

**IN THE MATTER OF
KEITH DONOVAN, P.T.**

License No. 16448

Respondent

*** BEFORE THE STATE BOARD
* OF PHYSICAL THERAPY
* EXAMINERS**

* * * * *

CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Physical Therapy Examiners (the "Board") and subject to the Maryland Physical Therapy Act ("the Act"), codified at Md. Health Occ. ("H.O.") Code Ann. §§ 13-101 *et seq.* (1994 Repl. Vol.), the Board charged Keith Donovan, P.T., License No. 16448, ("the Respondent") with violating certain provisions of the Act under Health Occupations § 13-316 and Code Md. Regs. ("COMAR") tit. 10 § 38.01 *et seq.*

Specifically, the Board charged the Respondent with violating the following provisions of § 13-316 of the Act:

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:

- (12) Practices physical therapy or limited physical therapy with an unauthorized person or supervises or aids an unauthorized person in the practice of physical therapy or limited physical therapy;
- (13) Willfully makes or files a false report or record in the practice of physical therapy or limited physical therapy;
- (15) Submits a false statement to collect a fee;

- (16) Violates any rule or regulation adopted by the Board;
- (20) Commits an act of unprofessional conduct in the practice of physical therapy; and
- (25) Willfully and without legal justification, fails to cooperate with a lawful investigation conducted by the board.

The regulations that the Board charged the Respondent are as follows:

Code Md. Regs. ("COMAR") 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,
 - (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, and
- * * *
- (3) For discharge or last visit:

- (a) Date,
- (b) Reason for discharge,
- (c) Status at discharge,
- (d) Recommendations for follow-up, and
- (e) Signature and title.

COMAR 10.38.04.04. Prohibited Activities.

- B. Treatments other than those listed in Regulation .03 may not be performed by aides.¹

BACKGROUND

On December 17, 2002, a Case Resolution Conference was held at the Board's offices to determine whether there existed the possibility of resolving the pending issues without having an evidentiary hearing. Present were Linda M. Bethman, Board counsel; Ann Tyminski, Executive Director of the Board; Caroline Stellmann, Board member; Natalie McIntyre, P.T., Board member, Keith Donovan, P.T, Respondent; Mark S. Carlin, Esquire, counsel to the Respondent; Katherine Karker-Jennings, Esquire, counsel to the Respondent; and James C. Anagnos, Administrative Prosecutor.

FINDINGS OF FACT

The Board makes the following findings:

1. At all times relevant, the Respondent was licensed to practice physical therapy in the State of Maryland. The Respondent was first licensed on December 20, 1988, being issued License Number 16448.

¹COMAR 10.38.04.03 provides that aides may perform the following treatments under the direct supervision: gait practice and ambulation, functional activities (activities of daily living), transfers, routine follow-up of specific exercises, hot or cold packs, Hubbard tank, whirlpool, contrast baths, infra-red, paraffin bath, and developmental stimulation.

2. At all times relevant, the Respondent owned and operated Germantown Physical Therapy, Inc. [hereinafter "Germantown Physical Therapy"], located at 20528 Boland Farm Road, Suite 211, Germantown, Maryland 20876.

Patient-Specific Findings

Patient A²

3. Patient A was initially evaluated by the Respondent on November 20, 1998. The billing statement submitted by the Respondent to Patient A/Patient A's insurer includes charges for the following CPT codes: 97001 (physical therapy evaluation), 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), and 97250 (myofascial release); however, Patient A's initial evaluation note does not document that neuromuscular reeducation or myofascial release were performed. By billing Patient A/Patient A's insurer for services not performed on November 20, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
4. Patient A was treated by the Respondent on November 23, 1998. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient A's progress note does not document that myofascial release was

²To ensure the confidentiality, patients' and employees' names are not used in this document.

performed. By billing Patient A/Patient A's insurer for services not performed on November 23, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

5. Patient A was treated by the Respondent on November 25, 1998. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient A's progress note does not document that neuromuscular reeducation was performed. By billing Patient A/Patient A's insurer for services not performed on November 25, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
6. In addition, Patient A's progress note for November 30, 1998 states, "Rx as above UE D₂ PNF." This note fails to meet the basic requirements for documentation for subsequent visits because it fails to document weekly progress or lack of it, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(f).
7. Patient A was treated by the Respondent on December 2, 1998. The billing statement submitted to Patient A/Patient A's insurer includes charges for the

following CPT codes: 97530 (therapeutic activities), 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient A's progress note does not document that therapeutic activities, myofascial release, or joint mobilization were performed. By billing Patient A/Patient A's insurer for services not performed on December 2, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

8. Patient A was treated by the Respondent on December 4, 1998. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97122 (manual traction), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient A's progress note does not document that neuromuscular reeducation, myofascial release, or joint mobilization were performed. By billing Patient A/Patient A's insurer for services not performed on December 4, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

