

**IN THE MATTER OF**

**LUNELL BROWN-COLLINS, P.T.**

**Respondent**

**License No.: 14864**

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**BEFORE THE STATE BOARD**

**OF PHYSICAL THERAPY**

**EXAMINERS**

**Case No.: 01-BP-1286**

**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. Code Ann. § 13-101 *et seq.* (the "Act"), the Board charged Lunell Brown-Collins, P.T., (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of 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:

- (5) In the case of an individual who is authorized to practice physical therapy is grossly negligent;
  - (ii) In the direction of an individual who is authorized to practice limited physical therapy;
- (15) Submits a false statement to collect a fee;
- (16) Violates any provision of this title or rule or regulation adopted by the Board;
- (21) Grossly overutilizes health care services;
- (26) Fails to meet accepted standards in delivering physical therapy care.

The Board further charged the Respondent with the following violations of the Code of Maryland Regulations (Code Md. Regs.) tit. 10, § 38.03.02 Standards:

- K. The physical therapist shall provide direction, periodic on-site supervision, and instruction for the physical therapy assistant that is adequate to ensure the safety and welfare of the patient;
- L. At least once in every ten visits or every 60 calendar days, whichever comes first,, there shall be a joint on-site visit with treatment rendered by the physical therapist assistant under the direct supervision of the physical therapist. At this visit, the physical therapist is to assess the treatment performed by the physical therapist assistant, reevaluate the patient's program, and document the program.

The Board also charged the Respondent with violations of the Code Md. Regs. tit. 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,

- 1. The Respondent is licensed to practice physical therapy in the State of Maryland. The Respondent was originally licensed on June 30, 1979.
  - 2. At all times relevant hereto, the Respondent was employed as a physical therapist by Concentra Medical Centers, Inc. ("Concentra").
  - 3. On or about March 11, 1999, the Board received a complaint from the Special Investigation Unit of the Injured Workers' Insurance Fund ("IWIF") that
- The Board makes the following findings:

**FINDINGS OF FACT**

The Board issued the charges on January 21, 2003. Thereafter, a Case Resolution Conference was held on April 1, 2003. Following the Case Resolution Conference, the parties agreed to resolve the matter by way of settlement. The parties and the Board agreed to the following:

- (a) Date,
  - (b) Reason for discharge,
  - (c) Status for discharge,
  - (d) Recommendations for follow-up, and
  - (e) Signature and title.
- (3) For discharge or last visit:
- (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,
  - (k) If there is a physical therapy assistant, reevaluate and document as required by Regulation .02L of this chapter;

Concentra overutilized the following PT procedures, as identified by the Current Procedural Terminology ("CPT") assigned to them:

**95831-** muscle testing, manual (separate procedure); extremity (excluding hand) or trunk, with report

**95851-** range of motion measurements and report (separate procedure); each extremity (excluding hand) or each trunk section (spine)

4. Thereafter, the Board conducted an investigation of services provided and claims submitted to IWIF by Physical Therapists ("PTs") and Physical Therapist Assistants ("PTAs") employed by Concentra at the time the complaint was filed. The investigation revealed documentation and coding deficiencies in addition to those originally alleged in the IWIF complaint.

#### **CPT CODES**

5. CPT codes provide a uniform language that accurately describes medical, surgical and diagnostic procedures. According to the CPT Manual, the CPT is "the most widely accepted nomenclature for the reporting of physician procedures and service under government and private health insurance programs. CPT is also useful for administrative management purposes such as claims processing and for the development of guidelines for medical care review."

##### **a. Codes 95831 and 95851**

6. The CPT codes identified in the IWIF complaint, 95831 and 95851, are classified as Neurology and Neuromuscular Procedures.<sup>1</sup> Both codes are appropriate to evaluate a patient who has suffered deficiencies as a result of a neurological disorder or disease such as stroke or multiple sclerosis in order to document the patient's

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<sup>1</sup> The most common CPT codes recorded in Concentra patient records are listed in the Physical Medicine and Rehabilitation section, the first two digits are "97." Unless a four-digit CPT code suffix is specified, the suffix for all codes used herein is "0000."

progression or regression. Both of these codes require the physical therapist to generate a separate report.

7. The term "separate procedure," as used in the description of the codes in the CPT manual, identifies a procedure that is commonly carried out as an integral component of a total service or procedure. The CPT manual states further:

The codes designated as "separate procedure" should not be reported in addition to the code for the total procedure or service of which it is considered an integral component. However, when a procedure or service that is designated as a "separate procedure" is carried out independently or considered to be unrelated or distinct from other procedures/services provided at that time, it may be reported by itself, or in addition to other procedures/services by appending the modifier "-59" to the specific "separate procedure" code to indicate that the procedure is not considered to be a component of another procedure, but is a distinct, independent procedure. This may represent a different session or patient encounter, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries).

8. Code 95831 is defined in the CPT manual as follows: Muscle testing, manual (separate procedure); extremity (excluding hand) or trunk, with report.

9. Code 95851 is defined in the CPT manual as follows: Range of motion ("ROM") measurements and report (separate procedure); each extremity (excluding hand) or each trunk section (spine).

10. Objective findings such as muscle strength and range of motion are a standard of physical therapy documentation and are to be performed once a week at a minimum. It is not standard physical therapy practice to bill separately for these measurements except when being performed as re-evaluation. It is standard physical therapy practice to assess and interpret objective findings that result from muscle

testing and range of motion testing in order to determine whether changes should be made to the patient's treatment plan and/or goals.

**b. Code 97110-Therapeutic exercise**

11. Therapeutic exercise (CPT code 97110) is classified as a therapeutic procedure. A therapeutic procedure is "a manner of effecting change through the application of clinical skills and/or services that attempt to improve function. Physician or therapist required to have direct (one on one) patient contact."

12. Therapeutic exercise is defined in the CPT manual as follows: Therapeutic procedure, one or more areas, each 15 minutes; therapeutic exercise to develop strength and endurance, range of motion and flexibility.

13. Instructing a patient how to perform the exercise is a component of a therapeutic exercise and is not to be billed as a separate charge by the provider.

**c. Code 97112- Neuromuscular re-education**

14. Neuromuscular re-education (Code 97112) is classified as a therapeutic procedure and incorporates all of the elements of therapeutic exercises. Neuromuscular re-education is further defined as the neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture and proprioception.

**d. Code 97530- Therapeutic activity**

15. Therapeutic activity (Code 97530) is classified as a therapeutic procedure and is defined as, "direct (one on one) patient contact by the provider (use of dynamic activities to improve functional performance), each 15 minutes."

### **General Allegations of Deficiencies**

16. Throughout the patients' treatment records, the Respondent noted and billed for therapeutic exercises and therapeutic activities in the absence of documentation that the patients required one-on-one supervision, contact or instruction during these activities.

17. Treatment plans as written in initial evaluations are inadequate in that they lack treatment procedures and/or modalities to be provided.

18. CPT codes are used for tests conducted shortly after a patient's initial evaluation. These tests include: range of motion, manual muscle testing, reflexes, girth and grip strength. Objective findings are a standard of physical therapy documentation and are to be performed on a weekly basis at minimum. It is not standard practice to bill separately for these measurements, except as part of a re-evaluation. The Respondent failed on most occasions to prepare reports for those procedures that are defined in the CPT manual as a "separate procedure" but billed for the procedure nonetheless.

### **Patient-Specific Allegations**

#### **Patient A**

19. Patient A, a female born in 1940, initially presented to Concentra on June 2, 1998 with a contusion to her right hand. Patient A reported that she sustained the work-related injury on or about June 1, 1998 while attempting to hold a door closed so an irate customer could not force his way through it. Patient A complained that her right hand throbbed when her hand was held in certain positions.

20. The Respondent evaluated Patient A and noted in the treatment plan that Patient A was to continue PT for three (3) visits, after which she could possibly be discharged with home exercise.

21. The Respondent failed to note in her treatment plan the modalities with which she planned to treat Patient A. The Respondent merely noted, "Cont P.T. x 3 visits then possible discharge w/ home exs."

22. On the June 2, 1998 Charge Ticket/Daily Progress Note ("charge ticket"), the Respondent noted the following charges: Physical Therapy Evaluation, New Patient II (9779-0004); Modalities - Hot/Cold Packs (97010), Paraffin (97018); Procedures - Therapeutic Exercises (97110).<sup>2</sup>

23. Patient A returned for treatment on June 10, 1998. On the charge ticket, the Respondent noted the following charges: Modalities - Hot/Cold Packs (97010) and Paraffin (97018); Procedures - Therapeutic Exercise (971110), Therapeutic Activity (97530), and Tests - Range of Motion - Hand (95852) and Jamar 1 (97750).

