Eff. 10/11/10

MINNESOTA
MDH
DEPARTMENT OF HEALTH

Protecting, maintaining and improving the health of all Minnesotans

October 1, 2010

Ms. Julie Ann Slinde Anderson
[redacted]

RE: MDH File Number: OTA10009

Dear Ms. Anderson:

Based on the facts and law in this matter as described in the enclosed Staff Determination, the Minnesota Department of Health (MDH) has determined that you submitted misleading information to the commissioner in violation of Minnesota Statutes, section 148.6448, subdivision 1(1); were subject of discipline by the State of North Dakota, the grounds for which are substantially equivalent to those in Minnesota Statutes, section 148.6448, subdivision 1(12); and performed occupational therapy services in a manner that falls below the community standard of care in violation of Minnesota Statutes, section 148.6448, subdivision 1(3). Therefore, the Department is issuing you a conditional licensure for a period of not less than two years, during which time you must not be the subject of any allegation of the same or similar behavior. This action is authorized pursuant to Minnesota Statutes, section 148.6448, subdivision 3.

This decision will be made final and effective 30 days from the date it is received by you. During that 30-day period, you have the right to challenge this decision in a contested-case hearing, as provided under Minnesota Statutes, Chapter 14. Requests for a hearing should be made in writing and include specific grounds for challenging the Department's decision. If you wish to request a hearing, please send a written hearing request, within 30 days of your receipt of this letter, to:

Tom Hiendlmayr, JD
Director of the Health Occupations Program
Minnesota Department of Health
PO Box 64882
Saint Paul, MN 55164-0882

You may also deliver your request to 85 East Seventh Place, Suite 220, Saint Paul, MN; or fax it to Mr. Hiendlmayr at (651)201-3839. If you have any questions about this matter, please contact Kyle Renell at (651)201-3727.

Sincerely,

Darcy Miner

Darcy Miner, Director
Compliance Monitoring Division

Enclosure

cc: Tom Hiendlmayr, Director of the Health Occupations Program

HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH

A Determination In the Matter of
Julie Ann Slinde Anderson
Occupational Therapy Practitioner

AUTHORITY

1. The Minnesota Department of Health (MDH) has the authority to discipline Occupational Therapists for violations of Minnesota Statutes, section 148.6448. Pursuant to Minnesota Statutes, section 148.6448, subdivision 3, the types of discipline MDH may impose include approval of licensure with conditions.

2. Pursuant to Minnesota Statutes, section 148.6448, subdivision 1(1), MDH has the authority to discipline occupational therapists who have intentionally submitted false or misleading information to the commissioner or the advisory council.

3. Pursuant to Minnesota Statutes, section 148.6448, subdivision 1(9), MDH may approve licensure with conditions on proof the individual has been disciplined in the practice of an occupation by the state of Minnesota, another jurisdiction, or a national professional association, if any of the grounds for discipline are the same or substantially equivalent to those in section 148.6401 to 148.6450.

4. Pursuant to Minnesota Statutes, section 148.6448, subdivision 1(3), MDH has the authority to discipline occupational therapists who have performed services of an occupational therapist or occupational therapy assistant in an incompetent manner or in a manner that falls below the community standard of care.

5. Pursuant to Minnesota Statutes, section 148.6448, subdivision 1(12), MDH has the authority to discipline occupational therapists who have engaged in dishonest, unethical, or unprofessional conduct in connection with the practice of occupational therapy that is likely to deceive, defraud, or harm the public.

FINDINGS OF FACT

1. Julie Ann Slinde Anderson (Hereinafter "Practitioner"), was licensed as an occupational therapist (Hereinafter "OT")from February 8, 1999, to February 28, 2001, when she allowed her license to lapse. By postcard dated March 7, 2001, Practitioner notified MDH of her intention not to renew her license.

2. Practitioner's application for renewal, dated March 31, 2010, was received on April 2, 2010. On her application, Practitioner answered "no" to Question 11G which asks

whether the applicant has "been convicted of violating any state law, rule, or regulation which directly relates to the practice of occupational therapy" and "been disciplined for conduct in the practice of occupational therapy by the state of Minnesota, another jurisdiction, or a national professional organization, if any of the grounds for discipline are the same or substantially equivalent to those in Minnesota Statutes §§148.6401 to 148.6450." Practitioner also indicated she held an OT license issued by the State of North Dakota in 1987.

3. A Verification of Credential received from the North Dakota Board of Occupational Therapy Practice (Hereinafter "NDBOTP") on April 5, 2010, revealed Practitioner had been disciplined. NDBOTP provided a copy of the Settlement Agreement signed by Practitioner on February 20, 1998, by which she was reprimanded for "unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public" and "...for dishonesty and falsifying records" during her employment as an OT with the Developmental Center of the Department of Human Services."

