

**IN THE MATTER OF
THOMPSON IBIDUN, P.T.
LICENSE NO. 18394
RESPONDENT**

*** BEFORE THE
* MARYLAND BOARD OF PHYSICAL
* THERAPY EXAMINERS
* Case No. PT-13-35**

* * * * *

FINAL ORDER

Procedural Background

On June 26, 2013, the Maryland Board of Physical Therapy Examiners (the “Board”) summarily suspended the license held by the Respondent, Thompson Ibidun, P.T., to practice physical therapy in the State of Maryland based on information, which is also included in the findings of this Order, that caused the Board to reasonably believe that the Respondent posed an imminent threat to the health and safety of the public.¹ The Respondent did not request a hearing on the summary suspension. On October 7, 2013, the Board sent the Respondent a Notice of Intent to Revoke Respondent’s Physical Therapy License with the opportunity to request a hearing within thirty (30) days. The Board received the Respondent’s timely written request for a hearing. On February 14, 2014, the Board sent the Respondent an Amended Notice of Intent to Revoke Respondent’s Physical Therapy License which included additional allegations. On June 12, 2014, the Board held an evidentiary hearing before a quorum of the Board, in accordance with Maryland Administrative Procedure Act, Md. Code Ann., State Gov’t § 10-201 *et seq.*, and the Board’s regulations, COMAR 10.38.05.

¹ The Board issued an additional Order of Suspension of License for Delinquent Child Support against the Respondent’s license on December 23, 2013, based on statutory requirements compelling the Board to suspend the license due to the Respondent’s failure to pay child support. To date, this order is still in effect.

SUMMARY OF THE EVIDENCE

The State and the Respondent stipulated to the documentary evidence set forth below.

A. Documents

The following documents were admitted into evidence.

- State's Exhibit No. 1 - Licensure information
- State's Exhibit No. 2 - Pre-Charge Consent Order dated 4/13/11
- State's Exhibit No. 3 - Complaint and attachments dated 5/17/13
- State's Exhibit No. 4 - Interview transcript of Patient A
- State's Exhibit No. 5 - Patient A physical therapy records from 4/19/13 – 5/20/13
- State's Exhibit No. 6 - Patient B physical therapy records from 2/8/13 – 5/16/13
- State's Exhibit No. 7 - Patient B medical records from Ft. Washington Med. Ctr.
- State's Exhibit No. 8 - Patient B complaint with VNA dated 3/14/13
- State's Exhibit No. 9 - Letter from S. Davis, PT, dated 3/14/13
- State's Exhibit No. 10 - Respondent's response to Patient B complaint, 3/27/13
- State's Exhibit No. 11 - Investigative Report dated 5/17/14
- State's Exhibit No. 12 - VNA Personnel file of Respondent
- State's Exhibit No. 13 - Interview transcript of Respondent, 6/6/13
- State's Exhibit No. 14 - Investigative Activity report dated 6/6/13
- State's Exhibit No. 15 - Email from T. Nowakowski, 6/6/13
- State's Exhibit No. 16 - Interview transcript of T. Nowakowski, 6/13/13
- State's Exhibit No. 17 - Interview transcript of A. Johnson, 6/13/13

- State's Exhibit No. 18 - Supplemental Investigative Report (incorrectly dated 5/17/13)
- State's Exhibit No. 19 - Patient records for H.L., S.M., A.O., and D.W.
- State's Exhibit No. 20 - Order for Summary Suspension issued 6/26/13
- State's Exhibit No. 21 - Notice of Intent to Revoke, issued 10/7/13
- State's Exhibit No. 22 - Second Complaint dated 10/13/13
- State's Exhibit No. 23 - Updated licensure information, 12/17/13
- State's Exhibit No. 24 - Wage and hour reports received 12/19/13
- State's Exhibit No. 25 - Personal Touch personnel records, 6/13/13
- State's Exhibit No. 26 - Patient spreadsheet from Personal Touch
- State's Exhibit No. 27 - A.S. physical therapy records from 9/10/13 – 11/1/13
- State's Exhibit No. 28 - C.T. physical therapy records from 7/31/13 – 10/25/13
- State's Exhibit No. 29 - Board's Notice of Intent to Seek Injunctive Relief, 12/19/13
- State's Exhibit No. 30 - Interview transcript of P. Heagy, 6/6/14
- State's Exhibit No. 31 - Interview transcript of Respondent, 6/6/14
- State's Exhibit No. 32 - Supplemental Investigative Report, 1/7/14
- State's Exhibit No. 33 - Amended Notice of Intent to Revoke issued 2/18/14

B. Witness Testimony

Thompson Ibidun, P.T., Respondent

FINDINGS OF FACT

Based upon the documentary and testimonial evidence admitted into the administrative record in this matter, the Board finds the following:

