



LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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BEFORE THE LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF:

BRITTANY NICHOLE LYONS, OTA
(Credential No. OTA. 328133),
Respondent

No. 2022-I-486

CONSENT ORDER

The above-entitled proceeding was docketed for investigation by the Louisiana State Board of Medical Examiners (the "Board") following receipt of information indicating that Brittany Nichole Lyons, OTA ("Ms. Lyons"), an occupational therapy assistant licensed by the Board, as evidenced by Certificate No. OTA.328133, failed to comply with a one-year Allied Professionals Health Program ("APHP") monitoring agreement to rule-out alcohol impairment. The impetus for Ms. Lyons' entry into this agreement was her failure to disclose a previous DUI conviction on the Oath & Affirmation portion of her initial application for licensure in February 2021,¹ followed by a positive PEth result in June 2021 that was not compatible with her stated amount of alcohol consumption.

Ms. Lyons' entry into the foregoing APHP monitoring agreement in July 2021 served as a condition precedent to the issuance of her OTA license, with the latter likewise being issued that very same month and shortly thereafter. However, the Board received evidence that Ms. Lyons course of conduct after entering into this agreement indicated that she never had any real intent to comply with the same, and feigned agreement with the terms and provisions of the agreement solely for licensure purposes. The lack of compliance in this regard entailed a failed EtG test in May 2022, twenty-five (25) missed check-ins and eight (8) missed alcohol screens.

Upon request by the Board, Ms. Lyons did submit to an evaluation at a Board approved facility on or about June 24, 2022. Her evaluators concluded that notwithstanding the want of objective measurable data confirming the diagnosis of an alcohol use disorder, Ms. Lyons' behavior indicated the presence of such a disorder as it was unclear whether her non-compliance with her prior monitoring agreement was fueled by a compulsion to consume alcohol, disregard for the Board's authority or a combination of the two. To address this concern, Ms. Lyons'

¹ Ms. Lyons later amended her response to Question #3 on her Oath & Affirmation on or about March 4, 2021, to answer the same in the affirmative, in addition to an explanation as to why she initially responded in the negative.

evaluators recommended that she enter a new “rule-out” monitoring agreement coupled with completing a course on medical ethics and professionalism.

Predicated upon the foregoing information, Lawrence H. Cresswell, III, D.O., J.D., Director of Investigations (the “Investigating Officer”) and the Investigative Officer assigned by the Board with respect to this matter, determined reasonable cause existed such that a formal Administrative Complaint could be filed against Ms. Lyons, charging her with violation(s) of the Louisiana Occupational Therapy Practice Act, La. Rev. Stat. §§ 37:3001, *et seq.* (“the Act”), pursuant to La. Rev. Stat. §§ 37:3011(A)(1) & 37:3011A(2).²

Ms. Lyons acknowledges the substantial accuracy of the foregoing information and that proof of such information could provide the Investigating Officer with probable cause to pursue formal administrative proceedings against her for violation of the Act, and further, that proof of such information upon administrative evidentiary hearing could establish grounds under the Act for the suspension, revocation, or imposition of such other terms, conditions, or restrictions on her license to practice as an occupational therapy assistant in the State of Louisiana as the Board may determine appropriate.

Recognizing her right to have notice and administrative adjudication of any charges that may be filed in this matter, at which time she would be entitled to be represented by legal counsel, to call witnesses and to present evidence on her own behalf in defense or in mitigation of the charges made, and to a decision thereon by the Board based upon written findings of fact and conclusions of law, pursuant to La. Rev. Stat. § 49:951, *et seq.*, Ms. Lyons nonetheless hereby waives her right to notice and formal adjudication and, pursuant to La. Rev. Stat. § 49:955(D), consents to the entry of the Order set forth hereinafter. By her subscription hereto, Ms. Lyons also acknowledges that she waives any right to which she may be entitled pursuant to the Louisiana Administrative Procedure Act, La. Rev. Stat. § 49:951 *et seq.*, or which otherwise may be afforded to her by law, to contest her agreement to or the force and effect of this document in any court or other forum relating to the matters referred herein. By her subscription hereto, Ms. Lyons also hereby authorizes the Investigating Officer designated by the Board with respect hereto to present this Consent Order to the Board for its consideration and to fully disclose and to discuss with the Board the nature and result of the investigation and waives any objection to such disclosures under

