

IN THE MATTER OF

*

BEFORE THE STATE

LYNNE M. ECKLEY, P.T.A.,

*

BOARD OF PHYSICAL

Respondent

*

THERAPY EXAMINERS

License No.: A01123

*

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

Based on the information received and a subsequent investigation by the Maryland State Board of Physical Therapy Examiners ("the Board") and subject to the Maryland Physical Therapy Act, codified at Md. Health Occ. Code Ann. ("H.O.") §§13-101 *et seq.* (2000 Repl. Vol.) ("the Act"), the Board charged Lynne Eckley, P.T.A. ("the Respondent"), License Number: A01123, with violating certain provisions of the Act.

Specifically, the Board charged the Respondent with violating the following provisions of the Act:

H.O. §13-316

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

- (6) In the case of an individual who is authorized to practice limited physical therapy:
 - i. Practices limited physical therapy other than as authorized by this title; or

- ii. Is grossly negligent while practicing limited physical therapy;
- (16) Violates any provision of this title or rule or regulation adopted by the board;
- (18) Is professionally, physically, or mentally incompetent;
- (20) Commits an act of unprofessional conduct in the practice of physical therapy or limited physical therapy;
- (26) Fails to meet accepted standards in delivering physical therapy care or limited physical therapy care; and

The Board also charged the Respondent with violation of the Code of Md. Regs.

tit 10, §38 (2004) as follows:

10.38.03.02 Standards of Practice

(B)(1) The physical therapist assistant shall:

- (b) Exercise sound judgment and adequate care in the performance of duties;

10.38.03.02-1(c) Standards of Documentation for a Physical Therapist Assistant

C. The physical therapist assistant shall document in the patient's chart each time the patient is seen by the physical therapist assistant following the physical therapist's initial evaluation or reevaluation by including the following:

- (1) Date;
- (2) Cancellations and no-shows;
- (3) Subjective response to previous treatment;
- (4) Modalities, procedures, or both, including parameters involved, and areas of body treated;
- (5) Objective functional status;

(6) Response to treatment;

(7) Continuation of plan as established by the physical therapist or change of plan as authorized by the physical therapist; and

(8) Signature, title (PTA), and license number, although the flow chart may be initialed.

FINDINGS OF FACT

The Board finds that:

1. At all times relevant herein, the Respondent was and is licensed to practice limited physical therapy in the State of Maryland. The Respondent was originally licensed on July 14, 1981, being issued license number A01123.

2. At all times relevant herein, the Respondent was employed by General Healthcare Resources, Inc.

3. In 1999, the Respondent had a prior action against her license, in which the Board found that she had violated the Act by unlawfully supervising physical therapy student interns, which resulted in a sanction of suspension and subsequent probation of her license. In addition, the Board entered into an informal non-public resolution of a matter involving the Respondent in July of 2002.

4. On or about March 25, 2003 the Board received a complaint from the Complainant,¹ an occupational therapist who was the Rehabilitation Department Director of Riverview Care Center located in Baltimore, Maryland, where the Respondent had provided PRN physical therapy services on March 12, 2003.

¹ The name of the Complainant will be provided to the Respondent by the Administrative Prosecutor upon request.

5. The complaint alleged that Respondent had failed to use physician-prescribed shoulder harnesses to hold Patient A² in her wheelchair which resulted in Patient A falling on the floor and suffering injuries.

6. The Board thereafter conducted an investigation, the findings of which are set-forth herein.

7. On March 12, 2003, the Respondent provided physical therapy services to Patient A who suffered from fixed mobility caused by Dilantin toxicity, dementia, and a seizure disorder. Due to Patient A's stiffness, which caused her to be at risk of falling out of her wheelchair, Patient A's physician ordered that a shoulder restraint safety harness be used whenever Patient A was seated in her wheelchair.

8. After assisting Patient A with a walking exercise, the Respondent returned Patient A to her wheelchair. The Respondent then left Patient A in her wheelchair without utilizing the safety harness and went to the bathroom. The Respondent did not ask a staff member to watch Patient A while she was gone.

