

IN THE MATTER OF \* BEFORE THE STATE BOARD  
 DERRICK A. MARTIN, P.T. \* OF PHYSICAL THERAPY  
 License No.: 18131 \* EXAMINERS  
 Respondent \* Case Number: PT 13-39  
 \* \* \* \* \*

**CONSENT ORDER**

On August 21, 2014, the Maryland State Board of Physical Therapy Examiners (the "Board") charged Derrick Martin, P.T. (the "Respondent") with violations of certain provisions of the Maryland Physical Therapy Act (the "Act"), Md. Code Ann., Health Occ. ("H.O.") §§ 13-101 *et seq.* (2009 Repl. Vol. & 2013 Supp.).

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, 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 or limited physical therapy;
- ...  
(25) Fails to meet accepted standards in delivering physical therapy or limited physical therapy care[.]

The Board further charges the Respondent with the following violations of the Code of Maryland Regulations (Md. Code. Regs.) 10.38.03.02 – Standards of Practice:

A. Physical Therapists

...

- (2) The physical therapist shall:
- ...
- (b) Provide:
- (i) Physical therapy services to not more than an average of three patients per clinical hour per calendar day, excluding group therapy; and
  - (ii) Each patient with adequate treatment time consistent with accepted standards in delivering physical therapy care;
- ...
- (g) Reevaluate the patient as the patient's condition requires, but at least every 30 days, unless the physical therapy, consistent with accepted standards of physical therapy, documents in the treatment record an appropriate rationale for not reevaluating the patient;
- (h) Provide direct supervision of students and aides[.]

On October 21, 2014, 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.

#### **FINDINGS OF FACT**

1. At all times relevant to the charges herein, the Respondent was licensed to practice physical therapy ("PT") in the State of Maryland. The Respondent was originally licensed on August 10, 1995. The Respondent's license is scheduled to expire on May 31, 2015.
2. The Respondent owns a physical therapy practice with offices in Greenbelt and Waldorf, Maryland.<sup>1</sup>

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<sup>1</sup> Names of facilities, patients and other individuals are confidential.

3. The Respondent does not employ any PTs at his offices. Other than himself, his staff consists of one Physical Therapy Assistant (“PTA”) and additional PTAs on an as-needed basis.
4. On or about June 19, 2013, the Board received a complaint from the Director of Clinical Training, Department of Physical Therapy and Rehabilitative Sciences (“Director”), of a Maryland medical school.
5. In the complaint, the Director stated that one of her doctoral students (“Student A”) who was participating in an internship with the Respondent had expressed concern after about one week of the clinical portion of the internship that the Respondent had assigned her to treat up to six patients an hour. Student A also expressed concern regarding the Respondent’s lack of clinical supervision when she treated patients.
6. The Director conducted an on-site visit of one of the Respondent’s offices and spoke to the Respondent. The Director observed Student A’s schedule, which she determined was not appropriate for a student, and noted that the layout of the office was not conducive to the adequate supervision of students by the Respondent. The Director confirmed with the Respondent that he was the only physical therapist in the office.
7. The Director spoke to the Respondent about her concerns. The Respondent stated that his practice was consistent with accepted standards of physical therapy.
8. The Director, whose concerns were not allayed, removed Student A from the internship with the Respondent.

9. Upon receipt of the Director's complaint, the Board initiated an investigation, the results of which are summarized below. The Board's investigation included but was not limited to interviewing the Respondent, the Director and Student A, and reviewing the Respondent's appointment schedule as well as patient charts and billing records.

#### **Student A Interview**

10. When interviewed by the Board's Compliance Manager, Student A stated that during the first week of her internship, she shadowed the Respondent and another student ("Student B"), spending about one half of her time with Student B.
11. Although the Respondent assigned Student A one patient an hour to treat on her first day of clinical practice, by the fifth day, he scheduled her to treat three patients at the same time.
12. Student A stated that the Respondent was often too busy treating his own patients to give her one-on-one supervision and did not provide her adequate clinical feedback.
13. Student A further stated that the Respondent provided to her billing sheets for each patient she had treated that indicated four units of various treatments, even though Student A had not spent that much time with the patient. Student A stated that she was uncomfortable signing the billing sheets as the Respondent expected her to do and that this was one of the reasons why she had sought assistance from the Director.

14. Student A recalled that she was surprised to see that the Respondent had scheduled as many as six patients an hour on some days.

#### **Review of the Respondent's Schedule and Billing Records**

15. In furtherance of the Board's investigation, Board staff subpoenaed the Respondent's patient schedule for the period from July 20, 2012 to August 1, 2012.
16. The Board's Compliance Manager questioned the Respondent regarding the excessive number of patients he scheduled during this time period.
17. The Respondent acknowledged that from July 20, 2012 through August 1, 2012, he had scheduled between 25 to 28 patients from 7:00 a.m. to 11:30 a.m.(4 ½ hours) in one office and between 21 and 25 patients from 3:00 p.m. to 7 p.m. (4 hours) in the other office.
18. The Respondent further acknowledged that even though some of the patients were treated by Student A (until July 23) or Student B, he was responsible for supervising them in addition to treating his own patients. The Respondent conceded that the amount of time he had available to dedicate to supervision of the students was "[p]robably not enough, apparently," and that because all of his patients receive manual therapy or "some type of one-on-one with me" that his supervision of students was "falling through the cracks."
19. Review of the Respondent's billing records revealed that he typically billed each patient for four units of therapeutic procedures at each visit, including: therapeutic exercise (CPT Code 97110); neuromuscular reeducation (CPT Code

97112); manual therapy (CPT Code 97140) and therapeutic activities (CPT Code 97530).

