

IN THE MATTER OF	*	BEFORE THE STATE
NICOLETTE K. FEASTER, PTA	*	BOARD OF PHYSICAL
RESPONDENT	*	THERAPY EXAMINERS
LICENSE NUMBER: A4364	*	CASE NUMBER: PT19-23

\* \* \* \* \*

### **FINAL CONSENT ORDER**

The State Board of Physical Therapy Examiners (the “Board”) charged Nicolette K. Feaster, PTA (the “Respondent”), License Number: A4364 (the “Respondent”) under the Maryland Physical Therapy Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 13-101 *et seq.* (2014 Repl. Vol. & 2018 Supp.). Specifically, the Board charged the Respondent with violating the following:

#### **Health Occ. § 13- 316. Denials, reprimands, suspensions, and revocations-Grounds.**

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

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

#### **COMAR 10.38.02**

##### **.02 Sexual Misconduct.**

- A. A physical therapist or physical therapist assistant may not engage in sexual misconduct.

B. Sexual misconduct includes, but is not limited to:

- (1) Sexual behavior with a client or patient in the context of a professional evaluation, treatment, procedure, or service to the client or patient, regardless of the setting in which the professional service is rendered;
- (3) Solicitation of a sexual relationship, whether consensual or nonconsensual, with a patient;
- (5) Therapeutically inappropriate or intentional touching of a sexual nature;
- (6) A verbal comment of a sexual nature;
- (7) Physical contact of a sexual nature with a patient;
- (11) An unnecessary sensual act or comment[.]

### **FINDINGS OF FACT**

The Board finds that:

1. At all times relevant hereto, the Respondent was licensed to practice as physical therapist assistant in the State of Maryland. The Respondent was originally licensed to practice as a physical therapy assistant in Maryland on or about October 16, 2015. The Respondent's license expires on May 31, 2020 .

2. At all times relevant hereto, the Respondent was an employee at a facility ("Facility A") that provides physical therapy services. Facility A is located in Maryland.<sup>1</sup>

3. On or about January 16, 2019, the Board received a complaint from a patient ("Patient A") regarding the Respondent's inappropriate conduct.

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<sup>1</sup> The name of Facility A has been omitted to protect confidentiality.

4. A subsequent investigation by Board staff revealed that on or about January 15, 2018, Patient A went to Facility A for physical therapy treatment. Patient A presented at Facility A with neck pain.

5. On or about January 23, 2017, Patient A began physical therapy treatment with the Respondent. Patient A received physical therapy treatments from the Respondent approximately two (2) times per week.

6. During treatment sessions with Patient A, the Respondent discussed her marital problems and other personal aspects her life.

7. During treatment sessions, the Respondent became flirtatious with Patient A both verbally and with her body language. She frequently told Patient A that he was handsome. On several occasions, the Respondent also told Patient A that she like older men. Patient A is several years older that the Respondent. The Respondent often greeted Patient A with a "Hello Handsome" when he entered Facility A for treatment.

8. On or about May 3, 2018, during a treatment session, the Respondent placed her hand on Patient A's knee and told Patient A that he was very handsome. The Respondent gave Patient A an intimate and sensual neck message. After the massage, the Respondent asked Patient A for his cell phone number.

9. After receiving Patient A's cell number, the Respondent sat on his lap and began kissing him. The next day, Patient A and the Respondent began exchanging text messages.

10. During their text message exchange, the Respondent continued to tell Patient A that he was handsome, good looking, and gorgeous. Patient A responded to the Respondent's comments by telling the Respondent that she was beautiful and sexy.

11. During their text messaging exchange, the Respondent also told Patient A that they should use Snapchat so their conversations could not be discovered.

12. Between May 8, 2018 and May 15, 2018, the Respondent and Patient A met outside of treatment sessions and had several sexual encounters. During this time period, the Respondent also continued to render physical therapy treatments to Patient A.

13. Between May 8, 2018 and May 15, 2018, the Respondent and Patient A had sexual intercourse at the Respondent's residence; the Respondent performed oral sex on the Patient A at her residence; and the Respondent and Patient A also had sexual intercourse in the back of Patient A's pickup truck.

