IN THE MATTER OF	*	BEFORE THE MARYLAND
BRYAN J. WODASKI, OTR/L	*	BOARD OF OCCUPATIONAL
Respondent	*	THERAPY PRACTICE
License Number: 03241	*	Case Numbers: 2013-001 and 2013-002

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CONSENT ORDER

PROCEDURAL BACKGROUND

On September 24, 2013, the Maryland State Board of Occupational Therapy Practice (the "Board") charged **BRYAN J. WODASKI, OTR/L** (the "Respondent"), License Number 03241, with violating the Maryland Occupational Therapy Practice Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 10-101 *et seq.* (2009 Repl. Vol.) and Md. Regs. Code ("COMAR") tit. 10, § 46.02 *et seq.*

Specifically, the Board charged the Respondent with violating the following provisions of the Act under H.O. § 10-315:

H.O. § 10-315. Denials, reprimands, suspensions, and revocations--Grounds.

> Subject to the hearing provisions of § 10-316 of this subtitle, the Board may ... reprimand any licensee ... place any licensee ... on probation, or suspend or revoke a license ... if the ... licensee ...:
>
> (2) Fraudulently or deceptively uses a license or temporary license;
>
> (3) Commits any act of gross negligence, incompetence, or misconduct in the practice of occupational therapy or limited occupational therapy;
>
> (4) Knowingly violates any provision of this title;
>
> (5) Violates any rule or regulation of the Board, including any code of ethics adopted by the Board;

(7) Aids or abets an unauthorized individual in the practice of occupational therapy or limited occupational therapy;

(10) Willfully makes or files a false report or record in the practice of occupational therapy or limited occupational therapy; [and]

(12) Submits a false statement to collect a fee[.]

The Board also charged the Respondent with violating the following COMAR provisions:

COMAR 10.46.02 Code of Ethics

10.46.02.01 General Conduct

A. The licensee shall:

(2) Provide the highest quality services to the client;

(7) Represent accurately the licensee's skills;

(8) Seek a consultation with or refer the client to an appropriate health care professional if the licensee determines that the licensee cannot effectively manage the client's needs;

(9) Exercise sound professional judgment in the use of evaluation and treatment procedures; [and]

(15) Comply with all applicable laws dealing with occupational therapy practice[.]

C. The licensee may not:

(2) Allow financial gain to be paramount to the delivery of service to the client;

(3) Provide a service or instruction, either for pay or gratuitously, that is not within the licensee's demonstrated competencies; [and]

(4) Use, or participate in the use of, a form of communication that contains or implies a:

(b) False, fraudulent, misleading, deceptive, or unfair statement or claim.

On November 4, 2013, a Case Resolution Conference was convened in this matter. Based on negotiations occurring as a result of this Case Resolution Conference, the Respondent agreed to enter into this Consent Order, which consists of Procedural Background, Findings of Fact, Conclusions of Law, Order, Consent and Notary.

FINDINGS OF FACT

The Board makes the following Findings of Fact:

BACKGROUND

1. At all times relevant hereto, the Respondent was and is licensed to practice occupational therapy in the State of Maryland. The Respondent was initially licensed to practice occupational therapy in Maryland on or about July 13, 1995, under License Number 03241. The Respondent's license is currently active through June 30, 2014.

2. At all times relevant hereto, the Respondent practiced occupational therapy at an office known as "TriState Hand, Foot and Ankle Therapy" ("Tri State"), located in Cumberland, Maryland.

3. The Board initiated an investigation of the Respondent in 2012 after receiving two complaints about his practice.

Complaint # 1

4. One of the complaints, dated July 6, 2012, came from an occupational therapist/educator ("Complainant # 1")[1] who practices in Maryland. Complainant # 1 expressed concerns about the scope and quality of the Respondent's practice, his

advertising and use of assistants to perform occupational therapy modalities they were not trained to provide.

5. Complainant # 1 reported that the Respondent had changed the name of his practice to "Tri State Hand, Foot and Ankle Therapy," and had begun advertising that his office treated lower extremity conditions/injuries. Complainant # 1 provided a newsletter the Respondent published and an advertisement he placed in an area newspaper in which he represented that he treated lower extremity injuries.

