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| **IN THE MATTER OF** | * | **BEFORE THE** |
| **ARNE DELOS REYES, P.T.** | * | **MARYLAND BOARD OF** |
| **Respondent** | * | **PHYSICAL THERAPY** |
| | * | **EXAMINERS** |
| **License Number: 22846** | * | **Case Numbers: PT 10-13**<br>**PT 10-15** |

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## ORDER FOR SUMMARY SUSPENSION OF LICENSE TO PRACTICE PHYSICAL THERAPY

The Maryland Board of Physical Therapy Examiners (the "Board") hereby **SUMMARILY SUSPENDS** the license of ARNE DELOS REYES, P.T. (the "Respondent") (D.O.B. 06/14/1978), License Number 22846, to practice physical therapy in the State of Maryland. The Board takes such action pursuant to its authority under Md. State Gov't Code Ann. § 10-226(c)(2009 Repl. Vol.) concluding that the public health, safety or welfare imperatively requires emergency action.

## INVESTIGATIVE FINDINGS

Based on information received by, and made known to the Board, and the investigatory information obtained by, received by and made known to and available to the Board, including the instances described below, the Board has reason to believe that the following facts are true:[1]

[1] The statements regarding the Respondent's conduct are intended to provide the Respondent with notice of the basis of the suspension. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

## I. Maryland Licensure

1. On or about February 5, 2007, the Respondent submitted to the Board an "Application for Physical Therapist Licensure" ("Application"). The Respondent did not provide a Social Security number on the Application, noting "None" in the space on the Application requesting the number.

2. By letter dated December 20, 2007, the Board notified the Respondent that although he had met the educational and examination requirements for state licensure as a physical therapist, the Board would not issue a license to him until the Respondent provided the Board with a valid Social Security Number or other federally issued number.

3. On February 27, 2009, the Respondent provided to the Board an Individual Taxpayer Number, issued by the federal Internal Revenue Service.

4. On February 27, 2009, the Board issued to the Respondent a license to practice physical therapy in Maryland. The expiration date of the Respondent's license is May 31, 2010.

## II. Virginia Licensure

5. On or about February 19, 2008, the Respondent submitted to the Virginia Board of Physical Therapy ("Virginia Board") an Application for Licensure by Examination to Practice Physical Therapy in the Commonwealth of Virginia ("Virginia Application").

6. On August 22, 2008, a Special Conference Committee of the Virginia Board convened to review the Respondent's Virginia Application and to consider whether he met the requirements for licensure.

7. On September 9, 2008, the Virginia Board issued an Order regarding the Respondent's Virginia Application ("Virginia Order").

8. The Virginia Order reads in pertinent part:

> [The Respondent] violated §§ 54.1-3480(3) and 54.1-3483(4), (7) and (10) of the Code in that during the course of employment as a trainee/assistant at Loudon Physical Therapy, Leesburg, Virginia, on May 30, 2008, he touched a patient in an inappropriate sexual manner.[2] As a result, he was terminated from his employment.

9. The Virginia Order further stated that the Respondent "is undergoing individual psychotherapy and is committed to continuing his therapy....[The Respondent] expressed deep remorse for his actions and stated that he is committed to respecting boundary issues."

10. In the Order, the Virginia Board concluded that the Respondent met the requirements for licensure. The Virginia Board granted the Respondent a license subject to terms and conditions that include, but are not limited to, the following:

- The Respondent was placed on probation for 3 years;
- The Respondent was required to remain under the care of his counselor;
- The Respondent was required to, "inform his current physical therapy employer and each future physical

[2] This patient is designated as "Patient C" below.

therapy employer that the Board has placed him on probation and shall provide each employer with a complete copy of [the Virginia] Order."

11. On December 12, 2008, the Virginia Board issued to the Respondent a probationary license.[3]

## III. Current Investigative Findings

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12. On May 15, 2009, the Respondent was hired as a Physical Therapist by Schrier Physical Therapy, Inc., ("Schrier PT"). Schrier PT has offices located in Rockville and Gaithersburg, Maryland.

### A. Patient A[4]

13. On September 18, 2009, the Board was notified by the Montgomery County Police Department ("MCPD") that the Respondent had inappropriately touched a female patient, Patient A, during the course of treatment.

