

**State of New Hampshire  
Office of Licensed Allied Health Professionals  
Occupational Therapy Governing Board  
Concord, New Hampshire**

In the Matter of:  
Michelle M. Carroll  
(Application for Reinstatement of License)

**ORDER ON APPLICATION DENIAL**

The New Hampshire Governing Board of Occupational Therapy ("Board") received an application on December 13, 2012 for Ms. Michelle M. Carroll ("Ms. Carroll" or "Petitioner") for license reinstatement to practice Occupational Therapy in the State of New Hampshire. For the following reasons, the Board has voted to **DENY** the Petitioner's request for reinstatement.

**Background**

The Petitioner was licensed to practice Occupational Therapy in the State of New Hampshire on May 7, 1997. On December 31, 1999, the Petitioner's license lapsed due to non submission of her renewal application.

On December 13, 2012 Ms. Carroll submitted an application for reinstatement of licensure, *Exhibit #1*, on which she checked "Yes" to the question "Have you been found guilty or entered a plea of no contest to any felony or misdemeanor?"

In accordance with Occ 403.04(d)(3)b. Ms. Carroll submitted, with the application for reinstatement, a written explanation of the "Yes" answer, *Exhibit #2*. The explanation addressed a misdemeanor criminal conviction that occurred in December of 2009. Ms. Carroll stated that "By mistake: exited grocery store with a few items in bag. I had just started using the reusable grocery bags, went to pharmacy, paid for items there and was holding my personal hand bag also the grocery bag and pharmacy bag, left forgetting the grocery bag. Was stopped at outside store. Had to pay a fine."

On December 13, 2012 the Board's office received a Criminal History Record from the State of Maine, *Exhibit #3*. The criminal history reported that Ms. Carroll had been convicted on three separate occasions for "Theft" and "Theft by Unauthorized Taking". The convictions were listed as follows:

- August 12, 1986 – Guilty of “Theft” - Misdemeanor
- February 2, 2010 Guilty of “Theft by Unauthorized Taking or Transfer”- Misdemeanor
- August 8, 2011 Guilty of “Theft by Unauthorized Taking or Transfer”- Misdemeanor

The Board met on March 24, 2014. At that meeting the Board reviewed the application for reinstatement and supporting documents submitted by Ms. Carroll. The Board noted the following:

- Ms. Carroll did not explain the Maine criminal convictions that took place in 1986 and 2010.
- Ms. Carroll claimed that she was living in Limerick Maine but was working in Lawrence Massachusetts.
- The Criminal History Record report had been produced on November 27, 2012.
- Ms. Carroll holds current licenses in both Maine and Massachusetts.

The Board sent Ms. Carroll a letter dated March 26, 2014, *Exhibit #4*, requesting the following items:

- A detailed explanation of the 1986 and 2010 convictions.
- Ms. Carroll’s current home physical address, mailing address, and phone number.
- Updated criminal offender record report from the State of Maine.

At their meeting held on March 24, 2014 the Board instructed their Administrator, Tina M. Kelley, to contact both the Maine and Massachusetts Boards to determine if Ms. Carroll was obligated to report criminal convictions and if she was required to report to confirm that she did report the State of Maine misdemeanor convictions.

On March 26, 2014 Tina M. Kelley’s Executive Secretary, Traci E. Weber contact both the Maine and Massachusetts licensure Boards. The Maine Board stated that Ms. Carroll had reported on her March 10, 2011 renewal the February 2, 2010 conviction but had not reported the 1986 or 2011 convictions. The Massachusetts Board stated that Ms. Carroll had not reported any convictions. *Exhibit #5*

Ms. Carroll submitted the explanation of the 1986 and 2010 criminal convictions and updated home addresses and phone number on April 1, 2014, *Exhibit #6*. Ms. Carroll's explanation of why she did not report the 1986 and 2011 convictions and her explanation of those convictions was received on April 1, 2014 and read as follows:

"Since I already had my license after 1986, I did not think I had to report that incident. I had to pay a fine for shoplifting, and believe I reported that on my initial application for NH licensure in 1998. There were two other incidents, which I believe I reported: both were in a grocery store, where I had left the store, after purchasing a prescription, and absentmindedly had a few items in a reusable bag, while holding a handbag as well. One was on Christmas Eve, a chaotic time of year, (2009), and the other date was approximately June, 2010. I paid fines for each incident."

**Relevant Law:**

RSA 328-F:23, II(a)

Misconduct sufficient to support disciplinary proceedings shall include:

(a) Knowingly or negligently providing inaccurate material information to the board or failing to provide complete and truthful material information upon inquiry by the board, including during the process of applying for a license, license renewal, and license reinstatement.

RSA 328-F:23, II(b)

Misconduct sufficient to support disciplinary proceedings shall include:

(b) Any criminal conviction in any jurisdiction, excluding traffic violations, or failure to report such conviction within 30 days.

RSA 328-F:23, II(j)

Misconduct sufficient to support disciplinary proceedings shall include:

(j) Violation of any provision of this chapter, of any governing board's practice act or rule adopted pursuant to RSA 541-A, or any state or federal law reasonably related to the licensee's authority to practice or ability to practice safely.

RSA 326-C:5,I. (b)

I. An applicant shall possess the following qualifications to be license:  
(b) Be of good moral character.

Occ 403.04(d)(3)b.

Submission of the following:

b. A detailed report of the relevant circumstances if any of the answers to the questions identified on the reinstatement application form as requiring such a report are in the affirmative;

Occ 405.02(a)

Misconduct shall be:

(a) Knowingly or negligently providing inaccurate material information to the board or failing to provide complete and truthful material information upon inquiry by the board, including during the process of applying for a license, license renewal, and license reinstatement.

