

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

FILED

STATE OF OKLAHOMA, ex rel.,
OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE AND
SUPERVISION,

Plaintiff,

vs.

JENNIFER LEE MALONE, OTA
LICENSE NO. OA913,

Defendant.

NOV 19 2010

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

CASE NO. 10-04-3985

COMPLAINT

COMES NOW the plaintiff, the State of Oklahoma ex rel. the Oklahoma State Board of Medical Licensure and Supervision (the "Board"), by and through its attorney, Elizabeth A. Scott, Assistant Attorney General, and for its Complaint against the Defendant, Jennifer Lee Malone, OTA, alleges and states as follows:

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

2. Defendant, Jennifer Lee Malone, OTA, holds occupational therapy assistant license no. OA913 in the State of Oklahoma.

3. During September and October 2009, Defendant worked as an occupational therapy assistant for Green Country Rehabilitation where she worked at the Tahlequah Public Schools.

4. In or around October 2009, Defendant submitted false and fraudulent occupational therapy treatment records relating to Patient MEL, a nine (9) year old boy, to her employer, as well as false and fraudulent billing records to her employer for submission to the state Medicaid program. Specifically, Defendant represented that she provided occupational therapy services to Patient MEL on October 1 and October 8, 2009. School attendance records reflected that Patient MEL was absent from school during the time that Defendant claimed to have given the therapy.

5. In or around September 2009 and October 2009, Defendant submitted false and fraudulent occupational therapy treatment records relating to Patient CFL, a six (6) year old boy, to her employer, as well as false and fraudulent billing records to her employer for submission to the state Medicaid program. Specifically, Defendant represented that she provided occupational therapy services to Patient CFL on September 10, 2009, September 24, 2009 and October 1, 2009. School attendance records reflected that Patient CFL was absent from school during the time that Defendant claimed to have given the therapy. Additionally, Defendant failed to provide scheduled occupational therapy services to Patient CFL on October 8, 2009, October 22, 2009 and October 27, 2009, noting that the patient was absent. School attendance records reflected that Patient CFL was not absent from school on those days.

6. In or around September 2009, Defendant submitted false and fraudulent occupational therapy treatment records relating to Patient EML, a six (6) year old boy, to her employer, as well as false and fraudulent billing records to her employer for submission to the state Medicaid program. Specifically, Defendant represented that she provided occupational therapy services to Patient EML on September 29, 2009. School attendance records reflected that Patient EML was absent from school during the time that Defendant claimed to have given the therapy.

7. In or around September 2009, Defendant submitted false and fraudulent occupational therapy treatment records relating to Patient CNL, an eight (8) year old boy, to her employer, as well as false and fraudulent billing records to her employer for submission to the state Medicaid program. Specifically, Defendant represented that she provided occupational therapy services to Patient CNL on September 10, 2009 and September 24, 2009. School attendance records reflected that Patient CNL was absent from school during the time that Defendant claimed to have given the therapy.

8. In or around October 2009, Defendant submitted false and fraudulent occupational therapy treatment records relating to Patient TPL, a nine (9) year old boy, to her employer, as well as false and fraudulent billing records to her employer for submission to the state Medicaid program. Specifically, Defendant represented that she provided occupational therapy services to Patient TPL on October 22, 2009. School attendance records reflected that Patient TPL was absent from school during the time that Defendant claimed to have given the therapy.

9. In or around September 2009, Defendant submitted false and fraudulent occupational therapy treatment records relating to Patient MSL, an eight (8) year old girl, to her employer, as well as false and fraudulent billing records to her employer for submission to the state Medicaid program. Specifically, Defendant represented that she provided occupational therapy services to Patient MSL on September 10, 2009. School attendance records reflected that Patient MSL was absent from school during the time that Defendant claimed to have given the therapy.

10. In or around September 2009, Defendant submitted false and fraudulent occupational therapy treatment records relating to Patient JAL, a ten (10) year old boy, to her employer, as well as false and fraudulent billing records to her employer for submission to the

state Medicaid program. Specifically, Defendant represented that she provided occupational therapy services to Patient JAL on September 16, 2009 and September 23, 2009. School attendance records reflected that Patient JAL was absent from school during the time that Defendant claimed to have given the therapy.

11. In or around September 2009, Defendant submitted false and fraudulent occupational therapy treatment records relating to Patient DBL, a fourteen (14) year old boy, to her employer, as well as false and fraudulent billing records to her employer for submission to the state Medicaid program. Specifically, Defendant represented that she provided occupational therapy services to Patient DBL on September 23, 2009 and September 30, 2009. School attendance records reflected that Patient DBL was absent from school during the time that Defendant claimed to have given the therapy.

