

IN AND BEFORE THE OKLAHOMA STATE BOARD
OF MEDICAL LICENSURE AND SUPERVISION
STATE OF OKLAHOMA

FILED

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)

APR 01 2004

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

v.)

Case No. 03-12-2747

JANICE CAROL MILLER-BUCKLEY, OTA,)
LICENSE NO. OA599)

Defendant.)

FINAL ORDER OF SUSPENSION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on March 25, 2004, at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Elizabeth A. Scott, Assistant Attorney General, appeared for the plaintiff and defendant appeared in person and pro se.

The Board *en banc* after hearing arguments of counsel, reviewing the exhibits admitted and the sworn testimony of witnesses, and being fully advised in the premises, found that there is clear and convincing evidence to support the following Findings of Fact, Conclusions of Law and Orders:

Findings of Fact

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities occupational therapy assistants in the State of Oklahoma pursuant to 59 O.S. §§ 480 *et seq.* and 888.1 *et seq.*

2. The Board has jurisdiction over this matter, and notice has been given in all respects in accordance with law and the rules of the Board.

3. Defendant, Janice Carol Miller-Buckley, OTA, holds occupational therapy assistant license no. OA599 in the State of Oklahoma.

4. On or about November 6, 2003, Defendant was working as an occupational therapy assistant at Noble Health Care Center in Noble, Oklahoma. On this date, she was assigned to perform a recertification evaluation on Patient HDW. According to her billing records and documentation submitted to her employer, Rehab Source, she performed the recertification evaluation on November 6, 2003. However, on November 7, 2003, an administrator from Noble Health Care Center contacted Rehab Source and advised them that Patient HDW was not at the facility on November 6, 2003, as she had been transferred to Norman Regional Hospital on November 5, 2003 and had died at the hospital on November 5, 2003. When confronted by Rehab Source, Defendant admitted that she had not performed the recertification evaluation and that she had in fact falsified the patient's chart. Rehab Source subsequently terminated Defendant based upon falsification of patient records and billing fraud.

5. Based on the allegations stated above, Defendant is guilty of unprofessional conduct as follows:

- A. Violated any lawful order, rule, or regulation rendered or adopted by the Board in violation of 59 O.S. §888.9(A)(4).
- B. Engaged in unprofessional conduct as defined by the rules established by the Board, or violating the Code of Ethics adopted and published by the Board in violation of 59 O.S. §888.9(A)(2) as follows:
 - (1) Has conducted herself in a manner considered improper by recognized acceptable standards of moral and ethical conduct as determined by the Board in violation of OAC 435:30-1-10(6).

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, the Occupational Therapy Practice Act, and the applicable regulations. The Board is authorized to enforce these acts as necessary to protect the public health, safety and welfare.

2. Defendant is guilty of unprofessional conduct as follows:

- A. Violated any lawful order, rule, or regulation rendered or adopted by the Board in violation of 59 O.S. §888.9(A)(4).

B. Engaged in unprofessional conduct as defined by the rules established by the Board, or violating the Code of Ethics adopted and published by the Board in violation of 59 O.S. §888.9(A)(2) as follows:

(1) Has conducted herself in a manner considered improper by recognized acceptable standards of moral and ethical conduct as determined by the Board in violation of OAC 435:30-1-10(6).

3. The Board further found that the Defendant's license should be suspended based upon any or all of the violations of the unprofessional conduct provisions of 59 O.S. §888.9(A)(2) and (4), and OAC 435:30-1-10(6).

Order

IT IS THEREFORE ORDERED by the Oklahoma State Board of Medical Licensure and Supervision as follows:

1. The license of Defendant, Janice Carol Miller-Buckley, OTA, Oklahoma license no. OA599, is hereby **SUSPENDED** as of the date of this hearing, March 25, 2004 for a period of three (3) months.

2. At the conclusion of the term of suspension, Defendant shall be placed on **PROBATION** for a period of one (1) year under the following terms and conditions:

A. Defendant will conduct Defendant's practice in compliance with the Oklahoma Occupational Therapy Practice Act as interpreted by the Board. Any question of interpretation regarding the Act or this Order shall be submitted in writing to the Board, and no action based on the subject of the question will be taken by Defendant until clarification of interpretation is received by Defendant from the Board.

B. Defendant will furnish a copy of this agreement to each and every state in which she holds licensure and to each and every hospital, clinic or other facility in which she holds or anticipates holding any form of staff privileges.

C. Defendant will practice under direct on-site supervision as defined in OAC 435:30-1-2 et seq. during the entire term of probation.

D. Defendant will keep the Board informed of her current address.

E. Defendant will keep current payment of all assessments by the Board for the investigation and monitoring of her case.

F. Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

G. Defendant shall make herself available for one or more personal appearances before the Board or its designee upon request.

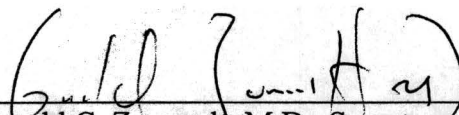
H. Defendant shall submit any required reports and forms on a timely basis to the Compliance Coordinator or designee.

I. Failure to meet any of the terms of your Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify your license after due notice and hearing.

3. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.

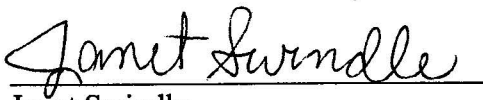
4. Defendant's suspended license shall not be reinstated unless Defendant has reimbursed the Board for all taxed costs and expenses incurred by the State of Oklahoma.

Dated this 1 day of April, 2004.


Gerald C. Zumwalt, M.D., Secretary
Oklahoma State Board of Medical
Licensure and Supervision

CERTIFICATE OF SERVICE

I certify that on the 2 day of April, 2004, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order of Suspension to Janice Carol Miller-Buckley, 2712 9th Avenue, NE, Norman, OK 73071.


Janet Swindle