

**IN THE MATTER OF** \* **BEFORE THE MARYLAND BOARD**  
**FREDERICK CUDLIPP, P.T.** \* **OF PHYSICAL THERAPY**  
**License No.:15319** \* **EXAMINERS**  
**Respondent** \* **Case No.: 05-10**

\* \* \* \* \*  
**FINAL ORDER**

Based on information received, the Maryland Board of Physical Therapy Examiners (the "Board") notified Frederick Cudlipp, P.T., of the Board's intent to revoke his license under the Maryland Physical Therapy Act (the "Act"), Md. Health Code Ann. ("H.O.") § 13-101 *et seq.* (2000 & 2004 Supp.).

The pertinent provisions of H.O. § 13-316 provide as follows:

Subject to the hearing provisions of § 13-317 of this subtitle, the Board may deny a license, temporary license, or restricted license to any Respondent, 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 Respondent, 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;
- (12) Willfully makes or files a false report or record in the practice of physical therapy or limited physical therapy;
- (13) Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;
- (14) Submits a false statement to collect a fee;
- (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;
- (20) Grossly overutilizes health care services;
- (24) Willfully and without legal justification fails to cooperate with the lawful investigation conducted by the Board; and
- (25) Fails to meet accepted standards in delivering physical therapy or limited physical therapy care.

The Board further noted the Respondent's violations of Code of Maryland Regulations ("Code Md. Regs.") tit. 10, § 38.02.01- Code of Ethics:

J. The physical therapist or physical therapist assistant may not knowingly or willfully destroy, damage, alter, obliterate, or otherwise obscure a medical record or billing record or other information about a patient in an effort to conceal the information from use as evidence in an administrative, civil or criminal proceeding.

L. The physical therapist or physical therapist assistant may not hinder, prevent, or otherwise delay any person from making information available to the Board in furtherance of any investigation of the Board.

The Board further noted the Respondent's violation of the Code of Maryland Regulations (Code Md. Regs.) tit. 10, § 38.02.02 – Sexual Misconduct:

- A. A physical therapist ...may not engage in sexual misconduct.
- B. Sexual misconduct includes, but is not limited to:
  - (3) Solicitation of a sexual relationship, whether consensual or non-consensual with a patient;
  - (10) Sexual harassment of staff or students;
  - (11) An unnecessary sensual act or comment[.]

The Board further noted the Respondent's violations of Code Md. Regs.

tit. 10, § 38.03.02A Standards of Practice:

- (2) The physical therapist shall:
  - (a) Exercise sound professional judgment in the use of evaluation and treatment procedures;
  - (e) Evaluate the patient and develop a plan of care before the patient is treated;
  - (g) Reevaluate the patient as the patient's condition requires but at least every 30 days, unless the physical therapist, consistent with accepted standards of physical therapy case, documents in the treatment record an appropriate rationale for not reevaluating the patient; and
  - (k) Provide direction and instruction for the physical therapy assistant that is adequate to ensure the safety and welfare of the patient[.]

The Board also noted the Respondent's violations of the Code Md. Regs.

tit. 10, § 38.03.02-1 Requirements for Documentation:

A. The physical therapist shall document legibly the patient's chart each time the patient is seen for:

- (1) The initial visit, by including the following information:
  - (a) Date;
  - (b) Condition or diagnosis, or both, for which physical therapy is being rendered;
  - (c) Onset;
  - (d) History, if not previously recorded;
  - (e) Evaluation and results of tests (measurable and objective data);
  - (f) Interpretation;
  - (g) Goals;
  - (h) Modalities, or procedures, or both, used during the initial visit and the parameters involved including the areas of the body treated;
  - (i) Plan of care including suggested modalities, or procedures, number of visits per week, and number of weeks and

- (j) Signature, title (PT), and license number.
- (2) Subsequent visits, by including the following information (progress notes):
- (a) Date;
  - (b) Cancellations, no-shows;
  - (c) Subjective response to previous treatment;
  - (d) Modalities, or procedures or both, with any changes in the parameters involved and areas of body treated;
  - (e) Objective functional status;
  - (f) Response to current treatment;
  - (g) Continuation of or changes in plan of care; and
  - (h) Signature, title (PT), and license number, although the flow chart may be initialed.
- (3) Reevaluation, by including the following information in the report, which may be in combination with visit note, if treated during the same visit:
- (a) Date;
  - (b) Number of treatments;
  - (c) Reevaluation, tests, and measurements of areas of the body treated;
  - (d) Changes from previous objective findings;
  - (e) Interpretation of results;
  - (f) Goals met or not met and reasons;
  - (g) Updated goals;
  - (h) Plan of care including recommendations for follow-up; and
  - (i) Signature, title (PT), and license number;
- (4) Discharge, by including the following information in the discharge summary, which may be combined with the final visit note, if seen by the physical therapist on the final visit and written by the physical therapist:
- (a) Date;
  - (b) Reason for discharge;
  - (c) Objective functional status;
  - (d) Recommendations for follow-up; and
  - (i) Signature, title (PT), and license number.

