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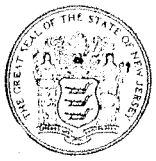

JON S. CORZINE
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
State Board of Medical Examiners
P.O. Box 183, Trenton, NJ 08625-0183

ZULIMA V. FARBER
Attorney General

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PO Box 183
Trenton, NJ 08608
(609) 826-7100
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March 13, 2006

REGULAR MAIL AND
CERTIFIED RETURN RECEIPT

Robert J. Lucas, P.A.
8 Outer Rd.
Norwalk, CT 06854

Dear Mr. Lucas:

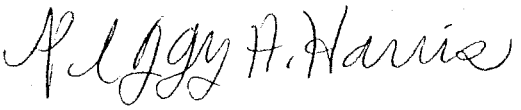
Enclosed is a certified true copy of the Administrative Action ORDER OF SUMMARY SUSPENSION filed March 13, 2006 with the New Jersey Board of Medical Examiners ("the Board"). This Order is being issued to you pursuant to the enclosed statute, N.J.S.A. 45:1-7.1, since you failed to renew your license to practice as a physician assistant in the State of New Jersey causing your license to expire August 31, 2003. This ORDER OF SUMMARY SUSPENSION is administrative and is not considered to be a disciplinary action against your license.

As noted in the Order, the Board is aware of the action taken by the Connecticut Board concerning your Connecticut license. In the event that you wish to reinstate your New Jersey physician assistant license at any future date, prior to engaging in any form of practice in this State, you will be required to appear before the Board or a Committee thereof, to respond to questions concerning the circumstances which gave rise to the disciplinary action. The Board may determine to take disciplinary action against you at that time based on the Connecticut discipline and is in no way obligated to impose the same sanctions. The Board may impose more stringent discipline or place certain limitations upon your license. If you wish to be reinstated, you must submit your request in writing along with the required affidavit of employment listing each job held during the period of suspended license, which includes the names, addresses and telephone numbers of each employer, pursuant to the enclosed statute for reinstatement, N.J.S.A. 45:1-7.2. Should the Board determine to reinstate your license, you will be sent a biennial registration renewal application to complete and will be advised at that time of the total fee required.

Should you have any questions, please do not hesitate to contact this office.

Very truly yours,

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS



Peggy A. Harris
Assistant Executive Director

Enclosure
cc: Sandra Dick, D.A.G.
Joyce Brown, D.A.G.
Ed Tumminello, EB
Dorcas O'Neal, Physician Assistants Advisory Board

the provisions of the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1).

Any board's or commission's charges established, prescribed or changed pursuant to this section shall be established, prescribed or changed to such extent as shall be necessary to defray all proper expenses incurred by the board or commission in the performance of its duties but such charges shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

L.1974, c. 46, § 2, eff. June 24, 1974.
[1] N.J.S.A. § 45:1-3.1.

45:1-3.3. Administrative fees charged by boards; modification

The Director of the Division of Consumer Affairs may by rule establish, prescribe, or modify administrative fees charged by boards in accordance with the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.). For purposes of this section, "administrative fees" are charges assessed to licensees, registrants or holders of certificates, as the case may be, for board functions that are not unique to a particular board but are uniform throughout all boards. Administrative fees include, but are not limited to, fees for a duplicate or replacement license, certification or registration, late renewal fee, license reinstatement fee, and the fee for processing change of address.

L.1999, c. 403, § 4, eff. Jan. 18, 2000.

45:1-4. Salary of secretary

The secretary of each of the boards mentioned in section 45:1-2 [1] of this title, whether or not a member thereof, shall be entitled to receive such reasonable salary or compensation for his services as secretary as shall be fixed by such boards, which shall be paid by the boards from their receipts, unless an appropriation is made for the expenses of such boards, in which case the same shall be paid from such appropriation.

[1] Repealed. See, now, §§ 45:1-2.1, 45:1-2.2.

