

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

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

Complainant,

V.

**JOSEPH LOUIS GARCIA,
License No. SLP-1301,**

Respondent.

CONSENT DECREE

The Respondent, Joseph Louis Garcia (hereinafter "Respondent"), and the West Virginia Board of Examiners for Speech-Language Pathology and Audiology (hereinafter "Board"), execute this Consent Decree for the purpose of resolving the above complaint filed against Respondent. As reflected in this Consent Decree, the parties have reached an agreement in which Respondent agrees and stipulates to the Finds of Fact, Conclusions of Law and Order set forth herein concerning the proper disposition of this matter. The Board, having approved such agreement, does hereby Find and Order as follows:

Findings of Fact

1. On January 22, 2012 the Board filed a complaint (docketed by the Board as Complaint No. 37) alleging that the Respondent aided and abetted unlicensed practice at Berkeley Springs Rehab and Nursing Center of an employee of Enduracare Therapy Management from January 17, 2011 through January 6, 2012.
2. After an investigation, including conversations with the Respondent, Respondent's employer and the unlicensed Provisional Speech-Language Pathologist under the Respondent's supervision, the Board concludes the Respondent supervised and co-signed for services provided by Vanessa Marie McCullough, an unlicensed Provisional Speech-Language Pathologist, an employee of Enduracare Therapy Management at Berkeley Springs Rehab and Nursing Center in Berkeley Springs, WV.
3. The Board does believe the Respondent assumed the Provisional Speech-Language Pathologist under his supervision did not require a license and could practice under the Respondent's West Virginia Speech-Language Pathology license. The Board concludes, however, it was the Respondent's responsibility to know the Law and Legislative Rules that regulate the Speech-Language Pathology profession in West Virginia and therefore, find the following Conclusions of Law.

Conclusions of Law

4. That the Board is a State entity created by W.V. Code §30-32-1 *et seq.* and is empowered to regulate the practice of Speech-Language Pathology and Audiology.

5. That the Board is empowered to suspend, revoke or otherwise discipline an individual's Speech-Language Pathology and/or Audiology license under the authority granted to it by WV Code §30-32-1 *et seq.*
6. The Board has adopted a Code of Ethics, and stated that discipline may be instituted for violating any lawful order given, or rule adopted by the Board. *See* WV Code R. §29-5-1 *et seq.* *See also* WV Code §30-32-17 (b)(13).
7. West Virginia Code §30-32-17 (b)(4) states, in pertinent part, "The Board may take disciplinary actions for conduct that may result from but not necessarily to be limited to: "(4) Aiding or abetting unlicensed practice." The Respondent is in violation of this law by knowingly and willingly supervising an unlicensed Provisional Speech-Language Pathologist.
8. West Virginia Code §30-32-17 (b)(5) states, in pertinent part, "(5) Committing fraud or deceit in the practice of Speech-Language Pathology or Audiology, including but not limited to:
 - (i) Willfully making or filing a false report or record in the practice of Speech-Language Pathology or Audiology,
 - (ii) Submitting a false statement to collect a fee

The Respondent is in violation of this law rule by knowingly and willfully co-signing for services provided by an unlicensed Provisional Speech-Language Pathologist under his supervision.

9. West Virginia Code §30-32-17 (b)(9) states, in pertinent part, "The Board may take disciplinary actions for conduct that may result from but not necessarily limited to: "(9)Committing any act of dishonorable, immoral or unprofessional conduct while engaging in the practice of Speech-Language Pathology or Audiology." The

Respondent is in violation of this law rule by knowingly and willingly supervising and co-signing for services provided by an unlicensed Provisional Speech-Language Pathologist.

10. West Virginia Code Rule §29-5-2.6.a.3 states “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.” Respondent in is violation of this rule by knowingly and willingly supervising and co-signing for services provided by an unlicensed Provisional Speech-Language Pathologist.
11. West Virginia Code Rule §29-5-2.7.b.2 states, “Individuals shall not engage in dishonesty, fraud, deceit, misrepresentation, or any form of conduct that adversely reflects on the professions or on the individual’s fitness to serve persons professionally.” Respondent is in violation of this rule by knowingly and willingly supervising and co-signing for services provided by an unlicensed Provisional Speech-Language Pathologist.
12. West Virginia Code §30-32-17 (b)(13) states, in pertinent part, “The Board may take disciplinary actions for conduct that may result from but not necessarily be limited to: “Violating any provision of this article, or any lawful order given, or rule adopted by the Board.” As set forth above in numbered paragraphs 7-12, Respondent is in violation of the law.
13. Because of the violation of West Virginia Code §§30-32-17 (b)(4), (b)(5), (b)(9), and (b)(13), West Virginia Code Rule §§29-5-2.6.a.3 and 2.7.b.2, Respondent is subject to disciplinary action.

