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Acting Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
New Jersey State Board of Physical Therapy Examiners
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MAY 03 2005

By Certified and Regular Mail

February 23, 2005

Phyllis Krug, P.T.
465 Ogden Avenue
Teaneck, New Jersey 07666

Re: Offer of Settlement In Lieu of Filing a Formal Disciplinary Complaint

Dear Ms. Krug:

This letter is to advise you that the New Jersey State Board of Physical Therapy Examiners (the "Board") has had an opportunity to review information concerning the physical therapy treatment that you rendered to J.R. on or about May 1, and 5, 2003. Specifically, the Board reviewed the complaint submitted by the patient and the treatment and billing records including your hand written progress notes for the treatment provided to J.R. Additionally, the Board also considered the testimony that you provided to the Preliminary Investigation Committee of the Board at an inquiry that you attended Pro. Se. on December 9, 2003.

According to your testimony patient J.R. was referred to you by a psychologist for "physical manifestations of emotional problems." As you explained the "patient presented with vague pains kind of everywhere." Your objective finding concluded that "the patient had muscles in the face which are part of the sinus system that were stuck." The treatment afforded included "myofacial release to the cranium occiput and atlas" (T11:3-5) and "consecutive therapy" which you described as "a method of energy medicine which deals with the awareness of what you see in the body... we have energetic fields which go off the body which integrate the physical and emotional pieces of us..." (T12:9-18).

Your billing records reflected that you provided therapeutic exercise and manual traction. As you further explained the technique of releasing the tissue and the breathing exercises that you had the patient perform were difficult to define in terms of the available CPT codes. The treatment involved "hands on the tissue and sometimes off the tissue, in the area around the head and it creates a field which allow the tissue to shift and to release." (T13: 17-20). Upon further questioning, you agreed with the committee that the CPT codes that you utilized in your bill did not reflect the treatment that you provided.

Upon review of the treatment notes, the Board found that J.R.'s patient record was grossly deficient in the following areas: the record did not contain the patient's history, the patient was not identified on the record, it lacked a physical therapy diagnosis. The record further failed to contain your license number and signature as the physical therapist providing treatment and did not include a discharge summary. The progress notes supplied were also illegible. All of these elements are required in the patient record pursuant to N.J.A.C. 13:39A-3.1. The board recognized the revised patient record forms for use to document patient information that you prepared in anticipation of the inquiry and acknowledged to the Board that you would be implementing in your practice, upon your realization that your patient records were not in compliance with the Board's regulations and the standards of practice of physical therapy.

At the request of the committee, you were advised to submit five (5) additional patient records for the Board to review. While the Board upon review of this additional documentation found that you have made efforts to improve your record keeping it also reached the following determination.

Upon review of all available information, the Board has preliminarily found that probable cause exists to support a finding that you violated N.J.S.A. 45:1-21(b) in that your use of the CPT codes in the billing for the patient was misleading and did not properly reflect the treatment offered. Further these codes constituted misrepresentation to the insurance carrier and the patient of the treatment interventions that you provided. Additionally, your patient records were grossly deficient in that the patient record did not meet the requirements set forth in N.J.A.C. 13:39A-3.1

At this juncture, the Board has preliminarily concluded that the above violations are sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that decision, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of disciplinary proceedings, should you consent to:

1. Cease and desist in the future from failing to meet the Board's record keeping requirements as set forth in N.J.A.C. 13:39A-3.1 and from failing to use CPT billing codes which better represent the treatment that you are providing to your patients.

2. Pay a penalty in the amount of \$5000.00, \$2500.00 for the submission of improper CPT codes which constitutes misrepresentation of the treatment afforded the patient in violation of N.J.S.A. 45:1-21(c) and \$2500.00 for illegible patient records and failure to comply with the requirements of the patient record regulation at N.J.A.C. 13:39A-3.1 (to be paid immediately upon your signing of the acknowledgment at the bottom of this letter by sending a certified check or money order payable to the Board of Physical Therapy Examiners, P.O. Box 45012, Newark, New Jersey 07101 to attention of Susan Gartland, Executive Director).

3. Pay costs in the amount of \$229.00 as reflected in the certification of Susan Gartland, Executive Director of the Board as attached hereto.

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. Upon your signature, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate enforcement action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than that herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order, requiring you to reimburse certain monies and/or requiring you to pay costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General ,Carmen A. Rodriguez who may be reached at (973) 648-3696.

If you elect to settle this matter presently, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

NEW JERSEY STATE BOARD OF
PHYSICAL THERAPY EXAMINERS

By: Susan Gartland
Susan Gartland
Executive Director

ACKNOWLEDGMENT: I, Phyllis Krug, P.T., hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the amount of \$ 5000.00 plus costs in the amount of \$229.00 which total \$5229.00 (to be paid upon signing of this acknowledgment).

Phyllis Krug PT
Phyllis Krug, P.T.

Dated:

cc: Carmen A. Rodriguez, Deputy Attorney General