45:1-5, 45:1-6. Repealed by L.1979, c. 432, § 4, eff. Feb. 14, 1980

45:1-7. Professional or occupational licenses or certificates of registration; duration; expiration; exceptions; fees

Notwithstanding any of the provisions of Title 45 of the Revised Statutes or of any other law to the contrary, all professional or occupational licenses or certificates of registration, except such licenses or certificates issued to

real estate brokers or salesmen pursuant to chapter 15 of Title 45, which prior to the effective date of this act were issued for periods not exceeding one year and were annually renewable, shall, on and after the effective date of this act, be issued for periods of two years and be biennially renewable, except that licenses and business permits issued to electrical contractors and certificates of registration issued to qualified journeyman electricians pursuant to chapter 5A of Title 45 shall be issued for periods of three years and be triennially renewable, provided, however, the boards or commissions in charge of the issuance or renewal of such licenses or certificates may, in order to stagger the expiration dates thereof, provide that those first issued or renewed after the effective date of this act, shall expire and become void on a date fixed by the respective boards or commissions, not sooner than six months nor later than 29 months, after the date of issue.

The fees for the respective licenses and certificates of registration issued pursuant to this act for periods of less or greater than one year shall be in amounts proportionately less or greater than the fees established by law.

L.1972, c. 108, § 1. Amended by L.1991, c. 6, § 1.
Amended by L.2001, c. 21, § 1.

45:1-7.1. Application to holders of professional or occupational licenses

a. Notwithstanding any other act or regulation to the contrary, the provisions of this section and sections 6 and 7 of P.L.1999, c. 403 (C.45:1-7.2 et al.) shall apply to every holder of a professional or occupational license or certificate of registration or certification issued or renewed by a board specified in section 2 of P.L. 1978, c. 73 (C.45:1-15), who seeks renewal of that license or certificate.

b. Every holder of a professional or occupational license or certificate of registration or certification, issued or renewed by a board specified in section 2 of P.L.1978, c. 73 (C.45:1-15), who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license or certificate of registration or certification. If the holder does not renew the license or certificate prior to its expiration date, the holder may renew it within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any professional or occupational license or certificate of registration or certification not renewed within 30 days of its expiration date shall be suspended without a hearing.

c. Any individual who continues to practice with an expired license or certificate of registration or certification after 30 days following its expiration date shall be deemed to be engaged in unlicensed practice of the

regulated profession or occupation, even if no notice of suspension has been provided to the individual.

d. A professional or occupational license or certificate of registration or certification suspended pursuant to this section may be reinstated within five years following its date of expiration upon submission of a renewal application and payment of an additional reinstatement fee. An applicant seeking reinstatement of a license or certificate suspended pursuant to this section more than five years past its expiration date shall successfully complete the examination required for initial licensure, registration or certification and submit a renewal application and payment of an additional reinstatement fee.

e. A board specified in section 2 of P.L. 1978, c. 73 (C. 45:1-15) shall send a notice of renewal to each of its holders of a professional or occupational license or certificate of registration or certification, as applicable, at least 60 days prior to the expiration of the license or certificate. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.

L.1999, c. 403, § 5, eff. Jan. 18, 2000.

45:1-7.2. Reinstatement

A board may reinstate the professional or occupational license or certificate of registration or certification of an applicant whose license or certificate has been suspended pursuant to section 5 of P.L.1999, c. 403 (C.45:1-7.1), provided that the applicant otherwise qualifies for licensure, registration or certification and submits the following upon application for reinstatement:

a. Payment of all past delinquent renewal fees;

b. Payment of a reinstatement fee;

c. An affidavit of employment listing each job held during the period of suspended license, registration or certification which includes the names, addresses, and telephone numbers of each employer; and

d. If applicable, satisfactory proof that the applicant has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license or certificate of registration or certification.

L.1999, c. 403, § 6, eff. Jan. 18, 2000.

45:1-7.3. Renewal applications

a. Renewal applications for all professional or occupational licenses or certificates of registration or certification shall provide the applicant with the option of either active or inactive renewal. A renewal applicant electing to renew as inactive shall not engage in professional or occupational practice within the State.

b. An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon application to the board, the board permits the inactive applicant to return to active status provided such applicant presents satisfactory proof that he has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license, registration or certification, if applicable.

