

IN THE MATTER OF

*

BEFORE THE

PIVOT PHYSICAL THERAPY

*

MARYLAND STATE

Respondent

*

BOARD OF PHYSICIANS

*

Case Number: 2223-0113A

* * * * *

CONSENT ORDER

On July 27, 2023, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) notified **PIVOT PHYSICAL THERAPY** (the “Respondent”) of Panel A’s intent to impose a civil penalty for the Respondent’s failure to comply with the provisions of the Maryland Athletic Trainers Act, Md. Code Ann., Health Occupations (“Health Occ.”) §§ 14-5D-01 *et seq.* (2021 Repl. Vol., 2022 Supp.). The pertinent provisions of the Act are as follows:

§14-5D-11.1. Employment of athletic trainer without license or approved evaluation and treatment protocol prohibited.

(b) *Employment by hospital, institution, or alternative health system* – Except as otherwise provided in this subtitle,¹ a hospital, an institution, an alternative health system, or any other employer may not employ an individual practicing athletic training without a license or without an approved evaluation and treatment protocol.

(c) *Civil Penalties.* – A disciplinary panel may impose a civil penalty of up to \$1,000 on a person who employs or supervises an individual without a license or without an approved evaluation and treatment protocol.

On October 11, 2023, Panel A was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on negotiations occurring as a result of this

¹ No exceptions to the statute are applicable.

DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law, Order, and Consent.

FINDINGS OF FACT

Panel A finds:

Background

1. The Respondent is a health care company that provides physical therapy and other healthcare services in various locations in Maryland and other states on the East Coast.
2. On or about August 24, 2022, the Respondent employed an individual (“Individual 1”) as a Certified Athletic Trainer at a high school and at one of the Respondent’s clinics, both of which are located in Anne Arundel County, Maryland.
3. Individual 1 was not licensed as an athletic trainer while working for the Respondent from on or around August 2022 through on or around early December 2022.
4. On or about September 6, 2022, the Board received an Athletic Trainer Application for Licensure (“Application”) submitted by Individual 1.
5. On or about December 9, 2022, the Board issued an athletic trainer license to Individual 1.
6. On or about December 13, 2022, the Board approved the evaluation and treatment protocol submitted by Individual 1 which authorized Individual 1 to work as an athletic trainer under physician supervision.

Referral from the Allied Health Unit

7. On or about December 13, 2022, the Board received a referral from the Allied Health Unit regarding the Application submitted by Individual 1 which was received by the Board on or about September 6, 2022. On the Application under “Employment Activities,” Individual 1 disclosed her occupation as “high school athletic trainer” and noted that the Respondent was her employer from August 2022 through the time of submission of the Application.

Board Investigation

8. As a result of the Allied Health Unit referral, the Board initiated an investigation. As part of its investigation, the Board issued a subpoena *duces tecum* to the Respondent’s representative for various documents including the personnel file of Individual 1, timecard report, and records of six patients treated by Individual 1.

9. The medical records provided by the Respondent’s representative of the six patients all list Individual 1’s name next to “AT” and contain notes from multiple dates written by Individual 1. The timeframe of treatment for the six patients ranged from September 2022 through January 2023.

10. The Respondent’s representative also provided to the Board a timecard report for Individual 1 for the period of on or about August 24, 2022 through on or about December 15, 2022. During that time, Individual 1’s allocation was listed as “AT 1-Athletic Trainer”.

Individual 1 Consent Order

11. On or about April 6, 2023, Individual 1 entered into a public Consent Order whereupon Individual 1 admitted to working as an athletic trainer beginning August 2022 without a license and without an approved evaluation and treatment protocol. The Order concluded that Individual 1 had engaged in the unauthorized practice of athletic training, in violation of Health Occ. §14-5D-17(1); practiced athletic training in Maryland without a license, in violation of Health Occ. §14-5D-07; and practiced as an athletic trainer in Maryland without having submitted an evaluation and training protocol to the Board for approval, in violation of Health Occ. §14-5D-11(b)(3).

Board's request to the Respondent's representative for a written response

12. By letter dated April 6, 2023, the Board notified the Respondent's representative that it had received information that Individual 1 had worked for the Respondent as an athletic trainer without a license and without an evaluation and treatment protocol from on or about August 24, 2022 to December 12, 2022. The Board requested a written response to the allegations within ten business days.

13. By letter dated April 19, 2023, the Respondent's representative provided a response to the Board admitting that Individual 1 was offered the role of Certified Athletic Trainer but denied that Individual 1 worked in the capacity of an athletic trainer without a license and without an evaluation and treatment protocol during the time period in question.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, Disciplinary Panel A concludes as a matter of law that the Respondent employed an individual to practice athletic training without a

license and without an approved evaluation treatment protocol, in violation of Md. Code Ann., Health Occ. § 14-5D-11.1(b) and (c).

ORDER

It is, thus, on the affirmative vote of a majority of the quorum of Disciplinary Panel A of the Board, hereby:

ORDERED that within **60 DAYS** from the effective date of this Consent Order, the Respondent shall pay a civil fine of **ONE (1) THOUSAND DOLLARS (\$1,000)**. The Payment shall be by money order or bank certified check made payable to the Maryland Board of Physicians and mailed to P.O. Box 37217, Baltimore, Maryland 21297; and it is further

ORDERED that the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive Director or her designee signs the Consent Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Consent Order; and it is further

ORDERED that this Consent Order is a public document. *See Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6) (2021 Repl. Vol. & 2022 Supp).*

11/08/2023
Date

Signature On File

Christine A. Farrelly, Executive Director
Maryland State Board of Physicians

CONSENT

I, Kari Kaplan, Agent for the Respondent, acknowledge that I have consulted with counsel before signing this document.

By this Consent, I agree to be bound by this Consent Order and all its terms and conditions and understand that the disciplinary panel will not entertain any request for amendments or modifications to any condition.

I assert that I am aware of my right to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 14-405 and Md. Code Ann., State Gov't §§ 10-201 *et seq.* concerning the pending charges. I waive this right and have elected to sign this Consent Order instead.

I acknowledge the validity and enforceability of this Consent Order as if entered 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 behalf, and to all other substantive and procedural protections as provided by law. I waive those procedural and substantive protections. I acknowledge the legal authority and the jurisdiction of the disciplinary panel to initiate these proceedings and to issue and enforce this Consent Order.

I voluntarily enter into and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

I sign this Consent Order, without reservation, and fully understand the language and meaning of its terms.

Signature On File

10/30/23
Date

Agent for the Respondent (Printed Name)

Kari Kaplan
Agent for the Respondent (Signature)

NOTARY

STATE OF Illinois

CITY / COUNTY OF DuPage

I HEREBY CERTIFY that on this 30th day of October 2023, before me, a Notary Public of the foregoing State and City/County, personally appeared Kari Kaplan, Agent for the Respondent, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed.

AS WITNESSETH my hand and notarial seal.



Christine E Avitia
Notary Public

My Commission expires: 9/23/25