

IN THE MATTER OF
PATRICE TAMUKUM, P.T.
LICENSE NO. 22817
RESPONDENT

* BEFORE THE MARYLAND
* STATE BOARD OF PHYSICAL
* THERAPY EXAMINERS
* Case No.: PT 14-11

* * * * *

FINAL DECISION AND ORDER

Procedural Background

On November 19, 2013, the Maryland Board of Physical Therapy Examiners (the “Board”) issued a Notice of Intent to Revoke Physical Therapy License to the Respondent, Patrice Tamukum, P.T., notifying him of the Board’s intent to revoke his license to practice physical therapy in the State of Maryland, License No. 22817. The Notice of Intent to Revoke informed the Respondent that he had the opportunity to request a hearing within thirty (30) days. The Board received a timely written request for a hearing on the matter from the Respondent. On June 26, 2014, the Board held an evidentiary hearing before a quorum of the Board, in accordance with Maryland Administrative Procedure Act, Md. Code Ann., State Gov’t § 10-201 *et seq.*, and the Board’s regulations, COMAR 10.38.05.

SUMMARY OF THE EVIDENCE

A. Documents

The following documents were admitted into evidence.

- State’s Exhibit No. 1 - Application for Reinstatement of Physical Therapist Licensure, April 2013
- State’s Exhibit No. 2 - Order Denying Renewal of License, District of Columbia Board of Physical Therapy, 8/8/13

- State's Exhibit No. 3 - License Profiles
 - a. Maryland
 - b. District of Columbia
- State's Exhibit No. 4 - Email correspondence, *Adverse Action Report Notice*, 9/13/13
- State's Exhibit No. 5 - Board Investigative Report, 9/16/13
- State's Exhibit No. 6 - Notice of Intent to Revoke Physical Therapy License, 11/19/13

B. Witnesses

State: John Bull, Investigator, Board of Physical Therapy Examiners

Respondent: Patrice Tamukum, P.T., Respondent

FINDINGS OF FACT

Based upon the documentary and testimonial evidence admitted at the evidentiary hearing, the Board finds the following:

1. The Respondent is licensed to practice physical therapy in Maryland under license number 22817. The Respondent was initially licensed by the Board on January 23, 2009. His license is currently active and set to expire on May 31, 2015. The Respondent was also licensed as a physical therapist by the District of Columbia Board of Physical Therapy (the "D.C. Board") from February 18, 2009, until March 31, 2013.¹ (State's Ex. 3A-B)

2. On or about April 5, 2013, the Board received the Respondent's application to reinstate his license, which had expired. The Respondent signed the application and dated it "4/ /2013", without a day. The application was notarized on April 3, 2013. (State's Ex. 1)

3. On his reinstatement application, the Respondent answered "NO" to all of the personal attestation questions, including Question #1, Question #2, and Question #3, which ask,

¹ Although the Respondent's license in the District of Columbia expired on March 31, 2013, the D.C. Board did not issue its Final Order denying the renewal of his license until August 8, 2013. (State's Exs. 2, 3B)

respectively, “Has a state, federal, or foreign licensing or disciplinary board or agency (including Maryland, DC and Puerto Rico), or a comparable body in the armed services, denied your application for licensure, reinstatement or renewal?”, “Has a state, federal, or foreign licensing or disciplinary board or agency (including Maryland, DC and Puerto Rico), or a comparable body in the armed services, taken any action against your license?”, and “Has a state, federal, or foreign licensing or disciplinary board or agency (including Maryland, DC and Puerto Rico), or a comparable body in the armed services, filed any complaints or charges against you, or investigated you for any reason?” (State’s Ex. 1)

4. As required for reinstatement applicants, the Respondent also included an attestation on the back of his application stating that had not practiced physical therapy in Maryland since the date his license expired, and further stating that he was “not currently licensed in any other state.” (State’s Ex. 1; Tr. at 30-31)

5. The Board reinstated the Respondent’s license on April 9, 2013. (State’s Ex. 3A)

6. On or about September 13, 2013, the Board, via its Compliance Manager, received an email with the subject “Adverse Action Report Notice” from the Federation of State Boards of Physical Therapy (the “FSBPT”). The FSBPT email notified the Board that the D.C. Board had taken action against the Respondent’s license to practice physical therapy, specifically denial of renewal of his license. The FSBPT email listed “Filing False Reports or Falsifying Records” and “Fraud – Unspecified” as the basis for the action taken by the D.C. Board. (State’s Ex. 4; Tr. at 15-16)

7. Upon receipt of the FSBPT email, the Board’s compliance manager checked the D.C. Board’s public website and confirmed that the Respondent’s license had been denied. The compliance manager also contacted an investigator with the D.C. Board and requested and

received a copy of the D.C. Board's final disciplinary order against the Respondent. (State's Exs. 2, 3B; Tr. at 16-20)

8. The D.C. Board, in a Final Order dated August 8, 2013, denied the Respondent's application to renew his license to practice as a physical therapist, based on findings that he "fraudulently or deceptively obtained or attempted to obtain a license, registration or certification" and "filed statements with the [D.C. Board] that he knew or should have known were false or misleading." Specifically, the Final Order found that the Respondent provided the D.C. Board with falsified documents in response to a request for information regarding his criminal background. (State's Ex. 2 at 8-9, 14)

