

**BEFORE THE MINNESOTA
DEPARTMENT OF HEALTH
HEALTH OCCUPATIONS PROGRAM**

**In the Matter of Laura Eloise Frisby
Occupational Therapist
License Number 104263**

**STIPULATION AND
CONSENT ORDER**

IT IS HEREBY STIPULATED AND AGREED by Laura Eloise Frisby, (hereinafter "Practitioner"), and the Minnesota Department of Health (hereinafter "Department"), without trial or adjudication of any issue of fact or law herein, as follows:

1. During all times herein, Practitioner has been and now is subject to the jurisdiction of the Department from which she has held a license to practice occupational therapy in the State of Minnesota, pursuant to Minnesota Statutes, section 148.6401 to 148.6450.
2. During all times herein, Practitioner has been represented by Melissa M. Heinlein, Law Offices of Lord & Associates, 309 Clifton Avenue, Minneapolis, Minnesota 55403.
3. This Stipulation and Consent Order (hereinafter "Stipulation"), investigative reports, and related documents shall constitute the entire record herein upon which this Stipulation is based and shall be filed with the Department. This Stipulation is public data pursuant to the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13 ("MGDPA"). All other data comprising the record shall not be considered a part of this ~~Stipulation and shall maintain the data classifications to which they are entitled under~~ the MGDPA.

AUTHORITY

1. The Department has statutory authority to discipline occupational therapists under Minnesota Statutes, Section 214.131, subdivision 7 and section 148.6448, subdivision 3. The types of disciplinary action the Department may impose include imposition of civil penalties, issuance of licensure with conditions, revocation or suspension of the right to practice.
2. Pursuant to Minnesota Statutes, section 148.6448, subdivision 1(1), the Department may take enforcement action against a practitioner for submitting false or misleading information to the commissioner or the advisory council.
3. Pursuant to Minnesota Statutes, section 148.6448, subdivision 1(3), the Department may take enforcement action against a practitioner for providing services in an incompetent manner or in a manner that falls below the community standard of care.
4. Pursuant to Minnesota Statutes, section 148.6448, subdivision 1(2) and (10), the Department may take enforcement action against a practitioner for failing to provide information in response to written request by the commissioner within 30 days and for not cooperating with the commissioner or advisory council in an investigation.
5. Pursuant to Minnesota Statutes, section 148.6448, subdivision 1(12), the Department may take enforcement action against a practitioner for engaging in dishonest, unethical, ~~or unprofessional conduct in connection with the practice of occupational therapy that~~ is likely to deceive, defraud, or harm the public.
6. Pursuant to Minnesota Statutes, section 148.6448, subdivision 1(17), the Department may take enforcement action against a practitioner for engaging in abusive or

fraudulent billing practices, including violations of Federal Medicare and Medicaid laws or State Medical Assistant Laws.

FACTS

The Department alleges and Practitioner unconditionally admits for the purposes of these and any future disciplinary proceedings the following allegations:

1. On June 18, 2012, Practitioner was issued a temporary – new graduate license to practice as an occupational therapist in the State of Minnesota by the Minnesota Department of Health, under license number 104263. Practitioner was issued a license on September 12, 2012 and renewed her license on July 1, 2014. Practitioner's license is due to expire on June 30, 2016.
2. Effective December 9, 2015, the Division Director of the Health Regulation Division in the Minnesota Department of Health issued a Determination suspending Practitioner's license to practice occupational therapy due to billing fraud. The Division Director STAYED the suspension so long as Practitioner complied with the following requirements:
 - A. Enroll in the Health Professionals Services Program (HPSP). Sign a Participation Agreement and Monitoring Plan and then comply with and successfully complete all terms of the HPSP Participation Agreement.
 - B. Not practice occupational therapy until she is cleared to do so by HPSP.
 - C. Cooperate with MDH and all requests for information related to her occupational therapy license and MDH's investigation into alleged violations of Minnesota Statutes, sections 148.6401 to 148.6450.

D. Adhere to the terms of the HPSP Participation Agreement and the Department's investigation. Failure to comply with HPSP or MDH is grounds for disciplinary action, including but not limited to suspension or revocation of Practitioner's license.

