

IN THE MATTER OF * BEFORE THE STATE BOARD
CHRISTINE SUTTON, P.T.A. * OF PHYSICAL THERAPY
License No.: A1878 * EXAMINERS
Respondent * Case No.: 04-05

* * * * *

CONSENT ORDER

The State Board of Physical Therapy Examiners (the "Board") charged **CHRISTINE SUTTON, P.T. A.** (the "Respondent"), License No. A1878, 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 and Supp. 2003).

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:

(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;

(16) Violates any provision of this title or rule or regulation adopted by the Board;

The Board charges the Respondent with violating the following regulations:

Code Md. Regs. ("COMAR") tit. 10 § 38.02.01 Code of Ethics (2002).

- 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 issued the charges on November 15, 2005. Thereafter, a Case Resolution Conference was held on August 2, 2007 in an attempt to resolve the Charges pending against the Respondent prior to a hearing. Following the Case Resolution Conference, the parties agreed to resolve the matter by way of settlement.

FINDINGS OF FACT

The Board finds that:

1. At all times relevant to the charges herein, the Respondent was licensed to practice limited physical therapy in the State of Maryland. The Respondent was first licensed on December 19, 1995, being issued License Number A1878.
2. At all times relevant to the charges herein, the Respondent was employed as a physical therapist assistant at Physical Medicine Rehabilitation Center of the Metropolitan Washington Orthopaedic Association [hereinafter "PMRC"], which had several offices in the State of Maryland. The Respondent began working at PMRC in June 1999.

3. Employee A¹ was employed at PMRC as a physical therapy aide from 2002 until 2004.
4. Employee has never been licensed by the Board as either a physical therapist or a physical therapist assistant.
5. A physical therapy aide is "a person who performs certain physical therapy duties under the direct supervision of a licensed physical therapist."²
6. "Direct supervision" means that a licensed physical therapist is personally present and immediately available within the treatment area to give aid, direction, and instruction when physical therapy procedures or activities are performed.³
7. The Respondent worked with Employee A at PMRC's Oxon Hill, Maryland location.
8. Employee A advised the Board's investigator that while she was employed at PMRC her duties included whirlpool, transverse friction massage, and progressing patients (i.e., showing patients how to do exercises and then increasing the weight and/or number of repetitions).⁴
9. Employee A further advised the Board's investigator that she frequently performed these duties without a licensed physical therapist being personally present and immediately available in the treatment area.
10. Employee A would perform the aforementioned treatments on patients

¹ Employees' and patients' names are confidential. However, they may be obtained by the Respondent upon making a request to the Administrative Prosecutor.

² See COMAR 10.38.04.01B (2001).

³ See COMAR 10.38.01.01B(7) (2001).

⁴ Activities that physical therapy aides are permitted to perform under direct supervision are enumerated at COMAR 10.38.04 (2001).

without the direct supervision of a physical therapist, write the patient treatment note, and complete a billing slip, which was referred to as a "charge ticket" at PMRC.

11. Thereafter, a physical therapist would "co-sign" the treatment note even though the "co-signing" physical therapist did not treat the patient or supervise the therapy provided by Employee A.

12. The Board's investigator interviewed the Respondent, who acknowledged that aides at PMRC perform unauthorized duties: "[aides] usually do the exercise programs and they supervise the patient, they follow them, make sure that that patient is performing all the exercises, and they also do whirlpools. . . ."

13. The Board's investigator interviewed Employee B, a physical therapist who began working at PMRC on May 14, 2001, and who confirmed that physical therapy aides at PMRC write patient treatment notes and complete fee sheets.

14. Employee B also described the extent to which physical therapy aides are involved in treating patients when she told the investigator: "when [the manager at PMRC] hires the aides, we were-we trained aides, they shadow us and we instruct them and show them how-what they need to do and as far as supervising patients, how to do exercises. And after they see the patient, we told them that, call the therapist." The physical therapist then co-signs the treatment note.

15. The Board's investigator interviewed Employee C, a physical therapist employed at PMRC from 2001 until 2004. The Board's investigator asked Employee C if physical therapy aides at PMRC had their own patient loads.

Employee C answered, "yeah."

16. Employee D, a physical therapist assistant employed at PMRC since November 1997, advised the Board's investigator that while an aide is working with a patient a physical therapist is "in the same vicinity," but that the physical therapist could at the same time be treating another patient.

17. Employee E, a physical therapist assistant employed at PMRC since 1993, provided the following description of the treatment system at PMRC: "Once the patient has been deemed essentially independent in their exercises, the-the physical therapist will-will deem them independent to where an aide can supervise them through their-their workout."

18. The Board's investigator then asked Employee E: "so the patient no longer has to see a physical therapist, they're then seen by an aide and they go through their exercises and so forth working with an aide, is that correct?" Employee E answered: "Yes."

19. When asked if the aide could be treating a patient while the physical therapist is in another treatment area treating another patient, Employee E answered: "Yes."

20. Physical therapy aides who were not licensed by the Board to practice physical therapy or limited physical therapy were nevertheless performing physical therapy at PMRC while the Respondent was concurrently employed there as a physical therapist assistant. However, the Respondent failed to report to the Board the illegal and unsafe practice of physical therapy by unlicensed individuals at PMRC.

