

IN THE MATTER OF	*	BEFORE THE STATE BOARD
ELIZABETH A. FLANIGAN, O.T.	*	OF OCCUPATIONAL
LICENSE NUMBER: 05554	*	THERAPY PRACTICE
Respondent	*	CASE NUMBER: 07-01
* * * * *	*	* * * * *

PRE-CHARGE FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Occupational Therapy Practice (the "Board"), and subject to Md. State Govt. Code Ann. § 10-226 (c) (2004 Repl. Vol. and 2006 Supp.), on May 11, 2007, the Board summarily suspended the license to practice Occupational Therapy issued by the Board to Elizabeth Flanigan, O.T., (the "Respondent"), pursuant to Md. Health Occ. Code Ann. § 10-101, et. seq., (2005 Repl. Vol. and 2006 Supp.). At a Show Cause Hearing held before a quorum of the Board on May 18, 2007, the Respondent, who was represented by her attorney, Alexander Chizhik, the Board, and the Administrative Prosecutor, Roberta Gill, Assistant Attorney General, agreed to resolve the matter as follows:

FINDINGS OF FACT

BACKGROUND

1. At all times relevant hereto, the Respondent was licensed to practice occupational therapy in Maryland. The Respondent was first licensed on May 20, 2005. The Respondent's license expires on May 30, 2008.
2. By complaint dated September 29, 2006, the Respondent's supervisor ("the Complainant") at the Baltimore Washington Medical Center in Glen Burnie, Anne Arundel

County, Maryland indicated that the Respondent had poor work performance and a lack of alertness, which led to the Respondent's evaluation by Occupational Health on September 27, 2006: a positive drug screen on September 29, 2007 led to the Respondent's being removed from work.

3. The Respondent was assessed by Crossroads Center on October 4, 2006, and admitted into treatment for chemical dependency, where she was referred for a cocaine-positive urine screen. The Respondent started Crossroads' Intensive Outpatient Program on October 9, 2006, which consisted of group therapy three hours per day, three days per week and usually takes eight weeks, after 24 sessions for completion. Urine toxicology screens are random and usually done on a weekly basis. During this phase, the Respondent had one relapse, as per a positive urine sample for cocaine on November 1, 2006. She also attended AA/NA meetings at least twice a week during this time. On December 21, 2006, the Respondent was transferred to Crossroads' weekly treatment group, Professionals' Rehabilitation Outpatient Program, which she attended for nine weeks.

4. The Respondent returned to work on December 6, 2006. On March 16, 2007, the Respondent informed the Complainant that she was resigning.

5. The Respondent's urine tested positive for cocaine on March 6, 2007.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated the Act. Specifically, the Respondent violated the following provisions of § 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 or 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
- (8) Provides professional services while:
 - (ii) Using any narcotic or controlled dangerous substance, as defined in Article 27 of the Code, or other drug that is in excess of therapeutic amounts or without valid medical indication [;].

The above actions are also violations of the following Code of Ethics, Code Md.

Regs. tit. 10, § 46.02 (August 7, 2000):

.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 professionals [;].

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 6th day of June, 2007, by a majority of a quorum of the Board,

ORDERED that the Summary Suspension on the Respondent's license to practice Occupational Therapy is hereby **LIFTED** and the Respondent is placed on **PROBATION** for **TWO** years, subject to the following conditions:

1. The Respondent shall extend her rehabilitation contract with Crossroads for the length of the probationary period;
2. The Respondent shall have Crossroads submit documentation to the Board regarding the Respondent's status, progress and attendance at its programs, including the Health Professionals Group Therapy weekly meeting and at NA/AA meetings. These reports shall be monthly for the first nine months and then quarterly thereafter;
3. The Respondent shall attend AA/NA meetings at least three times a week for the first three months of Probation and then at a frequency directed by her therapist;
4. The Respondent shall submit to weekly urinalyses for the first three months and bi-monthly thereafter, with the results reported by Crossroads in its reports for the Board. Crossroads shall immediately report to the Board any positive urines, including those that indicate that the Respondent has not maintained sobriety by imbibing alcoholic beverages;
5. The Respondent shall submit to a quarterly hair sampling test by Crossroads during the first year of the Probation and then as directed by the Board thereafter;
6. The Respondent is to have any employer submit an acknowledgement that it has reviewed the Consent Order and agrees to supply the Board with quarterly written reports on the Respondent's status as an employee;

7. The Respondent shall completely abstain from the use of controlled substances, mood altering drugs or drugs of abuse, including narcotic analgesics and alcoholic beverages, in any form except under the following conditions:

- (a) The Respondent is a bona fide patient of a licensed health care practitioner who is aware of the Respondent's treatment contracts and urine/toxicology monitoring contract and the terms of this Consent Order;
- (b) Such medications are lawfully prescribed by the Respondent's treating practitioner and disclosed to the substance abuse treatment facility and other treatment providers;
- (c) The Respondent provides the Board, and the Board-approved treatment providers within 72 hours of receiving the medication, the name of the practitioner prescribing the drug, the illness or medical condition diagnosed, the type, strength, amount and dosage of the medication and a signed statement consenting to the release of the medical information from the prescribing practitioner and the treatment providers for the purpose of verification.

