

IN THE MATTER OF	*	BEFORE THE
DAVID REINHARDT, P.T.A.	*	STATE
LICENSE NO. A01628	*	BOARD OF PHYSICAL THERAPY
Respondent	*	EXAMINERS

* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Physical Therapy Examiners (the "Board") and subject to Health Occupations Article, Title 13, Annotated Code of Maryland (the "Act"), the Board charged David Reinhardt, P.T.A. (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of the following provisions of § 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:

- (6) In the case of an individual who is authorized to practice limited physical therapy under this title;
 - (i) Practices physical therapy other than as authorized by this title; [or]
- (12) Practices physical therapy or limited physical therapy with an unauthorized person or supervises or aids an unauthorized person in the practice of physical therapy or limited physical therapy;

- (15) Submits a false statement to collect a fee;
- (16) Violates any rule or regulation adopted by the Board;
- (18) Is professionally, physically, or mentally incompetent;
- (20) Commits an act of unprofessional conduct in the practice of physical therapy;
- (21) Grossly overutilizes health care services[;].

The Board further charges the Respondent with a violation of its Standards of Practice, pursuant to COMAR 10.38.03:

.02B. The physical therapist assistant shall use only methods and procedures within the scope of the practice of limited physical therapy exercise sound judgment and adequate care in the performance of duties.

.02F. The physical therapist assistant shall use only methods and procedures within the scope of the practice of limited physical therapy.

.02J. The physical therapist assistant may not initiate treatment until the patient has been evaluated and the treatment planned by the physical therapist.

§4-403 of the Health-General Article requires that medical records be maintained for five years.

The Respondent was given notice of the issues underlying the Board's charges by documents dated August 17, 2000. Accordingly, a Case Resolution Conference was held on October 11, 2000 and was attended by Penelope Lescher, P.T., member of the Board, Ann Tyminski, Executive Director, and Paul Ballard, Assistant Attorney General, Board Counsel. Also in attendance were the Respondent, who was represented by Alan Bussard, his attorney, who was unable to attend but had already agreed to settlement terms with the Prosecutor, and the Administrative Prosecutor, Roberta L. Gill.

Following the Case Resolution Conference, the parties and the Board agreed to resolve the matter by way of settlement. The parties and the Board agreed to the following:

FINDINGS OF FACT

1. At all times relevant to the charges herein, Respondent was licensed to practice limited physical therapy in the State of Maryland. The Respondent was originally licensed on September 15, 1992. The Respondent allowed his license to expire on May 31, 2000, while he was under investigation.

2. From on or about the Summer of 1996 to the Fall of 1997, the Respondent was President of Quality Care Physical Therapy, Inc. (Quality Care), which was originally based in a gym in Harford County, Maryland. The Respondent had made arrangements with "Hal" to sublease space in the gym; Hal was to be a partner in the venture and do marketing for the company to attract clients from the gym to Quality Care. Later, without prior notice, Hal's arrangement with the gym owner was abruptly terminated, and Quality Care suddenly had to relocate to a medical arts building in Harford County.

3. The Vice-President of the company was Lenora Roberts, P.T., who worked part-time for the company, primarily doing evaluations, for which she was paid, per evaluation. The Respondent controlled the day-to-day operations of the company. The Respondent's wife helped set up the business. The Respondent did all of the billing for the company, using a signature stamp given to him by Ms. Roberts, as the authorizing therapist. On occasion, the Respondent also used two other female therapists

to conduct evaluations or do treatments.

4. On or about April 18, 1997, the Board received a complaint against the Respondent from a physical therapist in Harford County, who indicated that the Respondent was performing activities outside the scope of his license. The Board investigated this complaint by subpoenaing patient files, including billing and treatment records, interviewing the Respondent and three of the therapists involved in Quality Care, and interviewing patients and others.

5. The following occurred with respect to the Respondent's involvement with Quality Care:

A. On 9/9/96, Ms. Roberts performed an evaluation of Patient A¹, who had injured her neck and shoulder in an automobile accident. Ms. Roberts recommended that Patient A receive physical therapy treatments, which were primarily supplied by the Respondent. The Respondent failed to document that the exercises were rendered as recommended. The Respondent added "treadmill" to Patient A's treatment, which was not ordered by the physical therapist.

The Respondent billed the patient's automobile insurer, State Farm, for the treatments. On or about October 17, 1996, State Farm sent Quality Care a check for \$1610 for payment in full for the services and patient's claims, which included the initial evaluation, any subsequent ones, and treatment. Quality Care then billed the patient's health insurer, Blue Cross, for the initial evaluation, subsequent evaluation and all therapy

¹ Patients' names are confidential.

treatments. Blue Cross paid for the initial evaluation in full, as well as \$50 of the subsequent evaluation, and other treatment covered in the State Farm payment, resulting in double billing/double payment. If duplicate payment is received the Respondent is responsible for reimbursing the insurer. The Respondent is responsible for billing which he/his company submits.

