

IN THE MATTER OF
PERSIS APPIAGYEI, OTR/L

Respondent

License Number: 06355

* BEFORE THE MARYLAND
* BOARD OF OCCUPATIONAL
* THERAPY PRACTICE

* Case Number: 2011-009

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

On December 4, 2012, the Maryland State Board of Occupational Therapy Practice (the "Board") charged **PERSIS APPIAGYEI, OTR/L** (the "Respondent") (D.O.B. 02/23/1972), License Number 06355, with violating the Maryland Occupational Therapy Practice Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 10-101 *et seq.* (2009 Repl. Vol.).

Specifically, the Board charged the Respondent with violating the following provisions of the Act under H.O. § 10-315:

Subject to the hearing provisions of § 10-316 of this subtitle, the Board may ... reprimand any licensee ... place any licensee ... on probation, or suspend or revoke a license ... if the ... licensee ...:

- (2) Fraudulently or deceptively uses a license or temporary license;
- (3) Commits any act of gross negligence, incompetence, or misconduct in the practice of occupational therapy or limited occupational therapy;
- (7) Aids or abets an unauthorized individual in the practice of occupational therapy or limited occupational therapy;
- (10) Willfully makes or files a false report or record in the practice of occupational therapy or limited occupational therapy;
- (11) Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report; [and/or]

(12) Submits a false statement to collect a fee[.]

On January 18, 2013, a Case Resolution Conference was convened in this matter. Based on negotiations occurring as a result of this Case Resolution Conference, the Respondent agreed to enter into this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, Order, and Consent.

FINDINGS OF FACT

The Board finds the following:

BACKGROUND FINDINGS

1. At all times relevant hereto, the Respondent was and is licensed to practice occupational therapy ("OT") in the State of Maryland. The Respondent was initially licensed to practice OT in Maryland on or about July 30, 2009, under License Number 06355. The Respondent's license is currently active through June 30, 2013.

2. At all times relevant hereto, the Respondent was employed as an occupational therapist by a home health care agency (the "Agency")¹ located in Montgomery County, Maryland.

3. The Board initiated an investigation of the Respondent after reviewing a complaint against her, dated June 23, 2011, from the Branch Director (the "Complainant") of the Agency. The Complainant reported that the Respondent was assigned to provide in-home OT to a patient but that she sent another individual in her place who was not employed by the Agency. The Complainant also reported that the

¹ For confidentiality purposes, the identity of any agency, individual or patient will not be disclosed in this Consent Order. The Respondent is aware of the identity of all agencies, individuals and patients referenced herein.

Respondent submitted other OT notes that contained altered handwriting and submitted OT notes for services she did not provide.

4. The Board's investigative findings are set forth *infra*.

BOARD INVESTIGATIVE FINDINGS

5. The Agency hired the Respondent to provide in-home OT to its patients in or around August 2010. The Respondent's position required that she record and submit clinical notes to the Agency after seeing patients. These clinical notes constituted OT records. In order to receive compensation from the Agency, the Respondent was required to provide OT to patients and submit records to the Agency that documented the services she provided on a given patient visit. The Agency relied on the Respondent's representations about the services she performed when providing compensation to her and when seeking compensation from third-party payors.

6. The Agency initiated an investigation of the Respondent after receiving a report from an Agency physical therapist about an incident that occurred on May 6, 2011. The physical therapist stated that on this date, he reported to a patient's home to provide physical therapy to the patient, at which point another individual whom he did not recognize as working for the Agency came to the home. This individual, who was wearing a name tag with the same name as another occupational therapist whom the Agency employed, stated that she was there to provide OT to the patient. The physical therapist expressed concern that the Respondent had been scheduled to provide OT to the patient on this date and that another individual came in her place to provide these services.

7. The Agency investigated this matter and determined that the Respondent was assigned to provide in-home OT to this patient on May 6, 2011, but sent another individual in her place whom the Agency did not employ or authorize to see the patient. The Agency did not authorize the Respondent to send a substitute to provide OT in her absence. The Agency found that despite not seeing or providing OT to the patient on this date, the Respondent submitted an OT note in order to obtain reimbursement for this visit. The Agency found that the Respondent untruthfully represented in her OT note that she provided OT to the patient on May 6, 2011.

