

IN THE MATTER OF * BEFORE THE MARYLAND STATE
ANTHONY ANDERSON, P.T.A. * BOARD OF PHYSICAL THERAPY
License No.: A1168 * EXAMINERS
Respondent * Case Nos.: PT 15-68 & PT 16-08

* * * * *

FINAL ORDER OF REVOCATION

On **September 24, 2015**, the Maryland Board of Physical Therapy Examiners (the “Board”) issued a Notice of Intent to Revoke (the “Notice”) the physical therapy assistant (“P.T.A.”) license of **Anthony Anderson, P.T.A.** (the “Respondent”) based on his violation of the Maryland Physical Therapy Act (the “Act”), Md. Code Ann., Health Occ. §§ 13-101 *et seq.* (2014 Repl. Vol.)

The Board notified the Respondent of its intent to revoke his license based on his violation of the Act, specifically:

13-316. Denials, reprimands, probations, suspensions and revocations – Grounds

Subject to the hearing provisions of § 13-317 of this subtitle, the Board may deny a license, temporary license, or restricted license to any applicant, reprimand any licensee or holder of a temporary license or restricted license, place any licensee or holder of a temporary license or restricted license on probation, or suspend or revoke a license, temporary license, or restricted license if the applicant, licensee or holder:

...

(8) To the extent that impairs professional competence, habitually uses any:

(i) Drug[.]

...

(15) Violates any provision of this title or rule or regulation adopted by the Board[.]

The Respondent violated the following provisions of the Board's regulations:

Md. Code Regs. 10.38.02.01 Code of Ethics

...

- G. The...physical therapist assistant shall comply with the probationary conditions of a Board order[.]

The Respondent received the Notice on **September 25, 2015**. The Respondent was notified that failure to request a hearing within thirty days of the date he received the Notice would result in the Board signing this Final Order Of Revocation. The Respondent's hearing request was due on or before **October 25, 2015**. The Respondent failed to request a hearing.

FINDINGS OF FACT

1. The Respondent was licensed to practice limited physical therapy in the State of Maryland under license number A1168 on August 9, 1983. His license is currently active and is scheduled to expire on May 31, 2016.
2. At all times relevant to this case, the Respondent was employed as a P.T.A. at Facility A in Baltimore, Maryland.¹
 - I. **2014 Summary Suspension**
3. On July 22, 2014 the Board summarily suspended the Respondent's license to practice as a physical therapy assistant finding that the public, safety or welfare imperatively required emergency action (Case Number PT 14-37).
4. Specifically, the Board summarily suspended the Respondent based on the investigative facts set forth below.
5. Effective May 31, 2014, the Respondent's P.T.A. license expired.

¹To ensure confidentiality, the name of facilities and individuals are not used in this document.

6. On or about June 10, 2014, the Respondent appeared at the Board's office to reinstate his license. Although the Respondent had applied for reinstatement on prior occasions, it was necessary for the Board Licensing Coordinator to explain to the Respondent the reinstatement process several times.
7. On or about June 27, 2014, the Respondent appeared at the Board's office to pick up his license. The Board staff member who had processed the Respondent's paperwork observed that it had a definite odor of (ethyl) alcohol.
8. Having overheard Board staff's remark that the Respondent's paperwork smelled of alcohol, the Board's Compliance Manager reviewed the Respondent's 2014 reinstatement application and thereafter checked the Respondent's responses to questions contained therein against the Maryland Judiciary website for possible alcohol-related arrests.
9. The Compliance Manager noted that the Respondent had answered "NO" to all of the questions on the application, including Questions 6, 12 and 13 which state:
 6. Have you committed a criminal act to which you pled guilty or nolo contendere or for which you were convicted or received probation before judgment?
 12. Have you committed an offense involving alcohol or controlled dangerous substances to which you plead guilty or nolo contendere for which you were convicted or received probation before judgment?
 13. Have you engaged in any form of alcohol or substance abuse?
10. On the application, the Respondent had signed an affidavit before a Notary Public that the facts and statements contained in the application are true to the best of the applicant's knowledge and belief.

11. The Maryland Judiciary website revealed that the Respondent had been arrested on several occasions dating back to 1986 for criminal narcotic violations, as follows:
 - a. **2002** – the Respondent was charged on July 2, 2002, with possession of marijuana. On August 28, 2002, the Respondent pled not guilty. The Court found the Respondent guilty and fined him \$100.00;
 - b. **1992** – the Respondent was charged on August 26, 1992, with two counts of possession of Controlled Dangerous Substance (“CDS”) – not marijuana. On November 9, 1992, the Respondent pled guilty. The Court found the Respondent guilty on both counts and imposed a two year jail sentence, which was suspended. The Court also fined the Respondent \$100.00;
 - c. **1986** – the Respondent was charged on November 5, 1986, with possession of CDS – not marijuana. On December 4, 1986, the Court found the Respondent guilty and imposed a \$250.00 fine.
12. The Compliance Manager reviewed the Respondent’s biennial licensure applications from 2000 through 2012. On each of the applications the Respondent affirmed that his responses were true and correct to the best of his knowledge and belief.
13. The Respondent failed to respond truthfully and accurately to Questions 6 and 12 on all of the applications; at no time did he disclose to the Board his criminal narcotic convictions. On his 2012 renewal application, the Respondent reported in response to Question 13 (Have you engaged in any form of alcohol or

substance abuse?) that, “I am currently on the Federal Mandateed (*sic*) Program.” The Respondent provided no explanation of his response.²