E. If Practitioner is discharged from HPSP for any reason other than successful completion of the Participation Agreement, MDH will take disciplinary action including suspension or revocation of her right to practice occupational therapy in Minnesota.

3. On January 22, 2016 and again on March 14, 2016, the Department sent Practitioner a written request for more information relating to past and current employers.

Practitioner states that in both instances, she responded to the Department's request by mailing her response. However, the Department did not receive practitioner's response.

4. On March 21, 2016, Practitioner called MDH and explained her first response to the Department's request for employment information must have "gotten lost in the mail" and Practitioner agreed to send her response to MDH the next day.

5. On March 25, 2016, HPSP contacted the Department regarding the terms of the Disciplinary Determination, including the terms of the STAYED suspension and the terms under which Practitioner was allowed to work. Department staff affirmed the suspension was STAYED as long as Practitioner met the terms of the December 9, 2015 Determination, including to enroll and successfully complete the HPSP program, and that Practitioner was not authorized to practice occupational therapy until cleared by HPSP.

6. On March 25, 2016, the Department received a call from Centrex Rehab (Centrex), asking for clarification on Practitioner's public determination and whether Practitioner was eligible to work. Centrex informed the Department that Practitioner had been working since October 9, 2015. Department staff informed Centrex that pursuant to the public disciplinary determination made effective on December 9, 2015, Practitioner was not allowed to practice occupational therapy.
7. On March 25, 2016, HPSP called Department staff and stated Practitioner would be discharged from their program for not adhering to the terms of Practitioner's agreement; mainly, working without being cleared to do so by HPSP.
8. On March 25, 2016, the Department received Practitioner's response to the Department's request for employment information. Practitioner listed employment at four different employers, with a notation regarding her current status. Her employers included: Centrex Rehab ("on leave of absence"), Hennepin Home Health Care ("discharged"), Regions Hospital, and Aegis Therapies ("discharged").
 - A. Staff review of Practitioner's credentialing record revealed that on her initial application for a temporary license, received by the Department on June 11, 2012, Practitioner listed she was employed at Aegis Therapies/Bethel Care Center. On Practitioner's application for a full license, she listed the same employer. On Practitioner's May 6, 2014 renewal application, she listed Bethel Care Center and Richfield Care Center as her employers.
 - B. The Department became aware of Practitioner's employment with Hennepin Home Health Care when she was discharged from employment. Staff review of the

record revealed Practitioner was employed with this agency from October 21, 2014 until she was terminated on September 3, 2015.

C. The Department was not aware of Practitioner's employment with Regions Hospital until Practitioner's March 25, 2016 response to the Department.

9. On March 30, 2016, the Department received written notification from Centrex that Practitioner was terminated from her employment. According to Centrex, Practitioner started employment as an occupational therapist on October 9, 2015 and was terminated on March 28, 2016 when Centrex learned Practitioner was not authorized to practice occupational therapy pursuant to the Department's December 9, 2015 Determination.
10. On March 30, 2016, the Department received written notification from HPSP stating Practitioner had been unsatisfactorily discharged from program due to violation of the terms of the Department's December 9, 2015 Determination.
11. By letter dated April 19, 2016, the Department issued a letter of revocation to Practitioner and gave Practitioner 30 days to contest the Department's decision and request a contested case hearing, as provided under Minnesota Statutes, Chapter 14.
12. On May 9, 2016, the Department received a letter of representation from Melissa M. Heinlein, Lord and Associates, 309 Clifton Avenue, Minneapolis, Minnesota. Ms. Heinlein requested an extension to respond to the Department's revocation notice.
13. On May 23, 2016, Ms. Heinlein requested that the Department consider a Prayer for Relief from the Department's Determination and stated Practitioner suffered from significant . Ms. Heinlein offered to negotiate an

agreement that would allow Practitioner a roadmap back to practice occupational therapy without going through a contested case proceeding.