L.1999, c. 403, § 7, eff. Jan. 18, 2000.

45:1-8. Contractors; application of § 45:1-9

The provisions of this act apply to the following classes of contractors:

a. Tree experts, certified pursuant to P.L.1940, c. 100 (C. 13:1-28 et seq.[1]);

b. Home repair contractors, licensed pursuant to P.L.1960, c. 41 (C. 17:16C-62 et seq.);

c. Electrical contractors, licensed pursuant to P.L.1962, c. 162 (C. 45:5A-1 et seq.);

d. Master plumbers, licensed pursuant to P.L.1968, c. 362 (C. 45:14C-1 et seq.);

e. Well drillers, licensed pursuant to P.L.1947, c. 377 (C. 58:4A-5 et seq.); and

f. Any class of contractors who hereafter are licensed by the State.

L.1973, c. 254, § 1, eff. Nov. 26, 1973.

[1] Renumbered C. 45:15C-1 to 45:15C-10.

ZULIMA V. FARBER
ATTORNEY GENERAL OF NEW JERSEY
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124 Halsey Street
Newark, New Jersey 07101

By: Joyce Brown
Deputy Attorney General
Tel: (973) 648-4447

FILED
March 13, 2006
NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE LICENSE OF **ROBERT J. LUCAS, P.A.** **License No. MP01023** TO PRACTICE AS A PHYSICIAN ASSISTANT IN THE STATE OF NEW JERSEY	Administrative Action **ORDER OF SUMMARY SUSPENSION**

This matter was opened to the New Jersey State Board of Medical Examiners upon receipt of information revealing the following:

1. Respondent, Robert J. Lucas, P.A., is the holder of License No. MP00827 and was licensed to practice as a physician assistant in the State of New Jersey from January 27, 2003 until August 31, 2003 after which time Respondent permitted that license to lapse.

2. On or about October 18, 2005, the Connecticut Medical Examining Board issued a Memorandum of Decision in which Respondent was reprimanded, placed on six (6) months probation, required to pay costs and a civil penalty of $5000 and ordered to cease and

CERTIFIED TRUE COPY

desist from engaging in the independent practice of medicine at a beauty spa in Darien, CT where he provided botox injections. (Copy of Order and available supporting materials are annexed hereto and made a part hereof.)

3. Respondent's failure to submit his biennial renewal in 2003 resulting in a lapsed license status provides grounds to automatically suspend Respondent's license to practice as a physician assistant in the State of New Jersey pursuant to N.J.S.A. 45:1-7.1(b).

ACCORDINGLY, IT IS ON THIS 13th DAY OF Mar, 2006, HEREBY ORDERED THAT:

1. Respondent's license to practice as a physician assistant in the State of New Jersey shall be and hereby is suspended by operation of N.J.S.A. 45:1-7.1, without a hearing.

2. In the event that Respondent seeks reinstatement of a New Jersey license at any time in the future, this Order shall require Respondent to show cause why the application for reinstatement should not be refused or issued subject to such restraints or limitations, as the Board may deem appropriate, because of the prior Connecticut licensure action set forth above.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By: Sindy M. Paul, MD, MPH

Sindy Paul, M.D.
President

STATE OF CONNECTICUT
CONNECTICUT MEDICAL EXAMINING BOARD

Robert J. Lucas, P.A.
License No.: 000371

Petition No. 2002-1209-023-007

MEMORANDUM OF DECISION

Procedural Background

On May 28, 2004, the Department of Public Health ("the Department") presented a Statement of Charges to the Connecticut Medical Examining Board ("the Board") against the Connecticut physician assistant license of Robert J. Lucas ("respondent"). Board Exh. A. The Statement of Charges and Notice of Hearing were mailed via certified mail, return receipt requested on June 24, 2004. The Notice of Hearing informed the parties that a hearing would be held before a duly authorized panel of the Board, on Wednesday, September 8, 2004. Board Exh. A.

