

**IN THE MATTER OF**

**JOSEPH N. YEARWOOD, P.T.**

**LICENSE NO. 14547 (non-renewed)**

**Applicant**

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**BEFORE THE MARYLAND**

**STATE BOARD OF**

**PHYSICAL THERAPY EXAMINERS**

**Board Case No. PT 16-19**

**OAH No. DHMH-BPTE-97A-17-00490**

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**FINAL DECISION AND ORDER**

On July 14, 2016, the Maryland Board of Physical Therapy Examiners (the "Board") informed Joseph N. Yearwood, P.T. (the "Applicant") of its intent to deny reinstatement of his license to practice physical therapy, License No. 14547. In the Notice of Intent to Deny, the Applicant was charged with numerous ethical and practice-related violations of the Maryland Physical Therapy Act, Md. Code Ann., Health Occ. § 13-101 *et seq.* (the "Act"), and the Board's regulations, COMAR 10.38.01. Specifically, the Applicant was charged for (1) engaging in an inappropriate flirtatious and sexual relationship with a patient ("Patient 1"); (2) practicing on an expired license and misrepresenting his licensure status; (3) falsifying his reinstatement application with the Board; (4) inappropriately billing for physical therapy services rendered without an active license; (5) failing to appropriately document his treatment of Patient 1; and (6) attempting to harass and intimidate Patient 1 after she filed a complaint with the Board.

An evidentiary hearing was held on the Notice of Intent to Deny on March 22, 2017, at the Office of Administrative Hearings. Administrative Law Judge Joy L. Phillips issued a 29-page Proposed Decision on June 2, 2017, recommending an affirmative finding on all but one of the charges and proposing as a sanction a denial of the Applicant's application to reinstate his license.<sup>1</sup> Although the Proposed Decision informed the parties of their right to file exceptions

with the Board, neither the Applicant nor the State filed Exceptions with the Board. This Final Decision and Order constitutes the Board's final decision in this case.

### **FINDINGS OF FACT**

The Board adopts the findings of fact proposed by the Administrative Law Judge in the Proposed Decision. To the extent that any findings of fact are set out in the "Discussion" section of the Administrative Law Judge's Proposed Decision, the Board adopts them as well. The Proposed Decision is incorporated into this Final Decision and Order and is attached as Attachment A.

### **CONCLUSIONS OF LAW**

The Board adopts the conclusions of law set out in the Administrative Law Judge's Proposed Decision.

### **OPINION**

The Board's primary and most important charge is to protect the public in their interactions with licensed physical therapists and physical therapy assistants in Maryland. A key component of protecting the public is ensuring their physical safety when in the presence of a physical therapist. Of all the complaints received by the Board, the most egregious are those that allege an inappropriate sexual relationship between a licensee and a patient. If the citizens of Maryland do not believe they are in a physically (and emotionally) safe place when they seek treatment with a physical therapist, public confidence in the profession will be eroded, and the public health will suffer irreparably.

The Applicant's interactions with Patient 1 in this case robbed her of the ability to feel

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<sup>1</sup> The Administrative Law Judge did not find that the Applicant's attempts to contact the complainant in this case after learning of the complaint rose to the level of "intimidat[ing] or influenc[ing] any person to withhold or change testimony" in violation of COMAR 10.38.02.01K. The Board does not dispute the Administrative Law Judge's finding with regard to this charge.

safe in his presence. In her Proposed Decision, the Administrative Law Judge opined that she did not have to find that the Applicant and Patient 1 actually engaged in sexual activity, whether consensual or nonconsensual, to find that the Applicant committed sexual misconduct in this case. The Board agrees. The Board's regulation on sexual misconduct, COMAR 10.38.02.02, prohibits a wide range of actions that fall under the header of "sexual misconduct," including "a verbal comment of a sexual nature," "discussion of unnecessary sexual matters while treating a patient," and "an unnecessary sensual act or comment," all of which the Administrative Law Judge found to be present in this case. In addition, even aside from the sexual misconduct aspect, the entirety of the Applicant's intimate relationship with Patient 1 – including flirtatious conversation; late-night visits, texts, and phone calls; and sharing meals both inside and outside the office – was inappropriate, displays a lack of good moral character, and is correctly considered unprofessional conduct in the practice of physical therapy and failure to respect the dignity of a patient.

The Board also protects the public by only licensing physical therapists and physical therapy assistants who demonstrate they have the training, education, competence, and character necessary to safely and effectively practice physical therapy or limited physical therapy. When a licensed physical therapist seeks to renew his license, the Board ensures his continuing competence by checking his compliance with the Board's statutory and regulatory requirements for continuing education and evaluates his character by asking a number of personal attestation questions. By continuing to practice physical therapy after his license expired, the Applicant prevented the Board from appropriately evaluating his continued competence in the practice of physical therapy. By falsifying his application for reinstatement and stating that he did not practice physical therapy after his license expired, the Applicant further demonstrated his lack of

good moral character. The Board believe both actions pose an unnecessary and unacceptable risk to the public.

Based on his egregious conduct in this case, the Board believes the Applicant has forfeited his ability to practice physical therapy in Maryland. The Board believes the Applicant's inappropriate relationship with Patient 1 and his continuing to practice on an expired license (and lying about it to the Board) would be more than enough on their own to justify a denial of his application for reinstatement. As found by the Administrative Law Judge, though, in addition to those violations, the Applicant also improperly billed for physical therapy services after his license expired, publicly held himself out as a physical therapist after his license expired, and failed to appropriately document his treatment of Patient 1, all violations of the Act and the Board's regulations in their own right. These actions further convince the Board that denial of the Applicant's reinstatement application is the only appropriate sanction in this case.<sup>2</sup>


### **ORDER**

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

**ORDERED** that Mr. Yearwood's application to reinstate his license to practice physical therapy, License No. 14547, is **DENIED**; and be it further,

**ORDERED** that this is a formal order of the Board and as such is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions § 4-333(b).

12-19-2017  
Date

  
Krystal Lighty, Chair  
Board of Physical Therapy Examiners

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<sup>2</sup> The Board notes that denial of the Applicant's reinstatement application is within the range of appropriate sanctions for his conduct in this case in accordance with COMAR 10.38.10.04A(6), (10), (11), (14), (15), and (16).

### **NOTICE OF RIGHT TO APPEAL**

Pursuant to Md. Code Ann., Health Occ. § 13-318, and Md. Code Ann., State Gov't § 10-222, you have the right to take a direct judicial appeal. A petition for appeal shall be filed within thirty (30) days of the date this Final Decision and Order is mailed 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.

If you file an appeal, the Board is a party and should be served with the court's process. In addition, if an appeal is filed, you are requested to send a copy to the Board's counsel, Brett Felter, at the Office of the Attorney General, 300 West Preston Street, Suite 302, Baltimore, Maryland 21201. The Administrative Prosecutor is no longer a party to this case and need not be served or copied.