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

Abby Maiorano
5000 Baldwin Hills Dr.
Englewood, Ohio 45322

IN RE:
The eligibility of Abby Maiorano PTA05320, to retain her license as a Physical Therapist Assistant in the State of Ohio

Case No: 07-059-PT

Issue Date: May 1, 2008

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 an affirmative vote of not less than five members, may limit, suspend or revoke the license of a physical therapist or physical therapist assistant or reprimand, fine or place a license holder on probation, on any of the following grounds:

> (6) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate sections 4755.40 to 4755.56 of the Revised Code or any order issued or rule adopted under those sections;
>
> (13) A departure from, or the failure to conform to, minimal standards of care required of licensees when under the same or similar circumstances, whether or not actual injury to a patient is established;
>
> (14) Obtaining, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

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 limit, suspend or revoke your physical therapist license, or reprimand, fine or place you on probation for one or more of the following reasons:

Count 1

On September 26, 2007, while working as a physical therapist assistant at Wood Glen Nursing and Rehab Center, An Alzheimer's Community, 3800 Summit Glen Drive, Dayton, Ohio 45499, you falsified physical therapy documentation for Patient 1 by creating notation(s) in the service log matrix (PT) for treatments which never occurred. Said conduct constitutes a violation of Ohio Revised Code sections 4755.47(A)(6), (13) & (14) and Ohio Administrative Code rule 4755-21-03(B)(2).

Count 2

On September 26, 2007, while working as a physical therapist assistant at Wood Glen Nursing and Rehab Center, An Alzheimer's Community, 3800 Summit Glen Drive, Dayton, Ohio 45499, you falsified physical therapy documentation for Patient 2 by creating notation(s) in the service log matrix (PT) for treatments which never occurred. Said conduct constitutes a violation of Ohio Revised Code sections 4755.47(A)(6), (13) & (14) and Ohio Administrative Code rule 4755-21-03(B)(2).

Rule 4755-21-03 (B) (2) of the Ohio Administrative Code states:

The physical therapy section may deny, suspend, or revoke the license of any person or impose a sanction of probation or reprimand for violation of any provision of sections 4755.40 to 4755.56 of the Revised Code or any lawful order or rule of the section, and for unprofessional conduct, including but not limited to:

(2) Misconduct or negligence in the pursuit of the profession.

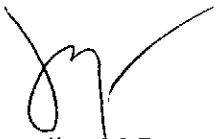
Hearing Procedures

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.

Please be advised that under section 4755.031 of the Ohio Revised Code, a person sanctioned under section 4755.11, 4755.47, 4755.482, or 4755.64 of the Revised Code shall pay a fee in the amount of the actual cost of the administrative hearing including the cost of the court reporter, the hearing officer, transcripts, and any witness fees for lodging and travel, as determined by the appropriate section of the board. The fee shall be collected by the appropriate section.

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



Jeffrey M. Rosa
Executive Director

cc: Yvonne Tertel, Principal Assistant Attorney General

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IN RE:
The eligibility of Abby Maiorano PTA05320, to retain her license as a Physical Therapist Assistant in the State of Ohio

Case No: 07-059-PT

Consent Agreement

This Consent Agreement ("Agreement") is entered into by and between **Abby Maiorano**, ("**Maiorano**") 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. **Maiorano** 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, **Maiorano** 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 an affirmative vote of not less than five members, may limit, suspend or revoke the license of a physical therapist or physical therapist assistant or reprimand, fine or place a license holder on probation, on any of the following grounds:

   (6) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate sections 4755.40 to 4755.56 of the Revised Code or any order issued or rule adopted under those sections;

   (13) A departure from, or the failure to conform to, minimal standards of care required of licensees when under the same or similar circumstances, whether

or not actual injury to a patient is established;

(14) Obtaining, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

2. On September 26, 2007, while working as a physical therapist assistant at Wood Glen Nursing and Rehab Center, An Alzheimer's Community, 3800 Summit Glen Drive, Dayton, Ohio 45499, **Maiorano** falsified physical therapy documentation for Patient 1 by creating notation(s) in the service log matrix (PT) for treatments which never occurred. Said conduct constitutes a violation of Ohio Revised Code sections 4755.47(A)(6), (13) & (14) and Ohio Administrative Code rule 4755-21-03(B)(2).

