

State of Maryland
Department of Health and Mental Hygiene

Parris N. Glendening, Governor - Martin P. Wasserman, M.D., J.D., Secretary



State Board of Dietetic Practice

March 9, 1998

Ms. Patricia M. Cierniak
3613 Waterwheel Square
Randallstown, MD 21133

Re: Consent Order - License B00051

Dear Ms. Cierniak:

At the March 5, 1998 meeting, the Board of Dietetic Practice (the Board) found that all conditions in your Final Consent Order, dated July 17, 1996 have been fulfilled.

As outlined in the Consent Order, you may petition the Board to remove the conditions of probation and restore your license to practice dietetics without any restrictions.

If you have any questions, please don't hesitate to contact me at (410) 764-4733.

Sincerely,

A handwritten signature in cursive script that reads "Aileen Taylor".

Aileen Taylor
Administrator

AT:ars

4201 Patterson Avenue - Baltimore, Maryland 21215-2299 - (410) 764-4733
Fax (410) 764-5987 - TDD (800) 542-4964 - Maryland Relay Service (800) 735-2258

Healthy People in Healthy Communities

IN THE MATTER OF * BEFORE THE STATE
PATRICIA M. CIERNIAK, R.D., L.D.* BOARD OF DIETETIC
License No.: B00051 * PRACTICE

* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Dietetic Practice (the "Board") and subject to Health Occupations Article, §5-312, Annotated Code of Maryland, Title 5 (the "Act"), the Board charged Patricia Cierniak, R.D., L.D. (the "Respondent"), with violations of §5-311. Specifically, the Board charged the Respondent with violation of the following provision:

Subject to the hearing provisions of §5-312 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

(16) Is professionally, physically, or mentally incompetent.

The Respondent was given notice of the charges and the issues underlying those charges by letter and charging documents sent to Respondent on or about January 31, 1995. A prehearing conference on those charges was held on February 23, 1995, and was attended by Patricia Deuster, Ph.D., of the Board, Aileen Taylor, Administrator of the Board, and Jane E. Pilliod, Counsel to the Board. Also in attendance was the Administrative Prosecutor, Roberta Gill. The Respondent attended and knowingly and voluntarily waived her right to counsel.

Following the prehearing conference, the Respondent obtained the services of an attorney, T. Michael Preston, who submitted a counter-proposal to the Board for its consideration. Subsequently, the parties and the Board agreed to resolve the administrative charges by way of settlement. The parties and the Board agreed to make the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was licensed as a dietician in the State of Maryland. At all times relevant hereto, the Respondent served as a dietician-consultant with the Northwest Nursing and Convalescent Center (Northwest) in Baltimore, Maryland.

2. As a result of a survey conducted at Northwest on August 24 and September 29, 1994 by the Office of Licensing and Certification Programs (OLCP) within the Department of Health and Mental Hygiene, OLCP made the following findings with regard to the patients' dietary needs:

RESIDENT A

Between 5/13/94 and 8/18/94 Resident A¹ lost 16 pounds, yet the Respondent failed to conduct a comprehensive assessment after this significant weight loss, as per the OLCP report, F287 #4.

¹ Residents' names are confidential; however, the OLCP identifying factors can be found in the OLCP survey and will be identified in the Consent by reference to the OLCP identifiers.

RESIDENT B

Resident B's blood studies reported on 12/17/93 included a blood albumin level of 2.8 g/dl, indicating a significant malnutrition.

On 12/23/94, Resident B's physician ordered a dietary consult which was performed by the Respondent on 12/24/93 and recommended giving Resident B Ensure Plus four times a day and Vitamin C and zinc, for Resident B's ulcers.

The nursing staff failed to give Resident B the Ensure until 1/3/94 and the Respondent failed to notify the physician of her recommendation, as per OLCF report, F 309.

RESIDENT C

Based upon the Respondent's recommendation, Resident C's physician discontinued Resident C's nutritional supplement of 3 cans per day of Glucerna on 3/11/94. The Respondent based this recommendation upon her determination that Resident C, who had gained 6 pounds in one month, was 4 pounds above her ideal body weight.

However, on 3/16/94 the Respondent assessed Resident C and wrote that she was receiving two cans of Glucerna per day. The Respondent then calculated Resident C's total daily intake of protein based upon her diet and two cans of Glucerna: the resulting calculations were inaccurate because Resident C was no longer receiving the Glucerna.

Although Resident C had developed a stage 2 decubitus ulcer of the right buttock, the Respondent did not recommend a

supplement to aid in its healing although the Respondent evaluated Resident C on 3/16, 3/23, 4/6, 4/13, 4/20 and 4/27/94.

See OLCP report, F 309.