4. Review of Practitioner's initial application received on January 21, 1999, revealed:
   A. she was credentialed by the State of North Dakota and answered "no" to the following questions:
      i. 13A which asks "is action being taken against you or your legal authorization to practice occupational therapy in this, or another state or jurisdiction, either though revocation, suspension, restrictions, limitations, conditions, reprimand or any other means";
      ii. 13B which asks "has action ever been taken against you or your legal authorization to practice occupational therapy in this, or another state or jurisdiction, either through revocation, suspension, restrictions, limitations, conditions, reprimand or any other means";
      iii. 20C which asks if the applicant has "performed services as an occupational therapist or occupational therapy assistant in an incompetent manner or in a manner that falls below the community standard of care";
      iv. 20G which asks if the applicant has "been convicted of violation any state law, rule, or regulation which directly related to the practice of occupational therapy"; and
      v. 20K which asks if the applicant has "engaged in dishonest, unethical or unprofessional conduct in connection with the practice of occupational therapy that is likely to deceive, defraud, or harm the public."
   B. A Verification of Credential completed by NDBOTP and dated January 28, 1999, indicated there was a letter of reprimand in Practitioner's file. A copy of the letter was not enclosed and the matter was not further pursued by MDH staff in 1999.

5. By letter dated April 26, 2010, Investigations and Enforcement (I&E) staff questioned Practitioner about her employment and her 1999 application and reprimand. With her response dated April 30, 2010, Practitioner enclosed a copy of the 1997 complaint which stated Practitioner was progressively disciplined on three occasions in 1996 and 1997 for "taking a completed evaluation, falsifying the information and stating that it was a newly-completed evaluation on another person"; using work time to complete "tasks related to

the professional organization/volunteer duties" after being verbally instructed not to do so; and for "dishonestly" leading a custodian to believe Practitioner had the custodian supervisor's approval to use a cart. In response to the I&E questions, Practitioner stated she answered "no" on the 1999 application because she understood the questions to mean the reprimand prevented her from working, which was not the case. Practitioner denied she falsified an evaluation, explained how it happened, and acknowledged using poor judgment. Practitioner stated she was not the subject "to any other employment action of this nature re: dishonesty or falsifying of records."

6. By letter dated May 4, 2010, I&E staff requested Practitioner respond to the following question: "have you <u>ever</u> been disciplined, reprimanded, or otherwise the subject of any employment action for <u>any</u> reason?" [emphasis in the original] In addition, Practitioner was asked why she left her most recent long-term employment with Altru Health Department and requested she sign a release form addressed to that employer. In her response May 11, 2010, Practitioner acknowledged she was terminated from her employment with Altru Health Systems on March 10, 2010, for "improper communication style w/staff" and stated that her occupational therapy services to patients were never "improper or questioned". Practitioner stated that upon advice of her attorney she refused to sign the release form addressed to Altru Health Systems because "it is beyond your scope needed for your investigation because my ND OT license is presently in good standing." Practitioner also enclosed her letter of termination from Altru Health Systems which detailed nine incidents of co-worker and patient complaints regarding Practitioner's manner of communicating. Practitioner also enclosed her "grievance of termination of employment" letter, dated March 15, 2010, by which she provided a response describing her perceptions and intentions for each incident set forth in the employer's termination letter.

7. By letter dated May 14, 2010, the North Dakota State Board of Occupational Therapy Practitioner advised that Practitioner was licensed and not currently the subject of an investigation.

8. By letter dated May 14, 2010, I&E staff provided Practitioner with a second copy of the release form addressed to Altru Health Department. The release was returned on May 24, 2010, with edits made by Practitioner.

9. By letter dated June 2, 2010, Altru Health System confirmed Practitioner's employment and provided a copy of her termination letter and previous disciplinary actions. In addition to the documentation previously provided by Practitioner were the following:

    A. Memo dated August 31, 2009, entitled "Decision-Making Leave", which stated there was a discussion about Practitioner's substandard performance regarding communication with staff, patients and families and developed a work improvement plan on November 14, 2008; and on May 27, 2009, a "written reminder #2" was issued regarding Practitioner's substandard performance as related to "two patient/family concerns" about her behavior. Practitioner's failure to improve her performance was evidenced a July 2009 communications-related complaint from a co-worker and Practitioner accessing her own medical records on two separate occasions. Practitioner was placed on a "decision-making leave" for the purpose of giving her time to decide whether she intended to comply with company policy. Practitioner was also urged to contact EAP if she believed her substandard performance might be related to personal or external factors.

