

IN THE MATTER OF  
PATRICK COUNIHAN, PTA  
LICENSE NO. A1393

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BEFORE THE MARYLAND  
BOARD OF PHYSICAL  
THERAPY EXAMINERS

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**PRE-CHARGE CONSENT ORDER**

**Background**

On June 5, 2007, the Maryland Board of Physical Therapy Examiners (the "Board") received a complaint against Patrick Counihan, PTA, License No. A1393 (the "Respondent") alleging that he was rendering physical therapy services without the supervision of a physical therapist. As a result, the Board conducted an investigation into the matter which confirmed that the Respondent had been practicing physical therapy at Omni Medical Center in Landover, Maryland, without the supervision of a physical therapist.

In lieu of issuing Charges against the Respondent for violation of the Maryland Physical Therapy Act, Md. Code Ann., Health Occ. § 13-101 *et seq.*, the Board held a Pre-Charge Case Resolution Conference with the Respondent on February 5, 2008. As a result, the Board and the Respondent have agreed to resolve this matter as set forth in this Consent Order.

**FINDINGS OF FACT**

1. The Board received a complaint from the Maryland Automobile Insurance Fund ("MAIF") regarding a claim for physical therapy services rendered at Omni Medical Center in Landover, Maryland.
2. MAIF alleged that Omni Medical Center submitted claims for reimbursement of physical therapy services rendered by the Respondent to Patient A.<sup>1</sup> MAIF further alleged that

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<sup>1</sup> In order to protect the confidentiality of patients, the identity of Patient A, as well as the other patients referenced herein are not disclosed although they were made available to the Respondent.

there was no initial physical therapy evaluation performed on Patient A, nor was there a licensed physical therapist working at the facility.

3. The treatment and billing records for Patient A indicate that the Respondent treated Patient A with hot/cold packs, electrical stimulation, ultrasound, massage and therapeutic exercises. The Respondent treated Patient A approximately 25 times between August and October 2006.
4. Although a physician performed a medical evaluation of Patient A, at no time did a physical therapist perform a physical therapy evaluation or develop a treatment plan for Patient A.
5. At all times relevant herein, Omni Medical Center did not employ or contract for a licensed physical therapist to provide supervision for the physical therapy services performed by the Respondent.
6. The Respondent generally did not indicate his physical therapist assistant ("PTA") title or license number on his progress notes.
7. The Respondent treated approximately four (4) other patients at Omni Medical Center under similar circumstances, i.e., no physical therapy supervision, no physical therapy treatment plan, no documentation of title or license number.
8. The Respondent was paid a flat rate for his services at \$400 per patient.
9. The Respondent was not involved in the billing for physical therapy services at Omni Medical Center.
10. As a physical therapist assistant, the Respondent may practice limited physical therapy only under the direction of a licensed physical therapist who gives ongoing supervision and instruction that is adequate to ensure the safety and welfare of the patient.
11. As a physical therapist assistant, the Respondent may not initiate treatment until the patient has been evaluated and the plan of care has been developed by a licensed physical therapist.

**CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board concludes that the Respondent has violated Md. Code Ann., Health Occ. §§13-310, 13-313(5), (15) and (25), and Code Md. Regs. tit. 10, §38.03.02B(3).

**ORDER**

Based on an affirmative vote of a quorum of the Board, it is this 18<sup>th</sup> day of March, 2008, hereby:

**ORDERED** that the Respondent be REPRIMANDED; and be it further,

**ORDERED** that the Respondent's license to practice limited physical therapy be placed on immediate PROBATION for at least TWO (2) YEARS; and be it further,

**ORDERED** that during the probationary period, the Respondent shall:

- (1) Successfully complete the first available Board-approved law and ethics course; and
  - (2) Insure that the Respondent's physical therapist supervisor submits quarterly reports to the Board attesting that the Respondent is: (a) practicing under the supervision of the physical therapist; (b) engaging in ongoing communication with the supervising physical therapist regarding patient treatment; and (c) documenting progress notes accurately and appropriately;
- and be it further,

**ORDERED** that after two (2) years of probation, the Respondent may petition to terminate the probation provided that the Respondent has fully complied with the terms of probation and does not have any pending complaints filed against him; and be it further,

**ORDERED** that the Respondent shall at all times cooperate with the Board in the monitoring, supervision, and investigation of the Respondent's compliance with the terms and

conditions of this Consent Order; and be it further,

**ORDERED** that the Respondent's failure to fully cooperate with the Board shall be deemed a violation of the probationary terms and a violation of this Consent Order and the Respondent may be subject to additional charges and, after notice and opportunity for a hearing, discipline by the Board; and be it further,

**ORDERED** that the Respondent shall be responsible for all costs associated with this Consent Order; and be it further,

**ORDERED** that this is a formal order of the Maryland Board of Physical Therapy Examiners and as such is a public document pursuant to the Maryland Annotated Code, State Government Article, Section 10-617(h).

MARCH 18, 2008  
Date

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

### CONSENT

1. By signing this Consent, I submit to the foregoing Consent Order as a resolution of this matter in lieu of formal charges, which process would have afforded me the right to a full evidentiary hearing. I consent and submit to the foregoing Findings of Fact, Conclusions of Law, and Order as if made after a full evidentiary hearing in which I would have 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.

2. By signing this Consent, I waive any rights I may have had to contest the findings and determinations contained in this Consent Order.
3. I acknowledge the legal authority and the jurisdiction of the Board to enter and enforce this Consent Order.
4. I sign this Consent Order freely and voluntarily, after having had the opportunity to consult with counsel. I fully understand the language, meaning, and effect of this Consent Order.

3/12/08  
Date

Patrick J. Coughlin P.T.A.  
Patrick Coughlin, P.T.A.

STATE OF MARYLAND  
COUNTY/CITY OF Prince George's:

I hereby certify that on this 12<sup>th</sup> day of March, 2008, before me, a Notary Public of the State of Maryland and County/City aforesaid, personally appeared PATRICK COUNIHAN and made an oath in due form that the foregoing Consent was his voluntary act and deed.

Randy R. Shaban  
Notary Public  
My commission expires: \_\_\_\_\_

RANDY R. SHABAN  
NOTARY PUBLIC  
PRINCE GEORGE'S COUNTY  
MARYLAND  
My Commission Expires Mar 1, 2009