

**IN THE MATTER OF**  
**MONICA MCNEIL, P.T.**  
**License No.: 17069**

**\* BEFORE THE STATE BOARD**  
**\* OF PHYSICAL THERAPY**  
**\* EXAMINERS**

**Respondent**

**Case No.: 01-BP-136**

\* \* \* \* \*

**FINAL CONSENT ORDER**

Based on information received and a subsequent investigation by the State Board of Physical Therapy Examiners (the "Board"), and subject to Md. Health Occ. Code Ann. § 13-101 *et seq.* (the "Act"), the Board charged Monica McNeil, P.T., (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation 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) Submits a false statement to collect a fee;
- (16) Violates any provision of this title or rule or regulation adopted by the Board;
- (21) Grossly over utilizes health care services;
- (26) Fails to meet accepted standards in delivering physical therapy care.

The Board also charged the Respondent with violations of the Code Md. Regs. tit. 10, § 38.03.02-1 Requirements for Documentation:

**A. As established by the American Physical Therapy Association of Maryland, and as approved by the Board, the physical therapist shall document the patient's chart as follows:**

**(1) For initial visit:**

- (a) Date,**
- (b) Condition/diagnosis for which physical therapy is being rendered,**
- (c) Onset,**
- (d) History, if not previously recorded,**
- (e) Evaluation and results of tests (measurable and objective data),**
- (f) Interpretation,**
- (g) Goals,**
- (h) Plan of care and**
- (i) Signature, title (PT) and license number;**

**(2) For subsequent visits:**

- (a) Date,**
- (b) Modalities, procedures, etc.,**
- (c) Cancellations, no-shows,**
- (d) Response to treatment,**
- (e) Signature and title (PT), with identifying signatures appearing on the patient's chart, although the flow chart may be initialed,**
- (f) Weekly progress or lack of it,**
- (g) Unusual incident/unusual response,**
- (h) Change in plan of care;**
- (i) Temporary discontinuation or interruption of services and reasons,**
- (j) Reevaluation,**
- (k) If there is a physical therapy assistant, reevaluate and document as required by Regulation .02L of this chapter;**

**(3) For discharge or last visit:**

- (a) Date,**
- (b) Reason for discharge,**
- (c) Status for discharge,**
- (d) Recommendations for follow-up, and**
- (e) Signature and title.**

The Board issued the charges on January 21, 2003. Thereafter, a Case Resolution Conference was held on April 3, 2003. Following the Case Resolution Conference, the parties agreed to resolve the matter by way of settlement.

### **FINDINGS OF FACT**

1. The Respondent is licensed to practice physical therapy in the State of Maryland. The Respondent was originally licensed on August 30, 1991.

2. At all times relevant hereto, the Respondent was employed as a physical therapist by Concentra Medical Centers, Inc. ("Concentra").

3. On or about March 11, 1999, the Board received a complaint from the Special Investigation Unit of the Injured Workers' Insurance Fund ("IWIF") that Concentra overutilized the following PT procedures, as identified by the Current Procedural Terminology ("CPT") assigned to them:

**95831-** muscle testing, manual (separate procedure); extremity (excluding hand) or trunk, with report

**95851-** range of motion measurements and report (separate procedure); each extremity (excluding hand) or each trunk section (spine)

4. Thereafter, the Board conducted an investigation of services provided and claims submitted to IWIF by Physical Therapists ("PTs") and Physical Therapist Assistants ("PTAs") employed by Concentra at the time the complaint was filed. The investigation revealed documentation and coding deficiencies in addition to those originally alleged in the IWIF complaint.

## CPT CODES

5. CPT codes provide a uniform language that accurately describes medical, surgical and diagnostic procedures. According to the CPT Manual, the CPT is "the most widely accepted nomenclature for the reporting of physician procedures and service under government and private health insurance programs. CPT is also useful for administrative management purposes such as claims processing and for the development of guidelines for medical care review."

### **a. Codes 95831 and 95851**

6. The CPT codes identified in the IWIF complaint, 95831 and 95851, are classified as Neurology and Neuromuscular Procedures.<sup>1</sup> Both codes are appropriate to evaluate a patient who has suffered deficiencies as a result of a neurological disorder or disease such as stroke or multiple sclerosis in order to document the patient's progression or regression. Both of these codes require the physical therapist to generate a separate report.

