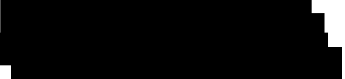


Effective 12/9/2015



*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 a mental impairment, 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 severe depression and anxiety; 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 depression and anxiety. 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 mental impairment, 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 mental impairment, 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 diagnosis and treatment for a mental impairment that may have affected her ability to provide occupational therapy with reasonable judgment, skill and safety due to a mental impairment.

## 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.