9. Upon the Respondent's return to the physical therapy room, while she was still approximately twenty (20) feet away from Patient A, Patient A fell face-first out of her wheelchair.

10. The Complainant was in the treatment room at the time of Patient A's fall. She had her back to Patient A and was treating two patients herself. The Respondent had not asked the Complainant to watch Patient A while she went to the bathroom nor had she mentioned to her that she was leaving the room. The Complainant did not know that

² The identity of Patient A has been omitted for confidentiality purposes.

Patient A was unattended until she heard the "thud" of Patient A's body landing on the floor.

11. The facility nursing staff was called immediately to assess Patient A's injuries. Nursing staff contacted 911 and Patient A was transported by ambulance to Franklin Square Hospital.

12. Patient A suffered serious injuries including a hematoma on her forehead and a 1.5 inch skin tear on her forearm.

13. After the incident with Patient A, the Respondent failed to document either the treatment she provided to Patient A on March 12, 2003 or a description of the fall incident on March 12, 2003 in the physical therapy notes.

14. During the Board's investigation of the March 12, 2003 incident involving Patient A and because of this Respondent's past involvement with the Board, the Board requested that the Respondent undergo a psychological evaluation to ascertain the Respondent's fitness to continue practicing limited physical therapy. The Board referred the Respondent to Gregory K. Lehne, Ph.D. for evaluation.

15. Dr. Lehne's report, dated March 5, 2004, opined that the Respondent suffers from serious mental illness symptoms indicating several mental disorders classified in the Diagnostic and Statistical Manual of Mental Disorders Fourth Edition ("DSM IV).

16. Dr. Lehne further opined that "[he] would feel uncomfortable entrusting vulnerable individuals to the care of someone with this type of personality style unless that person was closely and appropriately supervised."

17. Dr. Lehne's recommendation was that;

[a]n ideal working situation for [the Respondent] would involve working in a stable, decently paid position in a nursing home rehabilitation department with a PT department with at least 2PTs and 3 or more PTAs. She would benefit from having an older "good-parent-like" mentor and role model to provide close supervision. However, she might have difficulty maintaining a positive relationship with a supervisor.

18. The Respondent's employment where she provides PTA services at several different nursing homes on a rotating or "as needed" basis does not have supervision in the manner recommended by Dr. Lehne.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated Md. Health Occ. Code Ann. §13-316 (6), (16), (18) (20), (26) and Code Md. Regs. tit 10, §38.03.02 (B)(1)(b) and §38.03.02-1(c).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is by a majority of the quorum of the Board, hereby

ORDERED that the Respondent's license is **SUSPENDED** for thirty (30) days; and it is further

ORDERED that the Respondent may petition the Board, after thirty (30) days, for a termination of the Suspension of the Respondent's physical therapy assistant license upon completion of the following conditions:

a. The Respondent shall undergo a mental health evaluation of her fitness to return to practice as a physical therapy assistant by Gregory Lehne, Ph.D. or another Board-approved evaluator and arrange for a report to be sent to the Board indicating that the Respondent's resumption of practice as a physical therapy assistant would not pose a safety risk to her patients because of her mental condition. The Board shall pay any expenses associated with this evaluation.

b. Within ten (10) days of the execution of this Consent Order by the Board, the Respondent shall submit to the Board the name, address, and telephone number of her current treating mental health provider. If the Respondent declines to continue therapy with her current treating mental health provider at any time while this Consent Order is in effect, she shall submit to the Board and obtain approval for a practitioner she proposes to serve as her treating mental health provider.

c. Also within ten (10) days of the execution of this Consent Order, the Respondent shall execute a release authorizing her treating provider to disclose information about her compliance with the prescribed treatment regimen to the Board.

d. The Respondent shall provide her treating mental health provider with a copy of this Consent Order.

e. The Respondent shall submit documentary proof, in the form of monthly reports to the Board from her treating mental health provider, of her adherence, throughout the period of suspension, to any treatment regimen prescribed by her treating mental health provider, including but not limited to, attendance at therapy appointments and medication compliance; and it is further

ORDERED that, upon the Board's receipt of the Respondent's petition to terminate the Suspension and after the aforementioned conditions have been complied with and the Board is satisfied that the Respondent can safely return to practice limited physical therapy, the Board will, at its own discretion, issue an order terminating the period of suspension and placing the Respondent's license on **PROBATION** for a period of three (3) years subject to the following conditions:

1. The Respondent shall inform her employer of her probationary status and the reasons therefore by providing her employer with a copy of this Consent Order.

