

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

BEFORE THE STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF CANCELLATION
OF THE LICENSE AS AN
OCCUPATIONAL THERAPY ASSISTANT OF

DANIELLE MAYNARD,
APPLICANT.

ORDER
CANCELING LICENSE

The Department of Regulation and Licensing on November 5, 1998, having considered the above-captioned matter including the Statement of Reasons for Cancellation previously filed, a copy of which is attached hereto, makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

That applicant, Danielle Maynard, applied for a license or renewal of a license as an occupational therapy assistant and made payment of the required fee by personal check and that the personal check was not paid by the bank on which it was drawn as more specifically described in the State of Reasons for Cancellation attached hereto.

CONCLUSIONS OF LAW

That the license number 27-1017 as an occupational therapy assistant issued to Danielle Maynard, applicant, is subject to cancellation for nonpayment of the check according to the provisions of ss. 20.905 and 440.23, Wis. Stats.,

ORDER

NOW THEREFORE, IT IS ORDERED that the license number 27-1017 as an occupational therapy assistant issued to Danielle Maynard shall be and hereby is CANCELLED, effective immediately.

Dated: November 5th, 1998

DEPARTMENT OF REGULATION AND LICENSING

By: Marlene A. Cummings
Marlene Cummings
Secretary

MC:MMS
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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

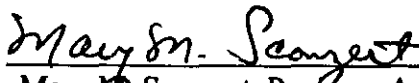
IN THE MATTER OF CANCELLATION	:	
OF THE LICENSE AS AN	:	
OCCUPATIONAL THERAPY ASSISTANT OF	:	STATEMENT OF REASONS
	:	FOR CANCELLATION
DANIELLE MAYNARD,	:	
APPLICANT.	:	

Mary M. Sconzert, Office of Renewal and Document Processing, Department of Regulation and Licensing, acting upon information and belief, complains and alleges as follows:

1. That Danielle Maynard (hereinafter applicant) whose address as shown in the official files of the Department of Regulation and Licensing is 2156 S. 80th St., West Allis, WI 53219.
2. That on or about June 16, 1998, applicant applied for renewal of her occupational therapy assisant license under the provisions of Chapter 440. Payment in the amount of \$67 was made by personal check drawn on the Tri City National Bank. The personal check was deposited for collection and returned to the Department of Regulation and Licensing on July 13, 1998, marked nonsufficient funds. On the basis of the applicant's application and payment by personal check, the license was granted.
3. Requests were mailed to the applicant seeking payment on the personal check on July 16, 1998, and September 22, 1998.
4. In spite of repeated attempts at collecting the fee due, applicant has failed to pay the fee owed.

WHEREFORE, the undersigned requests that under ss. 20.905 and 440.23, Wis. Stats., the Board cancel the license of Danielle Maynard, number 27-1017.

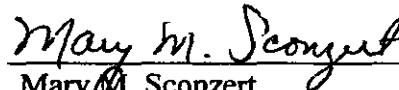
Dated this 22nd day of October, 1998.



Mary M. Sconzert, Program Assistant
Office of Renewal & Document Processing
Department of Regulation and Licensing


STATE OF WISCONSIN)
) ss
COUNTY OF DANE)

Mary M. Sconzert, being first duly sworn on oath, deposes and says that she is employed in the Office of Renewal and Document Processing in the Department of Regulation and Licensing and that she has read the foregoing statement of Reasons for Cancellation and knows the contents thereof and that the same is true to her knowledge except as to those matters stated on information and belief and as to those matters she believes them to be true.



Mary M. Sconzert
Office of Renewal & Document Processing
Department of Regulation and Licensing

Subscribed and sworn to before me
this 22nd day of October, 1998.


Notary Public
Dane County, Wisconsin
My Commission is Permanent.

I:\MAYNARD3.DOC

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

In the Matter of Cancellation of the License as an Occupational Therapy Assistant of

Danielle Maynard,

AFFIDAVIT OF MAILING

Applicant.

STATE OF WISCONSIN)
)
COUNTY OF DANE)


I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On November 6, 1998, I served the Order Canceling License dated November 5, 1998 upon the Applicant Danielle Maynard by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Applicant and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is Z 233 819 934.

3. The address used for mailing the Decision is the address that appears in the records of the Department as the Applicant's last-known address and is:

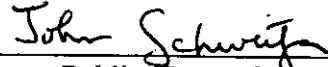
Danielle Maynard
2156 S. 80th Street
West Allis WI 53219



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 9th day of November, 1998.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: DANIELLE MAYNARD

You have been issued an Order. For purposes of service the date of mailing of this Order is 11/6/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Order is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN DEPARTMENT OF REGULATION AND LICENSING
1400 East Washington Avenue
P.O. Box 8935
Madison WI 53708-8935

227.49 Petitions for rehearing in contested cases.

(1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of

(a) Some material error of law

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.53 Parties and proceedings for review.

(1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board, the consumer credit review board, the credit union review board, the savings and loan review board or the savings bank review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1. to 5.

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the

circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. . . .

(c) A copy of the petition shall be served personally or by certified mail or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. A court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon a party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person's attorney of record.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, the savings and loan review board and the savings bank review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.