Respondent filed an Answer to the Statement of Charges on July 9, 2004.

The panel conducted the hearing in accordance with Connecticut General Statutes Chapter 54 (the Uniform Administrative Procedure Act). All panel members involved in this decision received copies of the entire record and attest that they either heard the case or read the record in its entirety. The Board reviewed the panel's proposed final decision in accordance with the provisions of Conn. Gen. Stat. § 4-179. The Board considered whether respondent poses a threat in the practice of medicine to the health and safety of any person. This decision is based entirely on the record and the specialized professional knowledge of the panel in evaluating the evidence.

Allegations

1. In paragraphs 1 and 5 of the Charges, the Department alleges that respondent is, and has been at all times referenced in the Charges, the holder of Connecticut physician assistant license number 000371. Respondent has at no time been licensed in Connecticut to practice medicine and surgery.

2. In paragraphs 2 and 5 of the Charges, the Department alleges that during at least 2002, respondent engaged in the unlicensed practice of medicine when he administered botox and collagen injections to patients at a beauty spa in Darien.

3. In paragraphs 3 and 5 of the Charges, the Department alleges that during at least 2002, respondent engaged in the unlicensed practice of medicine when he practiced without a written protocol and without the required supervision at a physician's office.

4. In paragraph 4 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, including, but not limited to § 20-9(a).

5. In paragraph 6 of the Charges, the Department alleges that during at least 2002, respondent practiced as a physician assistant without a written protocol with at least one of his registered supervising physicians.

6. In paragraph 7 of the Charges, the Department alleges that during at least 2002, respondent failed to provide patient charts and records for review on a regular basis to at least one of his registered supervising physicians.

7. In paragraph 8 of the Charges, the Department alleges that during at least 2002, respondent failed to maintain proper patient charts and records.

8. In paragraph 9 of the Charges, the Department alleges that during at least 2002, respondent practiced under the supervision of two physicians who were not registered with the Department as supervising physicians.

9. In paragraph 10 of the Charges, the Department alleges that the facts described in paragraphs 1 through 8 of the Charges constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, including but not limited to:
   a. § 20-12c(a);
   b. § 20-12c(b);
   c. § 20-12d(a);
   d. § 20-12d(c); and/or
   e. § 20-12f.

Findings of Fact

1. Respondent is the holder of Connecticut physician assistant license number 000371. Board Exh. B.

2. Respondent has at no time been licensed to practice medicine and surgery in Connecticut. At all relevant times, respondent has been licensed to practice as a physician assistant, having license number 000371. Tr., pp. 185-212; Board Exh. B; Dept. Exh. 1.

3. Dr. Christine L. Hamilton-Hall was registered with the Department of Public Health in 1999 as a supervising physician. Tr., p. 195; Dept. Exh. 1B.

4. During at least 2002, Dr. Hamilton-Hall was acting as respondent's supervising physician and oversaw and directed the medical services provided by respondent to their patients. Tr., pp. 32-33, 36, 186; Dept. Exh. 1E. During that time, respondent administered botox and collagen injections to patients at a beauty spa in Darien without active and direct physician supervision at that specific location. Tr., pp. 186, 190; Dept. Exh. 1A.

5. Dr. Hamilton-Hall's office is located a few blocks away from said beauty spa. Tr., pp. 33, 36.

6. During at least 2002, Dr. Hamilton-Hall was never present at said beauty spa to provide supervision for respondent while he administered botox and collagen injections to patients. Tr., pp. 33-41, 89, 90; Resp. Exh. A. When the respondent provided treatment to patients at said beauty spa during 2002, Dr. Hamilton-Hall was available by telephone. Dept. Exh. 1E.

7. During at least 2002, respondent lacked a written protocol for supervision by Dr. Hamilton-Hall. Instead, he had a verbal agreement for supervision.. Tr., pp. 37, 90, 91, 187; Dept. Exh. 1F

8. During at least 2002, respondent was adequately supervised by Dr. Hamilton-Hall while treating patients at her office but did so without written protocols. Tr., p. 187; Dept. Exh. 1F.