6. Complainant # 1 provided a page from the website of the American Occupational Therapy Association (the "AOTA"), from May 2012, which addressed whether the scope of occupational therapy permitted the treatment of acute spine and lower extremity injuries and dysfunctions. The AOTA website page stated, *inter alia*, "[w]hile occupational therapy programs include anatomy and physiology of the entire body, the focus of specific evaluation and intervention *is not* on addressing spine and lower extremity dysfunction." (emphasis added)

7. Complainant # 1 also stated that a series of individuals reported concerns to her about the Respondent's provision of occupational therapy. Complainant # 1 identified a patient of the Respondent, an adult female ("Patient A," see ¶ 12, *infra*), who questioned Complainant # 1 about the occupational therapy treatment the Respondent provided for her ankle. Complainant # 1 reported that Patient A also raised additional concerns about the Respondent's practice, including possible confidentiality/HIPAA[2]

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[1] To ensure confidentiality, the identities of all complainants, patients or other individuals referred to in this Consent Order have not been disclosed by name. The Respondent is aware of the identity of all individuals referenced herein.

[2] HIPAA, or the Health Insurance Portability and Accountability Act, is a federal law that protects health insurance coverage and the privacy of personally identifiable health information.

violations and an instance in which he made derogatory comments about another hand therapist in the area.

8. Complainant # 1 stated that she received a second complaint from a former patient of the Respondent who stated that he attended a free clinic Tri State offered in which the Respondent diagnosed him with a foot problem. The patient stated that he embarked upon a lengthy and very expensive treatment process, including custom orthotics, with no improvement. The patient stated that he then went to an orthopedic surgeon, who diagnosed him correctly, sent him to a physical therapist, and within three visits he was "pain-free."

9. Complainant # 1 reported a third complaint to her from a former student ("Complainant # 2," see ¶ 10, *infra*) whom the Respondent employed as a certified occupational therapy assistant ("COTA"). Complainant # 1 reported that Complainant # 2 stated to her that the Respondent required her to perform treatments for which she had not been trained. Complainant # 2 also expressed other ethical concerns about the Respondent's practice.

Complaint # 2

10. The Board received a second complaint, dated July 5, 2012, from Complainant # 2, the COTA referenced above in ¶ nine (9). Complainant # 2 identified a series of concerns about the Respondent's practice, which included the following:

(a) On or about July 5, 2012, the Respondent left an unattended patient, Patient B, in lumbar traction, while he left the clinic for an extended period of time for personal reasons (reportedly to get coffee), leaving Patient B

abandoned for a significant amount of time with no other therapist on the premises;

(b) The Respondent treated foot and ankle issues, modalities beyond the scope of occupational therapy;

(c) The Respondent instructed COTAs to treat foot and ankle issues, modalities for which they were not trained and which were beyond the scope of occupational therapy;

(d) The Respondent fitted foot and ankle patients with orthotics, a practice beyond the scope of occupational therapy;

(e) The Respondent misrepresented the services his office provided by altering and upcoding daily notes, which included altering/changing the notations that staff recorded, including changing the original units administered and adding additional modalities that were not provided;

(f) The Respondent routinely changed daily notes that staff submitted to him by increasing the units administered, crossing out modalities administered and adding new modalities in the place of the original, with no additional notations post-service to the patients;

(g) The Respondent violated patient confidentiality and/or HIPAA provisions by discussing patients' names and their diagnoses with other patients without the express permission or consent of his patients. In at least one instance, a patient (Patient A) discontinued treatment as a result of the Respondent's disclosures; and

(h) The Respondent violated patient confidentiality and/or HIPAA regulations by dictating initial evaluations and re-evaluations and letters to physicians in an open area of the clinic within earshot of patients who were awaiting treatment.

BOARD INVESTIGATION

11. As part of its investigation, the Board interviewed several individuals who were associated with this matter.

Patient A

12. The Board's investigator interviewed Patient A, who raised the following concerns about the Respondent's treatment of her ankle/foot condition:

(a) Patient A stated that the Respondent provided unsatisfactory treatment for her ankle/foot condition. Patient A stated that the Respondent spent an inordinate amount of time when initially evaluating her, estimating that it took approximately three to three-and-one-half hours to complete;

(b) Patient A stated that during the evaluation, the Respondent improperly evaluated areas of her body that were not germane to her condition and made an inappropriate personal remark to her when she expressed discomfort and sensitivity after he touched her hip area;