24. The Respondent's documentation of the treatment she provided to Patient A on June 10, 1988 fails to support charging under the Therapeutic Activity code.

25. The Respondent failed to record a separate report of the objective findings of the muscle tests she conducted, as is required when using the test codes. The Respondent failed to support her use of the testing codes a mere 8 days after Patient A's initial evaluation.

26. Patient A returned for treatment on June 15, 1998, her last treatment visit. On the charge ticket, the Respondent noted the following charges: Modalities -

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<sup>2</sup> Charges under the "Supplies" category are not at issue in this case and are not set forth herein.



Hot/Cold Packs (97010) and Paraffin (97018); Procedures - Therapeutic Exercise (971110), Therapeutic Activity (97530); and Tests - Range of Motion - Hand (95852).

27. The Respondent's documentation of the treatment she provided to Patient A on June 15, 1988 fails to support charging under the Therapeutic Activity code.

28. The Respondent failed to record a separate report of the objective findings of the muscle test she conducted, as is required under code 95852. Her documentation also fails to support charging under the test code for a measurement conducted 13 days after her initial evaluation of Patient A. The Respondent also failed to complete a discharge summary.

#### **Patient B**

29. Patient B, a male of unspecified age, initially presented to Concentra on June 8, 1998 with a swollen right ankle sustained as a work-related injury. Patient B reported that he sustained the work-related injury when he fell from a pallet platform.

30. The Respondent evaluated Patient B and noted in her treatment plan that he was to "Cont PT."

31. On the June 8, 1998 charge ticket, the Respondent noted the following charges: PT Evaluation, New Patient II (9779-0004); Modalities - Hot/Cold Packs (97010), Electrical Stimulation (unattended) (97014); and Procedures - Therapeutic Exercises (97110).

32. The Respondent failed to note a diagnosis on her June 8, 1998 evaluation. In addition, the treatment plan she documented is not adequate because the Respondent failed to indicate the modalities/therapeutic procedures that were to be provided to Patient B and the frequency/duration for which they were to be provided.

33. Patient B returned for treatment on June 11, 1998. On the charge ticket, the Respondent noted: Modalities – Hot/Cold Packs (97010), Electrical Stimulation (unattended) (97014); Procedures - Therapeutic Exercises (97110); and Tests - Girth Measurements (97799). The Respondent noted the diagnosis as: unspecified site of ankle sprain.

34. The Respondent's documentation of the treatment that she provided to Patient B on June 11, 1998 fails to support the charge under the Girth Measurement code.

35. Patient B returned for treatment on June 22, 1998. On the charge ticket, the Respondent noted: Modalities – Hot/Cold Packs (97010), Electrical Stimulation (unattended) (97014); Procedures - Therapeutic Exercise (97110), Therapeutic Activity (97530); and Tests - Manual Muscle Testing (95831), Range of Motion (95851) and Girth Measurements (97799).

36. The Respondent's documentation of the treatment she provided to Patient B on June 22, 1998 fails to support charging under either the Therapeutic Activity code or any of the test codes.

37. Patient B returned for treatment on June 26, 1998. On the charge ticket the Respondent noted: Procedures - Therapeutic Exercise (97110); Neuromuscular Re-education (97112) and Therapeutic Activity (97530).

38. The Respondent's documentation of the treatment she provided to Patient B on June 26, 1998 fails to support charging under the Therapeutic Activity code.

### **Patient C**

39. Patient C, a male born in 1962, initially presented to Concentra on October 1, 1999, with a sprained left thumb sustained in a work-related injury.

40. On the October 1, 1999 charge ticket, the Respondent noted: PT Evaluation Moderate II; Modalities - Hot/Cold Packs (97010); Electrical Stimulation (unattended) (97014); Procedures - Therapeutic Exercise (97110) and Manual Therapy (97140) in which category, the Respondent wrote "Coban 2."

41. Patient C returned for treatment on October 4, 1999. The Respondent noted that she directed both Therapeutic Exercises and Activities. The Respondent also documented that she tested Patient C's Manual Muscle Strength (95832) and Range of Motion (95851). The Respondent failed to record a separate report of the objective findings of the Muscle and ROM test she conducted, as is required under code 95852. Her documentation also fails to support charging under the muscle testing code for a measurement conducted 3 days after her initial evaluation of Patient C.

