

**BEFORE THE WEST VIRGINIA BOARD OF EXAMINERS FOR  
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY**

WEST VIRGINIA BOARD OF EXAMINERS  
FOR SPEECH LANGUAGE PATHOLOGY  
AND AUDIOLOGY,

Complainant,

v.

Case No. 47  
SLP License #SLP-1391

EMILY BALLARD,

Respondent.

**CONSENT DECREE**

COMES NOW, Respondent, Emily Ballard (hereinafter “Ballard”), and the West Virginia Board of Examiners for Speech-Language Pathology and Audiology (hereinafter “the Board”), for the purpose of resolving a Complaint filed against Ballard. Pursuant to West Virginia Code § 30-32-19(d), the Board and Ballard may enter into a Consent Decree to resolve the complaint in lieu of a hearing. As reflected herein, the parties have reached an agreement in which Ballard agrees and stipulates to the Findings of Fact and Conclusions of Law set forth in this Consent Decree concerning the proper disposition of this matter. The Board, having approved such agreement does hereby find and **ORDERS** as follows:

**FINDINGS OF FACT**

1. Ballard is a speech-language pathologist, holding License No. SLP-1391, originally issued by the Board on August 6, 2012.
2. From January 1, 2014 until April 9, 2016, Ballard was employed as a Speech Language Pathologist (“SLP”) at Marden Rehabilitation Services of West Virginia (“Marden”), located at 200 Putnam Street, Suite 800, in Marietta, Ohio.

3. On or about May 18, 2016, the Board received a complaint from Marden alleging that on multiple occasions Ballard submitted false time records in order to obtain wages for services she did not provide.

4. Marden conducted an investigation of Ballard and concluded that Ballard falsified documentation and reported patient visits on at least five (5) occasions.

5. Upon investigation, the Board determined that probable cause existed that Ballard violated the following provisions of the West Virginia Code and Legislative Rules governing the conduct of speech pathologists:

a. Violations of West Virginia Code § 30-32-19:

i. Being guilty of unprofessional conduct as defined by legislative rule of the Board. W. Va. Code § 30-32-19(g)(3).

b. Violations of Legislative Rules:

i. Individuals shall not charge for services not rendered, nor shall they misrepresent, in any fashion, services rendered or products dispensed. W. Va. Code R. § 29-5-2.4.b.10.

ii. Individuals shall not misrepresent diagnostic information, services rendered, or products dispensed or engage in any scheme or artifice to defraud in connection with obtaining payment or reimbursement for such services or products. W. Va. Code R. § 29-5-2.6.a.3.

iii. Individuals shall not engage in dishonesty, fraud, deceit, misrepresentation, or any form of conduct that adversely reflects on the professions or the individual's fitness to serve persons professionally. W. Va. Code R. § 29-5-2.7.b.2.

## **CONCLUSIONS OF LAW**

1. The Board is a state entity and is authorized to regulate conduct of speech pathologists and audiologists, and is charged with the responsibility to protect the health, safety and welfare of the public through its regulation of speech pathologists and audiologists. W. Va. Code § 30-32-1, *et al.*

2. The Board may suspend or revoke the license or registration of, impose probationary conditions upon or take disciplinary action against, any licensee who has engaged in conduct, practices or acts in violation of the standards of professional conduct as set forth in the governing statutes or legislative rules. W. Va. Code § 30-32-19.

3. The Board is authorized to enter into a Consent Decree to resolve a Complaint without further adjudication. W. Va. Code § 30-32-19(d).

## **CONSENT**

1. By signing below, Ballard agrees that she has had the opportunity to consult with counsel and executes this Consent Decree voluntarily, freely, without compulsion or duress, and is mindful that it has legal consequences. No person or entity has made any promise or given any inducement whatsoever to encourage Ballard to make this settlement other than as set forth herein.

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

3. The Board acknowledges that Ballard may reject this proposal. If the proposal is rejected, the Board will hold a Hearing to impose such sanctions of a disciplinary nature as it

deems appropriate. Should Ballard not approve this Consent Decree, Ballard waives any objections to the Board or any of its members participating in the adjudication of this matter.

4. Ballard understands that this Consent Decree and the underlying Complaint are public records and agrees that the sum and substance of the Complaint and this Consent Decree in part or in their entirety may be set forth in Board publications and placements deemed appropriate by the Board.

5. Ballard acknowledges that proof of any misstatement or misrepresentation made in connection with this matter will result in the rescission of this Consent Decree, the reinstatement of the Complaint, and the addition of any charges which may arise or ensue from providing false information to the Board in violation of West Virginia law as it pertains to the practice of speech-language pathology.

6. Ballard has reviewed and consents to the following order affecting her license to practice speech pathology in the State of West Virginia.

