

IN THE MATTER OF	*	BEFORE THE MARYLAND
RITA PATTERSON, OTR/L	*	BOARD OF OCCUPATIONAL
Respondent	*	THERAPY PRACTICE
License Number: 01340	*	Case Number: 2011-006

* * * * *

CONSENT ORDER

On December 4, 2012, the Maryland State Board of Occupational Therapy Practice (the "Board") charged **RITA PATTERSON, OTR/L ("Respondent") (DOB: 2/04/55), License Number 01340**, under the Maryland Occupational Therapy Practice Act (the "Act"), Md. Code Ann., Health Occupations ("H.O.") §§ 10-101 et seq..

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

Denials, reprimands, suspensions, and revocations – Grounds.

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

- (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;
- (5) Violates any rule or regulation of the Board, including any code of ethics adopted by the Board;
- (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 [and]
- (12) Submits a false statement to collect a fee[.]

The Board defines an occupational therapy aide as follows:

“Aide” means an individual who is not licensed by the Board to perform occupational therapy or limited occupational therapy and who provides supportive services to the occupational therapist or occupational therapy assistant under direct supervision. COMAR 10.46.01.01(1)

The Board further charged the Respondent with violating the applicable

Code of Ethics set forth in COMAR 10.46.02.01:

A. The licensee shall:

- (2) Provide the highest quality services to the client;
- (9) Exercise sound professional judgment in the use of evaluation and treatment procedures;
- (12) Report to the Board a concern with the quality of service provided by other health professionals;
- (13) Ascertain whether all occupational therapy personnel within the facility are licensed if the licensee practices within a facility;
- (14) Report to the Board a person whom the licensee believes to be performing or aiding or abetting the illegal practice of occupational therapy [and]
- (15) Comply with all applicable laws dealing with occupational therapy practice[.]

C. The licensee may not:

- (2) Allow financial gain to be paramount to the delivery of service to the client[.]

On or about April 19, 2013 a Case Resolution Conference (“CRC”) was convened in this matter. Based upon negotiations with the State and the

recommendations of the CRC Subcommittee of the Board, the Respondent agreed to enter into this Consent Order as a full and final resolution of the pending Charges.

FINDINGS OF FACT

The Board finds the following:

1. The Respondent initially received her license to practice as an occupational therapist in the State of Maryland on November 2, 1979. Her license will expire on June 30, 2013.

2. At all times relevant to the statements herein, the Respondent maintained an office for the practice of occupational therapy in Arnold, Maryland.

3. In or around 1986, Respondent opened a private practice in the basement of her home for the delivery of occupational therapy services to children. In April 2008 Respondent relocated her practice to 836 Ritchie Highway, Severna Park, Maryland 21146. Since its inception, Respondent has served as chief executive officer and president of her practice, "Therapy Solutions for Children" ("TSC").

4. On or about February 22, 2011 the Board received a written complaint from an occupational therapist ("the Complainant") describing observations made during an interview with Respondent. The Complainant alleged that Respondent was utilizing occupational therapy aides ("OTAs") to provide unsupervised patient care.

5. Shortly thereafter, the Board initiated an investigation of Respondent's practice.

6. In furtherance of that investigation, Board staff interviewed Respondent, the Complainant and several former employees of Respondent.

7. The pertinent¹ results of the Board's investigation are set forth *infra*.

B. Board Investigation

8. The Board investigation revealed that in or around January 2011, Respondent posted an employment advertisement seeking a licensed occupational therapist, on an occupational therapy association ("Association A") website.

9. The Complainant responded to the job posting and interviewed for the position on February 11, 2011.

10. During the interview, Respondent told the Complainant that she utilized occupational therapy aides ("OTAs") to provide independent occupational therapy services to children. When Complainant questioned Respondent in order to clarify whether she was referring to Certified Occupational Therapy Assistants ("COTAs"), Respondent reiterated that she used OTAs as service providers.

