



Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board
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Governor
Bob Taft
Executive Director
Jeffrey M. Rosa

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

Nichole Schorsch
3396 Dolomar Drive
Cincinnati, OH 45239

IN RE:

The eligibility of Nichole Schorsch
PT - 10265 to retain her license as a
Physical Therapist in the State of
Ohio

Case No: 06-036-PT

Issue Date: October 17, 2006

Notice of Opportunity for a Hearing

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:

- (5) Subject to section 4755.471 of the Revised Code, violation of the code of ethics of the American Physical Therapy Association;
- (6) Violation of section 4755.40 to 4755.56 of the Revised Code, or any order issued or rule adopted under those sections;
- (8) Aiding or abetting the unlicensed practice of physical therapy;

In accordance with Chapter 119 and section 4755.47 of the Ohio Revised Code, you are hereby notified that the Physical Therapy Section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board (hereinafter, "Board") intends to determine whether or not to suspend or revoke your physical therapist license, or reprimand or place you on probation for one or more of the following reasons:

Count 1

From on or about June 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, and 26, 2006, while in the position of physical therapist at Sports Therapy Inc., 1194 West Kemper Road, Cincinnati, Ohio, 45240, you supervised Tiffany Risher in her work as a PTA Licensure Applicant. Ms. Risher did not hold PTA Licensure Applicant status. Therefore, as her supervising physical therapist, you aided her in engaging in the practice of physical therapy, as that term is defined in section 4755.40(A) of the Ohio Revised Code, without a license. Said conduct constitutes a violation of Ohio Revised Code Sections 4755.47(A)(5), (6) and (8), Ohio Administrative Code rules 4755-27-02 and 4755-27-04, and the American Physical Therapy Association Code of Ethics Principal 4.2(B) as incorporated into Ohio law by R.C. 4755.47 (A)(5).

Ohio Administrative Code rule 4755-27-02 states in pertinent part:

(C) A supervising physical therapist is accountable and responsible at all times for the direction of the actions of the person supervised including a physical therapist assistant, unlicensed supportive physical therapy personnel and other assistive physical therapy personnel. A physical therapist shall not delegate to a less qualified person any service which requires the skill, knowledge, and judgment of a physical therapist or physical therapist assistant.

(D) The physical therapist shall personally perform the following activities, which may not be delegated, regardless of the setting in which the service is given:

- (1) Interpretation of physician referrals;
- (2) Initial patient evaluation;
- (3) Initial and ongoing treatment plan of care development;
- (4) Periodic re-evaluation of the patient and adjustment of the plan of care; and
- (5) Discharge evaluations.

(E) The physical therapist shall select the appropriate portions of the treatment to be delegated and shall direct the physical therapist assistant, the unlicensed supportive physical therapy person, or other assistive physical therapy personnel in the delegated function. Such direction shall include precautions, special problems, contraindications, goals and anticipated progress, plans for re-evaluation by the physical therapist, and plans for discharging the patient.

Ohio Administrative Code rule 4755-27-04 states in pertinent part:

(A) For the purpose of this chapter of the Administrative Code, the following definitions shall apply:

- (1) "Unlicensed supportive physical therapy personnel" means individuals who are on the job trained by the physical therapist

and who participate in physical therapy patient care delivery.

(2) "Other assistive physical therapy personnel" means any person not holding a valid license under section 4755.40 to 4755.56 of the Revised Code, who are working under the direction of a physical therapist or physical therapist assistant performing tasks and duties related to the delivery of physical therapy.

(B) The primary function of:

(1) Unlicensed supportive physical therapy personnel functioning under the supervision of physical therapists or physical therapist assistants is to perform designated routine tasks related to the operation and delivery of physical therapy.

A physical therapist or physical therapist assistant shall provide immediate availability, ongoing involvement, and on-site supervision to unlicensed supportive physical therapy personnel to whom they delegate physical therapy tasks and duties.

(2) Other assistive physical therapy personnel is to perform designated and delegated functions related to the operation and delivery of physical therapy, utilizing their specific and unique training, under the on-site supervision of a physical therapist or physical therapist assistant.

