

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL
LICENSURE AND CERTIFICATION**

OCCUPATIONAL THERAPY GOVERNING BOARD

**In Re: Jaclyn Boyd,
OTA Lic. #0826**

Docket No.: 2022-OT-001

**NOTICE OF ADJUDICATIVE HEARING -
10/31/22 @ 10:00 AM**

I. ATTENDEES:

**Olivia R. Freeman, Board Chair and Member (via Zoom)
Sarah L. Hinkley, Board Member
Nicole L. Quartulli, Board Member
Patricia H. Gruttenmeyer, Board Member
Traci Johnson, Board Member
Jenna Wilson, Board Administrator
Jessica Whelehan, Board Administrator
Attorney Lauren Warner, Board Counsel
Attorney Nikolas Frye, Presiding Officer
Attorney John Garrigan, Hearing Counsel
Jaclyn Boyd, Licensee
Eric Goulet, Witness
Dr. Molly Rossignol, Witness**

II. CASE SUMMARY/PROCEDURAL HISTORY:

On or about 07/19/21, the New Hampshire Occupational Therapy Governing Board ("Board") received a complaint alleging that Jaclyn Boyd ("Licensee") had failed to show for patient visits on 05/24/22 and 06/07/22 and then falsified records to make it appear as though she had conducted those visits. After investigation, on or about 08/29/22, the Board voted to commence an adjudicative/disciplinary proceeding in this matter. A final adjudicatory hearing in this matter was held on 10/31/22 at 10:00 AM EST.

III. EVIDENCE SUBMITTED:

Hearing Counsel submitted the following Exhibits labeled as follows:

1. 07/05/22 Complaint
2. 07/22/22 Licensee Response
3. 09/13/22 Report of Investigation
4. 09/28/22 Audio Recording of Licensee's Interview
5. **SEALED** 10/12/22 Letter from Dr. Molly Rossignol of NHPHP to the Board.
6. 09/26/22 Course Certificate "Ethics and Consequences"
7. 09/27/22 Course Certificate "Components of Ethics in Healthcare"

The Licensee submitted no Exhibits.

The following witnesses appeared to provide sworn testimony:

- A. Eric Goulet, OPLC Investigator (called by Hearing Counsel)
- B. Dr. Molly Rossignol, NHPHP (called by Hearing Counsel)
- C. Licensee (called by the Board)

The parties also provided a 10/25/22 Stipulation of Fact for the Board's consideration.

IV. PRELIMINARY MATTERS:

A brief prehearing conference was held in non-public session at the outset of the final adjudicatory hearing without the Board Members present. The parties and Presiding Officer discussed the filed exhibits, proposed witnesses, and Stipulation of Fact. None of the parties had any objection to their submission. The Presiding Officer determined the Exhibits were material and relevant and fully admitted them for the hearing. The Prehearing Conferenced ended.¹

After a brief non-meeting with the Board and without the parties present, the hearing commenced before the full Board, the parties, all other participants, and the public. Hearing Counsel requested that testimony from Molly Rossignol and the Licensee pertaining to any treatment and services the Licensee has received in relation to this matter be held in non-public session and that Exhibit 5 be sealed because it pertains to same. Pursuant to RSA 310-A:1-1, I, a quorum of the Board determined that good cause had

¹ This paragraph serves as the 10/31/22 prehearing conference final order.

been shown to allow that portion of the proceeding to occur in non-public because it relates to the Licensee's protected health information and addressed the topic of what if any sanctions should be administered if discipline is imposed, as opposed to the underlying allegations that lead to a disciplinary proceeding. The Presiding Officer then SEALED Exhibit 5 based upon the same rationale.

V. CONDUCT OF THE HEARING, EVIDENCE PRESENTED, AND FINDINGS OF FACT:

Pursuant to Ahp 213.01, Hearing Counsel bears the burden of proof in this matter by a preponderance of the evidence. Hearing Counsel presented Exhibits 1-7, the testimony of Eric Goulet and Molly Rossignol, and the Stipulation of Fact (the latter of which the Board adopted as findings of fact after hearing and reviewing the evidence presented). The credible evidence allows the Board to make the following findings of fact.

Eric Goulet and Stipulation of Fact:

Hearing Counsel's first witness was Eric Goulet. Mr. Goulet testified that he was the OPLC Investigator assigned to handle this case. He explained that he had reviewed the Stipulation of Fact submitted to the Board by the parties. According to his testimony, the facts contained within the Stipulation of Fact were true and accurate to the best of his knowledge and belief. The Stipulation of Fact is incorporated by reference herein, attached to this Order, and made findings of fact.