Consent

Respondent, by signing below, agrees to the following:

1. West Virginia law allows a person to practice Speech-Language Pathology and Audiology only upon issuance of a license by the Board. WV Code §30-32-1 *et seq.*
2. The Board is authorized to “impose probationary conditions” when the holder acts in a manner prohibited by statute. *See* WV Code §30-32-17.
3. Respondent has had the opportunity to consult with counsel and executes this Consent Decree voluntarily, freely, without compulsion or duress and mindful that it has legal consequences. No person or entity has made any promise or given any inducement whatsoever to encourage Respondent to make this settlement other than as set forth herein. Respondent acknowledges that he may pursue this matter through appropriate administrative remedies, and is aware of his legal rights regarding this matter, but intelligently and voluntarily waives such rights.
4. Respondent consents to the entry of the following Order affecting his license as a Speech-Language Pathologist in the State of West Virginia.

Order

On the basis of the foregoing and with the agreement of the Respondent, the Board hereby **ORDERS** as follows:

1. Respondent’s license is hereby placed on **PROBATION** for a period of two (2) years.

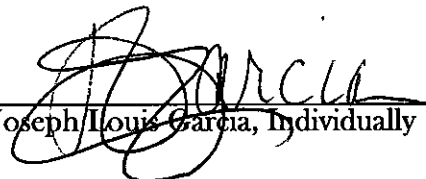
2. Respondent shall not provide supervision of, including but not limited to, CFY/Provisional licensees or speech assistants for a period of two (2) years.
3. The Respondent shall inform employer(s) of the probationary status of his Speech-Language Pathology license to practice. Respondent shall provide proof of such notification to the Board.
4. Respondent shall provide to the Board documentation of formal training in supervision, e.g., ASHA
5. Respondent shall provide quarterly self-reports to the Board submitted on a form supplied by the Board.
6. Respondent shall pay a fine of \$500. The fine is to be paid within thirty (30) days.

*Note - Fine of \$500 received by the Board from the Respondent on 02/27/2012 -
Deposited to WV General Revenue Fund on 02/27/2012

7. Any deviation from the requirements of this Order, without the prior written consent of the Board, shall constitute a violation of this Consent Decree, and result in the immediate suspension of Respondent's license for the remainder of the probation in effect by this Order. The Board shall immediately notify Respondent via certified mail of the specific nature of the charges, and the suspension of Respondent's license. In the event Respondent contests an alleged violation of this Consent Decree which results in the suspension of Respondent's license, Respondent may request a hearing to seek reinstatement of his license. The hearing shall be scheduled and conducted in accordance with the provisions of West Virginia Code §§ 30-1-8 and 30-32-1 *et seq.*

Further, in the discretion of the Board and in the event Respondent violates the provisions of This Consent Decree, the Board may schedule a hearing on its own initiative for the purpose of allowing the Board the opportunity to consider further discipline against Respondent's license.

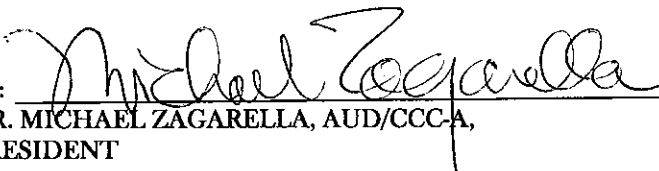
CONSENT DECREE AGREED TO BY:

 MS-CCC/SLP 7/6/12
Joseph/Louis Garcia, Individually DATE

ENTERED into the records of the Board of Examiners for Speech-Language Pathology and Audiology this:

9th Day of May, 2012

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

By:  5-7-12
DR. MICHAEL ZAGARELLA, AUD/CCC-A, DATE
PRESIDENT

**WEST VIRGINIA BOARD OF EXAMINERS FOR
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