

IN THE MATTER OF * BEFORE THE STATE BOARD
CHRISTOPHER BUTLER, P.T. * OF PHYSICAL THERAPY
License No.: 20272 * EXAMINERS
Respondent * Case No.: 05-10B

* * * * *

CONSENT ORDER

The State Board of Physical Therapy Examiners (the "Board") charged **CHRISTOPHER BUTLER, P.T.** (the "Respondent"), License No. 20272, with violating certain provisions of the Maryland Physical Therapy Act ("the Act"), codified at Md. Health Occ. ("H.O.") Code Ann. §§ 13-101 *et seq.* (2000 and Supp. 2003).

Specifically, the Board charged the Respondent with violating the following provisions of the Act:

§ 13-316. Denials, reprimands, probations, suspensions, and revocations—Grounds.

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:

- (16) Violates any provision of this title or rule or regulation adopted by the Board; and
- (25) Fails to meet accepted standards in delivering physical therapy or limited physical therapy care.

The Board further charged the Respondent with the following violation of the Code of Maryland Regulations (Code Md. Regs.) tit. 10, § 38.02.01.F- Code of Ethics:

F. The physical therapist and physical-therapist assistant 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 further charged the Respondent with the following violation of Code Md. Regs. tit. 10, § 38.03.02- Standards of Practice:

A. Physical Therapists:

(2) The physical therapist shall:

(a) Exercise sound professional judgment in the use of evaluation and treatment procedures.

FINDINGS OF FACT

1. At all times relevant to the charges herein, the Respondent was licensed to practice physical therapy in the State of Maryland. The Respondent was originally licensed on July 30, 2001. From March 2003 to May 2004, the Respondent was contractually employed as a physical therapist ("PT") at Associated Therapy Specialists, Inc., ("ATS") located at 4014 Mountvale Road, Jefferson, Maryland. The Respondent was an independent contractor for Frederick Cudlipp, P.T., who then owned ATS.
2. While at ATS the Respondent worked one day a week, covering for Mr. Cudlipp when he was not in the office. The Respondent was at times the only licensed staff working at ATS on the days he worked.

Procedural History

3. On or about August 9, 2004, the Maryland Insurance Fraud Division received a telephonic complaint from an individual who reported that her 18 year old daughter had been employed at ATS by Mr. Cudlipp and that the daughter had knowledge that Mr. Cudlipp routinely up-coded patient bills and charged for the 4 most expensive treatments, no matter what actual services were provided by the Respondent or PTs employed by him.¹
4. In furtherance of its investigation regarding this complaint, Board staff interviewed 2 PTs, including the Respondent, and 1 physical therapist assistant ("PTA") then working for Mr. Cudlipp. The Board subpoenaed patient records which were reviewed by a PT retained by the Board for

¹ Effective November 15, 2005, the Board revoked Mr. Cudlipp's license to practice physical therapy in Maryland after he was notified of the Board's intent to revoke his license and failed to request a hearing. In the Board's Final Order that revoked Mr. Cudlipp's PT license, the Board found that he had violated multiple provisions of the Maryland Physical Therapy Act, including: gross negligence in the direction of an individual authorized to practice limited physical therapy, in violation of H.O. § 13-316(4)(ii); willfully making a false report in the practice of physical therapy, in violation of H.O. § 13-316(12); willfully failing to file or record any report as required by law, in violation of H.O. § 13-316(13); submits a false statement to collect a fee, in violation of H.O. § 13-316(14); violates any Board rule or regulation, in violation of H.O. § 13-316(15); commits an act of unprofessional conduct in the practice of physical therapy, in violation of H.O. § 13-316(19); grossly overutilizes health care services, in violation of H.O. § 13-316(20); willfully and without legal justification fails to cooperate with a lawful Board investigation, in violation of H.O. § 13-316(24); and fails to meet accepted standards in delivering physical therapy, in violation of H.O. § 13-316(25). The Board further found that Mr. Cudlipp violated the Board's Code of Ethics, specifically: knowingly or willfully destroys, damages, alters, obliterates or otherwise obscures a medical record or billing record in an effort to conceal the information from use as evidence in an administrative, civil or criminal proceeding, in violation of Code Md. Regs. tit. 10, § 38.02.01. The Board further found that Mr. Cudlipp violated the Board's regulations regarding sexual misconduct (Md. Code Regs, tit. 10, § 38.02.02) relating to standards of practice (Md. Code Regs. tit. 10, § 38.03.02A) and requirements for documentation (Md. Code Regs. tit. 10, § 38.03.02-1). According to law enforcement officials who are also investigating Mr. Cudlipp for possible violations of federal law, he has relocated to New Zealand and will not be returning to the United States.

this purpose. The Board's investigatory findings relevant to the Respondent are set forth below.

Findings of Fact Pertaining to Respondent

5. The Board's investigation revealed that the Respondent, as well as the other PTs and the PTA working for Mr. Cudlipp, typed their treatment notes and gave them to office staff.²
6. The Board investigation further revealed that each PT and PTA prepared a fee sheet after treating a patient, circling the CPT codes³ for the treatments they had provided to the patient.
7. The completed fee sheets were given to office staff.⁴
8. In his interview with Board staff, the Respondent acknowledged that he was aware that Mr. Cudlipp had hired individuals who were not PTs or PTAs to develop notes, including evaluations.

