

IN THE MATTER OF	*	BEFORE THE MARYLAND
MONIKA SINHA, OTR/L	*	BOARD OF OCCUPATIONAL
Respondent	*	THERAPY PRACTICE
License Number: 04896	*	Case Number: 2014-004

* * * * *

FINAL ORDER

On July 26, 2013, the Maryland State Board of Occupational Therapy Practice (the "Board") charged **MONIKA SINHA, OTR/L** (the "Ms. Sinha" or "Respondent") (D.O.B. 01/23/1976), License Number 04896, with violating the Maryland Occupational Therapy Practice Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 10-101 *et seq.* (2009 Repl. Vol.) and Code Md. Regs. ("COMAR") tit. 10, § 46.02 *et seq.*

Specifically, the Board charged the Respondent with violating the following provision of the Act:

H.O. § 10-315. Denials, reprimands, suspensions, and revocations--Grounds.

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 ...:

- (9) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section[.]

Acts that constitute grounds for disciplinary action under H.O. § 10-315 include the following:

- (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;

- (4) Knowingly violates any provision of this title;
- (5) Violates any rule or regulation of the Board, including any code of ethics adopted by the Board;
- (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 charges the Respondent with violating the following COMAR provisions:

COMAR 10.46.02 Code of Ethics

10.46.02.01 General Conduct

A. The licensee shall:

- (2) Provide the highest quality services to the client;
- (11) Function with discretion and integrity in relations with other health professionals; [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; [and]
- (4) Use, or participate in the use of, a form of communication that contains or implies a:
 - (b) False, fraudulent, misleading, deceptive, or unfair statement or claim.

A hearing was held on December 20, 2013 before a quorum of the Board. The following Board members were present at the hearing: Christine Moghimi, Meena Gupta, Inya Adams, Cassaundra Brown and Vanessa Hughes. The Respondent appeared and was represented by counsel throughout the proceeding.

SUMMARY OF THE EVIDENCE

Ms. Sinha was the only witness to testify at the hearing. The prosecution introduced six exhibits. The Respondent introduced one exhibit.

Ms. Sinha testified that she was initially licensed in 2002. In December of 2012, Ms. Sinha's license to practice occupational therapy was revoked for filing false reports and making false statements to collect a fee. The Board became aware of this action through Ms. Sinha's disclosure.

Ms. Sinha stipulated to the facts in her order from Washington, D.C. Ms. Sinha's testimony and exhibits focused on mitigation and explanation of her conduct. During her testimony, Ms. Sinha explained that she was sorry for her actions. She admitted that she was not a good book keeper. Additionally, Ms. Sinha stated that she was a new mother to twins at that time. The Board gave little weight to Ms. Sinha's testimony and exhibits because there had been a final adjudication of the facts in another jurisdiction.

FINDINGS OF FACT

The Board based on the record as a whole the Board makes the following findings of fact:

1. At all times relevant to these charges, the Respondent was licensed to practice occupational therapy in the State of Maryland. The Respondent was initially licensed to practice occupational therapy in Maryland on or about January 18, 2002, under License Number 04896.

2. The Board initiated an investigation of the Respondent after reviewing affirmative responses she provided to certain CHARACTER AND FITNESS questions in

her 2013 renewal of licensure application (the "Application"), submitted on or about June 25, 2013.

3. In her Application, the Respondent provided "YES" answers to the following CHARACTER AND FITNESS questions:

Since your last renewal:

QUESTION 2(a). During the last year, has any state licensing or disciplinary board, or a comparable body in the armed services, denied your application for licensure, reinstatement or renewal, or taken any action against your license, including but not limited to reprimand, suspension, or revocation?

QUESTION 2(b). During the last year, have you surrendered a license in any jurisdiction that currently impairs your ability to practice your profession?

4. The Board's investigation determined that the Respondent was disciplined by a disciplinary board for an act or acts that would be grounds for action section 10-315 of the Act.

D.C. Board Disciplinary Action

5. In or around 2011, the District of Columbia Occupational Therapy Board (the "D.C. Board") received four complaints alleging that the Respondent, who was then practicing occupational therapy in the District of Columbia, submitted fraudulent timesheets with forged signatures.

6. In or around 2012, the D.C. Board issued a Notice of Intent to Take Disciplinary Action against the Respondent, alleging that she willfully made or filed a false report or record in the practice of a health occupation and submitted false statements to collect fees for which services were not provided or submitted statements to collect fees for services which were not medically necessary.

