

**BEFORE THE MINNESOTA
BOARD OF PHYSICAL THERAPY**

In the Matter of the
Physical Therapy License
of Jennifer L. O'Connor, P.T.
Date of Birth: 8/31/1978
License Number: 7466

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between Jennifer L. O'Connor, 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 Marlene S. Garvis, Jardine, Logan & O'Brien, P.L.L.P., 8519 Eagle Point Boulevard, Suite 100, Lake Elmo, Minnesota 55042, telephone (651) 290-6569. The Committee was represented by Nathan W. Hart, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota 55101-2131, telephone (651) 296-7575.

FACTS

3. For the purpose of this stipulation, the Board may consider the following facts as true. Respondent was licensed to practice physical therapy in Minnesota on August 19, 2004. While Respondent was employed as a physical therapist in Owatonna, Minnesota, beginning on September 8, 2004, the following occurred:

a. Patient #1, whose medical history included pain in her lower back, leg, and right hip, sought treatment with Respondent on November 10, 2004. Patient #1 was aware she and Respondent had attended the same college. Patient #1 invited Respondent over for tea on several occasions, which Respondent put off until November or December 2004. On January 19, 2005, at the eleventh treatment session, patient #1 handed Respondent an envelope containing a check for \$50,000. At a later date, Respondent told patient #1 she could not accept the check because she was her client. Patient #1 assured Respondent the check was from one “alum” to the next “alum” and was not related to her being her physical therapist. After consulting with an attorney, Respondent deposited the check.

b. During this time, Respondent continued to treat patient #1 and see her outside of the clinic. Respondent would run errands for patient #1, including shopping, picking up laundry, etc. In November 2005, patient #1 gave Respondent several household items, including a china cupboard, china, bed, lamp, and antiques. These household items were ultimately returned to patient #1 at her request.

c. In the winter of 2005, patient #1 started to frequently call Respondent on her cell phone and drive by her home. Respondent changed her phone number in January 2006, but patient #1 obtained that number and continued to call her.

d. On September 26, 2007, Respondent treated patient #1 for the last time.

e. During Respondent’s treatment of patient #1, the following issues of substandard practice, inadequate supervision of physical therapist assistants, and failure to obtain referrals were noted:

1) Patient #1's treatment was initiated based on an October 28, 2004, referral. However, there was no referral for physical therapy visits provided from January to May 2005, late July to mid-November 2005, and mid-June to August 8, 2007.

2) The November 10, 2004, initial examination and evaluation established a baseline of functional limitations and a plan of care. A history of other interventions and the patient's response to those interventions were not documented. The diagnosis was chronic pain; however, the history only indicated three months of pain after muscle spasms. The only radiology report in patient #1's chart was dated October 20, 2004, from a doctor of chiropractic.

3) The November 10, 2004, plan of care was for two times a week for two to three weeks. Nine different types of interventions were listed as the therapist's treatment recommendation.

4) Treatment rendered for patient #1 was documented for each date of service; however, goals were inconsistently established and re-established. The goals were not supported by clearly identified functional limitations. Significant and sustained functional progress was not achieved as the result of the intervention strategies. Over 141 physical therapy visits were provided in approximately a three-year period.

5) Between April 11, 2007, and September 26, 2007, 22 visits were provided by a physical therapist assistant ("PTA"). The sixth-visit supervision by the physical therapist was not documented. A stamped co-signature was provided on many of the PTA notes.

6) Comprehensive re-examinations and re-evaluations were not consistently provided. Progress toward goals was inconsistently re-addressed. Discharge planning was not addressed for prolonged periods during the episode of care.

- 7) Discharge/discontinuation was not documented in the record.
- f. Respondent has not returned the \$50,000.00 to patient #1.

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) (2004) and Minn. R. 5601.3200, subp. 2(A). 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. Within three months of the date this Stipulation and Order is adopted by the Board, Respondent shall successfully complete the individualized professional boundaries training course taught by John Hung, Ph.D., L.P. Successful completion shall be determined by the Committee or its designee.
- c. Within six months and twelve months of the date this Stipulation and Order is adopted by the Board, Respondent shall submit to and cooperate with two reviews performed by the Problem Identification/Peer Review Committee of the Minnesota Chapter of

the American Physical Therapy Associations (“MNAPTA”). Reviews shall include chart audits, billing reviews, and on-site observation of practice. Respondent shall be responsible for ensuring the Board receives reports from MNAPTA regarding the findings of each review performed.

d. All expenses related to compliance with this Stipulation and Order shall be borne by Respondent.

6. Upon successful completion of paragraphs 5.b. and 5.c. above, 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.

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 55414-3664.

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 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.

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 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: 11/12/09

Dated: 11/21/10

SIGNATURE ON FILE

JENNIFER L. O'CONNOR, 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 21st day of January 2010.

MINNESOTA BOARD OF
PHYSICAL THERAPY

SIGNATURE ON FILE

STEPHANIE LUNNING
Executive Director

AG: #2378937-v1