

IN THE MATTER OF * BEFORE THE
SCOTT REICHARD, P.T.A. * MARYLAND STATE BOARD OF
LICENSE NUMBER: A02343 * PHYSICAL THERAPY EXAMINERS
RESPONDENT * Case No. 01-BP-014

* * * * * * * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

Based on the information received and a subsequent investigation by the Maryland State Board of Physical Therapy Examiners ("the Board") and subject to the Maryland Physical Therapy Act, codified at Md. Health Occ. Code Ann., ("H.O.") § 13-101 *et seq.* (2000 Repl. Vol.) ("the Act"), the Board charged **Scott Reichard, P.T.A. D.O.B. 04-16-71, License Number: A02343**, ("the Respondent") with violating certain provisions of the Act under Health Occupations § 13-316 and Code Md. Regs. tit. 10 § 38.01 *et seq.* ("COMAR"). Specifically, the Board charged the Respondent with violating the following provisions of § 13-316 of the Act:

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:
 - (i) Practices limited physical therapy other than is authorized by this title;
- (16) Violates any provision of this title or rule or regulation adopted by the Board; [and]

- (26) Fails to meet accepted standards in delivering physical therapy or limited physical therapy care.

The regulations that the Board charged the Respondent with violating are COMAR 10.38.03.02(B), 10.38.03.02(F) and 10.38.03.02(P), which state:

.02 Standards.

- B. The physical therapist assistant shall exercise sound judgment and adequate care in the performance of duties;
- F. The physical therapist assistant shall use only methods and procedures within the scope of the practice of limited physical therapy; [and]
- P. The physical therapist assistant shall work within the physical therapist assistant competency in treatment.

On June 14, 2001, a Case Resolution Conference was held at the Board's offices to determine whether there existed the possibility of resolving the pending issues without having an evidentiary hearing. Present were Mindy Sacks, PTA, Chair of the Board; Paul Ballard, Assistant Attorney General and Counsel to the Board; Ann Tyminski, Executive Director of the Board; John Nugent, Staff Attorney and Board Prosecutor; the Respondent; and Ronald Cherry, the Respondent's attorney.

FINDINGS OF FACT

The Board finds that:

1. At all times relevant to the charges herein, the Respondent was licensed to practice limited physical therapy in the State of Maryland, being issued License No. A02343 by the Board on April 12, 1999.
2. At all times relevant to the charges herein, the Respondent was practicing limited physical therapy at NovaCare Facilities in Forest Hill, Maryland, and Perry Hall, Maryland.

3. On or about February 15, 2000, an initial evaluation was given by a licensed physical therapist on staff at NovaCare to Patient A who was receiving physical therapy treatment at NovaCare as a result of an Anterior Cruciate Ligament ("ACL") tear. The initial evaluation was for progress to an independent home exercise program.
4. On or about February 21, 2000, Patient A was scheduled for his third and final treatment at NovaCare. The Respondent performed the final treatment because the physical therapist who had performed the initial evaluation was unavailable.
5. During the final treatment, Patient A complained of pain in his left calf and expressed fear that his condition was not improving as a result of therapy. Due to Patient A's complaints, the Respondent conducted a Homans' Sign test and concluded that the results were negative. The Respondent then administered ultrasound, electrical stimulation, and massage to Patient A and documented it on Patient A's chart.
6. The treatment administered by the Respondent to Patient A on February 21, 2000 was not in the initial treatment plan and the Respondent never consulted the treating physical therapist or any other physical therapist regarding the treatment.
7. After his last visit to NovaCare, Patient A flew to Louisville, Kentucky and upon his return contacted his physician because the pain in his leg was so bad that it was preventing him from walking. Patient A then went to the emergency room at St. Joseph's Hospital on the advice of his physician, where he was subsequently admitted and diagnosed with a life-threatening blood clot in his left calf. He was hospitalized for five days due to his condition.

8. On or about February 25, 2000, the Respondent's supervisor at NovaCare was contacted by Patient A and informed of the events leading to his hospitalization.
9. The Respondent's supervisor reviewed the treatment records of Patient A and discovered that treatment was administered to Patient A outside the physical therapist's plan of care.
10. As a result of the incident on February 21, 2000, on or about March 6, 2000, the Respondent signed a written action plan with NovaCare stating that his performance would be monitored for a period of several weeks and that no further infractions would be tolerated.
11. On or about March 20, 2000, the Respondent's supervisor filed a written complaint with the Board stating that the Respondent had administered treatment outside the plan of care to Patient A at NovaCare on February 21, 2000.
12. On or about April 18, 2000, the Board received a letter from the treating physical therapist informing the Board that the Respondent had administered ultrasound and deep tissue massage to Patient A's calf muscle on February 21, 2000 without consulting the physical therapist or Patient A's physician. The letter stated that these modalities were not in the treatment plan.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated § 13-316(6)(i), (16), and (26); and Code Md Regs. tit. 10 § 38.03.02 (B), (F), and (P).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 29th
day of August 2001, by a majority of the Board, hereby

ORDERED that the Respondent's license to practice limited physical therapy in
the State of Maryland is **SUSPENDED** for **ONE YEAR** with all but **THIRTY DAYS**
stayed; and be it further

Taken 11/29/01

ORDERED that the Respondent shall be on **PROBATION** for a period of **ONE**
YEAR; and be it further

ORDERED that the Respondent shall enroll in and successfully complete a
Board-approved law and ethics continuing education course; and be it further

ORDERED that the Consent Order be and the same is hereby effective as of the
date of this Order; and be it further

ORDERED that the **SUSPENSION** of the Respondent's license will begin on
September 1, 2001, and run through September 30, 2001; and be it further

ORDERED that the Respondent shall deliver his license to practice limited
physical therapy to the Board at 4201 Patterson Avenue, Baltimore, Maryland 21215, on
or before September 1, 2001; and be it further

ORDERED that for the purposes of public disclosure, as permitted by the
Maryland Public Information Act, codified at Md. State Govt Code Ann., §§ 10-611 *et*
seq. this document constitutes the Board's Findings of Fact, Conclusions of Law, and
Order resulting from formal disciplinary proceedings.

8/29/01
Date

Mindy Sacks, PTA
Mindy Sacks, PTA
Chairperson
State Board of Physical Therapy Examiners

CONSENT OF SCOTT REICHARD, PTA

I, Scott Reichard, P.T.A., by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney.
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 Health Occupations § 13-317 and the Maryland Administrative Procedure Act, codified at Md. State Govt Code Ann., §§ 10-201 *et seq.*
3. I am aware that I am entitled to a formal evidentiary hearing before the Board or an Administrative Law Judge.
4. By this Consent Order, I hereby consent and submit to the foregoing Findings of Fact, Conclusions of Law, and Order provided that 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 own 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 conditions set forth in this Order, I may, after an opportunity to be heard, suffer disciplinary action, including revocation of my license to practice limited physical therapy in the State of Maryland.

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

Aug 21, 2001
Date

Scott Reichard PTA
Scott Reichard, PTA

STATE OF MARYLAND

CITY/COUNTY OF Balto

I HEREBY CERTIFY that on this 21st day of Aug., 2001, before me, Notary Public of the State and City/County aforesaid, personally appeared **SCOTT REICHARD, PTA**, License No. A02343 and made oath in due form of law that the foregoing Consent was his voluntary act and deed, and that the statements made herein are true and correct

AS WITNESSETH my hand and notarial seal.

H. Joanne Nickel
Notary Public

My commission expires: _____

H. JOANNE NICKEL
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires March 1, 2002