

**BEFORE THE MINNESOTA
BOARD OF PHYSICAL THERAPY**

In the Matter of the
Physical Therapy License of
Spencer D. Blackie, P.T.
Date of Birth: 9/27/46
License Number: 5044

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between Spencer D. Blackie, P.T. (“Respondent”), and the Complaint Review Committee (“Committee”) of the Minnesota Board of Physical Therapy (“Board”) as follows:

1. During all times herein, Respondent has been and now is subject to the jurisdiction of the Board from which he holds a license to practice physical therapy in the State of Minnesota.

2. Respondent has been advised by Board representatives that he may choose to be represented by legal counsel in this matter. Respondent has chosen to be represented by Sidney L. Brennan, Jr., Attorney at Law, 1013 Ford Road, Minnetonka, Minnesota 55305, telephone (952) 546-2455. The Committee was represented by Nathan W. Hart, Assistant Attorney General, 1400 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, telephone (651) 296-7575.

FACTS

3. For the purpose of this stipulation, the Board may consider the following facts as true:

a. On September 14, 2004, Respondent was suspended from his position as rehabilitation services manager at his place of employment pending an investigation. The bases for Respondent’s suspension included “failure to obtain physician orders for initial and ongoing treatments; failure to establish clear policies for assessment and re-assessment of therapy

patients; and failure to complete timely re-evaluations and updating the plan of care; and billing patients for treatment without patient orders.” In response to these allegations, Respondent commented, “Policies are present and established; however not being followed on a timely basis.”

b. On September 30, 2004, Respondent was terminated from his place of employment. The bases for his termination included performing physical therapy services on patients, including Medicare patients, over a period of years without physician referrals for therapy services. Respondent admitted that he knowingly provided physical therapy services without physician referrals beyond the initial 30 days of treatment.

c. Respondent maintains that, while he may not have had current written referrals for continued physical therapy treatment for each patient, he had at least verbal referrals from each patient’s physician to continue physical therapy services. Respondent acknowledges that he did not document these verbal referrals in each patient’s chart and did not continue to attempt to obtain written referrals.

d. A chart audit of Respondent’s patient charts revealed a number of deficiencies, including:

- 1) Failure to document his observation of physical therapist assistants’ provision of physical therapy services at least every six treatment sessions;
- 2) Failure to document whether services were being provided by Respondent or the physical therapist assistant;
- 3) Failure to obtain written referrals from patients’ physicians for physical therapy services or failure to document verbal referrals obtained by Respondent; and

4) Initial evaluations of patients were missing from many of the charts. However, Respondent maintains that he performed an initial evaluation for all patients, and if the initial evaluation was not present in the chart, it must have been misfiled or lost.

STATUTES

4. The Committee views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 148.75(a)(5), (7), and (11) (2004), and Minn. R. 5601.1500 (2003). Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

REMEDY

5. Upon this stipulation and all of the files, records, and proceedings herein, and without any further notice or hearing herein, Respondent does hereby consent that until further order of the Board, made after notice and hearing upon application by Respondent or upon the Board's own motion, the Board may make and enter an order **CONDITIONING** and **RESTRICTING** Respondent's license to practice physical therapy in the State of Minnesota as follows:

a. Respondent is hereby **REPRIMANDED** for the conduct referenced above.

b. Respondent shall successfully complete, within one year from the date the Stipulation and Order is adopted by the Board, the following courses approved in advance by the Committee:

- 1) An ethics course;
- 2) A documentation course;
- 3) The Minnesota Chapter of the American Physical Therapy Associations ("MNAPTA") Peer Reviewer Training Course; and

4) The MNAPTA Essentials of Physical Therapy Course.

Successful completion shall be determined by the Committee or its designee.

c. No sooner than three months after successful completion of the course work described in paragraph 5.b., Respondent shall have an on-site work quality/documentation assessment completed by a work quality assessor, preapproved by the Committee. The work quality assessor shall send the assessment report to the Committee for review.

6. Upon successful completion of the requirements in paragraphs 5.b. and 5.c. above, Respondent may petition for reinstatement of an unconditional license. Successful completion shall be determined by the Committee. Upon hearing the petition, the Board may continue, modify, or remove the conditions set out herein.

7. Within ten days of the date of this Order, Respondent shall provide the Board with a list of all hospitals and skilled nursing facilities at which Respondent currently has privileges, a list of all states in which Respondent is licensed or has applied for licensure, and the addresses and telephone numbers of Respondent's residences and all work sites. Within seven days of any change, Respondent shall provide the Board with the new address and telephone information. The information shall be sent to Stephanie Lunning, Minnesota Board of Physical Therapy, University Park Plaza, 2829 University Avenue S.E., Suite 420, Minneapolis, Minnesota 55414-3245.

8. In the event Respondent resides or practices outside the State of Minnesota, Respondent shall promptly notify the Board in writing of the location of his residence and all work sites. Periods of residency or practice outside of Minnesota will not be credited toward any period of Respondent's suspended, limited, or conditioned license in Minnesota unless Respondent demonstrates that practice in another state conforms completely with Respondent's Minnesota license to practice physical therapy.

9. If Respondent shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, the Committee shall schedule a hearing before the Board. The Committee shall mail Respondent a notice of the violation alleged by the Committee and of the time and place of the hearing. Respondent shall submit a response to the allegations at least three days prior to the hearing. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

At the hearing before the Board, the Committee and Respondent may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Order. Respondent waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Respondent's practice, or suspension or revocation of Respondent's license.

10. In the event the Board in its discretion does not approve this settlement, this stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any disciplinary action by either party hereto except that Respondent agrees that should the Board reject this stipulation and if this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this stipulation or of any records relating hereto.

11. Respondent waives any further hearings on this matter before the Board to which Respondent may be entitled by Minnesota or United States constitutions, statutes, or rules and agrees that the order to be entered pursuant to the stipulation shall be the final order herein.

12. Respondent hereby acknowledges that he has read and understands this stipulation and has voluntarily entered into the stipulation without threat or promise by the Board or any of its members, employees, or agents. This stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this stipulation.

Dated: __8/15/05_____, 2005

Dated: __9-15-05_____, 2005

SIGNATURE ON FILE

SIGNATURE ON FILE

SPENCER D. BLACKIE, P.T.
Respondent

FOR THE COMMITTEE

ORDER

Upon consideration of this stipulation and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the terms of this stipulation are adopted and implemented by the Board this __15th__ day of __September_____, 2005.

MINNESOTA BOARD OF
PHYSICAL THERAPY

SIGNATURE ON FILE

STEPHANIE LUNNING
Executive Director