(C) Physical therapists and physical therapist assistants shall only delegate tasks and duties that fall within the physical therapy scope of practice.

(D) Physical therapists and physical therapist assistants shall not delegate to unlicensed supportive physical therapy personnel or other assistive physical therapy personnel tasks related to physical therapy, including:

- (1) Interpretation of physician referrals;
- (2) Performance of evaluative procedures;
- (3) Initiation or adjustment of treatment procedures or activities; and
- (4) Responsibility for planning patient care.

(E) For the purposes of this rule, it is not considered a delegation of physical therapy tasks or duties if a physical therapist refers a patient to another discipline and documents the referral in the patient's medical records.

(F) Physical therapists shall not consider unlicensed supportive physical therapy personnel or other assistive physical therapy personnel as being as skilled, competent, knowledgeable, or qualified as the licensed physical therapist assistant in the delivery of physical therapy. Therefore, the tasks delegated to the unlicensed supportive physical therapy personnel or other assistive physical therapy personnel shall not be the same type or level as the tasks delegated to the physical therapist assistant.

Physical therapists shall assure quality and competent care when using unlicensed supportive physical therapy personnel or other assistive physical therapy personnel in physical therapy through appropriate

supervision and delegation of duties as outlined.

(G) The physical therapist shall recognize the difference in education and training of physical therapy workers and shall assume responsibility for controlling the physical therapy duties and activities delegated to unlicensed supportive physical therapy personnel and other assistive physical therapy personnel.

(H) All physical therapy tasks and duties delegated by the physical therapist or physical therapist assistant to the unlicensed supportive physical therapy personnel or other assistive physical therapy personnel shall be in accordance with sections 4755.40 to 4755.56 of the Revised Code. The physical therapist or physical therapist assistant shall demonstrate involvement in each treatment session, including countersigning notes in medical records, in which a component of the session is delegated to the unlicensed supportive physical therapy personnel or other assistive physical therapy personnel.

(1) The physical therapist or physical therapist assistant shall not delegate to a less qualified person any activity which requires the unique skills, knowledge and judgment of the physical therapist or physical therapist assistant. The responsibility for physical therapy care rendered by unlicensed supportive physical therapy personnel or other assistive physical therapy personnel, rests at all times with the physical therapist.

(2) Adequate supervision requires at a minimum:

(a) Establishing channels of written and oral communication.

(b) Interpreting available information concerning the individual requiring care.

(c) Exercising professional judgment in selecting and delegating appropriate tasks and activities, taking into consideration the training and competence of the unlicensed supportive physical therapy personnel and other assistive physical therapy personnel, the condition of the individual requiring the care, and any precautions, special problems or contraindications.

(d) Assessing the competence of unlicensed supportive physical therapy personnel and other assistive physical therapy personnel to perform assigned tasks.

(e) Exercising professional judgment in determining the extent of supervision or involvement in the physical therapy activity that is required of the physical therapist or physical therapist assistant. The level of supervision shall be based on the competency and experience of the unlicensed individual.

(I) Duties or functions that physical therapists or physical therapist assistants under the supervision of a physical therapist may delegate to unlicensed supportive physical therapy personnel or other assistive physical therapy personnel in physical therapy includes, but is not limited to:

(1) Maintenance and care of equipment and supplies.

(2) Preparation, maintenance and cleanup of treatment areas.

- (3) Transportation of patient records, equipment and supplies.
- (4) Performance of general office procedures (such as filing, attendance, reception, etc.).
- (5) Assisting patients preparing for, during, and at the conclusion of treatment (such as change clothing, position for treatment, assist to transfer, alter position during treatment, drape for warmth and modesty, redress, etc.).
- (6) Assemble and disassemble equipment; prepare specific area for treatment; return equipment to storage, etc.
- (7) Assist patients to safely perform activities related to the development of strength and endurance.
- (8) Perform other patient related activities previously determined and assigned by the licensed physical therapist based upon a knowledge of the training and qualification of the unlicensed person.

The American Physical Therapy Association Code of Ethics states:

PRINCIPLE 4

A physical therapist shall exercise sound professional judgment.