14. On June 27, 2014, in furtherance of the Board investigation, the Board Compliance Manager subpoenaed true test copies of Baltimore City Police Reports for each of the Respondent’s arrests.
15. On July 2, 2014, the Board Compliance Manager and a Board investigator appeared at Facility A and served the Respondent with a Subpoena Ad Testificandum subpoena to appear at the Board to be interviewed on July 8, 2014.
16. While serving the subpoena, the Compliance Manager noted that the Respondent’s eyes were glassy and bloodshot. The Respondent stated that his eyes “stayed red” and that he used drops often.
17. The Compliance Manager asked the Respondent if he (the Respondent) would be able to pass a drug test if one were given to him. The Respondent responded that he could pass the test for everything except marijuana.
18. The Respondent further responded that he uses marijuana once a day, after work, to relax.
19. On July 8, 2014, the Board Compliance Manager and a Board investigator interviewed the Respondent under oath.
20. During the interview, the Compliance Manager questioned the Respondent regarding each of his arrests. The Respondent acknowledged that in 1986, he had been arrested for possession of cocaine. The Respondent further

² In addition to his positive response to Question 13 on his 2012 application, the Respondent answered YES to questions on the applications on only one other occasion. On his 2002 renewal application he reported that the Board had taken disciplinary action against him.

acknowledged that his 1992 arrest on two counts of CDS possession may have been for cocaine and heroin.

21. When questioned regarding his recent drug use, the Respondent stated he had used cocaine since “about the 80s” and was still using it “on and off until last year some time.” The Respondent stated that he had used cocaine and crack cocaine “three times out of the week” and heroin every day before he enrolled in a methadone program six or seven years ago.
22. The Respondent stated that he “might have tried some [heroin] within the last year” and crack cocaine during that time as well. The Respondent acknowledged that he had failed some drug tests at his methadone program “within the past few months,” “probably” for cocaine.
23. When the Respondent was asked why he did not disclose any of his convictions on his licensure applications, the Respondent stated that he did not want the Board to know about them because he did not want to lose his license.

II. January 2015 Consent Order Terminating Summary Suspension

24. On November 18, 2014, the Board held a hearing before a quorum of the Board to allow the Respondent the opportunity to show cause why he did not pose an imminent threat to the health, safety, or welfare of the public and why the summary suspension, imposed effective July 22, 2014, should be lifted.
25. As a result of the show cause hearing, the Board found that the Respondent did not pose an imminent threat to the health, safety, or welfare of the public, provided he comply with terms and conditions set forth in a Consent Order

Terminating Summary Suspension executed by the Board effective January 20, 2015 (“2015 Consent Order”).³

26. The terms and conditions of the 2015 Consent Order provide in pertinent part:

...

ORDERED that the Respondent be placed on immediate **PROBATION** for at least FIVE (5) YEARS, during which he shall:

1. Submit to random, Board-ordered urine screenings on a twice-monthly basis; and
2. Continue his participation in the substance abuse program he is enrolled in with the Department of Veterans Affairs; and be it further

...

ORDERED that all urine screens submitted under this Consent Order be:

1. Submitted by the Respondent within 24 hours of Board staff instructing him to submit a urine sample;
2. Submitted at a CLIA-certified laboratory;
3. Observed; and
4. Negative for any controlled dangerous substance, narcotics, alcohol, cocaine, or other mood-altering substance, except as provided below;⁴ and be it further

...

ORDERED that in the event the Board finds in good faith that the Respondent has violated any of the conditions of probation herein, or in the event the Board finds in good faith that the Respondent has committed a violation of Title 13 of the Health Occupations Article or regulations adopted thereunder, the Board may immediately summarily suspend the Respondent’s license prior to a hearing, provided that the Respondent is given the opportunity for a show cause hearing within a reasonable time of such action, and may take further disciplinary action against the

³ In the Consent Order, the Board ordered that the Respondent’s summary suspension be terminated as moot.

⁴ These provisions apply to medications lawfully prescribed by the Respondent’s physician or other authorized medical practitioner.

Respondent, including but not limited to revoking the Respondent's license, provided that the Respondent is first given notice and opportunity for a hearing[.]

