

IN THE MATTER OF	*	BEFORE THE MARYLAND BOARD
JENNIFER L. EYRICH, PTA	*	OF PHYSICAL THERAPY EXAMINERS
License Number: A2763 (expired)	*	Case No. 04-5
Applicant	*	
* * * * *		

**FINAL ORDER OF DENIAL OF REINSTATEMENT  
OF PHYSICAL THERAPIST ASSISTANT LICENSE**

Based on information received, the Maryland Board of Physical Therapy Examiners (the "Board") notified **JENNIFER EYRICH, P.T.A.** (the "Applicant"), License No. A2763, of the Board's intent to deny her Application for Reinstatement of Physical Therapist Assistant Licensure ("Application for Reinstatement") under the Maryland Physical Therapy Act ("the Act"), codified at Md. Health Occ. ("H.O.") Code Ann. §§ 13-101 *et seq.* (2000 and Supp. 2003).

The pertinent provisions of the Act are as follow:

**§ 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:

- (12) 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; (or)
- (16) Violates any provision of this title or rule or regulation adopted by the Board[.]

The applicable regulation provides in pertinent part:

**Code Md. Regs. ("COMAR") tit. 10 § 38.02.01 Code of Ethics (2002).**

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 notified the Applicant that it is alleged that she violated the following provision of the Act:

**§ 13-308. Issuance of license; display or notice of license; change of address.**

(c) *Change of address.*---Each licensee shall give the Board immediate written notice of any change of address.

The Board informed the Applicant that a Final Order would be executed **THIRTY (30) DAYS** from the Applicant's receipt of the Board's notice, unless the Applicant requested a hearing. The Board further informed the Applicant that sufficient notice under Code Md. Regs. tit. 10, § 32.02.03 provides that the Board serve the charges by regular mail or hand delivery at the address the Applicant maintains for purposes of licensure notice. Md. State Gov't Code Ann. § 10-209(c) provides that a person holding a license shall be deemed to have had reasonable opportunity to know of the fact of service if: 1) the person is required by law to notify the agency of a change of address within a specified period of time; 2) the person failed to notify the agency in accordance with the law; 3) the agency of the Office mailed the notice to the address of record; and 4) the agency did not have actual notice of the change of address prior to service.

The Applicant received the Board's Notice of Intent to Deny Application for Reinstatement Under the Maryland Physical Therapy Act on   N/A  , 2007 ;

OR the Board provided the Applicant with sufficient notice under Code Md. Regs. tit. 10, § 32.02.03 on April 12, 2007. In order for the Board not to execute this Final Order, a written request for hearing had to be received from the Applicant on or before May 15, 2007. The Applicant failed to request a hearing on or before this date.

### **FINDINGS OF FACT**

The Board finds as fact that:

1. At all times relevant to the allegations herein, the Applicant was licensed to practice limited physical therapy in the State of Maryland. The Applicant was first licensed on June 30, 2003, being issued License Number A2763.
2. The Applicant's license expired effective May 31, 2005.
3. On January 16, 2007, the Applicant submitted to the Board an Application for Reinstatement.
4. At all times relevant to the allegations below, the Applicant was employed as a physical therapist assistant at Physical Medicine Rehabilitation Center of the Metropolitan Washington Orthopaedic Association [hereinafter "PMRC"], which had several offices in the State of Maryland.
5. In the course of its investigation of physical therapy treatment being provided at PMRC, the Board issued a subpoena for the Applicant and sent it via certified mail to the address that the Board has on file for the Applicant.
6. The subpoena was returned by the United States Postal Service, which indicated that the mail was unclaimed by the Applicant and that there was no forwarding address available.

7. Employee A<sup>1</sup> was employed at PMRC as a physical therapy aide from 2002 until 2004.

8. Employee A has never been licensed by the Board as either a physical therapist or a physical therapist assistant.

9. A physical therapy aide is "a person who performs certain physical therapy duties under the direct supervision of a licensed physical therapist."<sup>2</sup>

10. "Direct supervision" means that a licensed physical therapist is personally present and immediately available within the treatment area to give aid, direction, and instruction when physical therapy procedures or activities are performed.<sup>3</sup>

11. The Applicant worked with Employee A at PMRC's Oxon Hill, Maryland location.

12. Employee A advised the Board's investigator that while she was employed at PMRC her duties included whirlpool, transverse friction massage, and progressing patients (i.e., showing patients how to do exercises and then increasing the weight and/or the number of repetitions).<sup>4</sup>

13. Employee A further advised the Board's investigator that she frequently performed these duties without a licensed physical therapist being personally present and immediately available in the treatment area.

