

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

IN THE MATTER OF:)	NO. 10-010
)	DIA NO. 12POT007
)	
LISA HALVORSEN)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Respondent)	DECISION AND ORDER

On December 21, 2012, the Iowa Board of Physical and Occupational Therapy (Board) filed a Notice of Hearing and Statement of Charges against Lisa Halvorsen (Respondent) charging her with five counts:

- Count I: Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public, in violation of 147.55(3) and 645 IAC 209.2(3).
- Count II: Habitual intoxication or addiction to the use of drugs, in violation of Iowa Code section 147.55(4) and 645 IAC 209.2(6).
- Count III: Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority, in violation of Iowa Code section 147.55(9) and 645 IAC 209.2(7).
- Count IV: Conviction of a crime related to the practice of the profession, in violation of Iowa Code section 147.55(5) and 645 IAC 209.2(11).
- Count V: Having disciplinary action taken by a licensing authority of another state, in violation of Iowa Code section 147.55(9) and 645 IAC 209.2(13).

The hearing was held on June 14, 2013 at 9:05 a.m. in the Lucas State Office Building, fifth floor conference room, Des Moines, Iowa. Respondent failed to appear for hearing. The state was represented by Assistant Attorney General September Lau. The following Board members were present for the hearing: Denise Behrends, OT, Chairperson; Todd

Bradley, PT; Dr. Erin Hytrek, PT; Jenifer Furness, OT; Bradley Earp, PT; Morris Blankespoor and Jaclyn Fleming, public members. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1)(2013), and was recorded by a certified court reporter. After hearing all the evidence and examining the exhibits, the Board convened in closed session, pursuant to Iowa Code section 21.5(1)(f)(2013), to deliberate its decision. The administrative law judge was instructed to prepare the Board's written decision, in accordance with its deliberations.

THE RECORD

The record includes the testimony of Jerry Viers and State Exhibits 1-14 (See Exhibit Index for description; Exhibit 14 is the Affidavit of Attempt to Serve)

FINDINGS OF FACT

1. On March 3, 2010, Respondent Lisa Halvorsen was issued Iowa license 002034 to practice as an occupational therapist. Respondent's Iowa license expired on August 15, 2012 and is currently inactive. (Exhibits 2; 3, p. 11; 13)
2. On September 21, 2010, the Board received a complaint regarding Respondent from TruStaff Travel Nurses, LLC of Cincinnati, Ohio. TruStaff had hired Respondent to work as a home health occupational therapist at the Ottumwa Regional Health Center in Iowa. TruStaff reported that it terminated Respondent's employment after medication went missing from one of her patient's homes, and Respondent failed a drug screen. The Board referred this complaint to the Department of Inspections and Appeals (DIA) for investigation. The DIA investigator conducted interviews and obtained a copy of the laboratory report from Respondent's drug screen. (Exhibit 3)

The investigation revealed that after the patient's hydrocodone went missing, drug screens were requested from all three employees who had access to the patient. The patient suspected that Respondent had taken the medication because Respondent had been venturing into different parts of the patient's home without permission. Respondent was the only employee that tested positive for opiates on the drug screen. Respondent also tested positive for marijuana, benzodiazepines, and cocaine metabolites. Respondent was unable to provide valid prescriptions for any of these

drugs, and her employment was terminated on August 11, 2010. (Testimony of Jerry Viers; Exhibit 3, Exhibit 6, pp. 35-37, Exhibit 10)

DIA Investigator Jerry Viers interviewed Respondent by telephone on June 26, 2012. During this interview, Respondent denied taking the patient's medications but admitted testing positive for opiates. She told the investigator that she was a recovering alcoholic and that she had been prescribed opiates by a physician. When the prescription ran out, Respondent started purchasing the substances "from the street." Respondent admitted that she was addicted to these substances. Respondent told the investigator that she wants to retain her Iowa licensure, but she was not currently working as an occupational therapist because she wanted to concentrate on her recovery from addictions. (Testimony of Jerry Viers; Exhibit 6, p. 36)

3. On May 24, 2012, the Board received a second complaint against Respondent, which alleged "CPR Card Fraud." The complaint also stated that Respondent was on parole for prescription forgery. (Exhibit 4) This complaint was filed by a national company that had hired Respondent to provide occupational therapy to its clients. The position required Respondent to have CPR certification. Respondent reported that she had taken the course and was waiting for her CPR card. Respondent later submitted a "letter of certification" for the CPR course, which appeared to be a forgery. Upon investigation, the employer learned that the CPR course that Respondent claimed to have attended did not exist.

