

IN THE MATTER OF * BEFORE THE
SHEILANI EISENBEISS, P.T. * STATE BOARD OF
Respondent * PHYSICAL THERAPY EXAMINERS
LICENSE NUMBER: PT22384 * CASE NUMBER: 09-97

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

On or about February 2, 2011, the Maryland Board of Physical Therapy Examiners (the "Board") charged **SHEILANI EISENBEISS, P.T. (the "Respondent")**, License No. **PT22384** with violating certain provisions of the Maryland Physical Therapy Act ("the Act"), codified at Md. Code Ann., Health Occupations ("Health Occ.") §§ 13-101 *et seq.* (2009 Repl. Vol.).

Specifically, the Board charged the Respondent with the following provisions of the Act under 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, reprimand any licensee or certificate holder, or suspend or revoke a license or a restricted license if the applicant, licensee, or holder:

- (4) In the case of an individual who is authorized to practice physical therapy is grossly negligent:
 - (iii) In the supervision of a physical therapy aide;
- (11) Practices physical therapy or limited physical therapy with an unauthorized person or supervises or aids an

unauthorized person in the practice of physical therapy or limited physical therapy;

- (14) Submits a false statement to collect a fee;
- (15) Violates any provision of this title or rule or regulation adopted by the Board; to wit:

COMAR 10.38.03.02A(2) The physical therapist shall: (a) Exercise sound professional judgment in the use of evaluation and treatment procedures;

COMAR 10.38.03.02A(2) The physical therapist shall: (h) Provide direct supervision of students and aides; [and]

- (25) Fails to meet accepted standards in delivering physical therapy or limited physical therapy[.]

On or about March 31, 2011, the Respondent appeared before the Case Resolution Conference Committee (the "CRC") of the Board in order to attempt to resolve the February 2, 2011 charges.

FINDINGS OF FACT

The Board finds the following:

I. Background

1. At all times relevant hereto, the Respondent was licensed to practice physical therapy in the State of Maryland. The Respondent was initially licensed to practice on October 15, 2007, having been issued license number PT22384. Her license is currently active and is due to expire on May 31, 2012.

2. At all times relevant hereto, the Respondent was employed at Chesapeake Physical & Aquatic Therapy ("Chesapeake"), a private physical therapy practice with

multiple locations in Maryland. The Respondent was employed at the Laurel (North) location, located at 314 Marshall Avenue, Laurel, Maryland 20707.¹

II. Complaint

3. On or about June 3, 2009, the Board received information from the Health Care Alternative Dispute Resolution Office regarding a claim against the Respondent.

4. This information revealed that a former patient ("Patient A"²) of the Respondent filed a claim alleging negligence against the Respondent and Chesapeake, stemming from an incident on March 7, 2008.

5. Thereafter, the Board initiated an investigation.

6. Patient A, a female born in 1947, was referred to Chesapeake for physical therapy following a right total knee arthroscopy on January 31, 2008. Patient A had undergone home physical therapy for two weeks, and began outpatient physical therapy on February 18, 2008.

7. The Board's investigator interviewed Patient A on February 19, 2010.

8. Patient A received physical therapy at both the Laurel (North) facility and the Laurel (South) facility, which is located at 13946 Baltimore Avenue, Laurel, Maryland 20707.

¹ This location is now under new ownership.

² In order to maintain confidentiality, individuals other than the Respondent, as well as facilities other than Chesapeake, will not be named in this document, but will be provided to the Respondent upon request.

9. Therapist A treated Patient A for six physical therapy sessions on February 18, 2008 (initial evaluation), February 19, 2008, February 21, 2008, February 25, 2008 and February 28, 2008.

10. The Respondent treated Patient A for two physical therapy sessions on February 27, 2008 and March 7, 2008.

11. On February 21, 2008, Therapist A introduced Patient A to the swimming pool for aquatic therapy. According to Patient A, Therapist A entered the swimming pool with Patient A.

12. On February 27, 2008, the Respondent instructed Patient A to change her clothing and enter the swimming pool area for aquatic therapy. According to Patient A, she entered the swimming pool area and a Chesapeake employee ("Employee A") instructed her to get into the swimming pool and start her exercises. Employee A sat in a chair against the wall reading a book while Patient A completed her exercises in the swimming pool.

13. According to Patient A, the Respondent was not present in the swimming pool area to supervise Employee A or Patient A.

14. On March 5, 2008, Patient A fell while at home, and her right knee hit the carpet. Patient A stated that she did not re-injure her knee as a result of the fall.

15. On March 7, 2008, Patient A presented at Chesapeake's Laurel (North) facility for a physical therapy with the Respondent. The Respondent documented the following, which Patient A reported: "No knee pain, just stiffness. I fell on carpet (Wed 3/5/08) but knee is ok. MD said I'm ready for D/C."

16. On March 7, 2008, Patient A's physical therapy included electrical stimulation, joint mobilizations and aquatic physical therapy.

17. According to Patient A, the Respondent instructed her to change her clothing and enter the swimming pool to complete her exercises. The Respondent did not accompany Patient A into the swimming pool or into the swimming pool area.

