

IN THE MATTER OF * **BEFORE THE STATE**
JUSTIN H. WHITE, P.T. * **BOARD OF PHYSICAL**
Respondent * **THERAPY EXAMINERS**
License No. 17554 *

* * * * *

CONSENT ORDER

The Maryland State Board of Physical Therapy Examiners (the "Board") charged **Justin H. White, P.T. (the "Respondent")**, License Number: **17554**, with violating certain provisions of the Maryland Physical Therapy Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 13-101 et seq. (2000 Repl. Vol.). Specifically, the Board charged the Respondent with violating 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, 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:

- (13) Willfully makes or files a false report or record 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; and
- (26) Fails to meet accepted standards in delivering physical therapy or limited physical therapy care.

The Board also charged the Respondent with violating Code Md. Regs. tit.

10.38.03 Standards of Practice:

03. Standards.

- (A) The physical therapist shall exercise sound professional judgment in the use of evaluation and treatment procedures.
- (K) At least once, in every ten visits or every 60-calendar days, whichever comes first, there shall be a joint on-site visit with treatment rendered by the physical therapist assistant under the direct supervision of the physical therapist. At this visit, the physical therapist is to assess the treatment performed by the physical therapist assistant, reevaluate the patient's program, and document the treatment program.

.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 test (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 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 reason,**
- (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) Recommendation for follow-up, and**
- (e) Signature and title.**

FINDINGS OF FACT

The Board finds:

1. At all times relevant herein, the Respondent was and is licensed to practice physical therapy in the State of Maryland. The Respondent was originally licensed on or about August 25, 1993.

2. At all times relevant herein, the Respondent was employed by Mercy Medical Center ("Mercy") as a physical therapist. Mercy Medical Center is located at 301 St. Paul Street, Baltimore, Maryland.

3. On or about February 2, 2000, the Board received a complaint from a physical therapist who was also employed at Mercy. The complainant alleged that the Respondent used patient progress notes written by the complainant to complete the Respondent's own documentation obligations.

4. The Board's subsequent investigation revealed the following:

PATIENT A¹

6. Patient A², a 73 year old female, was referred to physical therapy following a stroke. Patient A was initially evaluated by the Respondent on October 7, 1999.

7. Following her initial evaluation, Patient A received physical therapy treatments on at least nine (9) separate occasions from October 11, 1999 to October 20, 1999.

8. The Respondent's signature and physical therapist license number are not on the initial evaluation form.

¹ To ensure confidentiality, patient names are not set forth in this document. The Patient names have been provided to the Respondent.

² The primary physical therapy treatment rendered to all patients was gait training and therapeutic activities.

9. The Respondent also failed to complete a patient discharge summary.

PATIENT B

10. Patient B, a 54 four year old female, was referred for physical therapy following lung surgery. Patient B was initially evaluated by the Respondent on October 20, 1999.

11. Following her initial evaluation, Patient B received physical therapy treatments on three (3) separate occasions from October 20, 1999 to October 22, 1999.

12. The Respondent's signature, title, and physical therapist license number are not on the initial evaluation form.

13. The Respondent did not complete a patient discharge summary.

PATIENT C

14. Patient C, a 78 year old female, was referred for physical therapy following a hip replacement.

15. Patient C was initially evaluated by the Respondent on November 22, 1999. Following her initial evaluation, Patient C received physical therapy treatments on five (5) separate occasions from November 22, 1999 to November 29, 1999.

16. The Respondent failed to complete a patient discharge summary.

PATIENT D

17. Patient D, a 62 year old female, was referred for physical therapy treatment following the amputation of her left leg.

18. Patient D was initially evaluated by the Respondent on November 19, 1999. Following her initial evaluation, Patient D received physical therapy treatments on at least fifteen (15) occasions between November 19, 1999 and December 8, 1999.

19. The Respondent's physical therapist license number is not on the initial evaluation form.

20. The Respondent failed to complete a patient discharge summary.

PATIENT E

22. Patient E, an 87 year old female, was referred for physical therapy following a radical abdominal hysterectomy.

23. Patient E was initially evaluated by the Respondent on November 4, 1999. Following her initial evaluation, Patient E received physical therapy treatments on at least seventeen (17) separate occasions from November 4, 1999 to November 30, 1999.

