



Effective 05/24/2006

May 12, 2006

Protecting, maintaining and improving the health of all Minnesotans

Ms. Rita Kay Rhoades  
[REDACTED]

RE: MDH File No. OTA 0400092

Based on my review of the facts and law in this matter, I have determined that you have failed to respond to the Department's written request for information in violation of Minnesota Statutes, section 148.6448, subdivision 1(2); and you have failed to cooperate with an investigation of the commissioner, in violation of Minnesota Statutes, section 148.6448, subdivision 1(10). Therefore, I am denying your right to renew your license as an occupational therapist, which expired on February 28, 2006. This action is authorized pursuant to Minnesota Statutes, section 148.6448, subdivision 3(1).

Minnesota Statutes, section 148.6448, subdivision 4, states that upon denial of your license renewal, you are no longer entitled to practice occupational therapy and use the occupational therapy and licensed titles, and you must cease to practice occupational therapy, to use titles protected by section 148.6401 to 148.6450, and to represent to the public that you are licensed by the commissioner.

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, deliver, or fax a written hearing request, within 30 days of the date of this letter, to:

Susan Winkelmann, Investigations and Enforcement Manager  
Minnesota Department of Health  
85 East Seventh Place  
P.O. Box 64882  
St. Paul, MN 55164-0882

If you have any questions about this matter, please contact Ms. Catherine Peterson at (651) 201-3729.

Sincerely,

David J. Giese, Director  
Compliance Monitoring Division

cc: Tom Hiendlmayr, Director of Health Occupations Program  
Susan Winkelmann, Manager of Investigations and Enforcement

**HEALTH OCCUPATIONS PROGRAM  
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination in the Matter of Rita Kay Rhoades  
Occupational Therapy Practitioner**

**AUTHORITY**

1. The Minnesota Department of Health (hereinafter "Department") has authority to discipline occupational therapists (OT) and occupational therapy assistants for violations of law under Minnesota Statutes, section 214.131, subdivision 2 and Minnesota Statutes, section 148.6448, subdivision 3(1). The type of discipline the Department may impose includes refusing the right to renew the practitioner's license.
2. Minnesota Statutes, section 148.6448, subdivision 1(2) authorizes the Department to take disciplinary action if an occupational therapist fails, within 30 days, to provide information in response to a written request by the commissioner or advisory council.
3. Minnesota Statutes, section 148.6448, subdivision 1(10) authorizes the Department to take disciplinary action if an OT fails to cooperate with the commissioner or advisory council in an investigation conducted according to Minnesota Statutes, 148.6448, subdivision 1(10).
4. Minnesota Statutes, section 148.6443 requires an OT applying for license renewal to complete a minimum of 24 continuing education (CE) contact hours attended in the two years preceding licensure renewal. Licensees shall receive CE hours for activities only for the biennial licensure period in which the CE activity was performed.
5. Minnesota Statutes, section 148.6443, subdivision 7 authorizes the Commissioner to grant a waiver of the CE requirements in cases where the requirements would impose an extreme hardship on the licensee. The request for waiver must be in writing, state the circumstances that constitute extreme hardship, state the period of time the licensee wishes to have the CE requirement waived and state the alternative measures that will be taken if a waiver is granted. The statutes further state a request for waiver shall be denied if the Commissioner finds the circumstances stated by the licensee do not support a claim of extreme hardship, the requested time period for waiver is unreasonable, or the alternative measures proposed by the licensee are not equivalent to the CE activity being waived.
6. Minnesota Statutes, section 148.6443, subdivision 8 authorizes the commissioner to take disciplinary action, including a refusal to renew the license, of any person who the commissioner has determined has failed to comply with the CE requirements of Minnesota Statutes, section 148.6443.

## FINDINGS OF FACT

1. Ms. Rita Kay Rhoades (hereinafter "Practitioner") was issued a temporary registration as an occupational therapist on February 15, 2000. Practitioner was issued an occupational therapist license on June 5, 2000.
2. Practitioner's license was renewed on March 28, 2002, with an expiration date of February 28, 2004. In the Department's March 28, 2002 issuance letter, Practitioner was advised that she would need to report 24 CE contact hours with Practitioner's next license renewal. Practitioner was also advised to read the CE materials to determine activities that qualify for CE credit and to determine how to record and report CE contact hours.
3. On September 20, 2002, the Department responded to a verification request regarding the status of Practitioner's credential from Verified Credentials, Inc., Lakeville, Minnesota.
4. On December 8, 2003, the Department sent Practitioner a renewal notice and notified Practitioner her OT licensed expired on February 29, 2004. Practitioner was notified her renewal application and renewal fee was due by January 31, 2004 and 24 CE contact hours were due February 29, 2004.
5. On March 1, 2004, the Department notified Practitioner her license as an OT expired on February 29, 2004. Practitioner was advised to discontinue practice and use of occupational titles and advised she was not allowed to represent herself as a licensed occupational therapist. Practitioner was advised that practice and use of occupational titles without a license was grounds for disciplinary action. Practitioner was advised if she intended to renew, she must complete the renewal application and include the renewal fee and a late fee. Practitioner was advised if she did not intend to renew her license, to complete and sign a form of her intention not to renew, not to use occupational titles, and not to use the term "Minnesota licensed."
6. On March 22, 2004, the Department received a letter from Practitioner requesting a waiver of the CE requirements due to extreme hardship. Practitioner requested a waiver to be extended for up to two years. Practitioner indicated she was injured on February 26, 2003 and was unable to work. Practitioner indicated she was "unable to work secondary to my physician's imposed limitations" and hoped to have the restrictions removed March 18, 2004. Practitioner stated once she was able to work, she would save money to attend CE classes.
7. On April 30, 2004, the Department received Practitioner's application for OT license renewal. In the renewal application, Practitioner also noted she would be applying for Physical Agent Modalities (PAM). Practitioner did not submit a report of CE contact hours for the reporting period March 28, 2002 through February 29, 2004.
8. By letter dated May 6, 2004, the Department advised Practitioner she had not been approved for PAM's and the Department requested that Practitioner submit a \$25.00 late fee.

