

<b>IN THE MATTER OF</b>	*	<b>BEFORE THE</b>
<b>KIMBERLY L. LOCATI-BOUCHER, OTR/L</b>	*	<b>MARYLAND STATE</b>
<b>License No. 02797</b>	*	<b>BOARD OF OCCUPATIONAL</b>
<b>Respondent</b>	*	<b>THERAPY PRACTICE</b>

\* \* \* \* \*

**CONSENT ORDER**

**PROCEDURAL BACKGROUND**

On or about December 8, 2005, the Maryland State Board of Occupational Therapy Practice (the "Board") charged **KIMBERLY LOCATI-BOUCHER, OTR/L** (the "Respondent"), License No. 02797 with violating certain provisions of the Maryland Occupational Therapy Practice Act ("the Act"), codified at Md. Health Occ. ("H.O.") Code Ann. §§ 10-101 *et seq.* (2000 Repl. Vol. and 2004 Supp.)

Specifically, the Board charged the Respondent with violating the following provisions of § 10-315 of the Act:

Subject to the hearing provisions 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 a license or temporary license if the applicant, licensee, or holder:

- (2) Fraudulently or deceptively uses a license or temporary license;
- (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; [and]
- (12) Submits a false statement to collect a fee.

The Board charged the Respondent with violating the following regulations:

Code Md. Regs. ("COMAR") tit. 10 § 46.02.01, "Standards of Practice."

C. The licensee may not:

- (4) Use, or participate in the use of, a form of communication that contains or implies a:

\* \* \* \*

- (b) False, fraudulent, misleading, deceptive, or unfair statement or claim.

### **BACKGROUND**

On Friday, October 20, 2006, the Respondent appeared before the Case Resolution Conference Committee (the "CRC") of the Board. As a result of the negotiations that occurred at the CRC, the Respondent agreed to enter into this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law and Order, with the terms and conditions set forth below.

### **FINDINGS OF FACT**

The Board finds the following:

1. The Respondent is licensed to practice occupational therapy in the State of Maryland, currently possessing License Number 02797.
2. At all times relevant herein, the Respondent was resident manager of a professional staffing agency that contracted with Nursing Home A<sup>1</sup> in Baltimore, Maryland to provide professional health care services, including physical therapy and

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<sup>1</sup> The name of the nursing home and the physical therapist assistant identified herein are confidential. The Respondent may obtain the names by contacting the administrative prosecutor.

occupational therapy to Nursing Home A's residents. The Respondent's title is Vice-President of Operations.

3. The Respondent employed Physical Therapist Assistant A to provide limited physical therapy at the Rehab Department of Nursing Home A pursuant to a contract between the nursing home and the staffing agency. Physical Therapist Assistant A is now deceased.
4. Physical Therapy Assistant A's license to practice limited physical therapy in the State of Maryland was issued in 2002, and expired on May 31, 2004, without Physical Therapist Assistant A having the necessary continuing education credits to renew her license. Thus, Physical Therapist Assistant A failed to renew her license before it expired on May 31, 2004. Despite this, Physical Therapist Assistant A continued to treat patients at Nursing Home A after her license had expired. Specifically, between June 28, 2004, and July 14, 2004, Physical Therapist Assistant A treated sixteen (16) patients at Nursing Home A.
5. On or about June 28, 2004, the Rehab Director at Nursing Home A in the normal course of her duties contacted the Respondent to obtain a copy of Physical Therapy Assistant A's license. A copy of the license was needed to post in the nursing home along with the other professional health licenses. The Respondent informed the Rehab Director that she would forward a copy of the license to the nursing home as soon as possible.
6. After not receiving the license copy for several days, the Rehab Director at Nursing Home A again contacted the Respondent to request a copy of Physical Therapist

Assistant A's license. She also asked Physical Therapy Assistant A to provide the original of her license to the nursing home. The Respondent informed the Rehab Director that she would forward a copy of the license in question to the nursing home as soon as possible.

7. Physical Therapy Assistant A informed the Rehab Director that she had lost the original license and would obtain a replacement original of her license from the Board of Physical Therapy Examiners to give to Nursing Home A.
8. During approximately eight to ten telephone conversations with the Rehab Director of Nursing Home A in July 2004, the Respondent represented that Physical Therapy Assistant A was licensed to practice limited physical therapy and that the Respondent had verbally verified that Physical Therapy Assistant A's license was current.
9. In or about July 2004, Physical Therapy Assistant A informed the Rehab Director at Nursing Home A that she needed to provide the Board of Physical Therapy Examiners with certificates verifying continuing education credits in order to renew her license, and later stated that she did not have the money to renew her license. In the meantime, the Respondent continued to reassure the Rehab Director that Physical Therapy Assistant A was licensed to practice in the State of Maryland and that the Respondent would fax the nursing home a copy of Physical Therapist Assistant A's license.
10. On or about July 13, 2004, Physical Therapist Assistant A appeared at the offices of the Board of Physical Therapy Examiners and met with the Board of Physical

Therapy Examiners' Licensing Coordinator. The Licensing Coordinator informed Physical Therapist Assistant A that her license had expired, and she should immediately cease treating patients. This was not disclosed to the Respondent at that time. Physical Therapist Assistant A returned to Nursing Home A on July 14, 2004, and continued to treat patients.