24. The Respondent's signature, title, and physical therapist license number are not on the initial evaluation form.

25. The Respondent failed to complete a patient discharge summary.

PATIENT F

26. Patient F, a 79 year old female, was referred for physical therapy following a left hip fracture.

27. Patient F was initially evaluated by the Respondent on October 18, 1999. Following her initial evaluation, Patient F received physical therapy treatments on twenty-four (24) separate occasions from October 18, 1999 to November 22, 1999.

28. The Respondent's signature, title, and physical therapist license number are not on the initial evaluation form.

PATIENT G

29. Patient G, a 77 year old female, suffered from urosepsis and was referred to physical therapy to improve her mobility.

30. Patient G was initially evaluated by the Respondent on October 8, 1999. Following her initial evaluation, Patient G received physical therapy treatments on five (5) separate occasions from October 8, 1999 to October 13, 1999.

31. The Respondent's physical therapist license number is not on the initial evaluation form.

32. The Respondent failed to complete a discharge summary form.

PATIENT H

33. Patient H, a 73 year old male, was referred for physical therapy following a total knee replacement.

34. Patient H was initially evaluated by the Respondent on October 19, 1999. Following his initial evaluation, Patient H received physical therapy treatments on seven (7) separate occasions from October 19, 1999 to October 27, 1999.

35. The Respondent's signature, title, and physical therapist license number are not on the initial evaluation form.

36. The Respondent failed to complete a discharge summary form.

Patient I

38. Patient I, a 55 year old female, was referred for physical therapy following back surgery.

39. Patient I was initially evaluated by the Respondent on October 8, 1999. Following the initial evaluation, Patient I received physical therapy treatments on thirteen (13) separate occasions from October 8, 1999 to October 22, 1999.

40. The Respondent failed to conduct a joint on-site visit with the physical therapist assistant.

41. The Respondent's physical therapist license number is not on the initial evaluation form.

42. The Respondent failed to complete a discharge summary.

PATIENT J

43. Patient J, a 75 year old male, was referred for physical therapy suffering from coronary artery disease.

44. Patient J was initially evaluated by the Respondent on November 10, 1999. Following his initial evaluation, Patient J received physical therapy treatments on twenty-two (22) separate occasions from November 10, 1999 to December 8, 1999.

45. The Respondent's signature, title, and physical therapist license number are not on the initial evaluation form.

46. The Respondent failed to complete a discharge summary.

PATIENT K

48. Patient K, an 83 year old male, was referred for physical therapy for treatment of a non-healing diabetic ulcer.

49. Patient K was initially evaluated by the Respondent on November 18, 1999. Following his initial evaluation, Patient K received physical therapy treatments on seven (7) separate occasions from November 18, 1999 to November 26, 1999.

50. The Respondent failed to complete a discharge summary.

PATIENT L

51. Patient L, a 41 year old female, was referred for physical therapy following a total knee replacement.

52. Patient L was initially evaluated by the Respondent on November 9, 1999. Following her initial evaluation, Patient L received physical therapy treatment on November 19, 1999.

53. The Respondent failed to complete a discharge summary.

PATIENT M

54. Patient M, an 88 year old male, was referred for physical therapy for treatment of a hip fracture.

55. Patient M was initially evaluated by the Respondent on December 1, 1999. Following his initial evaluation, Patient M received physical therapy treatment on seventeen (17) separate occasions from December 1, 1999 to December 23, 1999.

56. The Respondent did not conduct a joint on-site visit with the physical therapist assistant.

57. The Respondent failed to complete a discharge summary.

PATIENT N

58. Patient N, a 65 year old female, was referred to physical therapy following a total knee replacement.

59. Patient N was initially evaluated by the Respondent on November 11, 1999. Following her initial evaluation, Patient N received physical therapy treatments on six (6) separate occasions from November 11, 1999 to November 19, 1999.

60. The Respondent's signature, title, and physical therapist license number are not on the initial evaluation form.

61. The Respondent failed to complete a discharge summary.

PATIENT O

62. Patient O, a 79 year old male, was referred for physical therapy following a total knee replacement.

63. Patient O was initially evaluated by the Respondent on October 11, 1999. Following his initial evaluation, Patient O received physical therapy treatments on two (2) separate occasions from October 11, 1999 to October 12, 1999.

64. The Respondent's signature, title, and physical therapist license number are not on the initial evaluation form.

65. The Respondent failed to complete a discharge summary.

PATIENT P

66. Patient P, a 64 year old male was referred for physical therapy for treatment of a right distal femur fracture.

67. Patient P was initially evaluated by the Respondent on October 21, 1999. Following his initial evaluation, Patient P received physical therapy treatments on four (4) separate occasions from October 21, 1999 to October 25, 1999.