18. Employee A sat in a chair next to the swimming pool while Patient A completed her exercises.

19. According to Patient A, the Respondent was not supervising her exercises or supervising the Employee A.

20. Patient A stated that while she was performing her exercises in the swimming pool, the Respondent was in the treatment room, which is located through a doorway adjacent to the swimming pool area. The door to the treatment room was open.

21. The Respondent was not present to assist Patient A with exiting the swimming pool.

22. As Patient A exited the swimming pool, she lost her balance and fell, sustaining a scalp laceration and a fractured right patella. Patient A was transported by ambulance to a local emergency room, where she received stitches to repair the scalp laceration.

23. On March 31, 2008, Patient A had surgery to repair her fractured right patella.

24. After the incident involving Patient A, the Respondent was counseled regarding her failure to comply with Chesapeake's company policy requiring therapists to be in the swimming pool with patients during aquatic therapy.

25. On her October 28, 2008 Employee Performance Review, the Respondent's "Goals for the Upcoming Year" included:

3. Effective immediately, [the Respondent] will get into the pool to treat aquatic patients during all scheduled aquatic visits. If a circumstance arises in which she feels this is unreasonable or not possible, she will discuss this with her supervisor in advance if possible.

4. [The Respondent] will utilize an aide to instruct/supervise in patient exercise, only when she is actively treating another patient within the next two weeks.

26. A review of Patient A's billing records revealed that on February 27, 2008 and March 7, 2008, the Respondent billed CPT (current procedure terminology) code 97110 for the therapeutic exercises performed by Patient A and supervised by Employee A in the swimming pool.

27. CPT code 97110 is used to bill for a "therapeutic procedure, one or more areas, each 15 minutes; therapeutic exercises to develop strength and endurance, range of motion and flexibility" and requires that the therapist have direct (one-on-one) patient contact.

28. According to Patient A, the Respondent did not have direct, one-to-one patient contact with her while she was completing therapeutic exercises in the swimming pool on February 27, 2008 and March 7, 2008.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated H.O. § 13-316(14) and (15), as well as COMAR 10.38.03.02A(2)(a) and (h). The Board dismisses the charges under H.O. § 13-316(4)(iii), (11) and (25).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 19th day of April 2011, by a majority of the Board considering this case:

ORDERED that that the Respondent be and is hereby **REPRIMANDED**; and it is further

ORDERED that the Respondent's license to practice physical therapy shall be placed on **PROBATION** for a **PERIOD OF ONE (1) YEAR**, to commence from the date that this Consent Order is executed, subject to the following terms and conditions:

1. Within **thirty (30) days** of the date of this Consent Order the Respondent shall pay in full a civil fine in the amount of **ONE THOUSAND DOLLARS (\$1000.00)** to the Board by certified check, payable to the "Maryland Board of Physical Therapy Examiners," at the following address: Maryland Board of Physical Therapy Examiners, 4201 Patterson Avenue, Baltimore, Maryland 21215; *5/19/11
gtd*
2. The Respondent shall enroll in and successfully complete the next available offering of the Maryland Physical Therapy Law and Ethics Course. The Respondent shall submit proof of her successful completion of the course; *6/16/11
gtd*
3. Within six (6) months of the date of this Consent Order, the Respondent shall enroll in and successfully complete a Board-

approved course in billing;


ORDERED the Continuing Education requirements required by this Consent Order shall count toward fulfilling other continuing education requirements that the Respondent must fulfill in order to renew her license to practice physical therapy; and be it further

ORDERED after the conclusion of the **ONE (1) YEAR** period of **PROBATION**, the Respondent may file a written petition for termination of her probationary status without further conditions or restrictions, but only if the Respondent has satisfactorily complied with all conditions of this Consent Order, including all terms and conditions of probation, and including the expiration of the one (1) year period of probation, and if there are no pending complaints regarding the Respondent before the Board; and be it further

ORDERED that should the Respondent violate any of the terms or conditions of this Consent Order, the Board, after notice, opportunity for a hearing and determination of violation, may impose any other disciplinary sanctions it deems appropriate, including suspension or revocation, said violation being proven by a preponderance of the evidence; and be it further

ORDERED that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and be it further

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. & 2010 Supp.).



Shirley Leeper, P.T.A., Chair
State Board of Physical Therapy
Examiners

CONSENT OF SHEILANI EISENBEISS, P.T.

I, Sheilani Eisenbeiss, P.T., acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I admit to the Findings of Fact and Conclusions of Law as set forth above, and 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.

4/11/11
Date

Sheilani Eisenbeiss
Sheilani Eisenbeiss, P.T.

Read and approved by:

[Signature]
John J. Murphy, Esq., Attorney for the Respondent

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF Rockville, Montgomery County

I HEREBY CERTIFY that on this 11 day of April, 2011, before me, a Notary Public of the foregoing State personally appeared Sheilani Eisenbeiss, P.T. License Number PT22384, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Tumelo Nteso
Notary Public

My Commission Expires: 4/3/2012