1. The Respondent was licensed to practice physical therapy in the State of Maryland under License Number 18394. The Respondent was initially licensed on June 22, 1996. (State's Exs. 1 and 23)
2. The Respondent was employed from September 24, 2012, through May 17, 2013, as a physical therapist by a home health agency ("Employer A") with offices located in the Baltimore area. (State's Ex. 12)
3. On May 17, 2013, the Board received a telephone call from Employer A's Director of Clinical Operations notifying the Board that the Respondent had been terminated for sexual misconduct with two female patients ("Patient A" and "Patient B"). Employer A submitted a written complaint to the Board later the same date. (State's Ex. 3 and 11)
4. Patient A was a 73-year old woman with a complex medical history including knee pain, carpal tunnel repair, and gait dysfunction. Patient A had no documented cognitive impairment. (State's Ex. 5)
5. The Respondent conducted an initial evaluation of Patient A on or about April 22, 2013. The Respondent treated Patient A on approximately five (5) more occasions between April 26 and May 14, 2013. The evaluation and all treatment sessions were conducted in Patient A's home. (State's Ex. 4 and 5)
6. Up until the incident in question, the Respondent and Patient A had a good relationship without any prior issues or conflicts. (State's Ex. 4)
7. On May 14, 2013, the Respondent arrived at Patient A's home unannounced. The Respondent typically contacted Patient A to confirm an appointment prior to the scheduled day or time. (State's Ex. 4)

8. Although Patient A advised the Respondent that she had another home health provider due to arrive soon, the Respondent suggested that he do a quick massage for her. (State's Ex. 4)
9. The Respondent instructed Patient A to kneel on the sofa, placing both arms on the back of the sofa. The Respondent then pulled her pants and underwear down to at least the bottom of her buttocks. There was no chaperone in the home. (State's Ex. 4)
10. During the massage, the Respondent slipped his hand between Patient A's legs and rubbed her vaginal area. The Respondent did not speak during this time. Patient A did not ask the Respondent to stop because she was scared. (State's Ex. 4)
11. Afterward, the Respondent pulled up Patient A's underwear and pants and walked to the kitchen to wash his hands. He then stated that he would be back that Thursday afternoon for their next session. (State's Ex. 4)
12. The Respondent did not document therapeutic massage on his May 14, 2013 treatment note for Patient A. (State's Ex. 5)
13. Patient A immediately contacted Employer A to report the Respondent's sexual misconduct. She also reported the Respondent to another home health provider who arrived at her home for a scheduled visit later that same day. (State's Ex. 3 and 4)
14. Employer A immediately initiated an internal investigation. The investigation included an interview with the Respondent during which he admitted that he did

- not “dispute what [Patient A] said or how she felt.” The Respondent also stated that he needed to reexamine his boundaries. (State’s Ex. 3 and 16)
15. During this interview, Employer A also reviewed a prior complaint against the Respondent for inappropriate contact filed by another female elderly patient (“Patient B”) in February 2013. (State’s Ex. 8 and 16)
 16. Patient B was obese, approximately 286 pounds, and suffered from respiratory disease and back pain, among several other medical conditions. (State’s Ex. 6)
 17. Patient B reported that the Respondent inappropriately straddled her during a therapeutic massage on February 25, 2013. As a result of Patient B’s complaint, Employer A mandated that the Respondent have a chaperone present when exposing a patient’s private areas, and that the Respondent inform a patient in advance about any procedure he was going to engage in. (State’s Exs. 8-9)
 18. The Respondent did not have a chaperone present during his May 14, 2013 visit to Patient A, nor did he inform Patient A of the areas he would be massaging and why. (State’s Ex. 4)
 19. On May 17, 2013, Employer A terminated the Respondent for sexual misconduct during the course of physical therapy treatment. (State’s Ex. 3)
 20. Based on the above misconduct, the Board issued an Order of Summary Suspension against the Respondent on June 26, 2013. The order was personally served on the Respondent on the same date. (State’s Ex. 20)
 21. Despite the summary suspension of his license on June 26, 2013, the Respondent continued to practice physical therapy for another home health agency (“Employer B”) from approximately July 1, 2013, through December 4,

2013. During this time, the Respondent conducted approximately 396 home physical therapy visits. (State's Exs 25 and 26).

22. The Respondent did not advise Employer B that he was being investigated or that his physical therapy license was suspended. The Respondent also intentionally omitted any reference to Employer A on his resume submitted to Employer B. (State's Ex. 25 and 31)
23. The Respondent was aware that he was not legally permitted to practice physical therapy on a suspended license; however, he practiced despite the suspension in order to pay off some debt. (State's Ex. 31) Employer B terminated the Respondent on December 6, 2013.

OPINION

As the facts found above show, the Respondent has severe boundary issues that pose a serious threat to the safety and dignity of physical therapy patients in Maryland, particularly patients receiving physical therapy services in private home settings. Furthermore, the Respondent compounded his misconduct by flagrantly ignoring the Board's disciplinary order suspending his license, deceiving his physical therapy employer, and continuing to pose as a licensed physical therapist to unsuspecting home-bound patients for five months until he was caught and reported to the Board. Lastly, the Respondent fails to appreciate the egregious nature of his violations. As such, the Board's most stringent sanction of revocation is warranted in this case.