9. During 2002, respondent also worked as a physician assistant for Dr. Salvatore Farrugio; and, during 2001 and 2002, respondent worked for Dr. Theodore Kramer as a physician assistant at the same locations that the physicians practiced. Dept. Exh. 1B, 1G.

10. Dr. Farruggio and Dr. Kramer were not registered with the Department of Public Health as supervising physicians until 2003. Tr., pp. 187, 188; Dept. Exh. 1B, 1G.

11. During at least 2002, respondent provided patient charts and records for review on a regular basis to Drs. Farruggio, Kramer and Hamilton-Hall. Tr., pp. 173-176, 189, 191; Dept. Exh. 1E, 1F.

12. During at least 2002, respondent failed to maintain proper patient charts and records. Tr., pp. 94-100, 166, 167, 182-184; Dept. Exh. 1H.

Discussion and Conclusions of Law

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Steadman v. Securities and Exchange Commission*, 450 U.S. 91, 101 S.Ct. 999, *reh'g denied*, 451 U.S. 933 (1981); *Swiller v. Commissioner of Public Health,* Superior Court, judicial district of Hartford/New Britain at Hartford, Docket No. 573367 (February 19, 1998, Hodgson, J.).

Section 19a-10 of the Connecticut General Statutes provides in pertinent part, "[Boards] . . . may conduct hearings on any matter within their statutory jurisdiction. Such hearings shall be conducted in accordance with Chapter 54 and the regulations established by the Commissioner of Public Health."

Pursuant to Connecticut General Statutes § 20-12f: "The board shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the physician assistant profession brought against persons licensed to practice as a physician assistant. . . . The board may take any action set forth in section 19a-17 if it finds that a person licensed as a physician assistant . . . fails to conform to the accepted standards of the physician assistant profession." Pursuant to Conn. Gen. Stat. § 19a-17, the Board is authorized to suspend, or revoke the license of a physician assistant or to issue a letter of reprimand to a physician assistant, place a physician assistant on probation and to assess a civil penalty of up to ten thousand dollars. The Board finds that the Department met its burden of proof with respect to allegations 1 through 6, and 8 through 10 of the Charges.

A physician assistant is a person who: "(A) Functions in a dependent relationship with a physician licensed pursuant to this chapter; and (B) is licensed pursuant to section 20-12b to provide patient services under the supervision, control, responsibility and direction of said physician." Conn. Gen. Stat. § 20-12a(5). Supervision means:

> The exercise by the supervising physician of oversight, control and direction of the services of a physician assistant. Supervision includes but is not limited to (A) continuous availability of direct communication either in person or by radio, telephone or telecommunications between the physician assistant and the supervising physician; (B) active and continuing overview of the physician assistant's activities to ensure that the supervising physician's directions are being implemented and to support the physician assistant in the performance of his services (C) personal review by the supervising physician of the physician assistant's practice at least weekly or more frequently as necessary to ensure the quality patient care; (D) review of the charts and records of the physician assistant on a regular basis as necessary to ensure quality patient care; (E) delineation of a predetermined plan for emergency situations; and (F) designation of an alternate license physician in the absence of the supervising physician.

Conn. Gen. Stat. § 20-12a(7). The supervising physician is responsible for the supervision of services rendered by a physician assistant and must be licensed in the State of Connecticut. Conn. Gen. Stat. § 20-12a(6). A physician may function as a supervising physician provided that the supervision is "active and direct, and at the specific location in which

the physician assistant is practicing." Conn. Gen. Stat. § 20-12c(b). The supervising physician is required to registered with the Department of Public Health pursuant to Conn. Gen. Stat. § 20-12c and comply with all of the requirements of that section.

