

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF APPLICATION FOR	:	
AN OCCUPATIONAL THERAPIST LICENSE	:	
	:	
THOMAS ROTHERY,	:	ORDER GRANTING
APPLICANT.	:	LIMITED LICENSE
	:	ORDER 0007151

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

THOMAS ROTHERY
501 SOUTHWIND DR., APT. 207
LAKE GENEVA, WI 53147

WISCONSIN OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING
BOARD
P.O. BOX 8366
MADISON, WI 53708-8366

FINDINGS OF FACT

1. Thomas Rothery (Applicant) filed an application (#650276) for a Wisconsin Occupational Therapist license.
2. Applicant's most recent address on file with the Wisconsin Department of Safety and Professional Services is 501 Southwind Dr., Apt. 207, Lake Geneva, Wisconsin 53147.
3. Information received in the application process reflects the following:
 - a. A Verification of Certification form from the National Board for Certification in Occupational Therapy (NBCOT) dated November 8, 2017 reflects that:
 - i. the Applicant passed the Occupational Therapist Registered OTR® (the certification examination for OTR)
 - ii. the Applicant received NBCOT Initial Certification December 18, 2003
 - iii. the Applicant's current certification status is "NonCompliant-Inactive"
 - b. Applicant is licensed as an Occupational Therapist by the Illinois Department of Financial and Professional Regulation, Division of Professional Regulation, first issued January 6, 2004. Applicant has not been disciplined.
 - c. On or about June 8, 2005, Applicant was a party in a lawsuit in which it was alleged that the Applicant had been negligent in the practice of occupational therapy.
 - i. the referenced lawsuit resulted in a Cook County Illinois Circuit Court Order requiring Applicant to pay \$70,000.

- ii. a medical malpractice insurance payment in the amount of \$70,000 was made on the Applicant's behalf August 18, 2009 related to the afore-mentioned lawsuit.
 - d. On or about March 10, 2020, the Applicant was subjected to an Oral Examination before two members of the Wisconsin Occupational Therapists Affiliated Credentialing board (Board). Applicant did not demonstrate minimum competency in subjects substantially related to the practice of occupational therapy, and as such, failed to achieve a passing score on the 2-person oral examination.
 - e. On or about June 9, 2020, Applicant was subjected to an Oral Examination before the full Board. Applicant did not demonstrate minimum competency in subjects substantially related to the practice of occupational therapy, and as such, failed to achieve a passing score on the full-Board oral examination.
 - f. From 2003 – November 2017, Applicant was employed as an Occupational Therapist practicing exclusively in Illinois.
 - i. Applicant worked primarily as an industrial therapist, serving as a coordinator in a return to work program in workers compensation matters; served as an outpatient therapist who managed another therapist and developed injury prevention services.
 - g. In November 2017, Applicant began employment with OccuCare, LLC where he continues to be employed as an Injury Elimination Specialist.
 - h. In his current position, Applicant primarily provides customer service education for clinicians; provides on-site course offerings to employers on how to assess injuries; provides office and industrial ergonomics assessments and recommendations; and performs job analysis on-site for risk factors, engineering controls, etc.
 - i. From November 2017 to present, Applicant's practice of occupational therapy has been very limited.
 - j. Applicant seeks an Occupational Therapist license in Wisconsin to continue working in the same service arena, industrial occupational therapy, including providing injury care prevention services for his current employer.
4. The facts and circumstances outlined above have raised concerns with the Board that based on considerations of public health and safety, the Applicant has not demonstrated adequate education, training or performance in past practice.
 5. Based upon Applicant's practice history and stated desire to continue practicing in the area of his current employment as an Injury Elimination Specialist, the Board determined that it would grant Applicant a non-disciplinary limited license to practice occupational therapy in the state of Wisconsin on the terms and conditions set forth in the Order below.
 6. The Board further determined that upon full compliance with the terms of the limited license, and additional education and training set forth in the Order below, the applicant may be eligible to receive full licensure.

CONCLUSIONS OF LAW

1. The Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 448.961 and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).
2. The Wisconsin Occupational Therapists Affiliated Credentialing Board has authority to issue this Order pursuant to Wis. Stat. § 448.968(2).
3. Applicant failed to achieve a passing grade on an examination required for licensure pursuant to Wis. Stat. § 448.963(1)(c) and Wis. Admin. Code § OT 2.03(5).
4. Applicant engaged in conduct while practicing occupational therapy that evidences a lack of knowledge or ability to apply professional principles or skills. Wis. Stat. § 448.968(2)(g) and Wis. Admin. Code § OT 5.02(8).

