

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF OCCUPATIONAL THERAPY**

IN THE MATTER OF: :
 :
CHIZARRA DASHIELL :
 :
Applicant for License :
 :
Respondent :

DECISION AND ORDER

Jurisdiction

This matter comes before the District of Columbia Board of Occupational Therapy (“Board”) pursuant to D.C. Official Code § 3-1201.01 *et seq.* (2012 Repl.), otherwise known as the Health Occupations Revision Act (the “HORA”). The HORA authorizes the Board to regulate the practice of occupational therapy in the District of Columbia, D.C. Official Code 3-1202.06(b), and conduct hearings necessary to carry out its functions. D.C. Official Code § 3-1204.08(8).

Background

On December 16, 2014, the Board issued a Notice of Intent to Deny (NOI) Respondent’s pending application for an Occupational Therapy Assistant license. The NOI charged the Respondent as follows:

- I. Fraudulently or deceptively attempting to obtain a license, registration, or certification in violation of D.C. Official Code § 3-1205.14(a)(2).**

- II. Practicing as an occupational therapy assistant without a license in violation of D.C. Official Code § 3-1205.01(a) and § 3-1205.14(a)(24).**

III. Using the terms “occupational therapist” and “occupational therapy assistant” without authorization in violation of D.C. Official Code § 3-1210.02, § 3-1210.03(i) and (j) and § 3-1205.14(a)(24).

IV. Failing to conform to standards of acceptable conduct and prevailing practice within a health profession in violation of D.C. Official Code § 3-1205.14(a)(26).

The Respondent submitted a timely request for a hearing, which was then scheduled for June 15, 2015. The Respondent requested a continuance due to an unspecified emergency on June 12, 2015. The Government did not oppose the continuance. Therefore, the continuance request was granted and the hearing rescheduled to September 21, 2015. On the date of the hearing, the Government was represented by Assistant Attorney General Louise Phillips; however, the Respondent failed to appear and had not submitted a request for continuance or provided any explanation. The Board proceeded with the hearing in Respondent’s absence to receive evidence and hear testimony in accordance with 17 DCMR § 4103.2.

Evidence

The Board entered the following into evidence:

- 1) **Board Exhibit A:** The Notice of Intent to Deny dated December 16, 2014.
- 2) **Government Exhibit 1:** The Respondent’s New License Application dated September 13, 2013 (“2013 Application”).
- 3) **Government Exhibit 2:** The Respondent’s New License Application dated October 11, 2011 (“2011 Application”).
- 4) **Government Exhibit 3:** Complaint Form from Sharon Burns, undated but received by the Department of Health (DOH) on or about September 25, 2012 (“2012 Complaint”).

- 5) **Government Exhibit 4:** Complaint Form from Zena Warren dated December 5, 2013 (“2013 Complaint”).
- 6) **Government Exhibit 5:** The Respondent’s criminal record showing the following:
 - a. Respondent had been arrested and charged in Baltimore County, MD, with obstructing and hindering on October 4, 2000;
 - b. Respondent had been arrested and charged in Baltimore County, MD, with theft (less than \$500) on January 19, 2001;
 - c. Respondent had been arrested and charged in Baltimore County, MD, with fraud involving personal information and credit card on May 9, 2002;
 - d. Respondent had been arrested and charged in Baltimore County, MD, with possession of marijuana on October 16, 2003.

Findings of Fact

The District of Columbia Municipal Regulations (DCMR) provides that the government bears the burden of proof by a preponderance of the evidence in a hearing on a disciplinary action under the HORA. 17 DCMR § 4115.1. Based on the evidence submitted by the government, the Board finds that it has met its burden of proof and hereby makes the following findings of fact:

- 1) At all times relevant, the Respondent was not licensed to practice as an occupational therapy assistant in the District of Columbia.¹
- 2) On or about October 11, 2011, Respondent submitted an application for an occupational therapy assistant license. The Respondent answered “No” to Question B under Section 7, which asked, “Have you ever been convicted or investigated of a

¹ *Hearing Transcript in the Matter of Chizarra Dashiell*, September 21, 2015 (“*Transcript*”) at P. 15 Ln. 14 – 19.

crime or misdemeanor (other than minor traffic violations) not previously reported to the Board?”²

