

IN THE MATTER OF	*	BEFORE THE MARYLAND
*		
MICHAEL STEVEN ARCHER	*	STATE BOARD OF
	*	
License Number 05194	*	OCCUPATIONAL THERAPY
	*	
Case Number: 2018-012	*	PRACTICE

CONSENT ORDER OF PROBATION

On or about June 14, 2017, the Maryland State Board of Occupational Therapy Practice (the "Board") received the license renewal application of Michael Steven Archer, O.T. (the "Respondent"), License Number 05194. Noting that the Respondent's license renewal application stated that "My NBCOT certification is current, and I need 0 contact hours,"¹ pursuant to its authority under the Code of Maryland Regulations ("COMAR") 10.46.04.07, the Board conducted an audit of the continuing competency contact hours as reported in the Respondent's license renewal application. The audit findings revealed that the Respondent failed to complete the twelve (12) continuing competency contact hours required for license renewal.

On or about October 7, 2017 and October 26, 2017, the Board notified the Respondent of the results of the audit and requested that the Respondent submit documentation of the required twelve (12) continuing competency contact hours earned between January 1, 2016 and his June 12, 2017 renewal application. After exchanging multiple emails with the Board, on or about December 2017, the Respondent conceded that he was not able to submit documentation of the required contact hours. Based upon the Respondent's attestation in his license renewal

¹ National Board for Certification in Occupational Therapy.

application, the results of the Board's audit and investigation, and the Respondent's subsequent admission, on January 19, 2018, the Board voted to offer a Pre-Charge Consent Order of Probation to the Respondent in lieu of issuing Charges for violations of the Maryland Occupational Therapy Practice Act (the "Act") and COMAR.

FINDINGS OF FACT

The Board finds that:

1. At all times relevant, the Respondent was licensed to practice occupational therapy in the State of Maryland, license number 05194.
2. On or about June 14, 2017, the Maryland State Board of Occupational Therapy Practice received the Respondent's license renewal application. In his application, the Respondent attested that "[m]y NBCOT certification is current, and I need 0 contact hours."
3. Upon receipt of the Respondent's renewal application, the Board conducted an audit of completed continuing competency contact hours and NBCOT certification status as was reported and attested to by the Respondent. The audit findings indicated that the Respondent's certification was not current and that he had failed to complete the twelve (12) contact hours required for license renewal.
4. On or about October 10, 2017, the Board sent the Respondent a Notification of Audit, by certified mail to the legal address on file with the Board, requesting verification of his certification with NBCOT and documentation of his completed contact hours. The Board received a return receipt on or about October 14, 2017 indicating that the Notice was delivered. The Respondent failed to send the requested documentation.

5. On or about October 26, 2017, the Board sent an email to the Respondent attaching a Second Request for Audit Response. The Respondent replied to the Board's second request for documentation by indicating that he would check his computer for verification of the required contact hours. In an email to the Board dated November 10, 2017, the Respondent acknowledged that "it does not appear that [he] completed any continuing ed (sic) because [he] didn't think [he] needed to" and that he "must have misread the changes" to the requirements.

6. On November 21, 2017, the Respondent was notified that due to his failure to provide documentation of his continuing competency contact hours for 2016, the Board voted to conduct an audit of his contact hours from 2012 through 2016, pursuant to COMAR 10.46.04.03.A. The Respondent submitted to the Board documentation of completion of the required contact hours for the years 2012 through 2014. The Respondent disclosed to the Board that he was unable to provide documentation of contact hours for the year 2015 because his certificates were stored on the hard drive of a computer that crashed.

7. The Respondent failed to obtain the required twelve (12) contact hours for 2016, despite affirming completion on his 2017 license renewal application. In response to the Board's four-year-audit, the Respondent also failed to provide documentation of completion of the required twelve (12) contact hours in 2015 for his 2016 renewal application.

8. At the time of renewal of a license to practice occupational therapy, a licensee shall attest to maintenance of current certification of NBCOT or completion of continuing competency activities as specified in COMAR 10.46.04. COMAR 10.46.02.03.E. A licensee

shall retain supporting documents relative to continuing competency requirements for a period of 4 years after the date of renewal for inspection by the Board. COMAR 10.46.04.03.A. A licensee who is audited regarding continuing competency requirements as specified in COMAR 10.46.04 shall successfully complete the requirement of the audit by the specified deadline. COMAR 10.46.04.07.D. A licensee's submission of any false statement regarding continuing competency requirements or a failure to substantiate contact hours upon request of the Board shall result in formal disciplinary action by the Board. COMAR 10.46.04.03.D and E. The Board finds that the respondent failed to meet minimum requirements for license renewal and for the Board's audit.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board concludes that the Respondent violated the Act. Specifically:

Md. Code Ann., Health Occ. Art.:

§ 10-311(c) Except as otherwise provided in this title, before the license expires, the licensee periodically may renew it for an additional term, if the licensee:

(3) Submits to the Board:

(ii) Satisfactory evidence of compliance with any continuing competency requirements and other qualifications and requirements as a condition to the renewal of licenses under this section.