4.2 Direction and Supervision

B. A physical therapist shall not delegate to a less qualified person any activity that requires the professional skill, knowledge, and judgment of the physical therapist.

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: 7003 0500 0002 4430 4040
Return Receipt Requested

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IN RE:

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Physical Therapist in the State of
Ohio

Case No: 06-036-PT

Consent Agreement

This Consent Agreement ("Agreement") is entered into by and between **Nichole Schorsch**, ("**Schorsch**") 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. **Schorsch** hereby enters into this agreement being fully informed of her rights, including those under Chapter 4755 and Chapter 119, 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, **Schorsch** 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 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:
 - 5) Subject to section 4755.471 of the Revised Code, violation of the code of ethics of the American Physical Therapy Association;
 - (6) Violation of section 4755.40 to 4755.56 of the Revised Code, or any order issued or rule adopted under those sections;
 - (8) Aiding or abetting the unlicensed practice of physical therapy;

2. From on or about June 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, and 26, 2006, while in the position of physical therapist at Sports Therapy Inc., 1194 West Kemper Road, Cincinnati, Ohio, 45240, you supervised Tiffany Risher in her work as a PTA Licensure Applicant. Ms. Risher did not hold PTA Licensure Applicant status. Therefore, as her supervising physical therapist, you aided her in engaging in the practice of physical therapy, as that term is defined in section 4755.40(A) of the Ohio Revised Code, without a license. Said conduct constitutes a violation of Ohio Revised Code Sections 4755.47(A)(5), (6) and (8), Ohio Administrative Code rules 4755-27-02 and 4755-27-04, and the American Physical Therapy Association Code of Ethics Principal 4.2(B) as incorporated into Ohio law by R.C. 4755.47 (A)(5).

3. Ohio Administrative Code rule 4755-27-02 provides:

(C) A supervising physical therapist is accountable and responsible at all times for the direction of the actions of the person supervised including a physical therapist assistant, unlicensed supportive physical therapy personnel and other assistive physical therapy personnel. A physical therapist shall not delegate to a less qualified person any service which requires the skill, knowledge, and judgment of a physical therapist or physical therapist assistant.

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(E) The physical therapist shall select the appropriate portions of the treatment to be delegated and shall direct the physical therapist assistant, the unlicensed supportive physical therapy person, or other assistive physical therapy personnel in the delegated function. Such direction shall include precautions, special problems, contraindications, goals and anticipated progress, plans for re-evaluation by the physical therapist, and plans for discharging the patient.

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5. The American Physical Therapy Association Code of Ethics provides:
PRINCIPLE 4

A physical therapist shall exercise sound professional judgment.

4.2 Direction and Supervision

B. A physical therapist shall not delegate to a less qualified person any activity that requires the professional skill, knowledge, and judgment of the physical therapist.

Admissions

1. **Schorsch** hereby admits and acknowledges that she has received proper notice of her right to a formal hearing pursuant to Ohio Revised Code Chapter 119.
2. **Schorsch** 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. **Schorsch** admits that the facts set forth above are true and accurate and expressly waives all rights to challenge said facts.
4. **Schorsch** 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, **Schorsch** and the Board, knowingly and voluntarily agree to the following terms:

1. **Schorsch** agrees that this consent agreement serves as a written reprimand.
2. **Schorsch** agrees to abide by all federal, state, and local laws, and all laws and rules governing the practice of physical therapy in the State of Ohio.
3. Failure to abide by the terms of this agreement shall constitute an actionable violation in and of itself without further proof and may subject **Schorsch** to any and all disciplinary remedies to the Physical Therapy Section including, but not limited to, revocation.
4. **Schorsch** 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.
5. All parties to this agreement understand that this document is a public record pursuant to Ohio Revised Code section 149.43.
6. 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
7. By her signature on this consent agreement, **Schorsch** 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. **Schorsch** 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.

8. 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 **Schorsch** resulting from the aforementioned conduct.
9. 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 **Schorsch** 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, **Schorsch** recognize 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.



Nichole Schorsch



Date

Counsel to Nichole Schorsch
(If represented)

Date



Jeffrey M. Rosa
Executive Director



Date

Melinda Snyder Osgood
Assistant Attorney General

Date