- 3) Respondent was required to submit her fingerprints for a criminal background check (CBC). Information received from Respondent’s CBC indicated that she was arrested and/or charged in Baltimore County, MD for:
 - a. Obstructing and Hindering on October 4, 2000;³
 - b. Theft: Less Than \$500.00 Value on January 19, 2001;⁴
 - c. Fraud – Personal Identifying Information Theft and Credit Card Crimes on May 9, 2002;⁵ and
 - d. Possession of a Controlled Dangerous Substance (Marijuana) on October 16, 2003.⁶
- 4) Respondent was convicted on January 23, 2003 of unlawful use of payment device and on November 30, 2004 of marijuana possession.
- 5) The Respondent’s 2011 application was closed due to the Respondent’s failure to meet all the requirements of the application.⁷
- 6) On or about September 25, 2012, the Board received a complaint from Sharon Burns, OTR/L, who was employed as an Occupational Therapist (OT) at Friendship Public Charter Schools (“Friendship”). The complaint alleged that during the 2010-2011 school year, Respondent, who identified herself as a Certified Occupational Therapy Assistant/Licensed (COTA/L), had performed evaluations, assessments, and

² Govt. Exhibit 2 at p. 4.

³ Govt. Exhibit 5 at p. 1.

⁴ *Id.* at p. 2 – 4.

⁵ *Id.* at p. 5 – 11.

⁶ *Id.* at p. 12 –15.

⁷ *Transcript* at p. 12 ln. 10-11.

developed treatment plans, and written initial goals without evidence of an OT's input or co-signature.⁸ The complaint was submitted with numerous supporting evidence.

- 7) The Respondent practiced as an occupational therapist or occupational therapy assistant at Friendship schools in the District during the school year 2010 – 2011.⁹
- 8) During the period of the Respondent's work at Friendship from 2010 – 2011, the Respondent was not licensed to practice as an OT or OTA in the District.¹⁰
- 9) The Respondent submitted another OTA license application dated September 16, 2013.¹¹ The Respondent again answered "No" to Question B under Section 7, which asked, "Have you ever been convicted or investigated of a crime or misdemeanor (other than minor traffic violations) not previously reported to the Board?"¹²
- 10) While the 2013 Application was pending, the Board received a complaint, dated December 5, 2013, from Zena Warren, OTR/L, who was employed as the Clinical Manager of Occupational Therapy at Progressus Therapy, LLC ("Progressus").¹³ Progressus is a Florida-based contract company that provides OT services in several states including the District of Columbia.¹⁴ While Ms. Warren was assessing caseload complaints from Respondent, Ms. Warren learned of the Board's investigation into Respondent's unlicensed practice.¹⁵ After further inquiry it was discovered that Respondent was unlicensed and her employment was terminated.¹⁶ The complaint was submitted with numerous supporting documents.

⁸ Govt. Exhibit 3.

⁹ *Id.*

¹⁰ *Transcript* at p. 15 ln. 14 – 22.

¹¹ Govt. Exhibit 1.

¹² *Id.* at p. 4.

¹³ Govt. Exhibit 4.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

11) Respondent practiced as an unlicensed occupational therapist or occupational therapy assistant in District of Columbia from August 2013 to November 2013.¹⁷

Legal Analysis and Conclusions of Law

Based on the above fact-finding, the Board now concludes that the Respondent's conduct presents grounds for disciplinary action under the HORA and therefore subjects her to disciplinary action by the Board. The discussion below describes the legal analyses and conclusions with regard to the relevant grounds for disciplinary action based on the Respondent's conduct.

D.C. Official Code § 3-1205.14(a)(1) provides that a licensee may be subject to a disciplinary action by the Board, including denial of license, if the licensee or applicant has fraudulently or deceptively attempted to obtain a license, registration, or certification. Additionally, the Department of Health's New License Application for all health professionals seeking licensure, registration, or certification requires an applicant's attestation to the truth and accuracy of the information contained in the application.

Respondent stated in both her 2011 and 2013 applications that she had never been convicted of or investigated for a crime or misdemeanor other than minor traffic violations. However, court records reveal that Respondent had been charged in Baltimore County, Maryland with obstructing and hindering in 2000, theft in 2001, fraud in 2002, and possession of marijuana in 2003. Based on the credit card fraud charges in 2002, the Respondent was convicted of unlawful use of credit card and was sentenced to perform 120 hours of community service. The Respondent was also convicted of the 2003 marijuana possession and sentenced to a 12-month

¹⁷ Govt. Exhibits 3 and 5.

probation. Yet, with this criminal record, the Respondent answered “No” twice to the same question regarding her criminal history.

