

**BEFORE THE MINNESOTA  
BOARD OF PHYSICAL THERAPY**

In the Matter of the  
Physical Therapy License of  
Nancy K. Dorr, P.T.  
Date of Birth: 3/30/56  
License Number: 6363

**STIPULATION  
AND ORDER**

IT IS HEREBY STIPULATED AND AGREED, by and between Nancy K. Dorr, 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 she holds a license to practice physical therapy in the State of Minnesota.

2. Respondent has been advised by Board representatives that she may choose to be represented by legal counsel in this matter. Respondent has chosen to be represented by Thomas W. Healy, Healy Law Office, 119 Sixth Street SW, Rochester, Minnesota 55902, (507) 281-2842. The Committee was represented by Paul R. Kempainen, Assistant Attorney General, 1400 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, (651) 296-7575.

**FACTS**

3. In the interest of settling this matter and avoiding the necessity of further proceedings, the Board may consider the following facts as true for the purpose of this stipulation:

a. In April 1997, Respondent entered into inpatient chemical dependency treatment for 28 days. Respondent was diagnosed with alcohol dependence and late-stage liver disease (cirrhosis). Following inpatient discharge, she relapsed to alcohol use in June 1997.

b. From September 1997 until June 1998, Respondent participated in a residential chemical dependency treatment program at another facility. Upon completion of that program she lived in the Rochester, Minnesota area.

c. On May 8, 1999, Respondent became licensed by the Minnesota Board as a physical therapist.

d. In March 2000, Respondent relapsed to alcohol use and entered inpatient treatment at a third facility. In April 2000, after completing inpatient treatment, Respondent resumed full-time employment as a physical therapist. Respondent reported herself to the Health Professionals Services Program (“HPSP”) for monitoring of her recovery from alcohol dependence.

e. On September 4, 2000, Respondent relapsed to alcohol use. The following day, September 5, 2000, while at work, she submitted to a urine drug screen that tested positive for alcohol. On September 14, 2000, as a result of the positive test for alcohol, Respondent was terminated from her position.

f. On October 10, 2000, Respondent started working at a contract agency that provides physical therapy to patients from multiple facilities in the southeast Minnesota area.

g. Respondent has continued to have her recovery monitored by HPSP.

h. Respondent met with the Committee on December 11, 2000.

i. On July 30, 2001, the Committee initiated a contested case hearing against Respondent by serving and filing a Notice of Hearing.

j. On September 19, 2001, the Respondent served and filed a Response to the Notice of Hearing.

k. On Saturday, October 27, 2001, Respondent reported for an HPSP-directed drug screen test pursuant to her monitoring agreement with HPSP. Before giving the required urine sample, Respondent reported on Regions Hospital Toxicology Laboratory ("Regions") report she was taking only two medications: Zoloft 50 mg qd, and Trazodone 50 75 mg prn. Respondent's sample was taken at about 0755 hours. Testing was done by Regions and the results were reviewed and reported on October 30, 2001. The finding was positive urine ethanol (alcohol) in the amount of .084 g/dl.

l. Regions reported Respondent's positive alcohol screen to HPSP on the same day, October 30, 2001. Regions also told HPSP the screen was negative for sugar and bacteria. HPSP thereupon telephoned Respondent to report the positive screen and asked that she refrain from practice. According to HPSP's record notes, Respondent replied in the following manner:

She denied drinking. She said that she has had a cold and took vicks cold med.

m. On October 31, 2001, HPSP called the Executive Director of the Board of Physical Therapy to report the results of the positive screen, and of the request to Respondent to refrain from practicing physical therapy, as authorized by the agreement between Respondent and HPSP. HPSP also told the Board's Executive Director that they instruct clients not to use cold medications containing alcohol when explaining the monitoring agreement to clients.

n. On November 7, 2001, HPSP notified the Respondent of the plan to test Respondent's positive screen for Nyquil and Vicks 44. Respondent told HPSP that Nyquil and Vicks 44 were not the source of the positive screen. Respondent stated to HPSP that she made a Southern home remedy for colds consisting of hot water, tea, orange juice, and vanilla extract. She reported finishing close to an 8 oz. bottle of vanilla extract with 38% alcohol content.