The Board informed the Respondent that this Final Order would be executed **THIRTY (30) DAYS** from the Respondent's receipt of the Board's Notice, unless the Respondent requested a hearing. The Board further informed the Respondent that pursuant to H.O. § 13-308(c), a licensee is required to give the Board immediate written notice of any change of address. Md. State Gov't Code Ann. § 10-209(c) (2004) provides that a person holding a license shall be deemed to have had a reasonable opportunity to know of the fact of service if: (1) the person is required by law to notify the agency of a change of address within a specified period of time; (2) the person failed to notify the agency in accordance with the law; (3) the agency or the Office mailed the notice to the address of record; and (4) the agency did not have actual notice of the change of address prior to service.

The Respondent received the Board's Notice of Intent to Revoke License on October 5, 2005; OR the Board provided the Respondent with sufficient notice on October 5, 2005. In order for the Board not to execute this Final Order, a written request for a hearing had to be received from the Respondent on or before November 5, 2005. The Respondent failed to request a hearing on or before this date.

#### **FINDINGS OF FACT**

The Board makes the following Findings of Fact:

1. At all times relevant to the action, the Respondent was licensed to practice physical therapy in the State of Maryland. The Respondent was originally licensed on August 31, 1982. Until December 16, 2004, the Respondent

owned Associated Therapy Specialists, Inc., located at 4014 Mountvale Road, Jefferson, Maryland.

2. On or about August 9, 2004, the Maryland Insurance Fraud Division received a telephonic complaint from an individual who reported that her 18 year old daughter had been employed by the Respondent and that the daughter had knowledge that the Respondent routinely up-coded patient bills and charged for the 4 most expensive treatments, no matter what actual services were provided by the Respondent or physical therapists employed by him.
3. Thereafter, the complaint was referred to the Board for investigation. The results of the Board investigation are set forth below.

I. **NON-PATIENT SPECIFIC ALLEGATIONS**

a. **Creation of false patient notes**

4. The Respondent employed high school students who were participating in a work-study program ("employees") to create false patient treatment notes. The Respondent also hired adults for this purpose.
5. After he or the physical therapists ("PTs") or physical therapist assistant ("PTA") employed in the Respondent's practice treated patients, the Respondent provided the employees with the patient files to which he attached fee sheets/billing slips. The patient files did not contain evaluation or treatment notes for the visit being billed. Instead, the Respondent circled various treatments and modalities on the fee sheets, regardless of what services were actually provided to the patient. The

Respondent typically circled: 97110- therapeutic exercises; 97112- neuromuscular reeducation and 97140- manual therapy. All of these treatments require direct (one-on-one) patient contact, most for a minimum of 15 minutes, and are billed at a higher rate than other treatments and modalities.

6. The Respondent instructed the employees to use a computer program to select randomly from among several options of treatment-related language he had created and then insert the language in objective, assessment and/or treatment sections of the treatment note. The employees, who were neither PTs nor PTAs, were not present as the Respondent or his PT staff were treating patients and had no personal knowledge of the treatment provided.
7. In furtherance of the Board's investigation, a review of several patient charts was conducted. In each instance, the reviewer found *inter alia* that charges were unsupported by the documentation. See Section II for details regarding the review.
8. PTs and PTAs employed by the Respondent wrote evaluations, re-evaluations and treatment notes contemporaneously with treating patients and submitted billing sheets corresponding to the treatment they provided to the Respondent. The Respondent did not include the notes in the

patients' charts and often changed the billing sheet to reflect the CPT codes noted above, regardless of the service provided.<sup>1</sup>

**b. Unprofessional Conduct**

9. The Respondent engaged in a sexual relationship with a female patient ("Patient A"). He provided her housing and paid her living expenses, wrote off expenses for their personal activities against his business and gave her a percentage of the ownership of the business. In addition, he frequently provided physical therapy to Patient A's son but failed to document that treatment.
10. On several occasions, the Respondent was observed to place heating pads on patients and then leave the patients unattended by professional staff for lengthy periods of time while he left the office, often to visit Patient A.
11. The Respondent told the high school students and other temporary staff that they were contractual employees. The Respondent often paid these individuals "under the table" either in cash or by personal check. Several of the employees were informed by their tax preparers that they were not contractual employees because the Respondent controlled their work schedules. The Respondent failed to withhold from the employees' earnings required federal, state and social security taxes.
12. The Respondent was observed to inappropriately touch one of the female high school students he employed. The student acknowledged that the

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<sup>1</sup> The PTs and PTAs employed by the Respondent knew or should reasonably have known that the Respondent was altering their billing statements and submitted the false statements for a fee. The Board has separately charged these individuals.