14. Thereafter, the Board obtained information from MCPD regarding the police investigation.

15. According to the Application for Statement of Charges filed by MCPD regarding this incident, on September 16, 2009 at approximately 11:45 a.m., Patient A accompanied her elderly mother-in-law to Schrier PT for the latter's physical therapy appointment with the Respondent. This was

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[3] At the time the Virginia Board licensed the Respondent, the Board did not report disciplinary actions to the Federation of State Physical Therapy Boards ("FSPTB").

[4] Patient names are confidential. The Respondent may obtain the names from the Administrative Prosecutor.

the mother-in-law's second appointment with the Respondent. The Respondent engaged Patient A in conversation during which Patient A told the Respondent that she had been having lower back pain. The Respondent told Patient A that he would be happy to treat her for free. The Respondent summoned another PT to take Patient A's mother-in-law to a different room for treatment. The Respondent then closed the treatment room door and began treating Patient A.

16. During the course of treating Patient A, the Respondent massaged her near her genital area and slid his hand under the elastic of her underwear, placing his hand on top of her vagina. The Respondent then instructed Patient A to remove her underwear and used his hands to lift up the sides of her underwear to view her vagina.

17. Patient A did not consent to the Respondent's touching.

18. Based upon Patient A's subsequent complaint to the police, MCPD obtained an arrest warrant charging the Respondent with second degree assault and a fourth degree sex offense. (Criminal Case 3D00239620). The Respondent was arrested and MCPD issued a media release regarding the incident.

19. The Respondent's criminal trial in this case is scheduled for November 16, 2009 in the District Court for Montgomery County.

**Patient B**

20. On October 5, 2009, Patient B contacted MCPD after seeing the television report of the Respondent's arrest. The news story reported the

Respondent's name and showed his photograph, which Patient B immediately recognized.

21. Patient B reported to MCPD that, in early 2009, she had sought physical therapy treatment for running injuries. She was treated at the Schrier PT office in Gaithersburg, Maryland.

22. From June 2, 2009 until August 24, 2009, the Respondent treated Patient B on 15 occasions. Patient B's appointments were typically scheduled at 7:30 a.m.; very few people were in the office due to the early hour.

23. The Respondent requested Patient B to wear shorts during her appointments. On approximately 5 occasions, the Respondent slid his hands under Patient B's shorts and underwear and massaged her buttocks. The Respondent concealed his actions by covering the area he was massaging with a towel.

24. On 1 occasion, the Respondent massaged Patient B's front in the area between her thighs and hip joint. The Respondent slid his hands under Patient B's underwear, ultimately making direct contact with her vagina. The Respondent concealed his actions by covering the area with a towel.

25. Patient B did not consent to the Respondent touching her in this manner.

26. On October 14, 2009, the District Court of Montgomery County issued a warrant to arrest the Respondent based on Patient B's complaint. (Criminal Case 6D00240036).

27. The Respondent's criminal trial in this case is scheduled for December 8, 2009 in the District Court for Montgomery County.

**Patient C**

28. In furtherance of the Board's investigation, the Board obtained from the Leesburg Virginia police the incident report regarding the Respondent's inappropriate touching of a patient that had resulted in the Virginia Order.

29. The police report stated that on May 30, 2008 at approximately 12:00 p.m., Patient C had presented to Louden Physical Therapy for treatment of a back problem.

30. The Respondent led Patient C into a room for the purpose of obtaining an x-ray of Patient C's back. The Respondent instructed Patient C to lie on the x-ray table. When Patient C complied, the Respondent took his hand and put it down Patient C's underwear and inserted his fingers into Patient C's vagina. The Respondent inserted his fingers in Patient C's vagina multiple times and then licked the fingers. The Respondent then took Patient C's hand and placed it on his erect penis and said "do you want some of this."

31. Patient C further reported to police that later on the day of the incident, a man fitting the Respondent's description had stopped by her home on several occasions to see if she was there and that he had left messages on her home telephone to call him.

32. On June 3, 2008, Leesburg police recorded a telephone conversation between the Respondent and Patient C with Patient C's consent. During the conversation, the Respondent acknowledged that he had inserted his finger in Patient C's vagina and had put her hand on his penis. The

Respondent told Patient C that he had been carried away by emotion and thought she had been as well.

