

IN THE MATTER OF

*** BEFORE THE MARYLAND**

MARIA C. RUPP, OTR/L

*** BOARD OF OCCUPATIONAL**

Respondent

*** THERAPY PRACTICE**

License Number: 05367

*** Case Number: 2007-010**

.....
CONSENT ORDER

PROCEDURAL BACKGROUND

On September 19, 2008, the Maryland State Board of Occupational Therapy Practice (the "Board") charged **MARIA C. RUPP, OTR/L** (the "Respondent") (D.O.B. 08/16/58), License Number 05367, with violating provisions under the Maryland Occupational Therapy Practice Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 10-101 *et seq.* (2005 Repl. Vol.) and Code Md. Regs. ("COMAR") tit. 10, § 46.02.01.

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

H.O. § 10-315

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

- (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;
- (12) Submits a false statement to collect a fee.

The Board also charged 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 care professionals;

C. The licensee may not:

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

On November 21, 2008, a Case Resolution Conference was convened in this matter. Based on negotiations occurring as a result of this Case Resolution Conference, the Respondent agreed to enter into this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, Order and Consent.

FINDINGS OF FACT

The Board makes the following findings:

BACKGROUND

1. At all times relevant to the Board's charges, the Respondent was and is licensed to practice occupational therapy in the State of Maryland. The Respondent was

initially licensed to practice occupational therapy in Maryland on April 16, 2004, under License Number 05367. The Respondent's license is currently active through June 30, 2010.

2. At all times relevant to the Board's charges, the Respondent was employed as an occupational therapist by Bayada Nurses ("Bayada"), a home health care agency located in Towson, Maryland.

3. The Board initiated an investigation of the Respondent after receiving correspondence, dated May 24, 2007, from Bayada, which reported that the Respondent resigned from her employment at Bayada after being confronted with evidence that she submitted "fraudulent clinical documentation" by creating a patient visit note for a date on which she did not provide occupational therapy. Bayada stated that it investigated the Respondent's submission of clinical documentation and determined additional instances in which she "documented and received payment for visits which never occurred."

BOARD INVESTIGATIVE FINDINGS

4. Bayada hired the Respondent as an occupational therapist by Bayada beginning in or about October 2005. Bayada hired the Respondent to provide in-home occupational therapy services to patients on its behalf. The Respondent's position required that she record and submit Occupational Therapy Treatment Notes ("Treatment Notes") to Bayada after seeing patients. In order to receive compensation from Bayada, the Respondent had to provide occupational therapy services to patients and submit Treatment Notes to Bayada that documented the services she provided on

any given patient visit. Bayada relied on the Respondent's representations when seeking compensation from third-party payors.

5. Bayada received a complaint from the spouse of a patient (hereinafter, "Patient A")¹ who reported that the Respondent did not provide occupational therapy services to Patient A as scheduled.

6. Bayada reviewed a Treatment Note the Respondent submitted for occupational therapy services she purportedly provided to Patient A on April 26, 2007. The Treatment Note was purportedly signed by Patient A's spouse. In this Treatment Note, the Respondent recorded extensive documentation about the services she provided for this date, which included: the treatment she provided; her assessment of living skills; objective findings, including recordation of vital signs; her assessment of the patient's response to treatment; and her plan for future treatment/services.

7. Bayada confirmed with Patient A's spouse that the Respondent did not assess or provide any services for Patient A on April 26, 2007.

8. A representative of Bayada subsequently interviewed the Respondent on May 2, 2007 and questioned her about the Treatment Note. The Respondent admitted that she did not provide any occupational therapy services for Patient A for April 26, 2007, and created a false Treatment Note for this date. The Respondent could not provide any explanation for her actions and immediately resigned from her position at Bayada.

9. Bayada then reviewed other Treatment Notes the Respondent recorded and submitted and determined at least two other instances ("Patients B and C") in which

¹ To ensure confidentiality, patient names have not be used in this Consent Order. The Respondent is aware of the identity of all individuals that are referenced herein.

the Respondent created false Treatment Notes for patients. Specifically, with respect to Patient B, the Respondent created false Treatment Notes for visits dated April 23 and 27, 2007; and for Patient C, the Respondent failed to submit a Discharge Summary for the visit dated March 21, 2007.

10. The Respondent's conduct, as set forth above, constitutes the following violations of the Act: 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(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; and H.O. § 10-315(10), willfully makes or files a false report or record in the practice of occupational therapy or limited occupational therapy.

11. The Respondent's conduct, as set forth above, constitutes the following violations of COMAR 10.46.02.01: 10.46.02.01A(2), the licensee shall provide the highest quality services to the client; 10.46.02.01A(11), the licensee shall function with discretion and integrity in relations with other health care professionals; and 10.46.02.01C(4)(b), the licensee may not use, or participate in the use of, a form of communication that contains or implies a false, fraudulent, misleading, deceptive, or unfair statement or claim.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board finds as a matter of law that the Respondent violated the following provisions of the Act: 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(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; and H.O. § 10-315(10), willfully makes or files a false report or record in the practice of occupational therapy or limited occupational therapy.

