

IN THE MATTER OF
JOSHUA FUNK, PT
LICENSE NO. 23730

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BEFORE THE MARYLAND
BOARD OF PHYSICAL
THERAPY EXAMINERS

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PRE-CHARGE CONSENT ORDER

Background

The Maryland Board of Physical Therapy Examiners (the “Board”) received a complaint from a physical therapist alleging that Joshua Funk, P.T. (the “Respondent”) had practiced physical therapy outside the Respondent’s established area of competency. The Board initiated an investigation which confirmed that the Respondent had performed a dry needling procedure on a patient without first obtaining relevant training or education to perform the procedure. In addition, the Respondent failed to document the procedure in the patient’s treatment records.

In lieu of issuing Charges against the Respondent for violation of the Maryland Physical Therapy Act, Md. Code Ann., Health Occ. § 13-101 *et seq.*, the Board held a Pre-Charge Case Resolution Conference with the Respondent on February 12, 2013. As a result, the Board and the Respondent have agreed to resolve this matter as set forth in this Consent Order.

FINDINGS OF FACT

1. The Respondent graduated from University of Maryland’s Physical Therapy program in May 2011. The Respondent was licensed in Maryland on July 5, 2011, as a physical therapist under License Number 23730.
2. At all times relevant, the Respondent was employed at a physical therapy practice in Rockville, Maryland.
3. The Board received a complaint from a physical therapist alleging that the Respondent performed dry needling on a patient at the physical therapy practice despite the Respondent’s lack of training in the procedure.

MD Board Of Physical Therapy

MAR 21 2013

4. The Board conducted an investigation of the complaint which revealed the following:
 - a. On June 22, 2012, the Respondent treated Patient A utilizing a dry needling procedure. The Respondent also provided manual therapy, therapeutic exercises and neuromuscular education to Patient A during the same treatment session.
 - b. The Respondent failed to document the dry needling procedure in Patient A's treatment records although the other physical therapy services the Respondent provided were documented.
 - c. The Respondent did not have any formal training, education or experience in dry needling at the time he treated Patient A with dry needling.
5. The Maryland Physical Therapy Act requires that a physical therapist "work within the physical therapist's competency in physical therapy evaluation and treatment".

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Respondent has violated Md. Code Ann., Health Occ. §§13-316(15) and (25) and COMAR 10.38.03.02A(2)(f) and 10.38.03.02-1A(2)(c).

ORDER

Based on an affirmative vote of the Board, it is this 22 day of March, 2013, hereby:

ORDERED that the Respondent's license shall be REPRIMANDED; and be it further,

ORDERED that the Respondent shall not utilize any dry needling procedures in his physical therapy practice unless and until the Respondent is able to provide documentation to the Board that he has obtained the education, training and experience in dry needling required by the

final regulations promulgated by the Board¹; and be it further,

ORDERED that the Respondent shall pay a fine in the amount of \$1,000 payable to the Board within ninety (90) days of the date of this Order; and be it further,

ORDERED that the Respondent shall at all times cooperate with the Board in the monitoring, supervision, and investigation of the Respondent's compliance with the terms and conditions of this Consent Order; and be it further,

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

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

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

03/22/13
Date


John Baker, P.T., D.Sc. P.T.
Chair, Board of Physical Therapy Examiners

¹ The Board has not yet promulgated regulations governing the provision of dry needling procedures, however it has developed proposed regulations that are currently in the promulgation process in accordance with the Administrative Procedure Act.

CONSENT

1. By signing this Consent, I submit to the foregoing Consent Order as a resolution of this matter in lieu of formal charges, which process would have afforded me the right to a full evidentiary hearing. I consent and submit to the foregoing Findings of Fact, Conclusions of Law, and Order as if made after a full evidentiary hearing in which I would have the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf and to all other substantive and procedural protections provided by law.
2. By signing this Consent, I waive any rights I may have had to contest the findings and determinations contained in this Consent Order.
3. I acknowledge the legal authority and the jurisdiction of the Board to enter and enforce this Consent Order.
4. I sign this Consent Order freely and voluntarily, after having had the opportunity to consult with counsel. I fully understand the language, meaning, and effect of this Consent Order.

3/19/13
Date


Joshua Funk, P.T.

STATE OF MARYLAND
COUNTY/CITY OF FREDERICK:

I hereby certify that on this 19 day of MARCH, 2013, before me, a Notary Public of the State of Maryland and County/City aforesaid, personally appeared JOSHUA FUNK and made an oath in due form that the foregoing Consent was his voluntary act and deed.

Joel Durane
Notary Public

My commission expires: 9-16-2015

JOEL DURANE
NOTARY PUBLIC
FREDERICK COUNTY
MARYLAND
COMMISSION EXP 9/16/2015