14. Employee A would perform aforementioned treatments on patients without the direct supervision of a physical therapist, write the patient treatment note, and complete a billing slip, which was referred to as a "charge ticket" at PMRC.

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<sup>1</sup> Employees' and patients' names are confidential. The Applicant may obtain them by making a request to the Administrative Prosecutor.

<sup>2</sup> See COMAR 10.38.04.01B (2001).

<sup>3</sup> See COMAR 10.3.01.1B(7) (2001).

<sup>4</sup> Activities that physical therapy aides are permitted to perform under direct supervision are enumerated at COMAR 10.38.04 (2001).

15. Thereafter, a physical therapist would "co-sign" the treatment note even though the "co-signing" physical therapist did not perform or supervise the therapy.

16. The Board's investigator interviewed Employee B, a physical therapist assistant who has worked at PMRC since June 1999, and who stated that physical therapy aides at PMRC perform unauthorized duties: "[aides] usually do the exercise programs and they supervise the patient, they follow them, make sure that that patient is performing all the exercises, and they also do whirlpools. . . ."

17. The Board's investigator interviewed Employee C, a physical therapist who started working at PMRC on May 14, 2001, and who confirmed that physical therapy aides at PMRC write patient treatment notes and complete fee sheets.

18. Employee C also described the extent to which physical therapy aides are

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involved in treating patients when she told the investigator: "when [the manager at PMRC] hires the aides, we were--- we trained aides, they shadow us and we instruct them and show them how----what they need to do and as far as supervising patients, how to do exercises. And after they see the patient, we told them that, call the therapist." The physical therapist then co-signs the treatment note.

19. The Board's investigator interviewed Employee D, a physical therapist employed at PMRC from 2001 until 2004. The Board's investigator asked Employee D if physical therapy aides at PMRC had their own patient loads. Employee D answered, "yeah."

20. Employee E, a physical therapist assistant who has worked full-time at PMRC since 1993 provided to the Board's investigator the following description of the treatment system at PMRC: "Once the patient has been deemed essentially independent in their

exercises, the-the physical therapist will-will deem them independent to where an aide can supervise them through their-their workout.”

21. The Board's investigator then asked Employee E: “so the patient no longer has to see a physical therapist, they're then seen by an aide and they go through their exercises and so forth working with an aide, is that correct?” Employee E answered: “Yes.”

22. When asked if the aide could be treating a patient while the physical therapist is in another treatment area treating another patient, Employee E answered: “Yes.”

23. Employee F, a physical therapist assistant at PMRC since November 1997, was interviewed by the Board's investigator and stated that while an aide is working with a patient, a physical therapist is “in the same vicinity” but that the physical therapist could at the same time be treating another patient.

24. Physical therapy aides who were not licensed by the Board to practice physical therapy or limited physical therapy were nevertheless performing physical therapy at PMRC while the Applicant was concurrently employed there as a physical therapist assistant. However, the Applicant failed to report to the Board the illegal and unsafe practice of physical therapy by unlicensed individuals at PMRC.

25. The Applicant's conduct, as described above, constitutes, in whole or in part, violation of H.O. §§ 13-308(c), 13-316(12) and (16), and COMAR 10.38.02.01.

#### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board concludes that the Applicant violated H.O. §§ 13-308(c), 13-316(12) and (16), and COMAR 10.38.02.01.

**ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 15<sup>th</sup> day of May, 2007, by a quorum of the Board considering this case, hereby

**ORDERED** that the Applicant's Application for Reinstatement is hereby **DENIED**; and it is further

**ORDERED** that this Final Order is a public document pursuant to Md. State Gov't Code Ann. § 10-617.

**SO ORDERED** this 15<sup>th</sup> day of May, 2007.

May 15, 2007  
Date

Margery Rodgers, P.T.  
Margery Rodgers, P.T., Chair  
Maryland Board of Physical Therapy Examiners

**NOTICE OF RIGHT TO APPEAL**

Pursuant to Md. Health Occ. Code Ann. § 13-318(b), you have a right to take a direct judicial appeal. A Petition for Judicial Review must be filed within thirty (30) days of your receipt of this Order and shall be made as provided for judicial review of a final decision in Md. State Gov't Code Ann. §§ 10-201 *et seq.* (2004 Repl. Vol. & 2006 Supp.) and Title 7, Chapter 200 of the Maryland Rules.