The Board and Licensee had no questions for Mr. Goulet. After his testimony, the Board moved into non-public for the testimony of Dr. Molly Rossignol and the Licensee

Dr. Molly Rossignol:

Dr. Molly Rossignol testified that she is the Medical Director at NHPHP where she assists New Hampshire professionals with health-related issues. She indicated that she, along with a colleague employed by NHPHP, had completed a routine assessment interview with the Licensee. Dr. Rossignol testified as to what her concerns were for the Licensee and her recommendations to assist her if the Board

made a finding of professional misconduct. Neither the Board nor Licensee had any questions for Dr. Rossignol.

Licensee:

The Board called the Licensee to clarify a question it had with respect to Exhibits 6 and 7. The Licensee explained that she had participated in the continuing education courses described in Exhibits 6 and 7 of her own volition and without direction from OPLC Division of Enforcement, the Board, or the Board's Presiding Officer.

VI. CONCLUSIONS OF LAW:

After reviewing all the evidence, drawing reasonable inferences therefrom, and accounting for the demeanor and credibility of the witnesses, the Board finds that the Licensee has committed misconduct as defined in RSA 328-F:23, II. Based upon the evidence presented and the findings of fact made herein, the Board specifically makes the following additional findings of fact and conclusions of law:

1. The Board finds and concludes the Licensee committed misconduct as defined at RSA 328-F:23(II)(c) (*see* N.H. Code Admin. Rs., Occ 405.02(k), 502.01, and 502.02, as well as the Occupational Therapy Code of Ethics adopted and copyrighted in 2015 and revised 2020 by the American Occupational Therapy Association, Inc. (AOTA), Principles 1, 5, and 6) when, on or about 05/24/22 and/or 06/07/22 , she failed to show for patient visits and then falsified records to make it appear as though she had conducted those visits.
2. The Board finds and concludes the Licensee committed misconduct as defined at RSA 328-F:23(j) (*see* N.H. Code Admin. Rs., Occ 405.02(k), 502.01, and 502.02, as well as the Occupational Therapy Code of Ethics adopted and copyrighted in 2015 and revised 2020 by the American Occupational Therapy Association, Inc. (AOTA), Principles 1, 5, and 6), when, on or about

05/24/22 and/or 06/07/22 , she failed to show for patient visits and then falsified records to make it appear as though she had conducted those visits.

3. Upon a finding of misconduct pursuant to RSA 328-F:23(II), the Board imposes the following sanctions pursuant to RSA 328-F:23, III and RSA 328-F:23, IV:
 - a. Pursuant to RSA 328-F:23, IV(e), the Licensee is subject to being supervised for a period of one year by a New Hampshire Occupational Therapist Registered (OTR) (“Supervisor”) approved by the Board. The one year period shall commence on the date the supervision starts and accumulate thereafter, so long as the Licensee is actively licensed, practicing, and receiving the supervision.
 - i. **NOTIFICATION OF PROPOSED SUPERVISOR:** The approval process shall consist of the Licensee notifying the Board Administrator in writing— either 1) 21 days its 12/19/22 meeting or 2) 21 days before the next regularly scheduled Board meeting that occurs thereafter **before** the Licensee returns to actively practicing as a licensee of this Board— that she has a proposed Supervisor for the Board to consider. Before notifying the Board Administrator of a proposed Supervisor, the Licensee shall share a copy of this Order with the proposed Supervisor to read.
 - ii. **APPROVAL OF SUPERVISOR:** Upon receiving notification of the proposed Supervisor, the Board’s Administrator and Presiding Officer shall schedule a hearing to occur at the next regularly scheduled Board meeting to determine whether the Board should approve the proposed Supervisor based upon his or her training and experience as an OTR and as a supervisor, manager, or other authoritative and/or teaching role and character. The burden of proof shall be upon the Licensee to establish the proposed Supervisor’s qualifications by a preponderance of the evidence. Both the Licensee and

the proposed Supervisor shall attend this hearing, either in-person or via a virtual platform that is being used by the Office of Professional Licensure and Certification to run adjudicatory hearings. Hearing Counsel may attend this hearing or submit a recommendation to the Board in writing in lieu of appearing. If the Board approves the proposed Supervisor, the Licensee shall be responsible for all costs associated with Supervisor's supervision.