Occ 405.02(b)

(b) Conviction of any criminal offense involving:

- (1) Injury to a victim;
- (2) The risk of such injury; or
- (3) Dishonesty;

Occ 405.02(k)

(k) Violation of

- (1) Any provision of RSA 328-F;
- (2) Any provision of RSA 326-C;
- (3) Any rule adopted by the board; or
- (4) Any state or federal law reasonably related to the licensee's authority to practice or the licensee's ability to practice safely.

**Findings of Fact and Rulings of Law:**

- The petitioner held a New Hampshire Occupational Therapy license from May 7, 1997 to December 31, 1999.
- The petitioner has three misdemeanor convictions in the State of Maine: August 12, 1985 – Theft, February 2, 2010 – Theft by Unauthorized Taking or Transfer, and August 8, 2011 – Theft by Unauthorized Taking or transfer in violation of RSA 328-F:23, II(b), RSA 328-F:23, II(j), RSA 326-C:4, I.(c), Occ 405.02(b), and Occ 405.02(k).

- The petitioner reported in her first letter received by the Board December 13, 2012 that she was convicted in the State of Maine of a misdemeanor on February 2, 2010 but failed to report the two additional State of Maine misdemeanor convictions received on August 12, 1986 and August 8, 2011 in violation of RSA 328-F:23, II(a), RSA 326-C:4, I.(c), Occ 405.02(a), and Occ 405.02(k).
- The petitioner provided the Board with a written explanation of the February 2, 2010 State of Maine misdemeanor conviction in her letter to the Board received December 13, 2012 but failed to explain the August 12, 1986 and August 8, 2011 State of Maine misdemeanor convictions in violation of RSA 328-F:23, II(a), RSA 328-F:23, II(j), RSA 326-C:4, I.(c), Occ 403.04(d)(3)b., Occ 405.02(a), and Occ 405.02(k).
- After further inquiry by the Board the petitioner submitted a letter which described the circumstances surrounding the February 2, 2010 and August 8, 2011 State of Maine misdemeanor convictions but again failed to explain the circumstances surrounding the August 12, 1986 State of Maine misdemeanor conviction in violation of RSA 328-F:23, II(a), RSA 328-F:23, II(j), RSA 326-C:5, I.(b), Occ 405.02(a), and Occ 405.02(k).
- Ms. Carroll reported in her letter received by the Board on April 1, 2014 that she had explained both the February 2, 2010 State of Maine misdemeanor conviction and the August 8, 2011 State of Maine misdemeanor conviction in her letter received by the Board on December 13, 2012. When in fact the letter received by the December 13, 2012 clearly states "Misdemeanor: December 2009". Ms. Carroll's statement is in violation of RSA 328-F:23, II(a), RSA 328-F:23, II(j), RSA 326-C:5, I.(b), Occ 405.02(a), and Occ 405.02(k).
- Ms. Carroll failed to report to the Maine Board of Occupational Therapy the August 12, 1986 and August 8, 2011 State of Maine misdemeanor convictions which indicates to the Board that Ms. Carroll is not of good moral character as required by RSA 326-C:5, I.(b).

- Ms. Carroll failed to report to the Massachusetts Board of Occupational Therapy the August 12, 1986, February 2, 2012, and August 8, 2011 State of Maine misdemeanor convictions which indicates to the Board that Ms. Carroll is not of good moral character as required by RSA 326-C:5, I.(b).
- A review of Ms. Carroll's licensure file failed to show that Ms. Carroll had ever reported the August 12, 1986 State of Maine misdemeanor criminal conviction to the Board.

**Conclusion:**

For the reasons stated above, and in light of RSA 328-F:23, V, the Petitioner's application for reinstatement is **DENIED**.

THEREFORE IT IS ORDERED this Order on Application Denial ("Order") will become a 'final order' within fifteen (15) days of the effective date of this Order, as defined further below, unless prior to 4:00 p.m. on the fifteenth day of the effective date of this Order, unless the Board receives a written request for a hearing; and

IT IS FURTHER ORDERED that receipt of a timely filed hearing request shall automatically stay this Order and a further order shall be issued in due course in which the Board establishes a date and time of the hearing, and specifies the issues to be heard; and

IT IS FURTHER ORDERED that any hearing held in response to this Order shall be a non-adjudicatory hearing conducted pursuant to RSA chapter 326-F; RSA chapter 328-F and RSA chapter 541-A. The Petitioner may request to be heard on any relevant matter of law or fact, but evidentiary proceedings shall be conducted only to the extent the Petitioner has identified disputed factual issues which require resolution. This non-adjudicatory hearing will be conducted in non-public session unless the Petitioner makes a timely written request to conduct it in public session. Subsequent to such hearing, the Board will issue a 'final order' within the statutory amount of time; and

IT IS FURTHER ORDERED that by analogy to RSA 318:31, V, a 'final order' is a public document; and

IT IS FURTHER ORDERED that once a Board order is a 'final order' in accordance with either of the circumstances outlined above, the petitioner has thirty (30) days to file a request for reconsideration pursuant to RSA 541:3. Such motion shall comply with RSA 541:4.

Michelle M. Carroll  
Order on Application Denial

IT IS FURTHER ORDERED that this order shall take effect as an Order of the Board on the date it is signed by an authorized representative of the New Hampshire Governing Board of Occupational Therapy.

BY ORDER OF THE BOARD

Date: 5/19/14

  
Wendi Guillette, OT, Chair  
Authorized Representative of the  
Occupational Therapy Governing Board