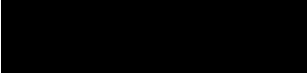


Eff. 08-10-09



Protecting, maintaining and improving the health of all Minnesotans

July 27, 2009

Ms. Jana Brekken


RE: MDH File Number: OTC09006

Dear Ms. Brekken:

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 practiced as an occupational therapy assistant (OTA) without a license from January 8, 2002, to January 9, 2009, in violation of Minnesota Statutes, section 148.6403, subdivision 1, and illegally used protected titles in violation of Minnesota Statutes, section 148.6403, subdivision 2. In addition, you failed to respond to requests for information from the Department in violation of Minnesota Statutes, section 148.6448, subdivision 1(2). Therefore, this letter and enclosed Determination is your notice that any application for licensure must be accompanied by a written response to the Department's request for information concerning your practice as an OTA and your use of protected titles.

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, 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,

A handwritten signature in black ink, appearing to read "Darcy Miner", is written over the word "Sincerely,".

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
Jana Brekken
Unlicensed Occupational Therapy Assistant**

AUTHORITY

1. The Minnesota Department of Health (MDH) has the authority to discipline Occupational Therapy Assistants 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 the refusal to accept an application for licensure.
2. Pursuant to Minnesota Statutes, section 148.6403, subdivision 1, no person shall engage in the practice of occupational therapy unless the person is licensed as an occupational therapist or as an occupational therapy assistant.
3. Pursuant to Minnesota Statutes, section 148.6403, subsection 2, use of the phrase "occupational therapy" or "occupational therapist," or the initials "O.T." along or in combination with any other words or initials to form an occupational title, or to indicate or imply that the person is licensed by the state as an occupational therapist or occupational therapy assistant, is prohibited unless that person is licensed.
4. Pursuant to Minnesota Statutes, section 148.6448, subsection 1(2), failure, within 30 days, to provide information in response to a written request by the commissioner is a ground for disciplinary action.

FINDINGS OF FACT

1. By letter dated January 23, 2009, the Rehab Services Manager of RiverView Health in Crookston, MN, advised that Jana Brekken [hereinafter "Practitioner"] had been employed since January 8, 2002, as an "on-call COTA". The Rehab Services Manager further advised that Practitioner was placed on a "temporary leave of absence" on January 9, 2009, when it was discovered she was not licensed. Practitioner was informed she had until April 9, 2009, to produce a valid license issued by the State of Minnesota. On July 7, 2009, the Rehab Services Manager telephonically advised Practitioner is no longer employed by RiverView Health because she failed to produce the required credential.
2. By letter dated January 29, 2009, Investigations and Enforcement (I&E) staff requested Practitioner provide information concerning her employment and whether or not she had ever applied for licensure. Practitioner's response was due by March 2, 2009. By letters

dated March 10, 2009; April 13, 2009; and June 4, 2009; Practitioner was provided with a copy of the January 29th letter and given at least 30 days in which to respond. To date, no response has been received from Practitioner.

3. On July 7, 2009, a search of the Internet determined Practitioner is a partner in a business known as "JJ's Bodyshop, Inc."

CONCLUSION

1. Practitioner provided occupational therapy services and used a protected title without a license, from January 8, 2002, through January 9, 2009, in violation of Minnesota Statutes, section 148.6403, subdivisions 1 and 2, which is a ground for disciplinary action.
2. Practitioner failed to respond to requests for information from the Commissioner, in violation of Minnesota Statutes, section 148.6448, subdivision 1(2), which is a ground for disciplinary action.

DETERMINATION

1. No application for licensure received from Practitioner will be processed unless it includes a written response concerning her OTA practice and use of protected titles, as requested in the Department's letter dated January 29, 2009.