



**RICHARD J. CODEY**  
Acting Governor

***New Jersey Office of the Attorney General***

Division of Consumer Affairs  
New Jersey State Board of Physical Therapy Examiners  
124 Halsey Street, 6<sup>th</sup> Floor, Newark, NJ 07102



**PETER C. HARVEY**  
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Acting Director

**Mailing Address:**  
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Newark, NJ 07101  
(973) 504-6455

By Certified and Regular Mail

May 25, 2005

Christine Livingston, P.T.  
681 Prospect Avenue  
Little Silver, NJ 07739

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

Dear Ms. Livingston:

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 practice and the treatment afforded to Michael Mickendrow at Nova Care Hudson Physical Therapy located in Clifton and Hoboken, New Jersey. You were initially employed as a physical therapist in April 1999 by that entity and you served as a clinical manager prior to leaving that employment in May, 2003. In addition to the patient record of Michael Mickendrow the Board also relied upon your testimony at the inquiry that you attended Pro Se on July 13, 2004.

The documentation reviewed by the Board revealed that you provided physical therapy care to this patient. Additionally you testified, as documented in the patient record, that you performed the initial evaluation of Mr. Mickendrow on March 10, 2003. (T8:23,T9:1-3) Upon questioning concerning the average amount of the charges for the physical therapy services provided in general to patients at NovaCare Hudson Physical Therapy you testified that the amount was about \$120.00 per visit. A review of the billing for Mr. Mickendrow demonstrated that the average visit totaled between \$250. and \$324. It was your testimony that you were not familiar with the amount of the charges per visit for Mr. Mickendrow or any other patient and that even in your supervisory position you were not involved in the process of setting or submitting charges.

Upon additional questioning, you were asked whether the CPT codes for therapeutic exercise and therapeutic activity required one on one direct contact with the patient and your response was that "according to your interpretation" direct one on one contact with the patient was not required for a "non-Medicare " patient (T13:14-25). The Board noted that the CPT code book indicates that therapeutic activity and therapeutic exercise both require the physical therapist to have direct (one on one) patient contact for a non-medicare patient.

Upon review of all available information and your testimony at the inquiry, the Board has preliminarily found that probable cause exists to support a finding that you violated N.J.S.A. 45:1-21(h) and N.J.A.C. 13:39A-3.4 that requires that "fees for physical therapy services shall be reasonable and commensurate with the fees of physical therapists offering like services or intervention in the geographic area and shall be in accordance with the provision of N.J.A.C. 13:39A-3.6 prohibiting excessive fees" in that your failure to be aware of the fees and the definitions of the CPT codes that were utilized and charged by the facility constitutes a violation of the Board's regulations. Furthermore, all licensees, as part of their professional obligations are responsible for reviewing fees and for being aware of the charges for physical therapy services.

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 be aware of the fees charged for physical therapy treatment at the facility where you are employed.

2. Pay a penalty in the amount of \$1500.00 for the violation of N.J.A.C. 13:39A-3.4 which arose from your failure to be aware of fees and billing procedures at your place of employment. The amount of the penalty is 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 45014, Newark, New Jersey 07101 to the attention of Susan Gartland, Executive Director.

3. Pay costs in the amount of \$169.50 as reflected in the certification of Susan Gartland, Executive Director of the Board as attached hereto. (To be paid immediately upon signing the acknowledgment by following the mailing instructions as set forth in paragraph 2 above.

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.

JUN 08 2005

NEW JERSEY STATE BOARD OF  
PHYSICAL THERAPY EXAMINERS

By: Susan Gartland  
Susan Gartland  
Executive Director

ACKNOWLEDGMENT: I, Christine Livingston, 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 \$ 1500.00 plus costs in the amount of \$169.50 which total \$1669.50 (to be paid upon signing of this acknowledgment).

Christine Livingston MSPT  
Christine Livingston, P.T.

Dated: 6/7/05

cc: Carmen A. Rodriguez, Deputy Attorney General