

<p>IN THE MATTER OF</p> <p>RICHARD ALLEN BOSWORTH, P.T.,</p> <p style="text-align: center;">Respondent</p> <p>License No.: 15801</p>	<p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p>	<p>BEFORE THE STATE</p> <p>BOARD OF PHYSICAL</p> <p>THERAPY EXAMINERS</p> <p>Case No.: 04-BP-102</p>
<p>* * * * *</p>		

CONSENT ORDER

On October 19, 2004, the Maryland State Board of Physical Therapy Examiners (“the Board”) charged Richard Bosworth, P.T. (“the Respondent”), License Number 15801, with violating certain provisions of the Maryland Physical Therapy Act (“the Act”), Md. Health Occ. Code Ann., (“H.O.”) §§13-101 *et seq.* (2000 Repl. Vol.).

Specifically, the Board charged the Respondent with violating H.O. §13-316 (16) and (20) and the underlying regulations codified at Code Md. Regs (“COMAR”) tit. 10, §38.02.02 A. and B (1), (3), (4), (6), (8) and (11). The Board also charged the Respondent with violating COMAR 10.38.02.01 (B) and (C).

As a result of negotiations with the Office of the Attorney General, by Alice L. Tayman, Assistant Attorney General, the Respondent, through his attorney, Mairi Pat Maguire, Esq., and the Board, the parties agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

The Board finds the following facts to be true:

- I. At all times herein, the Respondent was and is licensed to practice physical therapy in the State of Maryland being issued license number 15801 on October 30, 1985.

2. In June of 2003, the Respondent was employed by MedStarVNA (“MedStar”) as a physical therapist. Pursuant to his employment with MedStar, the Respondent typically provided in-home physical therapy services, often working alone and unsupervised with isolated, elderly, and/or infirm patients.

3. On February 12, 2004, the Board received a complaint from MedStar regarding the Respondent. The complaint alleged that the Respondent had been terminated from his employment at MedStar because of a complaint made by Patient A.¹ As a result of the report of misconduct, the Board instigated an investigation of the allegations contained in the Complaint, which revealed the following information:

Patient A

4. The Respondent provided physical therapy services to Patient A on June 17th and 18th, 2003 in her home.

5. Patient A’s diagnosis was status post lumbar discectomy, with fusion at L4 and L5 and bone graft. Patient A was recovering from surgery and was taking pain medication at that time.

6. On June 19, 2003, Patient A contacted MedStar and reported that the Respondent had been verbally inappropriate and that she did not want him to come to her house again to provide physical therapy services.

7. Patient A reported that during the June 17, 2003 physical therapy home visit, the Respondent asked Patient A what medications she was taking. When Patient A responded

¹ For confidentiality purposes, the Patient A’s identity is not disclosed in this document.

that she was taking Os-cal, the Respondent asked her if that was a “large ass cow or a small ass cow.”

8. Patient A reported that, during the next visit on June 18, 2003, the Respondent allegedly discussed inappropriate sexual topics such as pornography on the Internet.

9. Patient A reported that during the June 18 visit, the Respondent allegedly disclosed personal information about himself regarding his marriage, his marital relations and his sexuality.

10. Patient A reported that the Respondent told her she could participate in Internet chat rooms. Patient A interpreted that to mean pornographic chat rooms.

11. Patient A reported that the Respondent told her that he wears many hats and can take off his physical therapy hat. Patient A interpreted this comment to mean that they could have a personal relationship. The Respondent did not proposition her.

12. Patient A reported that the Respondent allegedly told her that an elderly patient² to whom the Respondent had provided in-home physical therapy services had come onto him.

13. Patient A reported that she asked the Respondent whether he was concerned that she would report him and the Respondent allegedly indicated that he felt she would not report him.

14. After Patient A reported the incident on June 19, 2003 to the management of MedStar, the Respondent’s supervisor at MedStar told him to report to the corporate office at 4:00 p.m. that day and to bring all of his patient charts and equipment.

² There is no allegation that the Respondent identified the elderly patient to Patient A.

Respondent was told there had been a complaint filed that needed to be investigated, but was not told any specifics. After being told to come to the corporate office, the Respondent called Patient A at her home number and asked whether she was upset with him and whether she had complained about him. Patient A reported that the Respondent was concerned that he would lose his job. After being placed on hold and then being disconnected, the Respondent called Patient A back several more times, but Patient A did not pick up the receiver because she could tell it was the Respondent calling from her Caller Identification.

15. As a result of the Respondent's calls to Patient A, Patient A informed the staff at MedStar that she was concerned that the Respondent might come to her house and that she did not feel safe. MedStar then paid for a security guard to be placed outside Patient A's home overnight.

16. Judith Schank, P.T. and Elizabeth Carlo, Vice President of Operations at MedStar, met with the Respondent on June 19, 2003 to discuss Patient A's allegations. In that meeting, the Respondent did not deny that Patient A could have perceived some of his comments as crossing boundaries. The Respondent recognized that it was inappropriate to discuss his personal life with Patient A and that such topics were not an appropriate way to re-direct Patient A's conversation.