2. The Respondent's practice of limited physical therapy shall be closely supervised³ by a physical therapist. The Respondent will arrange for the supervising physical therapist to submit monthly reports to the Board regarding the Respondent's adherence to the standards of practice for limited physical therapy.

3. The Respondent shall arrange for monthly reports from her treating mental health provider to be sent to the Board. The report shall indicate the Respondent's continued compliance with, or any deviation therefrom, the therapeutic regimen prescribed including but not limited to medication and psychotherapy. If the Respondent is found to be non-compliant with the prescribed treatment regimen, it shall be deemed to be a violation of the terms of Probation.

4. If the Respondent's treating provider recommends that she terminate mental health treatment at any time during the probationary period, the Respondent shall inform

³ Close supervision requires that the Respondent's supervising physical therapist be physically in the treatment area at all times that the Respondent is providing limited physical therapy services. In addition, close supervision is intended to require that the Respondent's progress notes be reviewed daily to assure that the Respondent is adhering to appropriate practice standards on an ongoing basis.

the Board prior to any cessation of treatment, provide the Board with a detailed report from her provider that explains the recommendation, and obtain the Board's prior-approval to terminate treatment. Failure to obtain the Board's approval prior to terminating mental health treatment shall be deemed to be a violation of this Order.

5. The Respondent shall be responsible for all costs associated with psychotherapy with the treating mental health provider and any medications prescribed.

6. The Board may, at its discretion, impose additional probationary terms that it deems necessary to protect the public as required by the circumstances of the Respondent's return to practice after her Suspension.

ORDERED that three (3) years after the date of the termination of the Suspension, the Respondent may petition the Board for termination of her probationary status without any conditions or restrictions whatsoever. If the Respondent has satisfactorily complied with all conditions of probation and there are no outstanding complaints regarding the Respondent, the Board shall terminate the probation, and it is further

ORDERED that if within one (1) year from the date this Order is entered, the Respondent is unable to satisfactorily comply with the prerequisites for the Board to terminate the suspension of the Respondent's license, the Respondent agrees that the attached, but not incorporated, signed and notarized Letter of Surrender of her license to practice limited physical therapy shall be accepted by the Board without any further notice or proceeding; and it is further

ORDERED that if the Respondent violates any of the terms or conditions of this Consent Order, including probationary terms or conditions as set forth herein, then the Board, after a determination of the violation and notice, and an opportunity for a hearing, may impose any other disciplinary sanctions it deems appropriate, including suspension or revocation, said violation being proved by a preponderance of evidence; and it is further

ORDERED that the Respondent shall practice limited physical therapy in accordance with the Act and the regulations thereunder, and in a competent manner; and it is further

ORDERED that for purposes of public disclosure, and as permitted by Md. State Gov't. Code Ann. § 10-617(h) (1999 Repl. Vol. and 2002 Supp.), this document consists of the foregoing Findings of Fact, Conclusions of Law and Order, and the Board may also disclose to any national reporting bank or other entity to whom the Board is mandated to report; and it is further

ORDERED that the conditions of this Consent Order be, and the same is hereby, effective as of the date of this Order; and it is further

ORDERED that the Respondent shall pay any costs associated with this Order except as specifically addressed in this Order, and it is further

ORDERED that this is a **FINAL ORDER** and, as such, is a public document pursuant to Md. State Gov't. Code Ann. §§ 10-611 et seq. (1999 Repl. Vol. and 2002 Supp.).

IT IS SO ORDERED THIS 15 **DAY OF** June, 2004.

