

MDH
Minnesota
Department
of Health

Effective March 15, 2017

PROTECTING, MAINTAINING & IMPROVING THE HEALTH OF ALL MINNESOTANS

February 10, 2017

Ms. Taryn Marie Weibel


RE: MDH File Number: OTC17006

Dear Ms. Weibel:

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 performed services of an occupational therapy assistant (OTA) in an incompetent manner or in a manner that falls below the community standard of care in violation of Minnesota statutes, section 148.6448, subdivision 1(3); that you failed to perform services with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment in violation of Minnesota Statutes, section 148.6448, subdivision 1(6); that you engaged in dishonest, unethical, or unprofessional conduct in connection with the practice of occupational therapy that is likely to deceive, defraud, or harm the public in violation of Minnesota statutes, section 148.6448, subdivision 1(12); that you demonstrated a willful or careless disregard for the health, welfare, or safety of a client in violation of Minnesota statutes, section 148.6448, subdivision 1(13); you obtained money, property, or services from a consumer through the use of undue influence, high pressure sales tactics, harassment, duress, deception, or fraud in violation of Minnesota statutes, section 148.6448, subdivision 1(18); and for any other just cause related to the practice of occupational therapy in violation of Minnesota statutes, section 148.6448, subdivision 1(23). Therefore, the Department is suspending your license for twelve months from the effective date. The suspension will be stayed in order to allow you to participate in the Health Professionals Services Program (HPSP). This action is authorized pursuant to Minnesota Statutes, section 148.6448.

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:

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Anne Kukowski, MS, JD
Assistant 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 Ms. Kukowski at (651)201-3839. If you have any questions about this matter,
please contact Patricia Forsberg at (651)201-3721.

Sincerely,



Susan Winkelmann, Assistant Director
Health Regulation Division

Enclosure

cc: Anne Kukowski, Assistant Director, Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Taryn Marie Weibel
Occupational Therapy Assistant, License Number 202016**

AUTHORITY

1. The Minnesota Department of Health (MDH) has the authority to discipline Occupational Therapy Assistants for violations of Minnesota Statutes, section 148.6448. Pursuant to Minnesota Statutes, section 148.6448, subdivision 3, the types of discipline MDH may impose include the refusal to grant or renew licensure, suspension or revocation of licensure, or any reasonable lesser action including 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 engaging in services 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(6), MDH may take disciplinary action against an occupational therapy assistant for failing to perform services with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment.
4. 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, is a ground for disciplinary action.
5. Pursuant to Minnesota Statutes, section 148.6448, subdivision 1(13), MDH may take disciplinary action against an occupational therapy assistant for demonstrating a willful or careless disregard for the health, welfare, or safety of a client.
6. Pursuant to Minnesota Statutes, section 148.6448, subdivision 1(18), MDH may take disciplinary action against an occupational therapy assistant for obtaining money, property, or services from a consumer through the use of undue influence, high pressure sales tactics, harassment, duress, deception, or fraud.

7. 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 occupational therapy.
8. Pursuant to Minnesota Statutes, section 148.6448, subdivision 2, the commissioner may initiate an investigation upon receiving a complaint or other oral or written communication that alleges or implies that a person has violated section 148.6401 to 148.6450.

FINDINGS OF FACT

1. On March 19, 2015, Taryn Marie Weibel (hereinafter "Practitioner") was licensed as an occupational therapy assistant by MDH under license number 202016. Practitioner obtained her general license on October 28, 2015 with an expiration date of November 30, 2017.
2. On September 19, 2016 MDH received a complaint from Aegis Therapies of Plano, Texas. The complaint alleges the following:
 - a. Practitioner was terminated from her occupational therapy assistant position at [REDACTED]
 - b. A credit card was stolen on August 21, 2016 from a drawer in a client's room in which Practitioner was providing services.
 - c. On August 30, 2016 an investigator from [REDACTED] met with the facility administrator, Director of Nursing, and director of Rehab. Investigator showed a surveillance video of the person using the stolen credit card to the above individuals. The Director of Rehab and Director of nursing immediately recognized Practitioner as the person in the video.
 - d. Facility administrator brought the investigator past a room where Practitioner was located. Both administrator and the investigator agreed the person in the video was Practitioner.
 - e. [REDACTED] suspended Practitioner that day. She was terminated September 7, 2016 after being interviewed by an investigator from the [REDACTED]
3. On September 26, 2016 and October 10, 2016 MDH attempted to send a Notice of Investigation to Practitioner's last known address. The letters were returned undeliverable. On Thursday, October 20, 2016 MDH emailed Practitioner regarding her current address. Practitioner responded by email and provided her current address.
4. MDH sent Practitioner a Notice of Investigation October 20, 2016. MDH received her response on November 16, 2016. Her handwritten response states:

- a. Practitioner was employed as an occupational therapy assistant at three different facilities prior to her employment with [REDACTED].
- b. Practitioner was terminated from two of those positions.
- c. Practitioner was terminated from one position due to her temporary occupational therapy assistant license expiring, one position for poor communication, and her from her employment with [REDACTED] for theft.
- d. Practitioner was employed as an occupational therapy assistant at a new facility from October 2016-November 2016. She resigned from the position due to MDH's investigation.
- e. Practitioner included a "Disciplinary Action Form" from a previous employer. That form states that Practitioner was terminated for "Failure to observe company and facility protocol regarding incident reporting, specifically in regard to a patient fall that occurred in therapy on 06/06/2016." It further elaborates, "Employee discharged secondary to failure to demonstrate clinical judgement and compliance necessary to maintain patient safety."

