

Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board
77 South High Street, 16th Floor
Columbus, Ohio 43215-6108

Governor
Ted Strickland
Executive Director
Jeffrey M. Rosa

Before The Ohio
Occupational Therapy, Physical Therapy, and Athletic Trainers Board
Physical Therapy Section

Mary D. Wahrer
2250 Avalon Avenue
Kettering, Ohio 45409

IN RE:
The eligibility of Mary D. Wahrer
PTA00525 to retain her license as a
Physical Therapist Assistant in the State
of Ohio

Case No: 07-010-PT
Issue Date: March 19, 2007

Notice of Opportunity for a Hearing

In accordance with Chapter 119 and section 4755.47 of the Ohio Revised Code, you are hereby notified that the Board intends to determine whether or not to suspend or revoke your physical therapist assistant license, or reprimand or place you on probation.

Introduction and Jurisdiction

Section 4755.47(A) of the Ohio Revised Code authorizes the Board to refuse to grant a license to an applicant for an initial or renewed license as a physical therapist or physical therapist assistant or, by vote of at least five members, may suspend or revoke the license of a physical therapist or physical therapist assistant or reprimand or place a license holder on probation, on any of the following grounds:

- (3) Obtaining or attempting to obtain a license by fraud or deception;
- (6) Violation of section 4755.40 to 4755.56 of the Revised Code, or any order issued or rule adopted under those sections;

In accordance with Chapter 119 and section 4755.47 of the Ohio Revised Code, the Board is considering taking action on your license for one or more of the following reason:

Count 1

On December 8, 2006, Wahrer falsified her online 2007 license renewal form by

answering "YES" to question number one in the continuing education section which asked: "Did you complete the required amount of continuing education?" Said conduct constitutes a violation of Ohio Revised Code Sections 4755.47(A)(3) & (6), and 4755.48 (A).

Count 2

On or about February 12, 2007, Wahrer submitted verification of continuing education credits earned for the renewal period of January 1, 2005 through December 31, 2006, as a result of being randomly selected for an audit for continuing education hours conducted by the Board. However, Wahrer only accounted for 6 of the 12 hours of continuing education required for renewal. Said conduct constitutes a violation of Ohio Revised Code Section 4755.47(A)(6) and Ohio Administrative Code Section 4755-23-08.

Ohio Revised Code rule 4755.48(A) provides:

No person shall employ fraud or deception in applying for or securing a license to practice physical therapy or to be a physical therapist assistant.

Ohio Administrative Code rule 4755-23-08 provides:

Pursuant to division (A) of section 4755.52 of the Revised Code, no person shall qualify for license renewal as a physical therapist or physical therapist assistant unless the individual completed the required continuing education units (CEU's) outlined in paragraph (A) of this rule. A "unit" is one clock hour spent in a continuing education activity meeting the requirements for licensure renewal under section 4755.52 of the Revised Code.

(A) Physical therapists and physical therapist assistants shall participate in continuing education activities that meet the requirements outlined in division (B) of section 4755.52 of the Revised Code

(1) A physical therapist must complete twenty-four units of continuing education activities within the two year period, ending December thirty-first, preceding the January thirty-first expiration of their license.

(2) A physical therapist assistant must complete twelve units of continuing education activities within the two year period, ending December thirty-first, preceding the January thirty-first expiration of their license.

(B) All continuing education activities must meet the criteria established in sections 4755.52 and 4755.53 of the Revised Code.

(C) Accumulated CEU's may not be carried over from one renewal period to another.

(D) Pursuant to sections 4755.52 and 4755.53 of the Revised Code, the physical therapy section may contract with the Ohio physical therapy association (OPTA) to assist the section with the performing of its continuing education duties. The OPTA shall accept, review, approve, or deny proposals for professional workshops, seminars, and/or conferences for continuing education units or for other continuing education activities reported by physical therapists and physical therapist assistants who qualify under section 4755.53 of the Revised Code. The OPTA shall perform any other duties agreed upon by the section and the OPTA necessary for the approval, maintenance, and/or reporting of continuing education activities for

physical therapist and physical therapist assistants.

