

* BEFORE THE MARYLAND

*** STATE BOARD OF**

*** PHYSICAL THERAPY EXAMINERS**

* **CASE NUMBER: PT 11-42**

* * * * *

CONSENT ORDER

On or about December 18, 2012, the State Board of Physical Therapy Examiners (the “Board”) charged **PATRICK SPEER, UNLICENSED, (the “Respondent”)** (D.O.B. **9/28/57**), with violations of the Maryland Physical Therapy Act (the “Act”) codified at Md. Health Occ. Code Ann. § 13-101, *et seq.*, (“the Act”) (2009 Repl. Vol. and 2012 Supp.).

Specifically, the Board charged the Respondent with violating the following provisions of the Act under § 13-401:

(a) *Practicing physical therapy.*—Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice physical therapy in this State unless licensed to practice physical therapy by the Board.

The pertinent provision of the Act under §13-407 provides for the following penalty:

(b) *Civil fine.* ---

(1) Any person who violates § 13-401 of this subtitle is subject to a civil fine of not more than \$50,000 to be assessed by the Board.

On or about March 19, 2013, the Respondent and his legal counsel appeared before the Case Resolution Committee (“CRC”) of the Board in order to explore a potential resolution of the Charges against him. The Respondent agreed to enter into this Consent Order as a full and final resolution.

FINDINGS OF FACT

The Board finds the following:

1. The Respondent has never held a license to practice physical therapy in the State of Maryland or any other jurisdiction.
2. At all times relevant, the Respondent owned and operated Integrated Therapy ("Integrated"), a private health care practice in Ellicott City, Maryland offering physical therapy treatment and care.
3. On or about April 11, 2011, the Board received an anonymous complaint alleging that the Respondent was practicing physical therapy ("P.T.") without a license and fraudulently billing for P.T. services.
4. Thereafter, the Board initiated an investigation during which the identity of the anonymous complainant ("the complainant") was discovered.
5. The results of the Board's investigation are set forth, *infra*.

BOARD INVESTIGATION

6. On or about April 28, 2011, Board staff interviewed the complainant, a former patient of Integrated, who stated that she was treated approximately 80 times during a 2 ½ year period of time from June 6, 2008 to September 10, 2010.
7. After an initial evaluation by a physical therapist ("Therapist A") who was employed with Integrated, the complainant was treated primarily by the Respondent for cervicalgia and postural dysfunction. The Respondent performed various modalities of P.T. treatment (therapeutic exercise, manual therapy, neuromuscular re-education and massage or joint mobilization), billing for this treatment under the name and license

number of Therapist A or a P.T. assistant ("Assistant A")¹ who was also employed by Integrated.

8. The complainant estimated that she and/or her insurer² paid Integrated in excess of \$9,000 for P.T. treatment.

9. The complainant further stated that the Respondent treated several of her family members and were consistently charged \$90.00 per visit for therapeutic exercises, neuromuscular re-education, manual therapy and mobilization. This treatment was billed under the respective name and license number of Therapist A or Assistant A.

10. Following the interview of the complainant, the Board issued subpoenas to the Respondent and/or Integrated for patient records, personnel files, appointment books and other relevant documents. The Respondent, through legal counsel, claimed that no records existed for several family members identified by the complainant, that other patient records had been misplaced, and that appointment books had been destroyed.

11. The Respondent produced the remaining subpoenaed patient records. The records revealed that the Respondent intentionally failed to document any treatment that he provided to patients in order to fraudulently submit the bills for reimbursement under the license number(s) of Therapist A or Assistant A.

12. In furtherance of its investigation, Board staff conducted interviews of four (4) patients.

¹ During the course of the Board's investigation, it was discovered that Assistant A was the live-in girlfriend of the Respondent and had previously been a co-owner of Integrated.

² Although unclear from the patient charts, it appears that patients paid fees for services directly to Integrated and would later submit bills to their insurance companies. The bills referenced CPT codes reserved for P.T. treatment only.

13. Patient A, the complainant's husband was interviewed telephonically on or about April 28, 2011. He stated that the Respondent provided P.T. treatment to him on three (3) occasions and that each time he was charged \$90.00 for manipulation and massage of his abdominal and lumbar region(s).

