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AUG 11 2009
The Ohio Board of Speech-Language Pathology and Audiology



Case No. 2009-21

# CONSENT AGREEMENT BETWEEN JENNIFER S. POWERS AND OHIO BOARD OF SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

This CONSENT AGREEMENT is entered into by and between Jennifer S. Powers (hereinafter "Ms. Powers" or Respondent), and the OHIO BOARD OF SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY (hereinafter "Board"), the state agency charged with enforcing Chapter 4753 of the Ohio Revised Code and all rules promulgated thereunder.

Ms. Powers voluntarily enters into this CONSENT AGREEMENT being fully informed of her rights under Chapter 119 of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues, which are the subject of this CONSENT AGREEMENT.

This CONSENT AGREEMENT contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this CONSENT AGREEMENT.

This CONSENT AGREEMENT is entered into on the basis of the following STIPULATIONS, ADMISSIONS AND UNDERSTANDINGS:

1. The Board is empowered by Chapter 4753 of the Ohio Revised Code and the rules promulgated thereunder to discipline a speech-language pathologist or audiologist for violations of that chapter and rules.

2. The Board enters into this CONSENT AGREEMENT in lieu of further formal proceedings. The Board expressly reserves the right to institute additional formal proceedings based upon any other violations of Chapter 4753 of the Ohio Revised Code and all rules promulgated thereunder.

3. Ms. Powers admits the following events:

   a) She received her Speech-Language Pathology license, License Number SP.6055, on June 25, 1999 and it expired on December 31, 2008.

   b) She failed to notify the Board of a change of address within thirty days of said change. Three 2009-2010 Renewal Notices were mailed to the address on file of which none were returned to the Board office.

   c) She failed to renew in a timely manner by December 31, 2008.

   d) She practiced without a valid license for sixty-eight (68) days during the period of January 1, 2009 through March 10, 2010, at North College Hill City Schools, 1498 W. Galbraith Road, Cincinnati, OH 45231, in violation of Ohio Revised Code section 4753.02 – Unauthorized practice.

   e) Ms. Powers regained full licensure as a speech-language pathologist on Tuesday, March 10, 2009, License Number SP.6055.

f) Ms. Powers was issued a 2008 Continuing Education Audit for Late Renewal. She was in full compliance.

4. Ms. Powers wishes to settle this matter in lieu of a hearing pursuant to Ohio Revised Code, Chapter 119.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any further formal proceeding at this time, Ms. Powers knowingly and voluntarily agrees with the Board to the following terms and conditions:

Received
AUG 11 2009
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A.

1) Due to this being the Respondents first offense, License Number SP.6055, shall be suspended for sixty-eight days, staying half. The suspension shall apply as follows: two days to commence on Wednesday, August, 19, 2009 through Thursday, August 20, 2009; one day to commence on Sunday, August 23, 2009; two days to commence on Wednesday, August 26, 2009 through Thursday, August 27, 2009; two days to commence on Saturday, August 29, 2009 through Sunday, August 30, 2009; two days to commence on Wednesday, September 2, 2009 through Thursday, September 3, 2009; three days to commence on Saturday, September 5, 2009 through Monday, September 7, 2009; two days to commence on Wednesday, September 9, 2009 through Thursday, September 10, 2009; two days to commence on Saturday, September 12, 2009 through Sunday, September 13, 2009; one day to commence on Thursday, September 17, 2009; two days to commence on Saturday, September 19, 2009 through Sunday, September 20, 2009; two days to commence on Wednesday, September 23, 2009 through Thursday, September 24, 2009; two days to commence on Saturday, September 26, 2009 through Sunday, September 27, 2009; two days to commence on Wednesday, September 30, 2009 through Thursday, October 1, 2009; two days to commence on Saturday, October 3, 2009 through Sunday, October 4, 2009; one day to commence on Wednesday, October 7, 2009; two days to commence on Wednesday, October 14, 2009 through Thursday, October 15, 2009 and one day to commence on Saturday, October 17, 2009.

2) The Respondent shall complete and additional fifteen hours of continuing education on the topic of ethics. Proof of these fifteen hours shall be submitted to the Board office ninety days from the date this Consent Agreement is approved by the Board.

3) The Respondent will be audited for continuing education for the next three renewal cycles.

4) The Respondent shall henceforth comply with Chapter 4753 of the Ohio Revised Code and all other federal and state statues and rules governing the practice of speech-language pathology in the state of Ohio.

B. If, in the discretion of the Board Ms. Powers appears to have breached any terms or conditions of this CONSENT AGREEMENT, the Board reserves the right to institute formal disciplinary proceedings against her. Any action initiated by the Board based on

an alleged violation of this CONSENT AGREEMENT shall comply with the Administrative Procedures Act, Chapter 119 of the Ohio Revised Code.