In addition, the Board finds as a matter of law that the Respondent violated the following violations of COMAR 10.46.02.01: 10.46.02.01A(2), the licensee shall provide the highest quality services to the client; 10.46.02.01A(11), the licensee shall function with discretion and integrity in relations with other health care professionals; and 10.46.02.01C(4)(b), the licensee may not use, or participate in the use of, a form of communication that contains or implies a false, fraudulent, misleading, deceptive, or unfair statement or claim.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 14 day of Jan, 2009, 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 shall be and hereby is **SUSPENDED** for a period of **TWO (2) YEARS**, with all but **SIXTY (60) DAYS** of said suspension **STAYED**, to commence on the date the Board executes this Consent Order; and be it further

ORDERED that during the **SIXTY (60) DAY** period of **ACTIVE SUSPENSION**, the Respondent shall undergo an evaluation by her psychiatrist to determine if she is mentally fit to resume the practice of occupational therapy. The Respondent shall notify the Board of the identity of her psychiatrist and his/her office address prior to

undergoing this evaluation. The Respondent understands and agrees that the Board, in its discretion, may provide the psychiatrist with a copy of this Consent Order and any additional documents that it deems appropriate in order to perform this evaluation. The psychiatrist shall submit a report of his/her findings to the Board that addresses whether the Respondent is fit to practice occupational therapy. The Respondent shall be solely responsible for ensuring that the psychiatrist submits a written report of his/her findings to the Board in a timely manner. In the event that the psychiatrist determines that the Respondent is not fit to practice occupational therapy at that time, the Respondent understands and agrees that the Board will not stay the suspension of her license until such time as her psychiatrist determines that she is fit to resume the practice of occupational therapy; and be it further

ORDERED that if the psychiatrist determines that the Respondent is fit to resume the practice of occupational therapy, the Board, after the conclusion of the entire **SIXTY (60) DAY** period of **ACTIVE SUSPENSION**, shall **LIFT** the **ACTIVE PERIOD of SUSPENSION** and place the Respondent on **PROBATION** for a minimum period of **TWO (2) YEARS**, and until such time as the Respondent successfully completes the following terms and conditions:

1. The Respondent understands and agrees that she shall not provide in-home occupational therapy, but shall only provide occupational therapy in a supervised setting.

2. The Respondent shall obtain a supervisor or a Board-approved mentor, who shall evaluate the Respondent's performance of occupational therapy. The supervisor/mentor shall submit written reports beginning six (6) months after the

Respondent undergoes supervision, and shall thereafter submit written reports at six (6) month intervals, for a total of four (4) written reports during the **TWO (2) YEAR** period of **PROBATION**.

3. The Respondent shall enroll in, and successfully complete, at her expense, a Board-approved course in professional ethics. The Respondent shall enroll in this required course within three (3) months of the date the Board executes this Consent Order. The Respondent shall successfully complete the course within nine (9) months of the date the Board executes this Consent Order. The Respondent authorizes the Board to provide the course proctor with this Consent Order, the charging document, and any other documents and investigatory materials it deems relevant. The Respondent shall be responsible for submitting adequate written documentation to the Board of her successful completion of this course. The Respondent understands and agrees that if she fails to successfully complete the course according to the terms set forth herein, such failure shall constitute a violation of her probation under this Consent Order;

4. The Respondent shall enroll in, and successfully complete, at her expense, a Board-approved course in professional billing. The Respondent shall enroll in this required course within nine (9) months of the date the Board executes this Consent Order. The Respondent shall successfully complete this course within fifteen (15) months of the date the Board executes this Consent Order. The Respondent authorizes the Board to provide the course proctor with this Consent Order, the charging document, and any other documents and investigatory materials it deems relevant. The Respondent shall be responsible for submitting adequate written

documentation to the Board of her successful completion of this course. The Respondent understands and agrees that if she fails to successfully complete the course according to the terms set forth herein, such failure shall constitute a violation of her probation under this Consent Order.

AND BE IT FURTHER ORDERED that after the conclusion of the entire **TWO (2) YEAR PERIOD OF PROBATION**, the Respondent may file a written petition for termination of her probationary status 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, and including the expiration of the **TWO (2) YEAR PERIOD OF PROBATION**, and if there are no pending complaints regarding her before the Board; and be it further

ORDERED that if the Respondent violates any of the terms or conditions of this Consent Order, the Board, after notice, opportunity for a hearing and determination of violation, may impose any other disciplinary sanctions it deems appropriate, including but not limited to, revocation or suspension, said violation being proven by a preponderance of the evidence; and be it further

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 this Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2004 Repl. Vol.).

1/18/09
Date

Joyce Ford COTAL
Joyce Ford, COTAL
Chairperson, Maryland State Board of
Occupational Therapy Practice

CONSENT

I, Maria C. Rupp, OTR/L, acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I admit to the Findings of Facts and Conclusions of Law, and I agree and 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.

1/15/09
Date

Maria C. Rupp, OTR/L
Maria C. Rupp, OTR/L
Respondent