

IN THE MATTER OF * **BEFORE THE**
MICHELLE L. BLOUNT, P.T. * **BOARD OF PHYSICAL**
Respondent * **THERAPY EXAMINERS**
License No. 19401 *
* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

On May 21, 2002, the State Board of Physical Therapy Examiners (the "Board") charged Michelle L. Blount, P.T. (the "Respondent") (D.O.B. [REDACTED]), License Number 19401, under the Maryland Physical Therapy Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 13-101 et seq. (2000).

Specifically, the Board charged the Respondent with violating the following provisions of H.O. § 13-316:

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:

- (13) Willfully makes or files a false report or record in the practice of physical therapy or limited physical therapy;
- (15) Submits a false statement to collect a fee;
- (16) Violating any provision of this title or rule or regulation adopted by the Board;
- (20) Commits an act of unprofessional conduct in the practice of physical therapy or limited physical therapy.

The Board also charged the Respondent with violating Code Md. Regs. ("COMAR") tit. 10, § 38.03.02 (2000), Standards of Practice:

COMAR 10.38.03.02-1 Requirements for Documentation.

A. As established by the American Physical Therapy Association of Maryland, and as approved by the Board, the physical therapist shall document the patient's chart as follows:

(1) For initial visit:

- (a) Date,**
- (b) Condition/diagnosis for which physical therapy is being rendered,**
- (c) Onset,**
- (d) History, if not previously recorded,**
- (e) Evaluation and results of tests (measurable and objective data),**
- (f) Interpretation,**
- (g) Goals**
- (h) Plan of care, and**
- (i) Signature, title (PT), and license number;**

(2) For subsequent visits:

- (a) Date,**
- (b) Modalities, procedures, etc.,**
- (c) Cancellations, no-shows,**
- (d) Response to treatment,**
- (e) Signature and title (PT), with identifying signatures appearing on the patient's chart, although the flow chart may be initialed,**
- (f) Weekly progress or lack of it,**
- (g) Unusual incident/unusual response,**
- (h) Change in plan of care,**
- (i) Temporary discontinuation or interruption of services and reasons,**
- (j) Reevaluation, and**
- (k) If there is a physical therapist assistant, reevaluate and document as required by Regulation .02L of this chapter;**

(3) For discharge or last visit:

- (a) Date,**
- (b) Reason for discharge,**
- (c) Status at discharge,**
- (d) Recommendations for follow-up and**
- (e) Signature and title.**

On August 13, 2002, a conference with regard to this matter was held before the Case Resolution Conference (the "CRC"). As a result of negotiations entered into before the CRC, the Respondent agreed to enter into this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

BACKGROUND

1. At all times relevant, the Respondent was and is licensed to practice physical therapy in the State of Maryland. The Respondent was initially licensed to practice physical therapy in Maryland in 1998 under License Number 19401.

2. The Board initiated an investigation of the Respondent after receiving a report in April, 2000, which was submitted by a physical therapist who had been retained for litigation purposes to review the physical therapy care and treatment provided to James R. Clarke, a Maryland-area physical therapist.

3. Mr. Clarke had been injured in a motor vehicle accident in a shopping center parking lot on August 9, 1997. After the accident, Mr. Clarke began self-administering a substantial number of physical therapy treatments in his physical therapy offices. He also underwent a series of surgical procedures, including a left knee arthroscopy on December 22, 1997, and right shoulder surgery on January 5, 1999, as a result of the injuries purportedly attributable to the accident.

4. The Respondent was hired as a physical therapist in the offices of James R. Clarke, P.T., P.A. in October 1998.

5. The Respondent began providing physical therapy to Mr. Clarke on January 6, 1999, one day after he underwent right shoulder surgery.

6. Sometime after becoming involved in the motor vehicle accident described above, Mr. Clarke pursued a civil action against the individual whom he alleged caused the 1997 accident. During the course of this litigation, Mr. Clarke produced a document titled "Statement of Professional Services" (hereinafter the "Statement"). This Statement indicated that during the period August 11, 1997 through September 30, 1998, Mr. Clarke provided/received approximately 161 physical therapy treatments, typically consisting of hydrocollator pack, electrical stimulation, massage, ultrasound and therapeutic exercise. The Statement further indicated that during the period January 7, 1999 through March 1, 2000, Mr. Clarke received an additional 23 physical therapy treatments, typically consisting of one or more of the following: hydrocollator pack, electrical stimulation, massage, therapeutic exercise, cryotherapy, passive stretching, and home exercise program.

7. The Respondent provided the physical therapy treatments to Mr. Clarke for the period January 7, 1999 through March 1, 2000. Mr. Clarke then submitted health insurance claim forms to his insurance carrier for reimbursement, listing the provider of services for this period as being James R. Clarke, P.T.

8. The Respondent wrote an assessment letter, dated January 6, 1999, to two physicians who were involved in providing ongoing medical care to Mr. Clarke. The Respondent indicated that she was treating Mr. Clarke "for injuries sustained to his right shoulder secondary to a fall he sustained when attempting to get out of his daughter's bed" and that he was "present[ing] today for evaluation and treatment following surgery performed on January 5, 1999." In this assessment letter, the Respondent recorded physical findings and recommended a physical therapy treatment regimen.

9. Thereafter, the Respondent's treatment notes are recorded in two formats: in computerized form - January 9, 1999 to February 11, 1999 (eight treatments); February 25, 1999 to March 1, 1999 (two treatments); and March 10, 1999 to March 1, 2000 (five treatments); interspersed in the Respondent's computerized daily notes are a series of handwritten notes which were written and initialed by the Respondent - February 16, 1999 to February 24, 1999 (four treatments); and March 3, 1999 to March 8, 1999 (two treatments).