14. Patient A's physical therapy treatments with the Respondent ended on or about May 15, 2018.

15. On or about February 13, 2019, the Respondent was interviewed under oath by Board staff. During the interview, the Respondent admitted that she had sexual relations with Patient A that included sexual intercourse and oral sex. She also admitted that Patient A was her client during the time that she engaged in sexual activities with Patient A.

16. The Respondent denies engaging in any inappropriate conduct, including conduct of sexual nature during the time that Patient was a patient.

17. The Respondent's conduct as set forth above is a violation of Health. Occ. § 13-316 (15) and (19) and COMAR 10.38.02.02 A and B (1), (3),(5), (6), (7), and (11).

## CONCLUSIONS OF LAW

The Board finds that the Respondent violated Health Occ. §§ 13-316 (15) and (19) and COMAR 10.38.02.02 A and B (1), (3),(5), (6), (7), and (11).

## ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by a majority of the Board considering this case:

**ORDERED** that the Respondent's license to practice physical therapy in the State of Maryland is hereby **SUSPENDED** for a total period of **ONE (1) YEARS** period **with all but nine (9) months stayed**; it is further

**ORDERED** that following the conclusion of the **PERIOD OF SUSPENSION**, the Respondent shall be placed **PROBATION** for a minimum period of **TWO (2) YEARS** and until the following terms and conditions are fully and satisfactorily complied with:

- (1) The Respondent take and successfully complete the Board-approved professional/problem-based ethics and boundaries course. This ethics course shall be in addition to any course required to satisfy the continuing education requirements for the licensure renewal period.
- (2) The Respondent shall take a Board approved closed-book jurisprudence examination and received a passage grade of not less than 90%.
- (3) The Respondent shall comply with the Maryland Physical Therapy Act and all laws, statutes and regulations pertaining thereto; and it is further

**ORDERED** that after the conclusion of the **TWO (2) YEAR** probationary period, the Respondent may submit a written petition to the Board requesting termination of probation. After consideration of the petition, the probation may be terminated, through an order of the Board, or a designated Board committee. The Board, or designated Board

committee, may grant the termination if the Respondent has fully and satisfactorily complied with all probationary terms and conditions set forth in this Consent Order and there are no pending complaints; and it is further

**ORDERED** that if the Respondent violates any of the terms and conditions of this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing if there is a genuine dispute as to the underlying facts, or an opportunity for a show cause hearing, before the Board otherwise, may impose any sanction which the Board may have imposed in this case, including probationary terms and conditions, a reprimand, suspension, revocation and/or a monetary penalty; and it is further

**ORDERED** that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of her probation and this Consent Order; and it is further

**ORDERED** that the effective date of this Consent Order is the date that it is signed by the Board; and it is further

**ORDERED** that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.).


3/6/2020  
Date

Sumesh Thomas lke  
Sumesh Thomas, PT  
Chair  
State Board of Physical Therapist Examiners

**CONSENT OF NICHOLETTE K. FEASTER, PTA**

I, **NICHOLETTE K. FEASTER, PTA** acknowledge that I am represented by Gorman E. Getty, III, and have consulted with my attorney before entering into this Consent Order. By this Consent Order and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions. I waive any rights I may have to contest the Findings of Fact and the Conclusions of Law. I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by the law. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed after any such hearing. I sign this Consent Order, voluntarily and without reservation, after having an opportunity to consult with counsel, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

3.2.2020  
Date

  
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Nicolette K. Foster, PTA

**NOTARY**

STATE OF Maryland

CITY/COUNTY OF Allegheny

I hereby certify that on this 2<sup>nd</sup> day of March, 2020, before me, a Notary Public, personally appeared Nicollete K. Feaster, PTA, License Number: A4364, and made oath in due form of law that the foregoing Consent Order was her voluntary act and the statements made herein are true and correct

AS WITNESS my hand and Notarial Seal.

Luckie A Shockey  
Notary Public

My Commission Expires: 10/16/22