

IN THE MATTER OF * **BEFORE THE**
JOSEPHINE MANAOIS, P.T. * **STATE BOARD**
LICENSE NO. 18128 * **OF PHYSICAL THERAPY**
Respondent * **EXAMINERS**

* * * * *

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., (2000 Repl. Vol.) (the "Act"), the Board charged Josephine Manaois, P.T., (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:

- (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;
- (13) Willfully makes or files a false report or record in the practice of physical therapy or limited physical therapy;
- (15) Submits a false statement to collect a fee;
- (16) Violates any rule or regulation adopted by the Board;
- (26) Fails to meet accepted standards in delivering physical therapy or limited physical therapy care.

The Board further charged the Respondent with violations of its regulations under the Code Md. Regs. tit. 10, § 38.02:

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 also charged the Respondent with a violation of its regulations under the Code Md. Regs. tit. 10, § 38.03:

.02 Standards.

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

E. The physical therapist shall provide adequate treatment time and space and shall use only competent supportive personnel;

G. The physical therapist and the physical therapist assistant shall respect the patient's right to accurate information about the physical therapy services provided;

.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:

- (1) For initial visit:
 - (a) Date,

- (b) Condition/diagnosis 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) Plan of care, and
- (i) Signature, title (PT), and license number;

(2) For subsequent visits:

- (a) Date,
- (b) Modalities, procedures, etc.,
- (c) Cancellations, no-shows,
- (d) Response to treatment,
- (e) Signature and title (PT), with identifying signatures appearing on the patient's chart, although the flow chart may be initialed,
- (f) Weekly progress or lack of it,
- (g) Unusual incident/unusual response,
- (h) Change in plan of care,
- (i) Temporary discontinuation or interruption of services and reasons,
- (j) Reevaluation, and
- (k) If there is a physical therapist assistant, reevaluate and document as required by Regulation .02L of this chapter;

(3) For discharge or last visit

- (a) Date,
- (b) Reason for discharge,
- (c) Status at discharge,
- (d) Recommendations for follow-up, and
- (e) Signature and title.

The Board also charged the Respondent with a violation of its regulations under the Code Md. Regs. tit. 10, § 38.04:

.02 Requirements.

A. Supervision.

(1) The physical therapy aide shall be under the direct supervision of a licensed physical therapist when performing those physical therapy treatments that the aide is permitted to perform; and

.04 Prohibited Activities.

B. Treatments other than those listed in Regulation .03 may not be performed by aides.

The Respondent was sent the Board's charges by notice dated October 15, 2002. Accordingly, a Case Resolution Conference was held on December 19, 2002, and was attended by Caroline Stellman, Consumer Member of the Board, Natalie McIntyre, P.T. member of the Board, Ann Tyminski, Executive Director of the Board, and Paul Ballard, Assistant Attorney General, Board Counsel. Also in attendance were the Respondent and her attorney, Daniel Twomey, Esquire, assisted by Steven Wyman, Esquire, and the Administrative Prosecutor, Roberta Gill.

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 physical therapy in the State of Maryland. The Respondent was first licensed on August 10, 1995. The Respondent's license expires on May 31, 2004.

2. The Respondent was employed at the Ayers Physical Therapy Agency in Cumberland, Maryland, where she provided physical therapy. There were only aides at that location; there were no Physical Therapy Assistants there.

3. It was the policy of Ayers to schedule five to six patients per hour. In order to take care of this many patients, aides were allowed to perform ultrasound and electric stimulation on patients, activities which are outside the scope of practice for aides. The Respondent denied following this policy, but admitted that she observed other physical therapists follow the policy. However, an aide told the Board's investigator that she performed ultrasound and electrical stimulation for the Respondent. The Respondent then documented the treatment provided by the aides in the patients' charts and filled out the billing form for that treatment.

4. The Respondent failed to notify the Board about physical therapists' allowing aides to perform unauthorized activities, as required.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated Md. Health Occ. Code Ann. § 3-316 (12), (13), (16) and (26). The Board further finds that the Respondent violated its regulations under the Code Md. Regs. tit. 10, § 38.02.02 F., and tit. 10, § 38.03.02A and E. The Board further finds that the Respondent violated tit. 10, § 38.02.02-1A. (1) (i), (2) (e) and (3) (e) and tit. 10, § 38.04.04B. The Board makes no conclusions with regard to § 13-316 (15) or to tit. 10, § 38.03.02G and 10.38.02-1A (1) (a-h), 2 (a-d) and (f-k), and (3) (a-d) and 10, 38.04.02A (1).

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 4th day of March, 2003, by a majority of a quorum of the Board,

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

ORDERED that the Respondent shall be placed on **PROBATION** for Four (4) years, subject to the following conditions:

1. During the first year of Probation, the Respondent shall take and pass a Board-approved, college-level ethics course;

2. During the first year of Probation, the Respondent shall take and pass the law examination administered by the Board.

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's practice is a threat to the public health, welfare and safety, the Board may take immediate action against the Respondent, including suspension or revocation, providing notice and an opportunity to be heard are provided to the Respondent in a reasonable time thereafter. Should the Board receive in good faith information that the Respondent has substantially violated the Act or if the Respondent violates any conditions of this Order or of Probation, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including suspension or revocation.

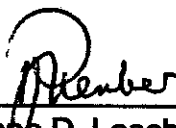
The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order or of Probation shall be on the Respondent to demonstrate compliance with the Order or conditions; and be it

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

ORDERED that, at the end of the Probationary period, the Respondent may petition the Board to be allowed to practice physical therapy without any conditions or restrictions

on her license, provided that 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;

ORDERED that for purposes of public disclosure, as permitted by Md. State Govt. Code Ann. §10-617(h) (Repl. Vol. 1999), 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.



Penelope D. Lescher, MA, PT, MCSP, Chair
State Board of Physical Therapy Examiners

CONSENT OF JOSEPHINE MANAOIS, P.T.

I, Josephine Manaois, by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, Daniel Twomey, and have been advised by him of the legal implication of signing this Consent Order;
2. 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 Md. Health Occ. Code Ann. (the "Act") § 13-316 (2000 Repl. Vol.), and Md. State Govt. Code Ann. ("APA") §10-201, et seq., (1999 Repl. Vol.).
3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

Although I do not agree with all of the Board's Findings of Fact and Conclusions of Law, by this Consent Order, in order to avoid protracted litigation, I hereby consent 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, although if I were to have a hearing, I would demand strict proof of each and every allegation and would present witnesses on my own behalf. I acknowledge that my failure to abide by the

conditions set forth in this Order and following proper procedures, I may suffer further disciplinary action against my license to practice physical therapy in the State of Maryland.

2/11/03
Date

J. Manacis
Josephine Manacis, P.T.

STATE OF Maryland
CITY/COUNTY OF Talbot:

I HEREBY CERTIFY that on this 11 day of February, 2003, before me, Josephine Manacis, a Notary Public of the foregoing State and (City/County), personally appeared Josephine Manacis, License No. 18128, 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.

Beverly A. Fort
Notary Public

BEVERLY A. FORT
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires: My Commission Expires March 15, 2004