Respondent admitted forging the CPR document when she was interviewed by a detective with the Sauk County, Wisconsin Sheriff's Department. She later made the same admission to the DIA investigator. Respondent told the DIA investigator that her family was struggling financially at the time, and she did not have the money to obtain the CPR certification. (Testimony of Jerry Viers; Exhibit 6, pp. 33-36; Exhibit 7)

4. On January 18, 2012, Respondent was convicted in Cerro Gordo District Court of Prohibited Acts, which is a Class C felony. According to the court documents, a nurse practitioner had given Respondent a prescription for 40 tablets of the prescription pain medication Percocet to treat an elbow joint problem. When Respondent presented the prescription to be filled by a pharmacy, it stated that it was for 140 tablets. It appeared to the pharmacist that someone had added the number "1" before the "40." The pharmacist contacted the prescriber to verify the prescription and was told that it had been written for only 40 tablets. Respondent was criminally charged and later pled

guilty to Prohibited Acts. Respondent received a deferred judgment and was placed on probation for a period of three years. (Testimony of Jerry Viers; Exhibits 8, 9)

5. On October 30, 2012, the state of Wisconsin Occupational Therapists Affiliated Credentialing Board issued a Final Decision and Order to Respondent. In the Final Decision, the Wisconsin Board accepted a Stipulation that was signed by Respondent and which surrendered her license to practice occupational therapy. The Wisconsin Board's Final Decision and Order found that Respondent had engaged in unprofessional conduct based on the following:

- Respondent's positive drug screen on August 5, 2010 after her patient's medication was found to be missing;
- While working as an occupational therapist in Beloit, Wisconsin during the winter and spring of 2011, Respondent administered prescription pain medications (oxycodone and hydrocodone) obtained from outside pharmacies to a resident of a rehabilitation center. This was done at the request of the patient and in violation of the center's policies. When the same patient later reported that 30-35 oxycodone pills were missing from her purse, Respondent denied any knowledge of the patient's oxycodone and hydrocodone medications and denied seeing, administering, or stealing the medications. The interviewer for the facility noted that at the time of her interview, Respondent's body movements were jerky and her pupils appeared to be "pin-points," both of which are evidence of opioid use;
- Respondent's two convictions for operating a motor vehicle while under the influence of an intoxicant and her admission that she is a recovering alcoholic and is in treatment for substance dependence;
- Respondent's felony conviction in Cerro Gordo County based on her presentation of an altered prescription for an oxycodone product;
- Respondent's creation and submission of a false CPR certificate to an agency as part of an effort to obtain employment as an occupational therapist; and
- Respondent's October 3, 2012 arrest in Baraboo, Wisconsin for driving while suspended. At the time of her arrest, Respondent was in possession of marijuana and hydrocodone and morphine products, some of which were in unlabeled prescription bottles and others were in an unlabeled plastic bag.

(Testimony of Jerry Viers; Exhibit 12)

6. On December 27, 2012, the original Notice of Hearing and Statement of Charges was mailed to Respondent by certified mail and first class mail at her last known address on file with the Board. The hearing date was continued after the certified notice was returned to the Board as unclaimed. Board staff conducted an online search but was unable to locate a more current address for Respondent in Wisconsin or in Iowa. The telephone number reported to the Board by Respondent had been disconnected. An Amended Notice of Hearing and Statement of Charges was issued scheduling the hearing for June 14, 2013 at 9:00 a.m. On March 4, 2013, this amended notice was published in the Des Moines Register on March 7, March 14, and March 21, 2013. It was also sent to Respondent by certified mail and first class mail at her last address of record with the Board. (Exhibits 1, 2, 14)

CONCLUSIONS OF LAW

Count I

A license to practice a profession shall be revoked, suspended or otherwise disciplined for knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.¹ The preponderance of the evidence established that Respondent made misleading, deceptive, untrue and fraudulent representations, in violation of Iowa Code section 147.55(3) and 645 IAC 209.2(3), when she submitted a forged document falsely stating that she had completed a CPR course and when she tested positive for a controlled substance medication that was missing from her patient's medication supply.