Respondent gave her money in addition to her salary, gifts and "bonuses," all of which were not provided to other employees.

13. On or about December 16, 2004, the Respondent's practice was bought by a PT and his wife ("Owner 1" and "Owner 2," respectively, or "Owners"). Under the terms of the sale agreement, the Respondent was to be retained by the practice for 90 days following the sale.
14. One Sunday morning shortly after the sale of the Respondent's practice, the Owners entered the practice and discovered employees engaged in creating treatment notes for patient charts on the office computers. The owners reviewed several patient charts and found that they did not contain notes of evaluations, re-evaluations or treatment. The employees explained to the Owners the Respondent's procedure for creating false treatment notes.
15. In the desk formerly used by the Respondent the Owners also found a completed U.S. Postal Service change of address form dated November 12, 2004 that changed the address of the Owners' other PT practice to a post office box which the U.S. Postal Service confirmed was rented by the Respondent. The signature on the change of address form purported to be that of Owner 1; however, he denied signing the change of address form or authorizing anyone else to do so.
16. The Owners also found in the Respondent's former desk a second U.S. Postal Service change of address form which changed the Owners' home

address to the address of one of the Respondent's female employees.<sup>2</sup> As before, the signature on the change of address form purported to be that of Owner 1, but he denied signing it or authorizing anyone else to do so.

17. The Owners also found in the Respondent's former desk a copy of a letter addressed to the Board and purportedly signed by Owner 1 that changed the Owners' home address to a false address. The Board received the letter by facsimile transmission. The telephone number from which the letter was transmitted is the Respondent's office fax number. Owner 1 denied that he had requested the address change or had authorized anyone else to do so.
18. In a locked office that the Respondent had prohibited employees from entering, the Owners found volumes of unopened mail, bills, patient treatment notes, pornographic magazines, bottles of alcohol and debris.
19. After finding the items described in ¶18, the Owners were advised to lock out the Respondent on the advice of their attorney after conferring with the Federal Bureau of Investigations ("FBI").
20. Under the terms of the sale of the Respondent's practice to the Owners, the Respondent was to receive the first \$40,000 of accounts receivable. The Board investigator was later notified by the FBI that the Respondent had inflated the amount of accounts receivable when selling the practice. This is an illegal sales practice under Federal law. The FBI also informed

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<sup>2</sup> When interviewed by the Board investigator, the female employee denied any knowledge of the address change. Correspondence found in the Respondent's office, however, strongly indicated the existence of a personal relationship between the employee and the Respondent.

the Board investigator that they had recovered evidence that the Respondent had altered the Accounts Receivable reports provided by the billing company he had employed.

**c. Failure to Cooperate with a Lawful Investigation Conducted by the Board**

**i. Failure to Produce Subpoenaed Patient Records**

21. On October 28, 2004, in furtherance of the Board's investigation, the Board investigator personally presented to the Respondent a subpoena for the immediate delivery of 10 patient charts and billing records.
22. While awaiting delivery of the charts, the investigator observed several patient charts attached to which were incomplete fee sheets. The investigator questioned one of the high school students then employed in the office about the fee sheets. The student confirmed that she and the other employees were waiting for the Respondent to take the files home over the week-end to complete the fee sheets. The student also told the investigator that the employees created the false patient records on the computers in the office after the Respondent completed the fee sheets.<sup>3</sup>
23. On October 28, 2004, the Respondent produced to the Board investigator 10 patient charts in response to the Board's subpoena. None of the charts contained any notes of evaluations, re-evaluations or treatment provided to the patient. The only document in each chart was the fee sheet prepared by the Respondent or fee sheets prepared by PT or PTA staff which had been altered by the Respondent.

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<sup>3</sup> The FBI confiscated the computers and the Respondent's personal office computer during the course of its investigation of the Respondent.

24. On November 15, 2004, the Board issued to the Respondent by certified mail a subpoena in which he was directed to produce within 5 days the treatment notes corresponding to the 10 patient charts the Respondent had produced in response to the Board's first subpoena. The Respondent received the second subpoena on November 24, 2004.
25. The Respondent failed to produce the treatment notes as directed by the November 15, 2004 subpoena.
26. On December 1, 2004, the Respondent personally delivered to the Board investigator documents that he represented were the treatment notes. The investigator observed that the notes appeared to be freshly printed.
27. Thereafter, the investigator interviewed 2 employees who had been working for the Respondent after the Board issued the October 28, 2004 subpoena. The employees told the investigator that after the investigator's initial October 28, 2004 visit, the Respondent had instructed them to create initial evaluations and treatment notes for the 10 patients whose charts had been subpoenaed. The employees confirmed that they used the computer program created by the Respondent to produce the treatment notes. The employees did not create the re-evaluations that also appeared in the charts produced to the investigator and believed that the Respondent had created them after they completed the treatment notes.