7. The Respondent requested a hearing but on the date of the hearing, her counsel submitted an affidavit from the Respondent in which she voluntarily surrendered her occupational therapy license.

8. By an Order of Revocation (the "Order"), dated December 14, 2012, the D.C. Board revoked the Respondent's license to practice occupational therapy in the District of Columbia.

9. The D.C. Board found as a matter of law that the Respondent: willfully made or filed a false report or record in the practice of a health profession, in violation of D.C. Official Code § 3-1205.14(a)(8); and submitted false statements to collect fees for which services are not provided, in violation of D.C. Official Code § 3-1205.14(a)(13).

10. In its Order, the D.C. Board found, *inter alia*, that the Respondent failed to report for work, submitted time sheets for payment that contained forged signatures and made misrepresentations and otherwise made false reports/records regarding the services she provided.

A copy of the Order of Revocation, dated December 14, 2012, issued by the D.C. Board, is attached hereto and incorporated herein as Attachment 1.

CONCLUSIONS OF LAW

As described above, the Respondent's actions constitute was disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section (H.O. § 10-315), in violation of H.O. § 10-315(9). The acts described above would be grounds for action under H.O. § 10-315 include the following: H.O. § 10-315(2), Fraudulently or deceptively uses a license; H.O. § 10-315(3), Commits any act of gross negligence, incompetence, or misconduct in the practice of occupational

therapy; H.O. § 10-315(4), Knowingly violates any provision of this title; 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(10), Willfully makes or files a false report or record in the practice of occupational therapy or limited occupational therapy; and H.O. § 10-315(12), Submits a false statement to collect a fee.

The Board finds that the Respondent's actions, as set forth above, also violate the following provisions of COMAR 10.46.02.01: A(2), Provide the highest quality services to the client; A(11), Function with discretion and integrity in relations with other health professionals; A(15), Comply with all applicable laws dealing with occupational therapy practice; C(2), Allow financial gain to be paramount to the delivery of service to the client; and/or C(4), Use, or participate in the use of, a form of communication that contains or implies a (b) false, fraudulent, misleading, deceptive, or unfair statement or claim.

The Board finds that all of the following violations and the severity of the sanction in Washington D.C. gave the Board cause to revoke the Respondent's license. The Board's decision is consistent with judgment of the District of Columbia. The Board made this decision in accordance with its sanctioning guidelines. The Board appreciates the fact that the Respondent had no prior disciplinary record. Additionally, she was contrite and accepted responsibility for her actions. However, the Board finds that the number and the severity of the violations merits the revocation of Ms. Sinha's license.

SANCTION

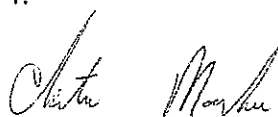
The Board will revoke Ms. Sinha's license for her conduct in this case.

ORDER

It is therefore **ORDERED** that MONIKA SINHA, OTR/L, License Number 04896, be, and she hereby has her license revoked. Ms. Sinha's license will be revoked from the date of this order through December 14, 2017, running concurrently with current sanctions by the District of Columbia Board of Occupational Therapy. After December 14, 2017, Ms. Sinha may petition the Board for reinstatement in the State of Maryland.

SO ORDERED this 18 day of April, 2014.

4/18/2014
Date



Christine Moghimi, SCD., MAS, COTA/L
Chairperson, Maryland State Board of
Occupational Therapy Practice

NOTICE OF RIGHT TO APPEAL

Pursuant to H.O. § 10-317 (b), Ms. Sinha has the right to take a direct judicial appeal. Any appeal must be filed within 30 days from the receipt of this Final Decision and Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, State Gov't Article § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If Ms. Sinha files an appeal, the Board is a party and should be served with the court's process. The Administrative Prosecutor is not involved in the case at this point and need not be served with or copied on the pleadings.

medically necessary for which the Board can take action pursuant to D.C.

Official Code § 3-1205.14(a)(13)(2009).

The Respondent, by and through Counsel, submitted a timely request for a hearing. However, on the date of the hearing, Respondent's Counsel submitted an affidavit from the Respondent voluntarily surrendering her occupational therapy license. Thus, no hearing was held on this matter. In accordance with the D.C. Municipal Regulations, the Board may receive evidence and hear testimony and may render a decision on the basis of the evidence before it. 17 DCMR § 4103.1.

