CONSENT OF LARISSA S. MELNYK, S.L.P.

I, by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, Nancy E. Gregor, and have been advised by counsel of the legal implication of signing this Consent Order;
2. I am aware that without my consent, my license to practice speech-language pathology in this State cannot be limited except pursuant to the provisions of § 2-101 of the Act and the Administrative Procedure Act (APA) Md. State Govt. Code Ann. §10-201, et seq., (1999 Repl. Vol. and 2003 Supp.).
3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

Although I do not agree with all of the Findings of Fact or Conclusions of Law in the Consent Order and would, if an evidentiary hearing were held, demand strict proof thereof and would vigorously cross-examine all witnesses against me and mount a defense, in order to settle this matter without the time and expense of a hearing, I hereby consent to the foregoing Findings of Fact, Conclusions of Law and Order, provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in § 2-315 of the Act and §10-201, et seq., of the APA, and any right to appeal as set forth in § 2-316 of the Act and §10-201, et seq., of the APA. I acknowledge that my failure to abide by the conditions set forth in this Order and following proper procedures, I may suffer disciplinary action, possibly

including revocation, against my license to practice speech language pathology in the State of Maryland.

7/9/04
Date

Larissa S. Melnyk, MS, CCC-SLP
Larissa S. Melnyk, S.L.P.

STATE OF Maryland

CITY/COUNTY OF Frederick/Frederick

I HEREBY CERTIFY that on this 9 day of July, 04, before me, Melanie Larson ~~Larissa S. Melnyk~~, a Notary Public of the foregoing State and (City/County), personally appeared Larissa S. Melnyk, S.L.P., License No. 03601, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Melanie Larson
Notary Public

My Commission Expires: MELANIE LARSON
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires May 09, 2008