B. On 4/21/97, Patient B was purportedly evaluated by a female physical therapist other than Ms. Roberts. On 4/22/97, Patient B filled out a form on his initial visit, agreeing, among other things, to allow disclosure of his medical records by Quality Care. Patient B was treated four or five times by the Respondent. Patient B stated that he never was evaluated or treated by any female therapist while at Quality Care and that the Respondent conducted all of his physical therapy treatment². The Respondent conducted treatments before the patient received an evaluation by a physical therapist and/or the Respondent actually conducted the evaluation and/or the Respondent treated the patient without having an evaluation performed. The Respondent denies conducting an evaluation. The Respondent submitted billing that reflects that Ms. Roberts conducted the evaluation and all treatment, when she had no patient contact at all with Patient B. The Respondent is responsible for all billing submitted by him/his company.

C. On or about 11/25/96, Patient C received an initial evaluation and physical therapy treatment at Quality Care for a sprained ankle. No treatment records exist

² The Respondent claimed that he lost Patient B's treatment notes either in the moves that occurred or that they were thrown out by mistake. Later, however, after charges were sent, the Respondent found the records and sent them to the Board.

for this patient pursuant to the Board's subpoena, but same appeared for this patient after charges were filed. On 1/22/97, Quality Care billed the patient's insurer, Blue Cross, for Activities of Daily Living (ADL)³. Patient C stated that she received no such training. The Respondent is responsible for billing submitted by him/his company.

D. On 10/14/96, Ms. Roberts performed an evaluation on Patient D, whom she diagnosed with left shoulder and cervical pain, and recommended treatment consisting of, *inter alia*, exercises. Thereafter, the Respondent provided the bulk of the treatment to Patient D. On 11/25/96, Ms. Roberts diagnosed Patient D with low back strain and recommended, *inter alia*, exercise, three or four times a week. The Respondent then treated Patient D unsupervised for almost one month, before a reevaluation was performed. Quality Care billed the patient's insurer, Blue Cross, for ADLs on the 10/14/96 initial visit. Patient D stated that she received no such instruction and continued to work out in the gym during the entire time of her therapy treatments. Patient D also denies receiving exercises the eight times billed for. The Respondent is responsible for billing done by his company.

E. The Respondent began therapy treatments on Patient E on 1/16/97. After conducting three or four treatments, a female physical therapist⁴, other than Ms. Roberts,

³ADL is a Current Procedural Terminology code 97535, which is described as "self care/home management training (e.g., activities of daily living (ADL) and compensatory training, meal preparation, safety procedures, and instructions in use of adaptive equipment) involving direct one on one contact by provider, each 15 minutes.

⁴ The therapist has relocated to Florida and is no longer practicing in Maryland.

conducted an evaluation on Patient E. The evaluation is dated 1/16/97. The Respondent admitted that he conducted therapy on Patient E before she was evaluated by a physical therapist. The Respondent billed the evaluation and all treatment as having been performed by Ms. Roberts. The Respondent is responsible for billing done by him/his company name.

F. On 5/20/97, a male physical therapist conducted an evaluation of the Respondent's "sore" ankle, but no written report of same exists. However, thereafter, the Respondent purportedly performed multiple therapy treatments on himself until 7/11/97. There are no therapy notes to document this treatment and no evaluations/re-evaluations. The Respondent submitted bills for this "treatment" to his own insurer for \$2700 for this undocumented care. The Respondent is responsible for all billing submitted in his name.

G. On 7/23/96 an evaluation of the Respondent's wife, Patient G, was purportedly performed by both Ms. Roberts and another female therapist. Treatment for Patient G's right hip pain began, which was purportedly provided by both Ms. Roberts and the Respondent. The Respondent added exercises to the treatment, which were then billed to his insurer by Quality Care. The Respondent, thereby, practiced outside the scope of limited physical therapy. The Respondent is responsible for bills submitted by him/his company.

H. On 8/12/96, Ms. Roberts evaluated Patient H, another female physical therapist. Ms. Roberts did not authorize ultrasound to be performed on Patient H. However, the Respondent applied ultrasound to Patient H and billed for same under Ms.

Roberts' name. The Respondent practiced outside the scope of limited physical therapy and is responsible for billing sent out by him/his company.