Count II

A license to practice a profession shall be revoked, suspended or otherwise disciplined for habitual intoxication or addiction to the use of drugs.² The preponderance of the evidence, including Respondent's own admissions and her positive drug screen, established that she is addicted to the use of drugs, in violation of Iowa Code section 147.55(4) and 645 IAC 209.2(6).

¹ Iowa Code sections 147.55(3)(2011); 645 IAC 209.2(3).

² Iowa Code sections 147.55(4) (2011); 645 IAC 209.2(6).

Count III

The Board may impose any of the disciplinary sanctions provided in rule 645 IAC 209.3 when the Board determines that the licensee has obtained, possessed, attempted to obtain or possess, or administered controlled substances without lawful authority.³ The preponderance of the evidence established that Respondent violated Iowa Code section 147.55(9) and 645 IAC 209.2(7) when she tested positive for various controlled substances for which she did not have a valid prescription, when she tested positive for the same controlled substance medication that was missing from her patient's medication supply, and when she altered or forged a prescription for a controlled substance.

Count IV

A license to practice a profession shall be revoked, suspended or otherwise disciplined for conviction of a crime related to the profession or occupation of the licensee or for the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.⁴ The preponderance of the evidence established that Respondent violated Iowa Code section 147.55(5) and 645 IAC 209.2(11) when she was convicted of Prohibited Acts, a class C felony, for altering/forging a prescription to obtain Percocet. This type of conviction is related to the practice of an occupational therapist who works in health care settings with access to prescription medications.

Count V

A license to practice a profession shall be revoked, suspended or otherwise disciplined for having disciplinary action taken by another state.⁵ The preponderance of the evidence established that Respondent violated Iowa Code section 147.55(9) and 645 IAC 209.2(13) when the Wisconsin Board issued a Final Decision and Order accepting the surrender of her Wisconsin license based on multiple findings of unprofessional conduct.

³ Iowa Code sections 147.55(9)(2011); 645 IAC 209.2(7).

⁴ Iowa Code sections 147.55(5) (2011); 645 IAC 209.2(11).

⁵ Iowa Code sections 147.55(9) (2011); 645 IAC 209.2(13).

DECISION AND ORDER

License revocation is warranted by the number and nature of Respondent's violations. IT IS THEREFORE ORDERED that Iowa License Number 002034, issued to Respondent Lisa Halvorsen to practice occupational therapy, is hereby REVOKED, effective immediately upon service of this Decision and Order.

IT IS FURTHER ORDERED that Respondent shall immediately return her inactive license to the Board office. Any future request for license reinstatement will be subject to the requirements of 645 IAC 11.31. The burden will be on Respondent to show that the basis for the revocation no longer exists and that it is in the public interest for her license to be reinstated.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6, that Respondent Lisa Halvorsen shall pay \$75.00 for fees associated with the disciplinary hearing and \$41.25 for the court reporter fees. The total fees of \$116.25 shall be paid within thirty (30) days of receipt of this decision.

Dated this 2nd day of July, 2013.



Denise Behrends, OT
Chairperson
Iowa Board of Physical and Occupational Therapy

Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action, unless, within 15 days after the date of notification or mailing of this decision, a motion to vacate is filed and served on all parties or an appeal of the decision on the merits is timely initiated. A motion to vacate shall state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact attached to the motion. 645 IAC 11.21(3). The time for further appeal of a decision for which a timely

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motion to vacate has been filed is stayed pending a decision on the motion to vacate. 645 IAC 11.21(4).

Pursuant to Iowa Code section 17A.19(2013) and 645 IAC 11.29, any appeal to the district court from a decision in a contested case shall be taken within 30 days from the issuance of the decision by the board. The appealing party shall pay the full costs for the transcript of the hearing. 645 IAC 11.23.

cc: September Lau, Assistant Attorney General