B. By Memo dated May 27, 2009, Practitioner received a "Written Reminder #2" based on her failure to attend a communication and interaction skills classes as required in her November 2008 work improvement plan. The supervisor also stated that Practitioner had also failed to improve, based on two separate communications-related complaints from patient family members during May 2009 and "any further incidents of patient-related complaints about your behavior will result in applying the immediate termination step of the disciplinary process." In addition, it was noted, "...any further incidents of failing to comply with established policy, procedure, practices and performance standards, will result in further disciplinary action in accordance with the disciplinary process which may or may not, depending on the circumstances, include termination of employment." Practitioner was again referred to EAP.

C. By Employee Disciplinary Action dated January 12, 2006, Practitioner received a "Written Reminder #1" for her negative attitude.

10. In response to an I&E staff inquiry regarding the above-listed discipline, Practitioner provided the following explanations:

A. Regarding the January 12, 2006, Employee Disciplinary Action, Practitioner explained that her supervisor was new and had a communication style very different from that of the previous supervisor. Practitioner noted that in response she "adjusted my communication style to be less direct with negative feedback and kept my opinions to myself so that I was viewed as a positive team player." Practitioner stated she did not contact EAP because she had no written instructions to do so.

B. Regarding the May 27, 2009, "Written Reminder #2", Practitioner stated she did attend the communications class on June 9, 2009, and explained that her delay in taking the class was the result of her supervisor failing to respond to Practitioner's requests for time off in a timely manner and the classes filled up. Practitioner noted that she attended three EAP sessions, the results of which were "confidential".

C. Regarding the August 31, 2009, "Decision-Making Leave", Practitioner stated she met with her supervisor on a monthly basis regarding her communications style and again attended an EAP session, the results of which were confidential.

D. Practitioner advised she did not apply for unemployment compensation after her termination because of a pending job offer in the State of Minnesota.

11. On September 10, 2010, a meeting of the Competency Review Committee of the OT Practitioner Advisory Council (CRC) reviewed a blind copy of the facts associated with Practitioner's file. CRC members concluded that Practitioner's behavior is neither ethical

nor professional and she must be able to demonstrate that she has learned how to communicate.

CONCLUSION

1. Practitioner intentionally submitted misleading information to the commissioner, which is a ground for disciplinary action pursuant to Minnesota Statutes, section 148.6448, subdivision 1(1), when she failed to disclose disciplinary action taken by the State of North Dakota on her 1999 initial application and during the 2010 renewal application investigation when she stated she was not the subject of "any other employment action of this nature re: dishonesty or falsifying of records."

3. Practitioner was the subject of disciplinary action taken by the State of North Dakota, for "unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public" and "...for dishonesty and falsifying records" during her employment as an OT with the Developmental Center of the Department of Human Services." Those grounds are substantially equivalent to those in Minnesota Statutes, section 148.6448, subdivisions 1(12), which states MDH has the authority to discipline occupational therapists who have engaged in dishonest, unethical, or unprofessional conduct in connection with the practice of occupational therapy that is likely to deceive, defraud, or harm the public and is a ground for disciplinary action by MDH, pursuant to Minnesota Statutes, section 148.6448, subdivision 1(9).

4. Practitioner performed occupational therapy services in a manner that falls below the community standard of care, which is a ground for disciplinary action pursuant to Minnesota Statutes, section 148.6448, subdivision 1(3), due to her substandard performance which resulted in her termination from Altru Health System.

DETERMINATION

1. Practitioner shall be issued a conditional license with the following provisions:

    A. The license will remain conditional for a period of not less than two years;

    B. Practitioner must not be the subject of any allegation of same or similar behavior described in the Findings of Fact in this Determination either in the State of Minnesota or any other jurisdiction. In the event a complaint is received, the Practitioner's right to provide OT services in the State of Minnesota may be either suspended or revoked;

    C. After a period of not less than two years from the date her license is issued, Practitioner may request that the condition be lifted from her license. Practitioner's request:

i. Must be **in writing**;

ii. Must be addressed to: I&E Staff, Health Occupations Program, Minnesota Department of Health, PO Box 64882, Saint Paul, MN 55164-00882; or any other Departmental staff as designated by the Health Occupations Program;

iii. Practitioner must provide a list of all occupational therapy-related employment since March 1, 2010. The list will include Practitioner's dates of employment, position held, and complete address for each employer; and

iv. Practitioner must sign, date, and return any release forms addressed to her employers, as requested by I&E Staff.