

**BEFORE THE MINNESOTA
BOARD OF PHYSICAL THERAPY**

In the Matter of
of Stephen J. Sovada, P.T.
Year of Birth: 1975
License Number: 6444

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between Stephen J. Sovada, P.T. ("Respondent"), and the Complaint Review 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.
2. Respondent holds a license from the Board and is subject to the Board's jurisdiction.
3. Although advised by the Board of the option to be represented by legal counsel, Respondent has elected to forgo legal representation. 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. On July 15, 2004, the Board adopted a Stipulation and Order ("2004 Order"). Respondent failed to fully and completely comply with the terms of the 2004 Order.
5. 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.

6. 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, which included certain reporting requirements, and stayed the suspension imposed by the 2010 Order.

7. The 2010 Order 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.

8. 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.

b. On September 10, 2011, Respondent failed to submit his second required peer review report.

9. On January 9, 2012, the Board issued a Notice of Removal of Stay of Suspension, Imposition of Suspension, and Hearing ("Notice") and Order of Removal of Stay of Suspension pursuant to the terms of the 2010 Order.

10. On March 19, 2012, the Board issued Findings of Fact, Conclusions of Law, and Final Order ("2012 Order") rescinding the 2004 Order and the 2010 Order and suspending Respondent for an indefinite period of time and detailing several requirements Respondent must complete before petitioning for reinstatement of his license. The 2012 Order provided that upon

receipt of Respondent's petition for reinstatement of his license, the Board may 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 meeting the burden of proof.

11. On September 30, November 13 and December 1, 2014, Respondent submitted the required petition materials.

12. The Committee concluded that Respondent met the petition requirements for reinstatement of his license, subject to the remedy enumerated in paragraph 15. below.

STATUTES

13. The Committee views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 148.75(a)(1) (2014). Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

REMEDY

14. The Board hereby **RESCINDS** the 2012 Order, which shall have no future force or effect.

15. The Board hereby **SUSPENDS** Respondent's license to practice physical therapy. The suspension is **STAYED** so long as Respondent complies with the following requirement:

- a. Respondent shall submit to and cooperate with semi-annual reviews performed by the Problem Identification/Peer Review Committee of the Minnesota Chapter of the American Physical Therapy Associations ("MNAPTA"). The peer reviews will alternate between on-site reviews, including observation of practice and review of documentation and

billing with off-site reviews of documentation. Respondent shall be responsible for ensuring the Board receives semi-annual reports from MNAPTA regarding the findings of each review performed.

16. Upon satisfactorily meeting the professional standards in two (2) consecutive peer reviews, Respondent may petition the Board for an unconditional license. Upon hearing the petition, the Board may continue, modify, or remove the provisions set out herein.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

17. 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 Consent 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 Consent Order.

A. Noncompliance With Requirements for Stayed Suspension

18. 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 15. and above the Committee may remove the stayed suspension pursuant to the procedures outlined in paragraph 19. 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 19. 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 19. below to be held within 60 days of the notice.

B. Noncompliance With Stipulation and Consent Order

19. If Respondent fails to comply with or violates this Stipulation and Consent 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 Consent Order. Unless stated otherwise in this Stipulation and Consent 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 Consent Order or based on conduct of Respondent not specifically referred to herein.

ADDITIONAL INFORMATION

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

21. Within ten days of the date of this Order, Respondent shall provide the Board with a list of all work sites and locations 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.

22. 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.

23. 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.

24. 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.

25. 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: February 27, 15

Dated: March 19, 2015

SIGNATURE ON FILE

STEPHEN J. SOVADA, 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 19th day of March, 2015.

MINNESOTA BOARD OF
PHYSICAL THERAPY

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SIGNATURE ON FILE

STEPHANIE LUNNING
Executive Director