11. Complainant observed three (3) OTAs providing unsupervised occupational therapy to pediatric patients.

12. On or about February 14, 2011, Respondent invited the Complainant for a second interview. The Complainant declined, advising the Respondent that she was not comfortable supervising OTAs who provided unsupervised patient care to children.

13. Respondent stated that her OTAs were seeking master's degrees in occupational therapy, that she had personally trained them to serve as treatment providers, and that she was in the process of seeking retroactive approval from MOTA. Respondent did not deny that she utilized OTAs to provide patient care.

¹ The Administrative Prosecutor has highlighted the most relevant interviews. The allegations do not represent a complete description of all interviews conducted during the Board's investigation.

14. On February 13, 2012, Board staff interviewed Employee A, a licensed occupational therapist who worked as an independent contractor for Respondent from September 2007-May 2008.

15. During her employment, Employee A observed OTAs independently treating children with no direct supervision. She asked Respondent about the propriety of this approach. Respondent told Employee A that her OTAs were given treatment goals such that they knew what to do. Respondent did not deny that OTAs were providing independent treatment to patients.

16. Employee B, a former OTA of the Respondent, was also interviewed on February 13, 2011. Employee B stated that she provided unsupervised occupational therapy treatment to pediatric patients for four (4) years from October 2007-June 2011.

17. During her interview, Employee B described different modalities of treatment that she provided to four (4) specific patients. Although she received generalized direction from either Respondent or another occupational therapist, she stated that they did not provide direct supervision during treatment.

18. On or about February 14, 2011, Board staff interviewed Employee C, a former OTA of Respondent. Employee C stated that during her five (5) year course of employment with Respondent from 2006-2011, she provided direct, unsupervised occupational therapy to children.

19. Employee C described seven (7) patients for whom she provided various modalities of treatment. At least one (1) of the referenced patients suffered from autism. Employee B stated that many of the children she treated while employed by the Respondent were on the autism spectrum.

20. On February 28, 2011, Board staff conducted a telephonic interview of Employee D, an occupational therapist, who worked for Respondent for four (4) days. During her period of orientation, Employee D observed OTAs providing services to children without direct supervision by a licensed occupational therapist.

21. Four (4) days after Employee D approached Respondent to express her concerns, Employee D tendered her resignation.

22. On March 30, 2012, Board staff interviewed Respondent in the presence of her attorney. Respondent stated that she hired OTAs because she was unable to find licensed therapists to work in her private practice. She believed that because her practice was in the basement of her home, occupational therapists were reluctant to work for her. When asked direct questions about the degree of independence that her OTAs exercised during therapy sessions with children, Respondent provided inconsistent testimony. She further admitted that there were instances when OTAs were unsupervised while performing pediatric occupational therapy.

23. Although she stated in an email to the Complainant that she was seeking retroactive approval to use OTAs to provide independent patient care, Respondent conceded that she had never pursued such approval.

24. Respondent stated that she billed third party payers for occupational therapy services provided by OTAs.

25. Respondent knew or should have known that OTAs required direct supervision while performing tasks within an occupational therapy treatment regimen. She violated the Act by utilizing OTAs to provide unsupervised patient care. She billed for services not rendered.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes 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(5) violates any rule or regulation of the Board, including any code of ethics adopted by the Board; 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(12) submits a false statement to collect a fee. The Board further concludes as a matter of law that the Respondent violated COMAR § 10.46.02.01 A. (1),(9), (12), (13), (14) and (15) and C (2).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 21st day of June, 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 is hereby **SUSPENDED** for a period of **TWO (2) YEARS, ONE (1) YEAR STAYED SUSPENSION, ONE (1) YEAR ACTIVE SUSPENSION** to commence thirty (30) days after the Board executes this Consent Order; and it is further

ORDERED that within **NINETY (90) DAYS** of the execution of this Consent Order, the Respondent shall pay a **FINE of FIVE THOUSAND DOLLARS (\$5,000)** by certified check to the Board; and it is further

ORDERED that upon execution of the Consent Order the Respondent shall immediately cease and desist from using occupational therapy aides (“OTAs”) in her practice of occupational therapy. She shall not hire and/or utilize OTAs in any capacity until after the Board terminates her probation and she is no longer subject to this Consent Order.