Findings of Fact

Based upon the content of the Board's file in this matter, which includes the complaints as well as interviews, statements, and documents obtained through an investigation¹ ordered by the Board, the Board hereby makes the following findings of fact:

- 1) At all times relevant, the Respondent was licensed to practice occupational therapy in the District of Columbia.
- 2) On or about April 14, 2011, four (4) complaints were filed with the Board by A.N., owner/director of Milestone Therapeutic Services (MTS); P.T., Special Education Coordinator for John Burroughs Elementary School ("Burroughs"); L.K., Special

¹ The evidence in the Board's record includes: Investigative Report prepared by a Department of Health investigator, along with documents obtained through subpoena including, *inter alia*.

- Four (4) complaints submitted by A.N., director and owner of Milestone Therapeutic Services ("MTS"); P.T., Special Education Coordinator at John Burroughs Elementary School ("Burroughs"); L.K., Special Education Teacher at Burroughs; and P.B., then-Principal of Thurgood Marshall Elementary School ("Marshall");
- Sign-in logs for visitors and other school service providers from Burroughs, Thompson, and Marshall;
- School attendance records from Burroughs and Marshall;
- Timesheets submitted by the Respondent to MTS for payments;
- Individualized Education Program (IEP) Service Trackers submitted by the Respondent to the schools;
- Written statements provided by Crystal K. White, Special Education Coordinator at Thompson Elementary School ("Thompson"); Mark Pedroza, teacher at Thompson; and Vanessa Vicks, Administrative Aide at Thompson;
- Case load rosters submitted by the Respondent to MTS.

- Education Teacher at Burroughs; and P.B., then-Principal of Thurgood Marshall Elementary School ("Marshall"). The complaints alleged that the Respondent had submitted fraudulent timesheets with forged signatures.
- 3) MTS is a provider of services such as speech-language, social work, physical therapy, and occupational therapy to students at District of Columbia Public Schools (DCPS).
 - 4) The Respondent contracted to provide occupational therapy services on behalf of MTS from September 2010 to March 9, 2011.
 - 5) MTS assigned the Respondent to provide occupational therapy services to students at three (3) DCPS – Thompson Elementary School ("Thompson"), Burroughs, and Marshall.
 - 6) The Respondent's tour of duty was from 8:30 a.m. to 3:30 p.m. five days a week, alternating between the three assigned schools.
 - 7) Based on the Respondent's concern regarding case load, she was released from her assignment at Thompson approximately in December 2010. The remaining assignments during January and February 2011 were at Burroughs and Marshall.
 - 8) Between January 2011 and February 2011, the Respondent submitted several time sheets to MTS for payments for services provided at the two schools.
 - 9) A.N. conducted a review of the Respondent's timesheets after they received a report from P.T., Special Education Coordinator at Burroughs, that the Respondent was not reporting to the school for her duties. A.N.'s review reveals significant discrepancies in the record as provided by the Respondent.
 - 10) The Respondent's January and February 2011 timesheets contained the following signatures: Phyllis Teel, Crystal White, Mark Pedrosa, Laura Kennedy, Laurine Kennedy, Mark Robinson, Carol Tolson, and Krystal Sims.

- 11) The signature purported to belong to Phyllis Teel was forged.²
- 12) The signature purported to belong to Crystal White was forged.³
- 13) The signature purported to belong to Mark Pedroza was forged.⁴
- 14) The signature purported to belong to Laurine Kennedy was forged.⁵
- 15) The signature purported to belong to "Krystal Sims" was forged and no such individual was a staff member at any of the three schools.⁶
- 16) The signature purported to belong to "Mark Robinson" was forged and no such individual was a staff member at any of the three schools.⁷
- 17) The signature purported to belong to "Carol Tolson" was forged and no such individual was a staff member at any of the three schools.⁸
- 18) Review of the relevant sign-in logs at the two schools shows that there were several occasions when the Respondent did not sign in at the schools although her timesheets

² P.T., Special Education Coordinator for Burroughs and a complainant, stated that the "Phyllis Teel" signature was not her signature. She further stated that "Mark Robinson" and "Carol Tolson" were not teachers at Burroughs and she was not familiar with the name "Krystal Sims."

³ Crystal White, Special Education Coordinator for Thompson during the school year 2010-2011, stated that the "Crystal White" signature on the timesheet was not her signature. She customarily signs her name "Crystal K. White." She indicated further that she did not sign the Respondent's timesheet.

⁴ Mark Pedroza, Teacher at Thompson, stated that the signature "Mark Pedrosa" was not his signature. He pointed out that his name is in fact spelled with a "z" while the name shown on the timesheet was spelled with an "s". He further stated that he had never signed a timesheet for the Respondent and that he had no knowledge that he was required to sign the Respondent's timesheet.