The Respondent has provided no explanation or justification for repeatedly failing to disclose criminal history information. The Board finds it difficult to dismiss the repeated willful non-disclosure of prior arrests and charges as unintentional and innocent. Accordingly, based on available evidence, the Board finds that Respondent has fraudulently and deceptively attempted to obtain a District occupational therapy assistant license and is **LIABLE as to Charge I** of the NOI.

D.C. Official Code §§ 3-1210.01 and 3-1205.01(a)(1) collectively prohibit an individual from practicing or attempting to practice as an occupational therapy assistant in the District of Columbia without a license. D.C. Official Code § 3-1205.14(a)(24) subjects a person to disciplinary action by the Board if she is found to be practicing without a license as required by the District of Columbia. Documents provided by both complainants reveal that Respondent provided services to students in the District of Columbia while being unlicensed and unauthorized to do so.

During the investigation, student records subpoenaed from Friendship show that Respondent provided services to approximately thirty students. Additionally, records provided by Ms. Burns in the 2012 Complaint included an OT assessment performed on a student at a Friendship school. Respondent’s name is under the signatory line and the assessment record indicates Respondent was the provider of services. Further, the import of the e-mail exchanges between Ms. Burns and Friendship staff provides ample evidence that the Respondent was employed throughout the 2010 – 2011 school year and was treating multiple students in the District of Columbia while unlicensed.

Based on the evidence, it is also clear that the Respondent began her work in the District well before she submitted her license application in November 2011. She did not complete her application and therefore she herself should be fully aware that she did not possess a license or authorization to practice on any given day or moment during the 2010 – 2011 school year. Yet she continued to practice and even identifying herself as a licensed OT and OTA in the District.¹⁸

Even after practicing without a license and supervision for the 2010 – 2011 school year, the Respondent demonstrated no hesitation to engage in the same behavior again a few years later. Based on the evidence, Respondent began working as an OTA in the District in August 2013, but her license application was not filed until September 19, 2013.¹⁹ Then, after her termination from Progressus, due to her unlicensed status, Respondent continued to pursue unlicensed practice by reaching out to District of Columbia Public Schools to provide makeup occupational therapy services.²⁰ Respondent's attempts to visit previously assigned schools to provide occupational therapy services eventually led to barring procedures.²¹ The evidence clearly demonstrates the Respondent's lack of appreciation for her violation of the law by practicing without a license. Accordingly, the Board finds that the Respondent is **LIABLE as to Charge II** of the NOI.

D.C. Official Code § 3-1210.02 provides that no individual shall represent herself to the public by title or description of services, unless such individual is authorized to practice the profession in the district. D.C. Official Code § 3-1210.03(i) and (j) provide that unless authorized to practice as an occupational therapist or an occupational therapist assistant in the District, an individual may not use the words or terms “occupational therapist”, “occupational

¹⁸ In fact, a person is licensed as either an OT or an OTA in the District. An OTA may practice only under the supervision of an OT. The evidence shows that the Respondent also failed to practice with any supervision at all.

¹⁹ Govt. Exhibit 2.

²⁰ Govt Exhibit 4.

²¹ *Id.*

therapy assistant”, “O.T.”, “C.OT.A.L.” or any similar title or description of services. As established above, at no time was the Respondent ever licensed by the District. A student assessment provided in the 2012 Complaint lists Respondent’s name followed by “COTA/L” under the signatory line.²² The Board also acknowledges that District of Columbia Public School emails included in the 2013 Complaint list Respondent’s electronic signature as “Chizarra Dashiell OTA, BS/MS”.²³ Records obtained from the Board investigation revealed that Respondent had purposely identified herself as an Occupational Therapist Assistant (COTA/L) or Occupational Therapist on her own accord. Specifically the Board found on five separate occasions, Respondent wrote “Occupational Therapist” in connection with her signature when participating in Multidisciplinary Team Meetings and when attending Individualized Education Programs.²⁴ Accordingly, the Board finds that the Respondent is **LIABLE as to Charge III** of the NOI.

