

IN THE MATTER OF
DERRICK MARTIN, P.T.
License No.: 18131

* BEFORE THE STATE BOARD
* OF PHYSICAL THERAPY
* EXAMINERS

* Respondent * Case Number: PT 17-16
* * * * *

CONSENT ORDER

On June 1, 2017, the Maryland State Board of Physical Therapy Examiners (the "Board") charged Derrick Martin, P.T. (the "Respondent") with violations of certain provisions of the Maryland Physical Therapy Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 13-101 *et seq.* (2014 Repl. Vol. & 2016 Supp.). The Board further charged the Respondent with violating certain provisions of the Consent Order into which he entered with the Board effective January 20, 2015.

Specifically, the Board charged the Respondent with violations of the following provisions of H.O. § 13-316:

Subject to the hearing provisions of § 13-317 of this subtitle, the Board may deny a license, or restricted license to any applicant, reprimand any licensee or holder of a restricted license, place any licensee or holder of a restricted license on probation, or suspend or revoke a license or restricted license if the applicant, licensee or holder:

- ...
(15) Violates any provision of this title or rule or regulation adopted by the Board;
- ...
(19) Commits an act of unprofessional conduct in the practice of physical therapy or limited physical therapy[.]

The Board further charged the Respondent with the following violations of the Code of Maryland Regulations (Md. Code. Regs.) 10.38.02.01G – Code of Ethics:

...

- G. The physical therapist...shall comply with the probationary conditions of a Board order[.]

The Board further charged the Respondent with violations of Md. Code Regs.

10.38.03.02 – Standards of Practice as follows:

- A. Physical Therapists.

...

- (2) The physical therapist shall:

- (a) Exercise sound professional judgment in the use of evaluation and treatment procedures;

...

- (e) Evaluate the patient and develop a plan of care before the patient is treated;

...

- (g) Reevaluate the patient as the patient's condition requires, but at least every 30 days, unless the physical therapist, consistent with accepted standards of physical therapy care, documents in the treatment record an appropriate rationale for not reevaluating the patient;

...

- (i) Document ongoing communication with the physical therapist assistant regarding changes in a patient's status and treatment plan.

The Board further charges the Respondent with violations of Md. Code Regs.

10.38.03.02 – 1 – Requirements of Documentation as follows:

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

...

- (2) Subsequent visits, by including the following information (progress notes):

...

- (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
- (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:

...

- (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[.]

On August 15, 2017, a conference with regard to this matter was held before the Board's Case Resolution Committee ("CRC"). As a result of the CRC, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. At all times relevant to the charges herein, the Respondent was licensed to practice physical therapy ("PT") in the State of Maryland. The Respondent was

originally licensed on August 10, 1995. The Respondent's license is scheduled to expire on May 31, 2019.

2. The Respondent owns a physical therapy practice with offices in Greenbelt and Waldorf, Maryland.¹
3. On January 20, 2015, the Respondent entered into a Consent Order with the Board to resolve the charges the Board had filed against him on August 21, 2014.
4. The terms and conditions of the Respondent's Consent Order include:

ORDERED that the Respondent shall be suspended for six months, all of which shall be immediately stayed; and it is further

ORDERED that the Respondent shall be placed on probation for a minimum of two (2) years and until the Respondent complies fully with the following terms and conditions:

- a. For at least the first eighteen (18) months of his probation, the Respondent shall meet on a monthly basis with a Board-approved clinical supervisor for the purpose of reviewing his documentation, including billing records. The Respondent shall provide the supervisor with a copy of the Consent Order;
- b. The Respondent shall ensure that the clinical supervisor submits reports to the Board on a quarterly basis regarding the Respondent's work quality and compliance with the Maryland Physical Therapy Act and the Board's regulations;
- c. Within the sixty (60) days of probation, the Respondent shall successfully pass the Board's closed-book law examination with a passing score of 90 percent;
- d. Within the first twelve (12) months of probation, the Respondent shall successfully complete a Board-approved clinical instructor course;

¹ Names of facilities, patients and other individuals are confidential.

