



## Ohio Board of Speech-Language Pathology and Audiology

www.slpaud.ohio.gov

77 South High Street, 16<sup>th</sup> Floor  
Columbus, Ohio 43215

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### OHIO BOARD OF SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

IN THE MATTER OF

Case Number A04-31

JILL C. FABIAN

### ADJUDICATION ORDER

This matter came on for consideration on March 9<sup>th</sup>, 2006, before the Ohio Board of Speech-Language Pathology and Audiology on the *Report and Recommendation* of Barbara D. Lucas, Esq., the Administrative Hearing Officer designated in this Matter pursuant to R.C. 119.09, and the *Objections* to the *Report and Recommendation* by Jill C. Fabian. A copy of the *Report and Recommendation* and the *Objections* are attached hereto. Upon consideration, The Board accepted the *Report and Recommendation* of the Hearing Officer and the following Order is hereby entered.

It is hereby ORDERED that:

A license to practice Speech-Language Pathology to Jill C. Fabian is denied.

This Order shall become effective immediately upon mailing.

  
Michael J. Setty  
Executive Director

  
Date

Enclosures

CERTIFIED MAIL: 7003 3110 0002 2980 2990



## Ohio Board of Speech-Language Pathology and Audiology

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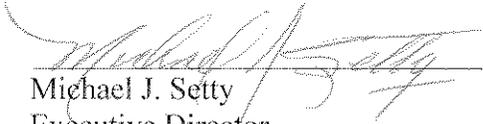
77 South High Street, 16<sup>th</sup> Floor  
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### CERTIFICATION

I hereby certify that the foregoing Adjudication Order of the Ohio Board of Speech-Language Pathology and Audiology, the copy of the *Report and Recommendation* of Barbara D. Lucas, Esq., Administrative Hearing Officer, and the excerpt of draft Minutes of the Ohio Board of Speech-Language Pathology and Audiology, meeting in regular session on March 9<sup>th</sup>, 2006, including the Motion to accept the *Report and Recommendation* of the Hearing Officer, constitute a true and complete copy of the Findings and Order of the Ohio Board of Speech-Language Pathology and Audiology, In the Matter of Jill C. Fabian, as they appear in the Records of the Ohio Board of Speech-Language Pathology and Audiology.

This certification is made by authority of the Ohio Board of Speech-Language Pathology and Audiology Board and on its behalf.

  
\_\_\_\_\_  
Michael J. Setty  
Executive Director

  
\_\_\_\_\_  
Date

STATE OF OHIO  
Ohio Board of Speech-Language Pathology and Audiology

In the Matter of: Whether or not the Ohio Board of Speech-Language Pathology and Audiology should refuse to issue a license as a speech-language pathologist to Jill Fabian

Case No.: A04-31

REPORT AND RECOMMENDATION

I. Identification of Parties

- A. Representing the Ohio Board of Speech-Language Pathology and Audiology :
1. Dominic Chieffo, Assistant Attorney General, State of Ohio
  2. Michael J. Setty, Executive Director, Ohio Board of Speech-Language Pathology and Audiology
- B. Representing Jill Fabian: Stanley J. Okusewsky III, Attorney at Law

II. Introduction

This matter came on for hearing upon the request of Jill Fabian, applicant, pursuant to a letter which was received by the Ohio Board of Speech-Language Pathology and Audiology (hereinafter sometimes referred to as the "Board") on or about August 20, 2004 (State's Exhibit 1b). The applicant filed this request as Michael J. Setty, Executive Director of the Board, had stated in his August 5, 2004 letter that the Board intended to determine whether or not to refuse to issue the applicant a license as a Speech-Language Pathologist due to not meeting the licensing requirements of Sections 4753.06(B), (C), (D), and (E) of the Revised Code (State's Exhibit 1a).

By letter dated August 23, 2004, and sent via certified mail return receipt requested, the Board in response to the applicant's request for hearing

Page 2

scheduled an evidentiary hearing for Tuesday, August 31, 2004, at 10:00 a.m. to be held at The Ohio Board of Speech-Language Pathology and Audiology, 77 South High Street, 16<sup>th</sup> Floor, Columbus, Ohio 43215. In addition, upon motion of the Executive Director, in accordance with Revised Code section 119.09, the hearing was continued indefinitely (State's Exhibit 1c). A copy of the 119 Notice of Opportunity for Hearing and hearing notice was sent to the applicant's attorney, Stanley Okusewsky III, Esquire (State's Exhibit 1d).

