

**BEFORE THE MINNESOTA
BOARD OF PHYSICAL THERAPY**

In the Matter of the
Physical Therapy License
of BeVan Presley, P.T.
Date of Birth: 1/18/1948
License Number: 1920

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between BeVan Presley, 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 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:

a. Respondent was licensed to practice physical therapy in Minnesota on February 6, 1979. Respondent was employed by a contract agency to provide physical therapy at a skilled nursing facility in Duluth, Minnesota, from April 5, 2005, until February 7, 2006.

b. On January 12, 2006, patient #1's left leg was amputated below the knee due to peripheral vascular disease. Patient #1's diagnoses also included diabetes mellitus, hypertension, coronary artery disease, chronic renal failure, bilateral retinopathy, and anemia.

c. On January 18, 2006, Respondent began providing physical therapy to patient #1 consisting of therapeutic exercises for range of motion, strength, and endurance. Patient #1's skilled treatment plan also indicated that Respondent was providing neuromuscular reeducation and gait training. Patient #1 participated in physical therapy five days a week.

d. On February 1, 2006, patient #1's physician removed staples from the patient's surgical amputation incision. On February 2, 2006, Respondent and a physical therapist assistant were assisting patient #1 with gait training in the parallel bars. Respondent had patient #1 place his bent knee and residual lower left leg on a stool, while standing on his right leg and using both hands on the parallel bars. During this time, patient #1 walked about ten feet using the stool to bear weight through the residual lower left leg. Respondent noticed a smear of "something" on the stool. Respondent noted it was blood, which had bled through the dressing onto patient #1's pants. Respondent transported patient #1 to his room, and the nurse manager checked the patient's incision and changed the dressing.

e. The nurse manager documented that 7 cm of the incision's midsection had opened to a width of 0.2 cm with a minimum to moderate amount of bleeding. Patient #1's physician was called and new orders were received. Respondent's employment was suspended pending further investigation.

f. The employer's investigative findings are as follows:

1) The physician was not contacted for an order or clarification of patient #1's weight-bearing status

2) Respondent's weight-bearing approach did not fall within the standard of practice for treating a patient who had recently undergone a below-the-knee amputation.

3) Respondent failed to inspect patient #1's incision before administering therapy.

4) Respondent should have utilized extra concern and caution when treating patient #1 due to the integrity of the patient's incision the day after the staples were removed and the patient's other medical conditions (peripheral vascular disease, diabetes, renal failure, and poor nutrition).

g. On February 7, 2006, Respondent's employment was terminated due to the above incident.

STATUTES

4. The Committee views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 148.75, subds. (a)(5) (engaged in conduct unbecoming a person licensed as a physical therapist or conduct detrimental to the best interests of the public), and (6) (engaged in gross negligence in the practice of physical therapy as a physical therapist) (2006). 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 six months from the date this Stipulation and Order is adopted by the Board, Respondent shall successfully complete the Essentials for Physical Therapy Practice Course offered by the Minnesota Chapter of the American Physical Therapy Association (“MNAPTA”). Successful completion shall be determined by the Committee.

c. Within six months from the date this Stipulation and Order is adopted by the Board, Respondent shall successfully complete an individualized geriatric/amputee training program at a facility preapproved by the Committee. The individualized training program shall include a total of 80 hours of training. Of the 80 hours, the first 40 hours shall involve five consecutive days of training, eight hours per day. The remaining 40 hours may be completed as Respondent’s schedule permits, except that once Respondent commences the program, the 80 hours must be completed within 60 days. Upon completion of the program, the training facility will provide feedback to the Committee utilizing the Clinical Performance Instrument (“CPI”) and the Professional Behaviors form. Successful completion of this course shall be determined by the Committee.

d. Upon completion of the course work in paragraphs 5.b. and 5.c. above, Respondent shall submit to and cooperate with an on-site work evaluation by MNAPTA Peer Review. MNAPTA shall provide a written report to the Committee upon completion of the on-site work evaluation.

e. Respondent is responsible for any and all expenses associated with his compliance with this Stipulation and Order.

6. This Stipulation and Order shall remain in effect for a minimum of one year. At the end of this period and upon successful completion of the requirements set forth in paragraph 5 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 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: 2-25-07

Dated: 3-20-07

SIGNATURE ON FILE

SIGNATURE ON FILE

BeVAN PRESLEY, 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 20th day of March, 2007.

MINNESOTA BOARD OF
PHYSICAL THERAPY

SIGNATURE ON FILE

STEPHANIE LUNNING
Executive Director

AG: #1749620-v1