9. Patient A was treated by the Respondent on December 7, 1998. The billing statement submitted to Patient A/Patient A's insurer includes charges for the

following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97122 (manual traction), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient A's progress note does not document that any of these treatments were performed. By billing Patient A/Patient A's insurer for services not performed on December 7, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

10. In addition, Patient A's progress note for December 7, 1998 states, "Rx as above." This note failed to meet the basic requirements for documentation for subsequent visits because it failed to document weekly progress or lack of it, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(f).
11. Patient A was treated by the Respondent on December 9, 1998. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97530 (therapeutic activities), 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97122 (manual traction), and 97250 (myofascial release); however, Patient A's progress note does not document that therapeutic activities, neuromuscular reeducation, or myofascial release was performed. By billing Patient A/Patient A's insurer for services not performed on December 9, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false

statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

12. Patient A was treated by the Respondent on December 11, 1998. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient A's progress note does not document that myofascial release or joint mobilization were performed. By billing Patient A/Patient A's insurer for services not performed on December 11, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
13. Patient A was treated by the Respondent on December 15, 1998. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97122 (manual traction), and 97250 (myofascial release); however, Patient A's progress note does not document that myofascial release was performed. By billing Patient A/Patient A's insurer for services not performed on December 15, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

14. Patient A was treated by the Respondent on December 18, 1998. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97122 (manual traction), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient A's progress note does not document that myofascial release or joint mobilization were performed. By billing Patient A/Patient A's insurer for services not performed on December 18, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
15. Patient A was treated by the Respondent on December 22, 1998. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient A's progress note does not document that neuromuscular reeducation was performed. By billing Patient A/Patient A's insurer for services not performed on December 22, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
16. Patient A was treated by the Respondent on December 28, 1998. The billing statement submitted to Patient A/Patient A's insurer includes charges for the

following CPT codes: 97122 (manual traction), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient A's progress note does not document that joint mobilization was performed. By billing Patient A/Patient A's insurer for services not performed on December 28, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

17. Patient A was treated by the Respondent on December 30, 1998. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97530 (therapeutic activities), 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient A's progress note does not document that therapeutic activities were performed. By billing Patient A/Patient A's insurer for services not performed on December 30, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

18. Patient A was next treated by the Respondent on January 11, 1999. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97530 (therapeutic activities), 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), and 97014 (electrical stimulation); however, Patient A's progress note does not document that therapeutic activities or

neuromuscular reeducation were performed. By billing Patient A/Patient A's insurer for services not performed on January 11, 1999, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

19. Patient A was next treated by the Respondent on February 19, 1999. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97530 (therapeutic activities), 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97140 (manual therapy technique), and 97124 (massage); however, Patient A's progress note does not document that therapeutic activities or massage were performed. By billing Patient A/Patient A's insurer for services not performed on February 19, 1999, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
20. Patient A was next treated by the Respondent on March 11, 1999. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97122 (manual traction), 97250 (myofascial release), and 97265 (joint mobilization). All CPT codes billed coincide with treatment documented in the progress note.

21. Patient A was treated by the Respondent on March 30, 1999. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97530 (therapeutic activities), 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97140 (manual therapy technique), and 97124 (massage); however, Patient A's progress note does not document that therapeutic activities were performed. By billing Patient A/Patient A's insurer for services not performed on March 30, 1999, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
22. Patient A was treated by the Respondent on April 1, 1999. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97530 (therapeutic activities), 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97140 (manual therapy technique), and 97014 (electrical stimulation); however, Patient A's progress note does not document that therapeutic activities or electrical stimulation were performed. By billing Patient A/Patient A's insurer for services not performed on April 1, 1999, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
23. Patient A was next treated by the Respondent on April 21, 1999. The billing statement submitted to Patient A/Patient A's insurer includes charges for the

following CPT codes: 97530 (therapeutic activities), 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97140 (manual therapy technique), and 97124 (massage); however, there was no progress note prepared by the Respondent to document such alleged treatment. By billing Patient A/Patient A's insurer for services not performed on April 21, 1999, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

24. Patient A was next treated by the Respondent on April 26, 1999. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97530 (therapeutic activities), 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97140 (manual therapy technique), and 97014 (electrical stimulation); however, Patient A's progress note does not document that any of these treatments were performed. By billing Patient A/Patient A's insurer for services not performed on April 26, 1999, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

25. In addition, Patient A's progress note for April 26, 1999 states, "contin. Rx same." This note failed to meet the basic requirements for documentation for subsequent visits because it failed to document weekly progress or lack of it, in violation of H.O.

§ 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(f).