⁵ L.K., Special Education Coordinator for Burroughs and a complainant, stated that the "Laurine Kennedy" signature on the timesheet was not her signature. She stated further that she had never seen nor signed the Respondent's timesheet. She further stated that "Mark Robinson", "Carol Tolson", and "Krystal Sims" were not staff members at Burroughs.

⁶ P.B., Principal of Marshall and a complainant, stated that "Krystal Sims" was not a staff member of Marshall.

L.K., a complainant and the Special Education Coordinator for Burroughs, stated that "Krystal Sims" was not a staff member of Burroughs. Vanessa Vick, Administrative Aide at Thompson, stated that "Krystal Sims" was not an aide or teacher at Thompson.

⁷ L.K., a complainant and the Special Education Coordinator for Burroughs, stated that "Mark Robinson" was not a staff member of Burroughs. Vanessa Vick, Administrative Aide at Thompson, stated that "Mark Robinson" was not an aide or teacher at Thompson. P.B., principal of Marshall, provided a roster of teachers employed at Marshall. "Mark Robinson" is not listed as a teacher or a teacher aide.

⁸ L.K., a complainant and the Special Education Coordinator for Burroughs, stated that "Carol Tolson" was not a staff member of Burroughs. Vanessa Vick, Administrative Aide at Thompson, stated that "Carol Tolson" was not an aide or teacher at Thompson. P.B., principal of Marshall, provided a roster of teachers employed at Marshall. "Mark Robinson" is not listed as a teacher or a teacher aide.

and the Individualized Education Program (IEP) Service Trackers claimed time periods of services provided to students at the schools during the month of January and February 2011.

- 19) MTS policy as well as the school policies requires that service providers sign in and sign out when on duty at the schools.
- 20) The Respondent invoiced MTS for services to Marshall student D.R. on February 2, 2011 and February 25, 2011. However, she did not provide services as claimed.⁹
- 21) The Respondent's case load roster claimed that she provided service to Marshall student H.F. on February 2, 2011. However, this submission is false since the student was absent from the school on February 2, 2011. DCPS Attendance Summary confirmed this fact.
- 22) The Respondent's timesheet invoiced MTS for 8 hours of work on February 25, 2011. However, her own record contradicts this statement. Her case load roster shows Burroughs students A.R., R.J., J.L., C.O., D.S., A.W., and D.W. as unavailable on February 25, 2011. Based on the school's record, the students went on a field trip. The case load roster does not show work with any students and indicates 1.5 hours of report writing/scoring and 2 hours of meetings.
- 23) Also on February 25, 2011, the Respondent's case load report shows 0.5 hour of service provided to Marshall student D.R. (who was excused for lateness); however, the IEP Service Tracker for Student D.R. shows that she provided 150 minutes of direct services.

⁹ P.B., Principal of Marshall, indicated that the student D.R. was absent from the school on February 2, 2011 and was excused for lateness on February 25, 2011.

24) The Respondent's case load roster documented no services to students on February 16, 2011. The Respondent's timesheet invoiced MTS for work at Marshall from 8:30am to 12:00pm.

Conclusions of Law

D.C. Official Code § 3-1205.14(a)(8) provides that a licensee may be subject to disciplinary action by the Board for willfully making or filing a false report or record in the practice of a health profession.

D.C. Official Code § 3-1205.14(a)(13) provides that a licensee may be subject to disciplinary action for submitting false statements to collect fees for which services are not provided.

D.C. Official Code § 3-1205.17(c) provides that the voluntary surrender of a license shall not preclude an imposition of civil or criminal penalties against the licensee. The District of Columbia Municipal Regulations provide further that the Board may take any disciplinary action, including revocation, against a health professional whose license has expired if the decision was based on conduct that occurred while the health professional was licensed. 17 DCMR § 4117.3 (1987).

Pursuant to D.C. Official Code § 301205.14(c), upon determination by the Board that a licensee has committed any of the acts described above, the board may:

- (1) Deny a license to any Respondent;
- (2) Revoke or suspend the license of any licensee;
- (3) Revoke or suspend the privilege to practice in the District of any person permitted by this subchapter to practice in the District;
- (4) Reprimand any licensee or person permitted by this subchapter to practice in the District;
- (5) Impose a civil fine not to exceed \$5,000 for each violation by any Respondent, licensee, or person permitted by this subchapter to practice in the District;
- (6) Require a course of remediation, approved by the board, which may include:
 - (A) Therapy or treatment;

- (B) Retraining; and
- (C) Reexamination, in the discretion of and in the manner prescribed by the board, after the completion of the course of remediation;
- (7) Require a period of probation; or
- (8) Issue a cease and desist order pursuant to § 3-1205.16.