A physician assistant may perform medical functions delegated to them by a supervising physician when the supervising physician is satisfied with the physician assistant's ability and competency; when the delegation is consistent with the health and welfare of the patient and sound medical practice; and when the functions "are performed under the oversight, control, and direction of the supervising physician." Conn. Gen. Stat. § 20-12d(a). The functions that may be performed under such delegation are those that are (1) within the scope of the supervising physician's license; (2) within the scope of the physician's competence, as evidenced by such physician's postgraduate education, training and experience; and (3) within the normal scope of such physician's actual practice. Conn. Gen. Stat. § 20-12(d)(a). Delegated functions shall be implemented in accordance with written pro cols. Conn. Gen. Stat. § 20-12(d)(a).

Under this statutory scheme, a physician assistant functions in a dependent relationship with a licensed physician, and provides patient services under the supervision, control, responsibility and direction of said physician. See Conn. Gen. Stat. §§ 20-9(b)(14), 20-12a(5), and 20-12d(a)(3). Section 20-12d(c) of the Connecticut General Statutes mandates that "No physician assistant may: (1) Engage in the independent practice of medicine. . . ."

In allegations numbered 1 and 5 of the Charges, a preponderance of the evidence establishes that respondent is licensed to practice as a physician assistant. (Findings of Fact ("FF") ¶¶ 1, 2.) The Board finds that although respondent may perform medical functions, he may only do so under the delegation, supervision, control and responsibility of a supervising physician as set forth in Conn. Gen. Stat. § 20-12d. Absent the supervision, control, responsibility and direction of a licensed physician, respondent is prohibited from providing medical care. See Conn. Gen. Stat. § 20-9(b)(14), 20-12c, 20-12d.

In accordance with § 20-12c(b) of the Connecticut General Statutes:

> A physician may function as a supervising physician for as many physician assistants as is medically appropriate under the circumstances, provided (1) the supervision is active and direct, and at the specific location in which the physician assistant is practicing. . . .

With respect to allegations numbered 2 and 5 of the Charges, the Board finds respondent engaged in the independent practice of medicine when he administered botox and collagen injections to patients at a beauty salon in Darien. Dr. Christine L. Hamilton-Hall claimed that she was respondent's supervising physician for his practice at the beauty spa in Darien during 2002. Dr. Hamilton-Hall's office is located within a few blocks of the Darien beauty salon at which respondent was providing patient services. The record reveals, however, that Dr. Hamilton-Hall did not provide active and direct supervision at the Darien beauty salon because Dr. Hamilton-Hall never stepped foot in the beauty salon, and only saw respondent's patients if they went to her office. Although Dr. Hamilton-Hall contends that respondent "is in constant communication with her, as necessary, by telephone," the Board finds that Dr. Hamilton-Hall's failure to provide active and direct supervision at the beauty salon renders respondent's practice of administering botox and collagen injections at the Darien salon a violation of the statute. FF. 3-6.

Section 20-12d(a) of the Statutes provides that functions delegated by a supervising physician "shall be implemented in accordance with written protocols established by the supervising physician." In allegations numbered 3, 5, and 6 of the Charges, a preponderance of the evidence establishes that during 2002, respondent failed to have a written protocol with his registered supervising physician, Dr. Hamilton-Hall for any location where he practice under her supervision. Although respondent was unable to testify definitely whether or not he had any written protocols in 2002, documentation in the record reveals that that respondent's services "[were] delineated by verbal agreement and primarily include serving as an assistant to these physicians and/or providing collagen and botox treatment to patients." The lack of a written protocol is further supported by Diane Cybulski, Nurse Consultant for the Department, who credibly testified that during her investigation, Dr. Hamilton-Hall informed her that she did not have a written protocol with respondent. FF. 7. Nor did the respondent submit as evidence at the hearing copies of written protocols with Dr. Hamilton-Hall from 2002.

The Board finds, however, that with respect to allegations numbered 3 and 5 of the Charges, the Department failed to meet its burden of proof that respondent engaged in the independent practice of medicine without the required supervision *at* Dr. Hamilton-Hall's office. While providing care at Dr. Hamilton-Hall's office although there was no written protocols, respondent was properly supervised by Dr. Hamilton-Hall. FF. 8.