3. On September 26, 2007, while working as a physical therapist assistant at Wood Glen Nursing and Rehab Center, An Alzheimer's Community, 3800 Summit Glen Drive, Dayton, Ohio 45499, **Maiorano** falsified physical therapy documentation for Patient 2 by creating notation(s) in the service log matrix (PT) for treatments which never occurred. Said conduct constitutes a violation of Ohio Revised Code sections 4755.47(A)(6), (13) & (14) and Ohio Administrative Code rule 4755-21-03(B)(2).

Admissions

1. **Maiorano** 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. **Maiorano** 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. **Maiorano** admits that the facts set forth above are true and accurate and expressly waives all rights to challenge said facts.

4. **Maiorano** 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, **Maiorano** and the Board, knowingly and voluntarily agree to the following terms:

1. Upon ratification of this agreement, **Maiorano's** license to practice as a physical therapist assistant in the state of Ohio shall be immediately suspended for a period of 2 months, with two (2) months of the suspension stayed.
2. **Maiorano** must attend and complete one course in each of the following subject areas: ethics, and medical documentation. Completion of the courses will not count towards the continuing education hours needed for license renewal. **Maiorano** must have her attendance at each course verified by the presenter/instructor. Therefore, completion of online and other self study courses will not be accepted. Proof of completion must be submitted to the Enforcement Division of the Board within three (3) months of the ratification of this agreement.

3. **Maiorano** shall provide a copy of the consent agreement to any current and future employers during the term of this agreement. **Maiorano's** employer(s) must send written notification to the Enforcement Division indicating that they were provided with a copy of this agreement. **Maiorano** shall ensure that this notification by her employer is received within (30) days of the effective date of this agreement. If **Maiorano** changes employers during the course of this agreement, she shall ensure that written notification by her new employer(s) is received within (30) days of her start date.

4. Failure to abide by the terms of this Agreement shall constitute an actionable violation in and of itself without further proof and may subject **Maiorano** to any and all disciplinary remedies to the Physical Therapy Section including, but not limited to, revocation.

5. **Maiorano** 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.

6. **Maiorano** 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.

7. All parties to this agreement understand that this document is a public record pursuant to Ohio Revised Code section 149.43.

8. 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

9. By her signature on this consent agreement, **Maiorano** 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. **Maiorano** 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.

10. 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 **Maiorano** resulting from the aforementioned conduct.

11. 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 **Maiorano** 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, **Maiorano** 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.

Abby Maiorano
Abby Maiorano

6-6-08
DATE

Counsel to Abby Maiorano
(If represented)

DATE

Jeffrey M. Rosa
Executive Director

6-26-08
DATE

Yvonne Tertel
Principal Assistant Attorney General

6/26/2008
DATE

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

November 25, 2008

Abby Maiorano, PTA
5000 Baldwin Hills Drive
Englewood, OH 45322

RE: Consent Agreement

Dear Ms. Maiorano:

This letter is to inform you that the Physical Therapy Section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board has released you from your consent agreement. After reviewing your file at the November 19, 2008 Physical Therapy Section Enforcement meeting, it was determined that you have fulfilled all of the obligations listed in your consent agreement. As such, your employer verification is no longer required. Please be aware that a record of this disciplinary action will be part of your permanent record.

Your cooperation with the Board and our staff is appreciated.

Sincerely,
OHIO OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND
ATHLETIC TRAINERS BOARD - **Physical Therapy Section**

Lisa Ratinaud

Lisa S. Ratinaud, M.S.A.
Enforcement Division Supervisor

cc: Licensure File