(c) Patient A stated that the Respondent provided treatment for her that did not address her condition and that he did not seem to know how to address her condition;

(d) Patient A stated that the Respondent did not disclose to her that he was an occupational therapist;

(e) Patient A stated that the Respondent fitted her for a lower extremity orthotic device that was ill-fitting, unusable and failed to provide proper support and treatment for her foot/ankle condition;

(f) Patient A reported an incident in the Respondent's office on or about June 19, 2012, when the Respondent violated her confidentiality. While Patient A was in the treatment room, the Respondent introduced her by her full name to another patient, who was standing outside the treatment room, thus disclosing her identity to that patient. The Respondent disclosed to the other patient that Patient A had a similar condition but had undergone surgery several weeks prior to the patient. Patient A reported that the Respondent suggested that the patients become "Facebook partners" so that they could support each other during their respective recoveries. Patient A did not authorize the Respondent to disclose her identity or condition to any other patients and felt "belittled" and "violated" when he did so. Patient A reported that the Respondent's actions caused her significant embarrassment and in part led her to discontinue treatment with the Respondent; and

(g) Patient A stated that after discontinuing treatment with the Respondent, she began treatment with a physical therapist and saw improvement in her condition.

13. A review of Patient A's treatment records indicates that the Respondent altered Patient A's treatment records to reflect treatments that were either not provided or for which there was little to no documentation in the record. Examples include but

are not limited to the following: (a) On June 27, 2012, therapeutic acts (CPT 97530) was changed from one unit to two units; (b) On June 18, 2012, therapeutic acts (CPT 97530), two units added; therapeutic exercises (CPT 97110), one unit added; and (c) June 11, 2012, therapeutic exercises (CPT 97110), one unit added.

Complainant # 2

14. The Board investigator also interviewed Complainant # 2, who reiterated the concerns she raised in her complaint. Complainant # 2 stated that in numerous instances after she provided occupational therapy to patients and recorded in the patients' charts what services she provided, she gave the patients' charts to the Respondent, who then gave the charts to his billing clerk. Complainant # 2 noticed that when she reviewed the patients' records on subsequent patient visits, she observed instances where the Respondent added additional services to the charts that she had not provided or where he had increased the units of services provided. Complainant # 2 observed that the additions or changes to the charts were in the Respondent's handwriting and often were not supported by any documentation in the patients' charts.

15. Complainant # 2 also stated that the Respondent directed her to provide treatment to patients with foot and ankle conditions. Complainant # 2, who did not have training to treat these areas/conditions, was reluctant to comply with the Respondent's instructions.

16. Based on these complaints, the Board conducted an investigation of the Respondent's practice and alleges the following:

ADDED TREATMENT MODALITIES/ALTERED RECORDS

17. The Board obtained and reviewed forty charts of patients ("Patients 1 through 40", *infra*) from Tri State that were selected at random to determine if the Respondent or other individuals who were affiliated with his practice added or altered services/treatment modalities to the list of services the Respondent's COTAs recorded providing in their treatment notes. This review revealed that in a significant majority of the charts, the Respondent routinely added treatment modalities to patient records (*e.g.*, therapeutic exercises/activities), crossed out modalities COTAs recorded in patient records and substituted other treatment modalities (*e.g.*, striking electrical stimulation and substituting therapeutic exercises/activities), and increased the treatment units administered (*e.g.*, the number of ultrasound or neuromuscular education units increased). In these charts, the Respondent did not keep or record documentation to support that these services were in fact provided.

18. The Respondent's actions resulted in additional charges to patients or third party payors that were either not provided or for which there was little or no supporting documentation to justify such charges. In some instances, the Respondent added treatment modalities or additional units of treatments to his patients' daily notes despite the fact that the notes document that the patients did not complete their treatments due to time constraints (*e.g.* Patients # 21 and 22), pain (*e.g.*, Patients 30, 31 and 38), or for other reasons (*e.g.*, Patient # 40).

19. In one instance, the Respondent added that ultrasound was administered, despite the fact that the flow sheet states "Ø phono" for the date in question. See *e.g.*, Patient # 4.

20. Instances of where the Respondent altered patient records to add services that either were not provided or for which there was insufficient documentation or support in the record include but are not limited to the following:

Patient # 1

21. On October 25, 2011, electrical stimulation, unattended (CPT 97014), was crossed out and therapeutic activities (CPT 97530), one unit, was added in its place. On July 28, 2011, ultrasound (CPT 97035), one unit changed to two units.