10. The Statement also lists a claim for reimbursement for March 17, 1999. The Respondent, however, had shoulder surgery on March 16, 1999, and was not in a position to provide physical therapy treatment to Mr. Clarke on this date.

11. During the civil litigation that ensued as a result of Mr. Clarke's injuries, the Respondent was deposed with respect to the physical therapy treatments she provided to Mr. Clarke. During the deposition, the Respondent was questioned regarding the fact that Mr. Clarke submitted claims for

reimbursement for dates in which the Respondent had not formulated physical therapy treatment records.

12. After being apprised of this during the deposition, the Respondent then handwrote physical therapy notes for these dates, in which she attempted to reconstruct the treatment(s) she purportedly provided. When the Respondent initially wrote these notes, she designated the date numerically, with the year written as "00." After it was brought to her attention that she provided these treatments in 1999, the Respondent then altered the handwritten notes by striking or crossing out the year "00", and designating the year as "99." The Respondent initialed each alteration.

13. After generating a computerized entry for March 15, 1999, the Respondent's next computerized entry is dated December 14, 1999. On that date, the Respondent documented that she evaluated Mr. Clarke for shoulder pain. The December 14, 1999 entry, however, did not contain adequate documentation of an evaluation or reevaluation that would have been necessary following a purported nine-month hiatus from therapy. The Respondent formulated two Daily Notes for December 1999.

14. The next note signed by the Respondent is a computerized note, dated March 1, 2000. In this note, the Respondent recorded that Mr. Clarke was experiencing low back pain. This note failed to reflect a full evaluation or reevaluation as would be required after such a lengthy hiatus from therapy.

15. The Respondent's actions, as set forth above, constitute the following violations of the Act: violating any provision of this title or rule or

regulation adopted by the Board, in violation of H.O. § 13-316(16); and commits an act of unprofessional conduct in the practice of physical therapy, in violation of H.O. § 13-316(20).

16. In addition, the Respondent's actions, as set forth above, constitute a violation of COMAR 10.38.03.02-1: failing to comply with documentation requirements.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's actions constitute the following violations of: H.O. § 13-316(16) (violating any provision of this title or rule or regulation adopted by the Board); H.O. § 13-316(20) (commits an act of unprofessional conduct in the practice of physical therapy); and COMAR 10.38.03.02-1 (failing to comply with documentation requirements).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 19th day of November 2002, by the Board, on the affirmative vote of a majority of its members then serving, hereby:

ORDERED that the Respondent's license to practice physical therapy is hereby **REPRIMANDED**; and be it further

ORDERED that the Respondent shall be placed on **PROBATION** for a period of **ONE (1) YEAR**, subject to the following conditions:

1. Within one (1) year of the date of this Consent Order that date being the date the Board executes this Consent Order, the Respondent shall enroll in and successfully complete a Board-approved course in law and ethics. The Respondent

*Completed
Nov. 2002*

shall submit written verification to the Board of her successful completion of the course within ten (10) business days after completing the course. The Respondent shall be responsible for all costs associated with the taking of this course. If the Respondent has recently taken a law and ethics course, the Board may waive this condition, provided the Respondent submits satisfactory written verification to the Board of her enrollment in and successful completion of said course.

2. Within one (1) year of the date of this Consent Order, the Respondent shall enroll in and successfully complete a Board-approved course in physical therapy documentation. The Respondent shall submit written verification to the Board of her successful completion of the course within ten (10) business days after completing the course. The Respondent shall be responsible for all costs associated with the taking of this course. If the Respondent has recently taken a physical therapy documentation course, the Board may waive this condition, provided the Respondent submits satisfactory written verification to the Board of her enrollment in and successful completion of said course.

*Completed
10/9/02*

AND BE IT FURTHER ORDERED that the charges under H.O. 13-316(13) and (15) are hereby **DISMISSED**; and be it further

ORDERED that the Respondent shall practice physical therapy in accordance with the Maryland Physical Therapy Act, and in a competent manner; and be it further

ORDERED that if the Respondent violates any of the terms or conditions of this Consent Order, including the probationary terms or conditions as set forth herein, then the Board, after a determination of violation and notice, and an opportunity for a hearing, may impose any other disciplinary sanctions it deems appropriate, including suspension or revocation, said violation of probation being proved by a preponderance of evidence; and be it further

ORDERED that the conditions of this Consent Order be, and the same is hereby, effective as of the date of this Order; and be it further

ORDERED that in the event the Board finds for any reason in good faith that the Respondent has violated any provision of Title 13 of the Health Occupations Article, Annotated Code of Maryland or the regulations thereunder, the Board, after notification to the Respondent, and an opportunity for a hearing, may take immediate action and may impose any lawful disciplinary sanctions it deems appropriate, including but not limited to revocation or suspension of the Respondent's license to practice physical therapy; and be it further

ORDERED that only after the Respondent has completed her one (1) year probationary period, the Respondent may petition the Board for termination of the probationary status and reinstatement of her license without further conditions or restrictions, provided that she has fulfilled all the terms and conditions of probation set forth herein, is not in violation of this Consent Order, and there are no outstanding complaints against the Respondent. If the Board determines that the terms of probation have not been successfully completed, then the Board may modify one or more conditions upon which the Respondent was placed on probation, upon notice to the Respondent. However, if the Respondent fails to make any such petition, then the probationary period status shall continue indefinitely, subject to the conditions set forth in this Order; and be it further

ORDERED that the Respondent shall be responsible for all costs incurred under this Consent Order; and be it further

ORDERED that this is a **FINAL ORDER** and as such is a public document
pursuant to Md. State Gov't. Code Ann. §§ 10-611 et seq. (1999).

November 19, 2002
Date

Penelope D. Lescher, P.T.
Penelope D. Lescher, P.T.
Chairperson
Board of Physical Therapy Examiners