## **II. Failure to Produce Patient A's Chart**

28. On November 3, 2004, the Board issued to the Respondent a subpoena for Patient A's<sup>4</sup> PT treatment and employment records. By undated letter received by the Board on December 2, 2004, the Respondent notified the Board that "there has never been an individual with this or any similar name who meets the description of being both an employee of this practice and a patient, either simultaneously or at different times."
29. Thereafter, the Board investigator obtained from the Owners the Respondent's chart maintained for Patient A, consisting of 9 volumes of records.

**iii. Failure to Produce Dates of Employment of Certain Staff**

30. On March 15, 2005, the Board issued to the Respondent by certified mail a subpoena directing him to produce the dates that 1 PTA and 2 PTs were employed by the Respondent. The Respondent claimed the subpoena on March 17, 2005.
31. The Respondent failed to comply or respond to the Board's subpoena.

**iv. Failure to Produce Patient Schedule Book**

32. On November 2, 2004, the Board issued to the Respondent a subpoena directing him to produce the patient scheduling book. The investigator had observed this book during one of his visits to the Respondent's office.
33. By undated letter received by the Board on December 2, 2004, the Respondent informed the Board that he was unable to comply with the subpoena "because some of those documents disappeared from the office

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<sup>4</sup> The names of the patients and other individuals discussed herein are confidential. The Respondent may obtain the names from the Administrative Prosecutor.

overnight." The Respondent further stated that an unknown, "disgruntled former employee" must have entered the practice, perhaps with a key, and stolen the book.

34. Thereafter, the Owners provided to the investigator from the Respondent's office the patient scheduling book that the Board had subpoenaed.
35. According to the scheduling book, the Respondent (or a PT or PTA who worked in his absence from the office) indicated that an average of 13 patients per day were treated. Review of patient records, as discussed in Section II, revealed that in every instance, the Respondent or his staff charged for multiple units of services that equated to 1 to 1 ½ hours of treatment for each patient. Inasmuch as only 1 PT or PTA worked in the office at a time, the billing records, if true, indicate that one-on-one treatment was provided every day for 13 to 20 hours.

**v. Failure to Appear for Interview with the Board**

36. On March 30, 2005, the Board issued to the Respondent a subpoena ad testificandum directing him to appear at the Board for an interview on April 7, 2005 at 10:00 a.m.
37. The Respondent failed to claim the subpoena. The Respondent failed to appear at the interview or otherwise notify the Board regarding his failure to appear.<sup>5</sup>

**II. PATIENT-SPECIFIC ALLEGATIONS**

**a. CPT Codes**

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<sup>5</sup> The Board has received information that the Respondent has relocated to New Zealand and will not be returning to the United States.

38. CPT codes provide a uniform language that accurately describes medical, surgical and diagnostic procedures. According to the CPT Manual, the CPT is "the most widely accepted nomenclature for the reporting of physician procedures and service under government and private health insurance programs. CPT is also useful for administrative management purposes such as claims processing and for the development of guidelines for medical care review."

**i. Code 97110-Therapeutic exercise**

39. Code 97110 is classified in the CPT manual as a therapeutic procedure. A therapeutic exercise is, "a manner of effecting change through the application of clinical skills and/or services that attempt to improve function. Physician or therapist required to have direct (one-on-one) patient contact."

40. Code 97110 is defined in the CPT manual as follows: Therapeutic procedure, one or more areas, each 15 minutes; therapeutic exercises to develop strength and endurance, range of motion and flexibility.

**ii. Code 97112- Neuromuscular re-education**

41. Neuromuscular re-education (Code 97112) is classified as a therapeutic procedure and incorporates all of the elements of therapeutic exercises. Neuromuscular re-education is further defined as the neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture and proprioception.

**iii. Code 97140- Manual therapy**

42. Manual therapy is classified as a therapeutic procedure and includes mobilization, manipulation, manual lymphatic drainage and manual traction to one or more regions, each for 15 minutes of one-on-one direct supervision.