7. In the CPT manual, the term "separate procedure," as used in the description of the codes, identifies a procedure that is commonly carried out as an integral component of a total service or procedure. The CPT manual states further:

The codes designated as "separate procedure" should not be reported in addition to the code for the total procedure or service of which it is considered an integral component. However, when a procedure or service that is designated as a "separate procedure" is carried out independently or considered to be unrelated or

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<sup>1</sup> The most common CPT codes recorded in Concentra patient records are listed in the Physical Medicine and Rehabilitation section, the first two digits are "97." Unless a four-digit CPT code suffix is specified, the suffix for all codes used herein is "0000."

distinct from other procedures/services provided at that time, it may be reported by itself, or in addition to other procedures/services by appending the modifier "-59" to the specific "separate procedure" code to indicate that the procedure is not considered to be a component of another procedure, but is a distinct, independent procedure. This may represent a different session or patient encounter, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries).

8. Code 95831 is defined in the CPT manual as follows: Muscle testing, manual (separate procedure); extremity (excluding hand) or trunk, with report.

9. Code 95851 is defined in the CPT manual as follows: Range of motion ("ROM") measurements and report (separate procedure); each extremity (excluding hand) or each trunk section (spine).

10. Objective findings such as muscle strength and range of motion are a standard of physical therapy documentation and are to be performed once a week at a minimum. It is not standard physical therapy practice to bill separately for these measurements except when being performed as re-evaluation. It is standard physical therapy practice to assess and interpret objective findings that result from muscle testing and range of motion testing in order to determine whether changes should be made to the patient's treatment plan and/or goals.

**b. Code 97110-Therapeutic exercise**

11. Code 97110 is classified in the CPT manual as a therapeutic procedure. A therapeutic procedure is "a manner of effecting change through the application of clinical skills and/or services that attempt to improve function. Physician or therapist required to have direct (one on one) patient contact."

12. Code 97110 is defined in the CPT manual as follows: Therapeutic procedure, one or more areas, each 15 minutes; therapeutic exercise to develop strength and endurance, range of motion and flexibility.

13. Teaching the patient how to perform the exercise is a component of therapeutic exercises and is not to be billed as a separate charge by the provider.

**c. Code 97112- Neuromuscular re-education**

14. Neuromuscular re-education (Code 97112) is classified as a therapeutic procedure and incorporates all of the elements of therapeutic exercises. Neuromuscular re-education is further defined as the neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture and proprioception.

**d. Code 97530- Therapeutic activity**

15. Therapeutic activity (Code 97530) is classified as a therapeutic procedure and is defined as, "direct (one on one) patient contact by the provider (use of dynamic activities to improve functional performance), each 15 minutes."

**General Allegations of Deficiencies**

16. Throughout the patients' treatment records, the Respondent noted and billed for therapeutic exercises and therapeutic activities in the absence of documentation that the patients required one-on-one supervision, contact or instruction during these activities.

17. Treatment plans as written in initial evaluations are inadequate in that they lack treatment procedures and/or modalities to be provided.

18. CPT codes are used for tests conducted shortly after a patient's initial evaluation. These tests include: range of motion, manual muscle testing, reflexes, girth and grip strength. Objective findings are a standard of physical therapy documentation and are to be performed on a weekly basis at minimum. It is not standard practice to bill separately for these measurements, except as part of a re-evaluation. The Respondent failed on most occasions to prepare reports for those procedures that are defined in the CPT manual as a "separate procedure" but billed for the procedure nonetheless.

### **Patient-Specific Allegations**

#### **Patient A**

19. Patient A, a female born in 1968, initially presented to Concentra on May 28, 1998 with complaints of a fracture of the fifth digit on her left hand. Patient A reported that she dropped a board on her finger in a work-related accident the week before this visit.

20. Patient A was evaluated by the Respondent on June 23, 1998. The treatment plan for Patient A includes functional activities. The treatment plan is not adequate because it does not state duration/frequency with which she planned to treat the patient.