8. The Agency's investigation of this incident determined that the Respondent, without its authorization, permission or consent, sent an unlicensed, unauthorized person to provide in-home OT to the patient on May 6, 2011.

9. The Agency reviewed a total of about 32 OT notes the Respondent submitted for in-home OT she purportedly provided to Agency patients on various dates in May 2011. It determined that the Respondent failed to see the patients or sent unauthorized surrogates in her place. As a result, the Agency refused to compensate the Respondent for these visits or determined that they were non-billable.

10. The Agency noted several improprieties in the Respondent's May 2011, OT notes. For example, in several instances, the Agency determined that the Respondent submitted OT notes that contained different handwritings (e.g., May 11, 12, and 18, 2011). On other dates (e.g., May 20 and 23, 2011), the Respondent used a substitute whom the Agency did not employ or authorize for such purposes to visit a patient's home to provide OT. In another instance, the Respondent submitted an OT note, dated May 26, 2011, for OT purportedly provided to a patient that contained the

patient's signature, even though the patient was unable to sign the OT note due to a recent stroke.

11. The Respondent took leave from the Agency on May 27 and 31, 2011, purportedly to attend to a personal matter. During this time, the Agency attempted to contact her on numerous occasions, without success, and was unable to verify her reason for taking leave. As a result, the Agency reassigned the Respondent's patients and terminated her employment, effective June 2, 2011, for fraudulent documentation and patient abandonment. The Agency sent the Respondent written notice that it terminated her employment via certified and regular mail to her last known address. Both letters were stamped, "Return to Sender," with no forwarding address.

12. Based on the above events, the Board alleges that the Respondent violated the Act as follows:

- (a) The Respondent, while employed by the Agency to provide OT to patients in May 2011, sent one or more individuals in her place to see patients without the Agency's authorization or consent;
- (b) The Respondent failed to provide OT to Agency patients in May 2011, despite representing to the Agency that she had done so;
- (c) The Respondent misrepresented to the Agency that she provided OT to Agency patients in May 2011;
- (d) The Respondent submitted fraudulent OT notes to the Agency for reimbursement in which she represented that she provided OT to patients when in fact, she did not do so;
- (e) The Respondent submitted fraudulent OT notes in which she attempted to bill the Agency for services she did not provide;
- (f) The Respondent submitted fraudulent OT notes in which she attempted to obtain a fee for services she did not provide;

- (g) The Respondent engaged in a scheme in which she sent individuals who had not undergone verified health screening and background checks, or were otherwise qualified to provide OT services, to see Agency patients, without the Agency's authorization or consent;
- (h) The Respondent aided or abetted the unauthorized practice of occupational therapy by sending individuals who were not licensed to provide OT to see Agency patients;
- (i) The Respondent placed Agency patients at risk by permitting unauthorized individuals without proper health and background screening to see patients, without Agency authorization or consent; and
- (j) The Respondent submitted at least one OT note for reimbursement that contained an unauthorized patient signature.

13. The Respondent's conduct, as set forth above, constitutes, in whole or in part, a violation of one or more of the following provisions of the Act: H.O. § 10-315(2), fraudulently or deceptively uses a license or temporary license; H.O. § 10-315(3), commits any act of gross negligence, incompetence, or misconduct in the practice of occupational therapy or limited occupational therapy; H.O. § 10-315(7), aids or abets an unauthorized individual in the practice of occupational therapy or limited occupational therapy; H.O. § 10-315(10), willfully makes or files a false report or record in the practice of occupational therapy or limited occupational therapy; H.O. § 10-315(11), willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report; and H.O. § 10-315(12), submits a false statement to collect a fee.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board finds as a matter of law that the Respondent violated the following provisions of the Act: H.O. § 10-315(2), fraudulently or deceptively uses a license or temporary license; H.O. § 10-315(3), commits any act of gross negligence, incompetence, or misconduct in the practice of occupational therapy or limited occupational therapy; H.O. § 10-315(7), aids or abets an unauthorized individual in the practice of occupational therapy or limited occupational therapy; H.O. § 10-315(10), willfully makes or files a false report or record in the practice of occupational therapy or limited occupational therapy; H.O. § 10-315(11), willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report; and H.O. § 10-315(12), submits a false statement to collect a fee.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 27th day of February, 2013, by a quorum of the Board considering this case:

ORDERED that the Respondent's license to practice as an occupational therapist in the State of Maryland shall be and hereby is **SUSPENDED** for a period of **THREE (3) YEARS**, with all but **ONE (1) YEAR** of said suspension **STAYED**, to commence date the Board executes this Consent Order; and it is further

ORDERED that after the conclusion of the **ONE (1) YEAR** period of **ACTIVE SUSPENSION** set forth above, the Respondent may petition the Board to **LIFT** the **ACTIVE PERIOD of SUSPENSION**; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a minimum period of **THREE (3) YEARS**, to commence on the date the Board executes this Consent Order and running concurrently with the **SUSPENSION** set forth above, subject to the following terms and conditions:

1. The Respondent shall not provide in-home occupational therapy, but shall only provide occupational therapy in a supervised setting, which shall be subject to prior Board approval.

2. Within **ONE (1) YEAR** of the date the Board executes this Consent Order, the Respondent shall enroll in and successfully complete a Board-approved course in occupational therapy ethics. The Respondent shall be solely responsible for submitting timely, written verification of her successful completion of the course.

3. If the Respondent actively practices OT in any jurisdiction, she shall immediately notify her employer of this Consent Order.

4. If the Respondent actively practices OT in any jurisdiction, she shall arrange for her employer to provide annual written reports to the Board with respect to her work performance and professional standing. The Respondent shall be solely responsible for ensuring that these written reports are submitted to the Board in a timely manner.

5. If the Respondent actively practices OT in any jurisdiction, she shall obtain a Board-approved supervisor/mentor (the "Mentor"), who shall meet with her twice per month on an unannounced basis to review her performance of OT. The Respondent shall submit proposed candidates for mentoring to the Board for purposes of satisfying this condition. After the first year of probation, the Respondent may petition

the Board to decrease the frequency of her supervision by the Mentor. The Mentor shall submit written reports beginning six (6) months after the Respondent undergoes supervision, and shall thereafter submit written reports at six (6) month intervals, for a total of six (6) written reports during the **THREE (3) YEAR** period of **PROBATION**. In these reports, the Mentor shall assess the Respondent's performance of OT and compliance with all applicable codes of ethics pertaining to OT.

AND BE IT FURTHER ORDERED that after the conclusion of the entire **THREE (3) YEAR PERIOD OF PROBATION**, the Respondent may file a written petition for termination of her probationary status without further conditions or restrictions, but only if she has satisfactorily complied with all conditions of this Consent Order, including all terms and conditions of probation, and including the expiration of the **THREE (3) YEAR PERIOD OF PROBATION**, and if there are no pending complaints regarding her before the Board; and it is further

ORDERED that if the Respondent violates any of the terms or conditions of this Consent Order or of probation, the Board, after notice, opportunity for a hearing and determination of violation, may impose any other disciplinary sanctions it deems appropriate, including but not limited to, revocation or suspension, said violation being proven by a preponderance of the evidence; and it is further

ORDERED that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that this Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2009 Repl. Vol.).

2/27/13
Date

Christine Moghimi, ScD, MAS, OT/L
Christine Moghimi, ScD., MAS, OT/L
Chairperson, Maryland State Board of
Occupational Therapy Practice

CONSENT

I, Persis Appiagyei, OTR/L, acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections as provided by law. I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order after having had an opportunity to consult with counsel, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

2/6/13
Date


Persis Appiagyei, OTR/L
Respondent

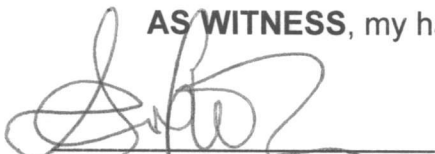
NOTARY

STATE OF Maryland

CITY/COUNTY OF: Prince Georges

I HEREBY CERTIFY that on this 6th day of February, 2013, before me, a Notary Public of the State and County aforesaid, personally appeared Persis Appiagyei, OTR/L, and gave oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

AS WITNESS, my hand and Notary Seal.


Notary Public

My commission expires: 01/15/2017