(E) A license shall not be renewed unless the licensee meets the requirements of paragraph (A) of this rule. Completed continuing education activities shall have a current Ohio approval number.

(F) The physical therapy section may conduct a random audit of the continuing education records of a number of the licensees to be determined by the section each renewal year. The section will notify licensees who are randomly selected for the audit to determine compliance with the continuing education requirement specified in this rule.

(1) Licensees, chosen randomly, shall submit to the board by the date specified by the board copies of all records and documentation of proof of completion of the continuing education activities used to meet the continuing education requirements of this rule.

(2) Failure to comply with the continuing education audit will result in the commencement of disciplinary action.

(G) A physical therapist or physical therapist assistant license shall not be renewed unless the licensee certifies that the individual completed the required number of continuing education hour specified in paragraph (A) of this rule.

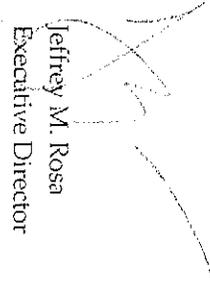
A licensee who falsifies a renewal application may be disciplined by the physical therapy section for violating section 4755.48 of the Revised Code.

Hearing Procedures

Pursuant to section 119.07 of the Ohio Revised Code, you have the right to request a hearing on these charges, if your written request for a hearing is received by the Board office, located at 77 South High Street, 16th Floor, Columbus, OH 43215, within thirty (30) days of the mailing of this Notice. Further, you are advised that you are entitled to appear at such hearing in person, or by an attorney, or by such other representative who is permitted to practice before the agency. At the hearing, you may present evidence and examine witnesses appearing for or against you. Also, In lieu of personally appearing, you may present your positions, arguments or contentions in writing.

If you do not timely request such a hearing, the Board, upon consideration of the charges cited, may, in your absence, take such disciplinary action it deems appropriate. This action may include, but is not limited to, suspension or revocation of your license.

**By Order of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board:
Physical Therapy Section**


Jeffrey M. Rosa
Executive Director

cc: Melinda Snyder Osgood, Assistant Attorney General
Certified Mail: 7004 2510 0001 7351 9881
Return Receipt Requested

Mary D. Wahner, *Director of Opportunity for a Hearing*



Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board

77 South High Street, 16th Floor
Columbus, Ohio 43215-6108

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Physical Therapy Section

IN RE:

The eligibility of Mary D. Wahrer
PTA00525 to retain her license as a
Physical Therapist Assistant in the State
of Ohio

Case No: 07-010-PT

Consent Agreement

This Consent Agreement ("Agreement") is entered into by and between **Mary D. Wahrer**, ("Wahrer") and the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board, Physical Therapy Section ("Board").

The Board is a state agency, charged with enforcing relevant provisions of Ohio Revised Code Chapter 4755. Wahrer hereby enters into this agreement being fully informed of her rights pursuant to Chapter 4755 and Chapter 119 of the Ohio Revised Code, including the right to representation by counsel and an adjudication hearing.

In consideration of the forgoing and mutual promises hereinafter set forth, **Wahrer** and the Board hereby agree as follows:

Jurisdiction and Predicate Facts

1. The Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board, Physical Therapy Section, is empowered by section 4755.47 (A) of the Ohio Revised Code to refuse to grant a license to an applicant for an initial or renewed license as a physical therapist or physical therapist assistant or, by vote of at least five members, may suspend or revoke the license of a physical therapist or physical therapist assistant or reprimand or place a license holder on probation, on any of the following grounds:
 - (3) Obtaining or attempting to obtain a license by fraud or deception;
 - (6) Violation of section 4755.40 to 4755.56 of the Revised Code, or any order issued or rule adopted under those sections;

