

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF RESPIRATORY CARE

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MAR 15 2013

MULTI-BOARD

Docket No. REP-2012-013

\_\_\_\_\_ )  
 In the Matter of )  
 Peter Enzinger )  
 a/k/a Peter Shays )  
 License No. RT3490 )  
 (License Expired 05/31/12) )  
 \_\_\_\_\_ )

**AGREEMENT FOR VOLUNTARY SURRENDER OF RIGHT TO RENEW LICENSE**

The Board of Respiratory Care ("Board") and Peter Enzinger ("Licensee"), a Respiratory Therapist ("RT") licensed by the Board, License No. RT3490 (expired), do hereby stipulate and agree to enter into this Agreement for Voluntary Surrender of Right to Renew License ("Agreement") in resolution of a complaint identified as Docket No. REP-2012-013 ("Complaint"). The Complaint alleges that the Licensee held a Respiratory Therapist license issued by the State of Maine Board of Respiratory Care Practitioners ("Maine Board"), License No. TH1240, and voluntarily surrendered such license to the Maine Board under the terms of a Consent Agreement effective on or about December 9, 2011 ("Maine Agreement"). The Complaint further alleges that the Licensee was convicted in April 2012 in the United States District Court, District of Maine, of Health Care Fraud and of Knowingly Making A False Statement to the Small Business Administration. For the purposes of this Agreement, the word "license" shall refer both to any current license to practice as a Respiratory Therapist in Massachusetts and to any right to renew such license.

The Licensee and the Board agree that this Agreement has been negotiated in order to resolve the Complaint without further investigations and proceedings. In connection with the Agreement, the Licensee acknowledges the following:

1. On or about November 20, 1996, the Board issued to the Licensee, under the name "Peter Shays", a license to practice as a Respiratory Therapist, License No. RT3490. The license expired on May 31, 2012, and has not been renewed to date.
2. On or about May 2, 2002, the Maine Board received an initial application for licensure as a Respiratory Therapist from the Licensee. The initial licensure application contained a question asking the applicant to disclose if he had ever been convicted of a crime. The Licensee answered this question in the negative. In reliance on the information the

Licensee provided in his application, the Maine Board issued to him a Respiratory Therapist License No. TH1240.

3. On July 27, 2010, the Licensee filed an initial application for licensure with another State of Maine licensing board. Investigation with respect to that licensure application revealed that the Licensee, under the name "Shays", had been convicted of the following: Disturbing the Peace on April 24, 1990; Procuring Alcohol for Minor on May 18, 1987; Disorderly Person on December 2, 1985; and Shoplifting on June 24, 1985. The Maine Board filed a complaint against the Licensee alleging that he had committed fraud or deceit in obtaining a Respiratory Therapist license by failing to report his criminal history on the initial Respiratory Therapist licensure application.
4. On or about October 23, 2011, under the terms of a Consent Agreement entered into with the Maine Board effective December 9, 2011 ("Maine Agreement"), the Licensee agreed to surrender his Maine Respiratory Therapist license; that he would not be eligible for licensure at any level by the Maine Board at any time in the future; and that if he should apply to the Maine Board for any level of licensure in the future, the Maine Board would not be obligated to entertain any such application. A certified copy of the Maine Board Consent Agreement, In re: Peter Enzinger (Complaint No. 2011 RES 7195), is attached hereto as **Attachment A** and incorporated herein by reference.
5. On October 14, 2011, the Licensee was charged in the United States District Court, District of Maine, with Health Care Fraud in violation of 15 U.S.C. § 645(a). Specifically, from about 2005 until about August 2010, Seacoast Sleep Solutions, LLC ("Seacoast") and the Licensee routinely 1) billed health care benefit programs for products not delivered to patients; 2) billed health care benefit programs for a more expensive piece of equipment than the equipment actually delivered to the patient; and 3) falsified records to support fraudulent bills submitted to health care benefit programs, with Seacoast and the Licensee receiving approximately \$220,180 in monies to which they were not entitled. A copy of the Information in United States of America v. Seacoast Sleep Solutions, LLC/Peter Enzinger, Criminal Case No. 2:11-cr-170-DBH/Case Number: 2:11-cr-170-002, is attached hereto as **Attachment B** and incorporated herein by reference.
6. On or about June 21, 2011, the Licensee was charged in the U.S. District Court, District of Maine, with Knowingly Making a False Statement to the Small Business Administration in violation of 18 U.S.C. § 1347. Specifically, on or about March 17, 2009, the Licensee submitted Form SBA 912 to the Small Business Administration on which Form he had answered "no" to the questions "Have you ever been charged with and/or arrested for any criminal offense other than a minor motor vehicle violation" and "Have you ever been convicted...for any criminal offense other than a minor vehicle violation," when in fact the Licensee had previously been arrested and convicted of at least one criminal offense other than a minor motor vehicle violation. A copy of the

Superseding Indictment in United States of America v. Seacoast Sleep Solutions, LLC/Peter Enzinger, Criminal No. 2:11-00062-DBH/Case Number: 2:11-cr-62-001, is attached hereto as **Attachment C** and incorporated herein by reference.

7. On April 18, 2012, the Licensee was adjudicated guilty of the offenses set forth in Paragraphs 5 and 6, above. The Licensee was sentenced to a total term of incarceration of thirty (30) months (twenty-four (24) months for Knowingly Making a False Statement to the SBA and thirty (30) months for Health Care Fraud, to be served concurrently). In addition, the Court recommended to the Bureau of Prisons the Licensee's enrollment in the Residential Drug Treatment Program or, if he did not qualify for that program, enrollment in any available drug treatment programs. Upon his release from prison, the Licensee was ordered to be on supervised release for a term of one (1) year for Health Care Fraud and three (3) years for Knowingly Making a False Statement to the SBA, to be served concurrently for a total of 3 (three) years supervised release. During the term of supervised release, the Licensee was ordered to submit to drug tests as directed by the probation officer. The Judgment also enumerated other conditions for the Licensee's supervised release. The Licensee was ordered to pay restitution in the amount of \$198,245.54. A copy of the Judgment in a Criminal Case, United States of America v. Peter Enzinger a/k/a Peter Shays, is attached hereto as **Attachment D** and incorporated herein by reference.
8. The Licensee's conduct as set forth in Paragraphs 2 – 7, above, and more fully described in Attachments A, B, C, and D to this Agreement, constitutes conduct in violation of:
  - (a) Board statutes at M.G.L. c. 112, § 23X (a) and Board regulations at 261 CMR 4.04(5) for obtaining a license by fraud or deception; M.G.L. c. 112, § 23X (b) and 261 CMR 4.04(5) for conviction of a felony or of a crime involving moral turpitude; and § 23X (f) and 261 CMR 4.04(5) for having acted in a manner which is professionally unethical according to ethical standards of the profession of respiratory care, warranting disciplinary action by the Board pursuant to M.G.L. c. 112, § 23X and § 61;
  - (b) 261 CMR 4.04(5) for having been disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in M.G.L. c. 112 § 23X and 261 CMR 4.04(5), warranting disciplinary action by the Board pursuant to M.G.L. c. 112, § 23X and § 61;
  - (c) 261 CMR 4.04(5) for failing to report any disciplinary action within thirty (30) days of the date of that action, warranting disciplinary action pursuant to M.G.L. c. 112, § 23X; and

- (d) M.G.L. c. 112, § 61, and 261 CMR 4.04(5) for committing an offense against any provisions of the laws of the Commonwealth relating to the practice of respiratory care, or any rule or regulation adopted thereunder.
9. Further, the Licensee's conduct underlying the Maine Agreement and his criminal convictions in U.S. District Court, District of Maine, establish the absence of the "good moral character" that is a prerequisite for initial licensure and license renewal pursuant to M.G.L. c. 112, § 23S.
  10. The Licensee understands that this Agreement for Voluntary Surrender of Right to Renew License constitutes disciplinary action by the Board. The Licensee further understands that this Agreement constitutes disciplinary action that is reportable to the National Practitioner Data Bank ("NPDB") and the Healthcare Integrity and Protection Data Bank ("HIPDB").
  11. The Licensee understands that this Agreement shall be incorporated into the permanent records for the Licensee maintained by the Board. The Licensee further understands that this Agreement constitutes a "public record" within the meaning of M.G.L. c. 4, § 7, subject to public disclosure and that the Board may forward a copy of this Agreement to other licensing boards, professional certification bodies, and law enforcement entities, as well as to any other individual or entity as required by law.
  12. The Licensee agrees to return to the Board at its office at 239 Causeway Street, Suite 500, Boston, Massachusetts 02114, either by hand or by mail, the **two (2)** enclosed duplicate originals of this Agreement signed by the Licensee, witnessed and dated, **no later fourteen (14) days from his receipt of such Agreement.**
  13. The Licensee further agrees that at the time he returns to the Board the two signed, dated, and witnessed original copies of this Agreement he shall return to the Board any expired Massachusetts Respiratory Therapist license(s) that may be in his possession.
  14. The Board agrees that in return for the Licensee's execution of this Agreement and its return to the Board as provided herein, the Board shall not prosecute before itself the allegations contained in the Complaint.
  15. The Licensee understands that, based on the egregiousness of his conduct as set forth in this Agreement and its Attachments and its direct relationship to the practice of the profession of respiratory care, any future request to the Board for the reinstatement of the right to renew his Respiratory Therapist license may not be considered by the Board.
  16. The Licensee understands and agrees that the surrender of the right to renew his Respiratory Therapist license as agreed under the terms of this Agreement is a final act

depriving him of all privileges of licensure as a Respiratory Therapist and is not subject to reconsideration or judicial review.

17. The effective date of this Agreement ("Effective Date") is the date on which the Board receives two duplicate original copies of the Agreement that have been signed by the Licensee.
18. The Licensee understands that any practice as a Respiratory Therapist in Massachusetts after the Effective Date of this Agreement may be referred to law enforcement for appropriate action, shall constitute additional grounds for complaint, and shall be considered by the Board should it countenance any future request from the Licensee for reinstatement of the right to renew his Respiratory Therapist license.
19. The Licensee states that he has used legal counsel in connection with his decision to enter into this Agreement or, if he did not, that he had an opportunity to do so and that his decision to enter into this Agreement was made of his own free will.
20. The Licensee certifies that he has read this document entitled "Agreement for Voluntary Surrender of Right to Renew License." The Licensee understands that, by executing this Agreement, he is waiving his right to a formal hearing at which he would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, to appeal to court in the event of an adverse ruling, and all other rights set forth in M.G.L. c. 30A, the Massachusetts Administrative Procedure Act, and 801 CMR 1.01 *et seq.*, the Standard Adjudicatory Rules of Practice and Procedure. The Licensee states that he further understands that in executing this document entitled "Agreement for Voluntary Surrender of Right to Renew License" he is knowingly and voluntarily waiving his right to a formal hearing and to all of the above listed rights.

BY THE LICENSEE:

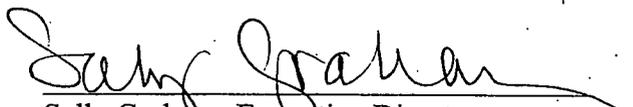
  
Peter Enzinger

07. March, 2013  
Date

  
Witness Signature and Date 3/7/13

RICHARD WHITMIRE  
Witness Print Name

BY THE BOARD:

  
Sally Graham, Executive Director

3-15-13  
Date

3/15/13 JHS  
Effective Date of Agreement

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FOR BOARD USE:

An original copy of this Agreement for Voluntary Surrender of Right to Renew License signed by the Board was mailed to the Licensee/~~Licensee's attorney~~ on 3/18/13 by Certified Mail No.

70120470 000136115820 by JHS.