26. Patient A was next treated by the Respondent on May 5, 1999. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97530 (therapeutic activities), 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97140 (manual therapy technique), and 97014 (electrical stimulation); however, Patient A's progress note does not document that therapeutic activities or electrical stimulation were performed. By billing Patient A/Patient A's insurer for services not performed on May 5, 1999, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
27. Patient A was treated by the Respondent on May 6, 1999. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97530 (therapeutic activities), 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97140 (manual therapy technique), and 97124 (massage); however, Patient A's progress note does not document that any of these treatments were performed. By billing Patient A/Patient A's insurer for services not performed on May 6, 1999, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

28. In addition, Patient A's progress note for May 6, 1999 states, "Rx as above." This note fails to meet the basic requirements for documentation for subsequent visits because it fails to document weekly progress or lack of it, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(f).
29. Patient A was treated by the Respondent on May 10, 1999. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97140 (manual therapy technique), and 97124 (massage); however, Patient A's progress note does not document that massage was performed. By billing Patient A/Patient A's insurer for services not performed on May 10, 1999, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
30. Patient A was next treated by the Respondent on June 4, 1999. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97530 (therapeutic activities), 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97140 (manual therapy technique), and 97124 (massage); however, Patient A's progress note does not document that therapeutic activities were performed. By billing Patient A/Patient A's insurer for services not performed on June 4, 1999, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15)

(submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

31. Patient A was treated by the Respondent on June 10, 1999. The billing statement submitted to Patient A/Patient A's insurer includes charges for the following CPT codes: 97530 (therapeutic activities), 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97140 (manual therapy technique), and 97124 (massage); however, Patient A's progress note does not document that therapeutic activities, neuromuscular reeducation, manual therapy technique, or massage was performed. By billing Patient A/Patient A's insurer for services not performed on June 10, 1999, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

Patient B

32. Patient B presented to Germantown Physical Therapy on March 5, 1999 for an initial evaluation, which was performed and documented by Employee A, a physical therapist employed by the Respondent at Germantown Physical Therapy.
33. The original initial evaluation note, which was obtained by the Board from the Respondent pursuant to a Board subpoena, was signed by Employee A.
34. However, a photocopy of the initial evaluation note submitted by the Respondent to Patient B's insurer, which was obtained from Patient B's insurer pursuant to a Board subpoena, was signed by the Respondent.

35. By altering an initial evaluation note of a patient for whom he did not render treatment, affixing his signature to the note, and submitting the note to Patient B's insurer, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

Patient C

36. Patient C presented to Germantown Physical Therapy on March 18, 1999 for an initial evaluation, which was performed and documented by Employee A.
37. Employee A signed the original initial evaluation note after performing the initial evaluation. However, when the original initial evaluation note was obtained by the Board from the Respondent pursuant to a Board subpoena, the signature of Employee A had been concealed with a white paper correctional fluid (hereinafter "white out").
38. A photocopy of the original initial evaluation note submitted by the Respondent to Patient C's insurer, which was obtained from Patient C's insurer pursuant to a Board subpoena, contained the Respondent's signature where Employee A's signature had been prior to it being concealed with "white out."
39. By altering an initial evaluation note of a patient for whom he did not render treatment, affixing his signature to the note, and submitting the note to Patient C's insurer, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false

report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

Patient D

40. Patient D presented to Germantown Physical Therapy on May 10, 1999 for an initial evaluation, which was performed and documented by Employee A.
41. The original initial evaluation, which was obtained from the Respondent by the Board pursuant to a Board subpoena, contained no signature.
42. A photocopy of the original initial evaluation note submitted by the Respondent to Patient D's insurer, which was obtained from Patient D's insurer pursuant to a Board subpoena, contained the Respondent's signature and license number where none exists on the original.
43. By affixing his signature to an initial evaluation note of a patient for whom he did not render treatment and submitting the note to Patient D's insurer, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

Patient E

44. Patient E presented to Germantown Physical Therapy on March 14, 1999 for an initial evaluation, which was performed and documented by Employee A.
45. Employee A signed a document entitled, "Initial Evaluation" printed on Germantown Physical Therapy letterhead; however, another document entitled, "Physical

Therapy Initial Evaluation" was signed by the Respondent, even though he did not perform the initial evaluation.