With respect to allegation numbered 7 of the Charges, the Department failed to meet its burden of proof. Documentation in the record reveals that respondent provided physicians with data for regular review, progress notes, digital photographs of patients and his schedule of patient appointments. Respondent testified that such information was provided to all of his registered supervising physicians – Drs. Farruggio, Kramer, and Hamilton-Hall. This fact is further supported by Dr. Hamilton-Hall's affidavit that respondent did, in fact, provide patient charts and records to her for review on a regular basis. FF. 11.

The Board finds that the Department met its burden of proof with respect to allegation numbered 8 of the Charges. The Board has reviewed the patient charts and records submitted as evidence by the Department and concludes, based on its expertise, that the charts and records fail to meet the minimum standard of practice for a physician assistant. The charts and records are lacking patient histories, records of physical examinations and treatment plans. See also FF. 12.

In accordance with § 20-12c(a) of the Statutes, "[n]o physician assistant issued a license or temporary permit by the department shall practice until such time as a supervising physician has been registered with the department."

With respect to allegation numbered 9 of the Charges, the evidence establishes that during 2001 and 2002, respondent practiced under the supervision of two physicians who were not registered with the Department as supervising physicians. More specifically, operative notes establish that respondent practiced under the supervision of Dr. Salvatore Farruggio during 2002, and Dr. Theodore Kramer during 2001 and 2002. However, the evidence establishes that Dr. Farruggio was not registered to be a supervising physician until April 24, 2003, and Dr. Kramer was not registered to be a supervising physician until February 28, 2003. Thus, Drs. Farruggio and Kramer were not registered in compliance with the statutes during 2001 or 2002 to supervise respondent. FF. 9, 10.

A preponderance of the evidence establishes that respondent failed to meet the minimum standard of practice as a physician assistant by engaging in conduct in violation of §§ 20-9(a), 20-12c(a), 20-12c(b), 20-12d(a), and 20-12d(c) of the Connecticut General Statutes with respect to allegations 1 through 6, and 8 through 10 of the Charges. As such, respondent's license is subject to disciplinary action as prescribed in Connecticut General Statutes §§ 20-12f and 19a-17.

Order

Based upon the record in this case, the above findings of fact and the conclusions of law, and pursuant to the authority vested in it by Conn. Gen. Stat. §§ 19a-17 and 20-12f, the Board orders the following in the case of Robert J. Lucas, Petition No. 2002-1209-023-007, who holds Connecticut physician assistant license number 000371:

1. Respondent is hereby ordered to cease and desist from engaging in the independent practice of medicine at the beauty spa in Darien, CT.
2. Respondent's license number 000371 to practice as a physician assistant in the State of Connecticut is hereby reprimanded.
3. Respondent shall pay a civil penalty in the amount of five thousand dollars ($5,000.00) by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall reference the Petition Number on the face of the check, and shall be payable within thirty days of the effective date of this Decision.
4. Respondent's license shall be placed on probation for six months after the effective date of this Decision.
    a. During the period of probation, respondent shall submit to the Department copies of written protocols from each of his supervising physicians. All written protocols are to be postmarked and sent via certified mail within two (2) weeks from the execution of this Order. If the Department or its designee determines that the protocols do not comply with the standards of practice or legal requirements, written notice of the deficiencies shall be provided via certified mail to the respondent and the supervising physician within two (2) weeks of the Department's receipt of the protocols. Respondent shall correct the deficiencies and resubmit the protocols within two (2) weeks of the mailing of the notice. Failure to correct the deficiencies shall be a violation of probation.
    b. Within two weeks of the effective date of this decision, respondent shall obtain at his own expense, the services of a physician, pre-approved by the Department (hereinafter the "practice monitor"), to conduct a monthly random review of twenty (20%) percent or twelve (12) of respondent's patient records, created or updated during the probationary period, whichever is the larger number. Respondent shall not use as a practice monitor any of his supervising physicians.

