IN THE MATTER OF	*	**BEFORE THE STATE BOARD**
ADEYINKA ADEPOJU, P.T.	*	**OF PHYSICAL THERAPY**
License No.: 20517	*	**EXAMINERS**
Respondent	*	**Case Numbers: PT 15-50 & 15-67**

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CONSENT ORDER

On February 2, 2017, the Maryland State Board of Physical Therapy Examiners (the "Board") charged Adeyinka Adepoju, P.T. (the "Respondent") with violations of certain provisions of the Maryland Physical Therapy Act (the "Act"), Md. Code Ann., Health Occ. ("H.O.") §§ 13-101 *et seq.* (2014 Repl. Vol. & 2014 Supp.).

Specifically, the Board charged the Respondent with violations 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 or restricted license to any applicant, reprimand any licensee or holder of a restricted license, place any licensee or holder of a restricted license on probation, or suspend or revoke a license or restricted license if the applicant, licensee, or holder:
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> ...
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> (12) Willfully makes or files a false report or record in the practice of physical therapy or limited physical therapy;
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> ...
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> (14) Submits a false statement to collect a fee;
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> (15) Violates any provision of this title or rule or regulation adopted by the Board;
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> ...
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> (19) Commits an act of unprofessional conduct in the practice of physical therapy or limited physical therapy;
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> (20) Grossly overutilizes health care services;
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> ...
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> (25) Fails to meet accepted standards in delivering physical therapy...[.]

The Board further charged the Respondent with violating the Board's Code of Ethics, specifically Md. Code Regs.10.38.02.01 F that provides:

> The physical therapist ...shall report to the Board of Physical Therapy Examiners all information that indicates a person is allegedly performing, or aiding and abetting, the illegal or unsafe practice of physical therapy. .

The Board also charged the Respondent with violations of the Md. Code Regs. 10.38.03.02-1 Requirements for Documentation:

> A. The physical therapist shall document legibly the patient's chart each time the patient is seen for:
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> ...
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> (2) Subsequent visits, by including the following information (progress notes):
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> (b) Cancellations, no-shows;
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> ...
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> (d) Objective status;
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> ...
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> (3) Reevaluation, by including the following information in the report, which may be in combination with visit note, if treated during the same visit:
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> ....
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> (c) Reevaluation, tests, and measurements of areas of the body treated;
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> (d) Changes from previous objective findings;
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> (e) Interpretation of results;
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> (f) Goals met or not met and reasons;
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> (g) Updated goals;
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> (h) Updated plan of care including recommendations for follow-up; and
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> (i) Signature, title (PT), and license number;

On March 21, 2017, a conference with regard to this matter was held before the Board's Case Resolution Conference ("CRC"). As a result of the CRC, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

I. Procedural History

1. At all times relevant to these charges, the Respondent was licensed to practice physical therapy in the State of Maryland. The Respondent was originally licensed on March 14, 2002. His license is scheduled to expire on May 31, 2017.

2. The Respondent is the co-owner and clinical director of "Practice A,"[1] a physical therapy practice with several office locations.[2]

3. On or about June 19, 2015, the Complainant, a PT who had been employed at Practice A from April 2015 to June 2015, reported to Board staff several concerns regarding inappropriate treatment, scheduling and billing practices she had observed while employed at Practice A, including the scheduling and billing of Medicare patients.[3]

4. The Complainant reported that PT 1, a PT also employed at Practice A, had two and three patients scheduled every 30 minutes. The Complainant further reported that PT 2, a PT employed at Practice A, told the Complainant to change the times that Medicare patients were scheduled so that their treatment times did not overlap, even though multiple Medicare patients were treated at the same time.[4]

5. The Complainant explained to PT 2, who had been practicing in the United States for only two months, that he could get into trouble for changing the scheduled treatment times for Medicare patients.

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[1] Names of patients, other individuals and facilities are confidential.
[2] The Respondent's co-owner is identified herein as "PT 4."
[3] The Complainant submitted to the Board a written complaint on June 25, 2015.
[4] The Board has separately charged PT 1 with violations of the Act (Board Case #15-68B).