46. By affixing his signature to an initial evaluation note of a patient for whom he did not render treatment and submitting the note to Patient E's insurer, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

Patient F

47. Patient F presented to Germantown Physical Therapy on July 25, 1996 for an initial evaluation, which was performed and documented by the Respondent.
48. The initial evaluation note does not provide a clear assessment, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(1)(e); functional goals and time frames are not established, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(1)(g); and the frequency and duration of treatment is not specified, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(1)(h).
49. Patient F was treated by the Respondent on July 29, 1996. The billing statement submitted to Patient F/Patient F's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97124 (massage), 97250 (myofascial release), and 97265 (joint mobilization); however,

Patient F's progress note does not document that therapeutic exercises or myofascial release were performed. By billing Patient F/Patient F's insurer for services not performed on July 29, 1996, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

50. Patient F was treated by Respondent on July 31, 1996. All CPT codes billed coincide with treatment documented in the progress note.
51. Patient F was next treated by the Respondent on August 12, 1996. The billing statement submitted to Patient F/Patient F's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97124 (massage), 97122 (manual traction), and 97250 (myofascial release); however, Patient F's progress note does not document that manual traction was performed. By billing Patient F/Patient F's insurer for services not performed on August 12, 1996, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
52. Patient F was last treated by the Respondent on August 21, 1996. The billing statement submitted to Patient F/Patient F's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97122 (manual traction), and 97265 (joint mobilization); however,

Patient F's progress note does not document that manual traction was performed. By billing Patient F/Patient F's insurer for services not performed on August 21, 1996, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

53. In addition, Patient F's chart does not indicate that a discharge summary was completed by the Respondent, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(3)(a)-(e).

Patient G

54. Patient G presented to Germantown Physical Therapy on March 8, 1999 for an initial evaluation, which was performed and documented by Employee A.
55. Patient G treatment continued under Employee A until April 26, 1999, at which time the Respondent treated Patient G.
56. Even though Patient G had been treated for over a month at that juncture, the Respondent failed to perform a re-evaluation of Patient G, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(j).
57. The Respondent treated Patient G on April 29, 1999, May 5, 1999, and May 20, 1999, but at no time did he perform a re-evaluation of Patient G, in violation of H.O.

§ 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(j).

58. In Patient G's final progress note of May 20, 1999, the Respondent indicated that stated goals had been met, yet he offered no objective criteria to substantiate this finding, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(f).
59. In addition, Patient G's chart does not indicate that a discharge summary was completed by the Respondent, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(3)(a)-(e).

Patient H

60. Patient H presented to Germantown Physical Therapy on May 10, 1999 for an initial evaluation, which was performed and documented by the Respondent. Patient H was diagnosed with neck pain and herniated nucleus pulposes.
61. The initial evaluation note does not indicate that the Respondent assessed upper extremity motor and sensory impairment, nor does it indicate that strength was evaluated even though it was established as a goal, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(1)(e); functional goals and time frames for goals are not established, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(1)(g); and the frequency and duration of treatment are not specified, in violation

of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(1)(h).

62. The billing statement submitted to Patient H/Patient H's insurer includes charges for the following CPT codes: 97001 (initial evaluation), 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), and 97140 (manual therapy technique); however, Patient H's progress note does not document that neuromuscular reeducation or manual therapy technique were performed. By billing Patient H/Patient H's insurer for services not performed on May 10, 1999, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

Patient I

63. Patient I presented to Germantown Physical Therapy, on March 24, 1999 for an initial evaluation, which was performed and documented by Employee A.
64. Employee A signed a document entitled, "Initial Evaluation" printed on Germantown Physical Therapy letterhead; however, another document entitled, and "Physical Therapy Initial Evaluation" was unsigned.
65. A photocopy of the "Physical Therapy Initial Evaluation" obtained by the Board from Patient I's insurer pursuant to a Board subpoena, was signed by the Respondent, even though the Respondent did not perform Patient I's initial evaluation.
66. By affixing his signature to a report for treatment he did not render and submitting it to Patient I/Patient I's insurer, the Respondent violated H.O. §§ 13-316(13)

(willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

Patient J

67. Patient J presented to Germantown Physical Therapy on June 4, 1998 for an initial evaluation, which was performed and documented by the Respondent.
68. The initial evaluation note does not provide a clear history of onset, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(1)(c); time frames are not established, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(1)(g); and goals lack a measurable functional component, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(1)(h).
69. Patient J was treated by the Respondent on June 6, 10, 12, 15, and 17, 1998. Progress notes for these visits lack objective data regarding level of impairment or functional ability in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(f).
70. Patient J's chart does not indicate that a discharge summary was completed by the Respondent, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(3)(a) – (e).

Patient K

71. Patient K presented to Germantown Physical Therapy on May 21, 1998 for an initial evaluation, which was performed and documented by the Respondent.
72. The initial evaluation note lacks historical information such as the date of injury, the mechanism of injury, the patient's job at the time, and whether or not the patient was working, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(1)(c) and (d). Time frames or objective functional goals are not indicated, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(1)(g), and the frequency and duration of treatment are not documented, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(1)(h).
73. The billing statement submitted to Patient K/Patient K's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97250 (myofascial release), 97265 (joint mobilization) and 97750 (physical performance test); however, Patient K's progress note does not document that neuromuscular reeducation, myofascial release or joint mobilization were performed. By billing Patient K/Patient K's insurer for services not performed on May 10, 1999, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false

statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

74. Patient K was treated by the Respondent on June 5, 1998. All CPT codes billed coincide with treatment documented in the progress note.

