

IN THE MATTER OF	*	BEFORE THE
MARY ELIZABETH CARTER, P.T.A.	*	STATE BOARD OF
(A.K.A. MARY CARTER-RUCKER, P.T.A.)	*	PHYSICAL THERAPY
LICENSE NO: A1222	*	EXAMINERS
RESPONDENT	*	Case Number: 008-112

\* \* \* \* \*

**FINAL ORDER**

**Procedural Background**

On September 25, 2009, the Maryland Board of Physical Therapy Examiners (the "Board") sent **Mary Elizabeth Carter, P.T.A. (A.K.A. Mary Carter-Rucker, P.T.A.)**<sup>1</sup> (DOB: 03/21/1955) (the "Respondent") a Notice of Intent to Revoke the Respondent's Physical Therapist Assistant License with an opportunity to request a hearing within thirty (30) days. On October 5, 2009, the Board received Ms. Carter-Rucker's timely written request for a hearing.<sup>2</sup> On January 19, 2010, the Board held an evidentiary hearing before a quorum of the Board, in accordance with the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't § 10-201 *et seq.*, and the Board's regulations, COMAR 10.38.05. The Respondent is currently incarcerated at the Federal Medical Center in Lexington, Kentucky. Therefore, the Board permitted the Respondent to participate in the proceedings via telephone.

<sup>1</sup> The Respondent is licensed under the name Mary Elizabeth Carter. However, during the Board's investigation it was discovered that on January 10, 1992, the Respondent changed her name with the Motor Vehicle Administration to Mary Carter-Rucker. The Respondent did not change her name with the Board and continues to be licensed under the name Mary Elizabeth Carter.

<sup>2</sup> The Respondent submitted two requests for postponement of the evidentiary hearing, requesting that the hearing be postponed for three years, or until January 2013, when she was due to be released from prison. The Board denied both requests.

## SUMMARY OF THE EVIDENCE

### A. Documents.

The following documents were admitted into evidence.

- State's Exhibit No. 1 - Board Report of Investigation, 8/10/09
- State's Exhibit No. 2 - Licensure information of Mary Elizabeth Carter, 7/29/09
- State's Exhibit No. 3 - Anonymous correspondence sent to Maryland Board of Nursing re: "Mary Rucker", undated
- State's Exhibit No. 4 - Handwritten notes taken by Ann Tyminski, Executive Director, 3/18/08
- State's Exhibit No. 5 - Correspondence to the Board from Mary Carter, 3/18/08
- State's Exhibit No. 6 - Inmate locator information, retrieved 8/6/09
- State's Exhibit No. 7 - Court documents, Criminal No. RDB-08-0076
  - a. Criminal docket
  - b. Warrant for arrest, 2/14/08
  - c. Indictment, 2/14/08
  - d. Judgment in criminal case, 6/5/09
  - e. Order, 6/5/09
  - f. Motion to Seal Indictment, 2/14/08
  - g. Appointment and Authority to Pay Court Appointed Counsel, 3/3/08
  - h. Entry of Appearance, 3/3/08
  - i. Order for Medical Evaluation and Appropriate Treatment of Detainee, 3/3/08
  - j. Order of Temporary Detention Pending Hearing Pursuant to Bail Reform Act, 3/3/08
  - k. Magistrate Judge criminal minutes, 3/6/08
  - l. Order of Detention by Agreement, 3/6/08
  - m. Magistrate Judge criminal minutes, 3/13/08
  - n. Order Setting Conditions of Release, 3/13/08
  - o. Appearance bond, 3/13/08
  - p. Entry of Appearance, 4/11/08
  - q. Motion for Leave to Withdraw as Counsel with incorporated Memorandum of Points and Authorities, 4/15/08
  - r. Motion to Unseal the Indictment, 4/17/08

- s. Order, 4/17/08
- t. Order, 4/18/08
- u. Motion to Admit Evidence Under Federal Rule of Evidence 404(b)
- v. Order, 4/24/08
- w. Entry of Appearance, 5/19/08
- x. Regular Sentencing Order, 5/30/08
- y. Correspondence, 7/17/09
- z. Defendant's Exhibit, 6/5/09
  - i. Letters of behalf of Defendant
  - ii. Medical Records