6. The Complainant suggested to the Respondent and to the other co-owner, PT 4, an alternative way to schedule Medicare patients so they would not be double-booked. Although PT 4 told the Complainant that she had a good idea, the Complainant later noticed that Medicare patients were once again "double-booked."[5]

7. In or around June 2015, the Complainant resigned from her employment at Practice A.

8. The Board thereafter initiated an investigation of the Complainant's allegations that included: conducting under-oath interviews with the Respondent, PT 1 and PT 4; obtaining by subpoena from Practice A patient schedules from two of Practice A's offices[6] and treatment records of ten randomly selected Medicare patients[7] and transmitting the investigative material to a PT expert (the "Expert") for review.

9. The Board's subpoena for patient records directs the recipient to transmit "complete" patient records. The Expert, upon her review of the records transmitted by Practice A, noted that none of the records contained exercise flow sheets and home exercise plans. During the course of the Board's investigation, Practice co-owner PT 4 was queried regarding the consistent absence of these documents. PT 4 acknowledged that flow sheets and exercise plans are part of the treatment record. PT 4 further told Board staff that "if there's a flow sheet that's not finalized, that may not have ported over...upon discharge if we don't

[5] The Board has separately charged PT 4 with violations of the Act (Board Case #15-50 A & 15-67 A).
[6] The Board requested the patient schedule for the period from April 1, 2015 to April 30, 2015 from the Baltimore office and for the period from April 1, 2015 to May 31, 2015 from the Catonsville office.
[7] Of the ten patients whose records were subpoenaed, all but three (Patients 7, 8 and 10) had been discharged from Practice A prior to the date of the subpoena.

finalize it then it doesn't port over into the final document window and then you have to go into the flow chart and print off the incomplete or un-finalized flow sheet."[8]

10. Review of patient charts revealed many instances where the objective portions of notes were identically worded for several visits. When interviewed under oath, the Respondent told Board staff that progress notes and re-evaluations are "populated" from previous notes and re-evaluations. The Respondent further stated, "it will have been *(sic)* better if we went up and changed the observation, but I believe that we are more focused on the tests that were done...the test scores were different. [The note] wasn't the same."

11. Review of the patient schedules confirmed that on several instances, as many as four to six patients were scheduled in a single hour in an office at which only one PT treated patients.

12. When interviewed under oath by Board staff, PT 1, whom the Respondent and co-owner PT 4 identified as the Director of PT at Practice A, stated that there was no scheduling policy at Practice A and characterized the scheduling of patients as "chaos." PT 1 explained that Practice A offered free transportation to patients and that often more than three patients an hour were transported to the office for treatment. PT 1 stated that when she had discussed the scheduling issue with the Respondent and PT 4 she had been told that a second driver

[8] In furtherance of the Board's investigation, Board staff instructed PT 4 to transmit to the Board as soon possible the "unfinalized" flow sheets. To date, the requested documents have not been received by the Board.

would be hired to alleviate the problem, but that did not happen while she was employed.

Findings of the Expert

13. The Respondent provided physical therapy services to Patients 4 and 8.

Patient 4

14. Patient 4 is a 69-year-old female with generalized muscle weakness and balance deficits. Patient 4 was seen at Practice A from October 20, 2014 for a total of 36 visits and was discharged on May 21, 2015. The Respondent saw Patient 4 for the first time on February 23, 2015.

15. The Expert noted that physical therapy services for Patient 4 were billed under the Respondent's initials on 11 dates of service (October 27, 2014 through December 9, 2014); however, an individual other than the Respondent signed the daily treatment notes, typically days after the date of treatment, during this time frame. Medicare regulations require that the treating physical therapist submit bills under his/her unique National Provider Number (NPI).

16. Patient 4's chart does not contain exercise flow sheets or documentation of home exercise programs.

17. The Respondent failed to appropriately document prior levels of function and current functional limitations and merely lists various activities and no further details.

18. On February 23, 2015, the Respondent performed a re-evaluation of Patient 4 (20^{th} visit). The Respondent's documentation of Patient 4's objective findings are unchanged from Patient 4's prior evaluation on January 27, 2015. The

Respondent did not make any changes to Patient 4's treatment goals or plan of care. The Respondent documented a score for a Tinetti test, but failed to include in Patient 4's chart the Tinetti Assessment Tool forms that detail the scores for each component of the test. In addition, the Respondent failed to evaluate Patient 4's gait.