D.C. Official Code § 3-1205.14(a)(26) provides that the Board may take disciplinary action against a licensee or applicant who fails to conform to the standard of acceptable conduct and prevailing practice within the health profession. Although the record clearly establishes that Respondent deceptively attempted to obtain a license, practiced without a license, and used the terms OT and OTA without a license, no evidence or argument was presented during the hearing to establish that the Respondent failed to conform to the standard of acceptable conduct. Without clear evidence on the record or direct testimony as to the acceptable standard of conduct and prevailing practice within a health profession, the finds that the Respondent is **NOT LIABLE as to Charge IV** of the NOI.

²² Govt. Exhibit 3 at 8.

²³ Govt. Exhibit 4, p. 17 – 18.

²⁴ Board Exhibit 1, p. 3 – 4.

Pursuant to D.C. Official Code § 3-1205.14(c), upon determination by the Board that a licensee or applicant has committed any of the acts described above, the board may:

- (1) Deny a license to any Respondent;
- (2) Revoke or suspend the license of any licensee;
- (3) Revoke or suspend the privilege to practice in the District of any person permitted by this subchapter to practice in the District;
- (4) Reprimand any licensee or person permitted by this subchapter to practice in the District;
- (5) Impose a civil fine not to exceed \$5,000 for each violation by any Respondent, licensee, or person permitted by this subchapter to practice in the District;
- (6) Require a course of remediation, approved by the board, which may include:
 - (A) Therapy or treatment;
 - (B) Retraining; and
 - (C) Reexamination, in the discretion of and in the manner prescribed by the board, after the completion of the course of remediation;
- (7) Require a period of probation; or
- (8) Issue a cease and desist order pursuant to § 3-1205.16.

Based on the foregoing findings of fact, the Board hereby concludes as a matter of law that the Respondent is liable for convictions of D.C. Official Code §§ 3-1205.14(a)(1), (24), 3-1205.01(a), 3-1201.01, 3-1210.02, 3-1203.03(i) and (j) as charged, and that disciplinary action is in accordance with D.C. Official Code § 3-1205.14(c).

ORDER

Based upon the aforementioned it is hereby **ORDERED** that the application for license of **CHIZARRA DASHIELL**, shall be and is hereby **DENIED**, effective as of the date of service of this Order; and it is further

ORDERED that, should the Respondent seeks a license or authorization to practice as an OT or OTA in the District in the future, she may be granted license only if the following conditions are met:

- 1) The Respondent remits a fine in the amount of **FIVE THOUSAND DOLLARS (\$5,000)**, payable by check or money order to “D.C. Treasurer,” with such check or money order

to be sent to the Executive Director, Board of Occupational Therapy, 899 N. Capitol Street, N.E.,
2nd Floor, Washington, D.C. 20002;

2) The Respondent attends a meeting with the Board to discuss her practice of occupational therapy as either an OT or OTA and respond to questions from the Board concerning the matter that gave rise to this proceeding;

3) The Board is satisfied based on the meeting and other relevant information or evidence that the Respondent understands her obligations to the patients as well as the scope of her authorized practice and will strictly adhere to license requirements; and

4) If the Board agrees to approve Respondent's license, the Respondent agrees to practice under the supervision of an occupational therapist licensed in good standing in the District, provided further that the supervising occupational therapist shall first obtain the approval of the Board for the supervision.

11/26/2015
Date



Frank E. Gainer, MHS, OTR/L FAOTA
Chairperson
Board of Occupational Therapy

Judicial and Administrative Review
of Actions of Board

Pursuant to D.C. Official Code § 3-1205.20 (2012 Repl.):

Any person aggrieved by a final decision of a board or the Mayor may appeal the decision to the **District of Columbia Court of Appeals** pursuant to D.C. Official Code § 2-510 (2012 Repl.).

Pursuant to D.C. Court of Appeals Rule 15(a):

Review of orders and decision of an agency shall be obtained by filing with the clerk of this court a petition for review within thirty (30) days after the notice is given.

This Order is the Final Order of the Board in this disciplinary matter and a public record and, as mandated by federal law, 42 USC § 11101 and 45 CFR § 60, “the National Practitioner Data Bank – Health Integrity and Protection Data Bank,” this disciplinary action shall be reported to the U.S. Department of Health and Human Services.

Copies to:

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