Patient # 2

22. On August 31, 2011, therapeutic activities (CPT 97530), one unit added. On August 15, 2011, therapeutic activities (CPT 97530), one unit added.

Patient # 3

23. No changes/alterations noted.

Patient # 4

24. On September 7, 2011, ultrasound (CPT 97035), one unit added.

Patient # 5

25. On November 8, 2011, neuromuscular re-education (CPT 97112), two units changed to three units.

Patient # 6

26. On December 14, 2011, therapeutic activities (CPT 97530), one unit added. On December 6, 2011, therapeutic activities (CPT 97530), one unit added.

Patient # 7

27. On October 17, 2011, therapeutic activities (CPT 97530), one unit added.

Patient # 8

28. On June 30, 2011, therapeutic activities (CPT 97530), one unit changed to two units; therapeutic exercises (CPT 97110), one unit changed to two units.

Patient # 9

29. No changes/alterations noted.

Patient # 10

30. On November 18, 2011, therapeutic procedure (exercises) (CPT 97112), one unit changed to two units. On November 14, 2011, neuromuscular re-education (CPT 97112), one unit changed to two units; therapeutic exercises (CPT 97110), one unit changed to two units.

Patient # 11

31. On February 2, 2012, therapeutic activities (CPT 97530), one unit added. On January 25, 2012, orthotics, one unit added, orthotics management and training (CPT 97760), one unit added; therapeutic activities (CPT 97530), two units added. On January 5, 2012, neuromuscular re-education (CPT 97112), one unit changed to two units; therapeutic activities (CPT 97530), one unit added. On December 27, 2011, therapeutic activities (CPT 97530), one unit added.

Patient # 12

32. No changes/alterations noted.

Patient # 13

33. On December 23, 2011, therapeutic activities (CPT 97530), one unit added.

Patient # 14

34. On January 4, 2012, therapeutic activities (CPT 97530), one unit added. On December 21, 2011, therapeutic activities (CPT 97530), one unit added. On December 20, 2011, therapeutic activities (CPT 97530), one unit added. On December 8, 2011, therapeutic activities (CPT 97530), one unit added.

Patient # 15

35. On January 4, 2012, therapeutic activities (CPT 97530), one unit added.

Patient # 16

36. On March 16, 2012, therapeutic activities (CPT 97530), one unit added. On March 5, 2012, orthotic(s) management and training (CPT 97760), one unit added. On February 24, 2012, therapeutic activities (CPT 97530), one unit added. On February 8, 2012, therapeutic activities (CPT 97530), one unit added.

Patient # 17

37. On March 16, 2012, therapeutic activities (CPT 97530), one unit added. On March 12, 2012, therapeutic activities (CPT 97530), one unit added. On February 20, 2012, therapeutic exercises (CPT 97110), two units changed to three units. On February 15, 2012, therapeutic exercises (CPT 97110), two units changed to three units.

Patient # 18

38. On February 29, 2012, therapeutic activities (CPT 97530), one unit added. On February 22, 2012, therapeutic activities (CPT 97530), one unit added. On February 21, 2012, therapeutic activities (CPT 97530), one unit added. On February 15, 2012, therapeutic activities (CPT 97530), one unit added. On February 9, 2012, therapeutic activities (CPT 97530), one unit added. On February 7, 2012, therapeutic

activities (CPT 97530), one unit added; occupational therapy re-evaluation (CPT 97003), one unit added. On January 17, 2012, therapeutic activities (CPT 97530), one unit added. On January 12, 2012, joint mobilization (CPT 97140), one unit added.

Patient # 19

39. On March 27, 2012, therapeutic activities (CPT 97530), one unit added. On March 20, 2012, therapeutic activities (CPT 97530), one unit added. On February 24, 2012, therapeutic activities (CPT 97530), one unit added. On February 17, 2012, therapeutic activities (CPT 97530), one unit added.

Patient # 20

40. On March 1, 2012, therapeutic activities (CPT 97530), one unit added. On February 20, 2012, therapeutic activities (CPT 97530), one unit added. On February 16, 2012, therapeutic activities (CPT 97530), one unit added. On February 14, 2012, therapeutic activities (CPT 97530), one unit added.