68. The Respondent's signature, title, and physical therapist license number are not on the initial evaluation form.

69. The Respondent failed to complete a discharge summary.

PATIENT Q

70. Patient Q, an 89 year old female, suffering from chronic obstructive pulmonary disease, was referred for physical therapy.

71. Patient Q was initially evaluated by the Respondent on March 29, 2000. Following her initial evaluation, Patient Q received physical therapy treatments on fourteen (14) separate occasions from March 29, 2000 to April 17, 2000.

72. The Respondent did not complete a discharge summary.

PATIENT R

73. Patient R, a 76 year old female, was referred for physical therapy for treatment of a hip fracture.

74. Patient R was initially evaluated by the Respondent on October 21, 1999. Following her initial evaluation, Patient R received physical therapy treatments on twenty-one (21) separate occasions from October 21, 1999 to November 17, 1999.

75. The Respondent's signature, title, and physical therapist license number are not on the initial evaluation form.

76. The Respondent did not conduct a joint on-site visit with the physical therapist assistant.

77. The Respondent failed to complete a discharge summary.

PATIENT S

78. Patient S, a 56 year old female, was referred for physical therapy following a toe amputation.

79. Patient S was initially evaluated by the Respondent on October 20, 1999. Following her initial evaluation, Patient S received physical therapy treatments on twenty-four (24) separate occasions from October 20, 1999 to November 19, 1999.

80. The Respondent's signature, title, and physical therapist license number are not on the initial evaluation form.

81. The Respondent did not conduct a joint on-site visit with the physical therapist assistant.

82. The Respondent failed to complete a discharge summary.

Patient T

83. Patient T, a 76 year old female, was referred to physical therapy suffering from osteoarthritis of the right knee.

84. Patient T was initially evaluated by the Respondent on November 19, 1999. Following her initial evaluation, Patient T received physical therapy treatments on seven (7) separate occasions from November 19, 1999 to November 27, 1999.

85. The Respondent's physical therapist license number is not on the initial evaluation form.

86. The Respondent failed to complete a discharge summary.

Patient U

87. Patient U, a 64 year old female, was referred to physical therapy following a fracture of the right femur.

88. Patient U was initially evaluated by the Respondent on November 6, 1999. Following her initial evaluation, Patient U received physical therapy treatments on twenty-four (24) separate occasions from November 6, 1999 to November 24, 1999.

89. The Respondent failed to complete a discharge summary.³

Patient V

90. Patient V, a 75 year old male, suffering from congestive heart failure, was referred to physical therapy.

91. Patient V was initially evaluated by the Respondent on October 8, 1999. Following his initial evaluation, Patient V received physical therapy treatments on twenty two (22) separate occasions from October 8, 1999 to November 12, 1999.

92. The Respondent's physical therapist license number is not on the initial evaluation form.

93. The Respondent failed to complete a discharge summary.

94. The Respondent failed to conduct a joint onsite visit.

Patient W

95. Patient W, a 76 year old male, was referred to physical therapy following a hip replacement. Patient W was initially evaluated by the Respondent on May 15, 2001.

96. Following his initial evaluation, Patient W received physical therapy treatments on at least eighteen (18) occasions from May 16, 2001 to June 6, 2001.

97. On May 19, 2001, Patient W was treated by another physical therapist ("Physical Therapist A").⁴

98. Physical Therapist A discovered when reviewing Patient W's initial evaluation dated May 15, 2001 that the Respondent had inserted portions of an initial evaluation that was completed on Patient W on December 29, 2000.

³ Patient U also received physical therapy between March 28, 2000 and April 4, 2000. During this period of time, the Respondent was the physical therapist in charge of Patient U's physical therapy care. However, the Respondent did not complete a discharge summary.

⁴ The name of the physical therapist has been omitted in order to protect the physical therapist's identity. The name of the physical therapist will be released to the Respondent upon request.

99. The Respondent cut and then passed portions of the December 29, 2001 initial evaluation form onto the May 15, 2001 initial evaluation form.⁵

100. The May 15, 2001 initial evaluation form indicated in the Range of Motion section that Patient W had a splint on his ankle. According to Physical Therapist A, the patient did not have a splint on his ankle when she treated him.