- e. The Respondent may not provide instruction to physical therapy students for at least the first twelve (12) months of his probation;
- f. After a minimum of eighteen (18) months, and if recommended by the Respondent's clinical supervisor, the Respondent may petition to the Board to terminate the requirement that he be supervised by a clinical supervisor;
- g. After a minimum of two (2) years, the Respondent may petition to the Board to terminate his probation after demonstrating that he has complied with all of the terms and conditions of the Consent Order;² and it is further

...
ORDERED that the Respondent shall practice in accordance with the laws and regulations governing physical therapy[.]

- 5. By letter dated July 31, 2015, Board staff advised the Respondent that he had completed the conditions that he pass the Board's law examination and successfully complete a Board-approved clinical instruction course. The letter further advised the Respondent, *inter alia*, that he was required to meet monthly with a clinical supervisor who was to submit quarterly reports to the Board.
- 6. The Respondent's Board-approved supervisor ("Supervisor") submitted to the Board quarterly reports on May 1, 2015, August 13, 2015 and November 6, 2015.³ The Supervisor did not submit reports after November 6, 2015.
- 7. The Supervisor reported 10 to 14 areas of practice deficiencies in each report including, but not limited to: failure to perform and/or document: evaluations; interpretation and assessment of clinical findings; updated goals; ongoing communication with the physical therapist assistant; changes to plans of care;

² The Respondent was further ordered to pay a fine of \$5,000.00 within the first six months of probation. The Respondent satisfied this condition on July 20, 2015.

³ The Supervisor noted in each report that he had reviewed 10 patient charts per month with a minimum of 10 visits per patient, as requested by the Board.

tests and measures during evaluation or re-evaluation; reasons why goals were met or not met; and cancellations and no-shows.

8. Despite the Supervisor's stated expectation that the quality of the Respondent's patient records would improve over time and with benefit of guidance, the number of reported practice deficiencies increased from 10 in the initial report to 14 in the Supervisor's November 2015 report.⁴
9. The Supervisor's last report, dated November 6, 2015, lists the following practice and documentation deficiencies. The Respondent failed to meet the Board's standards for practice documentation in the following areas:
 - i. Evaluation and results of tests;
 - ii. Interpretation and assessment of the clinical findings;
 - iii. Goals (updated);
 - iv. Modalities/Procedures including parameters and body parts;
 - v. Plan of care including frequency and duration;
 - vi. Ongoing communication with Physical Therapy Assistant;
 - vii. Tests and Measurements performed during evaluation or re-evaluation;
 - viii. Goals met or not met; including reasons;
 - ix. [Failed to] include plan of care including recommendations for follow-up;
 - x. Changes to plan of care;
 - xi. Special orthopedic testing not being performed on all patients;
 - xii. [Failed to] add duration to the goals
 - xiii. [Failed to] document cancellations and no-shows;
 - xiv. [Failed to] document number of visits.
10. By letter dated December 10, 2015, the Board notified the Respondent of its concerns that the Supervisor continued to find numerous practice deficiencies. The letter further notified the Respondent that, in lieu of pursuing formal disciplinary proceedings against him, the Board had scheduled a pre-charge Case Resolution Conference ("CRC") on February 16, 2016.

⁴ The Supervisor's November 2015 report contains 15 areas of deficiencies; one of the areas is repeated twice.

11. By letter dated February 2, 2016, the Respondent's attorney notified the Board that the Respondent was unavailable to attend the February 16, 2016 Case Resolution Conference because the Respondent had been deployed on active duty military duty from January 8, 2016 to January 8, 2017. The attorney attached the Respondent's deployment orders to the letter.
12. In the February 2, 2016 letter, the Respondent's attorney stated, "[the Respondent] will not treat any physical therapy patients in the State of Maryland during his military deployment between January 8, 2016 and January 8, 2017."
13. On or about January 17, 2017, the Board received a complaint from a female patient ("Patient A") regarding the Respondent's treatment of her during a physical therapy session on September 6, 2016.
14. A subsequent Board investigation confirmed that the Respondent had treated Patient A on September 6, 2016.⁵
15. The Board's investigation revealed that the Respondent had resumed the practice of physical therapy on or about August 22, 2016, but had not notified either the Board or his Supervisor of his return from military duty.
16. When interviewed under oath on February 2, 2017, the Respondent stated that he had returned from active military duty on or about August 22, 2016, and had resumed treating patients on or around that date.⁶
17. The Respondent further stated that he was aware of the terms of his Consent Order and that he remained on probation and subject to the terms and conditions

⁵ The Board makes no further findings with regard to Patient A.