² Subsequent Board investigation revealed that staff placed the notes in a large blue notebook, presumably at Mr. Cudlipp's instruction, that was maintained in the ATS office. The blue notebook containing the notes was not found during the searches and inventories of the ATS office by law enforcement officials and Board staff conducted in or around December 2004, shortly after Mr. Cudlipp sold ATS and departed to New Zealand. Immediately after buying ATS on or about December 16, 2004, the new ATS owners, after consulting with their attorney and law enforcement officials, ordered Mr. Cudlipp to leave the premises after discovering disturbing occurrences such as treatment notes being written by non-professional staff. One of the new owners noticed that Mr. Cudlipp took with him a duffel bag.

³ The acronym "CPT" is the abbreviation for Current Procedural Terminology. CPT codes provide a uniform language that accurately describes medical, surgical and diagnostic procedures and is extensively used in the processing of health care claims.

⁴ Subsequent Board investigation revealed that Mr. Cudlipp then instructed non-licensed clerical employees to use a computer program to select randomly from among several options of treatment-related language he had created and then insert the language in objective, assessment and/or treatment sections of the treatment note. The employees, who were neither PTs nor PTAs, were not present as the Respondent or other PT staff were treating patients and had no personal knowledge of the treatment provided.

9. The Respondent acknowledged that he had observed individuals who were not PTs or PTAs develop treatment notes on a computer in the “back room” at ATS.
10. The Board interviewed a PTA who also had been employed by Mr. Cudlipp. The PTA reported that the Respondent and he had discussed Mr. Cudlipp’s practice of changing charges on patient fee sheets submitted by PTs and the PTA employed by him. The PTA reported that the Respondent was angry that Mr. Cudlipp had changed the fee sheets he (the Respondent) submitted.
11. The Respondent reported that Mr. Cudlipp wrote summaries for him regarding the patients scheduled to be treated that day. The Respondent stated that Mr. Cudlipp’s summaries were not in SOAP format; they were summaries of previous care provided and what treatment was to be provided.
12. The Respondent was not provided patient charts. For those patients he had not treated previously, he relied upon the summaries written by Mr. Cudlipp.
13. The Respondent reported that Mr. Cudlipp told him that he (Mr. Cudlipp) re-evaluated all the patients; however, the Respondent was not provided with the patient re-evaluations.
14. The Respondent provided physical therapy without benefit of patient charts, evaluations or re-evaluations.

15. The Respondent reported that on 1 occasion, Mr. Cudlipp had asked him to add charges on a patient fee sheet for services that the Respondent had not provided. The Respondent refused, but states he was "suspicious." The Respondent further reported that he "got wind" that Mr. Cudlipp was billing for treatment not provided and "kind of got nervous" despite being told that the office was "getting everything up to speed to make them Medicare compliant."
16. The Respondent's conduct, in whole or in part, constitutes the failure to meet accepted standards in delivering physical therapy, in violation of H.O. § 13-316 (25), and violation of regulations adopted by the Board, in violation of H.O. § 13-316 (16); specifically, failure to exercise sound professional judgment in the use of evaluation and treatment procedures in violation of the Board's Standards of Practice, Code Md. Regs. tit. 10, § 38.03.02, and failure to 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, in violation of the Board's Code of Ethics, Code Md. Regs. tit. 10, § 38.02.01.F.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board finds that the Respondent violated Md. Health Occ. Code Ann. § 13-316(16) and (25). The Board also finds that the Respondent violated Code Md. Regs. tit. 10, §38.03.02 and Code Md. Regs. tit. 10, § 38.02.01F.

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 19th day of September, 2006, by a majority of a quorum of the Board,

ORDERED that the Respondent's license is **SUSPENDED** for two (2) months, which suspension shall be stayed; and it is further

ORDERED that the Respondent shall be placed on probation for a period of one (1) year, subject to the following conditions:

1. Within six (6) months of the execution of this Consent Order, the Respondent shall pay to the Board of Physical Therapy Examiners a fine in the amount of fifteen hundred dollars (\$1,500.00);

2. The Respondent shall successfully complete the Board-approved law and ethics course, which shall be in addition to any other required continuing education courses mandated for continued licensure;

3. The Respondent shall successfully complete a Board-approved documentation course, which shall be in addition to any other required continuing education courses mandated for continued licensure;

4. The Respondent shall successfully complete a Board-approved billing course, which shall be in addition to any other required continuing education courses mandated for continued licensure; and

5. The Respondent shall practice in accordance with the laws and regulations governing the practice of limited physical therapy in the State of Maryland; and it is further