9. On May 12, 2004, the Department responded to a verification request regarding the status of Practitioner's credential from HireCheck, St. Petersburg, Florida.
10. On May 21, 2004, the Department received notification Practitioner changed her address to Ottumwa, Iowa.
11. On May 27, 2004, the Department notified Practitioner her OT renewal was approved, with an effective date of May 26, 2004, and an expiration date of February 28, 2006. In its issuance letter, the Department notified Practitioner her request for a CE waiver would be evaluated separately from license renewal. Practitioner was notified her request for a CE waiver was forwarded to the Investigations and Enforcement Unit and the issuance of her license renewal did not imply her request for a CE waiver would be favorable.
12. By letter dated June 17, 2004, the Department requested Practitioner answer specific questions regarding her request for a CE waiver due to extreme hardship, including whether she obtained any credits during the reporting period March 28, 2002 through February 25, 2003; the circumstances that prevented Practitioner from not obtaining any CE hours during the reporting period; the specific medical conditions; and Practitioner's proposed alternative measures. The Department requested Practitioner provide information about the disposition of her March 18, 2004 appointment with her physician, to complete and sign a Records Release and Authorization form authorizing the Department to receive copies of her medical records, and to provide information concerning her current employment status. In its letter, the Department notified Practitioner she was required by state law to cooperate with the Department. Practitioner did not respond.
13. By letter dated October 21, 2004, the Department responded to a verification request from the Board of Physical & Occupational Therapy Examiners, Iowa Department of Public Health, concerning Practitioner's credentials.
14. By letter dated June 15, 2005, the Department sent a second request to Practitioner concerning her request for CE approval. In its letter, the Department notified Practitioner she was required by state law to cooperate with the Department. Practitioner did not respond.
15. By letter dated December 9, 2005, the Department sent Practitioner a renewal notice and renewal application for occupational therapist. In its letter, the Department advised Practitioner her OT license expired February 28, 2006, she was required send her renewal application on or before January 31, 2006 or be subject to a late fee, and Practitioner was required to submit a report of 21 CE contact hours by March 21, 2006. Practitioner did not respond.

16. By letter dated January 4, 2006, the Department sent a third request to Practitioner concerning her request for CE approval. In its letter, the Department notified Practitioner the Department may take disciplinary action in the form of a suspension, revocation or denial of her renewal application for failure to respond by the due date of February 6, 2006. Practitioner did not respond.
17. By letter dated February 26, 2006, the Department sent Practitioner a notice requesting she respond to the Department's request for information concerning her March 22, 2004 request for a waiver of the CE requirements for the reporting period March 28, 2002 to February 29, 2004. The Department included copies of its letters dated June 17, 2004, June 15, 2005, and January 4, 2006 and the Records Release and Authorization form for medical records. Practitioner was advised that to avoid disciplinary action, her response was due by March 21, 2006. Practitioner did not respond.
18. By letter dated March 2, 2006, the Department notified Practitioner her OT license expired on February 26, 2006. Practitioner was advised to discontinue practice and use of occupational titles and advised she was not allowed to represent herself as a licensed occupational therapist. Practitioner was advised that practice and use of occupational titles without a license was grounds for disciplinary action. Practitioner was advised if she intended to renew, she must complete the renewal application and include the renewal fee and a late fee. Practitioner was advised if she did not intend to renew her license, to complete and sign a form of her intention not to renew, not to use occupational titles, and not to use the term "Minnesota licensed." Practitioner did not respond.

### CONCLUSION

1. Practitioner violated Minnesota Statutes, section 148.6448, subdivision 1(2) for failure to respond to the Department's written request for information within 30 days.
2. Practitioner violated Minnesota Statutes, section 148.6448, subdivision 1(10) for failure to cooperate with the commissioner or advisory council in an investigation conducted under Minnesota Statutes, section 148.6448, subdivision 2.

### DETERMINATION

1. Practitioner's license as an occupational therapist should not be renewed pursuant to Minnesota Statutes, section 148.6448, subdivision 3(1). Practitioner shall cease to practice occupational therapy, to use titles protected by Minnesota Statutes, sections 148.6401 to 148.6450, and to represent to the public that she is licensed by the commissioner pursuant to Minnesota Statutes, section 148.6448, subdivision 4.

2. The Department shall consider renewing Practitioner's license upon Practitioner's responding to the Department's inquires dated June 17, 2004, June 15, 2005, January 4, 2006, and February 26, 2006; and cooperating with the Department in its investigation concerning Practitioner's request for a CE waiver for the reporting period March 28, 2002 through February 25, 2003 pursuant to Minnesota Statutes, section 148.6443, subdivision 7 and Minnesota Statutes, section 148.6443, subdivision 8.
3. Upon Practitioner's cooperation with the Department, she may apply to renew her license pursuant to the requirements of Minnesota Statutes, section 148.6423 to section 148.6425; and any other conditions imposed by the Department must be met before Practitioner's license may be renewed.