- iii. **SUPERVISION REQUIREMENTS:** During the period of supervision, the Supervisor and Licensee shall be required to meet weekly, either in person or via a video and audio virtual platform. The Supervisor shall have an affirmative obligation to report any concerns regarding the Licensee's practice or the supervision to the Board immediately. The Supervisor shall also provide a brief monthly report to the Board during the period of supervision. The report may be submitted by email to the Board Administrator and shall address the goals of supervision and the Licensee's progress. In addition to the monthly reports, the Board shall hold review hearings after the Licensee has completed 6 months of supervision and 12 months of supervision, respectively. The burden of proof at these review hearings shall be on the Licensee to prove, by a preponderance of the evidence, that she is in compliance with the terms of this Order and meaningfully participating in supervision. Failure to comply with any of the terms of this Order may result in further disciplinary or other Board action.
- iv. **TERMINATION OF SUPERVISORY RELATIONSHIP** If the Licensee or the Supervisor desires to terminate the supervisory relationship before the 12 month period ends, or the supervisor relationship ends due to circumstances beyond the control of the Licensee, the burden shall be on the Licensee to immediately notify the Board

Administrator in writing of the request to terminate the relationship and supply the name of a new proposed supervisor for the Board to consider at its next regularly scheduled meeting. In such circumstances, the processes outlined in paragraphs VI.3.a herein shall govern how a new Supervisor is approved and how the supervision operates and may be terminated. The previous Licensee-Supervisor relationship shall not terminate until the Board approves a new Supervisor.

- b. Pursuant to RSA 310-A:1-m, I(d)(2), the Licensee is subject to completing an additional three hour continuing education credit course with a focus on ethics and which is AOTA approved. This course shall be completed during the last quarter of the Licensee's supervision/probationary period. To document successful completion of the course, the Licensee shall provide the Board Administrator with written documentary proof issued/authored by the program offering the course no later than the date of the 12 month review hearing. **Whether any program(s) meets the requirements of this section shall be determined by the Board. Therefore, the Licensee is strongly encouraged to seek the Board's pre-approval of program(s) before taking them.** The Licensee may submit information about proposed programs to the Board's Administrator, who shall present same to the Board for determination. The three hours of continuing education ordered hereunder shall be in addition to any normal continuing education required for licensure under Board statute and rules and those documented in Exhibit 6 and 7. The Board determined the Licensee should be subject to the additional three hour course requirement after considering that the Licensee, of her own volition, took the continuing education coursework presented in Exhibits 6 and 7. Like the additional required continuing education, the coursework described in

Exhibits 6 and 7 may not be used to fulfill any normal continuing educations requirements for licensure under Board statutes and rules.

4. In administering this discipline, the Board considered and weighed the factors enumerated in RSA 328-F:23, IV and Occ Rules 405.03 through 405.06.

VII. ORDERS:

Pursuant to RSA 328-F:23, and Rule Occ 405.02, the Board hereby makes the herein findings of misconduct. The Licensee is ordered to be **SUPERVISED** and subjected to the further sanctions as stated herein.

DATED: 11/8/2022

_____/s/ Nikolas K. Frye, Esq._____
Nikolas K. Frye, Esq., Hearings Examiner
Authorized Representative of the
Occupational Therapy Governing Board -
New Hampshire Office of
Professional Licensure & Certification
7 Eagle Square
Concord, NH 03301

**STATE OF NEW HAMPSHIRE
OCCUPATIONAL THERAPY GOVERNING BOARD
CONCORD, NH**

In the matter of:
Jaclyn Boyd
Lic. #0826 – OTA

DOCKET #22-OT-001

STIPULATION OF FACT

NOW COMES John W. Garrigan, Hearing Counsel, and Jaclyn Boyd, Respondent, (collectively “The Parties”) who file this *Stipulation of Fact* to be entered by the Occupational Therapy Governing Board (“Board”) at the Respondent’s October 31, 2022 adjudicative hearing. The Parties hereby stipulate to the following facts:

BACKGROUND AND LICENSURE HISTORY

1. The Respondent is actively licensed as a Certified Occupational Therapy Assistant (“COTA”).
2. She has been actively licensed as an OTA in NH since 2018. *Exhibit 5, part 1, 02:00.*
3. From January 2020 until June 2022, she worked for Amedisys out of Somersworth, NH. *Exhibit 5, part 1, 02:20.*
4. Prior to that, the Respondent had been licensed in MA and had worked in skilled nursing facilities. *Exhibit 5, part 1, 01:30.*
5. Amedisys is a home health care company providing occupational therapy services. *Exhibit 5, part 1, 02:30.*
6. To provide in-home care, the Respondent traveled from patient to patient in her own car. She was responsible for scheduling patients. She had very little supervision. Every third visit with a patient would be a supervisory visit where a registered licensee would

accompany the Respondent and assess the patient's progress towards goals. *Exhibit 5, part 1, 05:30.*

7. She would see typically patients once per week. *Exhibit 5, part 1, 06:30.*
8. She had to perform seven visits a day, sometimes located 30 minutes apart from one another. *Exhibit 5, part 1, 08:30.*
9. The visits were typically 30-60 minutes each. *Exhibit 5, part 1, 17:10.*
10. She had been working doing exclusively in-home care since January 2020. *Exhibit 5, part 1, 06:50.*
11. Turnover was high at Amedisys and the Respondent had three or four different clinical managers during the 18 months she worked there. *Exhibit 5, part 1, 10:50.*
12. Amedisys issued each OT an iPad and used the Homecare Homebase software platform for accessing and noting patient records. *Exhibit 5, part 1, 17:50.*
13. For each visit, the Respondent would note what the patient worked on and the end and start time of the visit. The Respondent was required to see each patient for at least 30 minutes. The records would then upload from the iPad to Amedisys through the Homecare Homebase system. There were no paper records. *Exhibit 5, part 1, 18:10.*
14. At the end of each visit, the patient would have to electronically sign the iPad to acknowledge the visit. *Exhibit 5, part 1, 21:25.*

MAY 24, 2022 INCIDENT AND RESPONSE

15. The complaint alleged, in part, that the Respondent had falsified a visit to a patient on May 24, 2022. The patient had contacted the Respondent's employer on June 1, 2022 to state that she hadn't seen the Respondent on May 24, 2022. The Respondent's employer

reviewed the patient visit record, which showed a patient signature that did not match past signatures on file for that patient. *Exhibit 1.*

16. In her July 17, 2022 written response to the complaint, the Respondent “fully admit[ted] to making the extreme mistake of the false visit” on this patient. *Exhibit 2.*

17. In a September 28, 2022 recorded interview with Office of Professional Licensure and Certification (“OPLC”) investigators, the Respondent stated that by May 24, she was being brought into the office once a week regarding her productivity. She stated that she was “feeling so much pressure” to meet those goals. *Exhibit 5, part 1, 21:50.*

18. She was struggling to make all seven appointments each day given her large territory and long travel between patients. She felt that complaining to management would have resulted in a reprimand rather than help. *Exhibit 5, part 1, 27:00.*

19. She had been meeting with management about her productivity since March or April 2022. *Exhibit 5, part 1, 25:30.*

20. On May 24, 2022, she got to patient #6 or #7’s house at the end of the day and the Respondent was “exhausted.” The patient was not there when the Respondent arrived. The Respondent decided to falsify the visit rather than wait for the patient to return because she was just ready to get home. *Exhibit 5, part 1, 28:00.*

21. She falsified the visit by completing the electronic records on the iPad by recording that she had spent time with the patient and performed the same exercises as she had done the week before. *Exhibit 5, part 1, 29:00.*

22. The Respondent electronically signed the visit acknowledgement for the patient *Exhibit 5, part 1, 21:45.*

23. She recorded the visit as having lasted 30 minutes. *Exhibit 5, part 1, 33:20.*

24. She felt that she had “gotten away with it.” 22:45. She did it because she was “burned out and not caring at that point.” *Exhibit 5, part 1, 52:45.*

25. She didn’t say anything to Amedisys because she was nervous about her productivity. *Exhibit 5, part 1, 22:50.*

JUNE 7, 2022 INCIDENT AND RESPONSE

26. The complaint also alleged that the Respondent falsified the visit of a second patient on June 7, 2022. *Exhibit #1.*

27. In her July 17, 2022 written response, the Respondent “fully admit[ted] to making the extreme mistake of the false visit” on this patient. *Exhibit 2.*