² The board may refuse to renew a license, may suspend, or revoke a license, or may impose probationary conditions, if the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct shall include: (1) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts; and (2) Being guilty of unprofessional conduct, as defined by the policies established by the board, or violating the code of ethics adopted and published by the American Occupational Therapy Association, Inc. (AOTA). *See* 46 LAC, pt. XLV, §§ 4931(B)(3) (defining “unprofessional conduct” as “perjury, fraud, deceit, misrepresentation, or concealment of material facts in obtaining a license to practice occupational therapy”); 4931(B)(17) (defining “unprofessional conduct” as “violation of the code of ethics adopted and published by the American Occupational Therapy Association, Inc. (AOTA)”); 4931(B)(18) (defining “unprofessional conduct” as “violation of any rules and regulations of the board, or any provisions of the Act, as amended, R.S. 37:3001-3014”). According to Section 5 E within the most recent code of ethics promulgated by the AOTA in 2020, which is most applicable to Ms. Lyons’ non-compliance with her initial APHP monitoring agreement, occupational therapists or occupational therapy assistants should “take action to resolve incompetent, disruptive, unethical, illegal, or impaired practice in self or others.”

La. Rev. Stat. § 49:960. Ms. Lyons expressly acknowledges that the disclosure of information to the Board by the Investigating Officer shall be without prejudice to the Investigating Officer's authority to pursue formal administrative charges against her or to the Board's capacity to adjudicate such charges should the Board decline to approve this Consent Order.

Based upon the information provided, and upon the recommendation of the Investigating Officer, the Board hereby concludes that, consistent with its mandate under La. Rev. Stat. § 37:1261, the interests of public health, safety, and welfare will be effectively served by entry of the Order set forth hereinafter by consent. Accordingly, in consideration of the foregoing and pursuant to the authority vested in the Board by La. Rev. Stat. §§ 37:3011 and 49:955(D);

IT IS ORDERED that Ms. Lyons be **OFFICIALLY REPRIMANDED** for the conduct described above.

IT IS FURTHER ORDERED that the license of Brittany Nichole Lyons, OTA as evidenced by Certificate No. OTA.328133, shall be placed **ON PROBATION** for a period of one (1) year (the "probationary period") commencing on the effective date of this Order, *provided however*, that Ms. Lyons' continuing exercise of any rights and privileges granted thereby, shall be conditioned upon and subject to her acceptance of and strict compliance with the following terms, conditions, and restrictions:

- 1. Allied Professionals Health Program Agreement, Reports to Board (Allied Healthcare Professionals).** Ms. Lyons shall enroll in and continue to maintain a monitoring agreement with the Allied Professionals Health Program ("APHP"), for the duration of the probationary period. Ms. Lyons shall continue in, abide by, and strictly adhere to all recommendations for ongoing treatment and monitoring which are contained in such agreement, as well as those recommended by her treating physicians, and those prescribed by any other health care provider involved in her care to the extent that they continue to follow her. Ms. Lyons shall, in addition, authorize and cause APHP to submit to the Board or its designee, not less frequently than quarterly, written and/or verbal reports, should the Board or its designee desire the latter, on her compliance with the terms, conditions and restrictions of this Order and her monitoring agreement.
- 2. Maintenance of Complete Abstinence.** Ms. Lyons shall maintain complete and total abstinence from the use of alcohol, controlled and/or any mood-altering substance for the duration of the probationary period, except as may be prescribed by a treating physician for a *bona fide* medical condition. Ms. Lyons shall personally inform the Board's Probation and Compliance Officer, both orally and in writing, within forty-eight (48) hours of the prescription or administration of any controlled or mood-altering substance received by her from any physician for treatment of a *bona fide* medical condition. If the prescription is from another physician, she shall also inform her treating/monitoring physician in the same manner.