ORDER

Upon this Stipulation, and without any further notice of proceedings, the Assistant Division Director hereby ORDERS:

1. Practitioner's license to practice occupational therapy in Minnesota is suspended for twelve months from the effective date of this Stipulation.
2. At the conclusion of the twelve month period of suspension, Practitioner may petition the Department, in writing, to STAY the suspension in order for Practitioner to participate in the Health Professionals Services Program (HPSP). Practitioner must agree to comply with the following requirements in order to be approved for a STAYED suspension:
 - A. Make a written request for a STAYED suspension of her occupational therapy license, addressed to Anne Kukowski, Manager, Health Occupations Program, Minnesota Department of Health, PO Box 64882, Saint Paul, MN 55164-0882; and
 - B. Have her treating submit a statement to the Department attesting to Practitioner's safety to practice occupational therapy. The statement must be on the treating's letterhead, include, and sent directly to Anne Kukowski, Manager, Health Occupations Program, Minnesota Department of Health, PO Box 64992, Saint Paul, MN 55164-0882.
3. Upon notification of a STAYED suspension, Practitioner must:

- A. Enroll in the Health Professionals Services Program (HPSP) within fifteen days of the STAYED suspension;
 - B. Sign a Practitioner Agreement and Monitoring Plan within 30 days of the STAYED suspension. Practitioner must comply with and successfully complete all terms of her HPSP Participation Agreement.
 - C. Practitioner must not pursue or practice occupational therapy until she is cleared to do so by HPSP.
 - D. The Department may remove the STAYED suspension upon HPSP's written notification that Practitioner has successfully completed all terms of the Participation Agreement. To remove the stayed suspension, Practitioner must petition the Department, in writing, and ask to be issued a conditional license to provide occupational therapy license. To be considered for a conditional license, Practitioner must demonstrate stability and effective management of her
 - . The Department may issue a conditional license which may include, but is not limited to, continued monitoring by HPSP, a period of supervised practice or limited hours of work based on the recommendations of HPSP and her treating psychiatrist.
4. During the period of STAYED suspension, Practitioner shall successfully complete the following continuing education (CE) courses, sponsored by the American Occupational Therapy Association, available in online or CD-ROM format:
- A. Skilled Nursing Facilities 101: Documentation, Reimbursement, and Ethics in Practice (.3 AOTA CEU).

- B. Ethics Topic-Organizational Ethics: Occupational Therapy Practice in a Complex Health Environment (.1 AOTA CEU).
- C. Practitioner is responsible for any costs associated with taking the continuing education courses and Practice must provide the Department with copies of the certificates demonstrating successful completion.
5. If the Department approves to issue Practitioner a conditional license at the conclusion of the period of suspension, Practitioner will be responsible for complying with continuing education requirements of Minnesota Statutes, section 148.6443 regarding the July 1, 2014 to June 30, 2016 licensing period and future licensing renewal periods.
6. Practitioner must cooperate with the Department and all requests for information related to Practitioner's occupational therapy license and the Department's investigation into alleged violations of Minnesota Statutes, sections 148.6401 to 148.6450. Practitioner must sign any release forms necessary to obtain information related to her employment and practice as an occupational therapist.
7. Practitioner is responsible for adhering to the terms of the HPSP Participation Agreement and cooperating in MDH's investigation. Failure to comply with HPSP or MDH is grounds for disciplinary action, including but not limited to, suspension or revocation of Practitioner's license and imposition of a civil penalty representing the economic benefit gained by the violation and the cost of the investigation and proceedings.

8. If Practitioner is discharged from HPSP for any reason other than successful completion of the terms of the Participation Agreement, the Department may take disciplinary action, including but not limited to revocation of the right to practice occupational therapy in Minnesota.
9. In the event the Assistant Division Director in her discretion does not approve this settlement or a lesser remedy than specified herein, this Stipulation shall be of no evidentiary value and shall not be relied upon or used for any purpose by either party. If this should occur and thereafter an administrative contested case is initiated pursuant to Minnesota Statutes Chapter 14, Minnesota Statutes, Section 214.10 and Minnesota Statutes, Section 148.5448, subdivision 2, Practitioner agrees to assert no claim that the Assistant Division Director was disqualified due to the review and consideration of this Stipulation or any records relating hereto.
10. This Stipulation shall not in any way or manner limit or affect the authority of the Department to proceed against Practitioner by initiating a contested-case hearing or by other appropriate means on the basis of any act, conduct, or omission of Practitioner, justifying action which occurred after or before the date of this Stipulation and which is not directly related to the specific facts and circumstances as set forth herein.
11. This Stipulation contains the entire agreement between the Department and the Practitioner, there being no other agreement of any kind, verbal or otherwise, which varies this Stipulation. Practitioner understands that this agreement is subject to the Assistant Division Director's approval. If the Assistant Division Director either approves the Stipulation or makes changes acceptable to the Practitioner, the Division Director