**b. Review of Patient Charts**

**Patient B**

43. Patient B, then a 52 year old female, initially presented on October 13, 2003 with osteoarthritis of the cervical spine and chronic neck pain.
44. The Respondent treated Patient B on the following dates: October 13, 15, 17, 20, 22, 24, 27, 29, November 5, 10, 17, 19, 24, 28, December 1, 3, 8, 15, 26, 31, 2003; January 5, 19; February 2, 4, 9, 11, 13, 16, 18, 23, 25, March 3, 8, 24, 29, 31; April 5, 7, 12, 14, 2004.
45. On each of these dates, the billing records reflect that the Respondent billed for varying single and multiple units of the following CPT codes: 97110-therapeutic exercises; 97112-neuromuscular re-education and 97140-manual therapy. The treatment notes fail to justify billing multiple units of these codes that equate to over 1 hour of one-on-one directly supervised physical therapy. In addition, daily progress notes lack objective measures or weekly progress reports of the patient's functional status.
46. The Respondent documented that he conducted monthly re-evaluations of Patient B on November 14, 2003, December 12, 2003, January 19, 2004,

February 13, 2004 and March 12, 2004. The Respondent failed to prepare fee sheets for any of the re-evaluations.

47. The documentation of re-evaluations conducted by the Respondent on January 19, February 13 and March 12, 2004 fail to demonstrate medical necessity for treatment and continued therapeutic intervention.
48. One of the PTs employed by the Respondent , PT 1, treated Patient B on October 31, November 7, 14, 21, December 12, 19, 2003; January 2, 9, 23, February 20, 27, March 5, 12, 19 and April 2, 2004. In each instance, PT 1 billed for varying single and multiple units under the following codes: 97110-therapeutic exercises; 97112-neuromuscular re-education; and 97035- ultrasound. Multiple units of treatment equal to 1 ½ hours of direct one-on-one supervised PT are not supported by the treatment notes. In addition, the progress notes lack objective measurements and weekly reports of Patient B's functional status.
49. Another PT employed by the Respondent, PT 2, treated Patient B on March 15, 17 and 22, 2004. PT 2's progress notes are inconsistent with the units of treatment she charged; PT 2 documented on the fee sheet that she provided Patient B with moist heat (97010), ultrasound (97035) and electrical stimulation (97014). These charges were crossed out on the fee sheets and replaced with CPT codes 97112- therapeutic exercises, 97112-neuromuscular re-education and 97140-manual therapy.

#### **Patient C**

50. Patient C, then a 56 year old female, initially presented to the Respondent's practice on March 16, 2004 with osteoarthritis and post status total knee arthroplasty.
51. The Respondent documented that he conducted an initial evaluation on March 16, 2004. This note is inconsistent with the charge slip for that date which indicates that PT 2 provided moist heat (97010), ultrasound (97035) and electrical stimulation (97014). The charges billed by PT 2 are blacked out and replaced with 2 units of therapeutic exercise (97110) and 2 units of manual therapy (97140).
52. The Respondent treated Patient C on the following dates in 2004: March 22, 26, 29, 31, April 2, 5, 7, 9, 12, 15, 19, 21, May 4, 13, 14, 18, 28, June 3, 9 and June 16.
53. On each of these dates the billing records reflect that the Respondent billed for varying single and multiple units of the following CPT codes: 97110-therapeutic exercises; 97112-neuromuscular re-education and 97140-manual therapy. The treatment notes fail to justify billing multiple units of these codes, which represent over 1 hour of direct one-on-one supervision. In addition, daily progress notes lack objective measures or weekly progress reports of the patient's functional status.
54. On March 24, 2004, the Respondent charged for 1 unit of therapeutic exercises (97110), 2 units of manual therapy (97140) and 1 unit of neuromuscular re-education (97112). There is, however, no note in Patient C's chart for this visit.

55. The Respondent documented that he conducted monthly re-evaluations of Patient B on April 15, 2004, May 18, 2004 and June 16, 2004. The Respondent failed to prepare fee sheets for any of the re-evaluations.

**Patient D**

56. Patient D, then a 41 year old male, initially presented to the Respondent on August 23, 2003 complaining of shoulder and hip injuries sustained in an automobile accident.
57. The charge slip for Patient D's visit on August 23, 2003 indicates that PT 2 was unable to evaluate him and did not charge for an initial evaluation (97001). In Patient D's chart, however, is an initial evaluation written by the Respondent.
58. The Respondent documented that he treated Patient D as follows: September 22, 2003; October 7, 13, 15, 27, 28, 29; November 3, 5, 7, 11, 14, 17, 19, 21, 26, 28; December 4, 9, 10, 16, 19, 22, 24, 26, 29, 31; 2003; January 2, 7, 9, 13, 14, 16, 20, 21, 22, 27, 28, February 2, 9, 11, 13, 16, 19, 20, 23, 25, March 2, 4, 5, 6, 8, 25, 26, 30; April 1, 12, 16, 22.; May 4, 10, 13, 17, 19, 24, 28, June 3, 4, 8, 9, 11, 15, 17, 18, 22, 24, and July 7, 2004.
59. For almost every visit, the Respondent charged 2 units of each of the following codes: 97110- therapeutic exercises; 97112-neuromuscular re-education and 97140- manual therapy.
60. The Respondent's notes for these visits fail to justify billing multiple units of these codes which represent over 1 hour of one-on-one direct contact