17. On or around June 20, 2003, the Respondent was terminated from employment at MedStar because of his interactions with Patient A.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated the following provisions of the Act and the regulations thereunder:

H.O. §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:

- (16) Violates any provision of this title or rule or regulation adopted by the Board;
and
- (20) Commits an act of unprofessional conduct in the practice of physical therapy or limited physical therapy.

Md. Regs Code (“COMAR”) tit. 10, §38.02.02 Sexual Misconduct

- A. A physical therapist or physical therapist assistant may not engage in sexual misconduct.
- B. Sexual misconduct includes, but is not limited to:
 - (6) A verbal comment of a sexual nature;
 - (8) Discussion of unnecessary sexual matters while treating a patient; and
 - (11) An unnecessary sensual act or comment.

COMAR 10.38.02.01 Code of Ethics

- (B) The physical therapist and the physical therapist assistant shall respect the dignity of the patient.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is by a majority of the quorum of the Board, hereby

ORDERED that the Respondent's license is SUSPENDED for thirty (30) days; and it is further

ORDERED that the SUSPENSION is IMMEDIATELY STAYED; and it is further

ORDERED that upon the Stay of the Suspension, the Respondent's license shall be placed on PROBATION for a period of one (1) year subject to the following conditions:

1. The Respondent shall obtain and submit to the Board quarterly 'quality of work' reports from his employer;

2. The Respondent shall write an essay directed to the Board's Executive Director describing "lessons learned" regarding boundary violations as a result of the Respondent's involvement with Patient A. The essay must be accepted and approved by the Board. The Board may elect to publish the essay anonymously in the Board's newsletter;

3. The Respondent shall take and provide documentation of satisfactory completion of a Board-approved ethics course or tutorial which addresses boundary issues;

4. The Respondent shall not practice in a home care setting; and

5. The Respondent shall not have any additional complaints during the probationary period; and it is further

ORDERED that after one (1) year of probation, the Respondent may petition the Board for termination of his probationary status without any conditions or restrictions

whatsoever. If the Respondent has satisfactorily complied with all conditions of probation and there are no outstanding complaints regarding the Respondent, the Board shall terminate the probation, and it is further

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

ORDERED that the Respondent shall practice physical therapy in accordance with the Act and the regulations thereunder, and in a competent manner; and it is further

ORDERED that for purposes of public disclosure, and as permitted by Md. State Gov't. Code Ann. § 10-617(h) (2004 Repl. Vol.), this document consists of the foregoing Findings of Fact, Conclusions of Law and Order, and the Board may also disclose to any national reporting bank or other entity to whom the Board is mandated to report; and it is further

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

ORDERED that the Respondent shall pay any costs associated with this Order; and it is 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.* (2004 Repl. Vol.).

IT IS SO ORDERED THIS 15th **DAY OF** February, **2005.**

2-15-05
Date

Margery F. Rogers, P.T.
Margery Rogers, P.T.
Chair
Board of Physical Therapy Examiners

CONSENT OF RICHARD BOSWORTH, P.T.

I, **RICHARD BOSWORTH, P.T., License Number 15801** affixing my signature hereto, acknowledge that:


1. I am represented by counsel and I have reviewed this Consent Order with my attorney.
2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 13-317 (2000 Repl. Vol. and 2004 Supp.) and Md. State Gov't. Code Ann. §§10-201 *et seq.* (2004 Repl. Vol.) I waive any right to contest the terms and findings herein, and I waive my right to a full evidentiary hearing and any right to appeal this Consent Order as set forth in § 13-317 of the Act and Md. State Gov't. Code Ann. §§10-201 *et seq.* .
3. I acknowledge the validity of this Consent Order as if entered after a formal evidentiary hearing in which I would have had the right to counsel, to confront

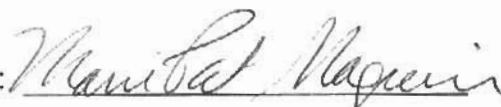
witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law.

4. I voluntarily admit to the foregoing Findings of Fact, Conclusions of Law and Order and submit to the terms and conditions set-forth herein as a resolution of the Charges against me. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, and, following proper procedures, I may suffer disciplinary action, which may include revocation of my license to practice physical therapy in the State of Maryland.

5. I sign this Consent Order without reservation as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

1-31-05
Date


Richard Bosworth, P.T

Approved by: 
Mairi Pat Maguire, Esq.

NOTARY

STATE OF Maryland


~~CITY/COUNTY OF~~ Baltimore

I HEREBY CERTIFY THAT on this 31st day of January, 2005,
before me, a Notary Public for the State of Maryland and the City/County aforesaid,

personally appeared Richard Bosworth, P.T., and made oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS my hand and Notarial Seal.

Karen J. Miller
Notary Public

A circular notary seal with a serrated edge. The text inside the seal reads "KAREN J. MILLER" at the top, "NOTARY PUBLIC" in the center, and "BALTIMORE COUNTY, MD." at the bottom.

My Commission Expires: 8-1-07