Patient # 21

41. On April 17, 2012, therapeutic activities (CPT 97530), one unit added. On April 13, 2012, therapeutic activities (CPT 97530), one unit added. On March 19, 2012, therapeutic activities (CPT 97530), one unit added.

Patient # 22

42. On April 10, 2012, therapeutic activities (CPT 97530), one unit added. On April 4, 2012, therapeutic activities (CPT 97530), one unit added. On March 12, 2012, therapeutic activities (CPT 97530), one unit added. On February 3, 2012, therapeutic activities (CPT 97530), one unit added.

Patient # 23

43. On March 12, 2012, therapeutic activities (CPT 97530), one unit added. On March 8, 2012, therapeutic activities (CPT 97530), one unit added.

Patient # 24

44. On March 12, 2012, therapeutic activities (CPT 97530), one unit added. On March 7, 2012, therapeutic activities (CPT 97530), one unit added.

Patient # 25

45. No changes/alterations noted.

Patient # 26

46. On April 11, 2012, therapeutic activities (CPT 97530), one unit added. On April 10, 2012, therapeutic activities (CPT 97530), one unit added.

Patient # 27

47. On June 5, 2012, therapeutic activities (CPT 97530), one unit added. On June 4, 2012, therapeutic activities (CPT 97530), one unit added.

Patient # 28

48. No changes/alterations noted.

Patient # 29

49. No changes/alterations noted.

Patient # 30

50. On June 19, 2012, therapeutic activities (CPT 97530), one unit added. On May 3, 2012, therapeutic activities (CPT 97530), one unit added. On May 1, 2012, therapeutic activities (CPT 97530), one unit added. On April 25, 2012, therapeutic

activities (CPT 97530), one unit added. On April 19, 2012, therapeutic activities (CPT 97530), one unit added. On April 17, 2012, therapeutic activities (CPT 97530), one unit added. On April 13, 2012, therapeutic activities (CPT 97530), one unit added. On April 9, 2012, therapeutic activities (CPT 97530), two units added.

Patient # 31

51. On May 9, 2012, therapeutic activities (CPT 97530), one unit added.

Patient # 32

52. No changes/alterations noted.

Patient # 33

53. On April 16, 2012, therapeutic activities (CPT 97530), one unit added

Patient # 34

54. No changes/alterations noted.

Patient # 35

55. On January 5, 2012, therapeutic activities (CPT 97530), one unit added.

Patient # 36

56. On May 21, 2012, therapeutic activities (CPT 97530), one unit added.

Patient # 37

57. On June 21, 2012, therapeutic activities (CPT 97530), one unit added.

Patient # 38

58. On June 22, 2012, therapeutic activities (CPT 97530), one unit added. On June 15, 2012, therapeutic activities (CPT 97530), one unit added. On June 13, 2012, therapeutic activities (CPT 97530), two units added. On June 11, 2012, therapeutic activities (CPT 97530), one unit added.

Patient # 39

59. No changes/alterations noted.

Patient # 40

60. On July 3, 2012, orthosis (CPT 97014), one unit added, orthotic(s) management and training (CPT 97760), one unit added. On June 28, 2012, therapeutic activities (CPT 97530), one unit added. On June 26, 2012, orthosis (CPT 97014), one unit added, orthotic(s) management and training (CPT 97760), one unit added.

UNATTENDED/ABANDONED PATIENT

61. On or about July 5, 2012, the Respondent left Patient B hooked up to lumbar traction in his office while he left the clinic for an extended period of time for personal reasons, leaving Patient B unattended or abandoned, with no other therapist on the premises and without appropriate supervision.

TREATMENT OF LOWER EXTREMITY/FOOT AND ANKLE CONDITIONS

62. The Respondent routinely provided occupational therapy for lower extremity and other foot and ankle conditions, a practice that is beyond the scope of occupational therapy practice. The Respondent provided such treatments to patients even in those instances where it was not warranted or justified by the patients' presenting complaints. The Respondent routinely instructed his COTAs to treat foot and ankle conditions, a practice that is beyond the scope of their training and of occupational therapy practice.

