MINNESOTA MDH DEPARTMENT OF HEALTH

Protecting, maintaining and improving the health of all Minnesotans

December 21, 2016

Caroline Williamson

RE: MDH File Number: OTC16008

Dear Ms. Williamson:

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 your client, Ms. Williamson, 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 your client failed to accurately document the amount of time she 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 your client a conditional license and requiring that she successfully complete continuing education in documentation, billing and ethics. Further, MDH is assessing your client a civil penalty in the amount of $477.50 for cost of the investigation. The conditions on your client's 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

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
Jennifer E. Speas, Attorney at Law, Speas Law Firm, P.A.

Effective 2/27/17

HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH

A Determination In the Matter of
Caroline Williamson
Occupational Therapist, License No. 100590

AUTHORITY

1. The Minnesota Department of Health (MDH) has the statutory authority to discipline occupational therapists 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 therapist for performing the services of an occupational therapist 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 therapist 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 therapist 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 October 9, 1996, Caroline Kay Williamson (hereinafter "Practitioner") was licensed as an occupational therapist in the State of Minnesota by the Department of Health, under license number 100590. Practitioner has renewed her license biennially and has a current license to practice occupational therapy.

2. On May 7, 2012 and through April 7, 2016, Practitioner was employed for a rehabilitation agency and provided occupational therapy in a skilled nursing facility. Practitioner was

terminated from her position after a review of patient treatment reports revealed Practitioner:

A. "Significantly" delayed completion of required patient progress notes, discharge summaries and functional reporting codes which provide justification for the medical necessity of treatment and billing required by Medicare;
B. Practitioner failed to follow a patient's established occupational therapy plan of care resulting in not addressing individual patient needs;
C. Practitioner failed to obtain prior authorization and consent for patient treatments;
D. Practitioner inaccurately billed for services which resulted in employer having to remove patient treatment minutes from billing records in order to support the services actually provided.

3. On June 20, 2016, Practitioner's attorney responded to the Department's request for information and provided the following explanation of why she was terminated.

A. Practitioner provided occupational therapy for residents of an assisted and senior living facility who required services to increase their strength and activities of daily living (ADLs) skills.
B. In the Fall of 2014, Practitioner's employer made changes to the documentation of patient treatment sessions. This change required the documentation of a patient's session time by an Occupational Therapist match the session time on the employer's time clock, Smart desk top, and Smart IPad minis. These changes came about without the necessary training and caused some communication and protocol errors.
C. Practitioner stated she would scroll back the patient's session time on her IPad if she entered a patient's room and the patient required immediate attention such as a bathroom transfer or a transfer out of bed before she turned on the IPad. Practitioner stated it was common practice for therapists to scroll back the timer if duties overlapped with another caregiver. Practitioner went on to state "Medicare recently changed its policy to only allow overlapping or co-treatments with prior approval."
D. On March 17, 2016, Practitioner began her evaluation of a new patient who had just been added to her patient list that morning. The patient needed a specialized wheelchair and Practitioner forgot to turn off her time clock when she left the room to retrieve the specialized wheelchair. When she returned she noticed another therapist was in the patient's room and started their therapy session time clock. Practitioner stated she knows that she should have stopped her time clock but simply forgot to do so.

4. Practitioner received training in Medicare requirements of therapy reimbursement and modes of delivery services offered by her employer. Practitioner signed a policy form acknowledging she was informed of patient care documentation and that failure to follow policy could result in corrective action up to and including termination.

5. MDH staff review of Practitioner's disciplinary record submitted by her employer revealed that since 2014, Practitioner received both verbal and written warnings. Practitioner was also suspended twice in 2015 for failing to sustain improvement in following organizational policies and regulatory requirements in her position as an occupational therapist. On April 7, 2016, Practitioner was terminated when a patient under her care was billed for services he/she did not receive.

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 and when she billed for occupational therapy services not provided to patients on Medicare and other Minnesota health insurance programs. The evidence indicates Practitioner failed to accurately document for occupational therapy services which resulted in a patient under her care being billed for service they did not receive. Additionally, Practitioner failed to follow an established occupational therapy plan of patient care which resulted in providing occupational therapy in an incompetent manner and one that falls below the community standard of care. While Practitioner states she did not receive adequate training, the evidence reveals the employer provided training in the new documentation system and Practitioner was suspended from employment for failure to comply with the billing requirements. Practitioners are required to document and bill for the specific services they provide.

DETERMINATION

Practitioner's occupational therapy license is conditioned as follows:

1. Practitioner must pay a civil penalty of $477.50, to reimburse MDH for costs of investigation and proceeding to date.

    a. Practitioner may pay the $477.50 civil penalty in monthly installments of up to three 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 Minnesota Department of Revenue (MDOR), or any other source 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. MDOR is authorized by Minnesota Statutes, section 16D.17 to obtain a judgment against Practitioner without further notice or proceeding.

2. Within six 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.