

November 16, 2007

Claudia McInerney, MOT, OTR/L
Chairperson
Board of Occupational Therapy Practice
55 Wade Avenue
Catonsville, MD 21228

Re: Commission of Prohibited Ad and Notice of Hearing Under the
Maryland Occupational Therapy Practice Ad
License Number: 01452
Case Number: 2005-011

Dear Ms. McInerney and Members of the Board:

Please be advised that I have decided to surrender my license to practice occupational therapy in the State of Maryland, License Number 01452. I understand that I may not, in the State of Maryland, practice occupational therapy or continue to recommend, render or supervise treatment using the Spectrum Center Method or the Tomatis Method, to any individual, with or without supervision and/or compensation, or otherwise engage in the practice of occupational therapy as it is defined in the Maryland Occupational Therapy Practice Act (the "Act"), Md. Code Ann., Health Occ. ("H.O.") §§ 10-101 *et seq.* In other words, as of January 2, 2008, the effective date of this Letter of Surrender, I understand that I am in the same position as any unlicensed individual in the State of Maryland.

I understand that this Letter of Surrender is a **PUBLIC** document.

My decision to surrender my license to practice occupational therapy in Maryland and to cease practicing occupational therapy in Maryland and practicing, directing or supervising the Spectrum Center Method/Tomatis Method in Maryland., has arisen in connection with a licensing investigation by the Maryland Board of Occupational Therapy Practice (the "Board"). The investigation was initiated by a complaint made by a former employee of the Spectrum Center, Inc., a company I own, operate and manage in Bethesda, Maryland. The investigation revealed, *inter alia*, that:

Claudia McInerney, and Members of the Board

RE: Valerie Dejean, OTR/L

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1. In my capacity as owner of the Spectrum Center, I am ultimately responsible for all major administrative, clinical and personnel decisions. I directed and/or agreed to the Spectrum Center's office practices for billing and documentation and developed forms and literature for use by staff and to be provided to the public at large. My name appeared, as an OT, on many Center documents, including, *inter alia*, reports, billing records, website, patient evaluations, and training materials.

2. I held myself out as an occupational therapist and in some instances practiced when I was not licensed, permitted listening aides, who were not licensed as occupational therapists to provide occupational therapy services while they were not being directly supervised by licensees, permitted the Spectrum Center to hold out one other occupational therapist as licensed and permitted her to practice during a period when her license had lapsed, permitted the Spectrum Center to provide billing slips for services purportedly performed by licensed individuals when the individuals who provided the services were not licensed occupational therapists, and requested a licensee to sign billing records for services performed by unlicensed persons.

3. My employees and I provided treatment in an occupational therapy environment to patients using the Tomatis Electronic Ear, a device that has not been approved by the FDA for use in the United States. I also provided training on devices that have not been approved by the FDA.

4. The Board determined that my diagnostic findings, my practice of treating patients with an unapproved device, and my practice of and the use of unlicensed persons to practice occupational therapy failed to meet recognized standards.

5. Billing slips were provided by the Spectrum Center to its patients for submission to insurance companies. Those slips omitted references to the Tomatis Method which would not be covered by the insurance plans to which they would be submitted. Written treatment recommendations and billing slips contained my name and/or signature as an "OT" during periods when I was unlicensed.

The Board's investigation resulted in charges under the Act. Specifically, the Board charged me with the commission of prohibited acts under Md. Health Occ. Code Ann. § 10-315.

The pertinent provisions of the Act provide as follows:

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

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

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or temporary license for the applicant, licensee, or holder or for another;
- (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;
- (7) Aids or abets an unauthorized individual in the practice of occupational therapy or limited occupational therapy; and
- (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.

H.O. § 10-301 License Required; exceptions.

- (a) *In general.* - Except as otherwise provided in this title, an

individual shall be licensed by the Board before the individual may practice occupational therapy or limited occupational therapy in this State.

H.O. § 10-401 Practicing without license.

(a) *Practicing occupational therapy.* - Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice occupational therapy in this State unless licensed to practice occupational therapy by the Board.

H.O. § 10-402 Misrepresentation - Occupational therapist.

(a) *In general* - Unless authorized to practice occupational therapy under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice occupational therapy in this State.

