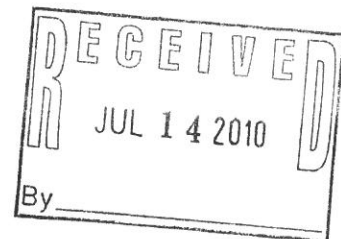
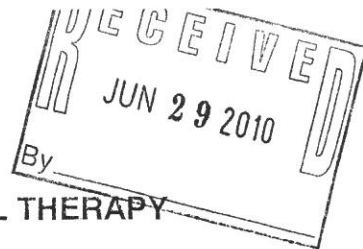


BEFORE THE WEST VIRGINIA BOARD OF OCCUPATIONAL THERAPY

WEST VIRGINIA BOARD OF
OCCUPATIONAL THERAPY,
Complainant,

v.

MARK VINCENT LILLY,
Respondent.



CONSENT AGREEMENT AND ORDER

After due investigation of a referred allegation, the West Virginia Board of Occupational Therapy (hereinafter "Board") determined that there was probable cause to believe that Mark Vincent Lilly (hereinafter "Respondent") has provided substandard care due to a deliberate or negligent act or failure to act in the practice of occupational therapy, in violation of the provisions of W. Va. Code § 30-28-1 *et seq.* and the Rules of the Board, 13 C.S.R. § 1 *et seq.* The Respondent was provided with written notice of the allegations against him pursuant to the rules of the Board and the laws of this State.

Now, in lieu of a hearing, the parties have reached an agreement for the resolution of this case matter and the parties agree to entry of the following Order in disposition of this case matter.

FINDINGS OF FACT

The Board adopts the following findings in this matter:

1. That the Board is a State entity created by W. Va. Code § 30-28-1 *et seq.* and is empowered to regulate the practice of occupational therapy.
2. That the Respondent, Mark Vincent Lilly, is a licensee of the Board, possessing License No. 1173, and is therefore subject to the license requirements of said Board.
3. That the Board is empowered to investigate allegations of neglect and to suspend, restrict, revoke or refuse to issue a license to practice occupational therapy under the authority granted to it by W. Va. Code § 30-28-1 *et seq.*
4. That Respondent was, at all times material hereto, employed as an occupational therapist with St. Mary's Medical Center in Huntington, WV.
5. That in March 2010 the Board received an allegation against the Respondent, alleging that the Respondent had acted with neglect by failing to follow physician order requiring abduction brace for transfers and mobilization by assisting the patient with transfer from bed to wheelchair without the brace.
6. That Respondent's employer performed an investigation and found the allegation of neglect substantiated and referred incident to the Board.
7. That in May of 2010, the Board conducted an investigation, during which time the Respondent and other relevant parties were interviewed and various documents relevant to the incident were obtained.

8. That the Board's assigned complaint investigator did review all the information obtained during the investigation and based upon that review, did make a recommendation to the Board for a finding of probable cause.

9. That the Respondent's actions constitute a violation of W. Va. Code § 30-28-1 *et seq.* and 13 C.S.R. § 1 *et seq.* and may be grounds for disciplinary action by the Board.

10. That the Board, by vote at its May 21, 2010 meeting, made a finding of probable cause for violations of W. Va. Code § 30-28-1 *et seq.* and 13 C.S.R. 1-1 *et seq.*

CONCLUSIONS OF LAW

1. That the Board has jurisdiction to take disciplinary action against Respondent.

2. That based upon the allegations of neglect in the practice of Occupational Therapy set out above in the *Findings of Fact* section, the Board is authorized to suspend or revoke the license of, impose probationary conditions upon or take disciplinary action against the Respondent, pursuant to W. Va. Code § 30-28-16(g)(4), (5), and (14).

CONSENT OF LICENSEE

I, Mark Vincent Lilly, by affixing my signature hereto, acknowledge the following:

1. That I have had the opportunity to consult with counsel and execute this Consent Agreement voluntarily, freely, without compulsion or duress and mindful that it has legal consequences.

2. That no person or entity has made any promise or given any inducement whatsoever to encourage me to make this settlement other than as set forth herein.

3. That I acknowledge that I am aware that I may pursue this matter through appropriate administrative and/or court proceedings, and I am aware of my legal rights regarding this matter, but intelligently, knowingly and voluntarily waive such rights.

4. That I waive any defenses including, but not limited to, laches, statute of limitations, and estoppel, that I may have otherwise claimed as a condition of this agreement.

5. That I admit that my actions were negligent and a violation of the statutory Act and Rules of the Board.

The Respondent, Mark Vincent Lilly, by affixing his signature hereon, agrees to the following:

ORDER

On the basis of the foregoing, the Board does hereby ORDER and DECREE that:

1. Respondent is hereby reprimanded for his action of negligence with no additional conditions.

2. The Board is bound by agreement and by law to report the results of all disciplinary actions, including the instant matter, for posting in the Healthcare Integrity and Protection Data Bank.

3. That this document is a public record as defined in W. Va. Code § 29B-1-2(4).

4. This *Consent Agreement and Order* constitutes the entire agreement between the parties.

In recognition of this Agreement and these terms, we hereby affix our signatures.

WEST VIRGINIA BOARD OF
OCCUPATIONAL THERAPY

By: *Kathy Quisenberry*
KATHY QUESENBERY, CHAIRPERSON

Entered: 7/10/10
DATE

Reviewed and agreed to by:

Mark Vincent Lilly
Mark Vincent Lilly, Respondent

Sworn to and subscribed before me this 15th day of
June, 2010.

My Commission expires: Nov. 21, 2011



OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LaDONNA C. SCITES
2900 1st AVENUE
HUNTINGTON, WV 25701
My commission expires November 21, 2011

LaDonna C. Scites
Notary Public