- State's Exhibit No. 8 - United States Drug Enforcement Administration News Release, "11 Conspirators Indicted for Importing Large Quantities of Cocaine and Heroin", 3/6/08
- State's Exhibit No. 9 - Documentation of unsuccessful efforts to Contact Mary Carter-Rucker, 7/30/09
- State's Exhibit No. 10 - Notice of Intent to Revoke Physical Therapy License, 9/25/09
- State's Exhibit No. 11 - Corrected Notice of Intent to Revoke Physical Therapy License, 9/30/09
- State's Exhibit No. 12 - Request for Hearing and Postponement of Hearing, 10/5/09
- State's Exhibit No. 13 - Denial of Request to Postpone Hearing and Notice of Hearing, 10/30/09
- State's Exhibit No. 14 - Correspondence from Board to M. Swanigan, Case Manager, Federal Medical Center, Satellite Camp, 11/2/09

**B. Witness Testimony.**

**State's Witnesses:**

Ernest Bures, Investigator, Board of Physical Therapy Examiners

**Respondent's Witnesses:**

Mary Carter-Rucker, P.T.A. – via telephone

## FINDINGS OF FACT

The Board finds the following:

1. At all times relevant hereto, the Respondent was licensed to practice limited physical therapy in Maryland. The Respondent was first licensed as a physical therapist assistant on July 17, 1985. The Respondent's license is current and has an expiration date of May 31, 2010. (State's Ex. 2)
2. On or about March 18, 2008, the Board received information from the Respondent's son-in-law that the Respondent had been arrested on drug charges. The Board's Executive Director, Ann Tyminski, instructed the son-in-law to advise the Respondent to self-report her misconduct to the Board. (State's Exs. 1, 4)
3. The Board received a letter dated March 18, 2008 from the Respondent which stated, "I was recently accused of conspiracy in the State of Maryland. The charges are pending and have no relations (*sic*) to my job performance as Physical Therapist Assistant." The Board subsequently initiated an investigation. (State's Ex. 5; T. 14)
4. At the Board investigator's request, the Respondent provided a copy of her Criminal Indictment, which revealed that she was charged in federal court, not Maryland State Court. The Respondent was advised and agreed to keep the Board's investigator informed of any and all developments in her criminal case. (T. 16-17)

5. According to the Criminal Indictment (criminal case number: RDB-08-076), the Respondent and ten (10) other individuals were indicted on two counts of conspiracy, as follows:

- A. **Count One** – From in or about 2001 through the date of this Indictment, in the State and District of Maryland, New York, North Carolina, Puerto Rico, Spain, Panama, Barbados, St. Thomas, Dominica, and elsewhere, [the Respondent] . . . did willfully and knowingly combine, conspire and agree together, with others both known and unknown to the Grand Jury, to import into the United States from any place outside thereof, to wit, Spain, Panama, Barbados, St. Thomas, Dominica and elsewhere, five kilograms or more of a mixture or substance containing a detectable amount of cocaine hydrochloride, a Schedule II controlled substance, and one kilogram or more of a mixture or substance containing a detectable amount of heroin, a Schedule I controlled substance, in violation of Title 21, United States Code, §§ 952(a) and 960(a).
- B. **Count Two** – From in or about 2001 through the date of this Indictment, in the State and District of Maryland, New York, North Carolina, Puerto Rico, Spain, Panama, Barbados, St. Thomas, Dominica, and elsewhere, [the Respondent] . . . unlawfully, knowingly and intentionally did combine, conspire, confederate, and agree with each other and with persons known and unknown to the Grand Jury to unlawfully, knowingly and intentionally distribute and possess with intent to distribute five kilograms more of a quantity of a mixture or a substance containing a detectable amount of cocaine, a Schedule II narcotic controlled substance, and one kilogram or more of a mixture or substance containing a detectable amount of heroin, a Schedule I controlled substance, in violation of Title 21, United States Code, §§ 841.

(State's Ex. 7c)

6. According to the Criminal Indictment, the Respondent, together with other members of the conspiracy: "recruited, supervised and assisted the 'mules' and 'couriers' by, among other things, helping them through the passport application process, making airline arrangements, providing funds and

instructions for travel, strapping funds to their bodies for trips from the United States and removing heroin and cocaine from their bodies when coming into the United States"; "utilized computers, telephones and electronic mail to make flight reservations for co-conspirators who were traveling from and to the United States"; "utilized telephones to monitor the progress of 'mules' and 'couriers' during transit from the United States with proceeds of drug sales and their return to the United States with multi-kilogram quantities of heroin and cocaine"; "[met] the 'mules' and 'couriers' or their managers and handlers, and [took] delivery of the heroin and cocaine which had been smuggled into the United States and [paid] them for their services"; "distribute[d] heroin and cocaine to customers in Baltimore and New York." (State's Ex. 7c)

7. On June 5, 2009, the Respondent pled guilty to Count One of the Criminal Indictment. Count Two was dismissed. (State's Ex. 7d)

