



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**

Kevin M. Bauer
196 Stonhope Dr
Delaware, Ohio 43015

IN RE:

The eligibility of Kevin M. Bauer,
PTA6018, to retain his license as a
Physical Therapist Assistant in the State
of Ohio

Case No: PT FY09-050

Issue Date: June 22, 2009

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:

- (5) Subject to section 4755.471 of the Revised Code, violation of the code of ethics adopted by the physical therapy section;
- (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 assistant license, or reprimand, fine or place you on probation for one or more of the following reasons:

Count 1

On February 23, 2009, while employed with Therapy Advantage, Inc., located at 5600 N. High Street, Worthington, Ohio 43085, you admittedly falsified a physical therapy visit form and/or forged the patient's signature for Patient 1, by creating notations for treatment which never occurred. Said conduct constitutes a violation of Ohio Revised Code sections 4755.47(A)(5), (6), (13) & (14), and Ohio Administrative Code rule 4755-27-05(A)(1)(b), (2), (3), (B)(1), (5)(f) & (i), and (9).

Count 2

On March 2 & 4, 2009, while employed with Therapy Advantage, Inc., located at 5600 N. High Street, Worthington, Ohio 43085, you admittedly falsified physical therapy visit forms and/or forged the patient's signature for Patient 2, by creating notations for treatment which never occurred. Said conduct constitutes a violation of Ohio Revised Code sections 4755.47(A)(5), (6), (13) & (14), and Ohio Administrative Code rule 4755-27-05(A)(1)(b), (2), (3), (B)(1), (5)(f) & (i), and (9).

Count 3

On March 3, 2009, while employed with Therapy Advantage, Inc., located at 5600 N. High Street, Worthington, Ohio 43085, you admittedly falsified a physical therapy visit form and/or forged the patient's signature for Patient 3, by creating notations for treatment which never occurred. Said conduct constitutes a violation of Ohio Revised Code sections 4755.47(A)(5), (6), (13) & (14), and Ohio Administrative Code rule 4755-27-05(A)(1)(b), (2), (3), (B)(1), (5)(f) & (i), and (9).

Count 4

On March 3 & 5, 2009, while employed with Therapy Advantage, Inc., located at 5600 N. High Street, Worthington, Ohio 43085, you admittedly falsified physical therapy visit forms and/or forged the patient's signature for Patient 4, by creating notations for treatment which never occurred. Said conduct constitutes a violation of Ohio Revised Code sections 4755.47(A)(5), (6), (13) & (14), and Ohio Administrative Code rule 4755-27-05(A)(1)(b), (2), (3), (B)(1), (5)(f) & (i), and (9).

Count 5

On March 4, 2009, while employed with Therapy Advantage, Inc., located at 5600 N. High Street, Worthington, Ohio 43085, you admittedly falsified a physical therapy visit form and/or forged the patient's signature for Patient 5, by creating notations for treatment which never occurred. Said conduct constitutes a violation of Ohio Revised Code sections 4755.47(A)(5), (6), (13) & (14), and Ohio Administrative Code rule 4755-27-05(A)(1)(b), (2), (3), (B)(1), (5)(f) & (i), and (9).

Count 6

On March 4 & 6, 2009, while employed with Therapy Advantage, Inc., located at 5600 N. High Street, Worthington, Ohio 43085, you admittedly falsified physical therapy visit forms and/or forged the patient's signature for Patient 6, by creating notations for treatment which never occurred. Said conduct constitutes a violation of

Ohio Revised Code sections 4755.47(A)(5), (6), (13) & (14), and Ohio Administrative Code rule 4755-27-05(A)(1)(b), (2), (3), (B)(1), (5)(f) & (i), and (9).

Count 7

On March 6, 2009, while employed with Therapy Advantage, Inc., located at 5600 N. High Street, Worthington, Ohio 43085, you admittedly falsified a physical therapy visit form and/or forged the patient's signature for Patient 7, by creating notations for treatment which never occurred. Said conduct constitutes a violation of Ohio Revised Code sections 4755.47(A)(5), (6), (13) & (14), and Ohio Administrative Code rule 4755-27-05(A)(1)(b), (2), (3), (B)(1), (5)(f) & (i), and (9).

Ohio Administrative Code rule 4755-27-05 states in pertinent part:

An individual licensed by the physical therapy section has a responsibility to report any organization or entity that provides or holds itself out to deliver physical therapy services that places the licensee in a position of compromise with this code of ethical conduct.

(A) Ethical integrity.

Licensees shall use the provisions contained in paragraphs (A)(1) to (A)(10) of this rule as guidelines for promoting ethical integrity and professionalism. Failure to comply with paragraphs (A)(1) to (A)(10) of this rule may be grounds for disciplinary action pursuant to section 4755.47 of the Revised Code and in accordance with Chapter 119. of the Revised Code.

(1) A licensee shall respect the rights and dignity of all patients and provide compassionate care as described in paragraphs (A)(1)(a) and (A)(1)(b) of this rule.

(b) A licensee shall be guided by concern for the physical, psychosocial, and socioeconomic welfare of patients.

(2) A licensee shall exercise sound judgment and act in a trustworthy manner in all aspects of physical therapy practice. Regardless of practice setting, the physical therapist shall maintain the ability to make independent judgments. A licensee shall strive to effect changes that benefit the patient.