### **STATUTES**

4. The Committee views Respondent's conduct as inappropriate in such a way as to require Board action under Minn. Stat. § 148.75, subd. a(1) and (5) (1999). However, both parties wish to resolve this contested case without incurring further delay and expense, and the Respondent is willing to agree to restrictions on her license that the Committee believes will protect the public. Minn. Stat. § 148.691, subd. 3(b) allows resolution of disciplinary cases by settlement agreement. Therefore, the Respondent agrees to the following disciplinary action:

### **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 SUSPENDING Respondent's license to practice physical therapy in the State of Minnesota. Such suspension shall be STAYED pending Respondent's compliance with the following terms and conditions:

a. Respondent shall obtain a treating physician, approved in advance by the Committee or its designee, to monitor and/or manage all medical or other care provided to Respondent by all health care professionals. Respondent shall provide all necessary records releases to enable Respondent's health care professionals to communicate with the treating

physician pursuant to this paragraph. The treating physician shall provide quarterly reports to the Board or its designee summarizing medical or other care provided to Respondent and addressing Respondent's progress under any terms of this Stipulation and Order relating to Respondent's health status and recovery.

b. Respondent shall abstain completely from alcohol and all mood-altering chemicals unless they are prescribed by a physician or dentist who has first been informed of Respondent's chemical dependency history.

c. Respondent shall be subject, without notice, to unannounced blood and urine tests at the request of Board staff or other Board designee at least twelve (12) times per quarter. Blood and urine screens may be requested at any time, but shall specifically be requested on Saturdays and/or Sundays at a minimum of three (3) times per quarter. Respondent shall provide the requested sample before 10:00 A.M. or within the time frame directed by the Board or the Board's designee. The blood and urine screens shall be:

- 1) Collected and tested consistent with protocols established by a Board-designated laboratory;
- 2) Handled through legal chain of custody methods; and
- 3) Paid for by Respondent.

The biological fluid collection and testing shall take place at a Board-designated laboratory as directed by the Board or its designee. Testing shall screen for opiates, cocaine, barbiturates, amphetamines, benzodiazepines, marijuana, and other drugs of abuse, including alcohol. The laboratory will provide test results directly to the Board or its designee and Respondent's treating physician. Respondent shall abstain from all food products known to interfere with toxicology screens, including the ingestion of poppyseeds, which may cause a positive screen

result for opiates. The ingestion of foods containing poppyseeds or other substances known to interfere with toxicology screens will not be accepted by HPSP as reasons for positive screen results. The ingestion of any over the counter medications and/or product containing alcohol, unless lawfully prescribed or managed by a treating physician or dentist who has been informed of the Respondent's diagnosis and history, will not be accepted as a reason for a positive drug screen.

d. Respondent shall attend meetings of a self-help program such as AA or NA in support of abstinence at least three (3) times per week. Quarterly reports shall be submitted to the Board or its designee from Respondent's designated sponsor(s) regarding attendance and participation. If quarterly reports are not submitted in a timely manner, Board staff will contact the designated sponsor and the Respondent in writing by certified mail regarding the delinquent submission of a report. Failure by Respondent to take action to correct the delinquent submission within 10 days of receipt of the written notice from the Board is a violation of this Order.

e. Respondent shall, within 30 days of the date of this order, provide for approval of the Complaint Review Committee a treatment plan and aftercare plan that includes relapse prevention components. The treatment plan and aftercare plan would be immediately effective upon approval by the Committee. Respondent shall provide to the treating physician a copy of the treatment and aftercare plan. The Respondent shall provide to the Board and treating physician a copy of the treatment and aftercare plan if modified during the time Respondent is subject to this Stipulation and Order. The treatment or aftercare plan and any modifications to it shall be approved by the treating physician and shall include at least the following:

- 1) The treatment or aftercare plan activities;

2) The name, address, and telephone number for each provider of treatment or aftercare services.