19. The Respondent failed to document patient appointment cancellations and no-shows.

20. The Expert noted that the Respondent failed to document in Patient 4's re-evaluation any objective information to support ongoing treatment of the same type and pattern and also failed to document any evidence of Patient 4's progress or timely attainment of goals. The Expert opined that it would not be possible for another therapist to safely and appropriately assume care of Patient 4 based on the Respondent's documentation.

Patient 8

21. Patient 8 is a 75-year-old female with treatment diagnoses of gait abnormality, difficulty walking and lower leg joint pain. Patient 8 was seen at Practice A from March 26, 2015 for a total of 36 visits and was discharged on July 24, 2015.

22. On June 25, 2015, the Respondent performed a re-evaluation of Patient 8 (20th visit).

23. The Respondent failed to document objective information regarding Patient 8. The objective portion of the notes consists of a list of activities with no parameters.

24. The Expert noted that the Respondent failed to document in Patient 8's re-evaluation any objective information to support ongoing treatment of the same type and pattern and also failed to document any evidence of Patient 4's progress or timely attainment of goals. The Expert opined that it would not be possible for another therapist to safely and appropriately assume care of Patient 8 based on the Respondent's documentation.

The Respondent's Remedial Plan

25. The Respondent acknowledges the deficiencies noted by the Expert and has advised that he and PT 4 are implementing remedial changes to the practice's scheduling and billing issues, including the regular audit of patient charts by a compliance manager.

CONCLUSIONS OF LAW

The Respondent's conduct, in whole or in part, constitutes violations of the Act, specifically, Health Occ. § 13-316 (12), (14), (15), (19), (20) and (25) and the Board's regulations under which the Respondent was charged.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 9TH day of May, 2017, by a majority of the quorum of the Board:

ORDERED that the Respondent is reprimanded; and it is further

ORDERED that the Respondent shall be placed on probation for a minimum of two (2) years and until the Respondent complies fully with the following terms and conditions:

a. Within the first ninety days (90) days of probation, the Respondent shall successfully pass the Board's closed-book law examination with a passing score of 90 percent;

b. Within the first three months of probation, the Respondent at his own expense, he shall successfully complete three separate Board-approved courses: 1) documentation; 2) billing and 3) professional ethics. The Respondent shall submit documentation to the Board of his completion of each course in a timely manner. The courses are not to be credited toward the continuing education credits required for licensure renewal;

c. On a quarterly basis, the Respondent shall transmit to a Board-approved expert ("Expert") ten (10) patient charts for review of compliance with standards of practice;

d. The Respondent shall ensure that the Expert provide to the Board quarterly reports of the Expert's review in a timely manner; and it is further

ORDERED that within the first six (6) months of probation, the Respondent shall pay a fine of $5,000 to be paid in full to the Board by certified check or bank guaranteed check made payable to the Maryland State Board of Physical Therapy Examiners; and it is further

ORDERED that the Respondent is responsible for all costs associated with the Consent Order; and it is further

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing physical therapy; and it is further

ORDERED that, should the Board receive information that the Respondent has violated the Act or if the Respondent violates any conditions of this Order, 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 shall be on the Respondent to demonstrate compliance with the Order or conditions; and it is further

ORDERED that for purposes of public disclosure, as permitted by Md. Code Ann. General Provisions Article, § 4-333(b), 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 to which it is mandated to report.

5/9/17
Date

Krystal Lighty, D.P.T.
Chair
Maryland Board of Physical Therapy Examiners

CONSENT

I, Adeyinka Adepoju, PT, acknowledge that I have had the opportunity to be represented by counsel before entering this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

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 provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and 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 any adverse ruling of the Board that I might have filed after any such hearing.

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

4/25/17
Date

Adeyinka Adepoju, PT
Respondent

STATE OF MARYLAND
CITY/COUNTY OF Baltimore County

I HEREBY CERTIFY that on this 25TH day of April 2017, before me, a Notary Public of the foregoing State and City/County personally appeared Adeyinka Adepoju, PT, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Notary Public

DANIEL K NGANGA
NOTARY PUBLIC
BALTIMORE COUNTY
MARYLAND
MY COMMISSION EXPIRES MAY 2, 2020

My commission expires: