

IN THE MATTER OF * BEFORE THE
JILL S. GERTNER, P.T. * MARYLAND STATE BOARD OF
LICENSE NUMBER: 19049, * PHYSICAL THERAPY EXAMINERS
RESPONDENT * Case No. 01-BP-055

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

Based on the information received by the Maryland State Board of Physical Therapy Examiners (the "Board") and subject to the Maryland Physical Therapy Act, codified at Md. Health Occ. Code Ann., ("H.O.") §§ 13-101 *et seq.* (2000 Repl. Vol.) ("the Act"), the board charged **Jill S. Gertner, P.T., License Number: 19049 (D.O.B. 05/18/74)** (the "Respondent"), with violating certain provisions of the Act under Health Occupations § 13-316. Specifically, the Board charged the Respondent with violating the following provisions of § 13-316 of the Act:

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

The regulations that the Board charged the Respondent with violating are Code Md. Regs. tit. 10, §§ 38.03.02A and 38.03.02-1A ("COMAR"), which state:

.02 Standards.

- A. The physical therapist shall exercise sound professional judgment in the use of evaluation and treatment procedures.

.02-1 Requirements for Documentation.

- A. As established by the American Physical Therapy Association of Maryland, and as approved by the Board, the physical therapist shall document the patient's chart as follows:

* * *

- (2) For subsequent visits:

* * *

- (b) Modalities, procedures, etc. [or]

* * *

- (h) Change in plan of care.

On November 8, 2001, a Case Resolution Conference was held at the Board's offices to determine whether there existed the possibility of resolving the pending issues without having an evidentiary hearing. Present were Penelope Lescher, P.T., Member of the Board; Cassandra Lewis, Member of the Board; Linda Bethman, Counsel to the Board; Ann Tyminski, Executive Director of the Board; John Nugent, Administrative Prosecutor; the Respondent; and Rose Matricciani, the Respondent's attorney.

FINDINGS OF FACT

The Board finds that:

1. At all times relevant to the charges herein, the Respondent was licensed to practice physical therapy in the State of Maryland, being issued License No. 19049 by the Board on January 12, 1998.
2. At all times relevant to the charges herein, the Respondent was practicing physical therapy at the Greater Baltimore Medical Center ("GBMC") in Towson, Maryland.

3. On or about November 12, 1998, Patient A¹ was admitted to GBMC to undergo surgery for lung cancer. Subsequent to the surgical procedure, Patient A suffered a stroke that resulted in physical impairment to her right extremities and an inability to express herself.
4. On or about November 14, 1998, Patient A's physician ordered that she undergo physical therapy as a result of her condition.
5. On or about November 15, 1998, the Respondent performed an initial evaluation of Patient A in the critical care unit of GBMC. The Respondent established a plan of care to see Patient A once a day for bed mobility, gait training, transfers, exercises, balance, and education.
6. On or about November 16, 1998, the Respondent performed physical therapy on Patient A in the critical care unit at GBMC. During the treatment, the Respondent placed an Ace bandage on Patient A's right ankle in order to prevent inversion and plantarflexion.
7. The Respondent, however, failed to take increased precautions for skin integrity, such as documenting awareness of the possibility of decreased sensation and Patient A's inability to communicate discomfort or pain, communicating these concerns to the nursing staff, or considering the use of manual range of motion of the ankle by each nursing shift.
8. The Respondent also failed to provide any wear instructions or a wear schedule for the Ace bandage to the nursing or physical therapy staff at GBMC to check Patient A's foot and ankle for skin integrity problems. The

¹ To ensure patient confidentiality, patients' names are not used in this document.

Respondent further failed to document wear instructions in Patient A's physical therapy treatment records for the Ace bandage.

9. On or about November 16, 1998, the Respondent also recommended that a L'Nard splint be placed on Patient A's right ankle.
10. As a result, on or about November 16, 1998, at the request of the Respondent, Patient A's physician ordered that a L'Nard splint be placed on Patient A's right ankle.
11. On or about November 17, 1998, a second physical therapist provided physical therapy to Patient A in the critical care unit of GBMC. The second physical therapist failed to remove the Ace bandage to check Patient A's skin integrity.
12. On or about November 17, 1998, a L'Nard splint was placed on Patient A's right ankle directly over a previously applied Ace bandage.
13. On or about November 18, 1998, the second physical therapist again provided physical therapy care to Patient A, but did not remove either the Ace bandage or the L'Nard splint to check on the condition of Patient A's foot and ankle.
14. The second physical therapist failed to provide wear instructions or a wear schedule to the nursing or physical therapy staff for either the Ace bandage or the L'Nard splint. The second physical therapist further failed to document wear instructions or a wear schedule in Patient A's physical therapy treatment records for either the Ace bandage or the L'Nard splint.
15. On or about November 19, 1998, the second physical therapist provided physical therapy care to Patient A. During this session, the L'Nard splint and

Ace bandage were removed for the first time since their application, and it was discovered that Patient A had suffered a pressure wound to her right foot. Patient A's physician was immediately notified and orders were given by the physician to remove the Ace bandage and L'Nard splint on a regular basis.

16. As a result of the wound, Patient A underwent extensive care and treatment in addition to her existing medical conditions. She required a skin graft and plantar flap closure procedure to the area, resulting in a more extensive hospital stay and rehabilitation.
17. Both the Respondent and the second physical therapist received written reprimands from GBMC for failing to provide wear instructions or a wear schedule for the Ace bandage and L'Nard splint that were applied to Patient A's ankle. The written reprimands were placed in their personnel files.

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(16) and (26).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 11th day of December, 2001, by a majority of the Board, hereby

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

ORDERED that the Respondent shall be on **PROBATION** until such time that the Respondent completes the following condition:

- Completed
10/9/02* (a) Enrolls in and successfully completes a Board-approved documentation course; and be it further

ORDERED that the Respondent pay a penalty in the amount of \$500 to the Board within thirty days of the date of this Order; and be it further

Rec'd 3/26/02

ORDERED that the Consent Order be and the same is hereby effective as of the date of this Order; and be it further

ORDERED that the Respondent shall be responsible for all costs incurred and/or associated with the implementation of this Consent Order; and be it further

ORDERED that for purposes of public disclosure, as permitted by the Maryland Public Information Act, codified at Md. State Gov't Code Ann., §§ 10-611 *et seq.* this document constitutes the Board's Findings of Fact, Conclusions of Law, and Order resulting from formal disciplinary proceedings.

December 11, 2001
Date

Mindy Sacks, P.T.A.
Mindy Sacks, P.T.A., Chair
Board of Physical Therapy Examiners

CONSENT OF JILL GERTNER, P.T.

I, Jill Gertner, P.T., by affixing my signature hereto, acknowledge that:

1. I am aware that without my consent, my license to practice physical therapy in this State cannot be limited, except pursuant to the provisions of Health Occupations § 13-317 and the Maryland Administrative Procedure Act, codified at Md. State Govt Code Ann., §§ 10-201 *et seq.*
2. I am aware that I am entitled to a formal evidentiary hearing before the Board or an Administrative Law Judge.
3. By this Consent Order, I hereby consent and submit to the foregoing Findings of Fact, Conclusions of Law, and Order provided that the Board adopts the foregoing Consent Order in its entirety. 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 as provided by law. I acknowledge the legal authority and the 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.
4. I acknowledge that failing to abide by the conditions set forth in this Order, I may, after an opportunity to be heard, suffer disciplinary action, including revocation of my license to practice physical therapy in the State of Maryland.

5. I voluntarily sign this Consent Order after having had an opportunity to consult an attorney, without reservation, and I fully understand the language, meaning, and terms of this Consent Order.

11/28/01
Date

Jill Gertner P.T. 11/28/01
Jill Gertner, P.T.

STATE OF MARYLAND

CITY/COUNTY OF Baltimore

I **HEREBY CERTIFY** that on this 28th day of November, 2001, before me, Notary Public of the State and City/County aforesaid, personally appeared **JILL GERTNER, P.T.**, License No. 19049 and made oath in due form of law that the foregoing Consent was her voluntary act and deed, and that the statements made herein are true and correct

AS WITNESSETH my hand and notarial seal.

Margaret M. Gursch
Notary Public

My commission expires: May 1, 2002