

**BEFORE THE MINNESOTA  
BOARD OF PHYSICAL THERAPY**

In the Matter of the  
Physical Therapy License of  
Michael D. Lewis, P.T.  
Date of Birth: 06/07/43  
License Number: 777

**STIPULATION AND ORDER**

IT IS HEREBY STIPULATED AND AGREED, by and between Michael D. Lewis, 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. Although aware of his right to representation by counsel, Respondent has knowingly and expressly waived that right. The Committee was represented by Thomas Vasaly, Assistant Attorney General, 1400 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, (651) 296-7575.

**FACTS**

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

a. Respondent is a licensed physical therapist who provides physical therapy services to patients in several nursing homes and to patients in their own homes. Since June 1992, Respondent has contracted with a rehabilitation company ("company") for billing and quality assurance services. In a letter dated May 23, 1996, the company notified Respondent of the results of a chart review of Respondent's physical therapy services and identified concerns including patients who received more than six consecutive treatments by Respondent's physical

therapist assistants (“PTA”) without physical therapist supervision and failure to properly document services rendered. Respondent was reminded that the physical therapist must initial the Billing and Treatment Form (“B&T Form”) each time the therapist is actively involved in a treatment session and that the PTA must appropriately identify sessions that were unsupervised.

b. In 1997 the company conducted quarterly reviews of Respondent’s patient charts at nursing homes where Respondent provided physical therapy services. The Clinical Record Review Summaries identified the following concerns:

1) Recertifications and progress notes were not always completed in a timely manner; some progress notes were three weeks overdue.

2) Care plans, progress notes and discharge summaries were missing in some charts. Functional levels were missing on some care plans and monthly recertifications and progress notes were missing in some patient charts. The PT’s signature was missing on some documents.

3) Respondent’s documentation did not support the skilled services provided.

4) Respondent’s goals were often noted to be non-specific, not measurable, non-functional, or not appropriate for the time period.

c. In 1998 the company conducted quarterly reviews of Respondent’s patient charts at nursing homes where Respondent provided physical therapy services. The Clinical Record Review Summaries identified the following concerns:

1) Respondent’s recertifications and progress notes and other documentation were not always completed in a timely matter.

2) Progress notes and discharge summaries were found to be missing in some charts. The PT’s signature was missing on some documents.

3) Respondent's documentation did not always support the skilled services provided.

4) Goals were often noted to be vague, not measurable or not time-defined.

5) Functional Maintenance Programs (FMP) were not always established when needed or were found to be vague.

d. In July and August 1999, copies of patient records from clinics and nursing homes where Respondent provided services were obtained. The Committee found Respondent's documentation, delegation and supervision practices deficient as follows:

1) Respondent failed to follow the referring physician's protocol for patients.

2) Respondent's initial certification/evaluation for patients did not provide a baseline functional level or measurable goals.

3) Respondent's progress notes did not provide sufficient documentation of the units of treatment billed by Respondent.

4) Respondent failed to provide progress notes for patients.

5) Respondent failed to complete discharge summaries for patients, has delegated completion of discharge summaries to PTA and has failed to sign discharge summaries.

6) On several occasions, Respondent's billing forms and progress notes document that a patient was switched from restorative to maintenance therapy, but Respondent's records did not contain an Updated Plan of Progress documenting the change of therapy.

7) Respondent's documentation of his evaluations of patients sometimes failed to support the level of billing. Respondent allowed other individuals to initial billing forms on his behalf.

8) Respondent's delegation of his duties were improper as follows:

a) Respondent often documented that he performed a sixth visit supervision of PTA services even if he did not actually observe any or all of the treatment session.

b) Patients were seen by PTAs more than six times with no documented supervisory visit by Respondent.

c) Respondent failed to co-sign notes written by a PTA on patient Plans of Care.

c) Respondent delegated completion of Updated Plans of Progress to a PTA and failed to sign the treatment plan changes.

### **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) and (11) (Supp. 1999) and Minn. R. 5601.1400, 5601.1500 and 5601.1600 (1997). 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 shall submit to and cooperate with random quarterly record reviews to be performed by the Problem Identification/Peer Review Committee of the Minnesota Chapter of the American Physical Therapy Association (“MNAPTA”). Each review shall include a chart audit. Respondent shall be responsible for ensuring the Board receives quarterly reports from MNAPTA Problem Identification/Peer Review Committee regarding the findings of each review performed.

b. Within 6 months of the effective date of this Order, Respondent shall complete a pre-approved documentation workshop.

c. Within one year of the effective date of this Order, Respondent shall complete a pre-approved guide to physical therapist practice workshop.

d. Within 6 months of the effective date of this Order, Respondent shall initiate a practice wide peer review process and submit a protocol for approval by the Committee or its designee.

e. Respondent shall ensure that his physical therapist assistants’ record keeping is in compliance with statutory requirements.

f. Respondent shall meet on a quarterly basis with a designated Board member. 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 quarterly meetings. The purpose of such meetings is to review Respondent’s progress under the terms of this Stipulation and Order.

g. Respondent shall pay the Board a civil penalty of \$2750.00, within one year of the date of this Order.

h. This Stipulation and Order shall remain in effect for a minimum of one year. At the end of this period, Respondent may petition for reinstatement of an unconditional license. Upon hearing the petition, the Board may continue, modify, or remove the conditions set out herein.

6. 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 315, Minneapolis, Minnesota 55414-3246.

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 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.

8. 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.

9. 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.

10. 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.

11. 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: \_\_11/14\_\_\_\_\_, 2000

Dated: \_11/16/00\_\_\_\_\_, 2000

SIGNATURE ON FILE

SIGNATURE ON FILE

\_\_\_\_\_  
MICHAEL D. LEWIS, 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 \_\_16\_\_ day of \_\_November\_\_\_\_\_, 2000.

MINNESOTA BOARD OF  
PHYSICAL THERAPY

SIGNATURE ON FILE

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STEPHANIE LUNNING  
Executive Director

AG: 429629,v. 01