

**BEFORE THE MINNESOTA
BOARD OF PHYSICAL THERAPY**

In the Matter of the
Physical Therapy License
of Stephen J. Sovada, P.T.
Year of Birth: 1975
License No. 6444

**FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER**

The above-entitled matter came on for hearing at a regularly scheduled meeting of the Minnesota Board of Physical Therapy ("Board") on March 8, 2012, convened at 2829 University Avenue S.E., Fourth Floor, Conference Room A, Minneapolis, Minnesota 55414. The Board conducted a hearing pursuant to the procedure set forth in paragraph 8 of the 2010 Findings of Fact, Conclusions, and Final Order ("2010 Order") issued by the Board to Stephen J. Sovada, P.T. ("Respondent"), on November 30, 2010. At the hearing, the Board's Complaint Review Committee ("Committee") presented by affidavit evidence of Respondent's violations of the 2010 Order. Respondent appeared before the Board without legal counsel and presented oral argument. Bryan D. Huffman, Assistant Attorney General, appeared and presented oral argument on behalf of the Committee. As members of the Committee that initially reviewed the matter, the following Board members did not participate in deliberations and did not vote in the matter: Kathy Fleischaker, Linda Gustafson, and Barbara Liebenstein. The Board's Executive Director, Stephanie Lunning, did not participate in the deliberations. Gregory J. Schaefer, Assistant Attorney General, was present as legal advisor to the Board.

FINDINGS OF FACT

The Board has reviewed the record of this proceeding and hereby issues the following Findings of Fact:

1. The Board is authorized pursuant to Minnesota Statutes sections 148.65 to 148.78 to license, regulate, and discipline persons who apply for, petition, or hold licenses as physical therapists and is further authorized pursuant to Minnesota Statutes sections 214.10 and 214.103 to review complaints against physical therapists, to refer such complaints to the Attorney General's Office, and to initiate appropriate disciplinary action.

2. On July 15, 2004, the Board adopted a Stipulation and Order ("2004 Order"). The 2004 Order required Respondent to: (1) submit quarterly reports from a mentor/work quality assessor approved by the Board; (2) submit semiannual peer review reports performed by the Problem Identification/Peer Review Committee of the MNAPTA; and (3) complete course work within two years of the date of the 2004 Order. Respondent failed to fully and completely comply with the terms of the 2004 Order.

3. On November 30, 2010, the Board issued an order ("2010 Order") suspending Respondent's physical therapy license, based on Respondent's noncompliance with the 2004 Order.

4. Paragraph 5 of the 2010 Order provided that the Committee could stay the suspension of Respondent's license upon Respondent's submission of a plan, approved by the Committee, outlining how he would become compliant with the 2004 Order. On January 25, 2011, the Committee approved Respondent's plan and stayed the suspension imposed by the 2010 Order.

5. In paragraph 8 the 2010 Order, the Board outlined a procedure by which the Committee could remove the stay of suspension, thereby imposing the suspension, if the Committee had probable cause to believe Respondent failed to comply with or violated any of the requirements for staying the suspension. Respondent was put on notice that in the event the Board received evidence that Respondent violated the terms of the 2010 Order, he would be notified of such allegations in writing and, following the opportunity to contest the allegations, the Board could impose additional disciplinary action against Respondent's license.

6. The Board received information that Respondent violated the terms of the 2010 Order and engaged in acts or omissions which would be a violation of Minnesota Statutes section 148.75 as follows:

a. On July 1, 2011, and October 1, 2011, Respondent failed to submit his second and third quarterly reports from a mentor/work quality assessor. To date, the Board has not received either of these reports.

b. On September 10, 2011, Respondent failed to submit his second required peer review report. To date, the Board has not received this report.

7. The Committee had probable cause to remove the stay of suspension as provided by paragraph 8 of the 2010 Order.

8. On January 9, 2012, Respondent was served with a Notice of Removal of Stay of Suspension, Imposition of Suspension, and Hearing ("Notice") and Order of Removal of Stay of Suspension by first-class mail at his last known address on file with the Board. The Notice informed Respondent of the alleged violations and of the date, time, and place of the hearing. The Notice also informed Respondent he was required to submit a response to the allegations in the Notice within ten days after the Notice was mailed. Respondent failed to submit a response.

