

IN THE MATTER OF

*

BEFORE THE STATE

SABRINA BURGESS, O. T.

*

BOARD OF OCCUPATIONAL

RESPONDENT

*

THERAPY PRACTICE

LICENSE NUMBER: 04658

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CONSENT ORDER

The State Board of Occupational Therapy Practice (the "Board"), on January 17, 2003, voted to charge **Sabrina Burgess, D.O.B. September 29, 1957, License Number: 04658**, with violating certain provisions of the Maryland Occupational Therapy Practice Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 10-101 et seq. (2000 Repl. Vol.). Specifically, the Board charged the Respondent with violating:

H.O. § 10-315:

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 a license or temporary license if the applicant, licensee, or holder:

- (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;
- (10) Willfully makes or files a false report or record in the practice of occupational therapy or limited occupational therapy;

Code Md. Regs. tit. 10, § 46.01.

.04 Standards of Practice.

A. Occupational Therapist. An occupational therapist shall exercise sound judgment and provide adequate care in the performance of duties as provided in nationally recognized standard of practice.

Code Md. Regs. tit 10, § 46.02. Code of Ethics

.01 General Conduct.

A The licensee shall:

- (2) Provide the highest quality services to the client,
- (15) Comply with all applicable laws dealing with occupational therapy practice.

On Friday, April 16, 2004, the Respondent, her attorney, Philip B. Zipin, Esquire, and Timothy James Paulus, Assistant Attorney General and Administrative Prosecutor, appeared before the Case Resolution Conference Panel. As a result of that conference Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law, and Order, with terms and conditions set forth below.

FINDINGS OF FACT

The Board finds:

1. On February 20, 2002, the Board received a complaint alleging that Respondent had falsified patient records for Patient A for a two to three week period. The Board conducted an investigation, which indicated that on September 13, 2001, Patient A was admitted to Prince George's Hospital Center following a history of tremors, which may have been caused by an assault. Patient A was treated at Prince Georges Hospital Center from September 13 through September 28, 2001, when he was discharged to the Traumatic Brain Injury Unit at Kernan Hospital. Patient A

underwent a course of treatment at Kernan for acute rehabilitation and was discharged as improved. However, he had poor insight concerning safety awareness, his discharge included a recommendation for speech and occupational therapies.

2. On October 15, 2001, Patient A was admitted to Deaton Specialty Hospital and Home and on October 16, 2001, he was evaluated by Respondent for occupational therapy. The evaluation noted Patient A's history of closed head injury secondary to assault, status post occipital infarct, status post evacuation of subdural hematoma, cognitive memory deficits and hypertension. As a result of Patient A's initial evaluation, Respondent recommended both short-term and long-term goals. The short-term goals (two week) included participation by Patient A in cognitive tasks aimed at improving memory, problem solving and insight with moderate supervision. Additionally, Patient A was to perform home care tasks with a minimum of assistance.

3. Patient A's long term goals (4 weeks) included improving cognitive skills to a level adequate to function in the community with supervision and to perform complex A(ssisted) D(aily) L(iving) tasks with supervision. Respondent's evaluation required occupational therapy five (5) times a week for four weeks. Occupational therapy was ordered to maximize Patient A's independence.

4. From October 16, 2001 thru October 31, 2001, Occupational Therapist A ("Therapist A") was the Occupational Therapy representative to Patient A's treatment team, which consisted of multi-disciplinary staff including a physician, rehabilitation staff, nursing staff, and a social worker. The team reviewed Patient A's care, treatment and progress. Therapist A was unable to report occupational therapy treatment because Respondent had failed to provide treatment as ordered. Therapist A questioned

Respondent about her failure to treat and was advised by Respondent that she was too busy with her heavy caseload in the coma department.

5. On October 31, 2001, Patient A's treatment team discussed his progress because he was to be discharged shortly and required assessment of his kitchen safety skills. Therapist A advised Respondent that Patient A's team and his treating physician requested that the patient receive occupational therapy treatment. Respondent then assigned the case to Therapist A, who provided treatment from November 1, 2001 to November 15, 2001. This treatment consisted of ten individual sessions which Therapist A recorded in a Rehabilitation Treatment Record and Treatment Frequency grid contained in Patient A's medical chart.

6. While reviewing Patient's A chart, Therapist A noticed that there were no treatment minutes documented by the Respondent, other than the initial evaluation performed by Respondent on October 16, 2001. On December 11, 2001, Respondent showed Therapist A an audit conducted by the hospital and Respondent asked Therapist A to verify her treatment for Patient A. In reviewing the audit, Therapist A noticed that the number of dates in the audit exceed the entries made by her. She also noticed that treatment dates had been entered and initialed "SB" for October 18, 19, 22, 22, 24, 25 and 26, 2001, although those dates had been previously blank. As a result of this incident Deaton terminated Respondent for unsatisfactory work performance and failing to fully meet the duties of her job during her probationary period.