### **Patient D**

42. Patient D, a female born in 1952, initially presented to Concentra on October 1, 1998 with complaints of pain "like a (sic) ache w/ muscle spasm of neck" sustained as a result of a work-related injury on the same date.

43. On the initial charge slip, the Respondent noted: PT Evaluation New Patient II (97799-0004); Modalities - Cold Packs (97010); Electrical Stimulation (unattended) (97014); and Procedures - Therapeutic Exercises (97110).

44. The Respondent failed to note a diagnosis on the initial evaluation sheet.

45. The Respondent failed to document on the treatment plan the treatment modalities/procedures that were to be provided to Patient D. Instead, the Respondent noted merely, "↑ ex program."

46. Patient D was treated by a PTA on October 5, 1998 and October 8, 1998. On each visit, the PTA charged, *inter alia*, for two units of Therapeutic Exercise (97110) and one (1) unit of Therapeutic Activity (97530). On the October 5, 1998 visit, the PTA also charged under the Range of Motion (95851) code.

47. The Respondent, by permitting the PTA to charge under the test code and to make assessments regarding the patient's status, violated the Act by knowingly allowing the PTA to practice beyond the scope of the PTA's license.

48. The Respondent was interviewed by the Board during its investigation of this case. The Respondent's explanation of the difference between Therapeutic Exercise and Therapeutic Activity does not reflect the accepted and published definition of those terms. With regard to Patients A and D, her statements failed to justify her failure to develop a full treatment plan subsequent to her initial evaluation of the patients. With regard to Patient B, the Respondent's statements failed to justify her failure to establish a diagnosis after her initial evaluation of the patient or her failure to write a discharge summary. The Respondent's statements with regard to the codes for which she is alleged herein to have failed to provide adequate documentation likewise failed to support the use of those codes.

49. The Respondent's conduct as set forth above, in whole or in part, constitutes violations of the Act and the regulations thereunder.

## CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board finds that the Respondent violated Md. Health Occ. Code Ann. §§ 13-316 (5)(ii), (15), (16), (21), and (26). The Board also finds that the Respondent violated Code Md. Regs. tit. 10, § 38.03.02(K) and (L), and § 38-03.02-1.

## ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 20<sup>th</sup> day of MAY, 2003, by a majority of a quorum of the Board,

**ORDERED** that the Respondent shall be placed on probation for a period of at least two (2) years, subject to the following conditions:

1. The Respondent shall pay a fine in the amount of three thousand dollars (\$ 3,000.00), to be paid prior to the termination of probation;
2. Within the first year of probation, the Respondent shall take the Board-approved law and ethics course and pass the associated examination administered by the Board;
3. The Respondent shall successfully complete a Board-approved documentation course;
4. The Respondent shall successfully complete a Board-approved billing course;
5. The Respondent may apply the above coursework to the Respondent's continuing education requirements for licensure renewal;

**AND IT IS FURTHER ORDERED** that if the Respondent fails to comply with any

of the terms or conditions of probation set forth above, that failure shall be deemed a violation of this Order; and it is further

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

**ORDERED** that should the Board receive a report that the Respondent's practice is a threat to the public health, welfare and safety, the Board may take immediate action against the Respondent, including suspension or revocation, providing notice and an opportunity to be heard are provided to the Respondent in a reasonable time thereafter. Should the Board receive in good faith information that the Respondent has substantially violated the Act or if the Respondent violates any conditions of this Order or of Probation, after providing the Respondent with notice and an opportunity of 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 of Probation shall be upon the Respondent to demonstrate compliance with the Order or conditions; and it is further

**ORDERED** that, at the end of the probationary period, the Respondent may petition the Board to be reinstated without any conditions or restrictions on the Respondent's license, provided the Respondent can demonstrate compliance with the conditions of this Order. Should the Respondent fail to demonstrate compliance, the Board may impose additional terms and conditions of Probation, as it deems necessary; and it is further

**ORDERED** that the Respondent shall bear the expenses associated with the

Consent Order; and it is further

**ORDERED** that for purposes of public disclosure, as permitted by Md. State Gov't Code Ann. § 10-617(h) (Repl. Vol. 1999), this document consists 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 to which it is mandated to report.

5.20.03

Date



Penelope D. Lescher, M.A., P.T., M.C.S.P., Chair  
State Board of Physical Therapy Examiners