

<b>IN THE MATTER OF</b>	*	<b>BEFORE THE STATE BOARD</b>
<b>MICHAEL S. LOMINAC, P.T.</b>	*	<b>OF PHYSICAL THERAPY</b>
<b>License No.: 26275</b>	*	<b>EXAMINERS</b>
<b>Respondent</b>	*	<b>Case Number: PT 21-24</b>

\* \* \* \* \*

### **CONSENT ORDER**

On August 19, 2021, the Maryland State Board of Physical Therapy Examiners (the “Board”) charged **MICHAEL S. LOMINAC, P.T.** (the “Respondent”), License Number 26275, with violating the Maryland Physical Therapy Act (the “Act”), Md. Code Ann., Health Occupations (“Health Occ.”) §§ 13-101 *et seq.* (2014 Repl. Vol. & 2020 Supp.).

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

**§ 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:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or restricted license for the applicant, licensee or holder or for another;
- ....
- (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[.]

The Board further charged the Respondent with the following violations of the Board's regulations:

**Code of Maryland Regulations 10.38.08.05 – Continuing Education Requirements – Renewal Requirements**

A. A licensee shall earn CEUs [Continuing Education Units] between April 1 and March 31 during the 2-year period before renewal and maintain the records of the course subject, hours, date, and continuing education units to present to the Board on request.

....

D. A physical therapist shall earn 3 CEUs equal to 30 contact hours for the renewal period[.]<sup>1</sup>

**Code of Maryland Regulations 10.38.08.06 – Auditing Compliance with Continuing Education Requirements**

A. The Board shall audit the continuing education records of as many licensees as time and resources allow.

....

C. At the time of the audit, the audited licensees shall submit:

(1) Continuing education certificates earned between April 1 and March 31 during the 2-year period before renewal; and

(2) A completed continuing education form[.]

On September 21, 2021, a conference with regard to this matter was held before the Board's Case Resolution Conference ("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.

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<sup>1</sup> Code of Maryland Regulations 10.38.08.02B defines a CEU as the basic unit of measurement for a licensee's direct participation in continuing education consisting of 10 contact hours.

### **FINDINGS OF FACT**

1. At all times relevant to the charges herein, the Respondent was licensed to practice physical therapy in the State of Maryland under license number 26275. The Respondent was originally licensed on December 21, 2016. The Respondent's license is scheduled to expire on May 31, 2023.
2. At all relevant times, the Respondent owned and practiced physical therapy at a physical therapy office (the "Office") in St. Leonard, Maryland.
3. On or about March 24, 2021, the Respondent electronically transmitted to the Board his completed licensure renewal application. The Respondent certified that he had completed a total of 30.0 continuing education hours.
4. The Respondent documented on his renewal application that the title of the Continuing Education Course for which he was claiming 30.0 hours of continuing education was; "Opened Physical Therapy Office." The Respondent further documented that he was the "Sponsor" of the course.
5. The Respondent affirmed on his renewal application that "the information I have given in answer to these questions is true and correct to the best of my knowledge and belief."
6. On July 13, 2021, in accordance with the Board's authority pursuant to COMAR.10.38.08.06A, the Board conducted an audit of the CEUs claimed by several licensees on their renewal applications, including the Respondent.

7. By letter dated July 13, 2021, the Board notified the Respondent that he had been randomly selected to submit to the Board copies of the continuing education certificates he had earned for the period from April 1, 2019 through June 30, 2021.
8. On July 20, 2021, in response to the Board's request for continuing education certificates, the Respondent submitted copies of: a letter dated May 5, 2020 from the Maryland Department of Assessments and Taxation confirming the filing of the name of the Respondent's business entity; a January 4, 2021 letter from the Calvert County Division of Inspections and Permits regarding the inspection status of the Office; a February 9, 2021 letter of welcome from the Calvert County Board of County Commissioners; and a June 28, 2021 certificate from the Maryland Department of Assessments and Taxation confirming that the Respondent's business entity was a Limited Liability Corporation.
9. The Board's Continuing Education Requirements regulations provide in pertinent part:

**COMAR 10.38.08.03 Continuing Education Requirements.**

A. Continuing education is a requirement for renewal or reinstatement of licenses of physical therapists...and may be obtained by:

- (1) Postgraduate studies;
- (2) Attendance or presentation at seminars, conferences, or workshops;
- (3) Authoring, co-authoring, or editing a book, book chapter, refereed article, or abstract; or
- (4) Home study, including internet courses.