C. In exchange for the agreements of Ms. Powers set forth in this CONSENT AGREEMENT, the BOARD agrees not to proceed further with any disciplinary action against Ms. Powers for the matters enumerated under STIPULATIONS, ADMISSIONS AND UNDERSTANDINGS.

Received
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Ohio Board of Speech-Language Pathology and Audiology

D. This CONSENT AGREEMENT shall not in any way or manner limit or affect the authority of the BOARD to proceed against Ms. Powers by initiating a Notice of Opportunity for Hearing or by other appropriate means on the basis of any act, conduct or admission of Ms. Powers justifying disciplinary action, which occurred before or after the date of this CONSENT AGREEMENT and not directly related to the specific facts and circumstances hereinabove set forth as the STIPULATIONS, ADMISSIONS AND UNDERSTANDINGS.

E. By her signature on this agreement, Ms. Powers agrees that in the event the BOARD, in its discretion, does not approve this CONSENT AGREEMENT, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party.

F. Ms. Powers agrees that should the BOARD reject this CONSENT AGREEMENT and if this case proceeds to a hearing, she will assert no claim that the BOARD was prejudiced by its review and discussion of this CONSENT AGREEMENT or of any information relating thereto.

G. Ms. Powers waives any and all claims or causes of action she may have against the State of Ohio, the BOARD, and members, officers, employees and/or agents of either, arising out of matters which are the subject of this CONSENT AGREEMENT.

H. Ms. Powers hereby releases the Board, its members, officers, employees, representatives and/or agents jointly and severally from any and all liability arising from the matters, which are the subject of this CONSENT AGREEMENT.

I. Ms. Powers waives all her rights under Chapter 119 of the Ohio Revised Code, as they relate to matters, which are the subject of this CONSENT AGREEMENT.

J. Ms. Powers agrees that any breach of this CONSENT AGREEMENT shall be deemed to be a violation of a lawful order given by the Board, pursuant to Ohio Revised Code Section 4753.10(M).

K. This CONSENT AGREEMENT shall be reflected in the Minutes of a regularly scheduled BOARD Meeting, and as a Formal Action recorded on the license history of Ms. Powers, license number SP.6055, originally issued on June 25, 1999.

L. This CONSENT AGREEMENT shall be considered a public record as that term is used in Section 149.43 of the Ohio Revised Code.

M. For purposes of this CONSENT AGREEMENT, formal notification consists of written notice to the following: (1) Ohio licensees receiving any newsletter issued by the

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BOARD; (2) individuals/organizations who have requested formal notification of BOARD actions; and (3) the Healthcare Integrity Protection Data Bank (HIPDB), and/or any reporting required by the federal legislation creating HIPDB or any similar state or federal legislation. Further, Ms. Powers agrees to cooperate with the BOARD in providing any information required for the BOARD to complete such a mandated report within the required time period(s).

N. Ms. Powers agrees that the BOARD may release her social security number to organizations that are legally required to request it for tracking or monitoring purposes. Ms. Powers acknowledges that by signing this CONSENT AGREEMENT she knowingly and voluntarily waives any expectation of privacy or constitutional privacy interests that she may have in maintaining the confidentiality of her social security number as regards such entities. Ms. Powers understands and does not contest that the BOARD is required to collect and report her social security number pursuant to 42 U.S.C. Section 1320a-7e(b), 5 U.S.C. Section 552a, and 45 C.F.R. pt 61 for compliance with the U.S. Department of Health and Human Services' Healthcare Integrity and Protection Data Bank (HIPDB).

O. This CONSENT AGREEMENT is not an adjudication order within the meaning of Section 119.01(D) of the Ohio Revised Code.

P. If Ms. Powers violates the terms and conditions of this CONSENT AGREEMENT in any respect, the BOARD, after giving notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate as provided by Chapter 4753 of the Ohio Revised Code. Any administrative action initiated by the BOARD based on an alleged, found or admitted violation of this CONSENT AGREEMENT shall comply with the Administrative Procedures Act, Chapter 119 of the Ohio Revised Code.

Q. Upon consent of Ms. Powers and the BOARD, the terms and conditions of this CONSENT AGREEMENT may be modified or terminated in writing.

R. This CONSENT AGREEMENT shall take effect upon the date of signature by the representative of the Board.

S. Ms. Powers acknowledges that she had an opportunity to review this Consent Agreement with legal counsel of her choosing.

Jennifer S. Powers
SP.6055

Date: 8/10/09

Valenta Ward-Gravely, Au.D., Chairperson,
Ohio Board of Speech-Language Pathology
and Audiology

Date: 8/18/09

Attorney for Ms. Powers

Date: _____

Melissa L. Wilburn
Assistant Attorney General

Date: 8-25-09