I. On 8/16/96, Ms. Roberts evaluated Patient I, a minor, who was having residual pain as a result of breaking his ankle in the Spring of that year. Ms. Roberts began a course of therapy for Patient I, who continued to play sports while in therapy. On the initial visit and on the last visit, of 8/30/96, bills for ADLs were submitted to Patient I's insurer by the Respondent. Patient I, an active individual, received and required no ADLs. The Respondent is responsible for billing submitted by him/his company.

J. On 8/12/96, Ms. Roberts presented to another female therapist at Quality Care for an evaluation, as a result of injuries sustained in an automobile accident. The therapist determined that Ms. Roberts needed therapy three times a week for three or four weeks. Subsequently, treatments were provided by the Respondent, with a reevaluation performed by the other female therapist. Quality Care submitted the same billing for Ms. Roberts' care, including the evaluations, to both Allstate, the automobile insurer, and to Blue Cross (double billing), and received reimbursement in full for many of the same items, such as the evaluation, or received more than what was actually billed, because both insurers paid a portion of the charges. In some instances, services were billed that were not documented in the treatment record. If overpayment is received for services, the Respondent is responsible for reimbursing the insurer. The Respondent is responsible for billing submitted by him/his company.

K. On 9/10/96, Ms. Roberts evaluated Patient K, who had residual problems with flexibility, as a result of a stroke she had in 1990. At the time that she began physical therapy, Patient K conducted regular workouts in the gym where Quality Care was located. Although therapeutic exercises were prescribed by the referring physician, no flow sheet of same was present in the treatment record. Patient K received 11 treatments before a reevaluation was performed. Quality Care billed Patient K's insurer for ADLs purportedly received at the initial visit of 8/10/96, and for ultrasound, purportedly received on 9/24/96. Patient K denies receiving either service. The Respondent is responsible for billings submitted by him/his company.

L. Ms. Roberts evaluated Patient L, a Baltimore City police officer and the husband of Patient K, on 9/19/96 and determined that he had a cervical strain. On 9/20/96, Ms. Roberts performed another evaluation on Patient L and determined that he had a lumbar strain. Ms. Roberts determined that physical therapy was necessary to treat both conditions. Although Ms. Roberts included therapeutic exercise as part of the treatment plan, no exercise flow sheet is in the treatment records, and Patient L denies ever receiving therapeutic exercise as part of his treatment program. Bills were submitted by the Respondent to Patient L's workers' compensation insurer and to his health plan, Blue Cross, for the same services on the same dates, including for exercises. Bills were also submitted to Patient L's insurers for ultrasound, which Patient L denies receiving. If duplicate payments are received, the Respondent is responsible for reimbursing the insurer. On 10/7/96, the Respondent billed for two separate reevaluations of Patient L,

involving separate parts of the body. The patient stated that he was never reevaluated. One of those reevaluations was submitted to Blue Cross and the other to the City, and payment was made by those insurers for both evaluations. Patient L's insurers were also billed for activities of daily living, which Patient L denied receiving or needing. Even though the referring Physician cautioned against the use of electrical stimulation, the Respondent billed for same, on 10/25/96, although it was not documented as having been given. Patient L denies receiving this treatment. The Respondent is responsible for billing submitted by him/his company.

M. The Respondent gave Patient M a free massage, before she was evaluated by a physical therapist. Thereafter, on 1/16/97, Patient M was evaluated by a female physical therapist other than Ms. Roberts, who prescribed a course of physical therapy treatment for her consisting of ultrasound, massage and electrical stimulation. Quality Care submitted billing to Patient M's insurer for exercises on 2/11 and 2/13/97, that were documented in the treatment notes, which were received after charges were filed. Despite this documentation, Patient M stated that she never received any exercises. The Respondent is responsible for billing submitted by him/his company.

N. On 8/4/96, a female physical therapist, other than Ms. Roberts, evaluated Patient N and determined that she needed a course of physical therapy to treat Patient N's cervical pain. Although the physical therapist prescribed exercises, she did not determine which ones should be done. However, on 8/23/96, "Hal," who is not licensed by the Board, incorporated into the treatment record and into Patient N's therapy, a list of exercises for

her to do. Quality Care billed Blue Cross, Patient N's insurer, for these "therapeutic" exercises. Quality Care also billed Blue Cross for ADLs on 8/30/96, though same is not documented in the record. The Respondent is responsible for billing submitted by him/his company.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated §§ 13-316 (6) (I), (12), (15), (16), (18), (20), and (21). The Board further finds that the Respondent violated COMAR 10.38.03.02B, F, and J. The Board further finds that the Respondent violated § 4-403 of the Health-General Article, due to his failure to maintain the medical records of his own treatment.

