BEFORE THE BOARD OF PHYSICAL & OCCUPATIONAL THERAPY
OF THE STATE OF IOWA

IN THE MATTER OF	)	NO. 12-006
	)	
Carol Dawn Barinsky	)	**NOTICE OF HEARING**
	)	**AND STATEMENT OF CHARGES**
RESPONDENT.	)	

COMES NOW the Iowa Board of **Physical & Occupational Therapy** (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) 11.6. Respondent was issued Iowa Occupational Therapy Assistant license number 00579 on January 16, 2000. Respondent's license is current and will next expire on February 15, 2014. Respondent's address as reported to the Board is 651 Reed Street, Akron, Iowa 51001.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on **December 21, 2012**, before the Board of Physical & Occupational Therapy. The hearing shall begin at **9:10 a.m.** and shall be located in the Lucas State Office Building, Fifth Floor Board Conference Room 526, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Physical & Occupational Therapy, 5th Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 645 IAC chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC 11.17.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: September Lau, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have

notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148A, and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 148A, and 272C and 645 IAC chapter 202.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code Section 17A.12(3) and 645 IAC 11.21.

C. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

Respondent is charged under Iowa Code § 147.55(9) and 645 IAC 209.2(22) with "failure to submit the required report of continuing education." Under 645 IAC 4.11(1), "Licensees shall provide information to the board for auditing purposes as follows: The licensee shall provide an individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor. [This information] must be submitted within 30 days after the date on the letter of notification of the audit."

Count II

Respondent is charged under Iowa Code § 147.55(9) and 209.2(22) with submission of a false report of continuing education.

D. FACTUAL CIRCUMSTANCES

1. Respondent is licensed to practice as an occupational therapy assistant in the state of Iowa. Her birth month is February.

2. Respondent's license expires during her birth month every two years, corresponding to her continuing education compliance period. Respondent's continuing education compliance period runs from February 16th until February 15th of the following even-numbered year. (645 IAC 207.2(1)).

3. Respondent's license was set to expire on February 15, 2012. Respondent renewed her license on or about February 29, 2012 (during the grace period) and her license is next set to expire on February 15, 2014.

4. On Respondent's renewal application, Respondent affirmed that she had completed the required hours of continuing education. Respondent was required to obtain 15 hours of continuing education during the previous compliance period.

5. Respondent was selected for a post renewal continuing education audit.

6. On March 20, 2012, the Board sent to Respondent notification of the audit. Pursuant to the audit, Respondent was required to submit documentation evincing successful completion of all required continuing education hours by April 19, 2012.

7. As of September 27, 2012, Respondent has failed to submit any of the required documentation.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules

governing the Board's settlement process are found at 645 IAC chapter 12. If you are interested in pursuing settlement of this matter, please contact September Lau, Assistant Attorney General, at 515/281-7175.

F. PROBABLE CAUSE FINDING

On this 28th day of September, 2012, the Iowa Board of Physical & Occupational Therapy found probable cause to file this Notice of Hearing and Statement of Charges.

_____, Chairperson
Iowa Board of Physical & Occupational Therapy

Copies to:

September Lau
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor Hoover Bldg.
Des Moines, IA 50319

Carol Barinsky
651 Reed Street
Akron, Iowa 51001