14. Patient B, a 50 year-old female, was treated at Integrated from October 26, 2010 through March 2011. At her initial visit she was seen by Therapist A for cervicalgia and neurofibroma with left side facial nerve paralysis. Although re-evaluations are required every thirty (30) days, no re-evaluations were done on or about December 26, 2010, January 26, 2010, or February 26, 2010.

15. Patient B was treated on twenty-two (22) occasions, but was only seen by Therapist A on four (4) visits. The Board's investigation revealed that Respondent provided P.T. treatment to Patient B, either individually or with Assistant A, on approximately 10-12 occasions. Each time, he performed P.T.'s and exercises designed to address Patient B's facial nerve limitations and other symptoms.

16. Patient C, a 42 year-old male, was a patient of Integrated for approximately five (5) years from 2006-2011. His most recent treatment, beginning on December 29, 2010 focused on back and hip pain resulting from an injury.

17. Between January 6, 2011 and March 23, 2011 Patient C estimated that he was treated by the Respondent on at least eight (8) occasions. Although Patient C saw Therapist A for only two (2) visits, all thirteen (13) visits were billed at \$90.00 per visit under Therapist A's name and license number.. The required 30 day re-evaluations were not performed on or about January 29, 2011, February 29, 2011 or March 25,

2011. Further, the Respondent failed to document any treatment that he provided to Patient C.

18. Patient D, a 22 year-old female, was a patient of Integrated for approximately 4 ½ years following a diagnosis of Lyme disease. Her most recent treatment regimen began on February 12, 2010 when she presented with back pain, fatigue and limited tolerance to standing or sitting. She was initially treated by Therapist A and was subsequently treated by both the Respondent and Assistant A.

19. Although Patient D was treated on approximately forty-nine (49) occasions, only four (4) visits were adequately documented. The Board's investigation revealed that for the vast majority of visits, the billing was the sole source of information documenting that a visit had taken place. All visits were billed under Therapist A's name and license number, but the Respondent provided P.T. on many of the 49 visits. The Respondent failed to document any treatment that he directly provided to Patient D.

20. On or about March 6, 2012, Board staff interviewed Assistant A. She stated that she and Respondent opened Integrated in 2006 as co-owners³. In 2007, she sold her equity interest in the business to the Respondent and assumed the role of a contract employee. From the inception of the partnership, she and the Respondent had been involved in an intimate relationship.

21. Assistant A further stated that the Respondent did not hold a P.T. license in Maryland and that to her knowledge his expertise was limited to Reiki, a form of

³ By letter dated March 22, 2012, counsel for Assistant A submitted a supplement to Assistant A's sworn interview. The letter clarified that Integrated was established as a Limited Liability Corporation on August 29, 2005 and that Assistant A maintained an equity interest in the LLC from January 1, 2006-December 31, 2006. At all times relevant, she was listed as the resident agent for the LLC.

energy work similar to manual therapy. She conceded that most of Integrated's P.T. patients were treated by the Respondent following an initial evaluation by Therapist A.

22. On or about March 7, 2012, Board staff interviewed Therapist A. She stated that she had been employed with Integrated since 2006 and during the course of her employment believed that the Respondent held a valid license to practice massage therapy in the State of Maryland. She left Integrated shortly after learning that the Respondent did not hold a Maryland license to practice massage therapy.

23. Therapist A stated that the Respondent provided cranial sacral therapy to patients, a form of manual therapy performed by physical therapists and massage therapists. She conceded that third party payers typically do not reimburse massage therapists for manual therapy.

24. Therapist A further stated that the Respondent, as owner of Integrated charged each patient the same amount for each treatment provided and that the same modalities of treatment were provided irrespective of the presenting symptoms or injury.

25. Therapist A conceded that re-evaluations were not performed every thirty (30) days as required and that the Respondent failed to maintain records documenting his treatment of patients.

26. On or about March 19, 2012, the Respondent admitted in an email that he intentionally destroyed patient records, misrepresented that he held a massage therapy license, lied and deceived patients and was "guilty".

27. On or about April 25, 2012, the Board retained an expert consultant ("Board expert") to review relevant patient and billing records as well as interview transcripts. In addition to reviewing the records and transcripts of Patients A-D, the

Board expert also reviewed sixteen (16) patient records produced by the Respondent/Integrated responsive to the Board's subpoena.