8. The Respondent shall at all times cooperate with the Board, any of its agents or employees, and with treatment providers, and their agents and employees, in the monitoring, supervision and investigation of the Respondent's compliance with the terms and conditions of this Consent Order, including the Respondent's causing to be submitted at her own expense written reports, records and verifications of actions that may be required by the Board and/or the treatment providers or any of their agents or employees;

9. The Respondent shall be solely responsible for the costs of compliance with any requirements outlined above.

ORDERED that the Consent Order is effective as of the date of its signing by the Board;

ORDERED that, should the Board receive a report that the Respondent has violated the Act or if the Respondent violates any conditions of this Order or of Probation, the Board may immediately re-impose a suspension of the Respondent's license, and after providing the Respondent with notice and an opportunity for a hearing, may impose any other conditions that it deems necessary, including revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order or of Probation/Suspension shall be on the Respondent to demonstrate compliance with the Order or conditions; and be it

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice of occupational therapy in Maryland; and be it further

ORDERED that the Respondent may petition for a modification of the conditions of Probation at the end of the first year of Probation. The Board may modify the restrictions on her license, provided that she can demonstrate compliance with the conditions of this Order. Should the Respondent fail to demonstrate compliance, the Board may impose additional terms and conditions of Probation, as it deems necessary, after a hearing regarding same;

ORDERED that for purposes of public disclosure, as permitted by Md. State Govt. Code Ann. §10-617(h) (Repl. Vol. 2004), this document consists of the contents of the

foregoing Findings of Fact, Conclusions of Law and Order and that the Board may also disclose same to any national reporting data bank that it is mandated to report to.

Claudia A. McInerney, MOT, OTR/L / PA
Claudia A. McInerney, MOT, OTR/L, Chair
Board of Occupational Therapy Practice

CONSENT OF ELIZABETH A. FLANIGAN, O.T.

I, Elizabeth A. Flanigan, by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, Alexander Chizhik, and have been advised

by him of the legal implication of signing this Consent Order;

2. I am aware that, without my consent, my license to practice occupational

therapy in this State cannot be limited except pursuant to the provisions of § 10-315 of the

Act and the Administrative Procedure Act (APA) Md. State Govt. Code Ann. §10-201, et

seq., (2004 Repl. Vol. and 2006 Supp.).

3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Consent Order, I hereby consent and admit to the foregoing Findings of Fact,

Conclusions of Law and Order, provided the Board adopts the foregoing Consent Order in

its entirety. By doing so, I waive my right to a formal hearing as set forth in § 10-316 of the

Act and §10-201, et seq., of the APA, and any right to appeal as set forth in § 10-317 of the

Act and §10-201, et seq., of the APA. I acknowledge that my failure to abide by the

conditions set forth in this Order and, following proper procedures, I may suffer disciplinary

action, possibly including revocation, against my license to practice occupational therapy in

the State of Maryland.

6/5/7
Date

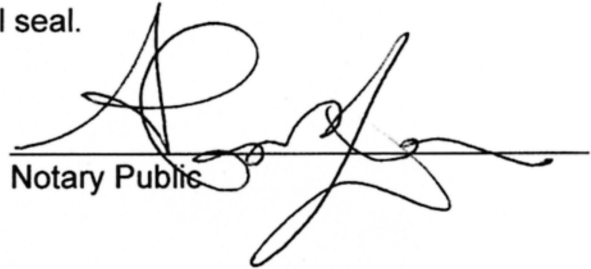
Elizabeth Flanigan MS OTR/L
Elizabeth A. Flanigan, O.T. #05554

STATE OF Maryland :

CITY/COUNTY OF Baltimore :

I HEREBY CERTIFY that on this 5th day of June, 2007, before me, ALEASHA A. LEWIS, a Notary Public of the foregoing State and (City/County),
(Print Name)
personally appeared Elizabeth A. Flanigan, O.T., License No. 05554, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed.

AS WITNESSETH my hand and notarial seal.


Notary Public

My Commission Expires: 1/27/09