2. **Wahrer** currently holds a license to practice as a physical therapist assistant in the State of Ohio, and is subject to all laws and rules of Ohio regulating the practice of physical therapy.
3. **Wahrer** has been licensed as a physical therapist assistant in the State of Ohio since July 29, 1981.
4. On December 8, 2006, **Wahrer** falsified her online 2007 license renewal form by answering "YES" to question number one in the continuing education section which asked: "Did you complete the required amount of continuing education?" Said conduct constitutes a violation of Ohio Revised Code Sections 4755.47(A)(3) & (6), and 4755.48 (A).
5. On or about February 12, 2007, **Wahrer** submitted verification of continuing education credits earned for the renewal period of January 1, 2005 through December 31, 2006, as a result of being randomly selected for an audit for continuing education hours conducted by the Board. However, **Wahrer** only accounted for 6 of the 12 hours of continuing education required for renewal. Said conduct constitutes a violation of Ohio Revised Code Section 4755.47(A)(6) and Ohio Administrative Code Section 4755-23-08.
6. Ohio Revised Code section 4755.48(A) provides:
No person shall employ fraud or deception in applying for or securing a license to practice physical therapy or to be a physical therapist assistant.
7. Ohio Administrative Code rule 4755-23-08 provides:
Pursuant to division (A) of section 4755.52 of the Revised Code, no person shall qualify for license renewal as a physical therapist or physical therapist assistant unless the individual completed the required continuing education units (CEU's) outlined in paragraph (A) of this rule. A "unit" is one clock hour spent in a continuing education activity meeting the requirements for licensure renewal under section 4755.52 of the Revised Code.
(A) Physical therapists and physical therapist assistants shall participate in continuing education activities that meet the requirements outlined in division (B) of section 4755.52 of the Revised Code
(1) A physical therapist must complete twenty-four units of continuing education activities within the two year period, ending December thirty-first, preceding the January thirty-first expiration of their license.
(2) A physical therapist assistant must complete twelve units of continuing education activities within the two year period, ending December thirty-first, preceding the January thirty-first expiration of their license.
(B) All continuing education activities must meet the criteria established in sections 4755.52 and 4755.53 of the Revised Code.
(C) Accumulated CEU's may not be carried over from one renewal period

to another.

(D) Pursuant to sections 4755.52 and 4755.53 of the Revised Code, the physical therapy section may contract with the Ohio physical therapy association (OPTA) to assist the section with the performing of its continuing education duties. The OPTA shall accept, review, approve, or deny proposals for professional workshops, seminars, and/or conferences for continuing education units or for other continuing education activities reported by physical therapists and physical therapist assistants who qualify under section 4755.53 of the Revised Code. The OPTA shall perform any other duties agreed upon by the section and the OPTA necessary for the approval, maintenance, and/or reporting of continuing education activities for physical therapist and physical therapist assistants.

(E) A license shall not be renewed unless the licensee meets the requirements of paragraph (A) of this rule. Completed continuing education activities shall have a current Ohio approval number.

(F) The physical therapy section may conduct a random audit of the continuing education records of a number of the licensees to be determined by the section each renewal year. The section will notify licensees who are randomly selected for the audit to determine compliance with the continuing education requirement specified in this rule.

(1) Licensees, chosen randomly, shall submit to the board by the date specified by the board copies of all records and documentation of proof of completion of the continuing education activities used to meet the continuing education requirements of this rule.

(2) Failure to comply with the continuing education audit will result in the commencement of disciplinary action.

(G) A physical therapist or physical therapist assistant license shall not be renewed unless the licensee certifies that the individual completed the required number of continuing education hour specified in paragraph (A) of this rule.

A licensee who falsifies a renewal application may be disciplined by the physical therapy section for violating section 4755.48 of the Revised Code.

Admissions

1. Wahrer hereby admits and acknowledges that she has received proper notice of her right to a formal hearing and all associated rights pursuant to Ohio Revised Code Chapter 119.