Patient L

75. Patient L presented to Germantown Physical Therapy on August 27, 1998 for an initial evaluation, which was performed and documented by physical therapist other than the Respondent.
76. The original initial evaluation note was signed by the treating therapist. However, when the original initial evaluation note was obtained by the Board from the Respondent pursuant to a Board subpoena, the signature of the treating therapist had been concealed by "white out." The Respondent had affixed his signature on top of the "white out."
77. By altering an initial evaluation note of a patient for which the Respondent did not render treatment, affixing his signature to the note, and submitting the note to Patient L's insurer, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
78. The Respondent treated Patient L on October 2, 1998. The billing statement submitted to Patient L/Patient L's insurer includes charges for the following CPT codes: 97001 (initial evaluation), 97110 (therapeutic exercises), 97112

(neuromuscular reeducation), and 97250 (myofascial release); however, Patient L's progress note does not document that an initial evaluation, neuromuscular reeducation, or myofascial release were performed. By billing patient L/Patient L's insurer for services not performed on October 2, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

Patient M

79. Patient M presented to Germantown Physical Therapy, on June 18, 1999 for an initial evaluation, which was performed and documented by Employee A.
80. Employee A signed a document entitled, "Initial Evaluation" printed on Germantown Physical Therapy letterhead; however, another document entitled, "Physical Therapy Initial Evaluation" was signed by the Respondent, even though he did not perform the initial evaluation.
81. By affixing his signature to a report for treatment he did not render and submitting it to Patient M/Patient M's insurer, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

Patient N

82. Patient N presented to Germantown Physical Therapy on March 2, 1999 for an initial evaluation, which was performed and documented by Employee A.

83. Employee A signed the original initial evaluation note after performing the initial evaluation. However, when the original initial evaluation note was obtained by the Board from the Respondent pursuant to a Board subpoena, the signature of Employee A had been concealed with "white out".
84. A photocopy of the original initial evaluation note submitted by the Respondent to Patient N's insurer, which was obtained from Patient N's insurer pursuant to a Board subpoena, contained the Respondent's signature where Employee A's signature had been prior to it being concealed with "white out."
85. By altering an initial evaluation note of a patient for whom he did not render treatment, affixing his signature to the note, and submitting the note to Patient N's insurer, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

Patient O

86. Patient O treated at Germantown Physical Therapy from November 24, 1997 until February 11, 1998.
87. Billing records indicate that Germantown Physical Therapy billed both Midlantic Physical Therapy Network and Optimum Choice for treatment rendered on January 6, 8, and 13, 1998.
88. Germantown Physical Therapy was paid by both companies for these visits.

89. Germantown Physical Therapy's billing records fail to demonstrate that it attempted to rectify this "double-billing."
90. By accepting payment from two providers for the same treatment provided to Patient O on January 6, 8, and 13, 1998, the Respondent, as owner of Germantown Physical Therapy, violated H.O. § 13-316(20) (commits an act of unprofessional conduct in the practice of physical therapy).

Patient P

91. Patient P presented to Germantown Physical Therapy on March 19, 1998 for an initial evaluation, which was performed and documented by the Respondent.
92. The initial evaluation note lacks objective or functional goals, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(1)(g), and time frames and duration of treatment are not documented, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(1)(h).
93. The billing statement submitted to Patient P/Patient P's insurer for the initial evaluation includes charges for the following CPT codes: 97001 (initial evaluation), 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient P's progress note does not document that neuromuscular reeducation was performed. By billing Patient P/Patient P's insurer for services not performed on March 19, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or

record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

94. Patient P was treated by the Respondent on March 23 1998. The billing statement submitted to Patient P/Patient P's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97122 (manual traction), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient P's progress note does not document that neuromuscular reeducation was performed. By billing Patient P/Patient P's insurer for services not performed on March 23, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
95. Patient P was treated by the Respondent on March 26, 1998. The billing statement submitted to Patient P/Patient P's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97122 (manual traction), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient P's progress note does not document that neuromuscular reeducation was performed. By billing Patient P/Patient P's insurer for services not performed on March 26, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15)

(submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

96. Patient P was treated by the Respondent on April 2, 1998. All CPT codes billed coincide with treatment documented in the progress note.
97. Patient P was treated by the Respondent on April 11, 1998. The billing statement submitted to Patient P/Patient P's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97122 (manual traction), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient P's progress note does not document that neuromuscular reeducation was performed. By billing Patient P/Patient P's insurer for services not performed on April 11, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
98. Patient P was treated by the Respondent on April 13, 1998. The billing statement submitted to Patient P/Patient P's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97122 (manual traction), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient P's progress note does not document that neuromuscular reeducation was performed. By billing Patient P/Patient P's insurer for services not performed on April 13, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15)

(submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

99. Patient P was treated by the Respondent on April 15, 1998. The billing statement submitted to Patient P/Patient P's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97122 (manual traction), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient P's progress note does not document that neuromuscular reeducation was performed. By billing Patient P/Patient P's insurer for services not performed on April 15, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
100. Patient P was treated by the Respondent on April 17, 1998. The billing statement submitted to Patient P/Patient P's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97122 (manual traction), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient P's progress note does not document that any of these treatments was performed. By billing Patient P/Patient P's insurer for services not performed on April 17, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

101. In addition, Patient P's progress note for April 17, 1998 states, "Rx as above." This note fails to meet the basic requirements for documentation for subsequent visits because it fails to document weekly progress or lack of it, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(f).
102. Patient P was treated by the Respondent on April 25, 1998. The billing statement submitted to Patient P/Patient P's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97122 (manual traction), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient P's progress note does not document that neuromuscular reeducation, manual traction, myofascial release, or joint mobilization were performed. By billing Patient P/Patient P's insurer for services not performed on April 25, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
103. In addition, even though Patient P had been treated for over a month on April 25, 1998, the Respondent failed to perform a re-evaluation of Patient P, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(j).
104. Patient P was treated by the Respondent on April 27, 1998. The billing statement submitted to Patient P/Patient P's insurer includes charges for the following CPT

codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97122 (manual traction), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient P's progress note does not document that neuromuscular reeducation was performed. By billing Patient P/Patient P's insurer for services not performed on April 27, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

105. In addition, even though Patient P had been treated for over a month on April 27, 1998, the Respondent failed to perform a re-evaluation of Patient P, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(j).
106. Patient P was treated by the Respondent on May 4, 1998. The billing statement submitted to Patient P/Patient P's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97122 (manual traction), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient P's progress note does not document that neuromuscular reeducation was performed. By billing Patient P/Patient P's insurer for services not performed on May 4, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

107. In addition, even though Patient P had been treated for over a month on May 4, 1998, the Respondent failed to perform a re-evaluation of Patient P, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(j).
108. Patient P was treated by the Respondent on May 6, 1998. The billing statement submitted to Patient P/Patient P's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97035 (ultrasound), 97122 (manual traction), and 97265 (joint mobilization); however, Patient P's progress note documents that only ultrasound performed. By billing Patient P/Patient P's insurer for services not performed on May 6, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
109. Patient P's progress note for May 6, 1998 was not signed by the Respondent, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(e).
110. In addition, even though Patient P had been treated for over a month on May 6, 1998, the Respondent failed to perform a re-evaluation of Patient P, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(j).

111. Patient P was next treated by the Respondent on May 18, 1998. The billing statement submitted to Patient P/Patient P's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97035 (ultrasound), 97122 (manual traction), and 97265 (joint mobilization); however, Patient P's progress note does not document that neuromuscular reeducation was performed. By billing Patient P/Patient P's insurer for services not performed on May 18, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
112. In addition, even though Patient P had been treated for over a month on May 18, 1998, the Respondent failed to perform a re-evaluation of Patient P, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(j).
113. Patient P was next treated by the Respondent on June 6, 1998. The billing statement submitted to Patient P/Patient P's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97035 (ultrasound), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient P's progress note does not document that neuromuscular reeducation was performed. By billing Patient P/Patient P's insurer for services not performed on June 6, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical

- therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
114. In addition, even though Patient P had been treated for over two months on June 6, 1998, the Respondent failed to perform a re-evaluation of Patient P, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(j).
115. Patient P was next treated by the Respondent on June 18, 1998. The billing statement submitted to Patient P/Patient P's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97035 (ultrasound), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient P's progress note does not document that neuromuscular reeducation was performed. By billing Patient P/Patient P's insurer for services not performed on June 18, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
116. In addition, even though Patient P had been treated for over two months on June 18, 1998, the Respondent failed to perform a re-evaluation of Patient P, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(j).
117. Patient P was treated by the Respondent on June 29, 1998, July 6, 13, and 20, 1998. All CPT codes billed coincide with treatment documented in the progress

note. However, at no time during any of these visits did the Respondent perform a re-evaluation of Patient P, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(j).

118. Patient P was next treated by the Respondent on August 14, 1998. The billing statement submitted to Patient P/Patient P's insurer includes charges for the following CPT codes: 97110. (therapeutic exercises), 97112 (neuromuscular reeducation), 97122 (manual traction), 97250 (myofascial release), and 97265 (joint mobilization); however, Patient P's progress note does not document that neuromuscular reeducation was performed. By billing Patient P/Patient P's insurer for services not performed on August 14, 1998, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
119. In addition, even though Patient P had been treated for over four months on August 14, 1998, the Respondent failed to perform a re-evaluation of Patient P, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(j).
120. Patient P was last treated by the Respondent on August 29, 1998. All CPT codes billed coincide with treatment documented in the progress note. However, even though Patient P had been treated for over five months on August 29, 1998, the Respondent failed to perform a re-evaluation of Patient P, in violation of H.O. § 13-

316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(j).

