

IN THE MATTER OF
CLAUDETTE YERBY, P.T.A.
License No. A01185
Respondent

*** BEFORE THE**
*** MARYLAND BOARD OF**
*** PHYSICAL THERAPY**
*** EXAMINERS**

* * * * *

CONSENT ORDER

The Maryland Board of Physical Therapy Examiners (the "Board") charged **CLAUDETTE YERBY, P.T.A.** (the "Respondent"), License No. A01185, 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 § 13-316 of the Act:

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;
- (15) Submits a false statement to collect a fee;
- (16) Violates any rule or regulation adopted by the Board; and
- (20) Commits an act of unprofessional conduct in the practice of physical therapy.

The Board charges the Respondent with violating the following regulations:
Code Md. Regs. ("COMAR") tit. 10 § 38.03.02 Standards of Practice.

B. Physical Therapist Assistants.

(1) The physical therapist assistant shall:

* * *

(b) Exercise sound judgment and adequate care in the performance of duties.

On Tuesday, July 13, 2004, a Case Resolution Conference ("CRC") was held in order to resolve the Charges pending against the Respondent prior to a hearing. Present at the CRC were the Respondent, James C. Anagnos, Assistant Attorney General/Board Prosecutor, Linda Bethman, Assistant Attorney General/Board Counsel, Ann Tyminski, Executive Director, Margery Rodgers, P.T., Board Chair, and Shirley Leeper, P.T.A., Board Member. As a result of the CRC, the parties agreed to enter into the following Consent Order, consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board finds:

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 2, 1983, being issued License Number A01185.
2. At all times relevant to the charges herein, the Respondent was employed by Genesis Rehabilitation Services, located at 613 Hammonds Lane, Baltimore, Maryland 21225 [hereinafter "the Hammonds Lane Center"].
3. On November 13, 2003, the Board received complaints filed against the Respondent by Employee A,¹ a licensed physical therapist employed at the

¹To ensure confidentiality, patients' and employees' names are not used in this document.

Hammonds Lane Center at all times relevant to the charges herein, and by Employee B, a licensed physical therapist and Area Director for Genesis Rehabilitation Services.

4. The Board investigated the allegations contained in the complaints as detailed below.

Count I – Patient Specific Allegations

Patient A

5. On October 16, 2003, Employee C, the Program Manager at the Hammonds Lane Center, became aware that Patient A was upset and verbalizing that he had not received his scheduled physical therapy treatment on October 15, 2003.
6. Employee C investigated Patient A's allegation, and the Respondent ultimately admitted to Employee C that she did not treat Patient A on October 15, 2003, even though she completed a clinical note and billing for a 60 minute treatment that never took place.
7. Employee C advised the Respondent to reverse the billing that was done and to remove the October 15, 2003 note from the chart of Patient A, which she did.

Patient B

8. On November 3, 2003, Employee C, the Program Manager at the Hammonds Lane Center, was advised by Patient B that he "really wasn't seen" for physical therapy by the Respondent on November 1, 2003.
9. When asked to explain, Patient B advised that on November 1, 2003, the Respondent walked into Patient B's room, observed him performing exercises

independently in his bed, said to him, "you're all over it – you keep working," and then said that she would return later; however, she never did.

10. Patient B's billing records indicate that he was treated by the Respondent for 30 minutes on November 1, 2003.
11. The Respondent also wrote a treatment note as if she provided treatment to the Respondent on November 1, 2003.

Patient C

12. On or about November 3, 2003, Employee C, the Program Manager at the Hammonds Lane Center, was advised by the husband of Patient C that Patient C did not receive her scheduled physical therapy treatment on November 1, 2003.
13. Patient C's husband arrived at the Hammonds Lane Center on November 1, 2003, just prior to noon and left at 6:00 p.m.
14. Patient C's billing records indicate that she was treated by the Respondent for 60 minutes on November 1, 2003.
15. However, in a meeting that occurred between the Respondent, Employee B, and Employee C on November 4, 2003, at approximately 4:00 p.m., the Respondent initially advised that she arrived at work that morning at 10:00 a.m. and treated Patient C in her room between 11:00 a.m. and 11:30 a.m.

CONCLUSIONS OF LAW

The Board finds that the Respondent violated H.O. §§ 13-316(a)13), (15), (16), (20), and COMAR 10.38.03.02B(1)(b).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, and agreement of the parties, it is this 20 day of July 2004, by a majority of a quorum of the Board

ORDERED that the Respondent's license be **SUSPENDED** for a period of **ONE (1) YEAR with all but thirty (30) days stayed**, effective September 1, 2004, until September 30, 2004; and be it further

ORDERED that the Respondent is placed on **PROBATION** for a period of **THREE (3) YEARS** from the date this Order is signed, subject to the following conditions:

1. During the first year of probation, the Respondent shall take and successfully complete a Board-approved law and ethics course in addition to any continuing education courses required for maintaining an active license to practice limited physical therapy in the State of Maryland;
2. During the first year of probation, the Respondent shall take and successfully complete a Board-approved documentation course in addition to any continuing education courses required for maintaining an active license to practice limited physical therapy in the State of Maryland;
3. During the first year of probation, the Respondent shall ensure that the Respondent's supervising physical therapist provide to the Board monthly written reports on a form developed by the Board that will provided to the Respondent;

4. After the first year of probation, the Respondent shall ensure that the Respondent's supervising physical therapist provide to the Board quarterly written reports on a form developed by the Board that will provided to the Respondent;
5. During the entire probationary period, the Respondent shall inform the Board in writing of any and all changes in her employment; and be it further

ORDERED that if the Respondent violates any of the terms or conditions of this Consent Order, including probationary terms or conditions as set forth herein, then the Board, after a determination of violation and notice, and an opportunity for a hearing, may impose any 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 the Respondent shall practice limited physical therapy in accordance with the Maryland Physical Therapy Act; and be it further

ORDERED that at the end of the Respondent's probationary period, the Respondent may petition the Board for release from probation, provided that she 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; and be it further

ORDERED that the Respondent shall be responsible for all costs associated incurred under this Consent Order, and be it 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.* (1999 and Supp.), this document constitutes the Board's Findings of Fact, Conclusions of Law, and Order resulting from formal disciplinary proceedings.

July 20, 2004
Date

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

CONSENT OF CLAUDETTE YERBY, P.T.A.

I, Claudette Yerby, P.T.A., by affixing my signature hereto, acknowledge that:

1. I am entitled to be represented by an attorney in this matter, but have knowingly and willingly chosen to proceed without the assistance of legal counsel.
2. I am aware that without my consent, my license to practice limited physical therapy in this State cannot be limited, except pursuant to the provisions of Md. Health Occ. Code Ann. § 13-317 (2000 and Supp.) and the Maryland Administrative Procedure Act, codified at Md. State Govt. Code Ann. §§ 10-201 *et seq.* (1999 and Supp.).
3. I am aware that I am entitled to a formal evidentiary hearing before the Board.
4. By this Consent Order, I hereby consent and submit to the foregoing Findings of Fact, Conclusions of Law, and Order provided that the Board adopts the foregoing Consent Order in its entirety. 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 as provided by law. I acknowledge

the legal authority and the 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.

5. I voluntarily and without reservation sign this Consent Order after having had an opportunity to consult with an attorney, which I've knowingly and willingly chosen not to do, and I fully understand the language, meaning, and terms of this Consent Order.

July 13, 2004 Claudette Yerby, P.T.A.
Date Claudette Yerby, P.T.A.

STATE OF: Maryland

CITY/COUNTY OF: Baltimore

I HEREBY CERTIFY that on this 13 day of July 2004, before me, a Notary of the State of Maryland and the City/County of Baltimore, personally appeared Claudette Yerby, P.T.A., License No. A01185, 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.

Jeanette C. Robinson
Notary Public

My Commission expires: 12/1/06