DISCLOSURE OF CONFIDENTIAL PATIENT INFORMATION

63. The Respondent failed to maintain patient confidentiality and otherwise failed to protect against the disclosure of confidential patient information during the

course of providing occupational therapy in his office. The Respondent dictated patient summaries, evaluations, re-evaluations and letters to physicians and other patient notes in the common areas of his clinic office, within earshot of patients who were awaiting treatment there. While doing so, the Respondent disclosed his patients' identities and other confidential information about their conditions in a manner that was audible to other patients.

64. In one incident, occurring on or about June 19, 2012, the Respondent introduced Patient A, who was undergoing treatment in the office, to another patient, who was undergoing treatment for a similar condition. During the encounter, the Respondent, without the express permission of Patient A, disclosed her full name, condition and recent surgery to the other patient and suggested that the patients become "Facebook partners" so that they could support each other in their recovery. The Respondent's disclosures caused Patient A considerable embarrassment and led to her decision to leave treatment with the Respondent.

EXTENDED INITIAL EVALUATIONS

65. The Respondent performed inordinately long initial evaluations of patients. The Respondent's initial evaluations typically took two to two-and-one half hours to complete. In one instance, a patient (Patient A) who sought treatment for an ankle injury estimated that it took the Respondent three to three-and-one-half hours to perform his initial evaluation. During the evaluation the Respondent examined every joint in the patient's body. During one part of the examination, the Respondent proceeded to touch Patient A's hip. Patient A stated that she was not comfortable with the Respondent's actions because of her sensitivity in that area, upon which the

Respondent stated that he would let her husband know because that would be a good spot to touch her. This caused Patient A considerable embarrassment.

66. In an interview with a Board investigator, the Respondent acknowledged that he purposefully conducted extended initial evaluations, stating that even if a patient presented with a foot or ankle condition, "you need to understand that person, and that means you need to examine them from head to toe."

67. In a majority of the forty cases, the Respondent did initial examinations that went far beyond the scope of the patients' presenting complaints. The Respondent regularly performed nerve conduction studies, biomechanical foot/ankle evaluations, qualitative sensory testing and pressure specified sensory device ("PSSD") testing, modalities that are beyond the scope of occupational therapy.

PROVISION OF OCCUPATIONAL THERAPY TO PATIENTS WITH PHYSICIAN ORDERS FOR PHYSICAL THERAPY

68. The Respondent provided occupational therapy to patients who had physician orders for physical therapy. In those instances when patients presented physician orders for physical therapy, the Respondent did not inform or document informing his patients that he could not provide physical therapy treatment, or inform or document that he had informed his patients to obtain physician orders for occupational therapy. See *e.g.*, Patients # 6, 7, 27, 30, 33, 34 and 39.

USE OF COTAs TO PROVIDE TREATMENT BEYOND THE SCOPE OF THEIR TRAINING/EXPERTISE

69. The Respondent directed his COTAs to provide treatment to patients with lower extremity conditions, modalities that were beyond the scope of their occupational

therapy training and expertise. The Respondent's COTAs were directed to use ultrasound and electrical stimulation to treat lower extremity conditions. See *e.g.*, Patients # 1, 16, 19, 22, 31, 37 and 40. The Respondent also directed his COTAs to provide treatment modalities to other anatomic locations that were beyond the scope of their training and beyond the scope of occupational therapy. See *e.g.*, Patient # 15 (joint mobilization of neck and back).

DISPENSING VITAMIN SUPPLEMENTS

70. The Respondent dispensed vitamin supplements to a patient, a modality that is beyond the scope of occupational therapy. See *e.g.*, Patient # 18.

ORTHOTICS FOR LOWER EXTREMITY CONDITIONS

71. The Respondent impermissibly fitted patients with orthotics for lower extremity conditions, a modality that is beyond the scope of occupational therapy. See *e.g.*, Patients # 1, 6, 8, 9, 11, 14, 16, 19, 22, 27, 28 and # 31.

USE OF TRACTION

72. The Respondent applied cervical and lumbar traction to patients, modalities that are beyond the scope of occupational therapy. Regarding the application of lumbar traction, see *e.g.*, Patients # 2, 7, 13, 23, 26 and 35. Regarding the application of cervical traction, see *e.g.*, Patients # 15, 20, 24, 30 and 36. The Respondent applied traction when the patients' presenting complaints indicated that such a modality was not warranted. See *e.g.*, Patient # 20, who underwent cervical traction after presenting with thumb pain; Patient # 26, who underwent lumbar traction after presenting with plantar fasciitis; and Patient # 35, who underwent lumbar traction after presenting with a stiff thumb.

