

**BEFORE THE MINNESOTA
BOARD OF PHYSICAL THERAPY**

In the Matter of the
Physical Therapy License
of Wing Pui Hsia, Applicant
Year of Birth: 1982

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between Wing Pui Hsia, (“Respondent”) and the Licensure Committee (“Committee”) of the Minnesota Board of Physical Therapy (“Board”), as follows:

1. Pursuant to Minn. Stat. §§ 148.65 through 148.78 and 214.103, the Board has the authority to license and regulate physical therapists and physical therapist assistants, and has jurisdiction over Board applicants.
2. Respondent is an applicant to the Board and is subject to the Board’s jurisdiction.
3. Respondent was represented in this matter by Melissa Heinlein, Esq., Lord and Associates. The Committee was represented by Nicholas Lienesch, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota 55101-2131, telephone (651) 757-1315.

FACTS

4. Respondent applied to the Board for licensure as a physical therapist (“P.T.”) on approximately May 1, 2015.
5. On Respondent’s application, Respondent informed the Board that she was under investigation by the Physical Therapy Board of California (“California Board”).
6. On, or about, January 13, 2016, Respondent informed the Board that she had reached a resolution with the California Board.

7. The California Board issued an order dated November 15, 2015, effective December 30, 2015 (“2015 Order”), revoking Respondent’s California license, but staying the revocation for a five-year probationary period, so long as Respondent meets several conditions, including submission of quarterly reports, completion of certain courses, practice restrictions, and other requirements.

8. The 2015 Order was related to Respondent’s fraudulent billing conduct. Respondent admitted that she falsely billed twenty-two visits for eleven patients, and falsely documented patients’ charts in order to substantiate her false billing.

9. In a May 12, 2016 conference with the Committee, Respondent admitted to engaging in fraudulent billing practices. Respondent stated that she did so because she became overwhelmed and felt it was the only way to catch up. Respondent indicated that she has learned from her experience, and has considered ways to avoid a similar situation in the future.

STATUTES

10. The Committee views Respondent's conduct as inappropriate in such a way as to require Board action under Minn. Stat. § 148.75(a)(1) (violation of a Board statute or rule), Minn. Stat. § 148.75(a)(6) (engaged in unprofessional conduct) and Minn. Stat. § 148.75(a)(19) (has had a license reprimanded or otherwise disciplined in another jurisdiction). Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

REMEDY

11. The Board grants Respondent a license to practice physical therapy in the State of Minnesota at such time as she satisfies the Board’s requirements for licensure.

12. The Board hereby **SUSPENDS** Respondent's license to practice as a physical therapist. The suspension is **STAYED**, so long as Respondent complies with the following requirements:

Limitations

a. Respondent shall not practice in the following settings: home care, self-employment, temporary services agencies, or solo practice as a physical therapist.

b. Respondent shall not have final approval over any physical therapy billings submitted to any third-party payers.

c. Respondent shall not supervise any physical therapy license applicants, physical therapist assistant license applicants, physical therapy students or trainees, or physical therapist assistants.

d. Respondent must be supervised by a physical therapist who has been licensed to practice in Minnesota for at least five years and never been subject to Board disciplinary or corrective action. Prior to beginning any employment, Respondent shall submit to the Committee in writing, for its prior approval, the name and qualifications of one or more proposed supervisor(s) and an outline of the plan by which Respondent's practice will be supervised. Respondent's supervisor is not required to be present at all times while Respondent practices, but is required to observe Respondent's practice at least once per shift and must review Respondent's patient records and billing documents at least once per week. The supervisor shall not be an employee of Respondent or have a personal, familial, or financial relationship with Respondent. If a supervisor ceases supervision or is otherwise no longer available, Respondent shall not practice until a new supervisor has been approved by the Committee.