12. In or around August 2009, Defendant submitted false and fraudulent occupational therapy treatment records relating to Patient JCAL, an eleven (11) year old boy, to her employer, as well as false and fraudulent billing records to her employer for submission to the state Medicaid program. Specifically, Defendant represented that she provided occupational therapy services to Patient JCAL on August 26, 2009. School attendance records reflected that Patient JCAL was absent from school during the time that Defendant claimed to have given the therapy.

13. In or around September 2009, Defendant submitted false and fraudulent occupational therapy treatment records relating to Patient JCEL, an eleven (8) year old boy, to her employer, as well as false and fraudulent billing records to her employer for submission to the state Medicaid program. Specifically, Defendant represented that she provided occupational therapy services to Patient JCEL on September 11, 2009 and September 18, 2009. School attendance records reflected that Patient JCEL was absent from school during the time that Defendant claimed to have given the therapy.

14. In or around September 2009, Defendant submitted false and fraudulent occupational therapy treatment records relating to Patient JFL, an eleven (11) year old boy, to her employer, as well as false and fraudulent billing records to her employer for submission to the state Medicaid program. Specifically, Defendant represented that she provided occupational therapy services to Patient JFL on September 28, 2009. School attendance records reflected that Patient JFL was absent from school during the time that Defendant claimed to have given the therapy.

15. In or around September 2009, Defendant submitted false and fraudulent occupational therapy treatment records relating to Patient DKL, an eleven (11) year old boy, to her employer, as well as false and fraudulent billing records to her employer for submission to the state Medicaid program. Specifically, Defendant represented that she provided occupational therapy services to Patient DKL on September 16, 2009. School attendance records reflected that Patient DKL was absent from school during the time that Defendant claimed to have given the therapy.

16. In or around October 2009, Defendant submitted false and fraudulent occupational therapy treatment records relating to Patient TML, a fourteen (14) year old boy, to her employer, as well as false and fraudulent billing records to her employer for submission to the state Medicaid program. Specifically, Defendant represented that she provided occupational therapy services to Patient TML on October 9, 2009 and October 28, 2009. School attendance records reflected that Patient TML was absent from school during the time that Defendant claimed to have given the therapy.

17. In or around October 2009, Defendant submitted false and fraudulent occupational therapy treatment records relating to Patient DWL, a twelve (12) year old girl, to her employer, as well as false and fraudulent billing records to her employer for submission to the state Medicaid program. Specifically, Defendant represented that she provided occupational therapy services to Patient DWL on October 2, 2009. School attendance records reflected that Patient DWL was absent from school during the time that Defendant claimed to have given the therapy.

18. When later questioned by Board Investigator Jana Lane, Defendant admitted that she did not have adequate time to see all of the students she was assigned to see and that she did not keep accurate records of when and if she treated the patients. She additionally admitted that she may have documented that she treated a patient when the patient was not in attendance at school on that date.

19. Defendant is guilty of unprofessional conduct in that she:


- A. Engaged in unprofessional conduct as defined by the rules established by the Board, or violated the Code of Ethics adopted and published by the Board in violation of 59 O.S. §888.9(2).
- B. Engaged in dishonorable or immoral conduct that is likely to deceive, defraud, or harm the public in violation of OAC 435:30-1-10(a)(3).
- C. Participated in fraud, abuse and/or violation of state or federal laws in violation of OAC 435:30-1-10(a)(6).
- D. Engaged in the improper management of medical records, inaccurate recording, falsifying or altering of patient records in violation of OAC 435:30-1-10(a)(8).
- E. Falsely manipulated patient records in violation of OAC 435:30-1-10(a)(9).
- F. Engaged in fraudulent billing practices and/or violation of Medicare and Medicaid laws or abusive billing practices in violation of OAC 435:30-1-10(a)(7).

- G. Violated any provision of the Occupational Therapy Practice Act or the rules and regulations of the board ... in violation of OAC 435:30-1-10(a)(29).

WHEREFORE, plaintiff requests that the Board conduct a hearing, and upon proof of the allegations contained herein, impose such disciplinary action as authorized by law, up to and including suspension or revocation, the assessment of costs and fees incurred in this action, and any other appropriate action with respect to Defendant's license to practice as an occupational therapy assistant in the State of Oklahoma.

Dated this 19th day of November, 2010.

Respectfully submitted,


Elizabeth A. Scott (OBA #12470)
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Attorney for State ex rel.
Oklahoma Board of Medical Licensure and
Supervision