73. The Respondent's actions, as described above, constitute a violation of the following provisions of the Act: H.O. § 10-315(2), Fraudulently or deceptively uses a license; H.O. § 10-315(3), Commits any act of gross negligence, incompetence, or misconduct in the practice of occupational therapy; H.O. § 10-315(4), Knowingly violates any provision of this title; H.O. § 10-315(5), Violates any rule or regulation of the Board, including any code of ethics adopted by the Board; H.O. § 10-315(7), Aids or abets an unauthorized individual in the practice of occupational therapy or limited occupational therapy; H.O. § 10-315(10), Willfully makes or files a false report or record in the practice of occupational therapy or limited occupational therapy; and H.O. § 10-315(12), Submits a false statement to collect a fee.

74. The Respondent's actions, as set forth above, constitute a violation of the following provisions of COMAR 10.46.02.01: A(2), Provide the highest quality services to the client; A(7), Represent accurately the licensee's skills; A(8), Seek a consultation with or refer the client to an appropriate health care professional if the licensee determines that the licensee cannot effectively manage the client's needs; A(9), Exercise sound professional judgment in the use of evaluation and treatment procedures; A(15), Comply with all applicable laws dealing with occupational therapy practice; C(2), Allow financial gain to be paramount to the delivery of service to the client; C(3), Provide a service or instruction, either for pay or gratuitously, that is not within the licensee's demonstrated competencies; and/or C(4), Use, or participate in the use of, a form of communication that contains or implies a (b) false, fraudulent, misleading, deceptive, or unfair statement or claim.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board finds as a matter of law that the Respondent violated the following provisions of the Act: H.O. § 10-315(2), Fraudulently or deceptively uses a license; H.O. § 10-315(3), Commits any act of gross negligence, incompetence, or misconduct in the practice of occupational therapy; H.O. § 10-315(4), Knowingly violates any provision of this title; H.O. § 10-315(5), Violates any rule or regulation of the Board, including any code of ethics adopted by the Board; H.O. § 10-315(7), Aids or abets an unauthorized individual in the practice of occupational therapy or limited occupational therapy; H.O. § 10-315(10), Willfully makes or files a false report or record in the practice of occupational therapy or limited occupational therapy; and H.O. § 10-315(12), Submits a false statement to collect a fee.

Based on the foregoing Findings of Fact, the Board finds as a matter of law that the Respondent violated the following provisions of COMAR 10.46.02.01: A(2), Provide the highest quality services to the client; A(7), Represent accurately the licensee's skills; A(8), Seek a consultation with or refer the client to an appropriate health care professional if the licensee determines that the licensee cannot effectively manage the client's needs; A(9), Exercise sound professional judgment in the use of evaluation and treatment procedures; A(15), Comply with all applicable laws dealing with occupational therapy practice; C(2), Allow financial gain to be paramount to the delivery of service to the client; C(3), Provide a service or instruction, either for pay or gratuitously, that is not within the licensee's demonstrated competencies; and C(4), Use, or participate in the use of, a form of communication that contains or implies a (b) false, fraudulent, misleading, deceptive, or unfair statement or claim.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 20TH day of December, 2013, by a quorum of the Board considering this case:

ORDERED that the Respondent's license to practice as an occupational therapist in the State of Maryland shall be and hereby is **SUSPENDED** for a period of **THREE (3) YEARS,** with all but **ONE (1) YEAR** of said suspension **STAYED,** to commence on January 2, 2014; and it is further

ORDERED that after the conclusion of the **ONE (1) YEAR** period of **ACTIVE SUSPENSION** set forth above, the Respondent may petition the Board to **LIFT** the **ACTVE PERIOD of SUSPENSION,** provided the Respondent successfully complies with the following terms and conditions; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a minimum period of **THREE (3) YEARS,** to commence on the date the Board executes this Consent Order and running concurrently with the **SUSPENSION** set forth above, subject to the following terms and conditions:

1. Within **NINETY (90) DAYS** of the date the Board executes this Consent Order, the Respondent shall pay a civil fine in the amount of five thousand ($5,000.00) dollars, payable by certified check or money order to the Board.

