Effective June 8, 2004

BEFORE THE MINNESOTA
MINNESOTA DEPARTMENT OF HEALTH
HEALTH OCCUPATIONS PROGRAM

In the matter of Elizabeth Mohror-Hill, Occupational Therapy Practitioner
020039

Stipulation and Consent Order

IT IS HEREBY STIPULATED AND AGREED by Elizabeth Mohror-Hill, (hereinafter "Practitioner"), and the Minnesota Department of Health (hereinafter "MDH"), and that without trial or adjudication of any issue of fact or law herein:

Except as otherwise specified herein; this Stipulation and Consent Order, investigative reports, and related documents shall constitute the entire record herein upon which this Order is based and shall be filed with the Department. The Stipulation and Consent Order document 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 Consent Order and shall maintain the data classifications to which they are entitled under the MGDPA.

LEGAL AUTHORITY

1. The Minnesota Department of Health has authority to discipline occupational therapy practitioners for violations under Minnesota Statutes, section 148.6448, subd. 1(3) for performing services of an Occupational Therapist (OT) in an incompetent manner or in a manner that falls below the community standard of care;

2. MDH has authority to discipline OT practitioners for violations under Minnesota Statutes, section 148.6448, subd.1(13) for demonstrating a willful or careless disregard for the health, welfare, or safety of a client;

3. MDH has authority to place restrictions on a license if the commissioner finds that an OT should be disciplined under Minnesota Statutes, section 148.6448, subd. 3(5).

FACTS

MDH alleges and the Practitioner unconditionally admits for purposes of these and any future disciplinary proceedings the following allegations.

1. Practitioner has been a registered and licensed OT since January 17, 1997.

2. On May 16, 2002, MDH received Practitioner's renewal application. With her application, Practitioner attached a letter stating that on April 25, 2002, she resigned her position as an OT at Hospital 1. Practitioner stated that from January to April 2002, she

was working with Hospital 1 through disciplinary means regarding communication and paperwork issues. Practitioner stated that she worked at Hospital 1 for nine years and she became overextended as the OT department grew. Tensions with staff resulted in an unfavorable working environment and Practitioner felt that she could not adequately change the situation. Practitioner also stated she had difficulty maintaining paperwork at an adequate level due to overextended responsibilities as a supervisor. Practitioner stated that prior to resigning her position she completed all paperwork requested of her.

3. On May 20, 2002, MDH approved Practitioner's renewal application with an effective date of July 1, 2002, and an expiration date of June 29, 2004, and informed her that the matter of her resignation from her previous job would be forwarded to the Investigations and Enforcement Unit for follow up and the processing of her renewal would not affect that pending investigation.

4. On July 30, 2002, the Department requested Practitioner sign a Records Release and Authorization to obtain her employment records at Hospital 1.

5. Practitioner was issued a written warning, which both she and her supervisor signed and dated on December 21, 2001. The written warning stated:

    1. "Reasons For Disciplinary Action:
        - A. Charts not done per schedule. Back log is huge with no apparent attempt to rectify.
        - 1. Staff morale very low due to behaviors by their supervisor.

    2. CONSEQUENCES:
        - A. Lose supervisory position - could be soon due to staff environment and neglect of charting.
        - 2. Loss of job if above not corrected.

    3. TO RECTIFY SITUATION
        - A. Charts done per schedule. Meet deadlines.
        - 3. I need OT staff to tell me they can be comfortable with you as supervisor.

6. Practitioner was given written warnings signed by both Practitioner and her supervisor on February 6, 2002 and March 15, 2002 for documentation and charting issues.

7. Practitioner was notified in a Memo dated February 20, 2002, that "she was being relieved of her Coordinator duties because 1) she did not keep up with charting and supervision, 2) Inability to maintain adequate working relationship with staff. Practitioner was notified that her performance would be reviewed again March 11, and if not satisfactory, further disciplinary action could lead to suspension and/or termination."

8. Practitioner resigned effective April 24, 2002.

9. Hospital 1 reported to MDH that Practitioner completed most of the charts during her suspension time after March 25, 2002. Initially she had over 300 older charts and 100 recent charts to complete. Most were finished by April 24, 2002, and that approximately ten charts left were undone when she left Hospital 1.