21. On the June 30, 1998 charge ticket, the Respondent noted the following charges: Procedures - Training A[ctivities of] D[aily] L[iving] (97540); Tests - Range of Motion - Hand (95852)<sup>2</sup>.

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<sup>2</sup> Charges under the "Supplies" category are not at issue in this case and are not set forth herein.

22. The Respondent's documentation of the June 30, 1998 visit fails to support charging under the ADL Training code. The documentation also fails to support the use of the test code.

23. The Respondent failed to complete a Discharge Summary for Patient A.

**Patient B**

24. Patient B, a male born in 1974, initially presented to Concentra on October 7, 1998 with complaints of cervical and lumbar strain and a knee contusion. Patient B reported that he sustained his injuries as a result of a work-related motor vehicle accident.

25. Patient B was evaluated by the Respondent on October 7, 1998. The treatment plan included modalities, therapeutic exercise and functional activities. The treatment plan is inadequate because it does not state duration or frequency with which the Respondent planned to treat the patient.

26. On the October 8, 1998 charge ticket, the Respondent noted the following charges: Evaluation – PT Evaluation New Patient (97799); Modalities – Hot/Cold Packs (97010) (3 units), Electrical Stimulation (97041) (3 units); Procedures – Therapeutic Exercise (97110), and A[ctivities of] D[aily] L[iving] Training (97540).

27. The Respondent's documentation of the October 8, 1998 visit fails to support use of evaluation code and 3 units of Electrical Stimulation and Hot/Cold Packs.



### **Patient C**

28. Patient C, a male born in 1954, initially presented to Concentra on September 28, 1998 with complaints of cervical strain.

29. Patient C was evaluated by the Respondent on September 28, 1998. The treatment plan included modalities, therapeutic exercise, functional activities, and patient education.

30. On the October 5, 1998 charge ticket, the Respondent noted the following charges: Procedures – Therapeutic Activity (97530); Tests – Range of Motion (95851).

31. The Respondent's documentation of the October 5, 1998 visit fails to support the use of the activities code because no activities were documented for this date on the flow sheet. The documentation also fails to support the use of the Test code.

32. The Respondent failed to complete a Discharge Summary for Patient C.

### **Patient D**

33. Patient D, a male born in 1956, initially presented to Concentra on September 22, 1998 with complaints of a knee contusion sustained during a work-related incident.

34. Patient D was evaluated by the Respondent on September 24, 1998 by the Respondent. The treatment plan included modalities, therapeutic exercise, functional activities, and patient education. The treatment plan is inadequate because it fails to state the frequency of these treatments.

35. On the September 28, 1998 charge ticket, the Respondent noted the following charges: Procedures – Therapeutic Exercise (97110), Neuromuscular Re-education (97112), and Therapeutic Activity (97530); Tests – Manual Muscle Testing (95831).

36. The Respondent's documentation of the September 28, 1998 visit fails to support use of Neuromuscular Re-education. The documentation also fails to support use of the Test code.

37. The Respondent failed to complete a discharge summary for Patient D.

#### **Patient E**

38. Patient E, a female born in 1966, initially presented to Concentra on October 8, 1998 with complaints of a hand injury. Patient E reported that the injury occurred on a machine at work.

39. The Respondent evaluated Patient E on October 8, 1998. The treatment plan included modalities, therapeutic exercise, functional activities, and patient education.

40. On the October 12, 1998 charge ticket, the Respondent noted the following charges: Procedures – Therapeutic Exercise (97110); Tests – Manual Muscle Testing - Hand (95832), Range of Motion - Hand (95852), and Jamar.1 (97750).

41. The Respondent's documentation of the October 12, 1998 visit fails to support the use of Test codes. The Respondent wrote merely that the goals have been met, grip and Range of Motion are W[ithin]N[ormal]L[imits].

42. The Respondent was interviewed by the Board during its investigation of this case. The Respondent's statements with regard to the codes for which she is alleged herein to have failed to have provided adequate documentation likewise failed to support the use of those codes.

