

IN THE MATTER OF

\*

BEFORE THE

PIVOT PHYSICAL THERAPY

\*

MARYLAND STATE

Respondent

\*

BOARD OF PHYSICIANS

\*

Case Number: 2220-0151A

\* \* \* \* \*

CONSENT ORDER

On March 5, 2020, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) issued a Notice of Intent to Impose Civil Penalty against Respondent Pivot Physical Therapy<sup>1</sup> under the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. §§ 14-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.).

The pertinent provisions of the Act state the following:

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

....

(b) *Employment by hospitals, institutions, or other employers prohibited.* – Except as otherwise provided in this subtitle,<sup>2</sup> 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) *Penalty.* – The Board may impose a civil penalty of up to \$1,000 on a person who employs or supervises an individual practicing athletic training without a license or without an approved evaluation and treatment protocol.

On June 10, 2020, Panel A was convened as a Disciplinary Committee for Case

<sup>1</sup> Pivot Physical Therapy is the trade name for PT Network, LLC. In this Consent Order, PT Network, LLC, is referred to as “Pivot Physical Therapy” or the “Respondent.”

<sup>2</sup> No exceptions to the statute are applicable.

Resolution (“DCCR”) in this matter. Based on negotiations occurring as a result of this 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 the following:

1. The Respondent is a health care provider.
2. On July 24, 2018, the Respondent employed a licensed athletic trainer (the “AT”).
3. On February 7, 2019, the AT emailed the Board and requested a copy of his current Evaluation and Training Protocol (“E &T”).
4. By email also dated February 7, 2019, Board staff notified the AT that he did not have a current E & T on file with the Board, and that the only E & T on file had been terminated effective August 5, 2018.
5. The Board’s email further notified the AT, “*You should not be practicing athletic training at all!!!*” (Emphasis in original).
6. Panel A thereafter initiated an investigation, the results of which are summarized below.<sup>3</sup>
7. Effective July 11, 2017, the Board approved the AT’s E & T (“2017 E & T”) that authorized him to work as an athletic trainer under physician supervision at a Maryland university.

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<sup>3</sup> The Board has separately charged the AT with violations of the Act.

8. Effective September 5, 2018, the AT's 2017 E & T was terminated because the AT was no longer employed at the university.
9. By letter dated September 19, 2018, sent to the AT, Board staff confirmed the termination of the AT's 2017 E & T.
10. Effective July 24, 2018, the Respondent employed the AT as an athletic trainer. The AT was assigned to a high school in Howard County, Maryland.
11. On February 12, 2019, after learning that he did not have an active E & T on file with the Board, the AT and his supervising physician at the Respondent company completed and signed an "Athletic Trainer/Supervising Physician Evaluation and Treatment Protocol" form ("2019 E & T").
12. The 2019 E & T was received by the Board on February 19, 2019.
13. By letter dated March 12, 2019, Board staff notified the AT that the 2019 E & T, "appears to meet the requirements established by the Board. Pursuant to § 14-5D-11 of the Health Occupations Article, Annotated Code of Maryland, you may begin working in the employment situation covered under your evaluation and treatment protocol."
14. In furtherance of its investigation, the Board subpoenaed from the Respondent the AT's timekeeping reports and student injury reports prepared by the AT.
15. The documents provided by the Respondent revealed that the AT was employed by and received wages from the Respondent as of July 24, 2018.

16. By letter dated September 11, 2019, the Board notified the Respondent that the Board had information that the AT was employed by the Respondent and had practiced as an AT without an approved E & T.<sup>4</sup> The Respondent was requested to provide a written response to the allegation.
17. By letter dated October 7, 2019, the Respondent's representative notified the Board that, "[o]n February 6, 2019, [the AT] discovered that the new E&T protocol was never received by the Board and then had [his supervising physician] resubmit the new E&T with the Board."
18. The Respondent further notified the Board that "[the Respondent] immediately upon understanding that [the AT] was without an approved E&T protocol, stripped him of his Athletic Training responsibilities and although still employed he was only permitted to perform First Responder duties during the lapse."
19. In furtherance of its investigation of the AT, the Board subpoenaed from the Respondent a complete copy of any and all services provided by the AT while employed by the Respondent through March 27, 2019.
20. Review of the records provided by the Respondent in response to the Board's subpoena reveals that the AT documented that he performed AT duties on several occasions during the period from February 6, 2019, through March 12, 2019.

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<sup>4</sup> The Board's letter also stated the that AT was unlicensed. This statement is not accurate.

## CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel A of the Board concludes as a matter of law that the Respondent employed an individual practicing athletic training without a license or without an approved evaluation and treatment protocol, in violation of Health Occ. § 14-5D-11.1(b).

## ORDER

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

**ORDERED** that, within **six months** of the effective date of this Consent Order, the Respondent shall pay a civil fine of **\$500**. 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).

07/13/2020  
Date

*Signature on File*

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

## CONSENT

I, Jonathan Friedman, acknowledge that Respondent Pivot Physical Therapy has consulted with counsel before entering into this Consent Order. I am authorized to sign this Consent Order on behalf of the Respondent and to bind the Respondent to this Consent Order.

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

The Respondent asserts that it is aware of its 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 notice. It waives this right and has elected to sign this Consent Order instead.

The Respondent acknowledges the validity and enforceability of this Consent Order as if entered after the conclusion of a formal evidentiary hearing in which it would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on its behalf, and to all other substantive and procedural protections as provided by law. It waives those procedural and substantive protections. It acknowledges the legal authority and the jurisdiction of the disciplinary panel to initiate these proceedings and to issue and enforce this Consent Order.

The Respondent voluntarily enters into and agrees to comply with the terms and conditions set forth in the Consent Order as a resolution of the notice. It waives any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. The Respondent waives all rights to appeal this Consent Order.

The Respondent enters into this Consent Order, without reservation, and fully understands the language and meaning of its terms.

# *Signature on File*

7/1/2020  
Date

Jonathan Friedman, General Counsel  
Pivot Physical Therapy  
On Behalf of Pivot Physical Therapy

**NOTARY**

STATE OF: Maryland

CITY/COUNTY OF: Harford

I HEREBY CERTIFY that on this 1<sup>st</sup> day of July, 2020,  
before me, a Notary Public of the State and City/County aforesaid, personally appeared  
Jonathan Friedman and made oath in due form of law that the foregoing Consent Order  
was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Ashley Roccio  
Notary Public

My commission expires: February 5, <sup>th</sup> 2023

ASHLEY ROCCIO  
Notary Public-Maryland  
Harford County  
My Commission Expires  
February 05, 2023