By letter dated September 1, 2004, and sent via certified mail return receipt requested, the Board notified the applicant that said hearing had now been scheduled for Wednesday, October 27, 2004 at 10:00 a.m., to be held in room 1910, at 77 South High Street, 19<sup>th</sup> Floor, Columbus, Ohio (State's Exhibit 1e). A copy of the hearing notice was also sent to the applicant's attorney at law. (State's Exhibit 1f).

By letter dated November 9, 2004, and sent via certified mail return receipt requested, by agreement of the parties, the Board notified the applicant that the hearing had been rescheduled for Thursday, January 20, 2005 at 10:00 a.m. in room 1938, at 77 South High Street, 19<sup>th</sup> Floor, Columbus, Ohio (State's Exhibit 1h). A copy of said notice was sent to the applicant's attorney (State's Exhibit 1g).

By letter dated January 13, 2005, the applicant's attorney faxed a copy of the applicant's doctor's note in order to secure a continuance of the scheduled January 20, 2005 hearing (State's Exhibit 1i).

By letter dated October 18, 2005, and sent via certified mail return receipt requested, the Board notified the applicant that the hearing had been continued to Wednesday, December 14, 2005 at 10:00 a.m. in East A conference room, 31<sup>st</sup> Floor, 77 South High Street, Columbus, Ohio State's Exhibit 1j). A copy of said notice of hearing was sent to the applicant's attorney (State's Exhibit 1k).

### III. Evidence Presented

On Wednesday, December 14, 2005, at 10:00 a.m., an evidentiary hearing was held at 77 South High Street, East A conference room, 31<sup>st</sup> Floor, Columbus, Ohio. The Board was represented by Assistant Attorney General Dominic Chieffo, Esquire, with Michael J. Setty, Executive Director of the Board, as the Board's representative. The applicant was not present but was represented by her attorney, Stanley J. Okusewsky III, Esquire.

As to preliminary matters, the applicant's attorney stipulated as to authenticity and admissibility of State's Exhibits 1a through 1k. The State stipulated as to the applicant's \$200 check (check number 641) being received by the Board. Mr. Okusewsky III's motion for a continuance due to his client being ill was denied. It was ruled that due to the nature of her illness and its unpredictability, any date set for hearing could be a non-workable hearing date; that the applicant could be represented by her attorney at said hearing.

The State and applicant's attorney both offered opening statements.

The State called as its first witness, Doug A. Hart, Licensing Administrator with the Board. After Mr. Hart was sworn in, he testified as to his credentials,

experience, duties, and being the Board's record keeper. According to Mr. Hart, the Board received the applicant's application for license dated May 17, 2004, whereby the applicant selected "Full Requirements." Mr. Hart testified that "Full Requirements" is governed by Section 4753.06 of the Revised Code. According to Mr. Hart, under 4753.06 of the Revised Code, the applicant was supposed to have completed at least a master's degree in the area in which licensure is sought, supervised clinical experience, professional experience, and evidence that she passed the examination for licensure to practice speech-language pathology or audiology, pursuant to divisions (B), (C), (D), and (E) of section 4753.06 of the Revised Code. Mr. Hart testified that since the applicant failed to attach any proof of completion of a master's degree, supervised clinical experience, professional experience, and/or examination, the Board can not issue the applicant a license as a Speech-Language Pathologist (State's Exhibit 2).

Mr. Okusewsky cross examined Mr. Hart concerning his experience with the Board and a grandfather provision. The State objected to any questions concerning "grand fathering." The State's objection was overruled. The State's own Exhibit 2 included the applicant's attorney's letter to the Board in which he argues grand fathering. The State rested. The State's Exhibit 2 was admitted into evidence without objection. The State's Exhibits 1a through 1k, which had been stipulated to as to their authenticity and admissibility by the applicant's attorney, were admitted into evidence.

The applicant's attorney stated he had no witnesses to call; but he wanted to offer testimony concerning "grand fathering." The parties requested to go off record. Back on record, the applicant's attorney stated that he would not testify but would like to offer closing statements in regards to the applicant's health, licensing history, and grand fathering.

The State vacated its announcement of "resting," and recalled Mr. Hart to the stand. Mr. Hart testified that when he reviewed Ms. Fabian's application, his review included all attachments submitted by the applicant. The State rested.

The applicant rested.

The State offered closing comments.