CONCLUSIONS OF LAW

The Board finds that the Respondent violated H.O. §§ 13-316(13), (16) and (26). The Board finds that the Respondent also violated the following regulations: Code Md. Regs. tit. 10, § 38.03.03 and Code Md. Regs. tit. 10, § 38.03.02-1.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 22nd day of July, 2003, the Board, by a majority of the quorum of the Board, hereby **ORDERED** that the Respondent's license be **REPRIMANDED**; and be it further **ORDERED** that Respondent is placed on **PROBATION** for a period of **TWO (2) YEARS** from the date this Order is signed subject to the following conditions:

1. The Respondent must take and pass, within the first six (6) months of the probation period, a Board approved documentation course. Following the completion of the course, the Board will conduct quarterly random chart reviews; and
2. The Respondent must take and pass a Board approved law and ethics course.

ORDERED that if the Respondent violates any of the terms or conditions of this Consent Order, including probationary terms as set forth herein, then the Board, after a determination of violation and notice, and an opportunity for a hearing, may impose any

⁵ The initial evaluation forms were completed using a computer.

other disciplinary sanctions it deems appropriate, including suspension or revocation, said violation of probation being proved by a preponderance of evidence; and be it further

ORDERED that at the end of Respondent's probationary period, the Respondent may petition the Board for termination of the probationary status and reinstatement of his license without any conditions or restrictions, provided that he has fulfilled all the terms and conditions of probation set forth herein, is not in violation of this Consent Order and there are no outstanding complaints against the Respondent. If the Board determines that the terms of probation have not been successfully completed, then the Board may modify one or more condition upon which the Respondent was placed on probation, upon notice to the Respondent. However, if the Respondent fails to make any such petition, then the probationary period status shall continue indefinitely, subject to the conditions set forth in this Order; and be it further

ORDERED that the Respondent shall practice physical therapy in accordance with the Maryland Physical Therapy Act Act, and in a competent manner; and be it further

ORDERED that in the event the Board finds for any reason in good faith that the Respondent has violated any provision of Title 13 of the Health Occupations Article, Annotated Code of Maryland or the regulations thereunder, the Board, after notification to the Respondent, and an opportunity for a hearing, may take immediate action and may impose any lawful disciplinary sanctions it deems appropriate, including but not limited to revocation or suspension of the Respondent's license to practice physical therapy; and be it further

ORDERED that the Respondent shall be responsible for all costs incurred under this Consent Order; and be it further

ORDERED that for purposes of public disclosure, as permitted by Md. State Gov't. Code Ann. § 10-617(h) (2000 Repl. Vol. and 2002 Supp.), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order, and that the Board may also disclose to any national reporting bank to whom the Board is mandated to report; and be it further

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

ORDERED that this is a **FINAL ORDER** and as such is a public document pursuant to Md. State Gov't. Code Ann. §§ 10-611 et seq. (2000 Repl. Vol. and 2002 Supp.).

IT IS SO ORDERED THIS 22nd DAY OF July, 2003.



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

CONSENT OF JUSTIN WHITE, P.T.

I, **Justin White, P.T., License No. 17554**, by affixing my signature hereto, acknowledge that:

1. I am represented by Nancy Gregor, Esquire, and I have had the opportunity to consult with counsel before signing this document.

2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to the Act, Md. State Gov't. Code Ann. §§10-201 et seq.

3. I acknowledge the validity of this Consent Order as if entered after 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 law.

4. I voluntarily enter into and consent to the foregoing Findings of Fact, Conclusions of Law and Order, provided that the Board adopts the foregoing Consent Order in its entirety. I waive any right to contest the Findings of Fact and Conclusions of Law, and I waive my right to a fully evidentiary hearing, as set forth above, and any right to appeal this Consent Order or as set forth in the Act and Md. State Gov't. Code Ann. §§10-201 et seq. (2000 Repl. Vol. and 2002 Supp.).

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

6. I sign this Consent Order without reservation as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

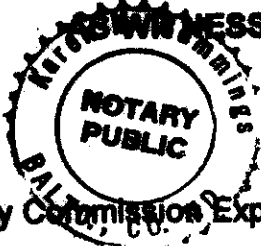
07/10/03
Date

Justin White, P.T.
Justin White, P.T.

NOTARY

STATE OF Maryland
CITY/COUNTY OF Baltimore

I HEREBY CERTIFY THAT on this 10th day of July, 2003, before me, a Notary Public for the State of Maryland and the City/County aforesaid, personally appeared Justin White, P.T., and made oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

WITNESS my hand and Notarial Seal.

My Commission Expires: 9/1/06

Karen M. Cummings
Notary Public