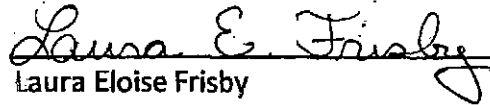
will issue the Stipulation. Upon this Stipulation and all other evidence made available to the Assistant Division Director, once the Assistant Division Director has approved it, the Division Director may issue the Stipulation to Practitioner at any time without further notice.

12. A copy of this Stipulation, when issued by the Division Director, shall be served by first class mail on Practitioner, at Melissa M. Heinlein, Law Offices of Lord & Associates, 309 Clifton Avenue, Minneapolis, Minnesota 55403. Service via first class mail shall be considered as personal service upon Practitioner, at which time this Stipulation shall become effective. Any appropriate federal or state court shall, upon application of the Director, enter an order of enforcement of any or all of the terms of this Stipulation.

CONSENT

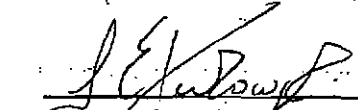
Practitioner hereby acknowledges that she has read, understood, and agreed to this Stipulation and has freely and voluntarily signed it.

Dated: 6/20/2016, 20



Laura Eloise Frisby


Dated: 7/6/2016, 20



Anne Kukowski, Manager
Health Occupations Program

Upon consideration of this Stipulation and all the files, records, and proceedings herein by the Division Director, **IT IS HEREBY ORDERED** that the terms of this Stipulation are adopted and implemented by the Division Director on this 7th day of July, 2016

STATE OF MINNESOTA
DEPARTMENT OF HEALTH



Susan Winkelmann
Assistant Division Director
Health Regulation Division

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to protect personal data.



Effective 12/9/2015

Protecting, maintaining and improving the health of all Minnesotans

November 3, 2015

Laura Eloise Frisby

RE: MDH File Number: OTC16002

Dear Ms. Frisby:

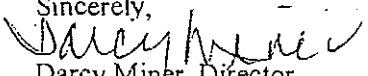
Based on the facts and law in this matter as described in the enclosed Staff Determination, the Minnesota Department of Health (MDH) has determined that you performed the services of an occupational therapist in an incompetent manner or in a manner that falls below the community standards of care, in violation of Minnesota Statutes, section 148.6448, subdivision 1(3); that you are not currently able to practice occupational therapy with reasonable judgement, skill or safety due to _____ in violation of Minnesota Statutes, section 148.6448, subdivision 1(6); that you engaged in dishonest, unethical and unprofessional conduct that is likely to harm the public, in violation of Minnesota Statutes, section 148.6448, subdivision 1(12); and that you engaged in abusive and fraudulent billing practices in violation of Minnesota Statutes, section 148.6448, subdivision 1(17). Therefore, MDH is suspending your right to practice occupational therapy. MDH will stay the suspension of your license until you have been evaluated and cleared for practice by the Health Professionals Services Program and MDH completes its investigation into billing fraud. You are not authorized to practice occupational therapy during the period of stayed suspension. This action is authorized by Minnesota Statutes, section 148.6448.

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:

Anne Kukowski, MS, JD
Assistant Director, 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 Ms. Kukowski at (651)201-3839. If you have any questions about this matter, please contact Catherine Dittberner Lloyd at (651)201-3706.

