

MDH
Minnesota
Department
of Health

PROTECTING, MAINTAINING AND IMPROVING THE HEALTH OF ALL MINNESOTANS

July 14, 2017

Jessica Marie Pearce-Goodwin
[REDACTED]

SUBJECT: MDH File Number: OTC14011

Dear Ms. Pearce-Goodwin:

The Minnesota Department of Health has received your letter dated June 19, 2017 regarding the Department's Determination, which became effective and public on March 1, 2017. 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 January 23, 2017 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) 201-3706 if you have any questions.

Sincerely,



Catherine Lloyd
Assistant Manager, Health Occupations Program
Minnesota Department of Health
PO Box 64882
Saint Paul, MN 55164-0882

cc: Grace Rauchwarter, Occupational Therapist Assistant Credentialing Coordinator

MDH
Minnesota
Department
of Health

PROTECTING, MAINTAINING AND IMPROVING THE HEALTH OF ALL MINNESOTANS

January 23, 2017

Jessica Marie Pearce-Goodwin



RE: MDH File Number: OTC14011

Dear Ms. Pearce-Goodwin:

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 1(12) when you removed patient records from your place of employment without authorization from the patients or your employer. 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 \$1,895.10. The conditions on your license, including the assessment of a civil penalty, are authorized by Minnesota Statutes, sections 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:

Anne Kukowski, Manager
Health Occupations Program
Minnesota Department of Health
PO Box 64882
Saint Paul, MN 55164-0882

Jessica Marie Pearce-Goodwin
Page two
January 23, 2017

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 Kevin Reinke at (651)201-5468.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Winkelmann". The signature is fluid and cursive, with a large initial "S" and a long horizontal stroke at the end.

Susan Winkelmann, Assistant Director
Health Regulation Division

Enclosure

cc: Anne Kukowski, Manager, Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

Effective 2/28/2017

**A Determination In the Matter of
Jessica Marie Pearce-Goodwin
Occupational Therapist Assistant, License No. 200757**

AUTHORITY

1. The Minnesota Department of Health (MDH) has the statutory authority to discipline occupational therapy assistant 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 therapy assistant for performing the services of an occupational therapy assistant 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(12), MDH may take disciplinary action against an occupational therapy assistant 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.
4. Pursuant to Minnesota Statutes, section 148.6448, subdivision 1(23), MDH may take disciplinary action against an occupational therapy assistant for any other just cause related to the practice of an occupational therapy assistant.
5. Pursuant to Minnesota Statutes, section 144.298, MDH may take disciplinary action against an occupational therapy assistant for not obtaining a signed and dated consent from the patient or the patient's legally authorized representative authorizing the release of the patient's records, as required by section 144.293, subdivision 2(1).

FINDINGS OF FACT

1. On December 8, 1997, Jessica Marie Pearce-Goodwin (hereinafter “Practitioner”) was licensed as an occupational therapy assistant in the State of Minnesota by the Department of Health, under license number 200757. Practitioner has renewed her license biennially and has a current license to practice as an occupational therapy assistant.
2. On December 20, 2013, MDH received a complaint regarding Practitioner’s conduct as an occupational therapy assistant. According to the allegation, Practitioner provided occupational therapy services for [REDACTED] Minnesota, [REDACTED] from November 18, 1996 to December 6, 2013. On October 22, 2013, Practitioner gave notice she was voluntarily terminating her employment with [REDACTED] effective December 20, 2013.
3. On December 2, 2013, [REDACTED] learned that Practitioner was soliciting patients to seek care with her new employer and that alleged she violated company policies surrounding patient records. [REDACTED] conducted an investigative audit of the electronic medical records which revealed that Practitioner:
 - a. Accessed a large volume of patient health records during October and November 2013. Several of those patients had never received care from Practitioner nor was there any reasonable explanation of why she had accessed the medical records;
 - b. Made copies of 19 patient health records with no apparent “need to know” just prior to her last day of employment;
 - c. Took patient medical records off employer’s property; and
 - d. Did this without her employer’s or the patient’s permission or authorization.
4. On December 6, 2013, [REDACTED] interviewed Practitioner regarding her accessing and removal of patient records. During the interview, Practitioner admitted to [REDACTED] that she in fact accessed patient records with the intent to take the printed medical information to utilize with her new employer, [REDACTED]. Practitioner also admitted to taking the printed medical information to her home. Practitioner was then terminated from her position with [REDACTED].
5. On January 14, 2014, MDH sent a letter to Practitioner and asked her to provide information about her employment at [REDACTED] and provide an explanation as to why she was terminated. On February 10, 2014, Practitioner responded and stated:
 - a. Practitioner provided services as an occupational therapy assistant for patients in a transitional care unit who required rehabilitation after an illness or surgery to increase their strength and activities of daily living.
 - b. Practitioner was at [REDACTED] six to eight hours per week.
 - c. Practitioner often met with patients and their families at off-site locations. In order to effectively do so, Practitioner printed copies of the cover sheet in their medical record file, which contained the patient’s contact information, and the occupational therapist’s current evaluation or re-evaluation notes.

