



Protecting, maintaining and improving the health of all Minnesotans

July 22, 2015

Lisa Jayne Neppl

SUBJECT: MDH File Number: OTC14012

Dear Ms. Neppl:

The Minnesota Department of Health has received your letter dated July 13, 2015 regarding the Department's Determination, which became effective and public on July 20, 2015. In your letter, you requested the Department remove the conditions on your occupational therapist license as you have complied with the terms of the Determination. This letter confirms you have met the conditions of the July 20, 2015 Determination, including payment of a civil penalty and completion of the continuing education requirements. Therefore, the conditions on your occupational therapy license are hereby removed.

Thank you for your cooperation in the matter. I may be reached at (651) 201-3727 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Gilbert Acevedo", is written over a horizontal line.

Gilbert Acevedo, Director
Health Occupations Program
Minnesota Department of Health
PO Box 64882
Saint Paul, MN 55164-0882

cc: Kimberly Ruberg, Occupational Therapist Credentialing Coordinator



Effective July 20, 2015

Protecting, maintaining and improving the health of all Minnesotans

June 18, 2015

Ms. Lisa Jayne Nepl

RE: MDH File Number: OTC14012

Dear Ms. Nepl:

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 provided occupational therapy services in an incompetent manner and one that falls below the community standard of care in violation of Minnesota Statutes, section 148.6448, subdivision 1(3); and that you engaged in fraudulent billing practices, including violations of federal Medicare and Medicaid, in violation of Minnesota Statutes, sections 148.6448, subdivision 1(5)(17). Therefore, MDH is issuing you a conditional license and requiring that you successfully complete continuing education in documentation, billing and ethics. Further, MDH is assessing you a civil penalty in the amount of \$787.00. The conditions on your license, including the assessment of a civil penalty, are authorized by Minnesota Statutes, section 214.131, subdivision 2 and 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:

Gilbert Acevedo, 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 Mr. Acevedo at (651)201-3839. If you have any questions about this matter, please contact Catherine Dittberner Lloyd at (651)201-3706.

Sincerely,

A handwritten signature in black ink, appearing to read "Darcy Miner", is written over a horizontal line.

Darcy Miner, Director
Health Regulation Division

Enclosure

cc: Anne Kukowski, Assistant Manager, Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Lisa Jayne Neppl
Occupational Therapist, License No. 103096**

AUTHORITY

1. The Minnesota Department of Health (MDH) has the statutory authority to discipline occupational therapists under Minnesota Statutes, section 214.131, subdivision 2, and section 148.6448, subdivision 3. The types of disciplinary action MDH may impose include a civil penalty that deprives the licensee of any economic advantage gained by the violation, or that reimburses the Department for the costs of the investigation and proceedings or both; and any reasonable lesser action against an individual upon proof that the individual has violated sections 148.6401 to 148.6450. 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 performing the services of an occupational therapist 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(5), MDH may take disciplinary action against an occupational therapist for violating sections 148.6401 to 148.6450.
4. 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, Food and Drug Administration regulations, or state medical assistance laws.

FINDINGS OF FACT

1. On July 13, 2004, Lisa Jayne Neppl (hereinafter "Practitioner") was licensed as an occupational therapist license in the State of Minnesota by the Department of Health, under license number 103096. Practitioner has renewed her license biennially and has a current license to practice occupational therapy.
2. Beginning in 2006 and through February 6, 2014, Practitioner was employed for a rehabilitation agency and provided occupational therapy in a skilled nursing facility. Practitioner was terminated from her position following an internal audit that revealed Practitioner:

- A. Fraudulently overbilled five patients, including two Medicare A and two Medicare B and one patient on a Minnesota health insurance program;
 - B. Did not document occupational therapy billing and services at the time she provided the therapy to the patient;
 - C. Made multiple changes to her patient treatment records during a three month period of time;
 - D. Used inaccurate CPT (Current Procedural Terminology) billing codes; and
 - E. Did not use the employer-issued handheld electronic device to properly document the time she started treating a patient or when she stopped treating a patient, resulting in inaccurate and excessive minutes of treatment.
3. On March 2, 2015, Practitioner responded to the Department's request for information and provided the following explanation of why she was terminated.
- A. Practitioner provided occupational therapy for patients in a transitional care unit who required rehabilitation after an illness or surgery to increase their strength and activities of daily living (ADLs) skills before returning home. Once Practitioner established an occupational therapy plan of care for each patient, the program director for the agency determined the number of therapeutic minutes she expected therapists to complete each day with the patients.
 - B. Practitioner was issued an electronic device to document patient services. The device was used to update a patient's electronic medical records through a wireless connection. Practitioner stated it was not always possible to use the device at the time of service because the battery used to operate the device would lose its charge during the day or the wireless connection at the facility was "down or spotty" for days or weeks. During instances when the device was not available for use, Practitioner used her watch or the clock on the wall to keep track of her minutes with each client. When she completed therapy with the patient, she determined the length of time and the type of treatment, and then coded and documented the session on the electronic device.
 - C. Practitioner stated using the electronic device to document treatment "was not the easiest thing to do" and she often started therapy with a patient, such as toileting, dressing or ADLs, before she "punched" the patient into the device. In these cases, she would "retro punch" her clients in or out of the device. Then she referenced the time on her watch or clock on the wall to determine her start and end times and then go into her electronic device and document the therapy.
 - D. In December 2013, Practitioner submitted a notice of resignation to her employer, to be effective in February 2014. In late January 2014, Practitioner was informed her employer was reviewing her files and she was asked to remain home.
 - E. Practitioner stated the program manager telephoned Practitioner to inquire about a specific patient and asked why Practitioner's minutes with the patient overlapped with a physical therapist's minutes. Practitioner explained the electronic device used to document patient therapy was plugged into the outlet in the patient's room. She completed therapy and took the patient to the lunch room. Practitioner explained she got her lunch and returned to the patient's room to get her device, and realized it was still running time on this patient. Practitioner stated she backed up her minutes to the