65. The Respondent documented that he treated Patient E on the following dates: January 19, 21, 28, February 9, 11, 13, 16, 20, 23, 25, March 3, 5, 8, 17, 22, 24 and 25, 2004.
66. On each of these dates the Respondent billed for 2 units each of the following CPT codes: 97110-therapeutic exercises; 97112-neuromuscular re-education and 97140- manual therapy. The treatment notes fail to justify multiple units of these codes, which equate to over 1 hour of direct one-on-one patient contact. In addition, the notes lacked objective measurements of the functional status of the patient.
67. On February 20, 2004 and March 22, 2004, the Respondent documented that he conducted re-evaluations. The Respondent failed to prepare fee sheets for these- re-evaluations.
68. Patient E was treated by PT 1 on the following dates: January 20, 23, and March 12, 2004. In each instance, the treatment notes were inconsistent with the codes that were billed.
69. Patient E was treated by PT 2 on the following dates: March 10, 15, 17 and 22, 2004. In each instance, the treatment notes were inconsistent with the codes that were billed. On the March 15, 2004 fee sheet, CPT codes 97010 (heat/cold packs), 97014 (electrical stimulation), 97035 (ultrasound) were crossed out and replaced with 2 units each of: 97110-therapeutic exercises, 97112-neuromuscular re-education and 97140-manual therapy. On the March 17, 2004 fee sheet, CPT codes 97010 (heat/cold packs), 97014 (electrical stimulation), 97035 (ultrasound) and

with the patient. In addition, daily progress notes lack objective measures or weekly progress reports of the patient's functional status.

61. On December 4, 2003, PTA 1 treated Patient D and charged for one unit of hot pack application (97010) and 1 unit of electrical stimulation (97014). These charges were crossed out on the fee sheet and replaced with 2 units of: 97110- therapeutic exercises, 97112-neuromuscular re-education and 97140- manual therapy.
62. PT 2 treated Patient D on 4 occasions in March 2004. For each visit, PT 2 charged for 1 unit of the following modalities: heat/cold packs (97010), electrical stimulation (97014) and ultrasound (97035). In all instances, PT 2's charges are crossed out and replaced with 2 units of: 97110-therapeutic exercises, 97112-neuromuscular re-education and 97140-manual therapy.
63. The Respondent documented that he re-evaluated Patient D on October 27, 2003, November 21, 2003, December 22, 2003, January 22, 2004, February 23, 2004, March 22, 2004, April 22, 2004 and May 21, 2004. None of the re-evaluations demonstrate either medical necessity for treatment or continued therapeutic intervention. The Respondent failed to prepare fee sheets for any of the re-evaluations.

#### **Patient E**

64. Patient E, then a 53 year old male, initially presented to the Respondent on December 6, 2003 after sustaining an acute cervical strain in a work-related injury.

97124 (massage) were crossed out and replaced with 2 units each of: 97110-therapeutic exercises, 97112-neuromuscular re-education and 97140- manual therapy.

70. On the March 22, 2004 fee sheet, CPT codes 97010 (heat/cold packs) and 970325 (ultrasound) were crossed out and replaced with 2 units each of: 97110-therapeutic exercises, 97112-neuromuscular re-education and 97140- manual therapy. Although PT 2 initialed the fee sheet as the provider of service, the Respondent's name appears on the treatment note. The Respondent also documented that he conducted a re-evaluation on this date, however, he failed to prepare a fee sheet for this evaluation.

#### **Patient F**

71. Patient F, then a 61 year old female, initially presented to the Respondent on April 16, 2004 complaining of a work-related injury to her left shoulder.
72. The Respondent billed Patient F on April 16, 18, 22, and 24, 2004 under the following CPT codes: 97110-therapeutic exercises (2 units); 97112-neuromuscular re-education (1 unit) and 97140- manual therapy (2 units); however, there were no treatment notes in the patient's chart to support these charges.
73. Patient F returned on June 7, 2004 at which time the Respondent documented that he conducted an initial evaluation. He also billed the following CPT codes: 97110-therapeutic exercises (2 units); 97112-neuromuscular re-education (2 units) and 97140- manual therapy (1 unit).

The Respondent's treatment notes fail to justify billing multiple units of these codes.