2. Within **ONE (1) YEAR** of the date the Board executes this Consent Order, the Respondent shall enroll in, and successfully complete, at his expense, a Board-approved course in professional ethics. The Respondent authorizes the Board to provide the course proctor with this Consent Order, the charging document, and any

other documents and investigatory materials it deems relevant. The Respondent shall be solely responsible for submitting adequate written documentation to the Board of his successful completion of this course.

4. Within **ONE (1) YEAR** of the date the Board executes this Consent Order, the Respondent shall enroll in, and successfully complete, at his expense, a Board-approved course in professional billing. The Respondent authorizes the Board to provide the course proctor with this Consent Order, the charging document, and any other documents and investigatory materials it deems relevant. The Respondent shall be solely responsible for submitting adequate written documentation to the Board of his successful completion of this course.

5. Within **ONE (1) YEAR** of the date the Board executes this Consent Order, the Respondent shall, at his expense, enroll in and successfully complete with a 100% pass rate, the Maryland Law and Jurisprudence Examination. The Respondent shall be solely responsible for submitting timely, written verification of his successful completion of this examination; and it is further

6. If the Respondent actively practices occupational therapy in any jurisdiction, he shall obtain a Board-approved supervisor/mentor (the "Mentor"), who shall meet with him twice per month on an unannounced basis to review his performance of occupational therapy. The Respondent shall submit proposed candidates for mentoring to the Board for purposes of satisfying this condition. After the first year of supervision, the Respondent may petition the Board to decrease the frequency of his supervision by the Mentor. The Mentor shall submit written reports beginning six (6) months after the Respondent undergoes supervision, and shall

thereafter submit written reports at six (6) month intervals during the **THREE (3) YEAR** period of **PROBATION**. In these reports, the Mentor shall assess the Respondent's performance of occupational therapy and compliance with all applicable codes of ethics pertaining to occupational therapy.

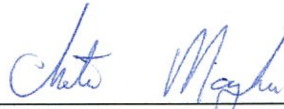
7. The Respondent shall practice according to the Maryland Occupational Therapy Practice Act and in accordance with all applicable laws, statutes, and regulations pertaining to the practice of occupational therapy.

AND BE IT FURTHER ORDERED that after the conclusion of the entire **THREE (3) YEAR PERIOD OF PROBATION,** the Respondent may file a written petition for termination of his probationary status without further conditions or restrictions, but only if he has satisfactorily complied with all conditions of this Consent Order, including all terms and conditions of probation, and including the expiration of the **THREE (3) YEAR PERIOD OF PROBATION**, and if there are no pending complaints regarding him before the Board; and it is further

ORDERED that if the Respondent violates any of the terms or conditions of this Consent Order or of probation, the Board, after notice, opportunity for a hearing and determination of violation, may impose any other disciplinary sanctions it deems appropriate, including but not limited to, revocation or suspension, said violation being proven by a preponderance of the evidence; and it is further

ORDERED that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that this Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. §§ 10-611 *et seq*. (2009 Repl. Vol. and 2013 Supp).



Christine Moghimi, ScD., MAS, COTA/L
Chairperson, Maryland State Board of Occupational Therapy Practice

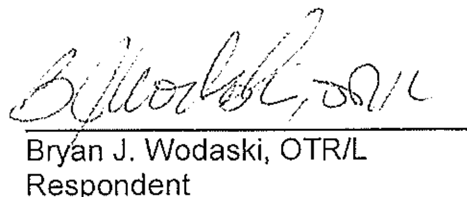
CONSENT

I, Bryan J. Wodaski, OTR/L, acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections as provided by law. I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order after having had an opportunity to consult with counsel, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

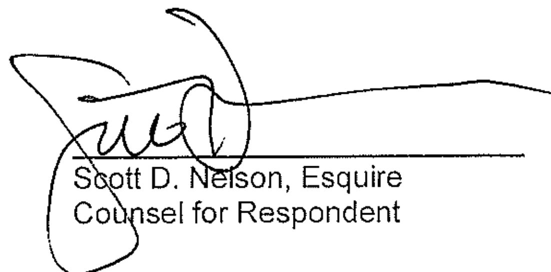
12/18/13
Date



Bryan J. Wodaski, OTR/L
Respondent

Read and approved by:

12-20-13
Date



Scott D. Nelson, Esquire
Counsel for Respondent