

IN THE MATTER OF
SHERI PRESENT, OTR/L

Respondent

License Number: 04298

* BEFORE THE MARYLAND
* BOARD OF OCCUPATIONAL
* THERAPY PRACTICE
* Case Number: 2005-010

FINAL ORDER

On April 15, 2011, the Maryland Board of Occupational Therapy Practice (the "Board") issued a Notice of Intent to Revoke ("the Notice") the occupational therapy license of **Sheri Present, OTR/L (the "Respondent")** (D.O.B. 02/10/59), License Number 0429, based on her violation of the Maryland Occupational Therapy Practice Act (the "Act"), codified at Md. Health Occ. Code Ann. ("H.O.") §§ 10-101 *et seq.* (2009 Repl. Vol. and 2010 Supp.)

The Board notified the Respondent in that Notice that this Final Order would be executed thirty (30) days from the Respondent's receipt of the Notice unless she requested a hearing. On May 18, 2011, the certified copy of the Notice was returned to the Board as unclaimed. The regular mail copy of the Notice was not returned to the Board. The Respondent did not request a hearing within 30 days.

FINDINGS OF FACT

1. The Respondent was originally issued a license to practice occupational therapy in Maryland on October 15, 1999, being issued license number 04298. The Respondent's license is currently active and will expire on June 30, 2011.

2007 Consent Order

2. On or about August 23, 2007, after investigating a complaint from the Respondent's employer, the Board issued a document charging the Respondent with violations of the Maryland Occupational Therapy Practice Act ("the Act"), Md. Code Ann., Health Occupations ("Health Occ.") §§ 10-101 *et seq.*

3. As a result of negotiations between the Office of the Attorney General and the Respondent, on November 16, 2007, the Respondent entered into a Consent Order ("2007 Consent Order") suspending the Respondent's license for a period of one year with all but three months stayed, and placing the Respondent on probation for a period of two years from the date of the Order.

4. In a letter to the Respondent dated March 5, 2008, the Board acknowledged that the Respondent successfully completed the Board's jurisprudence examination with a score of 83%. As such, the Respondent completed this obligation under the 2007 Consent Order.

5. On June 18, 2008, Board staff contacted the Respondent via e-mail regarding the Respondent's completion of the required ethics course. As of that date, the Board did not receive confirmation that the Respondent completed the course. The Respondent replied via e-mail and acknowledged that she began the course but did not have time to finish and would send the certificate of completion as soon as she completed the course.

6. In a letter dated July 31, 2008 and sent to the Respondent via certified mail, the Board notified the Respondent that she failed to comply with the terms of the November 16, 2008 Consent Order. The letter listed the terms of

the Order and indicated that as of July 31, 2008, the Board only received verification of the Respondent's completion of the jurisprudence examination. The Respondent was reminded that failing to abide by the Order could result in disciplinary action, including revocation of her license to practice occupational therapy in the State of Maryland. The Respondent signed for this letter on August 7, 2008.

7. In a letter to the Board dated August 15, 2008, the Respondent stated that she was working to set up the required pro bono community service to be completed between September and December 2008. Regarding the Ethics course, the Respondent stated that she began the course and is "doing her best" to complete it as soon as possible. The Respondent also explained that she failed to complete the required billing course because of financial reasons.¹ Finally, the Respondent stated that she was having difficulty securing an occupational therapist to serve as her practice reviewer.

8. By a letter dated October 10, 2008, the Respondent notified the Board of her completion of the required ethics course. The Respondent included a certificate stating that on October 4, 2008, she successfully completed a course entitled, "Everyday Ethics: Core Knowledge for Occupational Therapy Practitioners and Educators." The Respondent also stated in her letter that she is still looking for an online or local course on billing. Further, the Respondent noted that she located a licensed occupational therapist who is willing to serve as a practice reviewer ("potential practice reviewer"). The Respondent did not

provide the potential practice reviewer's name, nor did she formally request the Board to approve this individual as her practice reviewer.

9. On December 16, 2008, the potential practice reviewer contacted the Board seeking clarification of her responsibilities should the Board approve her as the Respondent's practice reviewer.

10. On January 6, 2009, the Board received another letter, which was dated December 29, 2008, from the Respondent. In her letter, the Respondent provided verification that she completed the required 40 hours of pro bono community service. In particular, the Respondent completed 16 hours of pro bono community service at Concord Hill School in Chevy Chase, Maryland, 16 hours at Mill Creek Parish Preschool in Derwood, Maryland, and 10 hours at Canyon Kids Pediatric Occupational Therapy Services in Bethesda, Maryland. The Respondent also stated that she remains unable to find a local or online billing course. The Respondent further noted that she secured a practice reviewer, but that the individual is awaiting correspondence from the Board regarding clarification of her duties.

11. By letter dated January 6, 2009, the Board informed the Respondent that it would not approve the potential practice reviewer because of the nature of her practice setting, a practice where auditory integration devices are used. The Board again notified the Respondent that she failed to comply with several requirements under the Order.

¹ The Respondent stated that she could not afford to travel to the billing course, which was being held in New York, while her license was suspended. The Respondent's license was suspended only from December 1, 2007 through March 1, 2008.

13. Condition Two of the Order states that the Respondent "shall perform, without remuneration, forty (40) hours of pro bono community service providing occupational therapy in the State of Maryland *as proposed by the Respondent and approved by the Board.*" (emphasis added).

14. At no time did the Respondent propose any potential pro bono community service placements for Board approval.

15. Condition Two of the Order also states that the Respondent "shall file a written report with the Board that verifies that the Respondent performed the pro bono community service without remuneration, and which describes with particularity the professional services performed."