In the event respondent has twelve (12) or few patients, the practice monitor shall review all of respondent's patient records.

a) Respondent shall provide a copy of this Decision to his practice monitor.

b) Respondent's practice monitor shall furnish written confirmation to the Department of his or her engagement in that capacity and receipt of a copy of this Decision within fifteen (15) days of receipt.

c) Respondent's practice monitor shall meet with him not less than once every month for the sixth months of his probationary period.

d) The practice monitor shall have the right to monitor respondent's practice by any other reasonable means which he or she deems appropriate. Respondent shall fully cooperate with the practice monitor in providing such monitoring.

e) Respondent shall be responsible for providing written practice monitor reports directly to the Department for the entire probationary period. Such practice monitor's reports shall include documentation of dates and durations of meetings with respondent, number and a general description of the patient records, additional monitoring techniques utilized, and an evaluation of whether the respondent is practicing with reasonable skill and safety, including but not limited to compliance with the standards of practice governing record keeping.

f) At anytime during probation, the Department, with written notice to the respondent, may request that the Board order respondent attend and complete an educational course on medical record keeping based upon deficiencies in the records reviewed. The Board may order such a requirement as an additional condition of probation.

5. Respondent shall be responsible for all costs associated with the satisfaction of the terms of this Memorandum of Decision.

6. All reports, correspondence and/or other communication with the Department and/or Board required pursuant to this Order shall be sent to:

Bonnie Pinkerton
Department of Public Health
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

7. Respondent shall inform the Department in writing of his current address and any change thereto during the period of probation. All notices provided to respondent will be sent to the most current address of respondent on file with the Department.
8. This Order shall become effective upon the signature of the Board Chairperson.

10-18-05
Date

By: Dennis G. O'Neill, M.D., Chairman
Connecticut Medical Examining Board

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF HEALTHCARE SYSTEMS

In re: Robert Lucas, P.A. Petition No. 2002-1209-023-007

STATEMENT OF CHARGES

Pursuant to the General Statutes of Connecticut, §§19a-10, 19a-11, and 19a-14, the Department of Public Health (hereinafter "the Department") brings the following charges against Robert Lucas:

COUNT ONE

1. Robert Lucas of Norwalk (hereinafter "respondent") is, and has been at all times referenced in this Statement of Charges, the holder of Connecticut physician assistant license number 000371. Respondent has at no time been licensed in Connecticut to practice medicine and surgery.

2. During at least 2002, respondent engaged in the unlicensed practice of medicine when he administered botox and collagen injections to patients at a beauty spa in Darien.

3. During at least 2002, respondent engaged in the unlicensed practice of medicine when he practiced without a written protocol and without the required supervision at a physician's office.

4. The above-described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, including but not limited to §20-9(a).

COUNT TWO

5. Paragraphs one through three are incorporated herein by reference as if set forth in full.

6. During at least 2002, respondent practiced as a physician assistant without a written protocol with at least one of his registered supervising physicians.

7. During at least 2002, respondent failed to provide patient charts and records for review on a regular basis to at least one of his registered supervising physicians.

8. During at least 2002, respondent failed to maintain proper patient charts and records.

9. During at least 2002, respondent practiced under the supervision of two physicians who were not registered with the Department as supervising physicians.

10. The above-described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, including but not limited to:

a. §20-12c(a);
b. §20-12c(b);
c. §20-12d(a);
d. §20-12d(c); and/or
e. §20-12f.

THEREFORE, the Department prays that:

The Connecticut Medical Examining Board, as authorized by the General Statutes of Connecticut §19a-11, issue an order that respondent cease and desist in the unlicensed practice of medicine; and/or,

as authorized by §§19a-17 and 20-12f, revoke or order other disciplinary action against the physician assistant license of Robert Lucas as it deems appropriate and consistent with law.

Dated at Hartford, Connecticut this 28th day of May, 2004.

Marianne Horn

Marianne Horn, Director
Division of Health Systems Regulation
Bureau of Healthcare Systems