### **ORDER**

1. Based on the foregoing and upon entry of this Consent Decree, the Board hereby **ORDERS** that this Consent Decree shall serve as an informal settlement of the Complaint.

2. Ballard shall pay a fine in the amount of Five Hundred Dollars (\$500.00), payable within sixty (60) days of execution of this Consent Decree.

3. Ballard's licensed is placed on probation for a period of two (2) years from the date of execution of this Consent Decree.

4. Ballard's employer must be notified in writing of the two (2) year probation and be provided with a copy of this Consent Decree. Ballard must verify in writing to the Board that her employer has been notified of her probation and received a copy of this Consent Decree.

5. Ballard's License is subject to two (2) years of supervised practice. Supervise practice means following the rules for supervision of a Provisional Licensee set forth under W.

Va. Code R. §§ 29-1-12.6 through 29-1-12.9, as follows:

12.6. Only individuals holding current West Virginia licensure in speech-language pathology or audiology and the ASHA Certificate of Clinical Competence (CCC) are eligible to supervise applicants during the postgraduate professional experience. Applicants may obtain names of qualified individuals from the Board.

12.7. Supervision of the clinical fellow shall include direct observation of diagnostic and therapeutic procedures. Other supervisory activities include:

12.7.a. Conferring with the clinical fellow concerning clinical treatment strategies;

12.7.b. Monitoring changes in patients' communication behaviors;

12.7.c. Evaluating the clinical fellow's clinical records, including

12.7.c.1. Diagnostic reports;

12.7.c.2. Treatment records;

12.7.c.3. Correspondence;

12.7.c.4. Plans of treatment; and

12.7.c.5. Summaries of clinical conferences.

12.7.d. Monitoring the clinical fellow's participation in case conferences;

12.7.e. Monitoring the clinical fellow's work by professional colleagues' evaluation of the clinical fellow;

12.7.f. Monitoring the clinical fellow's work by patients and their families evaluation of the clinical fellow; and

12.7.g. Monitoring the clinical fellow's contributions to professional meetings and publications, as well as participation in other professional growth opportunities.

12.8. The supervisor may conduct items 12.7.c.3 through 12.7.g by correspondence. Clinical fellowship year supervision shall entail the personal and direct involvement of the supervisor in any and all ways that will permit the clinical fellowship year supervisor to monitor, improve and evaluate the clinical fellow's performance in the professional employment. The clinical fellowship year supervisor shall base the total evaluation on no less than 36 direct supervisory activities and/or observations during the clinical fellowship year. The supervisor shall include 18 on-site observations of the clinical fellow in the following manner:

12.8.a. 1 hour = one on-site observation (up to 6 hours may be accrued in one day); and

12.8.b. at least 6 on-site observations shall be accrued during each third of the experience.

12.8.c. The clinical fellowship year supervisor shall complete 18 other monitoring activities (at least one per month).

12.9. Since one purpose of the clinical fellowship year is to improve the clinical effectiveness of the clinical fellow, supervisors shall share and discuss their evaluations with the clinical fellow throughout the clinical fellowship year. The Board recommends that written evaluations be used during these discussions. Where multiple supervisors are utilized, it is the responsibility of the clinical fellow to collate the evaluations and clinical fellowship year reports from all supervisors and be responsible for certifying that all state licensure requirements are met. All supervisors shall hold West Virginia licensure in the appropriate area and the ASHA Certificate of Clinical Competence (CCC).

6. Ballard's supervisor must be approved by the Board.

7. Ballard's supervisor is required to submit quarterly reports to the Board, at no cost to the Board. It is Ballard's duty to ensure her supervisor's quarterly reports are timely submitted to the Board.

8. Any violation of the terms of this Consent Decree will result in further disciplinary action by the Board, as deemed necessary by the Board.

9. The Consent Decree constitutes a full and final settlement of this matter, and nothing in this Consent Decree or the circumstances giving rise to the same may be the subject of any appeal or other civil or administrative action by this Board, except for an action to enforce the terms of this Consent Decree.

10. This matter shall be closed upon the execution of this Consent Decree by both parties and upon the satisfactory completion of the terms contained within this Consent Decree.

**AGREED TO BY:**

Emily E. Ballard  
Emily Ballard, Licensee

9-21-16  
Date

Michael J. Zagarella  
Dr. Michael J. Zagarella  
President, West Virginia Board of Examiners  
For Speech-Language Pathology and Audiology

11-4-16  
Date

Patty Nesbitt  
Patty Nesbitt, Administrative Services Manager  
West Virginia Board of Examiners for Speech-  
Language Pathology and Audiology

9/14/16  
Date

cc: Charles E. Stalnaker, Esquire  
Attorney at Law