CONCLUSIONS OF LAW

The Board concludes as a matter of law that the Respondent violated H.O. §§ 13-316(12), (16) and COMAR 10.38.02.01F.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 18th day of September, 2007, by a majority of a quorum of the Board,

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

ORDERED that the Respondent shall be placed on **PROBATION** for a period of one (1) year, subject to the following conditions:

1. The Respondent shall successfully complete a Board-approved continuing education course on ethics; and
2. The Respondent shall successfully complete the Board-approved law course, ~~and~~ (Respondent has already successfully completed the law course), and
3. The Respondent shall pay to the Board a fine of five hundred dollars (\$500.00) due in full within one (1) year of the effective date of the Consent Order; and it is further

ORDERED that if the Board receives information that the Respondent has violated any condition of this Order, the Board will, unless emergency action is required as delineated in Md. State Govt. Code Ann. § 10-226(c)(2) (2004 Repl. Vol.), give the Respondent twenty (20) days to respond in writing to the allegation. Upon receipt of the Respondent's written response to the allegation, or, in the absence of a written response, the Board may, after giving the Respondent an opportunity to be heard, impose any penalty that it could have

imposed under the Act for the offense that has already been proven or admitted in this case, including a reprimand, probation, probation for a longer period of time and/or with additional conditions, an imposition of a monetary penalty, suspension, and/or revocation. If the Board receives information that the Respondent's practice requires emergency action as delineated in Md. State Govt. Code Ann. § 10-226(c)(2) (2004 Repl. Vol.), the Board may take immediate action against the Respondent, providing notice and an opportunity to be heard are provided in a reasonable time thereafter. The burden of proof for any action brought against the Respondent as a result of a violation of the conditions of this Order shall be upon the Respondent to demonstrate compliance with the Order and its conditions; and it is further

ORDERED that the Consent Order is effective as of the date on which it is signed by the Board's Chair; and it is further

ORDERED that the Respondent may petition for early termination of probation provided that she has fully complied with all conditions of probation and has paid the fine in full; 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 his 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; and it is further

ORDERED that the Respondent shall bear the expenses associated with this Consent Order; and it is further

ORDERED that for the purposes of public disclosure, as permitted by the Maryland Public Information Act, codified at Md. State Govt. Code Ann. §§ 10-611 *et seq.* (2004 and Supp.), this document constitutes the Board's Findings of Fact, Conclusions of Law, and Order resulting from formal disciplinary proceedings, and that the Board may also disclose same to any national reporting data bank to which the Board is mandated to report.

Sept. 18, 2007
Date

Margery Rodgers, P.T.
Margery Rodgers, P.T., Chairperson
State Board of Physical Therapy
Examiners

CONSENT OF CHRISTINE SUTTON, P.T.A.

I, Christine Sutton, P.T.A., License No. A1878, by affixing my signature hereto, acknowledge that:

1. I am represented by counsel and have reviewed this Consent Order with my attorney, Donald L. Noble, Esquire.
2. I am aware that I am entitled to a formal evidentiary hearing before the Board pursuant to Md. Health Occ. Code Ann. § 13-317 (2005 Repl. Vol.) and Md. State Govt. Code Ann. §§ 10-201, *et seq.* (2004 Repl. Vol.).
3. I acknowledge the validity and enforceability of this Consent Order as if entered into after a formal evidentiary hearing in which I would have the right to counsel, to confront witnesses, to give testimony, to call witnesses on my

behalf, and to all other procedural and substantive protections to which I am entitled by law. I am waiving those procedural and substantive protections.

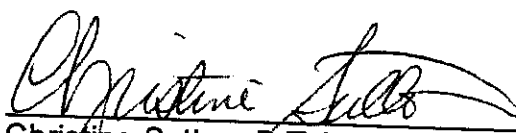
4. I voluntarily enter into and agree to abide by the foregoing Findings of Fact, Conclusions of Law, and Order, and submit to the terms and conditions set forth herein as a resolution of the Charges against me. I waive any right to contest the Findings of Fact and Conclusions of Law, and I waive my right to a full evidentiary hearing, as set forth above, and any right to appeal this Consent Order or any adverse ruling of the Board that might have followed such hearing.

5. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, I may suffer disciplinary actions, which may include revocation of my license to practice limited physical therapy in the State of Maryland.

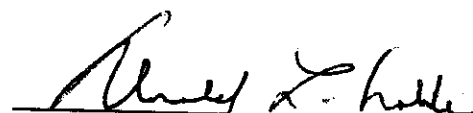
6. I sign this Consent Order voluntarily, without reservation, and I fully understand and comprehend the language, meaning, and terms of this Consent Order.

9-14-07

Date


Christine Sutton, P.T.A.

Reviewed and approved by:


Donald L. Noble, Esquire
Attorney for the Respondent

STATE
OF: MARYLAND

CITY/COUNTY OF: PRINCE GEORGE'S

I HEREBY CERTIFY that on this 14TH day of SEPTEMBER
200~~8~~⁷, before me, a Notary of the State of MARYLAND ^{IN} and the
City/County of PRINCE GEORGE'S, personally appeared Christine
Sutton, P.T.A., License No. A1878, and made oath in due form of law that
signing the foregoing Consent Order was her voluntary act and deed, and that
the statements made herein are true and correct.

AS WITNESS my hand and notarial seal.

Thomas J. Kelly

Notary Public
My Commission expires: 01/01/11