

**BEFORE THE MINNESOTA
BOARD OF PHYSICAL THERAPY**

In the Matter of the
Physical Therapy License
of Jolene R. Swaim, P.T.
Date of Birth: 5/29/1974
License Number: 7442 (Inactive, Expired 12/31/09)

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between Jolene R. Swaim, 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. Although aware of her 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 July 15, 2004.

b. Respondent's recordkeeping fails to meet minimum standards of acceptable and prevailing practice. An audit of 23 patient records reveals numerous deficiencies, as noted in the record review summary, attached hereto as Exhibit A and incorporated herein by reference.

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)(1) (violated a statute, rule, order, or agreement for corrective action that the Board issued or is otherwise authorized or empowered to enforce) and (6) (engaged in unprofessional conduct). 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** 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 the Stipulation and Order is adopted by the Board, Respondent shall successfully complete both the documentation and 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 or its designee.

c. Respondent shall submit to and cooperate with semiannual reviews performed by the Problem Identification/Peer Review Committee of the MNAPTA. Reviews shall include chart audits, billing reviews, and on-site observation of practice. Respondent shall be responsible for ensuring the Board receives semiannual written reports from MNAPTA regarding the findings of each review performed.

d. After completion of the requirements in paragraphs 5.a., b., and c. above, Respondent shall submit to a random audit of her patient charts to be conducted by a representative of the Board as directed by the Committee. After reviewing the results of the chart audit, the Committee may recommend further audits as it deems appropriate.

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

7. This Stipulation and Order shall remain in effect until licensee completes the requirements set forth in paragraphs 5.b. through 5.d. Upon completion, 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.

8. Within ten days of the date of this Order, Respondent shall provide the Board with a list of all hospitals, clinics, 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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: 11/14/11

Dated: 11-17-2011

SIGNATURE ON FILE

JOLENE R. SWAIM, P.T.
Respondent

SIGNATURE ON FILE

FOR THE COMMITTEE

(Chair)

ORDER

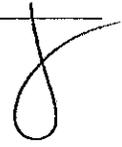
Upon consideration of this stipulation and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the terms of this stipulation are adopted and implemented by the Board this 17th day of November, 2011.

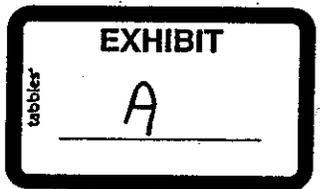
MINNESOTA BOARD OF
PHYSICAL THERAPY

SIGNATURE ON FILE

STEPHANIE LUNNING
Executive Director



AG: #2754513-v1



RECORD REVIEW of 23 patient records:

Patient ID and initial date of service	If Medicare patient* was HCFA 700 form completed? If not MC pt is there an Initial Eval note?	History, dx, & treatment rendered	Initial functional status and limitations	Plan of Care, including interventions & freq/duration	Objective physical data noted? Supports eval, prognosis, dx, and POC?	Measurable, functional, time specific goals/outcomes?
A 7/30/08	No*	Yes	Some info	Ther Act & Ther Ex not defined - No Activity Record form	No/No	No
B 8/6/08	No*	Yes	Some info	Ther Ex & Manual Ther not defined - No Activity Record form	Yes/No	No
C 7/14/08	No	Yes	Some activities listed but no baseline	Yes	Yes/Yes	No
D 6/25/08	No	Yes	No baseline	Yes	Yes/Yes	No
E 6/30/08	No	Yes	No	Yes	Yes/Yes	No

F 6/26/08	No	Yes	No	Yes	Yes/Yes	No
G 7/18/08	No	Yes	No	Yes	Yes/Yes	No
H 7/21/08	No	No dx	No baseline	Yes	Yes/No for freq/duration	No
I 7/17/08	No*	Yes	No baseline of limitations	Yes	Yes/No for POC	No
J 7/24/08	No	Yes **NOTE: PT did not provide initial US - PTA did it 1st	No baseline of limitations	Yes	No/No	No
K 7/14/08	No	Yes	No	Yes, no POC for thoracic spine	Yes/Yes for wrist Yes/No for back	No
L 7/24/08	No	Yes	No baseline	Yes	Yes/No	No
M 7/30/08	No	Yes	No baseline	Yes	Yes/Yes	No
N 8/6/08	No	Yes	No	Yes	No/No	No
O 8/6/08	No	Yes	No baseline	Yes	No/No	No
P 8/5/08	No	No	No	1x only	No/No	No
Q 7/23/08	No	No	No	Yes	No/No	No
R 7/25/08	No	Yes	No baseline	Yes	No/No	No
S 7/25/08	No	Yes	No baseline	Ther Act not defined, no Activity Record form	No/No	No
T 7/31/08	No	Yes	Functional status implied by post surg dx & immobilizer	2 nd visit: Ther Act & NMR not defined, no Activity Record form	No/No	No

U 7/25/08	No	Yes	No baseline	Yes	No/No	No
V 7/21/08	No	Yes	No limitations noted	Yes Ther Ex not defined, no Activity Record form	No/No 1 wk s/p TKA walks without assist devices, -4 to 100 deg AROM -2 to 111 PROM doesn't support 3x/week for 4 wks	No
W 7/7/08	No, Initial Tx Note appears to have been documented by PT after the 2 nd visit note by PTA	Yes	No baseline of limitations	Yes	Yes/Yes	No