

IN THE MATTER OF	*	BEFORE THE MARYLAND STATE
JARED S. GOLDSTEIN, P.T.	*	BOARD OF PHYSICAL THERAPY
License No.: 19690	*	EXAMINERS
Respondent	*	Case No.: PT 10-38

* * * * * * * * * * *

CONSENT ORDER

On August 22, 2011, the Maryland State Board of Physical Therapy Examiners (the "Board") charged Jared S. Goldstein, P.T. (the "Respondent") with violations of certain provisions of the Maryland Physical Therapy Act (the "Act"), Md. Health Occupations ("H.O.") Code Ann. §§ 13-101 *et seq.* (2009 Repl.Vol.).

Specifically, the Board charged the Respondent with violations of the following provisions of 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:

- ... (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; and
- ... (25) Fails to meet accepted standards in delivering physical therapy...care.

The Board further charges the Respondent with the following violations of the Code of Maryland Regulations (Code Md. Regs.) tit. 10, §

38.02.01 – Code of Ethics:

...

- B. The physical therapist...shall respect the dignity of the patient;

...

- F. The physical therapist...shall report to the Board of Physical Therapy Examiners all information that indicates a person is allegedly performing, or aiding and abetting, the illegal or unsafe practice of physical therapy[.]

The Board further charges the Respondent with violations of Code Md.

Regs. tit. 10, § 38.03.02-1 – Requirements for Documentation:

A. The physical therapist shall document legibly the patient's chart each time the patient is seen for:

- (1) The initial visit, by including the following information:

...

- (e) Evaluation and results of tests (measurable and objective data);
- (f) Interpretation;
- (g) Goals;
- (h) Modalities, or procedures, or both, used during the initial visit and the parameters involved including the areas of the body treated;
- (i) Plan of care including suggested modalities, or procedures, or both, number of visits per week, and number of weeks[.]

- (2) Subsequent visits, by including the following information (progress notes):

- (a) Date;
- (b) Cancellations, no-shows;
- (c) Modalities, or procedures, or both, with any changes in the parameters involved and areas of body treated;
- (d) Objective status;
- (e) Response to current treatment, if any;
- (f) Changes in plan of care; and
- (g) Signature, title (PT), and license number, although the flow chart may be initialed.

(3) Reevaluation, by including the following information in the report, which may be in combination with visit note, if treated during the same visit:

- (a) Date;
- (b) Number of treatments since the initial evaluation or last reevaluation;
- (c) Reevaluation, tests, and measurements of areas of body treated;
- (d) Changes from previous objective findings;
- (e) Interpretation of results;
- (f) Goals met or not met and reasons;
- (g) Updated goals;
- (h) Updated plan of care including recommendations for follow-up; and
- (i) Signature, title (PT), and license number.

(4) Discharge, by including the following information in the discharge summary, which may be combined with the final visit note, if seen by the physical therapist on the final visit and written by the physical therapist:

- (a) Date;
- (b) Reason for discharge;
- (c) Objective status;
- (d) Recommendations for follow-up; and
- (e) Signature, title (PT), and license number.

FINDINGS OF FACT¹

1. At all times relevant to the charges herein, the Respondent was licensed to practice physical therapy in the State of Maryland. The Respondent was originally licensed on November 8, 1999. The Respondent's license is currently active and will expire on May 31, 2012.
2. At all times relevant hereto, the Respondent was a co-owner of a physical therapy practice with several offices ("Company A"),² one of which is located in Bowie, Maryland ("Facility A").

¹ The statements of the Respondent's conduct with respect to the patients identified herein are intended to provide the Respondent with notice of the alleged charges. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent.

3. On March 9, 2010, the Board received a written complaint ("Complaint 1") from a physical therapy assistant ("PTA") who worked at Facility A. The PTA stated that in October 2009, the Clinical Director at Facility A, who is a physical therapist ("PT 1"),³ had confided to the PTA that she had had an inappropriate sexual relationship with a patient she was then treating ("Patient A").
4. The PTA stated that when PT 1 told her of the inappropriate relationship, the PTA advised her to immediately stop the relationship and to discharge Patient A from her care. Thereafter, PT 1 continued to treat Patient A. In or around October 2009, the PTA, who noted that working conditions were becoming uncomfortable, reported PT 1's conduct to a co-owner of Facility A ("Owner A").
5. On March 15, 2010, the Board received a written complaint regarding PT 1 from four of PT 1's co-workers at Facility A ("Complaint 2").
6. In Complaint 2, the Complainants describe various work disruptions at Facility A from June to November 2009 which they attributed to PT 1's relationship with Patient A. PT 1 was seen crying while she treated patients and on one occasion was observed crying in a private treatment room while treating Patient A. The Complainants reported that PT 1 would leave Facility A suddenly for last-minute appointments which then required the rescheduling or reassigning of her patients.