June 15, 2004
Date

Shober P.T. pp. John Shober
John Shober, P.T.
Vice Chairperson
Board of Physical Therapy Examiners

CONSENT OF LYNNE ECKLEY, P.T.A.

I, LYNNE ECKLEY, P.T.A., License Number A01123 affixing my signature hereto, acknowledge that:

1. I am represented by counsel and I have reviewed this Consent Order with my attorney.

2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 13-317 (2000 Repl. Vol. and 2002 Supp.) and Md. State Gov't. Code Ann. §§10-201 et seq. I waive any right to contest the terms and findings herein, and I waive my right to a full evidentiary hearing and any right to appeal this Consent Order as set forth in § 13-317 of the Act and Md. State Gov't. Code Ann. §§10-201 et seq. (1999).

3. I acknowledge the validity of this Consent Order as if entered after a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law.

4. I voluntarily admit to the foregoing Findings of Fact, Conclusions of Law and Order and submit to the terms and conditions set-forth herein as a resolution of the Order of Suspension and Charges against me. I acknowledge that by failing to abide by

the conditions set forth in this Consent Order, and, following proper procedures, I may suffer disciplinary action, which may include revocation of my license to practice limited physical therapy in the State of Maryland.

5. I sign this Consent Order without reservation as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

5/24/04
Date

 P.T.A.
Lynne Eckley, P.T.A.

NOTARY

STATE OF Maryland

CITY/COUNTY OF Baltimore

I HEREBY CERTIFY THAT on this 24 day of May, 2004, before me, a Notary Public for the State of Maryland and the City/County aforesaid, personally appeared Lynne Eckley, P.T.A., and made oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

AS WITNESS my hand and Notarial Seal.


Notary Public

My Commission Expires: 12/06

Date: _____

Lynne Eckley, P.T.A.
1004 Elm Road
Baltimore, Maryland 21227

John Shober, P.T., Vice Chair
Board of Physical Therapy Examiners
4201 Patterson Avenue
Baltimore, Maryland 21215

Re: Surrender of Physical Therapy License Number A001123
Case No.: 03-BP-238

Dear Mr. Shober and Members of the Board:

I have decided to surrender my license to practice limited physical therapy in the State of Maryland, License Number A01123. I understand that I may not give limited physical therapy treatment to any individual, with or without supervision and/or compensation, or otherwise engage in the practice of limited physical therapy as it is defined in the Physical Therapy Practice Act (the "Act"), Md. Health Occ. ("H.O.") Code Ann. §13-101 *et seq.*, (2000 Repl. Vol.). In other words, as of _____, 2005, the effective date of this Letter of Surrender, I understand that the surrender of my license means that I am in the same position as an unlicensed individual.

I understand that this Letter of Surrender is a PUBLIC document which, upon the Board's acceptance, becomes a FINAL ORDER of the Board.

My decision to surrender my license to practice limited physical therapy in Maryland has been prompted by Charges brought against me by the Maryland Board of Physical Therapy Examiners (the "Board"). The Board's Charges alleged that on March 12, 2003, I failed to use a physician-prescribed shoulder harness to restrain a patient in her wheelchair while I left the patient unattended for a few minutes. The patient, who was an elderly woman suffering from dementia, Dilantin toxicity, a seizure disorder, and fixed mobility, fell out of her wheelchair resulting in serious injury.

As a result of the Board's investigation into the March 12, 2003 incident, at the Board's request, I underwent a psychological evaluation by Gregory Lehne, Ph.D. to assess my mental fitness to practice as a physical therapy assistant. Dr. Lehne's report, dated March 5, 2004, opined that I suffer from Axis 1 diagnosis of Dysthymia/Atypical Depression r/o ADHD, Axis 2 diagnosis of Mixed Personality Disorder (Avoidant/Dependent, Self-Defeating), Axis 3 diagnosis of Obesity, secondary to

probable eating disorder, Axis 4 diagnosis of Severe Psychosocial Stressors, and Axis 5 diagnosis of "Serious Symptoms." Dr. Lehne further opined that "[he] would feel uncomfortable entrusting vulnerable individuals to the care of someone with this type of personality style unless that person was closely and appropriately supervised."