2. Wahrer hereby knowingly waives all rights to a formal hearing in this matter, and agrees that this Consent Agreement shall have the full force and effect of an Order duly entered in accordance with those procedures set forth in Ohio Revised Code Chapter 119 and Chapter 4755 relating to administrative proceedings.

3. **Wahrer** admits that the facts set forth above are true and accurate.
4. **Wahrer** admits that the facts set forth above constitute a violation of Ohio law thereby subjecting her to disciplinary action by the Board pursuant to section 4755.47 of the Ohio Revised Code.

Terms

WHEREFORE, in consideration of the foregoing, and in lieu of any further disciplinary action, **Wahrer** and the Board, knowingly and voluntarily agree to the following terms:

1. **Wahrer** agrees that this consent agreement serves as a written reprimand.
2. **Wahrer** shall satisfactorily complete 6 hours of continuing education for the January 1, 2005 through December 31, 2006 renewal period within 30 days of the ratification of this agreement. Verification of completion must be submitted to the attention of the Enforcement Division of the Board no later than 45 days after the ratification of this agreement. Hours earned for this term shall not be counted toward the 12 hours required for the January 1, 2007 through December 31, 2008 renewal period.
3. **Wahrer** agrees to be audited for continuing education credits for the 2009 renewal cycle.
4. **Wahrer** shall write a personal plan of action, suitable for distribution at the discretion of the Board, which explains how she will ensure that she obtains the required number of continuing education hours in the future and describes a system to monitor hours as they are completed. **Wahrer** shall submit her personal plan of action to the attention of the Enforcement Division of the Board no later than 45 days after the ratification of this agreement. **Wahrer** shall submit quarterly progress updates of her continuing education activities to the attention of the Enforcement Division of the Board.
5. The **Board** hereby agrees to forgo its right to pursue any formal adjudicative proceedings at this time in light of entering into this agreement.
6. Failure to abide by the terms of this agreement shall constitute an actionable violation in and of itself without further proof and may subject **Wahrer** to any and all disciplinary remedies to the Physical Therapy Section including, but not limited to, revocation.
7. **Wahrer** hereby releases the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board, its members, employees, agents and officers jointly and severally from any and all liability from the within matter.

8. All parties to this agreement understand that this document is a public record pursuant to Ohio Revised Code section 149.43.
9. All parties to this agreement understand that this information will be sent to the Federal Department of Health and Human Services' Healthcare Integrity and Protection Data Bank (HIPDB), pursuant to 42 U.S.C. §1320a-7e(b), 5 U.S.C. §5525a, and 45 C.F.R. pt. 61

10. By her signature on this consent agreement, **Wahrer** agrees that in the event the Board, in its discretion, does not approve this consent agreement, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. **Wahrer** agrees that should the Board reject this consent agreement and if this case proceeds to hearing, she will assert no claim that the Board was prejudiced by its review and discussion of this consent agreement or of any information relating thereto.

11. By adopting and executing this consent agreement, the Board hereby acknowledges that this consent agreement is a full and final settlement of the within matter and agrees that it will not pursue further action against **Wahrer** resulting from the aforementioned conduct.

12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.

By her signature **Wahrer** acknowledges that she has carefully read the above Agreement and enters into it freely and voluntarily with full knowledge of its force and effect and full knowledge of her rights under Ohio law. By executing this Agreement, **Wahrer** recognizes that if, in the discretion of the Board it appears that she has breached any terms or conditions of this Agreement, the Board may initiate formal disciplinary proceedings which may be based solely upon a breach of the Agreement. If the Board finds a breach of this Agreement, it may impose any disciplinary remedy available under Ohio law.

The terms and conditions of this agreement shall not become effective until approved by the Board and executed pursuant to its approval.

Mary D. Wahrer

Mary D. Wahrer

Jeffrey M. Rosa

Jeffrey M. Rosa
Executive Director

7, April 2007

DATE

5-4-07

DATE

Counsel to Mary D. Wahrer
(If represented)

Melinda S. Osgood

Melinda Snyder Osgood
Assistant Attorney General

DATE

DATE

5-10-07