⁶ When interviewed, the Respondent stated that upon his return to practice in August 2016, he treated patients "on and off" and without a fixed schedule. In furtherance of the Board's investigation of Patient A's complaint, the Respondent's patient schedule was subpoenaed. The schedule revealed that the Respondent treated patients on 22 days in September 2016.

- of the Consent Order, including the condition that he was required to be supervised, when he resumed the practice of physical therapy in August 2016.
18. The Respondent failed to notify Board staff when he returned from deployment and resumed treating patients.
 19. When Board staff inquired whether the Respondent had contacted the Supervisor when the Respondent resumed practicing physical therapy, the Respondent stated: "Don't recall."
 20. When Board staff further inquired why the Respondent had not contacted either the Board or the Supervisor when he returned from military duty, the Respondent stated, "Don't have an answer."
 21. The Respondent stated that he thought the CRC had been terminated, although he had not been notified by his attorney or the Board that the CRC was no longer pending.
 22. The Respondent agreed that he "had no idea what was going on with [the CRC]" and when asked whether he had bothered to find out, the Respondent stated, "I have no answer."

CONCLUSIONS OF LAW

The Respondent's conduct, in whole or in part, constitute a violation of Health Occ. § 13-316(19), § 13-316(15) and Md. Code Regs. 10.38.02.01 G, 10.38.03.02 and 10.38.03.02-1, as charged.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 24TH day of JANUARY, 201⁸7, by a majority of the quorum of the Board:

ORDERED that the Respondent is **SUSPENDED FOR SIX MONTHS, FIVE MONTHS OF WHICH SHALL BE STAYED**; and it is further

ORDERED that the Respondent shall be placed on probation for a minimum of two (2) years and until the Respondent complies fully with the following terms and conditions:

a) For the first eighteen (18) months of the probationary period, the Respondent shall meet on a monthly basis with a Board-approved supervisor to review three (3) patient charts per month. The Respondent shall provide a copy of the Consent Order to the supervisor;

b) The Respondent shall ensure that the supervisor submits quarterly reports to the Board concerning his work quality and compliance with the Maryland Physical Therapy Act and the Board's regulations;

c) The Respondent shall immediately report to the Board in the event he cannot locate a Board-approved supervisor or his Board-approved supervisor is no longer to serve as a supervisor or if the Respondent has any issues or concerns with his compliance with the terms of probation; and it is further

ORDERED that after one (1) year, the Respondent may petition the Board for modification of the terms of probation; and it is further

ORDERED that after two (2) years, the Respondent may petition the Board to terminate probation, provided he is in compliance with the Consent Order and no other complaints have been filed against him;

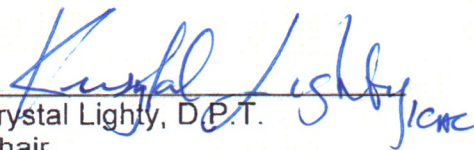
ORDERED that the Respondent is responsible for all costs associated with the supervision under the Consent Order; and it is further

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

ORDERED that, should the Board receive information 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 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 shall be on the Respondent to demonstrate compliance with the Order or conditions; and it is further

ORDERED that for purposes of public disclosure, as permitted by Md. Code Ann. General Provisions Article, § 4-333(b), 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 to which it is mandated to report.

1/24/2018
Date


Krystal Lighty, D.P.T.
Chair
Maryland Board of Physical Therapy
Examiners

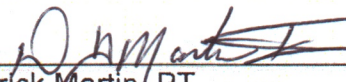
CONSENT

I, Derrick Martin, PT, acknowledge that I have had the opportunity to be represented by 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.

12/19/17
Date

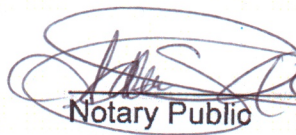


Derrick Martin, PT
Respondent

STATE OF MARYLAND ^{VA}
CITY/COUNTY OF Arlington

I HEREBY CERTIFY that on this 19th day of Dec 2017, before me,
a Notary Public of the foregoing State and City/County personally appeared Derrick
Martin, PT, and made oath in due form of law that signing the foregoing Consent Order
was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.


Notary Public 

Sabrina A. Chapman Commonwealth of Virginia Notary Public Commission No. 7091685 My Commission Expires 12/31/2017

My commission expires: 12-31-17