

IN THE MATTER OF
KRISTINA L. GARCIA, P.T.A.
Respondent

* BEFORE THE
* MARYLAND BOARD OF
* PHYSICAL THERAPY
* EXAMINERS

License Number: A2749

Case Number: PT-10-01

* * * * *

CONSENT ORDER

The State Board of Physical Therapy Examiners (the "Board") charged KRISTINA L. GARCIA, P.T.A. (the "Respondent"), License No. A2749, 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 & 2004 Supp.).

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:

(8) To an extent that impairs professional competence, habitually uses any:

- (i) Drug; or
- (ii) Alcoholic beverage;

(19) Commits an act of unprofessional conduct in the practice of physical therapy or limited physical therapy;

(23) Provides professional services while:

- (i) Under the influence of alcohol; or
- (ii) Using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication[.]

The Board issued the charges on March 30, 2010. Thereafter, a Case Resolution Conference was held on May 18, 2010 in an attempt to resolve the Charges pending against the Respondent prior to a hearing. As a result of the CRC, the Respondent agreed to enter into this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was and is licensed to practice limited physical therapy in the State of Maryland. The Respondent was originally licensed to practice limited physical therapy on April 3, 2003.
2. On or about July 7, 2009, the Board received a complaint from a co-chair of the Maryland Physical Therapy Impaired Professionals Committee ("IPC") that the Respondent had violated the contract into which she had entered with IPC in October 2008 ("IPC Contract"). The complaint stated that the Respondent has a dual diagnosis of mental illness (severe depression and anxiety) and chemical dependency (pain medication and abuse of psychiatric medications). According to the complainant, the terms of the IPC Contract required the Respondent to be abstinent and have her workplace supervisor and her psychiatric treatment provider

submit periodic reports to the IPC regarding her status at work and in treatment.

3. The Board thereafter initiated an investigation, the results of which are set forth below.
 - A. **The Respondent's Employment at Baltimore Sports Rehabilitation and Physical Therapy**
4. On November 5, 2007, the Respondent began employment as a Physical Therapy Assistant (P.T.A.) at Baltimore Sports Rehabilitation and Physical Therapy ("BSR").
5. On or about May 12, 2008, the Respondent was observed by BSR staff "twirling around in circles" and lying on the floor laughing uncontrollably. The Respondent was informally counseled.
6. On June 24, 2008, after only fifteen (15) minutes into her work shift that began at noon, the Respondent was observed by BSR staff with her head on her desk. One hour later, she was observed sleeping in a chair in the pool room while patients under her supervision were in the water. When questioned whether she had taken any medications, the Respondent stated that she had taken Ambien¹ at 8:00 p.m. the previous evening. The Respondent was suspended from duty for the remainder of her shift. The Respondent slept in the car while a staff member drove her home and when awakened, did not remember being at the office.
7. On June 25, 2008, the Respondent initially reported to work in fit condition; however, after leaving the workplace briefly, reportedly to go to

¹ Ambien is a Schedule IV Controlled Dangerous Substance ("CDS") indicated for the treatment of insomnia.

the bank, she returned slurring her words and appearing lethargic. She was observed by BSR staff applying an ultrasound machine to a patient without having first turned it on. While using the ultrasound machine on the patient, the Respondent began to cry. The Respondent was removed from the treatment area. The Respondent denied taking any prescribed or non-prescribed medications and was warned by BSR management that any similar behavior would result in indefinite suspension. When asked if there was anything BSR could do to help the Respondent, she admitted that she was suicidal and wanted to overdose herself. She further stated that she had been "nibbling" Ambien during the day to "control her anxiety."

8. BSR management called 911 for medical assistance. Harford County police were also dispatched. The Respondent repeated her desire to overdose and felt that she would harm herself. The Respondent permitted a female police officer to check the contents of her purse. The officer found a bottle of Ambien that had been prescribed to the Respondent two (2) days earlier. Of a total of 30 tablets, 12 tablets were missing.
9. The Respondent subsequently agreed to seek medical care at a local hospital.
10. The Respondent returned to BSR on the evening of June 25, 2008 after being discharged from the hospital. She stated that she felt no better and when asked if she had told hospital staff that she had had thoughts of

harming herself, the Respondent stated that she had lied and had told them she had not.

11. The Respondent was notified by BSR management that if she did not seek help immediately, she would be reported to the Board.
12. On June 27, 2008, the Respondent contacted BSR management and advised that her psychiatrist had changed her anti-anxiety medication and that she planned to enter a dual diagnosis program at Sheppard-Pratt Health System upon her return from a trip to Georgia to visit her sister.
13. BSR management provided to the Respondent information about the IPC and advised her that if she did not enter this program, she would be reported to the Board.
14. On July 8, 2008, the Respondent telephoned BSR from an inpatient hospital in Georgia. She stated that she would be an inpatient at the hospital for an indeterminate period of time. The Respondent stated that she had not yet contacted IPC.
15. On or about August 2, 2008, the Respondent stopped by BSR to discuss her status. The Respondent was advised that she would be returned to work on a part-time basis and progressed to a full patient load. The Respondent was advised that when she returned to work, she would not be permitted to run errands during her work shift. She was further advised that she would be placed on a two (2) year probation during which she would be required to remain alert, sober and able to perform her job. The

Respondent was cautioned that any infractions would result in her termination from BSR.

16. On September 22, 2008, the Respondent returned to work at BSR. According to the Respondent, she had been admitted to a psychiatric day program:
17. On October 16, 2008, the Respondent entered into a contract with IPC. Among the terms of the Contract, the Respondent agreed to completely abstain from any mood-altering drugs for a minimum of two (2) years. She further agreed to arrange for her mental health care provider and her employer to submit monthly written status reports to the IPC.
18. On or about November 23, 2008, the Respondent resumed part-time employment at BSR while attending a psychiatric day program.
19. On November 26, 2008, the Respondent asked a BSR staff member to drive her (the Respondent) to the liquor store to purchase alcohol for the holiday and left the office during her shift without authorization for this purpose. Upon her return, the Respondent was instructed to notify IPC immediately.
20. The Respondent's monthly employer status reports through April 2009 indicate that she was compliant with BSR's policies and procedures.
21. On June 6, 2009, the Respondent was arrested for driving under the influence of alcohol, driving or attempting to drive while impaired, driving the wrong way on a one-way street and driving on a suspended license.²

² The Respondent had two prior motor vehicle arrests. On March 20, 2008, she was arrested for negligent driving. On May 28, 2008, she was arrested for driving while impaired by drugs or

22. On June 24, 2009, BSR terminated the Respondent's employment after learning of the Respondent's arrest for driving under the influence of alcohol or while impaired, in violation of the terms of the Respondent's IPC contract.

B. The Respondent's Psychological Evaluation

23. On October 9 and 12, 2009, upon referral by the Board, the Respondent underwent psychological testing and a clinical interview by Ralph D. Raphael, Ph.D.

24. In his report, Dr. Raphael summarized the Respondent's substance abuse history, including her abuse of Vicodin, a Schedule III CDS, in 2004 and her abuse of Ambien beginning in 2008. The Respondent advised Dr. Raphael that in April 2009 she noticed she was having a problem with alcohol and drank "to take care of [her] emotions." The Respondent reported that her drinking got worse after she was terminated from BSR in June 2009. At that time, she was drinking three (3) to five (5) shots of tequila or vodka a day, usually when she was alone and at home. The Respondent told Dr. Raphael that her last drink was two (2) days before the interview when she had drunk three (3) to (5) shots of alcohol.

25. On October 9, 2009 (Friday), the Respondent left Dr. Raphael's office and reported to a local laboratory to provide a urine sample for a toxicology screen. The sample the Respondent produced was insufficient for

alcohol and leaving the scene of the accident. When interviewed by the Board's Compliance Manager, the Respondent acknowledged that she "still had Ambien in [her] system" and had fallen asleep. The Respondent's driver's license was suspended after evaluation by the Motor Vehicle Administration's Medical Advisory Board from September 16, 2008 through October 18, 2009.

analysis. The Respondent was requested to drink more liquid, but after about an hour and a half, the Respondent left without providing a sample. She returned to the lab on the following Monday and provided a sample, which was negative for drugs of abuse, including alcohol.

26. The Respondent reported to Dr. Raphael that she had been attending Alcoholics Anonymous ("AA") meetings once a week from January to June 2009, but stopped attending after she was terminated from BSR in June. She stated that she thought AA would be helpful but has never applied herself to the program. The Respondent further stated that she thought she needed to go to an inpatient rehabilitation program, but is constrained by financial problems.
27. Dr. Raphael noted that the Respondent's insight was moderate and that she had difficulty explaining the reasons for her conduct. He further noted that her judgment also seemed to be moderate; she did not think through the possible consequences of her behavior. He noted as an example that the Respondent drove herself to the initial interview even though her driver's license was suspended, explaining that she could not think of any other way of getting to the interview.
28. Dr. Raphael's diagnostic impression of the Respondent includes: alcohol abuse (rule out alcohol dependence); narcotic dependence, mood disorder (long-standing depressed mood, sadness, low self-esteem), personality disorder with self-defeating and dependent features and severe financial, employment and primary support group stress.

29. Dr. Raphael concluded that the Respondent's "active alcohol abuse and under-treated mood disorder impairs her ability to practice."
30. Dr. Raphael's recommendations include:
- a. Completion of a residential treatment program;
 - b. Residential treatment should be followed by an aftercare program focusing on sustaining abstinence;
 - c. Continued treatment of mood disorder with psychotherapy and medication;
 - d. The Respondent should continue her IPC contract;
 - e. The Respondent should remain abstinent from alcohol and other mood-altering drugs;
 - f. Monitoring of the Respondent through random toxicology screening;
 - g. All of the Respondent's treatment providers and monitors (e.g., psychotherapist, substance abuse counselor, IPC) should be aware of any medications that she is prescribed;
 - h. Return to work could be considered after the Respondent has completed the residential treatment program and has entered into, *and actively engaged in*, the aftercare program focusing on sustaining abstinence. [Emphasis in Dr. Raphael's report]

C. The Respondent's 2009 Application for Renewal of PTA License

31. On May 8, 2009, the Respondent completed and electronically transmitted to the Board an application for licensure renewal ("Renewal Application").

32. The Renewal Application contains a series of "Character and Fitness Questions;" if an applicant answers "YES" to a question, the applicant is referred to an Explanation page and is requested to provide an explanation.

33. The Respondent electronically signed the attestation portion of the application which states:

I affirm that the information I have given in answer to these questions is true and correct to the best of my knowledge and belief.

34. The Respondent answered "NO" to Question 7 of the Character and Fitness Questions which states:

Excluding minor traffic violations, are you currently under arrest or released on bond, or are there any current or pending charges against you in any court of law?

35. The Respondent failed to respond truthfully and accurately Question 7. As of May 9, 2009, the date of her Renewal Application, the Respondent was aware, or reasonably should have been aware that she had appealed the disposition of charges filed against her on March 30, 2008 in the District Court for Harford County for failure of a vehicular driver to locate and notify the owner of unattended property of damage and failure to control vehicular speed to avoid a collision. The Respondent also was aware, or reasonably should have been aware, that charges were filed against her on May 28, 2008 in the District Court for Harford County and were pending as of the date she completed her renewal application for,

inter alia, driving or attempting to drive a vehicle while impaired and failure to return to/remain at the scene of an accident involving damage.

36. The Respondent answered "NO" to Question 11 which states:

Do you have any physical or mental condition that currently impairs your ability to practice physical therapy or would cause reasonable questions to be raised regarding your physical or mental competency.

37. The Respondent failed to answer truthfully and accurately to Question 11. In addition to the motor vehicular charges pending against her, effective September 16, 2008, the Respondent's driving license was suspended by the Motor Vehicle Administration's Medical Advisory Board.³

38. The Respondent answered "NO" to Question 13 of the Character and Fitness Questions which states:

Have you engaged in any form of alcohol or substance abuse?

39. The Respondent failed to respond truthfully and accurately to Question 13. In October 2008, the Respondent had entered into a two-year contract with the IPC. As stated in the Contract, "[e]xperience has shown that long term recovery from *chemical dependency/addiction* requires a minimum of two years of specific monitoring." [Emphasis added] Moreover, in the Contract the Respondent agreed, *inter alia*, to remain completely abstinent from drugs and alcohol, submit to random urine drug screens and prepare written reports for the Committee that "evaluate [her] progress towards rehabilitation and wellness."