Conditions

e. Within six (6) months of the date of this Stipulation and Order, Respondent shall successfully complete a continuing education course on the topic of ethics, offered by the Minnesota Physical Therapy Association (“MNPTA”), such as the 12-hour “Ethics and Judicial Committee,” or a similar course approved in advance by the Committee. Successful completion shall be determined by the Committee or its designee.

f. Within one month of the date of completion of the course described in paragraph 12.e., above, Respondent must submit to the Committee a typewritten report, two to three pages in length, addressing what she learned in the course. Respondent must reflect on the situation described in the Facts section of this Stipulation and Order and describe how she will apply her knowledge to her current and future practice. The Committee shall have sole discretion to determine whether the report successfully fulfills this requirement.

g. Respondent shall cause to be submitted quarterly reports from Respondent’s supervisor that provide and address, at a minimum, the following:

- 1) Respondent's work schedule and caseload;
- 2) A description of the employer’s documentation guidelines and whether Respondent is meeting such guidelines and a description of any such deficiencies and plans for correction; and
- 3) A description of Respondent’s billing practices and any problems that have been identified by Respondent’s patients or payers regarding billing and/or documentation.

h. Respondent shall submit to the Board a report from Respondent herself. The report shall provide and address:

1) Respondent's work schedule and caseload;

2) A description of Respondent's documentation and billing practices

and any problems that have been identified by Respondent's supervisors, patients, or payers regarding billing and/or documentation.

i. Respondent is required to comply with all federal, state and local laws related to the practice of physical therapy, and to comply with any court-ordered criminal probation. This condition applies to any jurisdiction with authority over Respondent. Respondent shall, within five days of any arrest, submit to the Board in writing a full and detailed account of such arrest, including the name and address of the arresting agency.

j. Respondent is required to cooperate with the Board and any committee of the Board in its enforcement and monitoring of Respondent's compliance with this Stipulation and Order.

k. Respondent shall notify all present and future employers of the existence of this Stipulation and Order and the 2015 Order of the California Board. Prior to engaging in the practice of physical therapy, Respondent shall provide a true copy of this Stipulation and Order and the 2015 Order by the California Board to her employer, supervisor, or contractor, or prospective employer or contractor.

l. Prior to beginning any employment, Respondent shall submit to the Board in writing, for its prior approval, the worksite and a description of the proposed practice, as well as the name and qualifications of one or more proposed supervisor(s) and an outline of the plan by which Respondent's practice will be supervised.

m. Respondent shall notify the Board, in writing, of any and all name, address, and/or e-mail address changes within ten days of the change.

n. If Respondent works less than 192 hours as a physical therapist in the physical therapy profession in a period of three consecutive months, those months shall not be counted toward satisfaction of the stayed suspension period. Respondent is required to immediately notify the Board if she works less than 192 hours in a three-month period.

o. The period of the stay of suspension shall run only during the time Respondent is practicing or performing physical therapy within Minnesota. If during the period of the stay, Respondent does not practice within Minnesota, Respondent is required to immediately notify the Board in writing of the date Respondent is practicing physical therapy out of state, and the date of return, if any. Practicing or performing physical therapy by Respondent in Minnesota prior to notification to the Board of Respondent's return will not be credited toward completion of the period of stay.

p. Respondent is required to comply with all terms of the 2015 Order of the California Board.

13. Following at least five years from the date of this Stipulation and Order, and upon satisfactorily meeting all of the limitations and conditions of paragraph 12, above, Respondent may petition the Board for an unconditional license. Respondent's stayed suspension may be removed, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof shall be upon Respondent to demonstrate by a preponderance of the evidence that Respondent is capable of conducting herself in a fit and competent manner in the practice of physical therapy. Respondent may be required to meet with the Committee upon submission of her petition. Upon hearing the petition, the Board may continue, modify, or remove the provisions set out herein.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

14. It is Respondent's responsibility to ensure all payments, reports, evaluations, and documentation required to be filed with the Board pursuant to this Stipulation and Order are timely filed by those preparing the report, evaluation, or documentation. Failure to file payments, reports, evaluations, and documentation on or before their due date is a violation of this Stipulation and Order.