28. The Board expert opined that the Respondent practiced P.T. without a license and fraudulently billed for treatment by utilizing billing codes reserved for licensed physical therapists.

29. The Board expert also concluded that the Respondent consistently billed patients for certain modalities of treatment regardless of the patient's presenting complaint or subsequent progress. Integrated billed patients directly, demanding fees for services rendered. In order to provide patients with a reimbursable service, the Respondent fraudulently billed treatment under the name and license number of Therapist A or Assistant A.

30. On or about May 31, 2012, Board staff attempted to interview the Respondent regarding his unlicensed practice of P.T. After being duly sworn, his legal counsel requested assurance from the Board that no jurisdiction would pursue criminal prosecution against Respondent. The Board declined to provide such assurance at which time Respondent refused to answer any substantive questions.

31. The Respondent's actions, as described above, constitute a violation of H.O. § 13-401, practicing physical therapy without a license.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated H.O. § 13-401 (c) *Practicing physical therapy*.—Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice physical therapy in this State unless licensed to practice physical therapy by

the Board and is subject to a potential civil fine under H.O. §13-407 (c) *Civil fine. ---(2)*
Any person who violates § 13-401 of this subtitle is subject to a civil fine of not more than \$50,000 to be assessed by the Board.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this
21st day of May 2013, by a majority of a quorum of the Board
considering this case:

ORDERED that the Respondent pay a civil fine of twenty-five thousand dollars (\$25,000) to the Board, fifteen thousand dollars (\$15,000) stayed; ten thousand dollars (\$10,000) to be paid within one (1) year of the execution of this Consent Order;

ORDERED that the Respondent cease and desist from practicing physical therapy, massage therapy or any other health care related specialty that requires licensure in the State of Maryland;

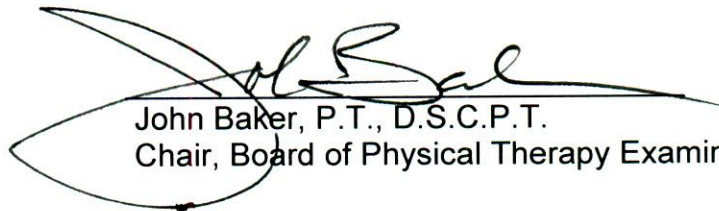
ORDERED that the Respondent will not seek licensure in the State of Maryland for any health care related specialty;

ORDERED that if the Respondent fails to comply with this Consent Order including but not limited to timely and full payment of the active fine of \$10,000, the Board shall lift the stay and shall impose the additional \$15,000 fine payable within thirty (30) days of the lifting of the stay;

ORDERED that this Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. State Gov't. Code Ann. § 10-611 et seq. (2009 Repl. Vol. and 2012 Supp.).

ORDERED that, for purposes of public disclosure, as permitted by Md. State Gov't. Code Ann. §10-617(h) (Repl. Vol. 2009 and 2012 Supp.), 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 that it is mandated to report to.

05/21/13
Date


John Baker, P.T., D.S.C.P.T.
Chair, Board of Physical Therapy Examiners

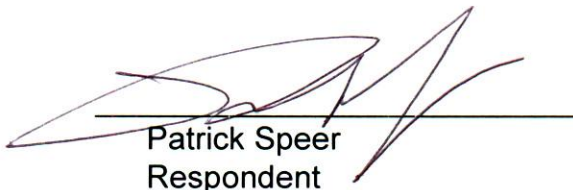
CONSENT OF PATRICK SPEER, P.T.

I, Patrick Speer acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent and only for the purposes of settlement of P.T. Case No: 11-42, I agree and accept to be bound by the foregoing Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

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, 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 jurisdiction of the Board to initiate these proceedings and to issue and enforce the Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order after having had an opportunity to consult with counsel, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

5-10-2013
Date


Patrick Speer
Respondent

Read and approved by:


Andrew Radding, Esq., Attorney for the Respondent

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF Charles:

I HEREBY CERTIFY that on this 10th day of May, 2013, before me, a Notary Public of the foregoing State personally appeared Patrick Speer 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,


Notary Public

My Commission Expires: 3/15/16

Patricia A. Rupprecht
Notary Public
Charles County Maryland
My Commission Expires 3/15/2016