

IN THE MATTER OF	*	BEFORE THE
JONAS S. TAPANGAN, PT	*	MARYLAND STATE
License No. 18854	*	BOARD OF PHYSICAL THERAPY
Respondent	*	EXAMINERS

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

On or about July 20, 2005, the Maryland Board of Physical Therapy Examiners (the "Board") charged JONAS S. TAPANGAN, P.T. (the "Respondent"), License No. 18854 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 Repl. Vol. and 2004 Supp.)

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:

- (4) In the case of an individual who is authorized to practice physical therapy is grossly negligent:
 - * * * *
 - (ii) In the direction of an individual who is authorized to practice limited physical therapy;
- (11) Practices physical therapy or limited physical therapy with an unauthorized person or supervises or aids an unauthorized person in the practice of physical therapy or limited physical therapy; [and]

- (15) Violates any provision of this title or rule or regulation adopted by the Board.

The Board charged the Respondent with violating the following regulations:

Code Md. Regs. ("COMAR") tit. 10 § 38.03.02, "Standards of Practice."

A. Physical Therapists.

(2) The physical therapist shall:

- * * * *
- (k) Provide direction and instruction for the physical therapist assistant that is adequate to ensure the safety and welfare of the patient; and
 - (l) Document ongoing communication with the physical therapist assistant regarding changes in patient's status, treatment plan, or both.

BACKGROUND

On Tuesday October 25, 2005, the Respondent appeared before the Case Resolution Conference Committee (the "CRC") of the Board. As a result of the negotiations that occurred at the CRC, the Respondent agreed to enter into this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law and Order, with the terms and conditions set forth below.

FINDINGS OF FACT

The Board finds the following:

1. At all times relevant to the charges herein, the Respondent was licensed to practice physical therapy in the State of Maryland. The Respondent was first licensed on August 19, 1997, and currently possesses License Number 18854.

2. On January 15, 2002, the Board issued a Final Order based on formal charges issued against the Respondent on April 17, 2001. The Order adopted the Findings of Facts made by a committee of the Board in a Proposed Decision dated October 22, 2001. As a result, the full Board found that the Respondent failed to conduct any joint on-site visits with a physical therapy assistant rendering treatment to one of his patients over a period of eighteen visits spanning three months, even though the Board's regulations required a joint on-site visit once every ten visits or every 60 calendar days, whichever came first. The Board opined that "[t]he absence of any documentation with respect to on-site visits or a discharge summary demonstrates that the Respondent was not in communication with the physical therapist [assistant] regarding [the patient's] treatment and thus was not updated on [the patient's] condition."
3. Pursuant to the January 15, 2002 Order, the Respondent's license to practice physical therapy was reprimanded and the Respondent was placed on probation for a period of one year subject to the condition that he take and pass the physical therapy law course and examination. The Order required the Respondent to file a petition for termination of his probationary status. The Respondent failed to file a petition to terminate his probationary status, and is currently under an Order of Probation.
4. At all times relevant to the charges herein, the Respondent was practicing physical therapy at Rehab Dynamics located at Hospital A¹ in Baltimore, Maryland. The

¹ The names of the hospital, nursing home, and physical therapist assistant identified herein are confidential.

Respondent was also employed on a part time basis with a professional staffing agency, and was assigned to Nursing Home A in Baltimore, Maryland.

5. The Respondent was assigned to the Rehab Department at Nursing Home A in Baltimore, Maryland to provide physical therapy pursuant to a contract between the nursing home and the staffing agency that employed the Respondent. While at Nursing Home A, the Respondent was the supervising physical therapist for Physical Therapist Assistant A, who was also an employee of the staffing agency.
6. The physical therapy assistant ("PTA") license of Physical Therapist Assistant A expired on May 31, 2004. Physical therapist assistant A did not have the necessary continuing education credits to renew her license. Despite this, Physical Therapist Assistant A continued to treat patients at Nursing Home A while her license was expired. Specifically, between June 28, 2004, and July 14, 2004, Physical Therapist Assistant A treated sixteen (16) patients at Nursing Home A.
7. On or about September 14, 2004, the Board's investigator interviewed Physical Therapist Assistant A. Physical Therapist Assistant A admitted that her PTA license expired on May 31, 2004, and that she treated patients after that date.
8. During the interview with the Board's investigator on September 14, 2004, Physical Therapist Assistant A indicated that there was little contact between her and the Respondent. In fact, she indicated that notes regarding patients at Nursing Home A were written by the Rehab Director at Nursing Home A, and not Physical Therapist Assistant A.