7. Respondent's failure to provide treatment as documented or alternatively entering a treatment record late, as well as her failure to provide treatment or assign treatment when ordered, constitute, in whole or in part, an act of incompetence, or

misconduct in the practice of occupational therapy; a violation of the Occupational Therapy Act; a violation of the code of ethics adopted by the Board and the filing of a false report and record in the practice of occupational therapy.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent committed an act of misconduct in the practice of occupational therapy in violation of Md. Health Code Ann. § 10-315 (3), violated a regulation of the Board requiring that a licensee shall provide the highest quality of services to a client in violation of Md. Health Occ. Code Ann. § 10-315 (5) and Code of Maryland Regs. title 10 § 46.02 (2) and willfully made a false report in the practice of occupation therapy in violation of Md. Health Occ. Code Ann. § 01-315 (10). The Board finds that the Respondent violated Md. Occ. Code Ann. §10-316.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 21st day of May, 2004, by a majority of the full-authorized membership of the Board considering this case:

ORDERED that the Respondent be and is hereby **SUSPENDED FOR THIRTY (30) DAYS**; and be it further

ORDERED that the Respondent is placed on **Probation for one (1) year** (the date to be effective on the day that the Board executes the Consent Order) with the following conditions of probation:

- (i) The Respondent shall enroll in and successfully complete, at her own expense, Board-approved ethics course. The Board will approve the course only if it deems the curriculum and duration of the course to be adequate to fulfill the Respondent's educational needs. The Respondent shall be responsible for submitting to the Board written documentation showing that she has successfully completed the course.
- (ii) The Respondent shall practice in accordance with the Maryland Occupational Therapy Act
- (b) The Respondent shall not petition the Board for early termination of her probationary period. The Respondent shall not petition for termination of probation until she has been on probation for at least one (1) year and the Board determines that she has satisfactorily complied with all the terms of her probation.

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

ORDERED that if the Respondent violates the above terms, the Board, after notice and a hearing, and a determination of violation, may impose any other disciplinary sanctions it deems appropriate, said violation being proved by a preponderance of the evidence; and be it further

ORDERED that the conditions of this Consent Order be, and the same is hereby, effective as of the date of this Order; and be it further

ORDERED that this is a **FINAL ORDER** and as such is a public document pursuant to Md. State Gov't. Code Ann. §§ 10-611 et. seq. (1999 Repl. Vol. and 2002 Supp.).

5-21-04


Joyce Carla Farrington, M.Ed., OTR/L
Board Chairperson
State Board of Occupational Therapy

CONSENT OF SABRINA BURGESS

I, Sabrina Burgess, by affixing my signature hereto, acknowledge that:

1. I am represented by Philip 8. Zipin, Esquire, and I have had the opportunity to consult with counsel before signing this document.
2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to § 10-316 of the Act, Md. State Gov't. Code Ann. §§10-201 et seq.
3. I acknowledge the validity of this Consent Order as if entered after 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 provided by law.
4. I voluntarily enter into and consent to the foregoing Findings of Fact, Conclusions of Law and Order, provided that the Board adopts the foregoing Consent Order in its entirety. I waive any right to contest the Findings of Fact and Conclusions of Law, and I waive my right to a fully evidentiary hearing, as set forth above, and any right

to appeal this Consent Order or as set forth in § 10-316 of the Act and Md. State Gov't.

Code Ann. §§10-201 et seq. (1999 Repl. Vol. and 2002 Supp.).

5. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, and, following proper procedures, I may suffer disciplinary action, which may include revocation of my license to practice occupational therapy in the State of Maryland.

6. I sign this Consent Order without reservation as my voluntary act and deed.
acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

4/16/04
Date

Sabrina Burgess
Sabrina Burgess

Read & Approved by:

Philip B. Zipin
Philip B. Zipin, Esquire
Attorney for Sabrina Burgess

NOTARY

STATE OF Maryland

CITY/COUNTY OF Baltimore

I HEREBY CERTIFY THAT on this 16th day of April, 2004, before me, a
Notary Public for the State of Maryland and the City/County aforesaid, personally

appeared **Sabrina Burgess**, and made oath in due form of law that the foregoing

Consent Order was her voluntary act and deed.

AS WITNESS my hand and Notarial Seal.

My Commission Expires:

10/1/07


Notary Public

5/21/2004

Date



Joyce Carla Farrington, **M.Ed, OTR/L**
Board Chairperson
Board of Occupational Therapy Practice