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board finds that the Respondent violated Md. Health Occ. Code Ann. §§ 13-316 (15) and (16). The Board also finds that the Respondent violated Code Md. Regs. tit. 10, § 38.03.02-1. Finally, the Board dismisses the charge of H.O. § 13-316(21) Grossly overutilizes health care services and the charge of H.O. § 13-316(26) Fails to meet accepted standards in delivering physical therapy care.

### **ORDER**

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 20<sup>th</sup> day of MAY, 2003, by a majority of a quorum of the Board,

**ORDERED** that the Respondent shall be placed on probation for a period of at least one (1) year, subject to the following conditions:

1. The Respondent shall pay a fine in the amount of five hundred (\$500.00), to be paid prior to the termination of probation;
2. The Respondent shall take the Board-approved law and ethics course and pass the associated examination administered by the Board;
3. The Respondent shall successfully complete a Board-approved documentation course;

4. The Respondent shall successfully complete a Board-approved billing course. (The Respondent may submit the billing/coding course she completed in January 2001 for the Board's review as to whether it would satisfy this requirement);

5. The Respondent may apply the above coursework to the Respondent's continuing education requirements for licensure renewal;

**AND IT IS FURTHER ORDERED** that if the Respondent fails to comply with any of the terms or conditions of probation set forth above, that failure shall be deemed a violation of this Order; and it is further

**ORDERED** that should the Board receive a report that the Respondent's practice is a threat to the public health, welfare and safety, the Board may take immediate action against the Respondent, including suspension or revocation, providing notice and an opportunity to be heard are provided to the Respondent in a reasonable time thereafter. Should the Board receive in good faith information that the Respondent has substantially violated the Act or if the Respondent violates any conditions of this Order or of Probation, after providing the Respondent with notice and an opportunity of 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 of Probation shall be upon the Respondent to demonstrate compliance with the Order or conditions; and it is further

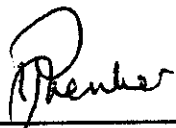
**ORDERED** that the Respondent shall bear the expenses associated with the Consent Order; and it is further

**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, at the end of the probationary period, the Respondent may petition the Board to be reinstated without any conditions or restrictions on the Respondent's license, provided 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 of Probation, 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) (Repl. Vol. 1999), this document consists 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.

5.20.03  
Date

  
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Penelope D. Lescher, M.A., P.T., M.C.S.P., Chair  
State Board of Physical Therapy Examiners

## CONSENT

I, Monica McNeil, P.T., by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney and have been advised by my attorney of the legal implication of signing this Consent Order;
2. I am aware that without my consent, my license to practice physical therapy in this State cannot be limited except pursuant to the provisions of H.O. § 13-317 and the Maryland Administrative Procedure Act, codified at State Gov't §§ 10-219 *et seq.*
3. I am aware that I am entitled to a formal evidentiary hearing before the Board;
4. By this Consent Order, I hereby consent and submit to the foregoing Findings of Fact, Conclusions of Law and Order, provided the Board adopts the foregoing Consent Order in its entirety. 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 behalf and to all other substantive and procedural protections as provided by law. I acknowledge the legal authority and the 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.
5. I acknowledge that failing to abide by the condition set forth in this Order, I may, after an opportunity to be heard, suffer disciplinary action, including revocation of my license to practice physical therapy in the State of Maryland.

6. While I have consented and submitted to the foregoing Findings of Fact, Conclusions of Law and Order, I did not intentionally, knowingly or willfully submit a false statement to collect a fee.

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

5/15/03  
Date

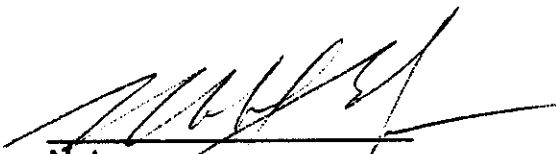
  
Monica McNeil, P.T.  
Respondent

STATE OF: Maryland

CITY/COUNTY OF: Montgomery

I HEREBY CERTIFY that on this 15 day of May, 2003, before me, a Notary of the State of Maryland and the City/County of Montgomery personally appeared Monica McNeil, P.T., and made oath in due form of law that signing the foregoing Consent Order was his/her voluntary act and deed.

**AS WITNESS** my hand and notarial seal.

  
Notary

My Commission expires: 1-1-05