

IN THE MATTER OF
CHERYL ANNE LOWERY, OTR
Respondent,

* BEFORE THE
* MARYLAND BOARD
* OF OCCUPATIONAL THERAPY
* PRACTICE
* License NO.: 02703
*
* Case No.: 2012-001

* * * * *

ORDER

On or about March 18, 2014, the Maryland Board of Occupational Therapy Practice (the "Board") notified Cheryl Anne Lowery, O.T.R., License No. 02703, (the "Respondent") that she was being charged with violation of certain provisions of the Maryland Occupation Therapy Act (the "Act"), the Maryland Occupational Therapy Practice Act, Md. Code Ann., Health Occ. §§ 10-101 *et seq.* (the "Act") (2009 Repl. Vol. & 2012 Supp.).

The pertinent provisions of the Act are as follows:

H.O. § 10-315. Denials, reprimands, suspensions, and revocations – Grounds.

Subject to the hearing provision of § 10-316 of this subtitle, the Board may deny a license or temporary license to any applicant, reprimand any licensee, or holder of a temporary license, place any licensee or holder of a temporary license on probation, or suspend or revoke the license or temporary license if the applicant, licensee, or holder

- (2) Fraudulently or deceptively uses a license or temporary license;

- (3) Commits any act of gross negligence, incompetence; or misconduct in the practice of occupational therapy or limited occupational therapy;
- (4) Knowingly violates any provision of this title;
- (5) Violates any rule or regulation of the Board, including any code of ethics adopted by the Board;
- (7) Aids or abets an unauthorized individual in the practice of occupational therapy or limited occupational therapy;
- (10) Willfully makes or files a false report
- (12) Submits a false statement to collect a fee.

The Board also charged the Ms. Lowery with the following regulatory violations:

Code Md. Regs. ("COMAR") tit. 10 § 46.02.

.01 General Conduct.

A. The licensee shall:

- (2) Provide the highest quality services to the client;
- (3) Show respect for the client's rights, including the right to refuse treatment;
- (4) Follow all applicable laws regarding the client's privacy;
- (9) Exercise sound professional judgment in the use of evaluation and treatment procedures;
- (11) Function with discretion and integrity in relations with other health professionals;

C. The licensee may not:

- (2) Allow financial gain to be paramount to the delivery of service to the client.

After negotiations with the State, the Respondent has agreed to enter into this Consent Order as a full and final resolution of the matter.

FINDINGS OF FACT

1. At all times relevant to the charges herein, the Respondent was licensed to practice as an occupational therapist in the State of Maryland under License Number 02703.

2. At all times relevant to the charges herein, the Respondent practiced as an occupational therapist in Maryland.

3. On or about September 20, 2011, the Board received a complaint from a former administrative assistant (the "Complainant") who worked with the Respondent at a health care Facility ("Facility A"),¹ who alleged that the Respondent paid her to collect information and record observations of developmentally disabled patients at certain group home facilities under the Respondent's private contract to provide occupational therapy assessments.

4. Based on this complaint the Board opened an investigation.

5. In furtherance of its investigation Board staff interviewed the Complainant on or about December 6, 2011.

6. According to interview notes, the Complainant reported that she was employed at Facility A as an administrative assistant, and that her duties included recording and transmitting physician orders for occupational, physical and speech therapy, answering phones, typing, medical billing, and other assigned duties. The Complainant also testified to these facts.

7. The Complainant was not and is not an Occupational Therapist, or Occupational Therapy Aid or Assistant.

¹ The name of Facility A is not included in this document, in order to protect the privacy of the facility.

8. The Complainant was utilized by the Respondent to gather data on developmentally disabled patients from patient charts so that the Respondent could use this information in completing occupational therapy assessments that she had been contracted to provide.

9. The Respondent hired the Complainant to assist her at various group homes by collecting data for her in preparing assessments for developmentally disabled individuals in Washington, D.C.. The Respondent directed the Complainant to review patient medical records, nursing records, and previous OT assessments, and record the information on an OT assessment form. The Respondent described these duties as clerical, and stated that she was present at the group homes when the Complainant collected patient information.

10. During the time period at issue, the Respondent instructed the Complainant to go to various group homes in Washington D.C. and collect data on her behalf to use in completing occupational therapy evaluations. The Complainant assembled and typed the data in Maryland. This data was used by the Respondent in completing occupational therapy assessments done by her for clients in the District of Columbia. The reports of the assessments were completed in Maryland.

CONCLUSIONS OF LAW

By having an unlicensed individual collect data for her to use in completing occupational therapy assessments, Ms. Lowery violated a single provision of the Act. The Board concludes that the Respondent's actions violated the following provision of H.O. § 10-315.

1. The Respondent violated H.O. § 10-315 (7), [a]ids or abets an unauthorized individual in the practice of occupational therapy or limited occupational therapy, because she directed an unlicensed individual to gather and record data on group home residents for her.

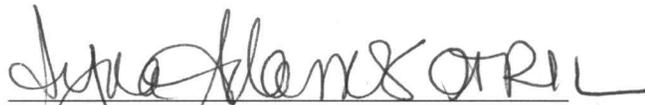
ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 15 day of January, 2016, by the majority of the Board, hereby:

ORDERED that the Respondent's license to practice occupational therapy in the State of Maryland, under license number 02703, is hereby **REPRIMANDED**;

ORDERED that the foregoing document constitutes and Order of the Board and is therefore a **PUBLIC** document for purposes of public disclosure, as required by Md. Code Ann., General Provisions Art. § 4-101, *et al.*

1/15/16
Date


Lyna Adams, OTR/L
Chair
Maryland Board of Occupational Therapy
Practice

CONSENT

I, Cheryl Anne Lowery, O.T.R., License No. 02703, acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I

accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order. I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal this order.

I sign this Consent Order after having had an opportunity to consult with counsel, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

12-19-15
Date

Cheryl A. Lowery
Cheryl Anne Lowery, O.T.R.,
License No. 02703
Respondent

Read and approved by:

M. Natalie McSherry
M. Natalie McSherry, Esquire
Counsel to Respondent

NOTARY

STATE OF Maryland

CITY/COUNTY OF: Prince Georges

I HEREBY CERTIFY that on this 19 day of December, 2015, before me, a Notary Public of the State and County aforesaid, personally appeared Cheryl Anne Lowery, OTR/L, and gave oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

AS WITNESS, my hand and Notary Seal.


Notary Public

My commission expires: 10/22/17