CONCLUSIONS

Based upon the foregoing Findings of Fact, the Board makes the following Conclusions:

1. The Board has jurisdiction in this matter pursuant to Minnesota Statutes sections 148.75, 148.755, 214.10, and 214.103.
2. The Committee gave proper notice of the alleged violations to Respondent, pursuant to paragraph 8 of the 2010 Order.
3. Pursuant to the Notice served upon Respondent on January 9, 2012, the allegations contained in the Notice are deemed admitted because of Respondent's failure to submit a written response.
4. As a result of Respondent's failure to respond to the Notice, the Committee has met its burden of proof.
5. The Committee has proved by a preponderance of the evidence that Respondent has violated Minnesota Statutes section 148.75(a)(1) and the 2010 Order.
6. As a result of the violations set forth above and pursuant to the terms of the 2010 Order, the Board has the authority to impose additional disciplinary action against Respondent's license to practice physical therapy.

ORDER

Based on the foregoing Findings of Fact and Conclusions, the Board issues the following Order:

1. NOW, THEREFORE, IT IS HEREBY ORDERED that the 2004 Order adopted by the Board on July 15, 2004, and the 2010 Order issued to Respondent on November 30, 2010, are hereby **RESCINDED** and shall have no future force or effect.

2. IT IS FURTHER ORDERED that the license of Respondent as a physical therapist in the State of Minnesota is **SUSPENDED** immediately for an indefinite period of time.

3. IT IS FURTHER ORDERED that during the period of suspension Respondent shall not engage in any conduct that constitutes the practice of physical therapy as defined in Minnesota Statutes section 148.65, subdivision 1, and shall not imply to any person by words or conduct that Respondent is authorized to practice physical therapy in the State of Minnesota.

4. IT IS FURTHER ORDERED that Respondent surrender to the Board his physical therapy license. Respondent shall personally deliver or mail the license to the Minnesota Board of Physical Therapy, c/o Stephanie Lunning, Executive Director, 2829 University Avenue S.E., Suite 420, Minneapolis, Minnesota 55414, within ten days of the date of service of this Order.

5. IT IS FURTHER ORDERED that Respondent may petition the Board to have the suspended status removed from his license at such time as he is willing to respond to the Findings of Fact set forth above. His license may be reinstated, 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 he is capable of conducting himself in a fit and competent manner in the practice of physical therapy. At the time of Respondent's petition, Respondent shall meet with a Board Complaint Review Committee to review his response to the Findings of Fact. In petitioning for removal of the suspension, Respondent shall comply with or provide the Board with, at a minimum, the following:

- a. A response to each separate fact contained in the Findings of Fact.
- b. Evidence of compliance with the provisions of this Order. As part of the proof of compliance, Respondent shall submit the following in support of his petition:

1) A report from Respondent's employment supervisor(s), if any, during the 12 months preceding the petition. This report shall provide and address:

- a) Respondent's attendance and reliability;
- b) Respondent's ability to carry out assigned functions;
- c) Respondent's ability to handle stress; and
- d) Any other information the supervisor believes would assist

the Board in its ultimate review of this matter.

2) A report from Respondent himself. This report shall provide and address:

- a) Respondent's employment, if any;
- b) Respondent's future plans for physical therapy and the steps

he has taken to prepare himself to return to physical therapy practice;

- c) Evidence Respondent has maintained the knowledge, skills,

and ability to practice physical therapy safely; and

- d) Any other information Respondent believes would assist

the Board in its ultimate review of this matter.

3) Any additional information relevant to Respondent's petition reasonably requested by the Board Complaint Review Committee.

6. IT IS FURTHER ORDERED that Respondent shall meet all licensure requirements in effect at the time of his petition, including but not limited to completing the appropriate application, paying the requisite fees, and completing any necessary continuing education requirements.

7. IT IS FURTHER ORDERED that Respondent's violation of this Order shall constitute violation of a Board order for purposes of Minnesota Statutes section 148.75(a)(1) and provide grounds for further disciplinary action.

8. IT IS FURTHER ORDERED that nothing herein shall limit the Committee's or the Board's right to take disciplinary or corrective action against Respondent's license based on conduct by Respondent not specifically referred to herein.

9. IT IS FURTHER ORDERED that this Order constitutes disciplinary action and will be sent to all appropriate data banks.

10. IT IS FURTHER ORDERED that the Board may, at any regularly scheduled meeting following Respondent's petition for reinstatement of his license and his meeting with a Board Complaint Review Committee, take any of the following actions:

- a. Issue a physical therapist license to Respondent.
- b. Issue a physical therapist license to Respondent with limitations placed upon the scope of Respondent's practice and/or conditional upon further reports to the Board.
- c. Continue the suspension of Respondent's license upon Respondent's failure to meet the burden of proof.

Dated: March 19, 2012

MINNESOTA BOARD
OF PHYSICAL THERAPY

SIGNATURE ON FILE

SANDRA MARDEN-LOKKEN, PT
Vice President