On _____ of 2004, the Board and I entered into a Consent Order which, is attached hereto and incorporated by reference. In the Consent Order I agreed to Findings of Fact, Conclusions of Law and an Order. As part of that Consent Order, I agreed that I would sign this Letter of Surrender which takes effect one (1) year after the entry of the Consent Order by the Board and will be accepted by the Board without any further notice or proceedings, if I am unable to comply with the terms that are prerequisite to my suspension being terminated. Specifically, the terms that I was unable to comply with were that within one (1) year; (1) I would undergo a mental health evaluation in which the evaluator recommends to the Board that I am fit to return to practice as a physical therapy assistant and (2) I would follow any mental health treatment regimen that my treating mental health provider recommended and have the provider submit monthly reports to the Board that I have been compliant with any prescribed treatment regimen.

I have decided to surrender my license to practice limited physical therapy in Maryland to avoid any further prosecution of the aforementioned Charges and as agreed to in the Consent Order. I wish to make it clear that I have voluntarily, knowingly, and freely chosen to submit this Letter of Surrender. I understand that by agreeing to the Consent Order and executing this Letter of Surrender, I am waiving any right to contest the Charges in a formal evidentiary hearing at 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, including the right to appeal.

I acknowledge that on or before the effective date of this Letter of Surrender, I shall present to the Board my Maryland Physical Therapy Assistant's License, number A001123 including any renewal certificates and wallet-sized renewal cards.

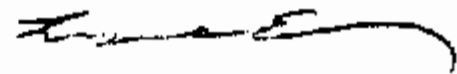
I acknowledge that the Board will advise the National Practitioners' Data Bank of this Letter of Surrender, and in any response to inquiry, that I have surrendered my license in lieu of disciplinary action under the Act as resolution of the Charges. I also understand that in the event I apply for licensure in any form in any other state or jurisdiction, that this Letter of Surrender may be released or published by the Board to the same extent as a final order that would result from disciplinary action pursuant to Md. State Gov't. Code Ann. §10-611, et seq., (1999 Repl. Vol.).

I understand that if I petition the Board for reinstatement of my license, the Board will review my case and determine my fitness to have my license reinstated. I understand

that the Board can deny such application base solely on the allegations contained in the Findings of Fact in the Consent Order.

I acknowledge that I may not rescind this Letter of Surrender in part or in its entirety for any reason whatsoever. I understand both the nature of the Board's actions and the language, meaning, terms and effect of this Letter of Surrender. I make this decision knowingly and voluntarily.

Sincerely,

 P.T.A.

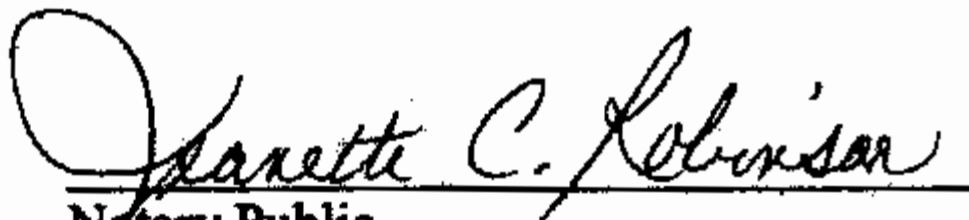
Lynn Eckley, P.T.A.

NOTARY

STATE OF Maryland
CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 24 day of May, 2004, before me, _____, a Notary Public of the State and City/County aforesaid, personally appeared _____ and declared and affirmed under the penalties of perjury that signing the foregoing Letter of Surrender was his/her voluntary act and deed.

AS WITNESS my hand and notarial seal.


Notary Public

My Commission Expires: 12/06

ACCEPTANCE

ON BEHALF OF THE BOARD OF PHYSICAL THERAPY EXAMINERS, on
this _____ day of _____, 2004, I accept Lynn Eckley's public Letter of
Surrender of her license to practice limited physical therapy in the State of Maryland.

John Shober, P.T.
Vice-Chair
Board of Physical Therapy Examiners

Date