

**IN THE MATTER OF**  
**KRISTI L. PENNYPACKER**  
**License Number 08022**  
**Case Number AHS-11-2017**

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**BEFORE THE MARYLAND**  
**BOARD OF EXAMINERS FOR**  
**AUDIOLOGISTS, HEARING**  
**AID DISPENSERS & SPEECH**  
**LANGUAGE PATHOLOGISTS**

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**FINAL DECISION AND ORDER OF REVOCATION OF**  
**SPEECH-LANGUAGE PATHOLOGY LICENSE**

**I. PROCEDURAL BACKGROUND**

On or about October 21, 2016, the Maryland State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists (the “Board”) was notified that Kristi Pennypacker (the “Respondent”), license number 08022, was under investigation by the State of Delaware’s licensure board and had surrendered her license to practice as a speech-language pathologist (“SLP”) in the State of New Jersey. Based upon this information, the Board conducted an investigation. At the conclusion of the Board’s investigation, on December 14, 2016, the Board charged the Respondent with violating several provisions of the Maryland Audiology, Hearing Aid Dispensing, and Speech-Language Pathology Act, specifically Md. Code Ann., Health Occ. (“HO”) § 2-314:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or limited license for the applicant, licensee, or holder or for another;
- (3) Commits fraud or deceit in the practice of audiology, hearing aid dispensing, or speech-language pathology, or assistance of the practice of speech-language pathology;
- (10) Commits any act of unprofessional conduct in the practice of audiology, hearing aid dispensing, or speech-language pathology, or the assistance of speech-language pathology;

- (14) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section; *specifically* HO § 2-314(3), (10), (16), and (19); and
- (16) Knowingly makes for files a false report or record in the practice of audiology, hearing aid dispensing, or speech-language pathology, or assistance in the practice of speech-language pathology[.]

By letter dated March 17, 2017, the Board notified the Respondent that an evidentiary hearing had been scheduled before the Board for April 20, 2017. The Board sent its notice of hearing via first-class mail to the Respondent's last known address of record pursuant to HO § 2-315(e). Furthermore, Md. Code Ann., State Gov't § 10-209(c) provides that a person holding a license shall be deemed to have had reasonable opportunity to know of the fact of service if: 1) the person is required by law to notify the agency of a change of address within a specified period of time; 2) the person failed to notify the agency in accordance with the law; 3) the agency mailed the notice to the address of record; and 4) the agency did not have actual notice of the change of address prior to service. The Board received no notice that the Respondent changed her address as required by HO § 2-311(c); therefore, the Board finds that service of the notice of hearing was proper.

On April 20, 2017, a quorum of the Board was present and an evidentiary hearing was held. K.F. Michael Kao, Administrative Prosecutor, was present and presented the State's case against the Respondent. The Respondent failed to appear.

**Evidentiary Exhibits and Witnesses**

State's Exhibits:

1. Memorandum from the Board's Investigator, Re: Fraudulently Obtained License, dated October 21, 2016 (1 page).
2. New Jersey, Department of Law & Public Safety, Division of Consumer Affairs, License Information, accessed October 21, 2016 (1 page).

3. The Respondent's Board Licensure File (22 pages).
4. The Respondent's 2016 Online License Renewal Application, submitted March 29, 2016 (4 pages).
5. The Respondent's Board Database Print-out, accessed October 25, 2016 (1 page).
6. The Respondent's National Practitioner Data Bank Report (4 pages).
7. The Respondent's Interim Voluntary Surrender of License in the State of New Jersey (6 pages).
8. The Respondent's Investigative File from the State of New Jersey (57 pages).
9. License Search of Surrounding States, conducted November 23, 2016 (7 pages).
10. Board Report of Investigation and Supplemental Report (9 pages).

State's Witnesses:

1. Investigator, Maryland State Board of Examiners for Audiologists, Hearing Aid Dispensers and Speech-Language Pathologists.

Respondent's Exhibits:

None submitted.

Respondent's Witnesses:

None submitted.

**II. FINDINGS OF FACT**

The Board makes the following findings of fact based upon the entirety of the record:

1. At all times relevant, the Respondent was licensed to practice speech-language pathology in the State of Maryland. The Respondent was originally licensed to practice speech-language pathology in Maryland on September 14, 2015, license number 08022. The Respondent's license is currently active and expires on May 31, 2018.