ORDERED that if the Board receives information that the Respondent has violated any condition of this Order, the Board will, unless emergency action is required as delineated in Md. State Govt. Code Ann. § 10-226(c)(2) (2004 Repl. Vol.), give the Respondent twenty (20) days to respond in writing to the allegation. Upon receipt of the Respondent's written response to the allegation, or, in the absence of a written response, the Board may, after giving the Respondent an opportunity to be heard, impose any penalty that it could have imposed under the Act for the offense that has already been proven or admitted in this case, including a reprimand, probation, probation for a longer period of time and/or with additional conditions, an imposition of a monetary penalty, suspension, and/or revocation. If the Board receives information that the Respondent's practice requires emergency action as delineated in Md. State Govt. Code Ann. § 10-226(c)(2) (2004 Repl. Vol.), the Board may take immediate action against the Respondent, providing notice and an opportunity to be heard are provided in a reasonable time thereafter. The burden of proof for any action brought against the Respondent as a result of a violation of the conditions of this Order shall be upon the Respondent to demonstrate compliance with the Order and its conditions; and it is further

ORDERED that the Consent Order is effective as of the date on which it is signed by the Board's Chair; and it is further

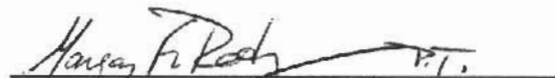
ORDERED that, at the end of the Probationary period, the Respondent may petition the Board to be reinstated without any conditions or restrictions on his license, provided that he can demonstrate compliance with the conditions of

this Order. Should the Respondent fail to demonstrate compliance, the Board may impose additional terms and conditions of Probation, as it deems necessary; and it is further

ORDERED that the Respondent shall bear the expenses associated with this Consent Order; and it is 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.* (2004 and Supp.), this document constitutes the Board's Findings of Fact, Conclusions of Law, and Order resulting from formal disciplinary proceedings, and that the Board may also disclose same to any national reporting data bank to which the Board is mandated to report.

September 19, 2006
Date


Margery Rodgers, P.T., Chairperson
State Board of Physical Therapy
Examiners

CONSENT OF CHRISTOPHER BUTLER, P.T.

I, Christopher Butler, P.T., License No. 20272, by affixing my signature hereto, acknowledge that:

1. I am represented by counsel and have reviewed this Consent Order with my attorney, John J. O'Donnell, Jr., Esquire.

2. I am aware that I am entitled to a formal evidentiary hearing before the Board pursuant to Md. Health Occ. Code Ann. § 13-317 (2005 Repl. Vol.) and Md. State Govt. Code Ann. §§ 10-201, *et seq.* (2004 Repl. Vol.).

3. I acknowledge the validity and enforceability of this Consent Order as if entered into after a formal evidentiary hearing in which I would have the right to counsel, to confront witnesses, to give testimony, to call witnesses on my behalf, and to all other procedural and substantive protections to which I am entitled by law. I am waiving those procedural and substantive protections.

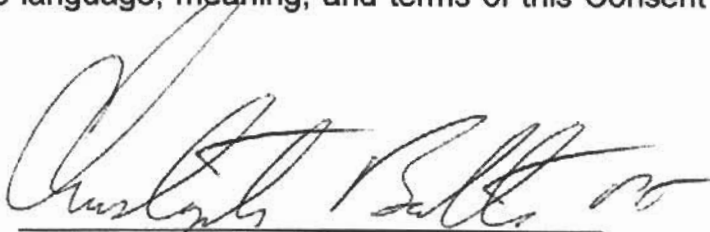
4. I voluntarily enter into and agree to abide by the foregoing Findings of Fact, Conclusions of Law, and Order, and submit to the terms and conditions set forth herein as a resolution of the Charges against me. I waive any right to contest the Findings of Fact and Conclusions of Law, and I waive my right to a full evidentiary hearing, as set forth above, and any right to appeal this Consent Order or any adverse ruling of the Board that might have followed such hearing.

5. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, I may suffer disciplinary actions, which may include revocation of my license to practice limited physical therapy in the State of Maryland.

6. I sign this Consent Order voluntarily, without reservation, and I fully understand and comprehend the language, meaning, and terms of this Consent Order.

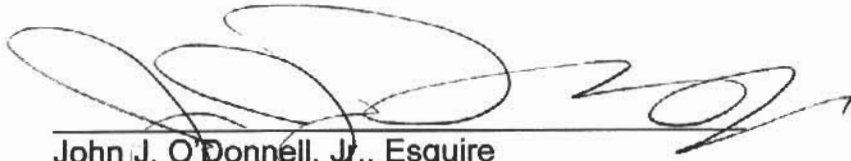
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Date



Christopher Butler, P.T.

Reviewed and approved by:



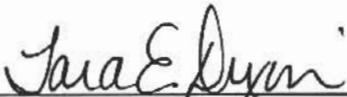
John J. O'Donnell, Jr., Esquire
Attorney for the Respondent

STATE OF: Maryland, PA

CITY/COUNTY OF: Frederick

I HEREBY CERTIFY that on this 6 day of September 2006, before me, a Notary of the State of Maryland and the City/County of Frederick, personally appeared Christopher Butler, P.T. License No. 20272, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and that the statements made herein are true and correct.

AS WITNESS my hand and notarial seal.



Notary Public
My Commission expires: 11/01/09