- 3. Drug and Alcohol Screens.** Ms. Lyons shall submit to periodic, unannounced blood, urine, saliva, hair collection or other screens, including EtG and PEth levels, to detect the presence of alcohol or other mood-altering substances. Such screenings shall be random and shall occur at a frequency determined by the APHP. Ms. Lyons shall authorize and cause all reports of the results of such drug and/or alcohol screens to be promptly submitted to the Board or its designee for the duration of the probationary period.
- 4. Course on Ethics/Professionalism.** Within six (6) months of the effective date of this Order, Ms. Lyons shall attend and successfully complete a course (or courses) on Ethics/Professionalism, with a list of approved courses available for review on the Board's website at <https://a.storyblok.com/f/150540/x/bfa0e6dafa/board-approved-cme-courses-7-14-2022.pdf>. On or before the expiration of six (6) months from the effective date of the Order, Ms. Lyons shall cause to be submitted to the Board or its designee written certification of satisfaction of the requirements of this provision.
- 5. Board Access to Treatment Records and Reports.** Ms. Lyons shall, and does by her subscription hereto, authorize any physician, healthcare professional or any institution at which she undergoes treatment for chemical abuse, chemical dependency or any other condition from which she may suffer or be diagnosed, as well as any physician under whose care she may come under the auspices of at such an institution who has or may hereafter evaluate, diagnose, treat or monitor her, to provide to the Board or its designee with copies of all medical reports relating to Ms. Lyons' history, examination, evaluation, diagnosis, treatment and prognosis and to provide the Board or its designee with written and/or oral reports relative thereto during the probationary period. Ms. Lyons expressly waives any privilege that may otherwise be afforded the disclosure of such records pursuant to state or federal law and acknowledges that she shall immediately provide the Board, or its designee written authorization to obtain such records upon request.
- 6. Notification to Employers and Reports from Supervisors.** Ms. Lyons shall provide a copy of this Consent Order to each supervising physician, hospital, clinic, facility or other employer or prospective employer at which of for whom she provides services as an occupational therapy assistant in this state during the probationary period. Ms. Lyons shall provide the Board's Probation Officer with information identifying her place of employment as an occupational therapy assistant and shall likewise identify her supervisor. Thereafter, Ms. Lyons shall authorize and cause the supervisor, or another designee approved by the Board, to provide quarterly reports to the Board on a Board approved form. The quarterly reports are due on or before the first of January, April, July, and October of each year during the probationary period.
- 7. Cooperation with Board's Probation and Compliance Officer and APHP.** Ms. Lyons shall immediately notify the Board's Probation and Compliance Officer of any change in her current home/professional addresses/post office boxes, home/professional telephone numbers, home/professional email addresses and/or home/professional facsimile

transmission numbers and she shall direct all matters required pursuant to this Order to the attention of the Probation and Compliance Officer during the probationary period. Ms. Lyons shall cooperate with the Probation and Compliance Officer and the APHP on all matters and inquiries pertaining to her compliance with the terms and conditions of this Order, specifically including without limitation providing cooperation and assistance to the Board, its designee or the APHP in obtaining any records required under this Consent Order.

- 8. Absence from the State/Practice/Effect on Probation.** Should Ms. Lyons at any time be absent from the State of Louisiana, relocate to and/or take up residency in another state or country, or discontinue practicing as an occupational therapy assistant for a period of thirty (30) days or more, then she will so advise the Board in writing. In such instance, the probationary period and all terms, conditions and restrictions thereof shall be deemed interrupted and extended and shall not commence again until Ms. Lyons notifies the Board in writing that she has resumed the practice of occupational therapy assistance in Louisiana.
- 9. Probation Monitoring Fee.** For each year of the probationary period, Ms. Lyons shall pay the Board an annual probation monitoring fee of three-hundred dollars (\$300). Payment of the initial fee shall be due not later than sixty (60) days from the effective date of this Order. All subsequent annual payments shall be due on or before the anniversary date of the initial fee payment.
- 10. Self-Reporting of Violations.** During the probationary period, Ms. Lyons shall immediately self-report in writing to the Board or its designee any violation or failure to adhere to the terms, conditions, or restrictions of this Order. Furthermore, Ms. Lyons shall immediately self-report in writing to the Board any personal action or inaction which constitutes a violation of the Act during the probationary period.
- 11. Effect of Violation/Sanction.** By her subscription hereto, Ms. Lyons acknowledges that her receipt of written notification that the Board has received reliable information indicating her failure to comply with the requirements set forth by this Order in any respect during the probationary period shall, without the need for formal hearings or for providing her with any right to which she may otherwise be entitled pursuant to Louisiana Administrative Procedure Act, La. Rev. Stat. § 49:951, *et seq.*, or which otherwise be afforded to her by law, constitute irrevocable consent to the immediate suspension of her license to practice as an occupational therapy assistant in this state, pending a hearing before the Board and the conclusion of the administrative proceeding by issuance of a final decision following administrative adjudication of such charges.
- 12. Certification of Compliance with Probationary Terms.** At least sixty (60) days prior to the conclusion of the probationary period imposed herein, Ms. Ms. Lyons shall provide the Board with an affidavit certifying that she has complied with each of the terms of probation imposed by this Order. The probationary period and all its terms, conditions and

restrictions shall be, and shall be deemed to be, extended and continued in full force and effect pending Ms. Lyons' compliance with the requirements of this provision.

13. Payment of Fine. Within six (6) months of the effective date of this Order, Ms. Lyons shall pay to the Board a fine in the amount of \$500.

14. Effective Date. This Consent Order shall be effective the date it is approved and accepted by the Board as shown by the signature of its representative below.

IT IS FURTHER ORDERED that any violation of or failure of strict compliance with any of the terms, conditions, or restrictions set forth by this Order by Ms. Lyons shall be deemed adequate and sufficient cause, upon proof of such violation or failure, for such other action against Ms. Lyons' license to practice occupational therapy assistance in the State of Louisiana as the Board may deem appropriate, as if such violations were enumerated among the causes provided in La. Rev. Stat. § 37:3011.

IT IS FURTHER ORDERED that this Consent Order shall be and shall be deemed to be a public record.

New Orleans, Louisiana, this 23RD day of JANUARY, 2023.

LOUISIANA STATE BOARD
OF MEDICAL EXAMINERS

By: 
LESTER W. JOHNSON, M.D.
President

(Acknowledgement and Consent on following page)

**ACKNOWLEDGMENT
AND CONSENT**

STATE OF LOUISIANA
PARISH/COUNTY OF ASCENSION

I, **BRITTANY NICHOLE LYONS, OTA**, hereby acknowledge that I have had the opportunity to seek the advice and guidance of legal counsel with respect to this Consent Order and that all its terms and conditions have been fully explained to me and/or that I fully understand them. I further acknowledge that I approve, accept, and consent to entry of the above and foregoing Order without duress and of my own free will and accord, this 7th day of November, 2022.

Brittany Nichole Lyons, OTA
BRITTANY NICHOLE LYONS, OTA

WITNESSES:

Jarrett Russell Roddy
Signature

Jamet Rodriguez
Signature

Jarrett Russell Roddy
Typed Name

Jamet Rodriguez
Typed Name

415 S. BURNSIDE
Street Address

415 S. BURNSIDE
Street Address

GONZALES, LA 70737
City/State/Zip Code

GONZALES LA 70737
City/State/Zip Code

Sworn to and subscribed before me this 7th day of Nov., 2022, in the presence of the two stated witnesses.

Judy S. Schexnaydre
Notary Public (Signature)

Name: JUDY S. SCHEXNAYDRE

Notary/Bar No.: 51072

Commission expires: Lifetime