ORDERED that within the **ONE (1) YEAR** period of **ACTIVE SUSPENSION**, the Respondent shall enroll in and successfully complete a Board-approved course in **occupational therapy ethics**. The Respondent understands and agrees that she shall be responsible for submitting timely, written verification of her successful completion of this course; and it is further

ORDERED within the **ONE (1) YEAR** period of **ACTIVE SUSPENSION**, the Respondent shall enroll in and successfully complete a Board-approved course in **billing**. The Respondent understands and agrees that she shall be responsible for submitting timely, written verification of her successful completion of this course; and it is further

ORDERED within the **ONE (1) YEAR** period of **ACTIVE SUSPENSION**, the Respondent shall enroll in and successfully complete with a 100% pass rate, the **Maryland Law and Jurisprudence Exam**. The Respondent understands and agrees that she shall be responsible for submitting timely, written verification of her successful completion of this exam; and it is further

ORDERED after the conclusion of the **ONE (1) YEAR** period of **ACTIVE SUSPENSION** as set forth above, and after submitting to the Board documentation of successful completion of the above terms and conditions, the Respondent may petition the Board to **LIFT** the **ONE (1) YEAR** period of **ACTIVE SUSPENSION** and place her on **PROBATION** for a period of **THREE (3) YEARS**.

ORDERED that during the **THREE (3) YEAR** period of probation, the Respondent shall:

1. Retain the services of a Board-approved mentor (the "Mentor"), who she shall meet with once a month to provide direct supervision and observation of all aspects of clinical care, ethics, documentation and billing. The Mentor shall review and evaluate all aspects of the Respondent's practice of occupational therapy. All costs associated with the Mentor shall be borne by the Respondent. The Mentor shall be provided all materials in the Board's file including a copy of this Consent Order.
2. Ensure that the Mentor submit written reports every **six (6) months** during the **THREE (3) YEAR** period of **PROBATION**. At a minimum, the Mentor's reports shall address the Respondent's standard of practice, compliance with the applicable codes of ethics pertaining to occupational therapy, and compliance with documentation standards and billing/coding requirements.

ORDERED that the Continuing Education requirements required by this Consent Order shall not count toward fulfilling other continuing education requirements that the Respondent must fulfill in order to renew her license to practice occupational therapy; and it is further

ORDERED that the Respondent shall practice according to the Maryland Occupational Therapy Act and in accordance with all applicable laws, statutes, and regulations pertaining to the practice of occupational therapy; and it is 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 probation 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, 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 the Respondent shall not apply for early termination of probation; 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, in its discretion, after notice and an opportunity for a hearing and determination of violation, may impose any other disciplinary sanctions it deems appropriate, including but not limited to, reprimand, probation, suspension revocation or a monetary fine, 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. and 2012 Rep. Vol.).

ORDERED that, for purposes of public disclosure, as permitted by Md. State Gov't. Code Ann. §10-617(h) (2009 Repl. Vol. and 2013 Supp.), the Board shall disclose the Consent Order to any national reporting data bank mandated to receive such a document.

6/21/13
Date

Christine Moghimi, ScD, MAS, OTR
Christine Moghimi, ScD., MAS, OTR
Chairperson, Maryland State Board of
Occupational Therapy Practice *RA*

CONSENT

I, Rita Patterson, 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.

G-G-13
Date

Rita Patterson
Rita Patterson, OTR/L
Respondent

Read and approved by:

[Signature]
Frederic C. Heyman, Esquire
Counsel to Respondent

NOTARY

STATE OF Maryland

CITY/COUNTY OF: Baltimore

I HEREBY CERTIFY that on this 6th day of June, 2013, before me, a Notary Public of the State and County aforesaid, personally appeared Rita Patterson, 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.

My commission expires: 4/15/14

Beverly Patton
Notary Public