28. During a later recorded interview with investigators, the Respondent stated that she was in her first trimester of pregnancy on June 7, 2022. She was feeling very motion sick that day due to the driving and she had been sick in her car. The patient was the last patient of the day and she decided to go home rather than see the patient. Rather than calling and cancelling with the patient, she decided to just say that she had seen him. *Exhibit 5, part 1, 32:10.*

29. She falsified the visit by filling out the electronic records to state that she had seen him and that she did arm exercises with him. She recorded the visit as having lasted 30 minutes. *Exhibit 5, part 1, 33:20.*

30. The Respondent confessed the incident to her counselor. *Exhibit 5, part 1, 23:30 and 33:00.*

31. The patient called the office and reported that she had not shown up. *Exhibit 5, part 1, 34:00.*

32. The Respondent had a meeting with her managers. She initially denied falsifying the two visits. She then admitted to falsifying the first visit but not the second one. *Exhibit 5, part 1, 34:10.*

33. The Respondent was terminated at the end of June. *Exhibit 5, part 1, 37:00.*

RESPONDENT’S INTERVIEW AND ADDITIONAL INFORMATION

34. On September 28, 2022, following the initiation of this disciplinary process, the Respondent appeared at OPLC for an in-person voluntary interview with investigators. *Exhibit 5, generally.*

35. The Respondent acknowledged that she said that she saw patients when she really didn’t. *Exhibit 5, part 1, 21:00.*

36. The Respondent acknowledged that what she did was “not right” and that she knew “this was wrong” and that she “made a mistake.” *Exhibit 5, part 1, 23:20 and 25:20.*

37. The Respondent expressed that she had a new manager in February 2022. She felt that was behind in learning and didn’t have a lot of guidance given the turnover in prior managers, and she was not comfortable approaching management with problems. *Exhibit 5, part 1, 11:50.*

38. Management “hounded” on her productivity to make sure that she saw seven patients a day. *Exhibit 5, part 1, 13:10.*

39. The Respondent acknowledged she did not have the best communications with the Amedisys schedulers, who could have assisted her in setting up and coordinating patient appointments. The Respondent had handled “90%” of her own scheduling and patient coordination. *Exhibit 5, part 1, 15:20.*

40. The Respondent acknowledged that missing an in-home care visit was a “big deal” because you only see the patient once per week, rather than the multiple times per week in a facility setting. *Exhibit 5, part 1, 08:50.*
41. In her written response, the Respondent acknowledged that the intense pressure of her job “did not give [her] the right to falsify documentation or visits.” *Exhibit 2.*
42. The Respondent told investigators that these were the only two times that she had falsified patient visit records. *Exhibit 5, part 1, 44:00.*
43. The Respondent is currently employed at Mountain View Community in Ossipee, NH. *Exhibit 5, part 1, 04:30.*
44. At that setting, she is working in a facility providing direct care to patients. Her manager makes the appointment schedule and she sees her patients all in the one building. *Exhibit 5, part 1, 04:40 and 41:50.*
45. The Respondent “100%” prefers working in the skilled nursing setting because she “feels more organized” and has better supervision and communication with her managers. *Exhibit 5, part 1, 07:20 and 40:20 and 43:10.*
46. She has a smaller case load and is remotely supervised by an OTR in a Wolfeboro office of the same organization. *Exhibit 5, part 1, 41:10 and 47:20.*
47. Her on-site supervision consists of the Director of Rehab at Mountain View. She supervises all non-clinical aspects of the Respondent’s work. *Exhibit 5, part 1, 46:20.*
48. The Respondent has expressed that she has “immense regret, shame, and guilt towards [her] actions.” *Exhibit 2.*

49. The Respondent sees a therapist weekly to address and treat her stress management and mental health, including a diagnosis of major depressive disorder. *Exhibit 5, part 1, 38:30 and 42:20.*
50. Since the initiation of the disciplinary process, the Respondent has voluntarily met with Dr. Molly Rossignol of the New Hampshire Professionals Health Program. *Exhibit 6.*
51. The Respondent has also voluntarily taken two continuing education courses on ethics. *Exhibit 7 and 8.*

Respectfully Submitted,

THE PARTIES

By:

HEARING COUNSEL

Date: October 25, 2022

John W Garrigan

John W. Garrigan, Esq., NH Bar #21001
Chief Administrative Prosecutor
Office of Professional Licensure and Certification
7 Eagle Square
Concord, NH 03301
john.w.garrigan@oplcnh.gov
(603) 271-4195