

**OCCUPATIONAL THERAPY GOVERNING BOARD
OFFICE OF LICENSED ALLIED HEALTH PROFESSIONALS
CONCORD, NEW HAMPSHIRE**

In The Matter Of:

Docket #03-2014

Diann R. David, OT
(Adjudicatory/Disciplinary Proceeding)

FURTHER DECISION AND ORDER

By the Board: Wendi C. Guillette, OT, Chair, Maris Wofsy, OT, Barbara Richardson, Public Member, and Dwayne Oothoudt, OTA

Also present: Tina M. Kelley, Administrator to the Board

Appearances: None

On January 26, 2015 the New Hampshire Occupational Therapy Governing Board ("Board") held a hearing in the matter of Diann R. David, OT ("Ms. David") pursuant to the Board's "Notice of Hearing". The hearing was held in accordance with RSA 328-F:23, RSA 328-F: 24, RSA 541-A, Ahp 200 and Occ 200. Ms. David did not appear.

The Board received a letter on January 15, 2015 from Ms. David stating that she would not appear before the Board since she has resided in Florida for the past 8 years. Included with the letter was page 1 of Chapter 326-C Occupational Therapists signed and dated 1/1/15 and pages 1 through 11 of the Occupational Therapy Code of Ethics and Ethics Standards (2010) having each page signed and dated 1/1/15.

Background Information

1. The New Hampshire Occupational Therapy Governing Board ("Board") first granted a license to practice as an Occupational Therapist in the State of New Hampshire to Diann R. David ("Ms. David" or "Respondent") on December 7, 1988. Respondent holds license number 0568.

2. On August 25, 2014 the Board issued a Decision and Order to Ms. David that imposed a \$110.00 fine and directed Ms. David to read the Occupational Therapists Practice Act, Chapter 326-C, the Occupational Therapist Administrative Rules, and the Occupational Therapy

Code of Ethics and Ethics Standards (2010) and submit a dated and signed statement that she has read and understands them. Both items were due in the Board's office within 30 days of the effective date of the Decision and Order.

3. On September 11, 2014 the Office of Licensed Allied Health Professionals received a check from Ms. David in the amount of \$110.00.

4. At no time between the issuance of the Decision and Order dated August 25, 2014 and the issuance of the Notice of Hearing dated December 15, 2014 did the Board's office receive the statement that Ms. David had read and understands the Occupational Therapists Practice Act, Chapter 326-C, the Occupational Therapist Administrative Rules, and the Occupational Therapy Code of Ethics and Ethics Standards (2010).

An adjudicatory hearing commenced on January 26, 2015, the specific issues to be determined included:

- A. Whether or not Ms. David violated the terms of the Decision and Order dated August 25, 2014 by not reading the Occupational Therapists Practice Act, Chapter 326-C, the Occupational Therapist Administrative Rules, and the Occupational Therapy Code of Ethics and Ethics Standards (2010) in violation of RSA 328-F:23, II (c); and/or
- B. Whether or not Ms. David violated the terms of the Decision and Order by not providing the Board with a dated and signed statement that she has read the Occupational Therapists Practice Act, Chapter 326-C, the Occupational Therapist Administrative Rules, and the Occupational Therapy Code of Ethics and Ethics Standards (2010) in violation of RSA 328-F:23, II (c).
- C. If any of the above allegations are proven, whether and to what extent Respondent should be subjected to one or more of the disciplinary sanctions authorized by RSA 328-F:23, IV.

No Exhibits were presented. The Board's Chair read into the record Ms. David's letter received January 15, 2015 and the sanctions imposed by the Decision and Order dated August 25, 2014.

At the hearing there were no witnesses present to give testimony.

Findings of Fact and Rulings of Law:

In light of the letter and supporting documents provided by Ms. David and the sanctions imposed by the Decision and Order dated August 25, 2014, the Board made the following findings of fact and rulings of law:

- Ms. David paid the fine on September 11, 2014 using check number 514.
- Ms. David failed to read the Occupational Therapists Practice Act, Chapter 326-C, the Occupational Therapist Administrative Rules, and the Occupational Therapy Code of Ethics and Ethics Standards (2010) within 30 days of the date of the August 25, 2014 decision and order. By indicating in her statement that she read the above mentioned documents on January 1, 2015, 127 days after the required 30 days, Ms. David is in violation of the Decision and Order dated August 25, 2014 which constitutes unprofessional conduct pursuant to RSA 328-F:23, II.
- Even though Ms. David provided the Board with a written statement that she has read the Occupational Therapists Practice Act, Chapter 326-C, the Occupational Therapist Administrative Rules, and the Occupational Therapy Code of Ethics and Ethics Standards (2010) on January 15, 2015 she failed to indicate in the statement that she understands the documents she read in violation of the Decision and Order dated August 25, 2014 and constitutes unprofessional conduct pursuant to RSA 328-F:23, II.
- Ms. David failed to provide the Board with a signed and dated statement that she has read and understands the Occupational Therapists Practice Act, Chapter 326-C, the Occupational Therapist Administrative Rules, and the Occupational Therapy Code of Ethics and Ethics Standards (2010) within 30 days of the August 25, 2014 Decision and Order. By submitting the statement that she read the above mentioned documents on January 15, 2015, 141 days after the required 30 days, Ms. David in violation of the Decision and Order dated August 25, 2014 which constitutes unprofessional conduct pursuant to RSA 328-F:23, II.

Based upon the findings of fact and rulings of law, the Board voted to order the following:

THEREFORE IT IS ORDERED, that Ms. David is **REPRIMANDED**.

IT IS FURTHER ORDERED, that the continuing education Ms. David claims on her 2015 and 2017 renewal form shall be audited.

IT IS FURTHER ORDERED, that within fifteen (15) days of the effective date of this Decision and Order Ms. David shall furnish a copy of this Decision and Order to any current employer for whom she performs services as an Occupational Therapist and to any agency or authority which licenses, certifies or credentials Occupational Therapists, with which Ms. David is presently affiliated.

IT IS FURTHER ORDERED, that Ms. David furnish a copy of this Decision and Order to any employer and/or agency, or authority which licenses, certifies or credentials Occupational Therapists one year from the effective date of this Decision and Order.


IT IS FURTHER ORDERED that Ms. David's breach of any terms and conditions of this Decision and Order shall constitute unprofessional conduct pursuant to RSA 328-F:23, II.

IT IS FURTHER ORDERED that this Decision and Order shall become a permanent part of Ms. David's file, which is maintained by the Board as a public document.

IT IS FURTHER ORDERED that this Decision and Order shall take effect as a final Order of the Board on the date it is signed by an authorized representative of the Board.

BY ORDER OF THE BOARD

Date: February 18, 2015



Wendi C. Guillette, OT, Chair
Occupational Therapy Governing Board