

IN THE MATTER OF * BEFORE THE
 CAROL L. SHELTON, P.T. * MARYLAND STATE BOARD OF
 LICENSE NUMBER: 16300, * PHYSICAL THERAPY EXAMINERS
 RESPONDENT * Case No. 02-BP-023

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

Based on the information received by the Maryland State Board of Physical Therapy Examiners (the "Board") and subject to the Maryland Physical Therapy Act, codified at Md. Health Occ. Code Ann., ("H.O.") §§ 13-101 *et seq.* (2000 Repl. Vol.) ("the Act"), the board charged Carol L. Shelton, P.T., License Number: 16300 (D.O.B. 10/01/64) (the "Respondent"), with violating certain provisions of the Act under Health Occupations § 13-316. 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:

- (16) Violates any provision of this title or rule or regulation adopted by the Board; [or]
- (26) Fails to meet accepted standards in delivering physical therapy or limited physical therapy care.

The regulations that the Board charged the Respondent with violating are Code Md. Regs. tit. 10, § 38.03.02-1A. ("COMAR"), which state:

.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:

(2) For subsequent visits:

(d) Response to treatment [or]

(g) Unusual incident/unusual response.

On July 30, 2002, a Case Resolution Conference was held at the Board's offices to determine whether there existed the possibility of resolving the pending issues without having an evidentiary hearing. Present were Mindy Sacks, Chair of the Board; Linda Bethman, Counsel to the Board; Ann Tyminski, Executive Director of the Board; John Nugent, Administrative Prosecutor; and the Respondent.

FINDINGS OF FACT

The Board finds that:

1. At all times relevant to the charges herein, the Respondent was licensed to practice physical therapy in the State of Maryland, being issued License No. 16300 by the Board on December 15, 1987.
2. At all times relevant to the charges herein, the Respondent was practicing physical therapy at the Greater Baltimore Medical Center ("GBMC") in Towson, Maryland.

Patient A¹

3. Patient A had a history that included diabetes, hypertension, congestive heart failure, hypothyroidism, peripheral vascular disease, and fractures to the left foot and the left arm. In March 2001, Patient A underwent a revascularization

¹ The names of the patients and other individuals identified herein are confidential.

procedure on her lower left leg, but while recovering developed an ulcer on her right foot.

4. On or about June 26, 2001, Patient A was admitted to GBMC due to an infection. Patient A was evaluated by a physician at GBMC who noted that he could not locate a pulse below the right knee, and that there was no cellulitis extending up Patient A's foot.
5. As a result, on or about July 3, 2001, Patient A underwent below the knee bypass surgery at GBMC. Afterwards, Patient A remained significantly anemic. While recovering at GBMC, an initial physician ordered non-weight bearing status on Patient A's right heel and the use of a splint on the right heel while Patient A was in bed. Subsequently, on July 5, 2001, a second physician issued an order, which was noted in Patient A's record stating "physical therapy for transfers to chair only."
6. On or about July 6, 2001, a staff physical therapist at GBMC reviewed Patient A's chart and concluded that the weight bearing status was unclear. As a result, the physical therapist sought further clarification of the orders.
7. In response, later on July 6, 2001, a physician order indicated that a splint was to be used on both of Patient A's feet at all times with "weight bearing left and partial weight bearing right."
8. On or about July 7, 2001, the original staff physical therapist completed an initial evaluation of Patient A. The physical therapist walked Patient A approximately 120 feet and noted that the patient had fair standing and walking balance. Patient A's short term goals for physical therapy were noted

as increase strength, improve balance, improve bed mobility, improve transfers and improve gait to 150 feet with an assistant device.

9. On or about July 8, 2001, the Respondent performed physical therapy on Patient A. During the treatment, the Respondent walked Patient A approximately 250 feet, even though Patient A voiced concern over walking and the initial physical therapy evaluation set a short-term goal of walking at 150 feet.
10. After walking a short distance, Patient A indicated to the Respondent that she had heard a "popping" noise come from her foot. The Respondent visually checked the splint and asked Patient A if she was in any pain. Patient A indicated that she was not in pain, but requested that she be returned to her room. The Respondent did not remove the splint or dressing of Patient A to check her foot. Instead, the Respondent encouraged Patient A to continue.
11. The Respondent then continued to walk Patient A eventually returning Patient A to her room and sitting her in a bedside chair. The Respondent did not document the occurrence in any of Patient A's records, or document a skin integrity check of Patient A's foot. Furthermore, the Respondent did not inform any physicians or nurses of the occurrence.
12. After Patient A arrived back in her room, staff nurses at GBMC noted a large amount of blood on the floor in and around the foot of Patient A, and discovered that Patient A's foot was in fact bleeding. Staff nurses immediately contacted Patient A's physician.
13. While treating another patient on the same floor, the Respondent was confronted by one of the nurses for Patient A. The Respondent stated that she

did not see any blood when she returned Patient A to her room. The Respondent then continued on with her normal caseload. The Respondent never went back to check Patient A, and never documented the July 8, 2001, occurrence relating to Patient A.