Sincerely,


Darcy Miner, Director
Health Regulation Division

Enclosure

cc: Anne Kukowski, Assistant Director, Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Laura Eloise Frisby
Occupational Therapy Practitioner, License Number 104263**

AUTHORITY

1. The Minnesota Department of Health (MDH) has the authority to discipline occupational therapy practitioners for violations of Minnesota Statutes, section 148.6448. Pursuant to section 148.6448, subdivision 3, the types of discipline MDH may impose include, but are not limited to: refuse to renew licensure, approve licensure with conditions, revoke or suspend the right to practice, or any reasonable lesser action authorized by statute. Pursuant to Minnesota Statutes, section 13.41, disciplinary actions are public data.
2. Pursuant to Minnesota Statutes, section 148.6448, subdivision 1(3), MDH may take disciplinary action against an occupational therapist for providing services in an incompetent manner or in a manner that falls below the community standard of care.
3. Pursuant to Minnesota Statutes, section 148.6448, subdivision 1(6), MDH may issue a license with conditions or take disciplinary action against an occupational therapist for failure to perform occupational therapy with reasonable judgement, skill or safety due to a physical or mental impairment.
4. Pursuant to Minnesota Statutes, section 148.6448, subdivision 1(12), MDH may take disciplinary action against an occupational therapist for engaging in dishonest, unethical, or unprofessional conduct in connection with the practice of occupational therapy that is likely to deceive, defraud, or harm the public.
5. Pursuant to Minnesota Statutes, section 148.6448, subdivision 1(17), MDH may take disciplinary action against an occupational therapist for engaging in abusive or fraudulent billing practices, including violations of Federal Medicare and Medicaid laws or State Medical Assistant laws.
6. Pursuant to Minnesota Statutes, section 148.6448, subdivision 6, MDH is authorized to contract with the Health Professionals Services Program (HPSP) as authorized by sections 214.31 to 214.37 to refer licensed practitioners who may be unable to safely practice due to a mental or physical impairment. Pursuant to this section, referral to HPSP does not affect MDH's authority to discipline occupational therapy practitioners for violations of section 148.6401 to 148.6450.

FINDINGS OF FACT

1. On June 18, 2012, Laura Eloise Frisby (Practitioner) was licensed as an occupational therapist in the State of Minnesota by the Minnesota Department of Health, under license number 10463. Practitioner was issued a license on September 12, 2012 and renewed her license on July 1, 2014. Practitioner's license is due to expire on June 30, 2016.
2. Beginning on October 27, 2014, Practitioner was employed by a Minnesota licensed home health care agency providing direct services to vulnerable adults.
3. On September 8, 2015, Practitioner was terminated from her employment following a complaint that revealed Practitioner fraudulently documented occupational therapy services she did not actually provide to 15 clients, forged client signatures on the fraudulent discharge summaries, and billed Medicare and several other Minnesota health care plans. Practitioner complied with her employer's request for information and verified she fraudulently documented 59 separate visits to clients that she did not actually provide, and she was paid by the home health care agency for the services. The clients were identified as vulnerable adults receiving services from several providers, including but not limited to, Medica, UCare, and Health Partners.
4. On September 14, 2015, MDH sent a notice of investigation to Practitioner and asked that she respond to the allegations of billing fraud and sign a records release form authorizing MDH to obtain her personnel records from the home health care agency.
5. On September 28, 2015, MDH received Practitioner's response to the notice of investigation. Practitioner disclosed that between May and August 2015, she "billed multiple clients for skilled therapy services that were not actually provided." Practitioner stated there were mitigating circumstances leading up to the fraudulent billing. She explained, "For many years I have suffered from _____; because of this I frequently find it difficult to leave my home and fulfill work requirements." Practitioner stated she did not seek treatment and suggested she may benefit from therapy. Practitioner further explained she "felt significant pressure to meet a certain requirement of visits per week, leading to the occurrences of fraudulent billing." Practitioner was concerned her employment was at risk if she did not provide the required quota. Practitioner acknowledged she should have communicated her illness to her employer and stated she did not feel her "lapse in judgement" is reflective of her skills and knowledge. Practitioner stated she was required to document occupational therapy progress notes, assessments, evaluations and discharge summaries for her home health clients weekly, and both the client (or responsible individual) and Practitioner were required to sign the discharge notices.
6. On October 5, 2015, MDH sent a letter to Practitioner regarding her disclosure of _____. MDH referred Practitioner to the Health Professionals Services Program (HPSP) for voluntary enrollment in order to determine if she is eligible to participate in the program. In its letter, MDH advised Practitioner she had until October 20, 2015 to contact HPSP and enroll in the program and if she failed to enroll, her license

to practice occupational therapy would be suspended. MDH further advised Practitioner her participation in HPSP did not affect MDH's authority to discipline her for violations of sections 148.6401 to 148.6450 and that MDH's investigation into the complaint would continue while she was being evaluated by HPSP.