11. After failing to receive a copy of the license from the Respondent or Physical Therapy Assistant A, on or about July 14, 2004, the Rehab Director at Nursing Home A contacted the Board of Physical Therapy Examiners to learn that Physical Therapist Assistant A's license had expired on May 31, 2004.
12. Nursing Home A was reimbursed \$3,005.06 by the staffing agency employing Physical Therapist Assistant A based on the treatment rendered by her during the period she had no current license.
13. On or about September 14, 2004, Physical Therapist Assistant A, being duly sworn, was interviewed by a Health Occupations Board investigator. Physical Therapist Assistant A admitted under oath that her PTA license expired on May 31, 2004, and that she treated patients after that date.

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated Md. Health Occ. Code Ann. § 10-312(2), (4), and (12).

### **ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 16<sup>th</sup>,  
day of February, 2007, by a majority of the Board considering this case:

**ORDERED** that the Respondent's license to practice occupational therapy shall be **SUSPENDED** for a **PERIOD OF SIX (6) MONTHS**, effective November 17, 2006; and be it further

**ORDERED** that the entire period of the suspension shall be **IMMEDIATELY STAYED**, effective November 17, 2006; and be it further

**ORDERED** that the Respondent shall be placed on **PROBATION** for a **PERIOD OF TWO (2) YEARS**, effective November 17, 2006, subject to the following terms and conditions:

1. The Respondent shall submit documentation of a human resources professional development tracking plan to the Board. The plan shall set forth a strategy to track the expiration and renewal dates of all professional health licenses issued to employees and/or contractors of the staffing agency. The Board reserves the right to reject the plan and to request additional information regarding the plan. The Respondent, provided that she is employed by the staffing agency, shall be responsible for responding promptly to the Board's inquiries about the plan's implementation.
2. The Respondent shall enroll in and successfully complete a Board-approved ethics course within the first year of the probationary period. The Respondent shall submit the course description and/or syllabus of the course to the Board prior to enrolling in the course. The Board reserves the right to reject the course submitted for fulfillment of this condition, and may request additional information regarding the course. The Respondent shall submit written verification to the Board of course completion within **ten (10) business days** after completing the course. The course work shall be in addition to any continuing education requirements for Board licensure; and
3. The Respondent shall take and successfully complete with a passing score as established by the Board the Board's jurisprudence examination within the first year of the probationary period.

**ORDERED** the above course shall be in addition to any Continuing Education requirements mandated for continuing licensure, and the Continuing Education shall not

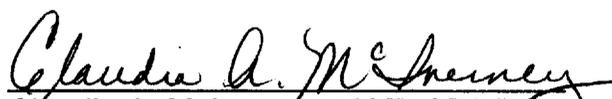
count toward fulfilling other continuing education requirements that the Respondent must fulfill in order to renew her license to practice occupational therapy; and be it further

**ORDERED** after the conclusion of the entire **TWO (2) YEAR** period of **PROBATION**, the Respondent may file a written petition for termination of her probationary status without further conditions or restrictions, provided the Respondent has satisfactorily complied with all conditions of this Consent Order, including all terms and conditions of probation, and provided there are no pending complaints regarding the Respondent before the Board; and be it further

**ORDERED** that should the Respondent violate any of the terms or conditions of this Consent Order, the Board, after notice, opportunity for a hearing and determination of violation may impose any other disciplinary sanctions it deems appropriate, including suspension or revocation, provided said violation having been proven by a preponderance of the evidence; and be it further

**ORDERED** that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and be it further

**ORDERED** that this Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. §§ 10-611 et seq. (2004 Repl. Vol.).

  
Claudia A. McInerney, MOT, OTR/L  
Board Chairperson

**CONSENT OF KIMBERLY BOUCHER, OTR/L**

hereto, acknowledge that:

1. I am represented by counsel and have reviewed this Consent Order with my attorney.

2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 10-316 and Md. St. Gov't Code Ann. §§ 10-201 *et seq.*

3. I acknowledge the validity and enforceability of this Consent Order as if entered after a formal evidentiary hearing in which I would have the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other procedural and substantive protections to which I am entitled by law. I am waiving those procedural and substantive protections.

4. I voluntarily enter into the foregoing Findings of Fact, Conclusions of Law and Order and agree to abide by the terms and conditions set-forth herein as a resolution of the Charges against me. I waive any right to contest the Findings of Fact and Conclusions of Law, and I waive my right to a full evidentiary hearing, as set forth above, and any right to appeal this Consent Order or any adverse ruling of the Board that might have followed any such hearing.

5. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, I may be subject to disciplinary actions, which may include revocation of my license to practice occupational therapy.

6. I sign this Consent Order voluntarily, without reservation, and I fully

02/06/07  
Date

[Signature]  
Kimberly Boucher, OTR/L

**STATE OF MARYLAND**

**CITY/COUNTY OF** Baltimore :

I HEREBY CERTIFY that on this 6 day of February, 2007, before me, Liuba Khodab a Notary Public of the foregoing State and (City/County),  
(Print Name)  
personally appeared Kimberly Boucher, OTR/L License Number 02797, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Liuba Khodab  
Notary Public

My Commission Expires:

