

**IN THE MATTER OF
KENDALL B. NEU, P.T.
RESPONDENT
LICENSE NUMBER: 21370**

*** BEFORE THE
* MARYLAND BOARD
* OF PHYSICAL THERAPY
* EXAMINERS
Case Number: 05-BP-078**

* * * * *

FINAL CONSENT ORDER

The Maryland Board of Physical Therapy Examiners ("the Board") charged **Kendall B. Neu, P.T.**("the Respondent"), **License Number: 21370**, 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. and 2004 Supp.) Specifically, the Board charged the Respondent with violating the following:

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:

- (10) Is disciplined by a licensing or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or Veterans Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

FINDINGS OF FACT

The Board finds that:

1. The Respondent was initially licensed to practice physical therapy on or about January 10, 2005.
2. At all time relevant to these charges, the Respondent was also licensed to practice physical therapy in the State of Oregon.
3. On or about November 29, 2004, the Board received the Respondent's application for physical therapist licensure. On his application for licensure, the Respondent answered "yes" to the question "Has your employment by any hospital, HMO, or other health care facility, institution, practice, or military entity, been terminated while under investigation for disciplinary reasons?" (A copy of the Respondent's application for physical therapist licensure is attached hereto and incorporated herein as **EXHIBIT A**).
4. On or about January 3, 2005, the Respondent informed the Board, by letter dated December 30, 2004 that disciplinary action had been taken against his against his physical therapy license in the State of Oregon (A copy of the Respondent's letter dated December 30, 2004, is attached hereto and incorporated herein as **EXHIBIT B**).
5. On or about December 9, 2004, the Physical Therapists Licensing Board of the State of Oregon ("the Oregon Board") issued a Notice of Proposed Disciplinary Action against the Respondent's license alleging that the Respondent failed to contemporaneously prepare and maintain written records of patient evaluations and

treatments, in violation of OAR 848-040-0000 (1)¹ (A copy of the Notice of Proposed Disciplinary Action dated December 9, 2004, *In the Matter Kendall B. Neu, PT License No 2499*, is attached hereto and incorporated herein as **EXHIBIT C**).

6. On or about February 28, 2005, the Respondent entered into a Stipulation and Final Order with the Oregon Board (A copy of the Stipulation and Final Order dated February 28, 2005, is attached hereto and incorporated herein as **EXHIBIT D**).

7. The Respondent stipulated in the Stipulation and Final Order that he failed to contemporaneously prepare and maintain written records of 16 evaluations and approximately 84 treatments involving 43 patients over a four month period.

8. The Respondent further stipulated in the Stipulation and Final Order that his actions as set forth in ¶ 7 constituted a violation of the minimum standards for physical therapy practice and records under OAR 848-040-0000 (1).

9. The Respondent's conduct, as determined by the Oregon Board, constitutes the willful failure to file or record any report as required by law, and constitutes grounds for disciplinary action in the State of Maryland pursuant to H.O. § 13-316 (13).

¹ Minimum Standards for Physical Therapy Practice and Records

848-040-0000 – Standards for Records in General

(1) The physical therapist shall contemporaneously prepare and maintain in a readily accessible form a separate written record for each patient of every physical therapy service evaluation, treatment, test and instructor provided. A physical therapist who receives an oral diagnosis or referral of a patient by a medical provider identified in ORS 688.130 (1)(b) or (c) shall include written documentation of the diagnosis or referral in the written record of that patient. The physical therapist may delegate any and all record preparation and maintenance tasks to a physical therapist assistant, in which case both the physical therapist and the physical therapist assistant shall be responsible for the accuracy and completeness of each of the physical therapist assistant's entries, or lack thereof. Although the physical therapist may delegate record preparation and maintenance tasks to a physical therapist assistant, the physical therapist may not delegate to a physical therapist assistant performance of initial evaluations, development of treatment plans, or reassessments or adjustments to treatment plans.

10. The Respondent's conduct, as determined by the Oregon Board, constitutes an act of unprofessional conduct in the practice of physical therapy, and constitutes grounds for disciplinary action in the State of Maryland pursuant to H.O. § 13-316 (14).

11. The Respondent's conduct, as determined by the Oregon Board, constitutes the failure to meet accepted standards in delivering physical therapy care, and constitutes grounds for disciplinary action in the State of Maryland pursuant to H.O. § 13-316 (25).

12. The Respondent's conduct, as determined by the Oregon Board, constitutes the failure to meet the requirements for documentation and constitutes grounds for disciplinary action in the State of Maryland pursuant to Code Md. Regs. tit. 10, § 38.02-1.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board finds that the Respondent is in violation of Md. Health Occ. Code Ann. §13-316 (10).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 4th day of October 2005, the Board hereby:

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

ORDERED that the Respondent shall be placed on **PROBATION** for a period of **two (2) years**, subject to the following terms and conditions:

1. The Respondent shall take and successfully complete a Board approved ethics course within six (6) months of the date of this Consent Order;
2. The Respondent shall take and successfully complete a Board approved documentation course within six (6) months of the date of this Consent Order;
3. The above courses shall not be credited toward the continuing education requirements for the Respondent's next licensure renewal term;
4. The Respondent shall insure that his physical therapist supervisor submits quarterly reports to the Board;
5. The Board shall randomly select six (6) patient charts for the Board's review on a quarterly basis;

ORDERED that the Respondent shall pay a fine of \$1,000.00 which is discharged by payment of a \$5,000.00 fine to the Physical Therapist Licensing Board of the State of Oregon.

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 if the Respondent violates any of the terms or conditions of this Consent Order, including probationary terms or conditions as set forth herein or any state or federal law governing the practice of physical therapy, 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 be responsible for all costs incurred under this Consent Order; and be it further

ORDERED that for purposes of public disclosure and as permitted by Md. State Govt. Code Ann. § 10-617(h) (2004 Repl. Vol.), 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 or other 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 Govt. Code Ann. §§ 10-611 et seq. (2004 Repl. Vol.).

Oct. 4, 2005
Date


Jill Kuramoto, P.T. Vice Chairperson
Margery Rodgers, P.T., Chairperson
Board of Physical Therapy Examiners

CONSENT OF KENDALL B. NEU, P.T.

I, **Kendall B. Neu, P.T., License Number 21370**, by affixing my signature hereto, acknowledge that:

1. I have consulted with my attorneys, **Howard L. Sollins and Laurence B. Russell**, before signing this document.

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 (2000 Repl. Vol. and 2004 Supp.)** and **Md. State Govt. Code Ann. §§10-201 et seq. (2004 Repl. Vol.)**.

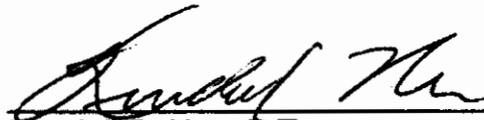
3. I acknowledge the validity of this Consent Order as if entered after a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law.

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 § 13-318 of the Act and **Md. State Govt. Code Ann. §§10-201 et seq. (2004 Rep. Vol.)**.

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.

9-19-05
Date


Kendall B. Neu, P.T.

NOTARY

STATE OF Maryland
CITY/COUNTY OF Harford

I HEREBY CERTIFY THAT on this 19th day of September, 2005, before me, a Notary Public for the State of Maryland and the City/County aforesaid, personally appeared **Kendal B. Neu, P.T., License Number 21370**, and made oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS my hand and Notarial Seal.


Notary Public

My Commission Expires: June 26, 2007