

IN THE MATTER OF  
GARY A. KATZ, P.T.

Respondent

License Number: 17497

10  
BEFORE THE MARYLAND  
STATE BOARD OF  
PHYSICAL THERAPY EXAMINERS

Case Number: 09-052

\* \* \* \* \*

CONSENT ORDER

On October 8, 2010, the Maryland State Board of Physical Therapy Examiners (the "Board") charged **GARY A. KATZ, P.T.** (the "Respondent") (D.O.B. 3/23/1965), License Number 17497, with violating the Maryland Physical Therapy Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 13-101 *et seq.* (2009 Repl. Vol.).

Specifically, the Board charged the Respondent with violating the following provisions of the Act under H.O. § 13-316:

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

\* \* \*

- (10) Is . . . disciplined by a . . . disciplinary authority of any . . . country, or . . . disciplined by a court of any . . . country . . . for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; [and]
- (19) Commits an act of unprofessional conduct in the practice of physical therapy or limited physical therapy[.]

On March 8, 2011, a Case Resolution Conference was held before a panel of the Board. As a result of negotiations, the Respondent agreed to enter into this public Consent Order consisting of Findings of Fact, Conclusions of Law and Order.

MD Board Of Physical Therapy

JUN 30 2011

## FINDINGS OF FACT

The Board makes the following Findings of Fact:

1. At all times relevant to hereto, the Respondent was and is licensed to practice physical therapy in the State of Maryland. The Respondent was originally licensed on August 10, 1992, under License Number: 17497.

2. At all times relevant hereto, the Respondent was the owner and chief operator of a company that provided physical therapy services (the "Respondent's Practice") with several offices in Maryland, including offices in Owings Mills, Westminster and Eldersburg.

3. On or about November 5, 2008, the Board received complaints (from various anonymous and identified sources), which referenced a United States Department of Justice ("DOJ") press release, dated October 16, 2008, entitled "Owings Mills Orthopedic Group and Physical Therapy Group Settle Anti-Kickback Claims." The press release stated that the Respondent's Practice paid the United States (the "U.S.") government a total of \$80,000 to settle civil claims that it violated the federal Anti-Kickback statute.

4. Based on the above complaints, the Board initiated an investigation of the Respondent and his Practice, the findings of which are set forth below.

5. On or about January 2, 2002, the Respondent, on behalf of his physical therapy practice, entered into two separate contractual agreements with the Orthopedic Group, a rental agreement ("Facility Agreement") and a "Physical Therapy Services Agreement" ("Services Agreement").

6. Pursuant to the terms of the Facility Agreement, the Respondent agreed to pay a monthly fee to the Orthopedic Group in exchange for the use of office space leased by the Orthopedic Group to Respondent for the practice of physical therapy. The amount of the monthly fee was \$35 per visit, which varied depending on the number of physical therapy patients, who received physical therapy at the Respondent's Owings Mills Practice and who were not referred by the Orthopedic Group.

7. Pursuant to the terms of the Service Agreement, the Respondent's Practice provided physical therapy services, as an independent contractor, for the Orthopedic Group's patients. In return, the Orthopedic Group agreed to pay a monthly fee to the Respondent, calculated at \$30.00 for each patient, up to 150 patients a week; and \$36.00 for every patient referred thereafter. In exchange for this monthly fee, the Orthopedic Group was entitled to bill and collect all proceeds for professional services provided by the Respondent's Practice to the Orthopedic Group's patients.

8. Between January 1, 2002, and October 31, 2004, the Orthopedic Group collected and received payments for physical therapy services the Respondent's Practice provided for patients the Orthopedic Group referred and made monthly payments to the Respondent pursuant to the terms of the Service Agreement. At the same time, the Respondent made monthly payments to the Orthopedic Group for use of the office space the Orthopedic Group leased pursuant to the terms of the Facility Agreement. During several of the months between January 1, 2002, and October 31, 2004, the Respondent's monthly payments to the Orthopedic Group for use of the office space greatly exceeded the fair market rental value of the space.

9. On or about November 1, 2004, the Respondent and the Orthopedic Group agreed that effective October 1, 2004, the Respondent's monthly payment to the Orthopedic Group for use of the space would be equivalent to the fair market rental value of the space.

10. On or about October 8, 2007, the Respondent entered into a settlement agreement with the United States Attorney, agreeing to pay the U.S. government the amount of eighty thousand (\$80,000) dollars to settle civil claims that Respondent's Practice violated the federal anti-kickback statute. In exchange for the settlement agreement, the DOJ agreed to release the Respondent's practice from any civil or administrative monetary claims the U.S. has or may have under certain federal statutes.

11. According to the settlement agreement, the DOJ alleged that between January 1, 2002, and October 31, 2004, the Respondent's Practice submitted or caused to be submitted claims to Medicare for items or services referred or ordered by physicians affiliated with the Orthopedic Group, in violation of the federal anti-kickback statute. (42 U.S.C. § 1320-7b(b))<sup>1</sup>

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<sup>1</sup> §1320a-7b(b). Criminal penalties for acts involving Medicare or State health care programs (a) making or causing to be made false statements or representation

(b) Illegal remunerations.