33. On June 3, 2008, Leesburg police interviewed the Respondent. The Respondent initially admitted that he had inserted his finger inside Patient C's vagina, but later stated that he was not sure whether he had. The Respondent further admitted that he had placed Patient C's hand on his erect penis. The Respondent stated that he thought Patient C "was cool with it." The Respondent further stated that his actions were wrong because both he and Patient C were married and because of his role as her physical therapist. [5]

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34. On October 19, 2009, the Board received a written complaint from the owner of Schrier PT that the Respondent had failed to provide him with a copy of the Virginia Order when he was employed by Schrier PT as the Respondent had been required to do pursuant to the Virginia Order.

35. The Respondent's failure to provide to his employer a copy of the Virginia Order thwarted the employer's ability to make an informed decision whether the Respondent was qualified to safely render physical therapy to female patients.

## STATEMENT IN SUPPORT OF SUMMARY SUSPENSION

Based on the foregoing facts, the Board has reason to determine that there is a substantial likelihood of a risk of serious harm to the public health, safety, or welfare by the Respondent. The Respondent engaged in a pattern of

[5] The Assistant Commonwealth Attorney declined to prosecute the case.

inappropriate sexual contact with female patients in a therapeutic setting. The Respondent violated his fiduciary responsibility to the patients, placing them in vulnerable and exposed positions and exploiting them for his personal gratification. The Respondent's conduct constitutes actual harm to public health, safety or welfare and undermines the integrity and dignity of the physical therapy profession.

In addition, the Respondent's conduct as set forth above constitutes, in whole or in part, violation of the following provisions of the Physical Therapy Act and the Board's regulations:

**H.O. § 13-316. Denials, reprimands, probations, suspensions and revocations – Grounds**

> Subject to the hearing provisions of § 13-317 of this subtitle, the Board may deny a license...to any applicant, reprimand any licensee...place any licensee...on probation, or suspend or revoke a license...if the licensee...:
>
> (10) Is disciplined by a licensing or disciplinary authority of any state of 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 Veteran's Administration for an Act that would be grounds for disciplinary action under the Board's disciplinary statutes;
>
> (15) Violates any provision of this title or rule or regulation adopted by the Board;
>
> (19) Commits an act of unprofessional conduct in the practice of
> physical therapy or limited physical therapy.

The Respondent violated the following provisions of the Board's regulations:

**Code Md. Regs. tit. 10, § 38.02.01 – Code of Ethics**

G. The physical therapist and the physical therapist assistant shall comply with the probationary conditions of a Board order.

H. A licensee shall notify the Board witting 60 days if any license, certificate, permit or registration granted by another state for the practice of physical therapy or limited physical therapy has been limited, restricted, suspended, revoked, or subjected to other disciplinary action by the licensing or certifying authority.

**Code Md. Regs. tit. 10, § 38.02.02 – Sexual Misconduct**

A . A physical therapist or physical therapist assistant may not engage in sexual misconduct.

B. Sexual misconduct includes, but is not limited to:

(1) Sexual behavior with a client or patient in the context of a professional evaluation, treatment, procedure or service to the client or patient regardless of the setting in which the professional service is rendered;

(2) Sexual behavior with a client or patient under the pretext of diagnostic or therapeutic intent or benefit;

...

(5) Therapeutically inappropriate or intentional touching of a sensual nature[.]

## CONCLUSION OF LAW

Based on the foregoing facts, the Board concludes that the public health, safety or welfare imperatively requires emergency action in this case, pursuant to Md. State Gov't Code Ann. § 10-226(c)(2)(i) (2009 Repl. Vol.).

## ORDER

Based on the foregoing, it is this 4th day of November, 2009, by a majority of the Board:

**ORDERED** that pursuant to the authority vested by Md. State Gov't Code Ann., § 10-226(c)(2), the Respondent's license to practice physical therapy be and hereby is **SUMMARILY SUSPENDED**; and it is further

**ORDERED** that on presentation of this Order, the Respondent **SHALL SURRENDER** to the Board's Investigator his original Maryland license number 22846, and current renewal cerificate; and it is further

**ORDERED** that this is a Final Order of the Board and, as such, is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. §§ 10-611 *et seq.*

November 4, 2008
Date

Ann E. Tyminski
Ann E. Tyminski, Executive Director
for
Margery Rodgers, P.T.
Chair
Board of Physical Therapy Examiners