As part of the applicant's closing, Mr. Okusewsky offered closing comments concerning the applicant's educational background, illness that caused the delay in renewing her license, and "grand fathering." Mr. Okusewsky explained that his position was explained in his letter to the Board and that letter is part of the State's Exhibit 2.

Both the State and applicant offered several follow-up closing comments.

#### IV. Findings of Fact and Conclusions of Law

1. Jill C. Fabian, was certified as a School Speech Language Pathologist by the State of Ohio from July 1, 2000 through June 30, 2004;
2. On or about April 4, 2001, Jill C. Fabian (applicant) applied for and received a speech pathology license by the Board under section 4753.08(D) of the Revised Code, whereby the requirements were waived;

3. The applicant filed a renewal application with the Board for the renewal of her license more than one year after the license expired. The applicant's application for renewal was denied due to late filing pursuant to Ohio Administrative Code Section 4753-3-10(E)(2). Since the applicant's license had expired for more than one year, she could become licensed by submitting to the Board a completed application and documentation of meeting the current requirements for obtaining a new license pursuant to Ohio Administrative Code Section 4753-3-10(E)(2);
4. The applicant submitted to the Board an application with attachments (but without supporting documentation) for obtaining a new license pursuant Ohio Administrative Code Sections 4753-3-10(E)(2)(a)(b)(c);
5. The applicant's application failed to demonstrate that she met the requirements as specified by Section 4753.06 of the Revised Code;
6. The applicant failed to submit to the Board an official transcript demonstrating that she had acquired at least a master's degree in the area in which licensure was being sought pursuant to division (B) of section 4753.06 of the Revised Code;
7. The applicant failed to submit to the Board evidence of the completion of appropriate, supervised clinical experience in the professional area, speech-language pathology or audiology, for which licensure was being requested pursuant to division (C) of section 4753.06 of the Revised Code;
8. The applicant failed to submit to the Board written evidence that she had obtained professional experience pursuant to division (D) of section 4753.06 of

the Revised Code;

9. The applicant failed to submit to the Board evidence that she had passed the examination for licensure to practice speech-language pathology or audiology pursuant to division (B) of section 4753.05 of the Revised Code; pursuant to division (E) of section 4753.06 of the Revised Code;

10. The applicant's attorney argued that Ms. Fabian's license should be issued pursuant to an earlier section 4753.08(D) of the Revised Code. The earlier section allowed the Board to waive the examination, educational, and professional experience requirements for applicants if "On January 1, 2001, holds a current certificate, except a temporary certificate, if the certificate is in good standing, pursuant to section 3319.222 [3919.22.2] of the Revised Code, in the area in which licensure is sought and if an application providing bona fide proof of the certificate is filed with the board on or after January 1, 2001, but before January 1, 2002.\*\*\*." Ms. Fabian's certification was indeed converted to a license pursuant to the above waiver of requirements. However, the previous section 4753.08(D) of the Revised Code does not indicate that the applicant can re-use that section. Mr. Okuseewsky's argument is not well founded;

11. Failure to biennially renew a license shall cause such licensure to expire. However, the Board may renew the license of a person who applies to renew the license within one year after such expiration (section 4753.09 of the Revised Code);

12. The applicant's initial license issued was valid for two years. The applicant

failed to biennially renew her license. After she attempted to renew her license more than one year after the expiration, the renewal was denied for failure to timely file. "The board shall not renew the license of a speech-language pathologist or audiologist who fails to apply for renewal of the license within one year after the license expires." (Rule 4753-3-10(E)(2) of the Administrative Code);

13. A speech-language pathologist or audiologist whose license has been expired for more than one year may become licensed by submitting to the board a completed application and documentation of meeting the current requirements for obtaining a new license." (Rule 4753-3-10(E)(2)(a)(b)(c) of the Administrative Code);

14. The current requirements for eligibility for licensure as a speech-language pathologist or audiologist includes submitting to the Board:

- a. an official transcript demonstrating that he/she has at least a master's degree in the area in which licensure is sought or the equivalent as determined by the Board;
- b. evidence of the completion of appropriate, supervised clinical experience in the professional area for which licensure is requested;
- c. evidence that he/she has obtained professional experience; and
- d. evidence that he /she has passed the examination for licensure to practice speech-language pathology or audiology (Sections 4753.06(B), (C), (D), and (E) of the Revised Code);

