

Effective 06-21-10



May 7, 2010 *Protecting, maintaining and improving the health of all Minnesotans*

Ms. Mamie Antil Snoddy


RE: MDH File Number: OTA07029

Dear Ms. Snoddy:

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 used physical agent modalities without prior approval, in violation of Minnesota Statutes, section 148.6440, subdivision 2. Therefore, the Department is assessing you a civil penalty in the amount of \$561. This action is authorized pursuant to 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:

Tom Hiendlmayr, Director of the 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. Hiendlmayr at (651)201-3839. If you have any questions about this matter, please contact Kyle Renell at (651)201-3727.

Sincerely,

A handwritten signature in black ink, appearing to read "Darcy Miner", is written over the typed name.

Darcy Miner, Director
Compliance Monitoring Division

Enclosure

cc: Tom Hiendlmayr, Director of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Mamie Antil Snoddy
Occupational Therapy Practitioner**

AUTHORITY

1. The Minnesota Department of Health (MDH) has authority to discipline occupational therapists and occupational therapy assistants for violations of law under Minnesota Statutes, section 214.131, subdivision 2, and Minnesota Statutes, section 148.6448, subdivision 3. The types of discipline MDH may impose include public reprimands and the assessment of civil penalties.
2. Pursuant to Minnesota Statutes, section 148.6440, subdivision 2, a practitioner must provide documentation of having met the educational and clinical requirements for the use of physical agent modalities (PAMs) and wait until approval is granted, before the use thereof.
3. Effective June 17, 1996, persons not credentialed by the State of Minnesota are prohibited from using the protected titles, "occupational therapy," "occupational therapist," or "OT" alone or in combination with other words or initials to form an occupational title or to indicate or imply that they are credentialed by the MDH as an occupational therapist (OT) or occupational therapy assistant (OTA). An MDH-issued Registration was required for practitioners to use protected titles until May 12, 2000, when it also became illegal to practice as an OT or OTA in Minnesota without first being licensed.
4. On January 8, 2003, MDH staff consulted the OT Practitioner Advisory Council about an appropriate penalty for unlicensed practice. MDH determined the penalty as follows: OT practitioners who practice without a license will be assessed a penalty of ten percent of the practitioner's net income during the violation period. MDH shall also assess the costs of investigation.
5. On April 27, 2006, the MDH brought the issue of illegal use of PAMs to the Competency Review Committee (CRC) of the Occupational Therapy Practitioner Advisory Council. The CRC concluded that using PAMs illegally was illegal practice and recommended PAMs violations be issued a disciplinary penalty based on the same calculation as that used for illegal practice, plus costs of the investigation.

FINDINGS OF FACT

1. Mamie Antil Snoddy (Hereinafter "Practitioner") has been licensed as an occupational therapist (OT) since January 17, 2007. Her license is currently due to expire on February 28, 2011. Practitioner received approval to use PAMs on June 20, 2007.
2. Practitioner's application for permanent licensure was received on April 11, 2007. On page six of the application, which contains the PAMs Statement, Question 1 reads "if you do not use physical agent modalities, please check here". Practitioner did not make a check beside Question 1, but instead wrote "refer to page #8". On page eight Practitioner wrote the following:

"Topic: Physical Agent Modalities – I used physical agent modalities as an OT under the supervision of Sara Baldwin, OTR/L#103102."

3. By letter dated April 16, 2007, Credentialing staff notified Practitioner that her application could not be processed until she provided an explanation as to why she felt she was able to practice PAMs before her license was issued. On April 24, 2007, Credentialing staff received copies of pages six and eight of Practitioner's application.
4. By letter dated May 4, 2007, Credentialing staff instructed Practitioner to mark Question 1 of the PAMs Statement. On May 9, 2007, Credentialing staff received page six with a check mark beside Question 1.
5. By letter dated May 17, 2007, Credentialing staff notified Practitioner that her license had been issued and that her application had been referred to the Investigations and Enforcement Unit (I&E) for clarification of her use of PAMs prior to approval.
6. By letter dated May 25, 2007, I&E staff requested Practitioner information about her use of PAMs. In her response, received on June 14, 2007, Practitioner explained that she believed she could use PAMs under supervision after completion of the PAMs training course. Practitioner acknowledged that she now understood that an OT may not use PAMs until authorized to do so by the department. Practitioner provided the following statement concerning her use of PAMs prior to approval:

"I provided ADL and IADL retraining, therapeutic exercise, therapeutic activities and cognitive development to patients. I used approximately 5 hot pack treatments with a patient who complained of lower back pain. I also used approximately 4 or 5 paraffin treatments with a patient who has severe RA. I have not used PAMs treatments since 3/07."

7. By letter dated July 5, 2007, Practitioner's employer advised that Practitioner was hired on January 19, 2007, and used PAMs during the period from February 22, 2007, to

March 23, 2007. The employer stated that Practitioner provided a total of eight PAMs treatments to three different patients. The employer advised that Practitioner's net wages during the period she used PAMs were \$2,866.56.

CONCLUSION

1. Practitioner did not comply with the requirements under Minnesota Statutes, section 148.6440, subdivision 2, because she used PAMs without first being approved by the MDH as required by state law.

DETERMINATION

1. Practitioner should pay a civil penalty of \$561.00, representing the economic advantage gained by the violation and to reimburse MDH for costs of investigations and proceedings to date.