5. On December 14, 2016 MDH received a copy of the criminal complaint against Practitioner filed by the State of Minnesota, County of Blue Earth.

- a. Practitioner was charged with violating Minnesota Statute 609.821.2(1) *Financial Transaction Card Fraud-Use-No Consent* at the felony offense level.

- b. Complaint states:

On or about August 21, 2016 in the [REDACTED] said Defendant, Taryn Marie Weibel did without the consent of the cardholder and knowing that the cardholder has not given consent, used or attempted to use a card to obtain the property of another and the aggregate amount of the transactions was more than \$250.00 but less than \$2,500.00.

- c. The Statement of Probable Cause provides the following information:

- i. The victim notices a total of \$343.19 of unauthorized transactions on a card that was stolen.
- ii. Transactions that occurred were: Two transactions the amounted to \$130.87 at Holiday Gas Station [REDACTED], \$120.74 at Target [REDACTED], \$16.44 at an unknown Taco Johns, and \$75.14 at Smokes 4 Less [REDACTED].
- iii. [REDACTED] obtained surveillance footage from Target and Holiday.

- iv. Investigator brought photos to [REDACTED] to for identification of the suspect. Employer and coworkers were able to verify the person in the photo as Practitioner.
 - v. Employer brought [REDACTED] to an area where Practitioner was working to verify their conclusion. [REDACTED] also concluded that Practitioner was the suspect from the surveillance footage.
 - vi. When [REDACTED] suspended Practitioner and informed her of the suspension, she asked if it was, "Because of the reported abuse of a client or because of a credit card."
 - vii. When Investigator specifically asked if Practitioner stole the card and used it, Practitioner shook her head yes, confirming she had.
6. On January 12, 2017, the issues of this matter were presented to the Occupational Therapy Practitioner Competency Review Committee (hereinafter CRC). The CRC members made the following recommendations:
 - a. Due to the serious nature of the allegations and Practitioner's conduct, MDH should immediately suspend Practitioner's license.
 - b. MDH should consider revocation of the right to practice due to the seriousness of the allegation and issues displayed in Practitioner's work history.
 - c. During the period of suspension, MDH should conduct an investigation into Practitioner's ability to safely and competently practice as an occupational therapy assistant. MDH should examine Practitioner's complete work history as an occupational therapy assistant and review all Practitioner's credentialing records.
 - d. Upon completion of its investigation, CRC would like to review the case again prior to MDH's final determination. MDH should review the investigation summary for a final recommendation, which may include revocation of the right to practice.
7. On February 1, 2017, MDH received information from Health Professionals Services Program (HPSP). Practitioner self-reported an impairment that may likely lead to her inability to safely practice as an occupational therapy assistant.

CONCLUSION

Practitioner violated Minnesota Statutes, section 148.6448, subdivisions 1(3), 1(6), 1(12), 1(13) 1(18), and 1(23) when she took a client's credit card and fraudulently used it at various locations. Practitioner used her position as an occupational therapy assistant to engage in dishonest, unethical, and unprofessional conduct in a manner that falls below the community standard of care. MDH has sufficient evidence indicating Practitioner lacks the ability to safely practice occupational therapy with reasonable judgement, skill or safety. Further, Practitioner demonstrates a willful disregard for the health and welfare of her clients.

DETERMINATION

1. Practitioner's license is hereby **SUSPENDED** for a period of not less than twelve (12) months from the effective date of this action. The suspension is **STAYED** so long as Practitioner complies with the following requirements:
 - a. Practitioner must sign a Practitioner Agreement and Monitoring Plan within 30 days of this Determination with HPSP. Practitioner must comply with and successfully complete all terms of the HPSP Participation Agreement. Practitioner must not practice as an occupational therapy assistant until she is cleared to do so by HPSP.
 - b. MDH may remove the stayed suspension upon HPSP's written notification that Practitioner has successfully completed all terms of the Participation Agreement. To remove the stayed suspension, Practitioner must petition MDH, in writing, and ask to be issued an unrestricted occupational therapy assistant license.
 - c. Practitioner is responsible for adhering to the terms of the HPSP Participation Agreement and cooperating in MDH's investigation. Failure to comply with HPSP or MDH is grounds for disciplinary action, including but not limited to, suspension or revocation of Practitioner's license and a civil penalty representing the economic benefit gained by the violation and the cost of the investigation and proceedings.
 - d. If Practitioner is discharged from HPSP for any reason other than successful completion of the terms of the Participation Agreement, MDH will take disciplinary action, including but not limited to, suspension or revocation of the right to practice as an occupational therapy assistant in Minnesota.

2. Practitioner must cooperate with MDH and all requests for information related to Practitioner's license as an occupational therapy assistant and MDH's investigation into alleged violations of Minnesota Statutes, section 148.6401 to 148.6450. Practitioner must sign any release forms necessary to obtain information related to her employment and practice as an occupational therapy assistant.

3. **This issuance of this Determination and the stayed suspension does not preclude MDH from taking disciplinary action against the Practitioner for violating Minnesota Statutes, section 148.6401 to 148.6450.**