2. At all times relevant, the Respondent also held licenses to practice speech language pathology in Delaware, New Jersey, and Pennsylvania. The Respondent was originally licensed in Delaware on May 23, 2013, license number 01-0001307, and is active through July 31, 2017. The Respondent was originally licensed in New Jersey on January 31, 2007, license number 41YS00538800. The Respondent voluntarily surrendered her New Jersey license on or about July 21, 2011. (*See State's Exhibit 7.*) The Respondent was originally licensed in Pennsylvania on April 2, 2012, license number SL010798, but that license expired on July 31, 2014).

3. At all times relevant, the Respondent was employed as an SLP at a health care staffing company in New Castle, Delaware.

4. The Board initiated an investigation of the Respondent after receiving a telephone call on or about October 21, 2016 from an investigator from the Delaware Board of Speech Pathologists, Audiologists and Hearing Aid Dispensers (the "Delaware Board"), who stated that the Respondent was under investigation in Delaware and that she had surrendered her speech-language pathology license in New Jersey. (*See State's Exhibit 1.*)

5. On or about November 30, 2016, the Board requested records from the State of New Jersey, Audiology and Speech-Language Pathology Advisory Committee (the "New Jersey Committee") relating to the Respondent's surrender of her speech-language pathology license in New Jersey. (*See State's Exhibit 8, p. 1.*)

6. On or about December 16, 2016, the Board received a copy of the New Jersey Committee's order (the "New Jersey Order"), in which the Respondent voluntarily surrendered her New Jersey speech-language pathology license for medical reasons. (*See State's Exhibit 7.*) In the New Jersey Order, dated July 21, 2011, the New Jersey Board accepted the Respondent's

voluntary surrender of her New Jersey speech-language pathology license based on the fact that the Respondent “admitted creating records supporting home visits that did not occur and information which indicated that respondent has a medical condition that impacts her ability to practice speech language pathology with reasonable skill and safety at the present time.” (*Id.*) As a result, the Respondent agreed to immediately surrender her license to practice speech-language pathology in New Jersey and cease and desist from practicing speech-language pathology. (*Id.*)

7. As part of its investigation, the Board reviewed the Speech-Language Pathologist Full License Application (the “Initial Application”), dated August 27, 2015. (*See* State’s Exhibit 3, pp. 1-5.) The Board also reviewed the Respondent’s Online License Renewal (the “2016 Renewal”), dated March 29, 2016. (*See* State’s Exhibit 4.)

8. In her Initial Application under question 12, the Respondent listed Delaware as the only other state in which she held a speech-language pathology license. (State’s Exhibit 3, p. 3.) Under question 13, which asked whether any disciplinary action had ever been taken against the Respondent's license in any other jurisdictions, the Respondent answered “NO.” (*Id.*)

9. In her Initial Application, dated August 27, 2015, the Respondent failed to disclose that she also held a speech-language pathology license in New Jersey, which was issued on January 31, 2007, (State’s Exhibit 2), and in Pennsylvania, which was issued on April 2, 2012. (State’s Exhibit 9, p. 4.) The Respondent also failed to disclose that the New Jersey Committee took disciplinary action against her when she voluntarily surrendered her New Jersey speech-language pathology license on or about July 21, 2011.

10. In the 2016 Renewal, question 5 asked the Respondent to “List all other states where you hold this license.” (State’s Exhibit 4, p. 2.) The Respondent listed no other states.

(*Id.*) The Respondent failed to disclose that at the time she filed her 2016 Renewal, she held an active license in the State of Delaware.

### **Discussion**

The Respondent voluntarily surrendered her license to practice as an SLP in the State of New Jersey on or about July 21, 2011. (*See* State’s Exhibit 7.) While the order itself does not specify that it is in fact a disciplinary action, the Board finds that this voluntary surrender does constitute a disciplinary action in that the order carries several indicia of being a disciplinary action. First, it sets forth a finding of fact, based upon her own admission, that the Respondent created records to support home visits that did not occur and a conclusion of law, stating that there is basis for action pursuant to “N.J.S.A. 45:1-21(i).” (*Id.*) In Maryland, disciplinary orders are required by law to set forth both findings of fact and conclusions of law. *See* Md. Code Ann., State Gov’t § 10-221(b)(1). Second, the New Jersey Order states that the Respondent’s voluntary surrender was in lieu of a formal administrative hearing. (*Id.* at p. 2.) Thus, it is clear to the Board that had the Respondent not agreed to surrender her license, she would have faced further disciplinary proceedings. Third, the New Jersey Committee reported the voluntary surrender order to the National Practitioner Data Bank as an adverse action.<sup>1</sup> (*See* State’s Exhibit 6.) Such a report to the Data Bank would have been unnecessary had the New Jersey Committee itself considered the Respondent’s voluntary surrender to not to be a disciplinary action.