time she thought she brought the client to lunch. Further, Practitioner stated the physical therapist started documenting time with the client during the client's lunch, which resulted in overlapping minutes. Practitioner stated she made a notation in the chart and advised the program director to deduct the overlapped hours.

- F. Practitioner stated she did not believe she overbilled for services and believed it was an unintentional error in the records.
 - G. Practitioner stated she enjoyed her work at the facility. Practitioner explained that several years ago, a documentation specialist provided Practitioner with training on how to write better evaluations, daily and weekly notes. She stated, "I worked very hard at this and felt that I made a big change with my documentation style."
4. MDH staff review of the employer's records demonstrate that in July and October 2014, Practitioner attended four hours of training on electronic documentation; and in August and September 2013, Practitioner attended two hours of training on ethics. Prior to termination, Practitioner had never been disciplined by her employer.
 5. MDH staff review of the billing records indicate Practitioner billed five patients for time not spent in patient care or for inaccurate CPT treatment code. This resulted in Practitioner's employer reimbursing their clients \$1,119.56 for occupational therapy services inaccurately documented and billed in October, November and December 2013.

CONCLUSION

Practitioner violated Minnesota Statutes, section 148.6448, subdivision 1(3), 1(5) and 1(17) when she failed to accurately document the amount of time she actually spent in patient care, the accurate billing code representing the therapy she provided to patients, and when she billed for occupational therapy services not provided to patients on Medicare Part A, Medicare Part B and other Minnesota health insurance programs. The evidence indicates Practitioner failed to accurately document and bill for occupational therapy services over a three-month period of time, resulting in fraudulent billing to Medicare clients, providing occupational therapy in an incompetent manner and that falls below the community standard of care. Practitioners are required to document and bill for the specific services they provide. Further, failure of an electronic medical records device, such as a low battery charge or lack of wireless connection, does not preclude a Practitioner from her obligation to communicate, in writing, the start time, end time, type of treatment, treatment code or other case notations in a patient's record.

DETERMINATION

Practitioner's occupational therapy license is conditioned as follows:

1. Practitioner should pay a civil penalty of \$787.00, representing the economic advantage gained by the violation and to reimburse MDH for costs of investigation and proceeding to date.

- a. Practitioner may pay the \$787.00 civil penalty in monthly installments of up to four months after the effective date of this action. If Practitioner chooses to make installments, she must notify MDH in writing about her intentions, including how many installments she intends to make, in what amount, and over which time period. Practitioner must send this information to: Investigation and Enforcement Unit, Health Occupations Program, MDH, PO Box 64882, Saint Paul, MN 55164-0882.
 - b. Each payment must be made by check or money order payable to "State of Minnesota Treasurer" and mailed to: Investigation and Enforcement Unit, Health Occupations Program, MDH, PO Box 64882, Saint Paul, MN 55164-0882. Each payment is due by the last day of each month; however, Practitioner may prepay at any time.
 - c. The penalty may be referred to the Minnesota Department of Revenue (MDOR), or any other source for collection, if the debt is 14 days past the established due date. When this Determination for a penalty becomes public and MDH refers the matter to MDOR, MDOR is authorized by Minnesota Statutes, section 16D.17 to obtain a judgment against Practitioner without further notice or proceeding.
2. Within six months of the effective date of this Determination, Practitioner shall successfully complete the following continuing education (CE) courses, sponsored by the American Occupational Therapy Association, and 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 course and Practitioner must provide MDH with a copy of the certificate demonstrating successful completion.
 3. Upon completion of the conditions in paragraph one (1) and two (2) of this Determination, Practitioner may petition MDH, in writing, for an unconditional license. Practitioner must send her request to: Health Occupations Program, Investigation and Enforcement Unit, PO Box 64882, Saint Paul, MN 55164-0882.