§ 10-315(5) Violates any rule or regulation by the Board, including any code of ethics adopted by the Board.

The Board further concludes that the Respondent violated the following provisions under COMAR:

10.46.02.01 General Conduct.

A. The licensee shall:

(16) Accurately record and report all information related to continuing competency requirements specified in COMAR 10.46.04.

10.46.04.03 Maintaining Records of Contact Hours.

A. A licensee shall retain supporting documents relative to continuing competency requirements for a period of 4 years after the date of renewal for inspection by the Board.

D. A licensee's submission of any false statement regarding continuing competency requirements shall result in formal disciplinary action by the Board.

E. A licensee's failure to substantiate contact hours upon request of the Board shall result in formal disciplinary action by the Board.

10.46.04.07 Audit of Continuing Competency.

D. An audited licensee shall successfully complete the requirement of the audit by the specified deadline.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED that the license of the Respondent to practice occupational therapy in the State of Maryland is placed on **PROBATION** for a minimum of **FOUR (4) YEARS** subject to the following terms and conditions:

1. The Respondent's status as an occupational therapist be listed in the Board's computer records and website as being on "**Probation**";
2. The Respondent shall apply for NBCOT recertification and provide the Board with verification of recertification within **SIX (6) MONTHS** from the effective date of this Order.

3. For the term of the Respondent's probation, the Board shall conduct an audit of the Respondent's continuing competency contact hours for **TWO (2)** successive renewal cycles.
4. For the term of the Respondent's probation, the Respondent shall not volunteer his services pursuant to COMAR 10.46.04.06.E.(22) nor act as a mentor or supervisor pursuant to COMAR 10.46.04.06.E.(10) and (15).
5. The Respondent is responsible for any costs associated with the compliance of the terms and conditions set forth in this Order; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of this probation and/or this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing before the Board, if there is a genuine dispute as to the material fact(s), or an opportunity for a show cause hearing before the Board, may impose any other disciplinary sanction which the Board may have imposed in this case under Md. Code Ann., Health Occ. § 10-315 including a reprimand, additional probation, suspension, revocation, and/or monetary fine, said violation being proven by a preponderance of the evidence; and it is further

ORDERED that no earlier than **FOUR (4) YEARS** after the effective date of this Consent Order, the Board may consider a petition for termination of the Respondent's probationary status, provided that the Respondent has been satisfactorily compliant with the probationary terms of this Consent Order; and it is further

ORDERED that there shall be no early termination of the **FOUR (4) YEAR** probationary period. As such, the Board will not consider any requests from the Respondent to

terminate probation any earlier than **FOUR (4) YEARS** from the effective date of this Order; and it is further

ORDERED that the Respondent shall comply with the Maryland Occupational Therapy Practice Act, Md. Code Ann., Health Occ. §§ 10-101 *et seq.*, and all federal and State laws and regulations governing the practice of occupational therapy in Maryland; and it is further

ORDERED that this document is a **PUBLIC DOCUMENT** under Md. Code Ann., General Provisions § 4-333(b).

03/16/2018
Date


Wanda R Banks, MA, OTR/L
Wanda R. Banks, M.A., OTR/L, Chair
Maryland State Board of Occupational Therapy Practice

CONSENT

By this Consent, I acknowledge that I have read this Consent Order in its entirety and I hereby admit the truth of the Findings of Fact and accept and submit to the foregoing Consent Order and its conditions. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. 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 legal counsel authorized to practice law in Maryland, to confront witnesses, to give testimony, to request subpoenas for witnesses, to call witnesses on my own behalf, to introduce testimony and evidence on my own behalf, and to all other substantive and procedural protections provided by law. I waive these rights, as well as any appeal rights under Maryland Code Annotated, State Government Article § 10-222.

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

3/5/18
Date



Michael Steven Archer, License Number 05194

NOTARIZATION

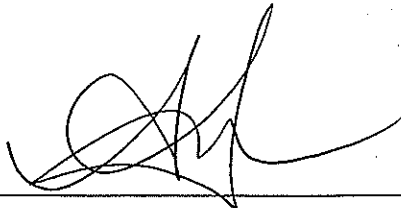
STATE: Maryland

CITY/COUNTY: Charles County

I HEREBY CERTIFY that on this 5 day of March, 2018, before me, a Notary Public of the State and City/County aforesaid, personally appeared **Michael Steven Archer** and made oath in due form of law that signing the foregoing Consent Order of Probation was the voluntary act and deed of **Michael Steven Archer**.

AS WITNESSETH my hand and Notarial Seal.

SEAL



Notary Public