III. Current Investigative Findings

27. On June 22, 2015, the Board Compliance Manager ("Compliance Manager") notified the Respondent that he was to report for a urine screening at the Board-designated testing center (the "Center") at or before 8:00 a.m. on June 23, 2015.
28. On June 23, 2015, at 9:24 a.m., a Center employee ("Center Employee") notified the Compliance Manager that the Respondent had reported to Center A at 8:30 a.m., one-half hour later than his reporting deadline. The Center Employee further advised the Compliance Manager that the Respondent had gone to the restroom and had voided his bladder before checking in for the test. The Respondent then told the Center Employee that he was unable to produce a specimen for the test. The Center Employee instructed the Respondent to drink some water and wait to see if he was able to complete the test.
29. At 9:24 a.m., the Center Employee contacted Board staff by telephone to report that the Respondent had reported late for his test and was unable to produce a urine sample. The Center Employee also stated that the Respondent was acting "odd."
30. After speaking to the Center Employee, the Compliance Manager spoke to the Respondent about his late reporting time and inability to complete the test. The Respondent told the Compliance Manager that he had run late that morning and that when he arrived at the Center, he had gone to the restroom without thinking. The Respondent asked if he could come back another day to complete the urine

screening. Board staff advised that if the Respondent left the Center without being tested, it would be considered to be a positive result. Thereafter, the Respondent produced a urine sample.

31. On June 30, 2015, the Board received the results of the June 23, 2015 urine screening, which were positive for methadone⁵ and cocaine.
32. Upon receipt of the test result, the Compliance Manager spoke with the Respondent by telephone regarding the positive cocaine result. The Respondent explained that an unidentified person must have “slipped him something.”
33. On July 6, 2015, the Compliance Manager interviewed the Respondent under oath regarding the June 23 positive urine screening. The Respondent acknowledged that the terms and conditions of the 2015 Consent Order required him to undergo random urinalysis twice a month.
34. The Respondent further stated that after he had produced the urine sample on June 23, 2015, he reported to Facility A and treated approximately ten to twelve patients that day.
35. During the interview, the Compliance Manager asked the Respondent to explain the positive cocaine test result. The Respondent replied that he drinks a lot of coffee and someone must have slipped the cocaine in his coffee. Later in the interview, the Respondent speculated that his brother, who the Respondent described as “a hard-core junkie,” might have put the cocaine in his coffee. The Respondent admitted that he had no proof to support that statement, and offered that “it had happened before... with the [substance abuse treatment] program.”

⁵ A positive methadone finding was expected because the Respondent was participating in a substance abuse treatment program, pursuant to the 2015 Consent Order.

36. When the Compliance Manager asked the Respondent to explain his statement, the Respondent replied that earlier in the year, he had tested positive for cocaine in a urinalysis conducted at his substance abuse treatment facility and did not know “how that happened.”
37. The Respondent denied using cocaine for the past year and offered no other explanation for the positive test results other than his belief that someone had slipped the substance in his coffee.
38. The Compliance Manager asked the Respondent whether, if the Respondent was tested that day, he would test negative. The Respondent initially replied that “I should,” but then stated that he could pass the test.
39. The Compliance Manager advised the Respondent that he was due for a random urinalysis and instructed him to report to the Center no later than the close of business on July 6, 2015. Because the Respondent was on his way to work at Facility A, the Compliance Manager suggested that he report to the Center for a urinalysis on the way to work.
40. On July 7, 2015, the Respondent reported to the Center for a urinalysis.
41. On July 10, 2015, the Board received the results of the Respondent’s July 7 urinalysis. The Respondent tested positive for methadone and cocaine.
42. Based on the foregoing facts, the Board concluded that the public health, safety or welfare imperatively required emergency action in this case, pursuant to Md. Code Ann., State Gov’t § 10-226(c)(2)(i).

43. Effective August 3, 2015, the Board issued to the Respondent an Order for Summary Suspension of the Respondent's license to practice as a physical therapy assistant. (Case Number: PT 15-68).
44. The Respondent was notified of his opportunity to request, within 15 days of his receipt of the Order for Summary Suspension, a hearing to show cause why the summary suspension should not continue.
45. The Respondent failed to request a show cause hearing. The Respondent's license to practice as a physical therapy assistant in the State of Maryland remains suspended.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board finds by a preponderance of evidence and concludes that the Respondent violated Health Occ. § 13-316 (8)(i): To the extent that impairs professional competency, habitually uses any drug, and Health Occ. § 13-316 (15): Violates and provision of this title or rule or regulation adopted by the Board. The Respondent's actions further violate Md. Code Regs. 10.38.02.01G (Code of Ethics): The...physical therapist assistant shall comply with the probationary conditions of a Board order[.]

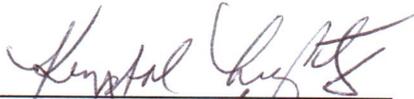
ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED that the Respondent's license to practice as a physical therapy assistant is hereby **REVOKED**; and it is further

ORDERED that this Order is a **PUBLIC DOCUMENT**, pursuant to Md. Code Ann., Gen'l Prov. §§ 4-101 *et seq.* (2014).

October 26, 2015
Date



Krystal Lighty, D.P.T.
Chair
Maryland Board of Physical Therapy
Examiners

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 13-318 (2014 Repl.Vol.), you have a right to take a direct judicial appeal. A Petition for Judicial Review must be filed within thirty days of your receipt of this Order and shall be made as provided for judicial review of a final decision in Md. Code Ann. State Gov't §§ 10-201 *et seq.* (2014 Repl. Vol.) and Title 7, Chapter 200 of the Maryland Rules.