9. The Board's investigator interviewed the Rehab Director at Nursing Home A, on August 12, 2004. The Rehab Director informed the Board's investigator that the Respondent visited patients at Nursing Home A only in the evenings and was never present when Physical Therapist Assistant A was at Nursing Home A.
10. As part of its investigation, the Board's investigator interviewed the Respondent, who was duly sworn, on December 15, 2004.
11. During the interview, the Respondent indicated that he never spoke with Physical Therapist Assistant A, and he only went to Nursing Home A in the evenings after 5:00 p.m. He admitted, however, that he was aware that Physical Therapist Assistant A was treating his patients. The Respondent further admitted to having failed to write daily treatment notes regarding patients at Nursing Home A. The Respondent claimed that for certain Medicare patients the policy was to write weekly notes.
12. The Board subpoenaed the patient treatment records of the sixteen (16) patients treated at Nursing Home A after May 31, 2004, and referred the records to a Board-appointed expert. The Board-appointed expert reviewed the records and concluded that there was little communication between the Respondent and Physical Therapist Assistant A regarding the patients' care. The expert further concluded that the records failed to show daily notes or flow sheets and the initial evaluations done by the Respondent showed little objective measurements to justify medical necessity of physical therapy at the documented rate.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated Md. Health Occ. Code Ann. § 13-316(4), (11), and (15).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 15th day of November 2005, by a majority of the Board considering this case:

ORDERED that the Respondent's license to practice physical therapy shall be **SUSPENDED** for a **PERIOD OF SIX (6) MONTHS**, effective **January 1, 2006**; and be it further

ORDERED that the suspension shall be **STAYED**, effective **January 31, 2006**; and be it further

ORDERED that the Respondent shall be placed on **PROBATION** for a **PERIOD OF TWO (2) YEARS**, to commence from the date that his license is reinstated, subject to the following terms and conditions:

1. The Respondent shall enroll in and successfully complete the Maryland Physical Therapy Law Course scheduled for November 29, 2005.
2. The Respondent shall submit monthly self-reports to the Board detailing staff assignments and responsibilities, particularly with respect to the Respondent's supervision of physical therapy assistants and documentation of daily treatment notes and discharge summaries.
3. The Respondent shall submit the treatment records of six (6) patients within the first sixty (60) days of the probationary period to be reviewed by the Board and an additional six (6) patients on a quarterly basis thereafter until such time that the Board determines that the Respondent's documentation meets the requirements of the Maryland Physical Therapy Act.

ORDERED the above course shall be in addition to any Continuing Education

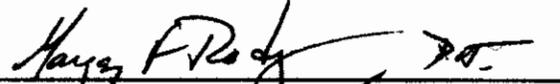
requirements mandated for continuing licensure, and the Continuing Education shall not count toward fulfilling other continuing education requirements that the Respondent must fulfill in order to renew his license to practice physical therapy; and be it further

ORDERED after the conclusion of the entire **TWO (2) YEAR** period of **PROBATION**, the Respondent may file a written petition for termination of his probationary status without further conditions or restrictions, but only if the Respondent has satisfactorily complied with all conditions of this Consent Order, including all terms and conditions of probation, and including the expiration of the two year period of probation, and if there are no pending complaints regarding the Respondent before the Board; and be it further

ORDERED that should the Respondent violate any of the terms or conditions of this Consent Order, the Board, after notice, opportunity for a hearing and determination of violation, may impose any other disciplinary sanctions it deems appropriate, including suspension or revocation, said violation being proven by a preponderance of the evidence; and be it further.

ORDERED that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and be it further

ORDERED that this Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. §§ 10-611 et seq. (2004 Repl. Vol.).


Margery Rogers, R.T., Chair
State Board of Physical Therapy Examiners

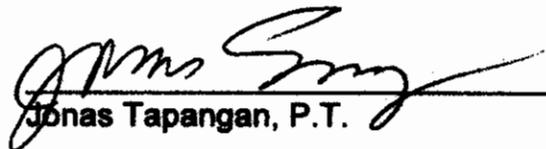
CONSENT OF JONAS TAPANGAN, P.T.

I, Jonas Tapangan, P.T., acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I admit to the Findings of Fact and Conclusions of Law as set forth above, and agree and accept to be bound by the foregoing Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

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, 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 jurisdiction of the Board to initiate these proceedings and to issue and enforce the Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order after having had an opportunity to consult with counsel, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

11/10/05
Date


Jonas Tapangan, P.T.

STATE OF MARYLAND

CITY/COUNTY OF BALTIMORE :

I HEREBY CERTIFY that on this 10th day of November, 2005, before me, Jonas Tapangan, a Notary Public of the foregoing State and (City/County),
(Print Name)
personally appeared Jonas Tapangan, P.T., License Number 18854, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.


Notary Public

My Commission Expires: June 22, 2009

CHRISTINA M VECCHIONI
Notary Public-Maryland
Baltimore County
My Commission Expires
June 22, 2009