9. The D.C. Board first issued a Notice of Intent to Deny the Respondent's renewal application on February 14, 2013. The Respondent submitted a timely request for a hearing and requested, and was granted, a continuance of the hearing, which was originally set in March 2013. The D.C. Board held a hearing on the matter on May 21, 2013; the Respondent did not appear, but he was represented by counsel. As noted above, the D.C. Board issued a Final Order denying the Respondent's renewal application on August 8, 2013. (State's Ex. 2 at 1-2, 16)

OPINION

The Board's primary and most important duty is to protect the public, and the Board's first method of adhering to that duty is to ensure, via the application process, that applicants and licensees are qualified, both legally and ethically, to practice as physical therapists in Maryland. The Board depends on applicants and licensees to be truthful on their applications, just as the Board counts on licensees to be truthful and ethical in the practice of physical therapy. If an applicant or licensee lies to the Board on an application, the Board loses its ability to ensure that

patients in Maryland are treated by ethical, competent physical therapists, and its ability to protect the public is compromised.

The Respondent knew that the D.C. Board intended to deny his renewal application no later than March 2013, when he requested a continuance of his hearing in front of the D.C. Board; the Respondent admitted to as much at the hearing. (Tr. at 68-69) When the Respondent applied to the Board for reinstatement in April 2013, however, he stated that he had never had a complaint or charges filed against him, or been investigated for any reason, by a licensing or disciplinary board in another jurisdiction. The Board does not find credible the Respondent's assertion that he believed his statement was truthful because the D.C. Board never directly told him "we are investigating you." (Tr. at 63) The Respondent knew the D.C. Board had filed an administrative action against him, he knew a hearing had been scheduled, and he knew the D.C. Board intended to deny his renewal application. The Board can think of only one logical reason why the Respondent would answer "no" to that question despite all the evidence to the contrary – because he did not want the Board to know that the D.C. Board was taking disciplinary action against his license.

Because the Respondent's license with the D.C. Board expired on March 31, 2013 (even though the D.C. Board's Final Order denying his renewal application was not issued until August 8, 2013), it would appear that he was not being untruthful when he stated on his reinstatement application with the Board that he was "not currently licensed in any other state." At the hearing, however, the Respondent did not say that that was a truthful statement because his license with the D.C. Board had expired; rather, the Respondent claimed it was a truthful statement because he used the word "state" and the District of Columbia is not a state. (Tr. at 66-67) Again, the Board does not find the Respondent's testimony credible. The Respondent's

semantic argument does not make sense logically – why would the Respondent feel it was necessary to let the Board know that he was not licensed in any of the 49 other states but not feel it was necessary to let the Board know that he was licensed in one of the jurisdictions closest to Maryland? Even if the Board found the Respondent’s testimony credible, it would suggest that he used the word “state” instead of “jurisdiction” in an attempt to hide from the Board the fact that he had been licensed in the District of Columbia (and was in the process of being disciplined by the D.C. Board). Although the statement turned out to be true (and thus is not, in and of itself, a basis for the Board’s discipline in this case), the Board merely notes this as another example of the Respondent attempting to mislead the Board at the hearing.

Finally, although the Board’s disciplinary action in this case is not directly related to the facts underlying his discipline with the D.C. Board, the Board notes that that action was based on the D.C. Board’s finding that the Respondent “fraudulently or deceptively obtained or attempted to obtain a license, registration or certification” and “filed statements with the [D.C. Board] that he knew or should have known were false or misleading.” (State’s Ex. 2 at 14) The fact that the Respondent deceived the D.C. Board, combined with the fact that he lied on his reinstatement application with the Board, suggests that the Respondent has some trouble with the truth. The Respondent’s pattern of fraudulent and deceitful activity make it difficult for the Board to trust that he will act ethically in the practice of physical therapy in Maryland going forward.

CONCLUSIONS OF LAW

Based upon the foregoing summary of evidence, findings of fact, and opinion, the Board concludes that the Respondent is subject to discipline pursuant to Md. Code Ann., Health Occ. § 13-316(1), (10), (12), and (19). The Board also concludes that the Respondent failed to comply with the requirements of COMAR 10.38.02.01H.

ORDER

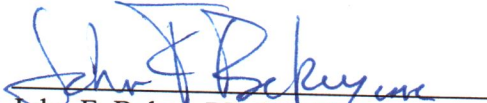
Based on the foregoing Findings of Fact, Opinion, and Conclusions of Law, by a unanimous decision of a quorum of the Board, it is hereby:

ORDERED that the Respondent's license to practice physical therapy in Maryland be **REVOKED**; and be if further,

ORDERED that this is a final order of the Maryland Board of Physical Therapy Examiners and as such is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., General Provisions § 4-333(b).

3/27/15

Date


John F. Baker, PT, DScPT
Chair
Board of Physical Therapy Examiners

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 13-318, you have the right to take a direct judicial appeal. Any petition for judicial review shall be filed within thirty (30) days of this Final Decision and Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't §10-201 *et seq.*, and Title 7, Chapter 200 of the Maryland Rules.