BEFORE THE IOWA BOARD OF PHYSICAL AND OCCUPATIONAL THERAPY

IN THE MATTER OF:	)	CASE NUMBER: 12-006
	)	
Carol Barinsky	)	**MOTION TO DISMISS**
	)	
Respondent.	)	

COMES NOW the State of Iowa, by and through the undersigned, and hereby moves that the Board dismiss the charges currently on file against Respondent Carol Barinsky. In support of said motion, the State states as follows:

1. The Respondent is licensed to practice as an occupational therapy assistant and holds license number 00579. That license is active and will expire on February 15, 2014.

2. A Notice of Hearing and Statement of Charges was issued against Respondent on September 28, 2012, setting a hearing date of December 21, 2012. [Attached as Exhibit A].

3. Count I of the Statement of Charges charged Respondent under 645 IAC 209.2(22) with failure to submit the report of continuing education required by 645 IAC 4.11(1) within 30 days of audit.

4. Count II of the Statement of Charges charged Respondent under 645 IAC 209.2(22) with submission of a false report of continuing education.

5. Subsequent to the issuance of the Statement of Charges, Respondent submitted certificates of completion that demonstrated she timely completed all of her continuing education requirements. [Attached as Exhibit B]. Because settlement appeared likely, hearing in this matter was continued pursuant to a request made by the State.

6. The State has been unable to reach Respondent for the purposes of settlement. The hearing has never been rescheduled.

7. The certificates of completion provided by Respondent indicate that Respondent did not make any misrepresentations on her renewal application. It is therefore appropriate to dismiss Count II of the Statement of Charges.

8. Although failure to timely respond to a Board audit is grounds for discipline, the State does not feel this alleged violation warrants setting this matter for hearing. The State also requests, therefore, that the Board dismiss Count I of the Statement of Charges, without prejudice, and with the understanding that the Board may communicate informally and confidentially with Respondent regarding the factual circumstances undergirding Count I should the Board feel such communication is appropriate.

WHEREFORE, the State respectfully requests that Count II of the Statement of Charges issued against Respondent be dismissed. The State also requests that Count I of the Statement of Charges be dismissed without prejudice. If the Board does not dismiss either count pursuant to this request, the State respectfully requests the Board reset this matter for hearing.

Respectfully submitted,

THOMAS J. MILLER
Attorney General of Iowa

SEPTEMBER LAU
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa 50319
Tele: (515) 281-7175
E-mail: September.Lau@iowa.gov
ATTORNEY FOR THE STATE

Copy to:

Carol Barinsky
PO Box 473
Akron, IA 51001

Carol Barinsky
651 Reed Street
Akron, IA 51001

PROOF OF SERVICE
The undersigned hereby certifies that a true copy of the foregoing was
___ Personally Delivered ___ Electronically
X Mailed ___ Overnight Courier
___ Sent Via Telefax ___ Other
to each party of record at their last known address
on October 17 20 13