15. The applicant failed to submit to the Board a completed application and documentation of meeting the current requirements for obtaining a new license;
16. The Board duly notified the applicant, in its Notice of Opportunity for Hearing, that it intended to determine whether or not to refuse to issue her a license as a Speech-Language Pathologist. The applicant was further notified of the procedure for requesting a hearing (State's Exhibit 1a);
17. The applicant requested a hearing (State's Exhibit 1b);
18. The Board notified the applicant and her attorney of the date, time, place, and manner of hearing. (State's Exhibits 1c, 1d, 1e, 1f, 1g, 1h, 1j, and 1k,);
19. On December 14, 2005 at 10:00 a.m., in East A Conference Room, 31<sup>st</sup> Floor, 77 South High Street, Columbus, Ohio, the hearing was held. The hearing was conducted by Barbara D. Lucas, Attorney at Law, in accordance with Chapter 119 of the Revised Code;
20. The State was represented by Dominic Chieffo, Assistant Attorney General. The Board's representative was Michael J. Setty, Executive Director. The applicant was represented by Stanley J. Okusewsky III, Esquire. The applicant was not present;
21. The State called Doug A. Hart, Licensing Administrator, as its first and only witness. Mr. Hart testified that the applicant's initial license expired on or about December 31, 2002. On or about May of 2004, the Board received an application for a speech-language pathology license from the applicant whereby she selected the licensing option of Full Requirements. According to Mr. Hart,

Full Requirements are governed under section 4753.06 of the Revised Code (Licensing) that requires a master's degree, clinical hours, professional experience, and examination. According to Mr. Hart, the applicant failed to provide proof of the Full Requirements;

22. It is clear and undisputed that since the applicant's initial license had expired and she failed to renew the license within one year after the license expired, the Board could not renew her license as a speech-language pathologist. Therefore, in order for the applicant to be licensed, she would be required to submit to the Board a completed application and documentation of meeting the current requirement for obtaining a new license. The applicant failed to do so;

23. Based upon the testimony and evidence presented, a preponderance of the evidence does support that the Board may refuse to issue Jill Fabian a license as a Speech-Language Pathologist for failure to submit to the Board: an official transcript demonstrating that she has at least a master's degree in the area in which licensure is sought or the equivalent as determined by the board; evidence of the completion of appropriate, supervised clinical experience in the professional area, speech-language for which licensure is requested; written evidence that she has obtained professional experience; and evidence that she has passed the examination for licensure to practice speech-language pathology;

24. Ms. Fabian does not meet the licensing requirements of Sections 4753.06 (B), (C), (D), and (E) of the Revised Code;

V. Recommendation

Based upon the foregoing, this Hearing Officer recommends that the Board refuse to issue Jill Fabian, 90 Laurel Hills Lane, Canfield, Ohio 44406 a license as a Speech-Language Pathologist.

This recommendation is supported by reliable, probative, and substantial evidence and is not contrary to law.

  
\_\_\_\_\_  
Barbara D. Lucas  
Hearing Officer

Certificate of Service

This is to certify that a true and accurate copy of the foregoing was mailed this <sup>30<sup>th</sup></sup> 30 day of December, 2005, by ordinary U.S. mail to: Dominic Chieffo, Esquire, Assistant Attorney General, Health and Human Services, 30 E. Broad Street, 26<sup>th</sup> Floor, Columbus, Ohio 43215-3400, Stanley J. Okusewsky III, Esquire, Green Haines Sgambati Co., L.P.A., Suite 44, National City Bank Building, P.O. Box 849, Youngstown, Ohio 44501-0849, and Michael J. Setty, Executive Director, Ohio Board of Speech-Language Pathology and Audiology, 77 S. High Street, 16<sup>th</sup> Floor, Columbus, Ohio 43215-6108, and by certified mail, return receipt requested to Jill Fabian, 90 Laurel Hills Lane, Canfield, Ohio 44406.

  
\_\_\_\_\_  
Barbara D. Lucas



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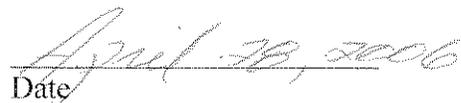
board@slpaud.state.oh.us

### CERTIFICATION

I hereby certify that the attached constitutes a true and complete copy of an excerpt of a draft of the minutes of the March 9, 1006, meeting of The Ohio Board of Speech-Language Pathology and Audiology concerning Jill C. Fabian.

This Certification is made by authority of The Ohio Board of Speech-Language Pathology and Audiology and on its behalf.

  
\_\_\_\_\_  
Michael J. Setty  
Executive Director

  
\_\_\_\_\_  
Date