² Names of individuals and facilities will not be used in this document in order to preserve confidentiality.

³ The Board has filed charges against PT 1.

7. Upon receipt of Complaints 1 and 2, the Board initiated an investigation of the allegations, which investigation included interviews of employees of Facility A, the Respondent and Owner A.

**Allegations Pertaining to the Respondent's Violation of the Code of Ethics.
§10.38.02.01B**

8. In furtherance of its investigation, the Board subpoenaed from Facility A PT 1's personnel file. As set forth below, the Respondent met with PT 1 on at least one occasion to discuss the complaints he had received from employees at Facility A.
9. On October 7, 2009, Owner A met with PT 1 to discuss concerns regarding the PT 1 and Patient A. It had been reported to Owner A that PT 1 spent an excessive amount of time when treating Patient A, often behind closed doors. PT 1 denied that she had an inappropriate relationship with Patient A, stating that his case was complicated. Owner A advised PT 1 that the discomfort of the staff and their allegations were sufficient for him to conclude that PT 1 should no longer treat Patient A, or at the very least, treat him in the open gym area.
10. On October 30, 2009, both owners of Facility A, Owner A and the Respondent, met with PT 1 to discuss concerns regarding her relationship with Patient A. PT 1 continued to deny that she had engaged in inappropriate conduct with Patient A. Owner A and the Respondent instructed PT 1 to remove Patient A from her schedule and PT 1 stated she would do so.

11. On November 3, 2009, Owner A⁴ and the Respondent determined that PT 1 had not removed Patient A from her schedule and instructed her once again to do so.
12. The Respondent failed to report to the Board PT 1's conduct with regard to Patient A.

**Allegations Pertaining to the Respondent's Violation of the Code of Ethics.
§10.38.02.01F**

13. During the course of the Board's investigation, Board staff learned that the Respondent had engaged in a personal relationship with a patient ("Patient B") while treating her.
14. Patient B initially presented to Facility A on November 28, 2006 with complaints of left knee pain. In or around April or May 2007, Patient B was hired by Company A to perform marketing duties.
15. When interviewed by Board staff on September 22, 2010, the Respondent acknowledged that he began dating Patient B in late 2007 and was currently dating her.
16. The Respondent acknowledged he treated Patient B on several of her visits for complaints of a painful right elbow from August 6, 2008 through January 6, 2009.
17. The Respondent acknowledged that he treated Patient B during the above period of time, during which he was involved in a "personal relationship" with Patient B. The Respondent, who was represented by counsel during the interview, declined on several occasions to confirm that his

⁴ The Board has filed charges against Owner A.

relationship with Patient B was sexual, stating on one occasion, "I don't believe I need to discuss my personal relationship in regards to my clinical care."

Allegations regarding Violations of Standards of Practice

18. On August 6, 2008, Patient B presented to Facility A complaining that her right elbow was in pain and that she was unable to lift her right arm. Patient A was treated for this condition by various therapists through January 6, 2009, a total of 46 visits. The Respondent treated Patient B on 18 visits. Review of the Respondent's documentation of his treatment of Patient B revealed violations of the standards for documentation including, but not limited to, those set forth below.
19. The Respondent failed to document an evaluation of Patient B's lumbar spine, thoracic spine, shoulder and cervical spine and treated those areas multiple times.
20. The Respondent failed to document ultrasound parameters in sufficient detail.
21. The Respondent failed to conduct a re-evaluation of Patient B at any time during her five month treatment for this complaint.
22. In September and October 2008, the Respondent and other therapists whose notes he co-signed, stopped or provided limited treatment to Patient B's elbow and treated her shoulder, lumbar spine and thoracic area without first evaluating those areas.