Patient Q

121. Patient Q presented to Germantown Physical Therapy on May 3, 1999 for an initial evaluation, which was performed and documented by the Respondent.
122. The billing statement submitted to Patient Q/Patient Q's insurer for the initial evaluation includes charges for the following CPT codes: 97001 (initial evaluation), 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), and 97014 (electrical stimulation); however, Patient P's progress note does not document that neuromuscular reeducation or electrical stimulation were performed. By billing Patient Q/Patient Q's insurer for services not performed on May 3, 1999, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
123. Patient Q was treated by the Respondent on May 5, 1999. All CPT codes billed coincide with treatment documented in the progress note.
124. Patient Q was treated by the Respondent on May 11, 1999. The billing statement submitted to Patient Q/Patient Q's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97112 (neuromuscular reeducation), 97140 (manual therapy technique), 97124 (massage), and 97014 (electrical stimulation); however, Patient Q's progress note does not document that therapeutic exercises

were performed. By billing Patient Q/Patient Q's insurer for services not performed on May 11, 1999, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).

Patient R

125. Patient R was treated by the Respondent on May 27, 1999, June 1, 1999, June 7, 1999, July 16, 1999, July 20, 1999, July 30, 1999, and August 5, 1999. Progress notes for these visits are devoid of objective information regarding Patient R's physical impairments, functional abilities, functional status, or goals, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(2)(f), (g), and (h).
126. Patient R was last treated by the Respondent on August 5, 1999. Patient R's chart does not indicate that the Respondent completed a discharge summary, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(3)(a) – (e).

Patient S

127. Patient S presented to Germantown Physical Therapy on May 10, 1999 for an initial evaluation, which was performed and documented by Employee A.
128. Employee A signed a document entitled, "Initial Evaluation" printed on Germantown Physical Therapy letterhead; however, another document entitled, "Physical

Therapy Initial Evaluation" was signed by the Respondent, even though he did not perform the initial evaluation.

129. By affixing his signature to a report for treatment he did not render and submitting it to Patient S/Patient S's insurer, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
130. Patient S final treatment at Germantown Physical Therapy was rendered by the Respondent on September 9, 1999. The billing statement submitted to Patient S/Patient S's insurer includes charges for the following CPT codes: 97110 (therapeutic exercises), 97530 (direct therapeutic activities), 97140 (manual therapy technique), and 97035 (ultrasound); however, Patient S's progress note does not document that direct therapeutic activities were performed. By billing Patient S/Patient S's insurer for services not performed on September 9, 1999, the Respondent violated H.O. §§ 13-316(13) (willfully makes or files a false report or record in the practice of physical therapy), (15) (submits a false statement to collect a fee), and (20) (commits an act of unprofessional conduct in the practice of physical therapy).
131. In addition, Patient S's chart does not indicate that the Respondent completed a discharge summary, in violation of H.O. § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.02-1A(3)(a) – (e).

Supervising an Unauthorized Person in the Practice of Physical Therapy

132. Employee B, a former physical therapy aide at Germantown Physical Therapy, connected, turned on, and administered electrical stimulation to patients approximately two or three times.
133. Employee B was told by the Respondent to perform this duty.
134. Employee B stopped administering electrical stimulation to patients when Employee A advised Employee B that Employee B could not perform this duty as a physical therapy aide.
135. Administering electrical stimulation to patients is not a treatment that an aide may perform under direct supervision, as listed in COMAR 10.38.04.03.
136. By allowing Employee B to administer electrical stimulation to patients while under his supervision, the Respondent violated H.O. § 13-316(12) (practices physical therapy or limited physical therapy with an unauthorized person or supervises or aids an unauthorized person in the practice of physical therapy or limited physical therapy), and § 13-316(16) (violates any provision of this title or rule or regulation adopted by the Board), to wit, COMAR 10.38.03.04.04B.
137. The Respondent maintains that he did not supervise an unauthorized person in the practice of physical therapy.