B. Professional education eligible for continuing education credit shall be:



- (1) Relevant to the clinical practice of physical therapy; and
    - (2) Directed to a professional audience.
  - C. The Board shall have final approval of the relevancy of the program to the practice of physical therapy[.]
10. The Board's Continuing Education Course Approval regulations provide in pertinent part:

**COMAR 10.38.08.04 Continuing Education Course Approval**

- A. To obtain approval of a continuing education course, a course sponsor shall submit the following materials to the Board 6 weeks before the course:
- (1) An application on a Board-approved application form, accompanied by any required fee;
  - (2) A complete hour-by-hour agenda of the course;
  - (3) A clear and concise written statement describing the course's intended learning outcomes, behavioral outcomes, or performance objectives;
  - (4) A curriculum vitae for each instructor describing the instructor's competence in the course subject matter and skill in instructional methodologies; and
  - (5) If an instructor is not licensed by the Board and plans to perform physical therapy in conjunction with the course, an application for a restricted license obtained from the Board.
11. In a conversation with Board staff regarding the continuing education credits he had claimed, the Respondent stated that he had contacted the Board to verify whether opening his Office would qualify as "continuing education." The Respondent stated initially that a "female" at the Board's office told him that opening his Office would qualify; the Respondent was unable to recall her name.

12. In a later conversation with the Board's Deputy Director of Operations, the Respondent stated that when he spoke to the unidentified female, she told him that she would check into his inquiry and call him back. The Respondent stated that he subsequently received a call from the unidentified female Board staff advising him that opening his P.T. Office qualified as continuing education.
13. In addition to being unable to recall the name of the Board staff to whom he spoke, the Respondent could not recall the date of his conversation, but believed it was in the Fall of 2020.
14. The Respondent advised the Deputy Director of Operations that he had not taken any continuing education courses during the renewal time period.
15. At all relevant times, the Deputy Director of Operations was and is solely responsible for licensees' continuing education issues.
16. The Deputy Director of Operations did not advise the Respondent that opening his Office qualified as continuing education, nor did any other Board staff.
17. The Respondent did not seek approval from the Board, nor did the Board approve, the opening of the Respondent's Office as qualifying as a continuing education course.
18. The 30.0 continuing education hours claimed by the Respondent fail to meet the requirements of the Board's regulations. They are unacceptable for the purpose of the Respondent's renewal of his physical therapy license.
19. The Respondent believed that the continuing education hours he submitted to the Board were acceptable.

## **CONCLUSIONS OF LAW**

Based on the foregoing findings of fact, the Board concludes as a matter of law that the Respondent violated Health Occ. § 13-316(11), (15), and (19), and the Board's continuing education regulations under which he was charged.

## **ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

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

**ORDERED** that the Respondent is placed on **PROBATION** for a minimum of **ONE YEAR**. During probation, the Respondent shall comply with the following terms and conditions of probation:

- (a) Within 6 months, the Respondent shall take and pass the Board's jurisprudence examination (closed book) with a minimum score of 90%;
- (b) Within 6 months, the Respondent shall pay a civil fine of \$1,000.00. The Payment shall be by money order or bank certified check made payable to the Maryland Board of Physical Therapy. The Board will not renew or reinstate the Respondent's license if the Respondent fails to timely pay the fine to the Board; and it is further

**ORDERED** that the Respondent shall, before the end of the current renewal period, complete the three continuing education units he failed to complete during the previous renewal period AND the three continuing education units that he is required to complete to renew his license during the current renewal period. The Respondent shall obtain Board approval of all the continuing education units PRIOR to registering for the continuing education courses; and it is further


**ORDERED** that the Respondent shall not apply for early termination of probation; and it is further

**ORDERED** that a violation of probation constitutes a violation of the Consent Order; and it is further

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

**ORDERED** that the Respondent shall practice in accordance with the laws and regulations governing physical therapy.

Date 11/29/21

  
Karen Gordes, P.T., Ph.D., D.Sc.PT  
Chair  
Maryland State Board of Physical  
Therapy Examiners




### CONSENT

I, Michael S. Lominac, P.T., 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.

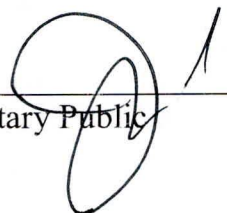
11/10/2021  
Date

  
Michael S. Lominac, P.T.  
Respondent

STATE OF MARYLAND  
CITY/COUNTY OF Calvert

I HEREBY CERTIFY that on this 10<sup>th</sup> day of November 2020, before me, a Notary Public of the foregoing State and City/County personally appeared Michael S. Lominac, 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.

  
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Notary Public

My commission expires: 5/14/23

