

IN THE MATTER OF	*	BEFORE THE STATE BOARD
ANDREW BUCKNOR, P.T.	*	OF PHYSICAL THERAPY
License No.: 24128	*	EXAMINERS
Respondent	*	Case Number: PT 19-37

* * * * *

CONSENT ORDER

On January 27, 2020, the Maryland State Board of Physical Therapy Examiners (the “Board”) charged **ANDREW BUCKNOR, P.T.** (the “Respondent”), License Number 24128, with violations of certain provisions of the Maryland Physical Therapy Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 13-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.).

Specifically, the Board charged the Respondent with violations of the following provisions of Health Occ. § 13-316:

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

- ...
(12) Willfully makes or files a false report or record in the practice of physical therapy or limited physical therapy
- ...
(15) Violates any provision of this title or rule or regulation adopted by the Board;
- ...
(19) Commits an act of unprofessional conduct in the practice of physical therapy or limited physical therapy[.]

The Board further charged the Respondent with violations of Md. Code Regs.

10.38.03.02-1 Requirements for Documentation

- A. The physical therapist shall document legibly the patient’s chart each time the patient is seen for:
 - ...
 - (2) Subsequent visits, by including the following information (progress notes):
 - ...
 - (c) Modalities, or procedures, or both, with any changes in the parameters involved and areas of body treated;

10.38.12.03 Minimum Education and Training Necessary to Perform Dry Needling

- ...
- H. Registration.
 - (1) A physical therapist shall be registered with the Board as having the appropriate education and training required by this regulation before the physical therapist may practice dry needling.

10.38.12.04 Standards of Practice in Performing Dry Needling

- A. A physical therapist shall:
 - ...
 - (2) Obtain written informed consent specific to dry needling that shall be included in the patient's medical record.
- ...
- C. A physical therapist shall document the provision of dry needling services in accordance with the documentation requirements of COMAR 10.38.03.02-1.

On March 17, 2020, the Respondent and his attorney attended a case resolution conference (“CRC”) with members of the Board in an effort to resolve the pending charges in lieu of an evidentiary hearing. The Assistant Attorney General – Administrative Prosecutor, also attended the CRC on behalf of the State. At that CRC, the Respondent and

the State agreed to, and the Board hereby accepts, the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT¹

The Board finds:

1. At all times relevant to the charges herein, the Respondent was licensed to practice physical therapy (“PT”) in the State of Maryland. The Respondent was originally licensed in Maryland on July 20, 2012. The Respondent’s Maryland PT license is scheduled to expire on May 31, 2020.
2. Since obtaining Maryland licensure, the Respondent has been employed by a national company of community-based outpatient clinics (“Clinic”).²

Self-Report

3. On or about June 14, 2019, the Respondent contacted the Board to self-report the following:

I am reaching out to the Board of Examiners as a self-report. I performed dry needling without the proper registration through the Board ... I treated 2 patients with this technique in approximately the past 2.5 months. To my knowledge I performed dry needling for a total of 5 times between the two patients. In addition, I did not bill for the services provided. As a result, I would like to report myself and face any disciplinary actions deemed necessary.

4. After receiving the self-report, the Board initiated an investigation.

¹ The statements of the Respondent’s conduct herein are intended to provide the Respondent with notice of the alleged charges. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent.

² The statements regarding the Respondent’s conduct identified herein are intended to provide the Respondent with reasonable notice of the asserted facts. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent.

5. In furtherance of the investigation, the Board investigator interviewed the Respondent and obtained relevant documents.

Patient A

6. According to Clinic records, Patient A was a 66-year-old female with diagnoses of right hamstring strain, and muscle strain of right gluteal region. The referral for physical therapy services stated in part: “Evaluate and treat, 2x/week for 4 weeks; Dry needling if available.”
7. The Respondent saw Patient A from April 22, 2019 through June 25, 2019 for a total of twenty-two (22) visits.
8. A comprehensive review of the file revealed:
 - a. No informed consent form signed by the patient for dry needling
 - b. No reference to or documentation of dry needling on any of the twenty-two (22) Medicare Daily Notes
 - c. No reference to or documentation of dry needling on the initial assessment (dated April 22, 2019) or two (2) subsequent progress reports (dated May 14, 2019; June 18, 2019)
 - d. No reference to or documentation for dry needling on any of the twenty-two (22) Health Insurance Claim Forms.

Patient B

9. According to Clinic records, Patient B was a 33-year-old male with diagnoses of cervical radiculopathy and cervical spondylosis. The referral for physical therapy

services stated in part: “Evaluate & Treat, 2x/week for 6 weeks. Would benefit from dry needling.”

