

IN THE MATTER OF	*	BEFORE THE STATE BOARD
ROBERT BOYLE, P.T.	*	OF PHYSICAL THERAPY
License No. 19315	*	EXAMINERS
Respondent	*	CASE NUMBER: 08-113

* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Physical Therapy Examiners (the "Board"), and subject to Md. Health Occ. Ann. § 13-101, et seq., (2005 Repl. Vol. and 2007 Supp.) (the "Act"), the Board charged Robert Boyle, P.T., (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of the following provisions of § 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:

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

The Board further charges the Respondent with violating its Code of Ethics, Code Md. Regs. tit. 10, § 38.02.01 (August 2, 1992):

F. The physical therapist and physical therapist assistant shall report to the Board of Physical Therapy Examiners all information that indicates a person is allegedly performing, or aiding and abetting, the illegal or unsafe practice of physical therapy.

The Respondent was given notice of the issues underlying the Board's charges by letter dated November 7, 2008. Accordingly, a Case Resolution Conference was held on December 11, 2008, and was attended by Stephen D. Ryan, P.T. Shirley Leeper, P.T. A., Lois V. Rosedom-Boyd, Consumer, Board members, Ann Tyminski, Executive Director of the Board, Joy Aaron, Deputy Director and Linda Bethman, Counsel to the Board. Also in

attendance were the Respondent and his attorney, Stephen C. Wilkinson, and the Administrative Prosecutor, Roberta Gill, Assistant Attorney General.

Following the Case Resolution Conference, the parties and the Board agreed to resolve the matter by way of settlement. The parties and the Board agreed to the following:

FINDINGS OF FACT

1. At all times relevant to the charges herein, the Respondent was licensed to practice Physical Therapy in the State of Maryland. The Respondent was first licensed on October 22, 1998. The Respondent's license expires on May 31, 2009.
2. At all times relevant hereto, the Respondent practiced physical therapy at Rehab Specialists of Frederick (Rehab), where he served as the Supervisor.
3. Physical Therapist (P.T.) H¹ was hired at Rehab on November 24, 2003.
4. In an undated handwritten statement in P.T. H's personnel file is recorded a complaint by a patient that she felt very uncomfortable with P.T. H because he used inappropriate language and touched her inappropriately.
5. On 2/13/06, a written warning was issued to P.T. H by Linda Freas, Human Resources, who repeated the handwritten complaint by the patient² (visits 2/7, 2/9/06) and that, on 2/13/06, she had contacted the patient to discuss reasons for canceling the appointment. The patient amplified her

¹The identity of P.T. H is known to the Respondent.

complaint and stated "she knew she would not be back."

6. On 2/14/06, on a Disciplinary Action Meeting form, Sheron Pusey filed a written report of a meeting held that morning with P.T. H, Tammy Lease, Regional Office Manager, and herself concerning the written disciplinary action referenced above. The complaint was discussed with P.T. H and the inappropriateness of the comments. Ms. Pusey further recorded that P.T. H is aware of the 90-day probationary period from 2/14-4/14/06 (*sic*), and it was discussed that he would evaluate and treat female patients only in the presence of a Rehab employee and that his female patients would be rescheduled.

7. By document dated 9/14/06, but received by Human Resources on 2/15/05, it indicated that P.T. H's employment would be terminated if he failed to comply with the conditions of the probationary period.

8. On 2/22/06, the patient wrote a formal complaint to Ms. Freas regarding the treatment she received from P.T. H.

9. On 2/24/06, the patient notified her insurer of what had occurred at Rehab when she received therapy for her lower back from P.T. H.

10. On 2/28/06, as a result of said complaint, P.T. H was terminated from employment at Rehab.

11. On 3/3/06, on a letter written on Rehab's stationery to the Respondent by P.T. H, P.T. H stated that he was "sorry for all the headaches I have

² The patient's name is confidential.

caused you personally and the company. Please except (*sic*) my apology. Sincerely (P.T. H's first name)". On that letter, was handwritten: "2/28/08 (First name of P.T. H.) was terminated. We have zero tolerance."

