

IN THE MATTER OF

*

BEFORE THE

DAVID A. FLETCHER, P.T.

Respondent

*

BOARD OF PHYSICAL

*

THERAPY EXAMINERS

License Number: 19655

*

Case Number: PT17-30

* * * * *

CONSENT ORDER

On October 5, 2017, the State Board of Physical Therapy Examiners (the “Board”) charged David A. Fletcher, P.T. (the “Respondent”), License Number 19655 with violations of certain provisions of the Maryland Physical Therapy Act (the “Act”), Md. Code Ann., Health Occ. II (“Heath Occ. II”) §§ 13-101 *et seq.* (2014 Vol. & 2016 Supp.).

Specifically, the Board charged the Respondent with violations of the following provisions of Health.Occ. II § 13-316:

Health Occ. II § 13-316. Denials, reprimands, probations, 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[.]

The Board further charged the Respondent with the following violation of the Board's Code of Ethics, Md. Code Regs.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;
 - ...
 - (7) Physical contact of a sexual nature with a patient[.]

On November 21, 2017, a conference with regard to this matter was held before the Board's Case Resolution Committee ("CRC"). As a result of the CRC, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was and is licensed to practice physical therapy in the State of Maryland. The Respondent was originally licensed to practice limited physical therapy on September 24, 1999. His license is scheduled to expire on May 31, 2019.
2. The Respondent owns a PT practice in Anne Arundel County, Maryland.
3. On or about June 2, 2017, the Board received a complaint from the spouse (the "Complainant") of a former patient of the Respondent ("Patient A"). The Complainant alleged that the Respondent had engaged in sexual relations with

the Complainant's wife on several occasions from February 2017 to May 2017 in the Respondent's office.

4. The Board thereafter conducted an investigation of the complaint which included subpoenaing Patient A's records from the Respondent and interviewing under oath the Complainant, the Respondent and Patient A.
5. Patient A's records reveal that she had been referred for physical therapy for treatment of post-laminectomy syndrome.¹
6. When interviewed by Board staff, the Respondent stated that he had treated Patient A from September 2016 through May 1, 2017.²
7. When interviewed by Board staff, the Respondent admitted that he had engaged in sexual relations with Patient A in his office on three occasions in February 2017.³
8. When interviewed by Board staff, Patient A acknowledged that she and the Respondent had engaged in sexual relations in his office on three occasions in February 2017.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent committed acts of unprofessional conduct in the practice of physical therapy and violated provisions of the Board's regulations, in violation of Health Occ. II § 13-316(15) and (19), respectively. Specifically, the Respondent violated provisions of the Board's sexual misconduct regulations as charged.

¹ The Respondent's treatment of Patient A included, *inter alia*, craniosacral therapy.

² The Respondent stated that the last date he treated Patient A was May 1, 2017. He told Board staff that he "did not technically discharge her." The Respondent failed to document a discharge note.

³ The specifics of the Respondent's sexual misconduct with Patient A will not be detailed herein.

ORDER

It is, on the affirmative vote of a majority of the quorum of the Board, hereby:

ORDERED that the Respondent shall be **SUSPENDED** for twelve (12) months, nine (9) months of which shall be stayed; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a minimum of two (2) years. The probationary period shall begin following the three-month active suspension period. During the probationary period, the Respondent shall comply with all of the following probationary terms and conditions:

- (1) The Respondent shall successfully complete an intensive course in professional ethics and boundaries (ProBE); and
- (2) During the first year of probation, the Respondent shall have a chaperone present when treating or evaluating any female patients. The chaperone shall keep a separate log of the chaperone's attendance during treatment sessions, which shall include the chaperone's signature for each session attended.

IT IS FURTHER ORDERED that the Respondent shall practice in accordance with the laws and regulations governing physical therapy; and it is further

ORDERED that, if the Board determines, after notice and an opportunity for a hearing, that the Respondent has failed to comply with any term or condition of this Consent Order, the Board may impose further disciplinary action and/or a monetary penalty. The burden is upon the Respondent to prove his compliance with the Consent Order; and it is further

ORDERED that the Respondent may petition the Board to terminate probation after two (2) years from the effective date of the probation provided that the Respondent has fully complied with the above conditions and no complaints regarding the Respondent are pending before the Board; and it is further

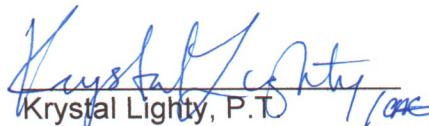
ORDERED that the Respondent shall bear all costs associated with fulfilling the terms of the Consent Order; and it is further

ORDERED that, unless stated otherwise in the Consent Order, any time period prescribed in this order begins when the Consent Order goes into effect. The Consent Order goes into effect ten (10) days after it is signed by the Board Chair; and it is further

ORDERED that for purposes of public disclosure, as permitted by Md. Code Ann., General Provisions Article § 4-333(b), this document consists of the foregoing Findings of Fact, Conclusions of Law and Order and that the Board may disclose same to any national reporting data bank to which it is mandated to report.

1/24/18

Date



Krystal Lighty, P.T.
Chair
Maryland State Board of Physical
Therapy Examiners

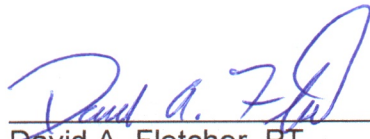
CONSENT

I, David A. Fletcher, PT, acknowledge that I have had the opportunity to be represented by counsel before entering this Consent Order. By this Consent 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 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 agree to forego my opportunity to challenge these allegations. 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 I might have filed after any such hearing. I acknowledge that this is a formal order of the Board and as such is a public document.

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

1/10/18
Date



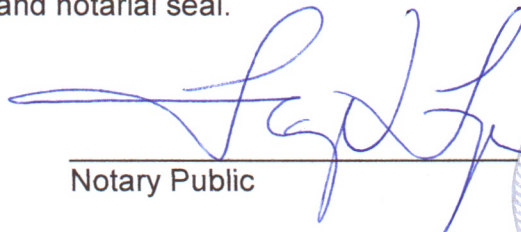
David A. Fletcher, PT
Respondent

STATE OF MARYLAND

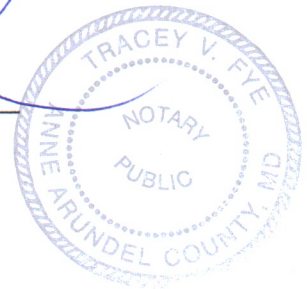
CITY/COUNTY OF Anne Arundel

I HEREBY CERTIFY that on this 10 day of January 2018, before me,
a Notary Public of the foregoing State and City/County personally appeared David A.
Fletcher, PT, and made oath in due form of law that signing the foregoing Consent
Order was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.



Notary Public



My commission expires: 10/12/2020