10. Practitioner did have positive feedback in her job performance regarding her skill as on OT. In her OT Coordinator - Performance Evaluation dated July 1, 2001, the Evaluator's Comments stated: "Practitioner's strength is her knowledge and skills of OT."

11. In her responses to the Department regarding the charting problems at Hospital 1, Practitioner stated that she was not allowed to express herself or discuss anything to aid in her side of the situation. Practitioner stated that the OT department did not have support staff to organize charts and the OT department expanded from her being the only OT, to 2 other OTRS and 1 OTA. Practitioner stated that she had to look up information on the computer before she could complete a chart which often took longer than actually completing the chart. Practitioner stated as a treating supervisor, she treated more patients and billed out more time than any of the other therapists. Practitioner stated that during the time the charts were incomplete, she was limited in her ability to request assistance from other staff due to maternity and medical leaves from other therapists.

CONCLUSION

1. Practitioner violated Minnesota Statutes, section 148.6448, subd. 1(3) for performing services of an Occupational Therapist (OT) in an incompetent manner or in a manner that falls below the community standard of care;

2. Practitioner violated Minnesota Statutes, section 148.6448, subd.1(13) for demonstrating a willful or careless disregard for the health, welfare, or safety of a client.

3. MDH met with the Occupational Therapy Advisory Council Competency Review Committee (CRC) on March 30, 2001 to obtain input about the practice of OT and community standards of care regarding patient charting. CRC members advised MDH of the following:

    1. That an OT failing to chart a client's initial assessment, containing background information such as medical precautions, contraindications, level of functioning; and objective data such as strength, coordination is an essential document, and failure to produce one is a serious matter.

    2. That completion of charts within 24 hours is standard, and that Medicare requires

that the Discharge Summary be completed within two weeks of the patient's last visit; Daily Notes should be completed on the day of the patient's visit, and before the patient is seen again; Weekly Notes should be completed during that weekly period.

3. CRC members advised that an OT failing to chart is significant and that peer review with an OT's supervisor on a routine basis be established in order to assure adequate charting. The practitioner should have weekly meetings with the supervisor, depending on the number of cases seen per day. CRC members advised that reviews should be conducted on approximately 25 percent of the practitioner's cases, preferably one of each type assigned. Daily Notes and Weekly Notes should be reviewed.

4. There should be a checklist for the practitioner to complete before leaving work. The practitioner should have to sign the checklist to verify that the list has been done.

5. If the practitioner's charting is of poor quality, the supervisor should review all notes to see that they are done and done properly. The time involved for the supervisor should not be that lengthy.

6. Cases to be reviewed should be on a random basis. Random checking of charts is done by supervisors in many clients as a matter of routine.

7. Peer review is usually done on an annual basis. This is a formal process in which the reviewer looks for certain things and may be part of the practitioner's performance review. Elements to be checked during an annual review include completeness, legibility, goals, treatment plan, and timely manner.

8. There are continuing education courses which focus on documentation.

4. Practitioner admits and acknowledges that, for purposes of this Stipulation and Consent Order and any future disciplinary proceedings, proof at hearing that charting was not completed in a timely manner, constitutes violations of Minnesota Statutes, section 148.6448, subd. 1(3) and Minnesota Statutes, section 148.6448, subd.1(13) for demonstrating a willful or careless disregard for the health, welfare, or safety of a client for failure to complete charting in a timely manner.

ORDER

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

1. Practitioner will pay a civil penalty in the amount of $470.00, reflecting the costs of investigation in this matter to date,

2. In addition to the 24 hours of CE due on June 30, 2006, Practitioner must also submit evidence of completion of nine contact hours by June 30, 2005 of CE relating to documentation and charting. Practitioner shall submit course titles to the Department after attending them. Information submitted must include number of contact hours, the topics covered, a certificate of attendance and a description by the Practitioner of what she learned from the CE. Practitioner may submit the course title and description to the Department in advance of attending it for pre-approval. Practitioner is responsible for paying for all CE courses.