(1) Whoever knowingly and willfully solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind (A) in return for referring an individual to a person for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program, or (B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any goods, facility, service, or item for which payment may be made in whole or in part under a Federal health care program, shall be guilty of a felony and upon conviction thereof, shall be fined not more than \$25,000 or imprisoned for not more than five years, or both.

(2) Whoever knowingly and willfully offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person – (A) to refer an individual to a person for the furnishing or arranging for the furnishing of any item for service for which payment may be made in whole or in part under a Federal health care program, or (B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under a Federal health care program, shall be guilty of a felony and upon conviction thereof, shall be fined not more than \$25,000 or imprisoned for not more than five years, or both. (3) [omitted]

12. Specifically, the DOJ alleged that the agreement between the Respondent and the Orthopedic Group, wherein the Orthopedic Group referred patients to the Respondent for the provision of physical therapy services and paid a fee to the Respondent, and the Respondent paid rental fees to the Orthopedic Group for space that it leased from the Orthopedic Group as a subtenant, violated the federal anti-kickback statute.

13. On or about January 7, 2009, Board investigators interviewed the Respondent. During the interview, the Respondent acknowledged that that he entered into a civil settlement agreement to settle civil claims the DOJ asserted against him.

#### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's conduct as set forth above constitutes being disciplined by a disciplinary authority of any country or disciplined by a court of any country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes, in violation of H.O. § 13-316(10); and committing an act of unprofessional conduct in the practice of physical therapy, in violation of H.O. § 13-316(19).

#### ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 11/9/11 day of July, 2011, by a majority of the the Board considering this case:

**ORDERED** that the Respondent is placed on **PROBATION** for a period of **FIVE (5) YEARS** to commence on the date the Board executes this Consent Order and

continuing until the Respondent fully and successfully complies with the following terms and conditions:

1. Within **thirty (30) days** of the date the Board executes this Consent Order, the Respondent shall pay a fine in the amount of five-thousand dollars (\$5,000), by certified check or money order, to the Board of Physical Therapy Examiners;
2. The Respondent shall make an anonymous charitable contribution in the amount of twenty thousand dollars (\$20,000), to a Board-approved charitable organization;
3. Within **one (1) year** of the date the Board executes this Consent Order, the Respondent shall register for and successfully complete the ethics course presented by the Federation of State Boards of Physical Therapy ("FSBPT"). The course shall be in addition to any Continuing Education requirements mandated for continuing licensure, and the Continuing Education shall not count towards fulfilling other continuing education requirements that the Respondent must fulfill in order to renew his license to practice physical therapy; and
4. Within **one (1) year** of the date the Board executes this Consent Order, the Respondent shall register for and successfully complete the Board-approved Maryland law and ethics course. The course shall be in addition to any Continuing Education requirements mandated for continuing licensure, and the Continuing Education shall not count toward fulfilling other continuing education requirements that the Respondent must fulfill in order to renew his license to practice physical therapy.

**AND IT IS FURTHER ORDERED** that after the conclusion of the entire **FIVE (5) YEAR PROBATION**, 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, will grant the termination if the Respondent has fully and satisfactorily complied with all of the probationary terms and conditions and there are no pending complaints related to the charges; and it is further

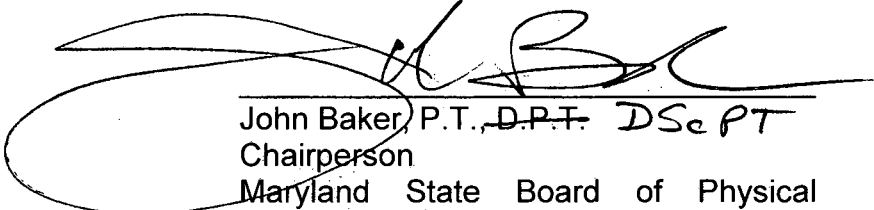
**ORDERED** that the Respondent shall comply with the Maryland Physical Therapy Act and all laws, statutes and regulations pertaining thereto; and it is further

**ORDERED** that if the Respondent violates any of the terms and conditions of this Consent Order, the Board, after notice and an opportunity for a hearing, may impose any sanction which the Board may have imposed in this case, including additional 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 that Respondent incurs in fulfilling the terms and conditions of this Consent Order; and it is further

**ORDERED** that this Consent Order shall be a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2009 Repl. Vol.).

Date 7/19/2011

  
John Baker, P.T., D.P.T., DScPT  
Chairperson  
Maryland State Board of Physical  
Therapy Examiners

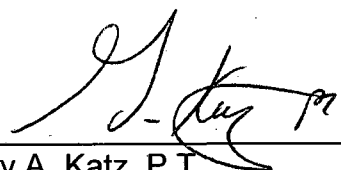
**CONSENT**

I, Gary A. Katz, P.T., acknowledge that I am represented by counsel and have consulted with counsel before entering into 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 might have followed after any such hearing.

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

6/27/11  
Date

  
Gary A. Katz, P.T.

**NOTARY**

STATE OF Florida

CITY/COUNTY OF Miami-Dade

I HEREBY CERTIFY that on this 27 day of June

2011, before me, a Notary Public of the foregoing State and City/County personally appear Gary A. Katz, P.T., License Number 17497, 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 notary seal.



SAH  
Notary Public

My commission expires