A. Noncompliance With Requirements for Stayed Suspension

15. If the Committee has probable cause to believe Respondent has failed to comply with or has violated any of the requirements for staying the suspension as outlined in paragraph 12, above, the Committee may remove the stayed suspension pursuant to the procedures outlined in paragraph 16, below, with the following additions and exceptions:

a. The removal of the stayed suspension shall take effect upon service of an Order of Removal of Stayed Suspension ("Order of Removal"). Respondent agrees that the Committee is authorized to issue an Order of Removal, which shall remain in effect and shall have the full force and effect of an order of the Board until the Board makes a final determination pursuant to the procedures outlined in paragraph 16, below. The Order of Removal shall confirm the Committee has probable cause to believe Respondent has failed to comply with or has violated one or more of the requirements for staying the suspension of Respondent's license. Respondent further agrees an Order of Removal issued pursuant to this paragraph shall be deemed a public document under the Minnesota Government Data Practices Act. Respondent waives any right to a conference or hearing before removal of the stayed suspension.

b. The Committee shall schedule the hearing pursuant to paragraph 16, below to be held within 60 days of the notice.

B. Noncompliance With Stipulation and Order

16. If Respondent fails to comply with or violates this Stipulation and Order the Committee may, in its discretion, seek additional discipline, either by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14 or by bringing the matter directly to the Board pursuant to the following procedure:

a. The Committee shall schedule a hearing before the Board. At least 20 days before the hearing, the Committee shall mail Respondent a notice of the violation(s) alleged by the Committee. In addition, the notice shall designate the time and place of the hearing. Within ten days after the notice is mailed, Respondent shall submit a written response to the allegations. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

b. The Committee, in its discretion, may schedule a conference with Respondent prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

c. Prior to the hearing before the Board, the Committee and Respondent may submit affidavits and written argument in support of their positions. At the hearing, the Committee and Respondent may present oral argument. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits submitted prior to the hearing and this Stipulation and Order. Unless stated otherwise in this Stipulation and Order, the Committee shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Respondent has failed to submit a timely response to the allegations,

Respondent may not contest the allegations, but may present argument concerning the appropriateness of additional discipline. Respondent waives a hearing before an administrative law judge, discovery, cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.

d. Respondent's correction of a violation prior to the conference, hearing, or meeting of the Board may be taken into account by the Board but shall not limit the Board's authority to impose discipline for the violation. A decision by the Committee not to seek discipline when it first learns of a violation will not waive the Committee's right to later seek discipline for that violation, either alone or in combination with other violations, at any time while Respondent's license is suspended or the suspension is stayed.

e. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board will dismiss the allegations. If a violation is proved, the Board may impose additional discipline, including additional requirements for the stayed suspension, removal of the stayed suspension, an additional period of suspension, or revocation of Respondent's license.

f. Nothing herein shall limit the Committee's or the Board's right to temporarily suspend Respondent's license pursuant to Minnesota Statutes sections 214.077 or 148.755, based on a violation of this Stipulation and Order or based on conduct of Respondent not specifically referred to herein.

17. Respondent is responsible for all costs incurred as a result of compliance with this Stipulation and Order.

18. In the event the Board in its discretion does not approve this settlement, this Stipulation is withdrawn and will be of no evidentiary value and may 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.

19. 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.

20. Respondent has hereby 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: 7/1/16

Dated: 8/23/16

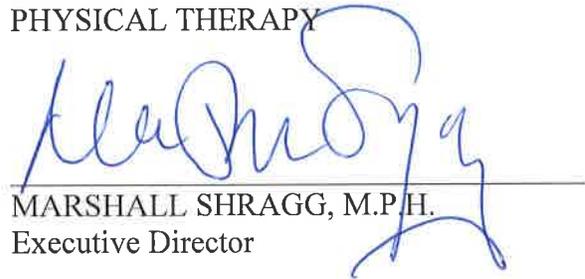
Wing Pui Hsia
WING PUI HSIA
Respondent

Debra Sellheim
FOR THE COMMITTEE

ORDER

Upon consideration of this Stipulation and all the files, records, and proceedings herein,
IT IS HEREBY ORDERED that the Board **SUSPENDS** Respondent's license. The
Board **STAYS** the suspension upon Respondent's compliance with the requirements outlined in
the Stipulation and adopts all of the terms described above on this 23rd day of AUGUST, 2016.

MINNESOTA BOARD OF
PHYSICAL THERAPY



MARSHALL SHRAGG, M.P.H.
Executive Director