10. The Respondent saw Patient B from May 15, 2019 through June 19, 2019 for a total of thirteen (13) visits.
11. A comprehensive review of the file revealed:
 - a. No informed consent form signed by the patient for dry needling
 - b. No reference to or documentation of dry needling on any of the thirteen (13) Daily Notes
 - c. No reference to or documentation of dry needling on the initial assessment (dated May 15, 2019) or subsequent progress report (dated June 17, 2019)
 - d. No reference to or documentation for dry needling on any of the thirteen (13) Health Insurance Claim Forms.

Interview

12. On July 24, 2019, the Respondent was interviewed under oath by Board staff. The Respondent stated that he initially took a twenty-seven (27) hour course in dry needling in 2013. He completed a second twenty-seven (27) hour course in advanced dry needling in 2016. The Respondent then took an additional two (2) sixteen (16) hours courses in 2019.
13. The Respondent advised that he has performed dry needling on over 100 patients since first becoming trained.

14. Regarding Patient A, the Respondent admitted to dry needling Patient A on three (3) occasions – early April 2019, end of April 2019, and May 2019.
15. The Respondent advised that he had explained the procedure to Patient A but did not have a signed consent form in her treatment record nor any documentation of it in her daily treatment notes. The Respondent also admitted to intentionally concealing the fact that he was doing dry needling on Patient A.
16. Regarding Patient B, the Respondent admitted to dry needling Patient B on three (3) occasions – all occurring in May 2019.
17. As with Patient A, the Respondent admitted to concealing the fact that he was dry needling Patient B from all records.
18. The Respondent noted that in June 2019, he informed his Supervisor at the Clinic that he was performing dry needling. At that time, the Clinic informed him that he was to cease dry needling and report to the Board.

Dry Needling Registration³

19. On October 1, 2018, when the regulation requiring registration went into effect, the Respondent did not have the required eighty hours of instruction – at that time, the Respondent had only completed fifty-four (54) training hours. The Respondent did not acquire the full eighty (80) hours until February 2019.

³ As of October 1, 2018, COMAR 10.38.12, required all physical therapists who wished to practice dry needling in the State of Maryland, to meet certain education and training requirements and be registered with the Board prior to practicing.

20. When asked by the Board’s investigator why he failed to register with the Board once he had completed his coursework, the Respondent stated:

I guess, a lazy part of me [was] that I finished the hours, and I just had to input the information and send it to [the Board] ... So, I guess I took the liberty to, I guess, in my mind, I don’t know why, just to continue to try and do needling, since I had thought – you know – I had had the hours that I was okay.

21. On or about September 3, 2019, the Board reviewed the Respondent’s Dry Needling Registration Application and granted approval.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Respondent’s conduct, in whole or in part, violated § 13-316(12) (“Willfully makes or files a false report or record in the practice of physical therapy or limited physical therapy”); (15) (“Violates any provision of this title or rule or regulation adopted by the Board,” *to wit*: COMAR 10.38.03.02-1; COMAR 10.38.12.03; and COMAR 10.38.12.04); and (19) (“Commits an act of unprofessional conduct in the practice of physical therapy or limited physical therapy.”).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 27th day of August, 2020, by a majority of the quorum of the Board considering this case hereby:

ORDERED that the Respondent’s license to practice physical therapy in the State of Maryland shall be **REPRIMANDED**; and it is further

ORDERED that for purposes of public disclosure, this Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions, §§ 4-101 *et seq.* (2014) and is reportable to any entity to whom the Board is obligated to report.⁴

8/27/2020
Date

Karen Cordes, Ph.D.
Karen Gordes, Ph.D., P.T., D.ScPT.
Chairperson
Maryland State Board of Physical Therapy
Examiners

⁴ This includes the Board's public website and NPDB.

CONSENT

I, Andrew Bucknor, P.T., acknowledge that I have had the opportunity to be represented by counsel before entering this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of 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 the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that I might have filed after any such hearing. I acknowledge that this is a formal order of the Board and as such is a public document.

I sign this Consent Order after having an opportunity to consult with counsel, voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of the Consent Order.

8/3/2020

Date



Andrew Bucknor, P.T.
Respondent

STATE OF MARYLAND

CITY/COUNTY OF Prince George's

I HEREBY CERTIFY that on this 03 day of August 2020,
before me, a Notary Public of the foregoing State and City/County personally appeared
Andrew Bucknor, P.T., and made oath in due form of law that signing the foregoing
Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Carlos A. Padilla

Notary Public

My commission expires: Nov. 19, 2023

CARLOS ANTONIO PADILLA
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires November 19, 2023