

IN THE MATTER OF	*	BEFORE THE STATE BOARD
JENNIFER DOTY FRANTZ, P.T.A.	*	OF PHYSICAL THERAPY
License No. A3081	*	EXAMINERS
Respondent	*	CASE NUMBER: 07191D

* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Physical Therapy Examiners (the "Board"), and subject to Md. Health Occ. Ann. § 13-101, *et seq.*, (2005 Repl. Vol. and 2008 Supp.) (the "Act"), the Board charged Jennifer Doty Frantz, P.T.A., (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of the following provisions of § 13-316:

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:

- (5) In the case of an individual who is authorized to practice limited physical therapy:
 - (i) Practices limited physical therapy other than as authorized by this title;
- (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;
- (12) Willfully makes or files a false report or record 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;
- (25) Fails to meet accepted standards in delivering physical therapy or limited physical therapy care.

The Board also charged the Respondent with a violation of its Code of Ethics regulations, Md. Code Regs. tit. 10 §.38.02 (March 18, 2002):

.01 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 charges the Respondent with a violation of its Standards of Practice regulations, Code Md. Regs. tit, 10 §.38.03 (March 18, 2002):

.02 Standards of Practice.

B. Physical Therapist Assistants.

(1) The physical therapist assistant shall:

(d) Use only methods and procedures within the scope of the practice of limited physical therapy [;].

The Board also charged that the Respondent violated its regulations, Requirements for Documentation, Code Md. Regs. tit. 10.38.03. (March 18, 2002):

.02-1.

A. The physical therapist shall document legibly the patient's chart each time the patient is seen for:

(1) The initial visit, by including the following information:

- (a) Date;
- (b) Condition, or diagnosis, or both, for which physical therapy is being rendered;
- (c) Onset;
- (d) History, if not previously recorded;

- (e) Evaluation and results of tests (measurable and objective data);
 - (f) Interpretation;
 - (g) Goals;
 - (h) Modalities, or procedures, or both, used during the initial visit and the parameters involved including the areas of the body treated;
 - (i) Plan of care including suggested modalities, or procedures, or both, number of visits per week, and number of weeks; and
 - (j) Signature, title (PT), and license number.
- (2) Subsequent visits, by including the following information (progress notes):
- (a) Date;
 - (b) Cancellations, no-shows;
 - (c) Modalities, or procedures, or both, with any changes in the parameters involved and areas of body treated;
 - (d) Objective status;
 - (e) Response to current treatment, if any;
 - (f) Changes in plan of care; and
 - (g) Signature, title (PT), and license number, although the flow chart may be initialed.
- (3) Reevaluation, by including the following information in the report, which may be in combination with the visit note, if treated during the same visit:
- (a) Date;
 - (b) Number of treatments since the initial evaluation or last reevaluation;
 - (c) Reevaluation, tests, and measurements of areas of body treated;
 - (d) Changes from previous objective findings;

- (e) Interpretation of results;
 - (f) Goals met or not met and reasons;
 - (g) Updated goals;
 - (h) Updated plan of care including recommendations for follow-up; and
 - (i) Signature, title (PT), and license number[;].
- (4) Discharge, by including the following information in the discharge summary, which may be combined with the final visit note, if seen by the physical therapist on the final visit and written by the physical therapist:
- (a) Date;
 - (b) Reason for discharge;
 - (c) Objective status;
 - (d) Recommendations for follow-up; and
 - (e) Signature, title (PT), and license number.

D. Subsequent visits, as referred to in §A(2) of this regulation, in the same day by the same physical therapist do not require separate progress notes unless there is a change in the patient's status.

E. Ongoing Communications. Both the physical therapist and the physical therapist assistant shall document ongoing communication between the physical therapist and physical therapist assistant regarding changes in a patient's status and treatment plan.

.03 Penalties.

Violation of these regulations may result in the Board taking action to reprimand a licensee, place a licensee on probation, or suspend or revoke a license. The Board may also impose a penalty not exceeding \$5,000.

The Respondent was given notice of the issues underlying the Board's charges by a letter dated August 4, 2009. Accordingly, a Case Resolution Conference was held on

September 3, 2009, and was attended by Donald Novak, P.T., and Ved Gupta, Consumer, Board members, Ann Tyminski, Executive Director of the Board, and Linda Bethman and Francesca Gibbs, Counsel to the Board. Also in attendance were the Respondent and her attorney, Rose M. ~~Matriciani~~ ^{MATRICIANI RML}, and the Administrative Prosecutor, Roberta Gill, Assistant Attorney General.