12. After leaving Rehab, P.T. H became employed with Musculoskeletal Clinic, Kimbrough Ambulatory Care Center on Fort George G. Meade, Maryland, an area within the special maritime and territorial jurisdiction of the United States, in the State and District of Maryland. On 2/21/08, P.T. H was charged with two counts of unlawfully and intentionally assaulting two patients by touching their genitalia or buttocks without permission.³ Accordingly, he pled guilty to and was found guilty of those counts, which actions occurred in October 2006 and May 2007, and was placed on supervised probation for five years; placed on home detention for a period of six months; was ordered to participate in a mental health treatment program approved by the probation officer had to; notify the Board of his convictions and provide written verification to the probation officer by 4/21/08 that he did so; and, was prohibited from working in the health care field.
13. As set forth above, the Respondent failed to notify the Board that P.T. H was terminated from Rehab for being sexually inappropriate with a patient, as required.

³ The investigation showed that he had actually assaulted 12 women, of whom the two charges were based for expediency.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated § 13-317 (15) of the Act and Code Md. Regs tit. 10 §38.02.01.

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 17th day of March _____, 2009, by a majority of a quorum of the Board,

ORDERED that the Respondent is hereby **REPRIMANDED** and that he is subject to the following conditions:

1. The Respondent shall successfully complete the first available Board-approved law and ethics course;
2. The Respondent shall successfully complete, within one year of the effective date of this Order, a Board-approved course focusing on the appropriate handling and/or response to complaints alleging sexual misconduct;
3. Pay to the Board a fine of \$1500, within one year of the effective date of the Order;
4. Bear the costs of compliance with this Order.


ORDERED that the Consent Order is effective as of the date of its signing by the Board; and be it

ORDERED that, should the Board receive information that the Respondent has violated the Act or if the Respondent violates any conditions of this Order, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including suspension or revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order shall be on the Respondent to demonstrate compliance with the Order or conditions; and be it

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice of physical therapy in Maryland; and be it further

ORDERED that, one year from the effective date of the Order, the Respondent may petition the Board to be without any conditions or restrictions on his license, provided that he can demonstrate compliance with the conditions of this Order. Should the Respondent fail to demonstrate compliance, the Board may impose additional terms and conditions, as it deems necessary;

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


Margery Rodgers, P.T., Chairperson
State Board of Physical Therapy

CONSENT OF ROBERT BOYLE, P.T.

I, Robert Boyle, by affixing my signature hereto, acknowledge that:


1. I am represented by an attorney, Stephen C. Wilkinson, and have been advised by him of the legal implication of signing this Consent Order;

2. I am aware that without my consent, my license to practice physical therapy in this State cannot be limited except pursuant to the provisions of § 13-316 of the Act and the Administrative Procedure Act (APA) Md. State Govt. Code Ann. §10-201, et seq., (2004 Repl. Vol.).

3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Consent Order, I hereby submit to the foregoing Findings of Fact, Conclusions of Law and Order, provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in § 13-317 of the Act and §10-201, et seq., of the APA, and any right to appeal as set forth in §13-318 of the Act and §10-201, et seq., of the APA. I acknowledge that my failure to abide by the conditions set forth in this Order and following proper procedures, I may suffer disciplinary action, possibly including revocation, against my license to practice physical therapy in the State of Maryland.

02/25/09
Date


Robert Boyle, P.T.

STATE OF MARYLAND

CITY/COUNTY OF Allegany :

I HEREBY CERTIFY that on this 25th day of February, 2009, before me, Sonia King, a Notary Public of the foregoing State and (City/County),
(Print Name)
personally appeared **Robert Boyle, License No. 08-113**, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Sonia King
Notary Public

SONIA S. KING
Notary Public-Maryland
Allegany County
My Commission Expires
September 24, 2012

My Commission Expires