Physical therapists are trained to provide care and rehabilitation to individuals who are suffering from painful and sometimes debilitating physical injuries or

impairments. The public must be able to trust that a physical therapist will be not only competent, but ethical in the provision of physical therapy services. This applies even more so to physical therapists who practice in home health. A home health patient must be able to fully trust that a physical therapist entering his or her private residence will practice and behave in a manner that, at minimum, does not threaten the patient or make the patient feel uncomfortable regarding his or her personal safety.

Physical therapy is a “touching profession” and often involves palpating sensitive areas of the body and removing clothing. As such, a physical therapist must ensure that a patient fully understands the nature and purpose of all hands-on procedures. The Board cannot abide a physical therapist touching a patient in a sexual manner under the guise of a physical therapy procedure.

The Respondent grossly violated the public’s trust by touching Patient A in a sexual manner under the guise of treatment. Patient A’s interview testimony was credible. Patient A had no motive against the Respondent. On the contrary, Patient A and the Respondent had a very good relationship. Patient A also immediately reported the incident to both Employer A and the home health professional who visited Patient A later that same day. Clinically, Patient A was lucid and without any documented impairment relating to her mental status.

The Respondent failed to document the massage he provided to Patient A in his treatment notes for that date. In addition, the Respondent appeared unannounced at her home contrary to his normal routine. Importantly, despite being counseled and warned by Employer A to have a chaperone present whenever he provided treatment to

female patients that may involve the touching of sensitive areas, the Respondent intentionally ignored such instruction.

Similarly, Patient B's complaint is also credible. Not only was there no motive for Patient B to make false claims against the Respondent, she attempted to redress the situation directly with the Respondent after the incident. In fact, the Respondent admits providing the massage in the manner described by Patient B, although he states it was not his intention to make her feel violated. Notwithstanding the boundary violation of straddling a homebound patient on the couch, the Respondent was also risking further injury to Patient B as she was morbidly obese and suffered from respiratory illness.

From the Board's perspective, an equally egregious violation is that the Respondent intentionally continued to practice despite the Board's summary suspension of his license. Furthermore, the Respondent also actively misled Employer B regarding his termination by Employer A and the Board's investigation into his conduct. The Respondent testified that he knew his license was suspended, and that this meant he was not permitted to practice physical therapy in any capacity. However, he made a calculated decision to continue to practice without authorization because payment of his debts was more important than his license.

The Board summarily suspended the Respondent's license based on findings that caused the Board to believe the Respondent posed an imminent threat to the public. The Respondent had the right to ask for a hearing regarding the suspension and did not do so. The Respondent deliberately ignored an order of the Board designed to protect the public safety from imminent harm, and continued to provide services to the same vulnerable population that was the subject of the order. Although the Board does

not dispute that the Respondent had debts in need of payment, this in no way justifies his actions. Suffice it to say, the Respondent's conduct amounts to an intentional and material violation of the Board's Order of Summary Suspension, and is *in and of itself* sufficient to warrant revocation of the Respondent's license.

The Board believes that the Respondent, through his actions, has forfeited his right to practice physical therapy in Maryland. This is not the first time the Respondent has been before the Board. The Respondent has already been disciplined by the Board in December 2009 for misconduct relating to false clinical documentation. In addition, although the Respondent claims that he is remorseful, the Board finds that his actions indicate otherwise.

The Respondent felt bad that he made Patient B "uncomfortable", yet proceeded to engage in the same type of misconduct with Patient A. The Respondent failed to have a chaperone present with Patient A despite being instructed to do so by his employer. The Respondent failed to cease practicing physical therapy despite being ordered to do so by the Board. The Respondent only ceased practicing when he was caught and reported to the Board. Clearly, the Respondent has a pattern in which he does what he wants regardless of any admonition or instruction to the contrary. Through this Order, the Board attempts to redress the irreparable harm caused by the Respondent to the victims, the public, and the physical therapy profession.

CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, the Board concludes that the Respondent is subject to discipline pursuant to Health Occupations Article §§ 13-

316(12), (14), (15) and (19), 13-401, and 13-402. The Board also concludes that the Respondent is subject to discipline pursuant to COMAR 10.38.02.02A.

ORDER

Based on the foregoing Findings of Fact, Opinion, and Conclusions of Law, by a unanimous decision of the Board, it is hereby:

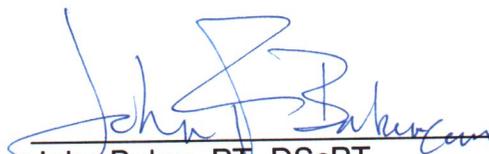
ORDERED that the Order of Summary Suspension, dated June 26, 2013, is superseded by this Final Decision and Order; and be it further,

ORDERED that the Order of Suspension of License for Delinquent Child Support, dated December 23, 2013, is unaffected by this Final Decision and Order; and be it further,

ORDERED that the Respondent's license to practice physical therapy be **REVOKED**; and be it further,

ORDERED that this is a final order of the Maryland Board of Physical Therapy Examiners and as such is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., General Provisions §4-333(b).

1/20/15
Date


John Baker, PT, DScPT
Chair

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 13-318, you have the right to take a direct judicial appeal. A petition for appeal shall be filed within thirty (30) days of this Final Decision and Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't §§10-201, *et seq.*, and Title 7, Chapter 200 of the Maryland Rules.