Following the Case Resolution Conference, the parties and the Board agreed to resolve the matter by way of settlement. The parties and the Board agreed to the following:

FINDINGS OF FACT

1. At all times relevant to the charges herein, the Respondent was licensed to practice limited physical therapy in the State of Maryland. The Respondent was first licensed on September 18, 2006. The Respondent's license expires on May 31, 2011.
2. At all times relevant to the charges herein, the Respondent was practicing as a Physical Therapy Assistant (PTA) at The Water's Edge, a privately owned physical therapy practice located in Stevensville, Maryland. The Respondent was employed there as of April 2007. The Water's Edge is owned and operated by Owner A, who is not licensed by any health occupation licensing board.
3. As a result of a complaint that the Board received on or about September 28, 2006, from Physical Therapist A¹, the Board began an investigation into the billing practices of The Water's Edge and the therapists involved there.

4. While the Board was already conducting an investigation of The Water's Edge, as a result of Physical Therapist A's complaint, it received a complaint from Physical Therapist B, dated May 31, 2007, which indicated that, on 5/24/07, his charges entered on the SOAP note, exercise flowsheet and "superbill" or billing document, all had three direct one-on-one codes and a group code billed for each patient. On 5/25/07, he found that all three superbills had been altered and changed from what he had billed to four direct one-on-one direct codes for each patient. Physical Therapist B indicated that he had copies of two of the three changes made. Physical Therapist B further indicated that he tried to get the alterations changed back to the original and then called the Board's investigator to alert him.
5. The Investigator indicated that he returned a telephone call to Physical Therapist B who stated that he had received a call from a "The Water's Edge" front desk worker who told him that The Water's Edge had received a Board subpoena for three patient files and, that on the days that a particular employee did billing, the billing records were altered for each of his patients. Physical Therapist B said that, since he had already filed a complaint regarding the same thing, he did not return the call and was advised not to by the Investigator.
6. The Board received a second complaint from Complainant A, the former billing employee referred to as the front desk worker who called Physical Therapist B. Complainant A had called the Maryland Insurance Administration, Insurance Fraud Division, to report insurance fraud at The Water's Edge.
7. Physical Therapist B resigned his position at The Water's Edge on or about June

¹Names are not used in this document, but the Respondent is aware of the identities of the persons.

15, 2007, shortly after being interviewed by the Board's Investigator as a result of the first complaint, by Physical Therapist A. Complainant A's employment was terminated by owner A on May 29, 2007, the day the Board's Investigator first interviewed Complainant A as a result of the first complaint. Complainant A was told her position was being eliminated.

8. As a result of receiving these two additional complaints which both alleged illegal billing practices at The Water's Edge, the Board launched a more extensive investigation into the practice.

9. The Board's investigation disclosed the following:

A. With regard to aquatic therapy, the Respondent and other therapists at the facility billed patients for aquatic therapy as a separate unit of therapy plus as a unit of group therapy, when treating patients simultaneously in groups in the pool. They billed Medicare and other insurers for aquatic therapy as separate units;

B. As a result of this disclosure, the Board retained a Physical Therapist expert to review patient records, who determined the following:

(1) The Water's Edge continued to bill insurers, including Medicare, under Physical Therapist B's name after he left in or around June 15, 2007;²

(2) The Water's Edge continued to use Physical Therapist B's name on billing forms even though another therapist, provided the

²Physical Therapist B relocated to Florida, and, up until the time of the charges, the facility has continued to bill Medicare and other insurers under his name.

treatment;

- (3) The other therapists and billing employees confirmed this continued long-term use of Physical Therapist B's name and provider number after he had left the practice because the other therapists were not credentialed. Even when there was a credentialed Physical Therapist employed, billings continued using Physical Therapist B's name as the provider;
- (4) Employees testified that Physical Therapist B had instructed the therapists how to bill for pool therapy when treating multiple patients, as follows: multiple patients could be treated at the same time in the pool; one patient from the group would be taken out to work with while the aide is working with the other patients: thus, an individual unit plus a group unit is billed for each patient;
- (5) Aides testified that the Respondent would specifically instruct them to go get the patients from the lobby, set them up on a warm-up, and then take them through the therapeutic exercises during that first part; then the therapist will finish with them, as far as modalities, any type of manual treatment, and, if the Respondent had had another patient in a half hour, the aides would get them started. They further stated that the Respondent spent a lot of her time in the pool, sometimes with five patients at a time;
- (6) The Board's Investigator also analyzed the three files to set forth

the names of the therapists who provided treatment on the dates the Expert based his report on.