Based on the foregoing findings of fact, the Board hereby concludes as a matter of law that that Respondent willfully filed a report or record in the practice of occupational therapy. The timesheets submitted by the Respondent to receive payment for occupational therapy services provided were false since they contained fraudulent signatures. Since the timesheets were prepared and submitted by the Respondent, it is clear that she knew them to be false and fraudulent.

Further the Board hereby concludes as a matter of law that the Respondent had submitted false statements to collect fees for which services are not provided. It is clear that the Respondent did not provide some of the occupational therapy services for which she subsequently collected payments from MTS.

Decision

In formulating its decision as to the appropriate sanction to be imposed, the Board took into consideration the nature of the charges, the Board's paramount duty to protect the public. The Board views the submission of false and untrue record or report very seriously since it erodes public trust in the profession, deprives the patients of the required care, and diverts public resources that would otherwise ensure the availability of care and services to the public.

The Board notes further that the Respondent had retained an attorney to represent and defend her in this disciplinary matter but on the very day of the hearing chose to surrender her license with the result that she did not appear at the scheduled hearing. The Respondent's

chosen course of action resulted in the expenditure of a great deal of resources on the part of the District government to prepare the case for a hearing and afford the Respondent full due process rights. Nothing existed to prevent the Respondent from taking this action well before the scheduled hearing date, which would have prevented the futile government expenditure in the matter.

The Board further notes that prior to her license expired on September 30, 2011, the Respondent submitted a timely application for renewal. However, she left the application uncompleted by failing to submit her fingerprints for the required criminal background check. Nevertheless, the Department of Health proceeded erroneously to renew her license. The Respondent's Counsel advised the Board that, since her license had expired and the renewal application was not complete, her license should not have been renewed and the Board should therefore have no jurisdiction to take any disciplinary action against her. This assertion is obviously mistaken based on 17 DCMR § 4117.3. The Respondent's Counsel was informed of this legal provision. Nevertheless, the Respondent chose to wait four months to voluntarily surrender the license and forego the hearing, forcing the Government to futilely expend precious resources to ensure that she is afforded her full due process rights.

The Respondent's voluntary surrender does nothing to mitigate the seriousness of the charges against her. The Board's record provides ample evidence to substantiate the charges. Since the Respondent did not attend the hearing, the Board proceeded, in accordance with 17 DCMR § 4103.1 to render its decision based on the preponderance of the evidence on the record.

ORDER

Based upon the aforementioned it is hereby **ORDERED** that the license of **MONIKA SINHA, OT992**, shall be and is hereby- **REVOKED**¹⁰, effective as of the date of service, which by definition means that the Respondent is not eligible to apply for reinstatement or a new license to practice respiratory care in the District of Columbia for five (5) years and a day from the effective date of this Order: and

IT IS FURTHER ORDERED, that when the Respondent does become eligible to apply for a new license in the District of Columbia, in addition to meeting the requirements then in existence for a new license, any application she submits to the Board for licensure shall be accompanied by a payment of a fine in the amount of **FIVE THOUSAND DOLLARS (\$5,000.00)**, which shall be made payable to "D.C. Treasurer" and shall be submitted to Executive Director, Board of Occupational Therapy, 899 North Capitol Street, NE, 2nd Floor, Washington, D.C. 20002:

12/14/2012
Date



Frank E. Gainer, MHS, OTR/L, FAOTA
Chairperson
Board of Occupational Therapy

**Judicial and Administrative Review
of Actions of Board**

Pursuant to D.C. Official Code § 3-1205.20 (2001):

Any person aggrieved by a final decision of a board

¹⁰ D.C. Official Code § 3-1201.01(12A)(2009).

or the Mayor may appeal the decision to the **District of Columbia Court of Appeals** pursuant to D.C. Official Code § 2-510 (2001).

Pursuant to D.C. Court of Appeals Rule 15(a):

Review of orders and decision of an agency shall be obtained by filing with the clerk of this court a petition for review within thirty (30) days after the notice is given.

This Order is the Final Order of the Board in this disciplinary matter and a public record and, as mandated by federal law, 42 USC § 11101 and 45 CFR § 60, “the National Practitioner Data Bank – Health Integrity and Protection Data Bank,” this disciplinary action shall be reported to the U.S. Department of Health and Human Services.

Copies to:

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c/o Scott Nelson, Esquire
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