Failure to Cooperate With a Lawful Board Investigation

138. In the course of its investigation the Board sent to the Respondent subpoenas seeking original billing records.
139. The Board received photocopies of treatment records, and only insufficient and incomplete billing records.
140. After the Board's counsel sent two "Letters of Warning" to the Respondent's attorney, the Board then received original patient records but still received no billing records.
141. In a letter to the Board's investigator dated December 20, 2000, the Respondent's attorney advised that Germantown Physical Therapy experienced a computer "crash" in September 1999, and that billing records other than those enclosed could not be produced.
142. The Board subsequently learned that the computer system "crashed" on October 14, 1999, but was operational by October 16, 1999.
143. The Board also issued subpoenas to various insurance companies, Medicare, and an attorney for one of the patients. In response to those subpoenas, the Board obtained billing and patient records dating back to 1998, some of which were sent to these entities after the alleged computer "crash."
144. The Respondent, as a result of his representation to the Board through his attorney that his computer system had "crashed" in October 1999, violated H.O. § 13-316(20) (commits an act of unprofessional conduct in the practice of physical

therapy) and § 13-316(25) (willfully and without legal justification, fails to cooperate with a lawful investigation conducted by the Board).

145. The Respondent maintains that he did not fail to cooperate with a lawful Board investigation.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that the Respondent violated: H.O. §§ 13-316(12) (practices physical therapy or limited physical therapy with an unauthorized person or supervises or aids an unauthorized person in the practice of physical therapy or limited physical therapy); (13)(willfully makes or files a false report or record in the practice of physical therapy or limited physical therapy); (15) (submits a false statement to collect a fee); (16) (violates any rule or regulation adopted by the Board); (20) (commits an act of unprofessional conduct in the practice of physical therapy); and (25) (willfully and without legal justification, fails to cooperate with a lawful investigation conducted by the board). In addition, the Board finds that the Respondent violated the following regulations: COMAR 10. 38.03.02-1 (requirements for Documentation); and COMAR 10.38.04.04 (prohibited Activities).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 21st day of January 2003, by a majority of the Board, hereby **ORDERED** that the Respondent's license to practice physical therapy in the State of Maryland is **INDEFINITELY SUSPENDED** beginning on April 1, 2003, with the possibility of reinstatement after completing three years of suspension; and be it further

ORDERED that during the suspension period, the Respondent shall enroll in and successfully complete the following courses: (a) a Board-approved documentation course; (b) a Board-approved law course; (c) a Board-approved entry-level coding, billing and reimbursement course; (d) a Board-approved college level ethics course, earning at least three credits; (e) Board-approved college level business courses, totaling at least nine credits, to encompass computer training, billing, accounting, and general healthcare administration; and (f) continuing education courses sufficient for Maryland licensure; and be it further

ORDERED that the Respondent shall pay to the Board a fine of Five Thousand Dollars (\$5,000.00), to be paid no later than April 1, 2006; and be it further

ORDERED that at the conclusion of three years of suspension, the Respondent may petition the Board for reinstatement of his license provided that he has successfully completed all of the course work ordered by the Board and paid the fine; and be it further

ORDERED that upon any reinstatement, the Respondent shall be on probation for one year subject to the following conditions: (a) the Respondent shall work and cooperate with a Board-approved mentor; and (b) the mentor shall submit to the Board quarterly progress reports; and be it further

ORDERED that the Respondent shall bear all costs associated with the Consent Order; and be it further

ORDERED that for the purposes of public disclosure, as permitted by the Maryland Public Information Act, codified at Md. State Govt. Code Ann. ("State Government") §§ 10-

611 *et seq.*, this document constitutes the Board's Findings of Fact, Conclusions of Law, and Order resulting from formal disciplinary proceedings; and be it further

ORDERED that the Respondent shall return his original physical therapy license and his renewal card to the Board's office no later than April 30, 2003.

Jan 21, 2003
Date

Penelope MA, PT, NCSP.
Penelope Lescher, P.T., Chairperson
State Board of Physical Therapy Examiners

CONSENT OF KEITH DONOVAN, P.T.

I, Keith Donovan, P.T., by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney.
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 Health Occupations § 13-317 and the Maryland Administrative Procedure Act, codified at State Government §§ 10-201 *et seq.*
3. I am aware that I am entitled to a formal evidentiary hearing before the Board.
4. By this Consent Order, I hereby consent and submit to the foregoing Findings of Fact, Conclusions of Law, and Order provided that the Board adopts the foregoing Consent Order in its entirety. 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 as provided by law. I acknowledge the legal authority and the 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.

5. I acknowledge that failing to abide by the conditions set forth in this Order, I may, after an opportunity to be heard, suffer disciplinary action, including revocation of my license to practice limited physical therapy in the State of Maryland.

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

1/15/2003
Date

Keith Donovan
Keith Donovan, P.T.

STATE OF: Maryland

CITY/COUNTY OF: Montgomery

I HEREBY CERTIFY that on this 15 day of January 2003, before me, a Notary of the State of MARYLAND and the City/County of Frederick, personally appeared Keith Donovan, P.T., License No. 16448, and made oath in due form of law that signing the foregoing Consent

Order was his voluntary act and deed, and that the statements made herein are true and correct

AS WITNESS my hand and notarial seal.

Robin D. Smith

Notary Public *Robin D. Smith*

My Commission expires: *5/22/2006*