- d. In her response, Practitioner submitted the names of 16 patients and explained that she copied their medical cover sheets and current notes, took that paperwork with her to patient meetings and then shredded and destroyed the records after her meeting.
 - e. Practitioner stated she provide [REDACTED] with a copy of the October 22, 2013 notice of voluntary termination to be effective on December 20, 2013.
 - f. Practitioner stated that on December 6, 2013, [REDACTED] terminated her for allegations that she misappropriated its trade secrets and violated HIPAA laws.
6. In her response to the allegation, Practitioner included a signed records release and authorization form to allow MDH access to obtain her employment records.
7. On June 17, 2016, MDH received [REDACTED]'s response:
 - a. [REDACTED] employee records reveal that Practitioner signed a Confidentiality Statement acknowledging that "unauthorized access to or release of confidential information or any security violation may make [Practitioner] subject to legal action and/or disciplinary action, up to and including termination."
 - b. [REDACTED] stated Practitioner was employed to provide services as an occupational therapy assistant at [REDACTED]'s business located at [REDACTED] Minnesota.
 - c. [REDACTED] stated Practitioner was not authorized to provide services as an occupational therapy assistant at off-site locations.
 - d. [REDACTED] stated Practitioner completed an online educational program related to the Health Insurance Portability and Accountability Act (HIPAA) Privacy and Security. The training described the employer's expectations related to HIPAA health information security. Practitioner completed the training and agreed to comply with the following:
 - i. Identify what information is considered Protected Health Information (PHI);
 - ii. Describe how [REDACTED] safeguards PHI;
 - iii. Describe the rights a patient has related to their PHI;
 - iv. How to avoid violations of Privacy and Security policies and resulting disciplinary action.
 - v. PHI is confidential and only be accessed with a "need to know" as necessary to perform the duties of the job.

CONCLUSION

Practitioner violated Minnesota Statutes, sections 148.6448, subdivision 1(3) and 1(12) when she removed patient records from her place of employment without authorization from the patients or her employer. Practitioner printed copies of 19 patient records to utilize with her new employer, rather than provide occupational therapy services through [REDACTED]. Copying patient records without proper authorization violates section 144.293 and falls below the community standard of care in occupational therapy. Practitioner further engaged in dishonest and unethical conduct when she responded to MDH's request for information by stating she was authorized to take patient records off site, review the records and consult with her patients' families regarding occupational therapy. This is not consistent with providing services as an occupational therapy assistant, and is inconsistent with her employment in a skilled nursing facility.

DETERMINATION

Practitioner's occupational therapy assistant license is conditioned as follows:

1. Practitioner is hereby assessed a civil penalty of \$1,500.00, representing \$500.00 for each separate violation and \$395.10 to reimburse MDH for costs of investigation and proceeding to date. The civil penalty is authorized by Minnesota Statutes, section 148.6448, subdivision 3.
 - a. Practitioner may pay the \$1,895.10 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: Kevin Reinke, Investigation and Enforcement Unit, Health Occupations Program, MDH, PO Box 64882, Saint Paul, MN 55164-0882, within 30 days of receipt of this document.
 - b. Each payment must be made by check or money order payable to "State of Minnesota Treasurer" and mailed to: Kevin Reinke, 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. Before a debt becomes 121 days past due, MDH may refer the debt to the commissioner for collection at any time after a debt becomes delinquent and uncontested and the debtor has no further administrative appeal of the amount of the debt. When a debt owed to MDH becomes 121 days past due, MDH must refer the debt to the commissioner for collection. MDH may file and enforce the penalty as a judgment without further notice or additional proceedings under Minnesota Statutes, section 16D.17.

2. Within six months of the effective date of this Determination, Practitioner shall successfully complete the following continuing education (CE) course, sponsored by the American Occupational Therapy Association, and available in online or CD-ROM format:
 - a. Everyday Ethics: Core Knowledge for Occupational Therapy Practitioners and Educators, 2nd Edition CEU: 0.3 AOTA CEU (3.75 NBCOT PDUs/3 contact hours)
 - b. 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: Anne Kukowski, Health Occupations Program, Investigation and Enforcement Unit, PO Box 64882, Saint Paul, MN 55164-0882.

This document has been redacted to protect personal data.