7. On October 14, 2015, the Competency Review Committee (CRC) of the Occupational Therapy Practitioner Advisory Council reviewed MDH's investigative summary regarding the allegation against Practitioner. CRC members made the following comments and recommendations:
 - a. Practitioner's license to practice occupational therapy should be suspended or restricted until HPSP determines she is able to safely practice occupational therapy.
 - b. Although Practitioner disclosed a potential _____, it takes a significant amount of time to create billing and treatment records, and in this case, Practitioner created records when the treatment was not provided, she forged patient signatures, and billed for the services.
 - c. Even if HPSP determines Practitioner has a _____, this does not excuse Practitioner's action.
 - d. Practitioner's conduct may lead to multiple violations of the prohibited acts.
 - e. MDH should indefinitely suspend or restrict Practitioner's license until she completes an evaluation by HPSP and signs a participation agreement and monitoring plan; and MDH completes its investigation into the allegations of billing fraud and possible patient harm.
8. On October 20, 2015, MDH received correspondence from HPSP that Practitioner contacted HPSP.
9. On October 28, 2015, MDH received Practitioner's personnel records and data from her employer's audit of Practitioner's billing records for clients covered under Medica. The data revealed Practitioner's employer reimbursed Medica \$1,568.41 for visits to clients that were billed, but not provided by Practitioner.

CONCLUSION

Practitioner violated Minnesota Statutes, section 148.6448, subdivision 1(3), 1(12) and 1(17) when failed to treat 15 patients, when she fraudulently documented and billed for 59 separate occupational therapy services she did not actually provide to vulnerable adults expecting to receive home care, when she fraudulently signed the names of the patients indicating they did receive services, and when she billed for such services not provided. In doing so, Practitioner violated Minnesota Statutes, section 148.6448, subdivision 1(12) when she engaged in dishonest, unethical, and unprofessional conduct in connection with the practice of occupational therapy that is likely to deceive, defraud, or harm the public. Practitioner violated Minnesota Statutes, section 148.6448, subdivision 1(6) when she failed to obtain

_____ that may have affected her ability to provide occupational therapy with reasonable judgment, skill and safety due to

DETERMINATION

Practitioner's license to practice occupational therapy is hereby SUSPENDED. The suspension is STAYED so long as the Practitioner complies with the following requirements:

1. Participation must enroll and sign a Practitioner Agreement and Monitoring Plan within 30 days of this Determination with HPSP. Practitioner must comply with and successfully complete all terms of her HPSP Participation Agreement. Practitioner must not practice occupational therapy until she is cleared to do so by HPSP.
2. MDH may remove the stayed suspension upon HPSP's written notification that Practitioner has successfully completed all terms of the Participation Agreement. To remove the stayed suspension, Practitioner must petition MDH, in writing, and ask to be issued an unrestricted occupational therapy license.
3. Practitioner must cooperate with MDH and all requests for information related to Practitioner's occupational therapy license and MDH's investigation into alleged violations of Minnesota Statutes, section 148.6401 to 148.6450. Practitioner must sign any release forms necessary to obtain information related to her employment and practice as an occupational therapist.
4. Practitioner is responsible for adhering to the terms of the HPSP Participation Agreement and cooperating in MDH's investigation. Failure to comply with HPSP or MDH is grounds for disciplinary action, including but not limited to, suspension or revocation of Practitioner's license and a civil penalty representing the economic benefit gained by the violation and the cost of the investigation and proceedings.
5. If Practitioner is discharged from HPSP for any reason other than successful completion of the terms of the Participation Agreement, MDH will take disciplinary action, including but not limited to, suspension or revocation of the right to practice occupational therapy in Minnesota.
6. The issuance of this Determination and the stayed suspension does not preclude MDH from taking disciplinary action against the Practitioner for violating Minnesota Statutes, section 148.6401 to 148.6450.

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to protect personal data.