³ On June 6, 2009, the Respondent was charged in the District Court for Harford County with driving a motor vehicle with a suspended license, driving or attempting to drive while impaired by alcohol, driving or attempting to drive under the influence and driving the wrong way on a one-way street.

40. By answering "NO" to Questions 7, 11 and 13 on the Renewal Application, the Respondent provided the Board with a false and misleading representation of her status.

CONCLUSION OF LAW

Based upon the forgoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated the following provisions of the Act: to an extent that impairs professional competence, habitually uses any: (i) drug; or (ii) alcoholic beverage, in violation of H.O. § 13-316(8); commits an act of unprofessional conduct in the practice of limited physical therapy, in violation of H.O. § 130316(19); and provides professional services while: (i) under the influence of alcohol; or (ii) using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication, in violation of H.O. § 13-316 (23).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 20th day of July, 2010, by a majority of a quorum of the Board:

ORDERED that the Respondent's license to practice limited physical therapy is hereby suspended for a minimum of ONE (1) year from the date of the execution of the Consent Order; and it is further

ORDERED that during the period of suspension, the Respondent shall actively participate, comply with and complete an intensive outpatient Board-

approved substance abuse rehabilitation program in accordance with the program's attendance requirements; and it is further *7/31/11*

ORDERED that during the period of suspension, the Respondent shall submit to random enhanced urinalysis for drug and alcohol screening, to be conducted at a Board-approved CLIA laboratory at the Board's direction; and it is further

ORDERED that during the period of suspension, the Respondent shall continue treatment with a Board-approved psychotherapist; and it is further *7/31/11*

ORDERED that during the period of suspension, the Respondent shall continue treatment with a Board-approved psychiatrist for any medication management; and it is further

ORDERED that if the Respondent changes health care providers during the period of suspension, she shall notify the Board in writing within ONE (1) week of the change; and it is further

ORDERED that upon the reinstatement of the Respondent's license, she shall be placed on probation for a minimum of FIVE (5) years with specific terms to be determined by the Board at that time; and it is further

ORDERED that the Respondent shall bear the costs of complying with the Consent Order; and it is further

ORDERED that, should the Board receive a report that the Respondent has violated the Act or if the Respondent violates any of the conditions of this Consent Order or Probation, the Board, after providing the Respondent with notice and an opportunity for a hearing, may take further disciplinary action

against the Respondent, including continued suspension or revocation. The burden of proof for any action brought against the Respondent as a result of an alleged breach of the conditions of this Consent Order or of Probation shall be on the Respondent to demonstrate compliance with the Order or conditions; and it is further

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice of physical therapy in Maryland; 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 her license, provided she 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, for purposes of public disclosure, as permitted by Md. State Gov't Code Ann. § 10-617(h)(Repl. Vol. 2009), this document consists of the contents of the foregoing Findings of Facts, Conclusion 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.

Shirley L. Leeper, PTA
~~Margery Rodgers, P.T., Chair~~ Shirley L. Leeper, PTA
Maryland State Board of Physical Therapy Examiners Chair

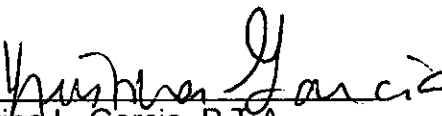
CONSENT

I, Kristina L. Garcia, P.T.A., acknowledge that I am represented by counsel and have consulted with 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.

Date 7/16/10



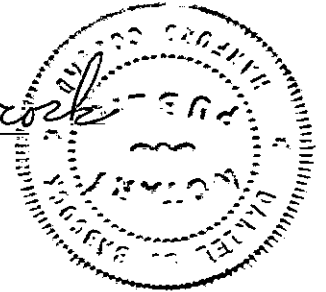
Kristina L. Garcia, P.T.A.
Respondent

STATE OF MARYLAND
CITY/COUNTY OF HARFORD

I HEREBY CERTIFY that on this 16th day of July 2010,
before me, a Notary Public of the foregoing State and City/County personally
appeared Kristina L. Garcia, P.T.A. and made oath in due form of law that
signing the foregoing Consent Order was her voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Daniel L. Balrock
Notary Public



My Commission expires: 01-01-2013