The terms of any such treatment or aftercare plan, or approved modification thereto, to the extent not superseded by this Order, are herewith incorporated by reference. Failure to follow the plan or approved modification shall constitute violation of this Order.

f. Upon request by the Board, Respondent shall sign releases authorizing the Board or its designee to obtain Respondent's medical, mental health or chemical abuse/dependency records from any treating professional or facility.

g. Respondent shall identify a work quality assessor who shall provide quarterly reports to the Board or its designee and to the treating physician regarding Respondent's overall work performance. If quarterly reports are not submitted in a timely manner, Board staff will contact the work quality assessor and the Respondent in writing by certified mail regarding the delinquent submission of a report. Failure by Respondent to take action to correct the delinquent submission within 10 days of the receipt of the written notice from the Board is a violation of this Order.

h. Respondent shall meet on a quarterly basis with a designated Board member or other Board designee. Such meetings shall take place at a time mutually convenient to Respondent and the designated Board member. It shall be Respondent's obligation to contact the designated Board member to arrange each of the meetings. The purpose of such meetings shall be to review Respondent's progress under the terms of this Stipulation and Order.

i. No sooner than two years from the date of this Order, Respondent may petition the Committee, in writing, for reduced monitoring based on documented evidence of her uninterrupted recovery during the period starting from the date of this order. Upon petition, the

Committee, at its discretion and in consultation with the treating physician, may reduce the frequency of required meetings, reports and/or biological fluid screens required by the terms and conditions of this Order.

j. This Stipulation and Order will remain in effect for a minimum of five years from the date of this Order. At the end of this period, Respondent may petition for reinstatement of an unrestricted license upon proof, satisfactory to the Board, of at least five years of documented, uninterrupted recovery. Upon hearing the petition, the Board may continue, modify or remove the conditions set out herein.

6. Within ten (10) days of the date of this Stipulation and 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 (7) days of any change, Respondent shall provide the Board with new address and telephone number information. The information shall be sent to Stephanie Lunning, Minnesota Board of Physical Therapy, University Park Plaza, 2829 University Avenue S.E., Suite 315, Minneapolis, Minnesota 55414.

7. In the event Respondent resides or practices outside the State of Minnesota, Respondent shall promptly notify the Board in writing of the location of her 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.

8. If the Respondent shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions in Paragraph 5 above, the license of the Respondent to practice physical therapy in Minnesota shall be suspended immediately upon written notice by the Committee to the Respondent, such a suspension to remain in full force and effect until Respondent demonstrates to the satisfaction of the Committee that she has come into full compliance with each term of this Order. The Committee's written notice shall describe the evidence upon which it is basing its action.

9. Should the Respondent dispute the factual basis for the suspension imposed with Paragraph 8 above, she may file a request with the Executive Director to appear before the Committee and present affidavits, documents, and argument based on the record. The Committee may find a violation based upon a preponderance of evidence. The Committee may continue, modify, or remove the suspension based on the evidence before them. Respondent may not dispute the remedy imposed.

10. Should the Respondent continue to dispute the factual basis for the suspension, she must notify the Committee in writing of the factual basis of the disputes. The Committee shall then file a Notice of Hearing for Alleged Noncompliance with Stipulation and Order with the Respondent for a hearing with the Minnesota Board of Physical Therapy at its next regularly scheduled meeting, or as soon as possible, providing that at least ten (10) days notice is give to the Respondent before the hearing.

Respondent shall submit a response to the allegations at least three (3) days prior to the hearing. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

11. 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 uphold, modify, or remove the suspension or to impose other conditions or limitations on Respondent's practice, including the revocation of Respondent's license. The Board may find a violation based on the preponderance of the evidence. The Board's decision shall be final and not subject to appeal or additional procedures under Minnesota Statutes Chapter 14 and 214.

12. If the Board, after its hearing, upholds the suspension of Respondent's license, Respondent may petition to the Board to lift the suspension no sooner than one year from the date of the order suspending the license upon submission of satisfactory evidence of at least one year of documented, uninterrupted recovery. Satisfactory evidence shall include, but shall not be limited to, random urine and/or blood screens, satisfactory completion of chemical dependency treatment programs, and written documentation of regular attendance and participation at meetings of a self-help group in support of recovery, and a report from the treating physician that Respondent is fit and competent to resume the practice of physical therapy with reasonable skill and safety to patients.

13. 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.

14. 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.

15. Respondent hereby acknowledges that she 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: \_\_12/13\_\_\_\_\_, 2001

Dated: \_\_1-7-02\_\_\_\_\_, 2001

\_\_\_\_\_  
SIGNATURE ON FILE  
NANCY K. DORR, P.T.  
Respondent

\_\_\_\_\_  
SIGNATURE ON FILE  
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 \_\_7\_\_ day of \_\_January\_\_\_\_\_, \_\_2002\_\_.

MINNESOTA BOARD OF  
PHYSICAL THERAPY

By: \_\_\_\_\_  
STEPHANIE LUNNING  
Executive Director