ORDER

1. The attached Stipulation is accepted.
2. Now, therefore, IT IS ORDERED that THOMAS ROTHERY is GRANTED an OCCUPATIONAL THERAPIST LICENSE subject to the following LIMITATIONS, TERMS, AND CONDITIONS.
3. The Occupational Therapist license issued to THOMAS ROTHERY to practice occupational therapy in the state of Wisconsin is LIMITED as follows:
 - a. The scope of Applicant's practice is limited to provision of occupational therapy services in an industrial setting and as follows:
 1. Applicant may only practice occupational therapy in conjunction with his employment with OccuCare, LLC, or similar organization, and provide services, including the following:
 - on-site early intervention/injury prevention services working with an employee to determine the status of a musculoskeletal incident.
 - collaborate with employees to minimize/eliminate musculoskeletal incidents and recommend ergonomic improvements/risk mitigation strategies.
 - perform full orthopedic evaluations, determine plan of care and provide traditional therapy services as appropriate.
 - b. Applicant shall provide Applicant's occupational therapist employer with a copy of this Order before engaging in, or continuing to engage in, any employment as an occupational therapist. Applicant shall provide the Department of Safety and Professional Services Monitor (Department Monitor) with written acknowledgment from each occupational therapist employer that a copy of this Order has been received. Such acknowledgment shall be provided to the Department Monitor within fourteen (14) days of beginning new employment and/or within fourteen (14) days of the date of this Order for employment current as of the date of this Order.

4. Applicant may be granted a full, unrestricted license upon petition to the board and as follows:

a. Provide proof of successful completion of at least three (3) credits of education from each of the following areas of practice: Pediatrics, Physical Dysfunction, Mental Health Assessments and Geriatrics.

1. Applicant shall be responsible for obtaining the course(s) required under this Order, for providing adequate course descriptions to the Department Monitor, and for obtaining pre-approval of the course(s) from the Wisconsin Occupational Therapists Affiliated Credentialing Board or its designee, prior to commencement of the course.

2. The Board or its designee may reject any course(s) and may accept a course for less than the number of hours for which Applicant seeks approval.

3. The Board's monitoring liaison may change the number of credit hours and/or education topics in response to a request from Applicant. The monitoring liaison may consider the topic availability and/or hours of education when determining if a change to the ordered education should occur.

4. Applicant is responsible for all costs associated with compliance with this educational requirement.

5. None of the education completed pursuant to this requirement may be used to satisfy any other continuing education requirements that have been or may be instituted by the Board of Department.

5. Applicant shall report to the Department Monitor any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

6. Applicant is responsible for compliance with all of the terms and conditions of this Order. Applicant shall notify Department Monitor within 48 hours of any suspected violations of any of the terms and conditions of this Order.

7. The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order. Any requests, petitions, reports and other information required by this Order shall be mailed, emailed, faxed or delivered to:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

You may also submit this information online via DSPS' Monitoring Case Management System, here:

<https://app.wi.gov/DSPSMonitoring>

8. In the event that the Applicant violates any term of this Order, Applicant's license may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Applicant has provided proof, which is determined by the Board or its designee to be sufficient, that Applicant is in compliance with the terms of the Order. The Board may, in addition and/or in the alternative, refer any violation of this Order to the Division of Legal Services and Compliance for investigation and action.

9. This Order is effective on the date of its signing.

Dated at Madison, Wisconsin this 30th day of October, 2020.

WISCONSIN OCCUPATIONAL THERAPISTS
AFFILIATED CREDENTIALING BOARD

By: Laura O'Brien
A Member of the Board

STATE OF WISCONSIN
BEFORE THE OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF APPLICATION FOR :
AN OCCUPATIONAL THERAPIST LICENSE :

THOMAS ROTHERY,
APPLICANT. :

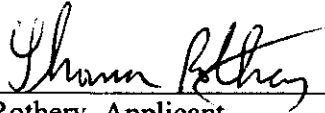
STIPULATION

ORDER 0007151

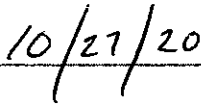
It is stipulated between the Applicant and the Wisconsin Occupational Therapists Affiliated Credentialing Board (Board) as follows:


1. The Applicant has filed an application for an Occupational Therapist license.
2. Information received by the Board reflects a basis for denial of licensure.
3. Based upon the information of record, the Board agrees to issue, and the Applicant agrees to accept, an Order granting a license as an occupational therapist subject to the terms and conditions set forth in the attached Order adopting the Stipulation.
4. Applicant understands that by signing this Stipulation, Applicant voluntarily and knowingly waives the following rights:
 - the right to request a hearing related to the denial of the application.
 - the right to confront and cross-examine the witnesses against Applicant.
 - the right to call witnesses on Applicant's behalf and to compel their attendance by subpoena;
 - the right to testify on Applicant's own behalf;
 - the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
 - the right to petition for rehearing; and
 - all other applicable rights afforded to the Applicant under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
5. Applicant is aware of Applicant's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.
6. Applicant agrees to the adoption of the attached Order Granting Limited License by the Board. The parties to the Stipulation consent to the entry of the attached Order Granting Limited License without further notice, appearance, or consent of the parties.
7. Applicant waives all rights to any appeal of the Board's Order, as adopted in the form as attached.

8. Applicant is informed that the Order Granting Limited License is a public record and will be published in accordance with standard procedure.



Thomas Rothery, Applicant
501 Southwind Dr., Apt. 207
Lake Geneva, WI 53147
Application No. 650276


Date



A Member of the Occupational Therapists
Affiliated Credentialing Board
Department of Safety and Professional Services
P.O. Box 8366
Madison, WI 53707-8366

10/30/2020
Date