20. All of the therapeutic procedures for which the Respondent billed require direct (one-on-one) contact with the patient.
21. When questioned how he was able to justify billing each patient four units of therapeutic procedures when he was treating four, five or more patients during the same clinical hour, the Respondent responded: "I can't justify it."
22. The Respondent stated that he does not bill for group therapy (CPT Code 97150) because it is "a fairly new code" that he "just doesn't know much about..."

#### **Review of the Respondent's Re-evaluations**

23. Review of patient records revealed that the Respondent often failed to re-evaluate patients every 30 days as required, with many of the re-evaluations being either late or missing from the record and presumably not performed.
24. The Respondent stated that it is his practice to schedule re-evaluations based on the patient's physician's prescription; i.e., if the physician prescribes PT twice a week for three weeks, it is the Respondent's practice to re-evaluate after the sixth visit, which is six weeks after the initial evaluation.
25. In one instance, the patient should have been re-evaluated on 11 occasions. Eight of the re-evaluations were late; the Respondent treated the patient on 47 occasions without benefit of a timely re-evaluation.
26. Review of patient records revealed that the Respondent failed to document why required 30-day re-evaluations had not been performed.

## CONCLUSIONS OF LAW

The Respondent's conduct, in whole or in part, constitutes violations of the Act, specifically, H.O. § 13-316 (15), (19) and (25).

## ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 20<sup>th</sup> day of January, 201~~4~~<sup>5</sup>, by a majority of the quorum of the Board:

**ORDERED** that the Respondent shall be suspended for six months, all of which shall be immediately stayed; and it is further

**ORDERED** that the Respondent shall be placed on probation for a minimum of two (2) years and until the Respondent complies fully with the following terms and conditions:

- a. For at least the first eighteen (18) months of his probation, the Respondent shall meet on a monthly basis with a Board-approved clinical supervisor for the purpose of reviewing his documentation, including billing records. The Respondent shall provide the supervisor with a copy of the Consent Order;
- b. The Respondent shall ensure that the clinical supervisor submits reports to the Board on a quarterly basis regarding the Respondent's work quality and compliance with the Maryland Physical Therapy Act and the Board's regulations;
- c. Within the sixty (60) days of probation, the Respondent shall successfully pass the Board's closed-book law examination with a passing score of 90 percent;
- d. Within the first twelve (12) months of probation, the Respondent shall successfully complete a board-approved clinical instructor course;
- e. The Respondent may not provide instruction to physical therapy students for at least the first twelve (12) months of his probation;
- f. After a minimum of eighteen (18) months, and if recommended by the Respondent's clinical supervisor, the Respondent may petition to the Board to terminate the requirement that he be supervised by a clinical supervisor;

- g. After a minimum of two (2) years, the Respondent may petition to the Board to terminate his probation after demonstrating that he has complied with all of the terms and conditions of the Consent Order; and it is further

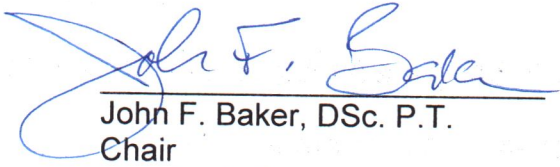
**ORDERED** that within the first six (6) months of probation, the Respondent shall pay a fine of \$5,000 to be paid in full to the Board by certified check or bank guaranteed check made payable to the Maryland State Board of Physical Therapy Examiners; and it is further

**ORDERED** that the Respondent is responsible for all costs associated with the Consent Order; and 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 for purposes of public disclosure, as permitted by Md. Code Ann. General Provisions Article, § 4-333(b), 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.

01/20/2015  
Date

  
John F. Baker, DSc. P.T.  
Chair  
Maryland Board of Physical Therapy  
Examiners



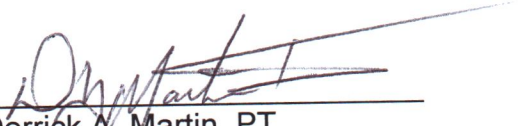
**CONSENT**

I, Derrick A. Martin, 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 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.

12/29/14  
Date

  
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Derrick A. Martin, PT  
Respondent

STATE OF MARYLAND  
CITY/COUNTY OF Prince George

I HEREBY CERTIFY that on this 29 day of December 2014, before me,  
a Notary Public of the foregoing State and City/County personally appeared Derrick A.  
Martin, 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.

Ramona Tavares  
Notary Public

My commission expires: 