14. Patient A suffered a fracture of her right foot and subsequently had a below the knee amputation of her right leg.
15. On or about August 6, 2001, as a result of the incident regarding Patient A, the Respondent resigned in lieu of termination from her position as a physical therapist at GBMC.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated H.O. § 13-316(16) and (26).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 15th day of October, 2002, by a majority of the Board, hereby

ORDERED that the Respondent's license to practice physical therapy in the State of Maryland is **SUSPENDED** for **ONE YEAR** to begin on October 1, 2002; and be it further

ORDERED that all but 120 days of the one year **SUSPENSION** of the Respondent's license be **STAYED**; and be it further

ORDERED that during the unstayed portion of the suspension, the Respondent shall satisfactorily complete a board-approved continuing education course in geriatric physical therapy care, which may be applied to the Respondent's continuing education requirements for licensure renewal; and be it further

ORDERED that failure to satisfactorily complete the continuing education course in geriatric physical therapy care during the unstayed portion of the suspension will result in the Respondent's license remaining suspended until such time that the Respondent completes the course; and be it further

ORDERED that the Respondent shall be on **PROBATION** for a period of **TWO YEARS** to begin immediately following the suspension of 120 days, during which time the Respondent shall:

- (a) Provide the Board with monthly employer evaluations from the Respondent's employer on an employee evaluation form developed by the Board; and be it further

ORDERED that, prior to December 11, 2002, the Respondent comply with the terms of the Board's Consent Order dated December 11, 2001, by providing the board proof that the Respondent has completed the following:

- (a) Enrolled in and successfully completed a Board-approved documentation course; and
Approved 3/4/03
- (b) Submitted a written critical essay with citations to relevant authority to the Board regarding the appropriate protocol for the transfer of a patient from one physical therapist to a second physical therapist. *Approved 3/4/03*

ORDERED that if the Respondent violates any of the terms or conditions of this Consent Order, including probationary terms or conditions set forth herein, then the Board, after determination of violation and notice and an opportunity for a hearing, may impose any other disciplinary sanction it deems appropriate, including suspension or revocation, said violation of probation being proved by a preponderance of the evidence; and be it further

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

ORDERED that once the Respondent has completed her probationary period, the Board shall entertain a petition for termination of Respondent's probationary status and full reinstatement of the Respondent's license to practice physical therapy without any conditions or restrictions as to the scope of practice. If the Board determines that the termination of probation and complete reinstatement would be inappropriate at the time, then the Board may modify one or more conditions 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 be responsible for all costs incurred and/or associated with the implementation of this Consent Order; and be it further

ORDERED that for purposes of public disclosure, as permitted by the Maryland Public Information Act, codified at Md. State Gov't Code Ann., §§ 10-611 *et seq.* this document constitutes the Board's Findings of Fact, Conclusions of Law, and Order resulting from formal disciplinary proceedings.

Oct 15, 2002
Date



Penelope D. Lescher, P.T., Chair
Board of Physical Therapy Examiners

CONSENT OF CAROL SHELTON, P.T.

I, Carol Shelton, P.T., by affixing my signature hereto, acknowledge that:

1. I am aware that without my consent, my license to practice physical therapy in this State cannot be limited, except pursuant to the provisions of Health Occupations § 13-317 and the Maryland Administrative Procedure Act, codified at Md. State Govt Code Ann., §§ 10-201 *et seq.*
2. I am aware that I am entitled to a formal evidentiary hearing before the Board or an Administrative Law Judge.
3. 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.
4. I acknowledge that failing to abide by the conditions set forth in this Order, I may, after an opportunity to be heard, suffer disciplinary action, including revocation of my license to practice physical therapy in the State of Maryland.
5. I voluntarily sign this Consent Order after having had an opportunity to consult an attorney, without reservation, and I fully understand the language, meaning, and terms of this Consent Order.

9-24-02
Date

Carol L. Shelton
Carol Shelton, P.T.

STATE OF MARYLAND

CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 24th day of September, 2002, before me, Notary Public of the State and City/County aforesaid, personally appeared **CAROL SHELTON, P.T.**, License No. 16300 and made oath in due form of law that the foregoing Consent was her voluntary act and deed, and that the statements made herein are true and correct

AS WITNESSETH my hand and notarial seal.

Robert M. Fowles
Notary Public

My commission expires: July 1, 2006