(7) With regard to the Respondent's treatment of Patient A who went to The Water's Edge 11 times for treatment related to multiple Immune Deficiencies related to Scleroderma, and whose initial evaluation occurred on 5/23/07, the following combined Expert's opinion and Investigator's analysis applies:

(a) Patient A was scheduled for a 3:30 appointment and was charged for four units of attended therapy, even though the Respondent had patients scheduled at 4:00, 4:30, 4:45 for land, and 5:15 and 5:30 for aquatic therapy. In order to properly charge for four units of attended therapy, the patient needed a time slot of 53-67 minutes, rather than a 30 minute time slot before the next patient;

(b) Even though the Respondent's name is typed on the patient treatment note, no signature or license number exists. The Respondent signed the fee sheet, but the billing was under the name of Physical Therapist B.

(8) Patient B was seen 11 times at Water's Edge for left knee degenerative joint disease. Following is the Expert's opinion regarding her treatment, as well as the Investigator's analysis:

(a) The Respondent apparently first treated Patient B on

5/4/07, inasmuch as her name appears on the treatment note; however, there is no signature, no initials and no license number, and Physical Therapist B was listed as the provider on the billing;

(b) The Respondent apparently treated Patient B on 5/7/07: her name appears on the fee sheet, but the billing lists Physical Therapist B as the provider;

(c) On 5/14/07, the Respondent saw Patient B. Although her name is typed on the patient treatment notes, there is no signature, no initials, or no license number. In addition, the treatment note, which the Respondent signed, is dated as 5/4/07 and Physical Therapist B is listed as the provider on the billing;

(d) On 5/21/07, Patient B was scheduled for aquatic therapy with the Respondent, along with three other patients for the same time slot, 11:30; the Respondent then had two more patients at 12:30 and three patients at 1:30 for aquatic therapy.

11. The Respondent failed to report any billing concerns to the Board, as required.

12. As set forth above, by failing to accurately bill for her sessions, by participating in a billing scheme to bill for services not rendered or rendered by unqualified persons, by supervising unlicensed persons in the performance of physical therapy, and, by

not alerting the Board to irregularities at The Water's Edge, as required, the Respondent violated the Act and regulations thereunder.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated § 13-316 (5), (11), (14), (15) (25); Md. Code Reg. tit. 10 § .38.02.01F; § .38.03.02B (1) (d); § 10.38.03.02-1A (1) (a), (b), (c), (d), (e), (f), (g), (h), (i), (j); (2) (a), (b), (c), (d), (e), (f), (g); (3) (a), (b), (c), (d), (e), (f), (g), (h), (i); (4) (a), (b), (c), (d), (e); D; E; and § 10.38.03.03. The Board concludes that the Respondent did not violate 13-316 (12).

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 25th day of October, 2009, by a majority of a quorum of the Board,

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


ORDERED that the Respondent shall, within one year from the effective date of this Order, take and pass, by the requisite percentage, the Board-approved Law and Ethics course and exam, as well as a Board-pre-approved billing course, both of which may be used for Continuing Education Units. Should the Respondent fail to take and/or pass the aforesaid courses/exam, the Respondent's license shall be immediately suspended, with an opportunity to Show Cause why the Suspension should not continue.

ORDERED that the Consent Order is effective as of the date of its signing by the Board; and be it

ORDERED that, should the Board receive a report 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 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 be it

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice of limited physical therapy in Maryland; and be it further

ORDERED that, for purposes of public disclosure, as permitted by Md. State Gov't. Code Ann. §10-617(h) (Repl. Vol. 2004), 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 that it is mandated to report to.


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

CONSENT OF JENNIFER DOTY FRANTZ, P.T.A.

I, Jennifer Doty Frantz, by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, Rose M. ~~Matricianni~~ ^{MATRICIANI RMC}, and have been advised by her of the legal implication of signing this Consent Order;

2. I am aware that without my consent, my license to practice limited physical therapy in this State cannot be limited except pursuant to the provisions of § 13-316 of the Act and the Administrative Procedure Act (APA) Md. State Govt. Code Ann. §10-201, et seq., (2004 Repl. Vol.).

3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Consent Order, I hereby consent and admit to the foregoing Findings of Fact, Conclusions of Law and Order, provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in § 13-317 of the Act and §10-201, et seq., of the APA, and any right to appeal as set forth in § 13-318 of the Act and §10-201, et seq., of the APA. I acknowledge that my failure to abide by the conditions set forth in this Order and, following proper procedures, I may suffer disciplinary action, possibly including revocation, against my license to practice limited physical therapy in the State of Maryland.

10/14/09

Date

Jennifer Doty Frantz P.T.A.
Jennifer Doty Frantz, P.T.A.

STATE OF Maryland

CITY/COUNTY OF Georgetown :

I HEREBY CERTIFY that on this 14th day of October, 2009, before
me DENISE F. JARRELL Notary Public of the foregoing State and (City/County),
~~Jennifer Doty Frantz~~
(Print Name)
personally appeared Jennifer Doty Frantz, License No. A-30881, 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.

Denise F. Jarrell
Notary Public

My Commission Expires: 8/7/11