74. The Respondent treated Patient F on the following dates: June 7, 9, 11, 14, 15, 17, 18, 29, July 2, 6, 13, August 3, 6 and 13, 2004. On each of these dates he billed varying single and multiple units of the following CPT codes: 97110-therapeutic exercises; 97112-neuromuscular re-education and 97140- manual therapy. The treatment notes fail to justify billing multiple units of these codes. Moreover, the Respondent failed to document objective measurements or weekly progress reports of the patient's functional status.
75. On July 6 and August 6, 2004, the Respondent documented that he conducted a re-evaluation of Patient F. The Respondent failed to prepare fee sheets for these re-evaluations.
76. On July 20 and 27, 2004, PT 2 treated Patient F. In each instance, the treatment notes were inconsistent with the codes that were billed. PT 2 documented on the fee sheet that she provided heat/cold packs (97010), electrical stimulation- unattended (97014) and ultrasound (97035). These charges were crossed out on the fee sheet and replaced with CPT codes 97110-therapeutic exercises, 97112-neuromuscular re-education and 97140- manual therapy.

#### **Patient G**

77. Patient G, then a 60 year old female, initially presented to the Respondent on or about February 23, 2005 with complaints of lower back pain. The

Respondent documented that he conducted the initial evaluation on February 23; however, he also documented that he conducted the initial evaluation on February 25, 2005 and billed under the following CPT codes: 97001-initial evaluation; 97110-therapeutic exercises (2 units); 97112-neuromuscular re-education (1 unit) and 97140- manual therapy (2 units). The treatment notes failed to justify the multiple billing of these codes, which equate to over 1 hour of direct one-on-one patient contact.

78. On March 11, 2004, PT 2 initialed the fee sheet as the provider of service on that date; and charged under the following CPT codes: 97110-therapeutic exercises (1 unit); 97140- manual therapy (2 units); 97750-test and measurement (1 unit) and 97010-moist heat (1 unit). Although PT 2 had initialed the fee sheet, a treatment note written by PT 2 is not in the chart; instead, the Respondent wrote the treatment note on that date.
79. On March 12 and 19, 2004, PT 1 initialed the fee sheet as the provider of service on those dates. Although PT 1 initialed the fee sheets, treatment notes written by PT 1 are not in the chart; instead, the Respondent wrote the treatment notes on both dates.
80. On March 30, 2004, the Respondent conducted a re-evaluation that contained minimal objective data to demonstrate medical necessity for continued therapeutic intervention. The Respondent failed to prepare fee sheets for the evaluation.
81. The Respondent treated Patient G on the following dates: March 30, April 2, 7, 16, 20, 26, 29, May 4, 6, 11, 17, 25, 27, June 2 and 22, 2004. On

each date, the Respondent billed for varying single and multiple units of the following CPT codes: 97110-therapeutic exercises, 97112-neuromuscular re-education and 97140-manual therapy. The corresponding treatment notes fail to justify multiple units of these codes, which equate to over 1 hour of direct one-on-one patient contact. In addition, the notes lacked objective measures of the functional status of the patient.

#### **Patient H**

82. Patient H, then a 68 year old female, presented to the Respondent on August 25, 2004 with complaints of neck pain with radiation into her left shoulder.<sup>6</sup>
83. On August 25, 2004, the Respondent conducted an initial evaluation which contains sufficient objective data to support the need for therapeutic intervention. The Respondent also charged under the following CPT codes: 97110-therapeutic exercises (2 units); 97112-neuromuscular re-education (1 unit) and 97140-manual therapy (2 units). The treatment notes fail to justify billing multiple units of these codes.
84. The Respondent treated Patient H on the following dates: August 25 and 30, September 1, 3, 7, 9, 10, 13, 15, 17, 20, 22, 24, 27 and October 1, 2004.
85. On each date, the Respondent billed for varying single and multiple units of the following CPT codes: 97110-therapeutic exercises, 97112-

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<sup>6</sup> Fee sheets are included in Patient H's chart that indicate that she was initially evaluated and subsequently treated by PT 2 on March 10 and 17, 2004; however, there are no treatment notes in the chart for either date.

neuromuscular re-education and 97140-manual therapy. The corresponding treatment notes fail to justify multiple units of these codes, which equate to over 1 hour of one-on-one patient contact. In addition, the notes lacked objective measures of the functional status of the patient.

#### **Patient I**

86. Patient I, then a 44 year old male, initially presented to the Respondent on July 30, 2004. The Respondent conducted an initial evaluation which contained sufficient objective data to support the need for therapeutic intervention. The Respondent also charged under the following CPT codes: 97110-therapeutic exercises (2 units); 97112-neuromuscular re-education (2 units) and 97140-manual therapy (2 units). The treatment notes fail to justify billing multiple units of these codes.
87. The Respondent treated Patient I on the following dates: August 2, 4, 6, 11, 12, 13, 16, 19, 24, September 1, 3, 8, 9, 10, 14, 15, 16, 20, 24, 29, 30, 2004. On each of these dates, the Respondent charged under the following CPT codes: 97110-therapeutic exercises (2 units); 97112-neuromuscular re-education (2 units) and 97140-manual therapy (2 units). The corresponding treatment notes are generic and lack objective measurements or progress reports of the patient's functional status. The notes fail to support billing multiple units of treatment codes.
88. On August 27, 2004, Patient I was treated by PT 2. PT 2's treatment notes are inconsistent with the fee sheet upon which PT 2's charges under CPT codes 97010 (moist heat), 97031 (electrical stimulation) and 97035

(ultrasound) are crossed out and replaced with 2 units each of 97110-therapeutic exercises, 97112-neuromuscular re-education and 97140-manual therapy.