(b) *Certain representations prohibited.* - Unless authorized to practice occupational therapy under this title, a person may not use the credentialing abbreviation "O.T." or any other words, letters, or symbols with the intent to represent that the person practices occupational therapy.

H.O. § 10-404 Providing occupational therapy.

A person may not provide, attempt to provide, offer to provide, or represent that the person provides occupational therapy unless the occupational therapy is provided by an individual who is authorized to practice occupational therapy or limited occupational therapy under this title.

The regulations violated are: Md. Regs. Code ("COMAR") tit. 10, §§ 46.01.03A(1),(2) and C(1),(2),(3),(4) and (5), 46.01.04A and 46.02.01A(9), (11), (13), (14), (15) and C(2) and (4).

I affirm that I was served with a copy of the charging document and have otherwise been advised on the Board's actions through communications with representatives of the Office of the Attorney General and my attorneys, Sigrid Haines and Stan Reed.

I have decided to surrender my license to practice occupational therapy in Maryland to avoid further prosecution of the aforementioned charges. The basis for the charges against me include the findings of the investigations described above, and by virtue of this Letter of Surrender, I waive any right to contest those charges and findings. I wish to make it clear that I have voluntarily, knowingly and freely chosen to submit this Letter of Surrender. I understand that by executing this Letter of Surrender, I am waiving any right to contest these findings in a formal evidentiary hearing at 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, including the right to appeal.

I acknowledge that on or before the effective date of this Letter of Surrender, I shall present to the Board my Maryland Occupational Therapy license, including any renewal certificates.

I understand that the Board will advise the National Practitioners Data Bank, the Health Care Integrity Data Bank, and any other required entities, of this Letter of Surrender, and in any response to inquiry, that I have surrendered my license in lieu of disciplinary action under the Act as resolution of the matters pending against me. I also understand that in the event I would apply for licensure in any form in any other state or jurisdiction, or should another state in which I am licensed request the information, that this Letter of Surrender, and all underlying investigative documents, may be released or published by the Board to the same extent as a final order that would result from disciplinary action pursuant to Md. State Gov't Code Ann., § 10-611 *et seq.*

I further recognize and agree that by agreeing to this Letter of Surrender that my license will remain surrendered until such time as I apply for reinstatement or new licensure and comply with the terms and conditions determined by the case resolution conference and/or the Board subsequent to my application for licensure. I agree not to apply for a license before January 2, 2011. In the event that I apply for reinstatement of my Maryland license or for the issuance of a new Maryland occupational therapy license, I understand that, for this purpose, the Board may consider that the allegations contained in the August 23, 2007 charges were proven as true and may set terms and conditions that

shall apply to my receiving a license should the Board determine that I qualify for licensure. I also understand that if I apply for a license that I bear the burden of demonstrating to the Board that I am competent to practice occupational therapy and possess good moral character, as specified in Md. Health Occ. Code Ann. § 10-302.

I acknowledge that I may not rescind this Letter of Surrender in part or in its entirety for any reason whatsoever. Finally, I wish to make clear that I have consulted with an attorney before signing this Letter of Surrender. I understand both the nature of the Board's actions and this Letter of Surrender fully. I acknowledge that I understand and comprehend the language, meaning and terms and effect of this Letter of Surrender. I make this decision knowingly and voluntarily.

Valerie Dejean OTR/L

Valerie Dejean, OTR/L

Read and approved:


Sigrid Haines, Esquire

NOTARY

STATE OF **MARYLAND**

CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 16th day of November, 2007, before me, a Notary Public of the City/County aforesaid personally appeared Valerie Dejean, OTR/L, and declared and affirmed under the penalties of perjury that signing the foregoing letter of surrender was her voluntary act and deed.

AS WITNESS my hand and Notarial seal.

My Commission expires:

10/1/11


Notary Public

ACCEPTANCE

ON BEHALF OF THE BOARD OF THE BOARD OF OCCUPATIONAL

THERAPY PRACTICE, on this 16th day of N o v e m b e r, 2007, I accept

Valerie Dejean's public letter of surrender of her license to practice occupational
therapy in the State of Maryland.

Claudia McInerney, MOT, OTR/L/DA

Claudia McInerney, MOT, OTR/L /☐
Chairperson
Board of Occupational Therapy Practice

cc: Kimberly S. Cammarata, Assistant Attorney General