8. The Respondent was sentenced to forty-eight (48) months in a federal prison and a five (5) year term of supervised release with twelve (12) months of home detention. The Respondent was also ordered to satisfactorily participate in a mental health treatment program upon release. (State's Ex. 7d)

9. The Respondent surrendered to federal custody on August 5, 2009 and is currently serving her prison term at Lexington-FMC, a minimum security facility for female inmates in Lexington, Kentucky. (State's Exs. 6, 7d)

10. Prior to June 5, 2009, the Respondent was cooperative with the Board's investigation. However, when the Board's investigator contacted the Respondent in early June to confirm her scheduled trial date of June 5, 2009, the

Respondent misrepresented that the case was postponed to "August 5<sup>th</sup> or 6th."  
(T. 14-18)

11. On July 29, 2009, the Board's investigator received a telephone call from an investigator at the Maryland Board of Nursing (the "MBON") regarding an anonymous letter that was erroneously sent to the MBON. The letter stated that the Respondent was working "under the table using her license . . . at Direct care [sic], Baltimore National Pike, Baltimore--MD" and that the Respondent "was tried, convicted and sentenced to 6 [sic] years in federal prison in early June . . . Due to arrive in federal custody August sometime 2009. Found guilty by the federal Gov." Based on the information in the letter, the MBON investigator called Direct Care and determined that the Respondent was a licensee of the Board, and not a licensee of the MBON. (State's Ex. 3; T. 18-19)

12. Upon learning of the Respondent's conviction from the MBON investigator, the Board's investigator attempted to contact the Respondent, but was unsuccessful. (State's Ex. 9; T. 20-23)

13. The Respondent deliberately misled the Board's investigator into believing that her criminal trial had been postponed until August 2009, when she was due to submit to federal custody, so that she could continue to practice physical therapy in the interim.<sup>3</sup> (T. 29-32)

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<sup>3</sup> The Respondent testified that she lied to the Board's investigator regarding the postponement of her criminal trial based on legal advice from her criminal defense attorney. (T. 29-30)

## OPINION AND SANCTION

The egregious nature of the Respondent's misconduct in this matter warrants the Board's most stringent sanction of revocation. As a physical therapist assistant and licensed healthcare provider, it is reprehensible that the Respondent engaged in drug trafficking activity that is not only illegal, but would no doubt result in the harm of countless individuals.

The Board is responsible for insuring that Maryland citizens receive physical therapy services from competent and ethical physical therapists and physical therapist assistants. It is of little consequence to the Board that the Respondent's criminal conviction did not directly relate to her practice of limited physical therapy. The Respondent's misconduct unequivocally tarnished the profession and impacted the level of public trust afforded to physical therapy practitioners. The fact that the Respondent admittedly lied to the Board's investigator in order to evade Board disciplinary action is further evidence that the Respondent does not currently possess the professional ethics required to hold a license.

The Board believes that the Respondent, through her actions, has forfeited her right to practice limited physical therapy at the present time. Although the Respondent claims that she is remorseful for her actions and is being punished criminally, the Board believes that its sanction is necessary and appropriate to provide for a catharsis for the physical therapy profession.



### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board finds by a preponderance of evidence and concludes that the Respondent committed prohibited acts under the Maryland Physical Therapy Act (the "Act"), Md. Code Ann., Health Occupations ("Health Occ.") § 13-316(6), (7) and (24).

### ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby:

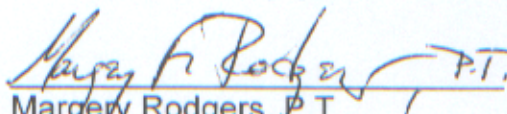
**ORDERED** that the Respondent's license to practice limited physical therapy be **REVOKED** for a minimum of **FOUR (4) YEARS**; and be it further,

**ORDERED** that the Respondent shall comply with all initial licensing requirements as a part of any petition for reinstatement; and be it further,

**ORDERED** that any reinstatement of the Respondent's license to practice limited physical therapy is at the discretion of the Board; and be it further,

**ORDERED** that this is a final order of the Maryland Board of Physical Therapy Examiners and as such is a **PUBLIC DOCUMENT** pursuant to Md. Ann. Code, State Govt. § 10-611 *et seq.*

April 20, 2010  
Date

  
Margery Rodgers, P.T.  
Chair

**NOTICE OF RIGHT TO APPEAL**

Pursuant to Md. Code Ann., Health Occ. §13-318, you have the right to take a direct judicial appeal. A petition for appeal shall be filed within thirty (30) days of the mailing of this Final Decision and Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, State Govt. §§10-201, *et seq.*, and Title 7, Chapter 200 of the Maryland Rules.