RESIDENT D

Resident D was admitted to the facility on 6/10/88. Resident D's tray card indicates that she receives a regular diet even though the current physician order specifies a no added salt diet.

A review of Resident D's laboratory studies reveal that Resident D's sodium levels are below normal.

On 5/20/94 the physician changed Resident D's diet to an "added salt" diet and requested a dietary consultation due to the low sodium count recorded on 5/19/94. The Respondent completed the consult on 5/24/94: however, the Respondent failed to make recommendations to raise Resident D's sodium level as requested. See, OLCP report, F 309, #1.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated §5-311(16) (is professionally . . . incompetent) in violation of the Act.

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this ____ day of _____, 1995, by a majority of a quorum of the Board,

ORDERED that the Respondent's license be **SUSPENDED** but that that suspension be immediately **STAYED**; and be it further

ORDERED that Respondent be placed on PROBATION subject to the following conditions:

1. Retain, at her expense, a licensed dietitian with nursing home experience, pre-approved by the Board to review her professional practices. The Respondent shall submit to the Board the names and resumes of three (3) licensed registered dietitians with a statement of their willingness to serve as her supervisor. The supervisor selected by the Board from that list will submit monthly reports to the Board.
2. The Respondent shall take and pass nine hours of course work in the areas of enteral and parenteral nutrition, geriatric nutrition and medical ethics by June 1996. Said courses are to be preapproved by the Board.
3. The Respondent shall retake and pass the licensing examination administered by the Board on October 31, 1995. Failure to receive a passing score will result in the Board's lifting the Stay of Suspension until such time as the Respondent passes the examination; and be it further

ORDERED that Respondent shall refrain from engaging in the conduct which led to the disciplinary action herein; and be it further

ORDERED that Respondent shall practice in accordance with the Maryland Dietetic Practice Act and in a competent manner; and be it further

ORDERED that this Consent Order is effective as of the date of its signature by the Board; and be it further

ORDERED that if Respondent violates any of the foregoing conditions of probation, the Board, after notification and a hearing and a determination of violation, may impose any lawful disciplinary sanctions it deems appropriate; and be it further

ORDERED that on or after the probationary period has ended, the Respondent may petition the Board to remove the conditions of probation and restore her license to practice dietetic practice without conditions or restrictions only after the Respondent has demonstrated to the Board that she has practiced dietetic practice in compliance with the Act and with the conditions of probation; and be it further

ORDERED that in the event the Maryland Board of Dietetic Practice receives an unsatisfactory report which it believes in good faith to be accurate, or in the event that the Maryland Board of Dietetic Practice finds for any reason in good faith that Respondent has substantially violated any provision of Title 5 of the Health Occupations Article or regulations thereunder, the Board may take action, including, but not limited to, revocation or suspension of the Respondent's license to practice dietetic practice, after giving Respondent notice and an opportunity for a hearing, in accordance with the Administrative Procedure Act, State Government Article, §10-201 et seq.

ORDERED that for purposes of public disclosure, as permitted by §10-617(h) State Government Article, Annotated Code of Maryland,

this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order.

July 17, 1996
Date

Marilyn Mower, L.D., R.D., Chair
Marilyn Mower, L.D., R.D., Chair
Maryland State Board of
Dietetic Practice

CONSENT OF PATRICIA M. CIERNIAK, L.D., R.D.

I, Patricia M. Cierniak, L.D., R.D., by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, T. Michael Preston, Esquire, and have been advised by him of the legal implications of signing this Consent Order.

2. I am aware that without my consent, my license to practice dietetic practice in this State cannot be limited except pursuant to the provisions of §5-312 of the Act and §10-201, et seq., of the Administrative Procedure Act, State Government Article, Annotated Code of Maryland.

3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Consent Order, I hereby consent and submit to the foregoing Findings of Fact, Conclusions of Law and Order provided the Board adopts the foregoing Final Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in §5-312 of the Act and §10-201 et seq. of the Administrative Procedure Act, State Government Article, Annotated Code of Maryland and any right to appeal to set forth in §5-313 of the Act and §10-201 et seq. of the Administrative Procedure Act. ~~This waiver of appeal is applicable to any subsequent hearing and Order resulting from a violation of this Consent Order.~~ I acknowledge that by 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 dietetic practice in the State of Maryland.

August 18, 1995
Date

Patricia M. Cierniak
Patricia M. Cierniak, L.D., R.D.

STATE OF MARYLAND)
) ss
COUNTRY OF BALTIMORE)

I HEREBY CERTIFY that on this ____ day of _____, 1995, a Notary Public of the State of Maryland and County of Baltimore, personally appeared Patricia M. Cierniak, L.D., R.D., License No. B00051, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Notary Public

My Commission Expires: _____