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 14th day of November, 2000, by a majority of a quorum of the Board,

ORDERED that the Respondent shall not renew his license to practice limited physical therapy in Maryland until May, 2002, and that during this time period of non-renewal, e.g., from the present time until his license is reinstated by the Board, the Respondent is barred from practicing physical therapist assistance in any way, as defined by §13-301 of the Act; and be it further

ORDERED that the Respondent shall attend and successfully complete the Law and Ethics course and test administered by the Board, as well as complete a documentation in physical therapy course. These courses may be used toward the Respondent's Continuing Education Units (CEU) completion requirement of licensure renewal/reinstatement; and be it further

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ORDERED that, during the renewal cycle of May, 2002, the Respondent may submit an application for reinstatement/renewal of his physical therapy assistance license, after he documents that he has completed the aforementioned course work, as well as his other CEU requirements, paid the requisite fee, has submitted the form, and, in all ways, otherwise has met the requirements of licensure renewal, including not practicing limited physical therapy until his license is reissued/renewed/reinstated; and be it further

ORDERED that once the Respondent's license is renewed/reinstated, he shall begin a two year Probation, subject to the following conditions:

1. Should the Respondent open his own practice again, he shall be supervised by a Mentor selected by the Board. That Mentor agrees to provide the Board with quarterly reports on the Respondent's practice of limited physical therapy. The Respondent is responsible for paying the costs of the Mentor's fee, promptly after each session. The conditions of mentoring and the cost of same will be set forth in a separate agreement. Should the Respondent work for a practice which he does not own or operate, his physical therapist supervisor shall provide the Board with quarterly reports on the Respondent's practice of limited physical therapy. The Respondent shall provide to the

Mentor/Supervisor must sign an agreement with the Board to provide said reports. The Respondent shall ensure that the Mentor/Supervisor provides the reports on a timely basis.

2. The Respondent shall take a physical therapy-related course, preapproved by the Board, on billing and coding and other physical therapy-related issues; and be it further

ORDERED that the Consent Order is effective as of the date of its signing by the Board; and be it further

ORDERED that at the conclusion of the two year probationary period, the Respondent shall submit a petition for all conditions of his license to be removed, after demonstrating that he has complied with the conditions of probation, the Act and the regulations thereunder, and the Order. Should the Board determine that an extension of Probation is indicated, the Board will so order. Should the Respondent fail to petition the Board, the conditions of probation will remain in effect; and be it 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/Suspension 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 or of

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Probation/Suspension shall be on the Respondent to demonstrate compliance with the Order or its conditions; and be it further

ORDERED that for purposes of public disclosure, as permitted by §10-617(h) State Government Article, Annotated Code of Maryland, this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order, and may be reported to any data banks mandated by law, as well as reported in the Board's newsletter.



W. James Downs, P.T., Vice Chairman
Board of Physical Therapy Examiners

CONSENT OF DAVID REINHARDT, P.T.A.

I, David Reinhardt, P.T.A., by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, Alan Bussard, and have been advised by him of the legal implication of signing this Consent Order.

2. I am aware that without my consent, my license to practice limited physical therapy in this State cannot be limited except pursuant to the provisions of § 13-316 of the Act and §10-201, et seq., of the Administrative Procedure Act (APA), State Government Article, Annotated Code of Maryland;

3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Consent Order, I hereby consent and admit to the foregoing Findings of Fact, Conclusions of Law and Order provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in § 13-

By this Consent Order, I hereby consent and admit to the foregoing Findings of Fact, Conclusions of Law and Order provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in § 13-317 of the Act and §10-201, et seq., of the APA, and any right to appeal as set forth in § 13-318 of the Act and §10-201, et seq., of the APA. I acknowledge that my failure to abide by the conditions set forth in this Order and following proper procedures, I may suffer disciplinary action, possibly including revocation, against my license to practice physical therapist assistance in the State of Maryland.

11/6/00
Date

David Reinhardt P.T.A.
David Reinhardt, P.T.A.

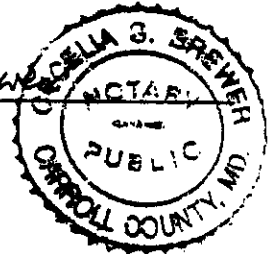
STATE OF MARYLAND

CITY/COUNTY OF Carroll:

I HEREBY CERTIFY that on this 6th day of November, 2000, a Notary Public of the State of Maryland and (City/County), CARROLL, personally appeared David Reinhardt, License No.A01628, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Cecelia S. Brewer
Notary Public



My Commission Expires: 12/1/2003