#### **Patient J**

89. Patient J, then a 45 year old female, initially presented to the Respondent for initial evaluation on August 11, 2004 after suffering a stroke several weeks earlier with resultant extremity weakness and pain in her right leg.
90. The Respondent treated Patient J on the following dates: August 11, 12, 13, 16, 18, 20, 23, 30, September 13, 16, 17, 20, 22, 24, 28, 29 and October 1, 2004. On each date, the Respondent charged under CPT codes 97110-therapeutic exercises (3 units) and 97112-neuromuscular re-education (2 units). The Respondent's treatment notes are generic and lack objective measurements or weekly progress reports of the patient's functional status. In addition, the notes fail to justify billing multiple units of the codes.
91. The Respondent re-evaluated Patient J on September 13, October 13 and November 2, 2004; however, the Respondent failed to prepare fee sheets for any of these evaluations.
92. Treatment notes are present in Patient J's chart from October 10, 2004 through November 17, 2004; however, no corresponding fee sheets are in the chart.

#### **Patient K**

93. Patient K, then a 56 year old male, initially presented to the Respondent on July 29, 2003 after sustaining a work-related motor vehicle accident earlier that month.
94. The Respondent or his staff billed for treatment of Patient K on the following dates in 2003: July 29, 31, August 4, 6, 8, 11, 15, October 20, 22, 24, 28, 29, 31; November 3, 5, 7, 12, 14, 17, 19, 21, 24, 26, 28, December 2, 8, 10, 12, 15, 17, 22, 26 and the following dates in 2004: August 19, 23, 25, 27, 31, September 2, 7, 9, 14, 16, 20, 22, 24, 28 and 30. The fee sheets submitted for these dates indicate that Patient K was provided the following services on most dates: 97110-therapeutic exercises (usually 2 units); 97112-neuromuscular re-education (always 2 units) and 97140-manual therapy (always 2 units). On many dates, the fee sheets reflect that mechanical traction (97012) or electrical stimulation (97014) was also charged.
95. There are no treatment notes in Patient K's chart or otherwise transmitted to the Board by the Respondent in response to several subpoenas for any of these dates.
96. The Respondent or his staff treated Patient K on the following dates in 2004: August 19, 23, 25, 27, 31, September 2, 7, 9, 14, 2004. Fee sheets submitted for these dates indicate that Patient K was provided with 2 units of the following services on all of the dates: 97110-therapeutic exercises, 97112-neuromuscular re-education and 97140-manual therapy.

97. Treatment notes are present in Patient K's chart for the 2004 service dates, however, they fail to support charging multiple units of the codes. In addition, the notes are generic and lacked objective measurements of Patient K's functional status.
98. On August 27, 2003, Patient K was treated by PT 2. The fee sheet indicates that 2 units each of 97110-therapeutic exercises, 97112-neuromuscular re-education and 97140-manual therapy were provided; however, the notes fail to support charging multiple units of the codes. In addition, CPT codes 97010 (heat/cold packs), 97014 (electrical stimulation) and 97035 (ultrasound) are crossed out on the fee sheet.
99. The Respondent re-evaluated Patient K on September 20, October 20 and November 19, 2004. The Respondent failed to prepare fee sheets for these re-evaluations.

### **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 (4), (12), (13), (14), (15) (19), (20), (24), (25); Code Md. Regs. tit. 10, § 38.02.01, Code Md. Regs. tit.10, § 38.02.02 A and B, Code Md. Regs. tit. 10, § 38.03.02A(2)(a), (e), (g) and (k); and Code Md. Regs. tit. 10, § 38.03.02-1A (1), (2), (3) and (4).

### **ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 15<sup>th</sup> day of November, 2005, by a majority of the Board considering this case,

**ORDERED** that the Respondent's license is hereby **REVOKED**; and it is further

**ORDERED** that this is a **FINAL ORDER** of the Maryland Board of Physical Therapy Examiners and as such is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. § 10-611 *et seq.* (2004).

11-15-05  
Date

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

### **NOTICE OF RIGHT TO APPEAL**

Pursuant to H.O. § 13-316, the Respondent has the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the receipt of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. State Gov't Code Ann. § 10-201 *et seq.* and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Respondent files an appeal, the Board is a party and should be served with the court's process.