(3) A licensee shall only seek compensation that is reasonable for the physical therapy services delivered. A licensee shall never place the licensee's own financial interests above the welfare of the licensee's patients. A licensee, regardless of the practice setting, shall safeguard the public from unethical and unlawful business practices.

(B) Ethical conduct.

Ethical conduct includes conforming to the minimal standards of acceptable and prevailing physical therapy practice. Conduct may be considered unethical regardless of whether or not actual injury to a patient occurred. Failure to comply with paragraphs (B)(1) to (B)(14) of this rule may be grounds for disciplinary action pursuant to section 4755.47 of the Revised Code and in accordance with Chapter 119. of the Revised Code.

(1) A licensee shall adhere to the standards of ethical practice by practicing in a manner that is moral and honorable. A licensee may be disciplined for violating any provision contained in division (A) of section 4755.47 of the Revised Code.

(5) A licensee shall adhere to the minimal standards of acceptable

prevailing practice. Failure to adhere to minimal standards of practice, whether or not actual injury to a patient occurred, includes, but is not limited to:

- (f) Practicing in a pattern of negligent conduct, which means a continued course of negligent conduct or of negligent conduct in performing the duties of the profession.
 - (i) Documenting or billing for services not actually provided.
- (9) A licensee shall not falsify, alter, or destroy patient/client records, medical records, or billing records without authorization, including the failure to maintain accurate patient or billing records.

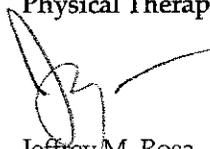
Hearing Procedures

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
Certified Mail: 7004 2510 0006 9811 4547
Return Receipt Requested



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Before the Ohio
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Physical Therapy Section

IN RE:

The eligibility of Kevin M. Bauer,
PTA6018, to retain his license as a
Physical Therapist Assistant in the State
of Ohio

Case No: PT FY09-050

Consent Agreement

This Consent Agreement ("Agreement") is entered into by and between **Kevin M. Bauer**, ("**Bauer**") 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 and all rules promulgated thereunder. **Bauer** hereby enters into this agreement being fully informed of his 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, **Bauer** 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:

(5) Subject to section 4755.471 of the Revised Code, violation of the code of ethics adopted by the physical therapy section;

(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 February 23, 2009, while employed with Therapy Advantage, Inc., located at 5600 N. High Street, Worthington, Ohio 43085, you admittedly falsified a physical therapy visit form and/or forged the patient's signature for Patient 1, by creating notations for treatment which never occurred. Said conduct constitutes a violation of Ohio Revised Code sections 4755.47(A)(5), (6), (13) & (14), and Ohio Administrative Code rule 4755-27-05(A)(1)(b), (2), (3), (B)(1), (5)(f) & (i), and (9).

On March 2 & 4, 2009, while employed with Therapy Advantage, Inc., located at 5600 N. High Street, Worthington, Ohio 43085, you admittedly falsified physical therapy visit forms and/or forged the patient's signature for Patient 2, by creating notations for treatment which never occurred. Said conduct constitutes a violation of Ohio Revised Code sections 4755.47(A)(5), (6), (13) & (14), and Ohio Administrative Code rule 4755-27-05(A)(1)(b), (2), (3), (B)(1), (5)(f) & (i), and (9).

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3. **Bauer** 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.

Admissions

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

1. Upon ratification of this agreement, **Bauer's** license to practice as a physical therapist assistant in the state of Ohio shall be immediately suspended for a period of 60 days. The suspension shall commence the day following the ratification of this agreement.
2. **Bauer** shall provide a copy of the consent agreement to any current and future employers during the term of this agreement. **Bauer's** employer(s) must send written notification on company letter head to the Enforcement Division indicating

that they were provided with a copy of this agreement. **Bauer** shall ensure that this notification by his employer is received within (30) days of the effective date of this agreement. If **Bauer** changes employers during the course of this agreement, he shall ensure that written notification by his new employer(s) is received within (30) days of her start date.

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 **Bauer** to any and all disciplinary remedies to the Physical Therapy Section including, but not limited to, revocation.
4. **Bauer** 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.
5. **Bauer** 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.
6. All parties to this agreement understand that this document is a public record pursuant to Ohio Revised Code section 149.43.
7. 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.
8. By his signature on this consent agreement, **Bauer** 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. **Bauer** agrees that should the Board reject this consent agreement and if this case proceeds to hearing, he will assert no claim that the Board was prejudiced by its review and discussion of this consent agreement or of any information relating thereto.
9. 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 **Bauer** resulting from the aforementioned conduct.
10. 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 his signature **Bauer** acknowledges that he 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 his rights under

Ohio law. By executing this Agreement, Bauer recognizes that if, in the discretion of the Board it appears that he 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.



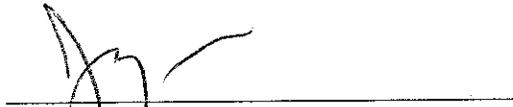
Kevin M. Bauer

7/23/09

DATE

Counsel to Kevin M. Bauer
(If represented)

DATE



Jeffrey M. Rosa
Executive Director

8/6/09

DATE



Yvonne Tertel
Principal Assistant Attorney General

8/6/2009

DATE