



Minnesota
Department
of Health

PROTECTING, MAINTAINING & IMPROVING THE HEALTH OF ALL MINNESOTANS

December 23, 2016

Mary Beth Straiton

RE: MDH File Number: OTC16004

Dear Ms. Straiton:

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 failed to accurately document the amount of time you actually spent in patient care and billed for occupational therapy services not provided to patients on Medicare and other Minnesota health insurance programs, 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 \$435.09 for the cost of investigation. 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

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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,



Susan Winkelmann, Assistant Director
Health Regulation Division

Enclosure

cc: Anne Kukowski, Manager, Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

*Effective
4/11/17*

**A Determination In the Matter of
Mary Beth Straiton
Occupational Therapy Assistant, License No. 200889**

AUTHORITY

1. The Minnesota Department of Health (MDH) has the statutory authority to discipline occupational therapy assistants 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(5), MDH may take disciplinary action against an occupational therapy assistant 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 therapy assistant 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 November 24, 1998, Mary Beth Straiton (hereinafter "Practitioner") was licensed as an occupational therapy assistant in the State of Minnesota by the Department of Health, under license number 200889. Practitioner has renewed her license biennially and has a current license to practice occupational therapy.
2. Beginning on August 10, 2006 and through January 8, 2016, Practitioner was employed at and provided occupational therapy in a skilled nursing facility.

3. In September of 2014, _____ trained Practitioner on the use of the mobile device for documentation as a transition from paper documentation to the electronic medical record. The training included group classroom instruction, hands on instruction, as well as collateral material as a reference. Practitioner received one on one instruction in the electronic medical record procedure in January 2015 and March 2015.
4. _____ staff review of the billing records indicate Practitioner billed three patients on four occasions for time not spent in patient care. This resulted in the removal of minutes that were billed by Practitioner when she was not with patients.
5. Practitioner was terminated from her position following an internal audit that revealed Practitioner billed for services not rendered:
 - A. On December 1, 2015, Practitioner left a patient at the nurse's station at the end of the OT session at 2:03 p.m. Practitioner billed treatment time for that session was 1:01 p.m. to 2:10 p.m. Seven additional minutes were billed to the patient that was not provided;
 - B. On December 3, 2015, Practitioner was observed sitting alone in the dining room at 11:39 a.m. Practitioner billed for patient treatment time from 10:49 a.m. to 11:49 a.m. Ten minutes were billed to the patient that was not provided;
 - C. On December 8, 2015, Practitioner approached a patient at 9:38 a.m. to begin an OT session. Practitioner billed treatment session from 9:30 a.m. to 10:21 a.m. Eight minutes were billed to the patient that was not provided;
 - D. On December 8, 2015, Practitioner was observed sitting alone in a hallway at 2:24 p.m. and again at 2:27 p.m. Practitioner billed a patient treatment session from 2:20 p.m. to 2:30 p.m. Ten minutes were billed to the patient that was not provided; and
 - E. Practitioner's documentation of treatment times was inaccurate and excessive minutes of treatment were billed.
6. On March 3, 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. Practitioner stated she was "given the basic instructions on how to use the computer to bill Medicare for treatments and complete documentation in September, 2014." Practitioner went on to state "I had no difficulty understanding how to correctly proceed."

- C. Practitioner stated occupational therapists were then informed that all billing and documentation was to be done at the "point of service" which meant she needed to document patient services as they occurred.
- D. Practitioner stated she frequently stepped out in the hall to complete her documentation. Practitioner's patients complained that "all you therapists do is look at those computers."
- E. Practitioner stated she feels she was terminated due to training inconsistencies and stated her supervisor told her "that it was acceptable to stand outside the patient room to complete documentation with the time clock running."

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 evidence indicates Practitioner failed to accurately document and bill for occupational therapy services in December 2015, resulting in providing occupational therapy in a manner that falls below the community standard of care.

DETERMINATION

Practitioner's occupational therapy license is conditioned as follows:

1. Practitioner must pay a civil penalty of \$435.09 to reimburse MDH for costs of investigation and proceeding to date.
 - a. Practitioner may pay the \$435.09 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. 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 12 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.