3. Within one week of the effective date of this Stipulation and Consent Order, Practitioner must provide her direct supervisor with a copy of this Stipulation and Consent Order.

4. Within 14 days of the effective date of this Stipulation and Consent Order, Practitioner must provide MDH will the name, address and telephone number of her supervisor and the name, address and telephone number of her current employer. Within 14 days of any change of employer during the terms of this Stipulation, Practitioner must notify MDH of the name, address, and telephone number(s) of her employer and supervisor(s).

5. All charting, documentation and paperwork done by Practitioner as an OT must be subject to supervision by Practitioner's OT supervisor for 24 months after the effective date of this Stipulation and Consent Order. If Practitioner's employment ceases at any time during the 24 month period, the time is tolled until Practitioner begins employment against as an OT with another employer. Practitioner must complete 24 months of supervision and it is not necessary that the time be consecutive if there is more than one employer or employment has ceased at any time.

6. Practitioner's supervisor must submit monthly reports directly to MDH for the first three months of the 24 months to report about Practitioner's record keeping and charting. Thereafter, Practitioner's supervisor can submit one report every three months for the final 21 month period. If Practitioner obtains a new supervisor, the each new supervisor must supply monthly reports for three months directly to MDH.

7. Practitioner shall sign whatever releases are necessary for the supervisor to report Practitioner's work directly to MDH. Practitioner shall cooperate fully during the process of Department's enforcing and monitoring compliance with this Stipulation.

8. Practitioner may not supervise any OT activities in an employment setting or directly or indirectly supervise another occupational therapist or occupational therapy assistant as long as the Practitioner is being supervised under the terms of this Stipulation and Consent Order.

9. If Practitioner engages in actions that are the same or similar to the violations in this Order within three years of the effective date of this Order, MDH may suspend or revoke her license.

10. Practitioner must comply with Minnesota Statutes, sections 148.6401 to 148.6450.

2. This Stipulation and Consent Order shall not in any way or manner limit or affect the authority of the Commissioner to proceed against Practitioner by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of the Practitioner, justifying disciplinary action which occurred before or after the date of this stipulation and which is not directly related to specific acts and circumstances set forth herein;

3. If the Department receives evidence that Practitioner has made a misrepresentation to the Department, a client or employer, or has engaged in acts or omissions that would constitute a violation of Minnesota Statutes, sections 148.6401 to 148.6450, the Department shall notify Practitioner in writing at her last known address filed with the Department. Practitioner shall have the opportunity to explain the alleged violation or misrepresentation. If Practitioner fails to submit an explanation within 30 days of the Department's notice or if the explanation is unsatisfactory, the Division Director may suspend Practitioner's license;

4. In the event the Division Director in his discretion does not approve this settlement or a lesser remedy than specified herein, this Stipulation and Order 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 Minn. Stat. Chapter 14, Practitioner agrees she will assert no claim that the Division Director was precluded by his review and consideration of this Stipulation or any records relating hereto;

5. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies this Stipulation. Practitioner understands that this agreement is subject to the Division Director's approval. If the Division Director either approves the Stipulation or makes changes acceptable to the Practitioner, an Order will be issued by the Division Director, upon this Stipulation and Consent Order and all other evidence made available to the Division Director, once the Division Director has approved it, the Division Director may issue the Stipulation and Consent Order to Practitioner at any time without further notice;

6. A copy of the Stipulation and Consent Order when issued and signed by the Division Director, shall be served by first class mail on Practitioner, at Practitioner's last known address. Service via first class mail shall be considered personal service upon Practitioner, at which time this Stipulation and Consent Order shall become effective. Any appropriate federal or state court shall, upon application of the Department, enter its decree enforcing the Order of the

Department.

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

Dated: May 24, 2004 Elizabeth Mohror-Hill
Elizabeth Mohror-Hill, Practitioner

Dated: May 27, 2004 Susan Winkelmann
Susan Winkelmann, Investigations and Enforcement 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 2nd day of June, 2004.

STATE OF MINNESOTA
DEPARTMENT OF HEALTH

David J. Giese
David J. Giese, Director
Health Policy and Systems Compliance Division