16. The Respondent did not file a written report of any kind. Rather, the Respondent submitted three "To Whom It May Concern" letters from the respective directors of the facilities stating that she completed pro bono "occupational therapy services." At no time did the Respondent submit any more specific description of the professional services that she performed.

17. Condition Four of the Order states that the Respondent shall complete Board-approved courses in Ethics and billing "[w]ithin six (6) months of the effective date of this Consent Order."

18. The Respondent completed the required Ethics course on October 4, 2008, nearly 11 months after the effective date of the Order. To date, the Respondent has not completed the required Billing course.

19. Condition Five of the Order states that the Respondent "shall have a Board-approved clinical practice reviewer (the "reviewer") in occupational therapy to monitor the Respondent's practice of occupational therapy".

20. Pursuant to the Order, monitoring of the Respondent's practice was to begin immediately following the suspension of the Respondent's license. The Respondent failed to secure a Board-approved clinical practice reviewer, and as a result, her occupational therapy practice was not monitored.

21. As a result of the Respondent's failure to comply with the terms and conditions of the 2007 Consent Order, the Board charged her under the Act.

22. The Respondent requested a hearing, which was held before a quorum of the Board on May 15, 2009.

23. The Board issued a Final Decision and Order dated December 18, 2009 ("2009 Consent Order"²) in which it concluded that the Respondent violated the terms and conditions of the 2007 Consent Order.

2009 Consent Order

24. In its 2009 Consent Order, the Board suspended the Respondent's license for a period of nine months beginning January 1, 2010, and extended the Respondent's probation from October 1, 2010 through October 1, 2011.

25. The 2009 Consent Order ordered that the Respondent's probation be subject to the completion of 80 hours of pro bono community service providing occupational therapy services in the State of Maryland and a requirement that the Respondent "provide for, and submit the name of, a Board-approved clinical

reviewer ('the reviewer') in occupational therapy to monitor the Respondent's practice of occupational therapy.

26. Specifically, the Board required that the reviewer "directly observe the Respondent's treatment of clients during at least one, ½ day unannounced, visit per month for the first six (6) months following the completion of the Respondent's suspension (1/1/2010 – 10/1/2010) and at least every month thereafter during the probation."

27. Furthermore, the Board required that the reviewer conduct "unannounced on-site random chart review, or off-site chart review . . . of at least six (6) client charts, every 30 to 60 days, for a minimum of three (3) reviews during the probation to review all aspects of practice."

28. On or about September 20, 2010, the Board notified the Respondent that it had approved her placement at the Harbour School of Baltimore for the completion of her 80 hours of pro bono community service.

29. On or about October 19, 2010, the Board notified the Respondent that it had approved Occupational Therapist A as the Respondent's clinical practice reviewer.³

30. By a letter dated October 24, 2010, the Respondent informed the Board that due to a back injury, she has not treated patients since 2004, and as

² In its supporting documentation, the Board refers to the Final Decision and Order as a consent order. Therefore, in this document, to prevent confusion, the 2009 Final Decision and Order will be referred to as a consent order.

³ For purposes of confidentiality purposes, individuals other than the Respondent are not named in this document. The identity of those individuals can be obtained by the Respondent or her attorney from the administrator prosecutor.

such, requested "an alternative approach to removing any sanctions from [her] license and re-establishing [her] professional good standing with [the Board]."

31. In correspondence dated November 30, 2010, the Board acknowledged the Respondent's completion of the required 80 hours of pro bono community service hours.

32. In the same correspondence, the Board also notified the Respondent that it denied the Respondent's request to forgo the practice review requirement of the 2009 Consent Order. The Board gave the Respondent the opportunity to complete additional pro bono community service and permit Occupational Therapist A, the reviewer, to review that work. Finally, the Board notified the Respondent that she was in violation of the practice review requirement of the 2009 Consent Order. The Board imposed a deadline of January 1, 2011 for the Respondent to provide to the Board a complete and thorough response addressing the details of her practice review.

33. In a letter dated December 26, 2010, the Respondent detailed the difficulties she faced finding employment and pro bono community service in the occupational therapy field due to her disciplinary history with the Board. She requested additional direction from the Board as to how much additional pro bono work she would need to satisfy the conditions of the 2009 Consent Order.

34. In a certified letter dated January 14, 2011, the Board notified the Respondent that she was in violation of the practice review requirement of the 2009 Consent Order, as she has "not submitted any proposal for Board

consideration, and [she has] not submitted any proof of completing the practice review component" of the 2009 Consent Order.⁴

13. The Respondent failed to respond to the Board's January 14, 2011 letter.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board finds by a preponderance of evidence and concludes that the Respondent violated the 2009 Consent Order when she failed to complete the practice review requirement set forth by the Board.

ORDER

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

ORDERED that the Respondent's license to practice occupational therapy is hereby **REVOKED**;

ORDERED that this Order is a PUBLIC DOCUMENT, pursuant to Md. Code Ann., State Govt. § 10-611 et seq. (2009 Repl. Vol. and 2010 Supp.).

5/20/11
Date

Joyce Ford, COTAL
Joyce Ford, COTAL
Board of Occupational Therapy Practice

⁴ The Board mailed this letter by certified and regular mail. The green card was returned, signed by "Betty J. Chambers," but the certified letter was also returned to the Board as unclaimed. The letter sent to the Respondent by regular mail was not returned to the Board.

NOTICE OF RIGHT TO APPEAL

Pursuant to H.O. §12-316, you have a right to take a direct judicial appeal. A Petition for Judicial Review must be filed within thirty (30) days of your receipt of this Order and shall be made as provided for judicial review of a final decision in the S.G. §§ 10-201 *et seq.* (2009 Repl. Vol. and 2010 Supp.), and Title 7, Chapter 200 of the Maryland Rules.