23. On October 8 and 24, 2008, the Respondent co-signed notes for visits during which Patient B was administered iontophoresis in the absence of a prescription.
24. On several dates (August 16, 2008, November 23, 2008, December 11, December 17, 2008 and January 5, 2009), Patient B's insurance company was billed for therapy services; however, there are no notes in her chart to support charges on those dates.
25. As noted above, the Respondent and other therapists treated various areas of Patient B's body without performing adequate evaluations. On January 6, 2009, the Respondent treated Patient B's back. He noted that she was "to see how she feels before returning." Patient B did not return for treatment until October 1, 2009 (for back pain). The Respondent failed to note his license number when signing the note. The Respondent failed to complete a discharge summary of her course of treatment from August 2008 through January 6, 2009.
26. On October 1, 2009, Patient B returned to Facility A for therapy, this time complaining of back pain. She was provided therapy for this complaint through March 16, 2010, a total of 39 visits.
27. The Respondent treated Patient B on one occasion – November 6, 2009. On this date, he noted that Patient B's right foot was sore. He treated her right foot without first performing an evaluation or communicating with her physician.

28. Review of Patient B's record from October 2009 through March 2010, revealed that no re-evaluations were performed, documentation regarding objective data and gaps in treatment was inadequate and communication with the referring physician was poor.
29. Company A lacks a formal review system for patient records. When interviewed by Board staff, Owner A stated that, PTs "hopefully" complete a peer review form in their "down time" and "our directors are also supposed to be looking at charts to make sure everything, you know, looks compliant." Owner A further stated that he and the Respondent "from time to time...will do a few charts when we go around to the different offices."

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's conduct constitutes violations of the Act, specifically, H.O. § 13-316 (15), (19) and/or (25), the Board's Code of Ethics (Code Md. Regs. tit. 10, §38.02.01(B) and (F) and Standards of Practice – Requirements for Documentation as charged.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 15th day of May, 2012 by a majority of the quorum of the Board:

ORDERED that the Respondent is **REPRIMANDED**; and it is further

ORDERED that the Respondent shall be placed on **PROBATION** for a minimum of **TWO (2) YEARS**; and it is further

ORDERED that as a condition of probation, the Respondent shall successfully complete the Federation of State Physical Therapy Board's ethics tutorial program ("PROBE") that is next available from the date of this Consent Order; and it is further

ORDERED that within ninety (90) days of this Consent Order, the Respondent shall pay a monetary fine in the amount of five thousand dollars (\$5,000.00) to be paid in full to the Board by certified or bank guaranteed check made payable to the Maryland State Board of Physical Therapy Examiners; and it is further

ORDERED that the Respondent shall be responsible for all costs under this Consent Order; and it is further

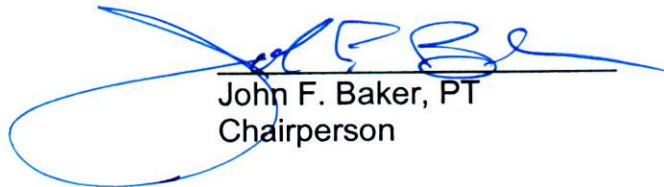
ORDERED that, should the Board receive information that the Respondent has violated the Act or if the Respondent violates any conditions of this Order, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including suspension or revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order shall be on the Respondent to demonstrate compliance with the Order or conditions; and it is further

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice of physical therapy in Maryland; and it is further

ORDERED that two (2) years from the effective date of the Order, the Respondent may submit to the Board a written petition requesting termination of probation, provided that the Respondent can demonstrate compliance with the conditions of this Order. Should the Respondent fail to demonstrate compliance, the Board may impose additional terms and conditions, as it deems necessary; and it is further

ORDERED that for purposes of public disclosure, as permitted by Md. State Gov't Code Ann. §10-617(h)(2009 Rep. Vol.), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order and that the Board may also disclose same to any national reporting data bank to which it is mandated to report.

05/15/2012
Date



John F. Baker, PT
Chairperson

CONSENT

I, Jared S. Goldstein, P.T., acknowledge that I am represented by counsel and have consulted with 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 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.

4/16/12
Date


Jared S. Goldstein, P.T.
Respondent

STATE OF MARYLAND
CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 16th day of April 2012,
before me, a Notary Public of the foregoing State and City/County personally
appeared Jared S. Goldstein, P.T., 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.

Deight Jump
Notary Public

my commission Expires
12/5/13