Section 2-314(14) of the Maryland Audiology, Hearing Aid Dispensing, and Speech-Language Pathology Act provides that the Board may reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee if the Board finds, by a

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<sup>1</sup> The National Practitioner Data Bank is a database maintained by the federal Department of Health and Human Services, which requires, among other things, state licensure boards to report “[a]ny adverse action taken by the licensing or certification authority of the state as a result of a formal proceeding, including revocation or suspension of a license.” 45 C.F.R. § 60.9(a)(1).

preponderance of the evidence, that: (1) the licensee was disciplined by a licensing, military or disciplinary authority in this State or any other state or country or convicted or disciplined by a court in this State or any other state or country; and (2) that the discipline or conviction was for an act that would be grounds for disciplinary action under the Board's disciplinary statutes. *See* HO § 2-314(14). In this case, the two conditions for the Board to find a violation of HO § 2-314(14) have been met. On July 21, 2011, the New Jersey Committee accepted the surrender of the Respondent's license to practice speech-language pathology in New Jersey. As stated above, the Board finds that, in this instance, the surrender of the Respondent's license was discipline. Furthermore, that discipline was based the Respondent's admission that she created records for home visits that did not exist. The Board finds that the Respondent's aforementioned conduct in the State of New Jersey would have violated HO § 2-314(3) ("Commits fraud or deceit in the practice of...speech language pathology..."); (10) ("Commits any act of unprofessional conduct in the practice of...speech-language pathology..."); and (16) ("Knowingly makes or files a false report or record in the practice of...speech-language pathology...") in the State of Maryland. Accordingly, the Board finds that the Respondent violated HO § 2-314(14).

In addition, the Respondent failed to disclose her voluntary surrender on both her 2015 initial application for SLP licensure in the State of Maryland and her 2016 renewal application. Based upon the totality of the facts and circumstances in this case, the Board finds that the Respondent's failure to disclose New Jersey's disciplinary action was deliberate and meant to conceal her disciplinary history to avoid further discipline. The Board finds that the Respondent deceived the Board into granting her a license and that, accordingly, the Respondent violated HO § 2-314(1).

The Board finds that the Respondent's violations of the Maryland Audiology, Hearing Aid Dispensing, and Speech-Language Pathology Act fall within category A.(1) of the Board's sanctioning guidelines. *See* Code of Maryland Regulations 10.41.13.04.A.(1). The range of potential sanctions under category A.(1) include suspension for 90 days to revocation and/or a minimum fine of \$1000.00 to a maximum fine of \$5000.00. *Id.*

In its discretion, the Board declines to find that the Respondent violated HO § 2-314(10) or § 2-314(16).

### **III. CONCLUSIONS OF LAW**

In addition, based on the foregoing Findings of Fact, the Board concludes that the Respondent violated Md. Code Ann., Health Occ. § 2-314:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or limited license for the applicant, licensee, or holder or for another; and
  
- (14) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section; *specifically* HO § 2-314(10), (16), and (19).

### **IV. ORDER**

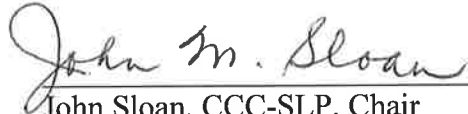
Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

**ORDERED** that the Respondent's license to practice as a speech-language pathologist in the State of Maryland, license number 08022, is hereby **REVOKED**; and it is further



**ORDERED** that this is a Final Order of the Maryland State Board of Examiners for Audiologists, Hearing Aid Dispensers and Speech-Language Pathologists and as such is a **PUBLIC DOCUMENT** pursuant to Maryland Code Ann., General Provisions §§ 4-101 *et seq.*

5-18-17  
Date

  
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John Sloan, CCC-SLP, Chair  
Maryland Board of Examiners for Audiologists,  
Hearing Aid Examiner, and Speech-Language Pathologists

**NOTICE OF APPEAL RIGHTS**

Any person aggrieved by a final decision of the Board under Md. Code Ann., Health Occ. § 2-314 may take a direct judicial appeal within thirty (30) days as provided by Md. Code Ann., Health Occ. § 2-316, Md. Code Ann., State Gov't § 10-222, and Title 7, Chapter 200 of the Maryland Rules, including Md. Rule 7-203 ("Time for Filing Action").