BEFORE THE MINNESOTA

BOARD OF PHYSICAL THERAPY

In the Matter of
Sarah Nelie Ten Bensel, P.T.
Year of Birth: 1966
License Number: 6685

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between Sarah Nelie Ten Bensel, 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 right to be represented by legal counsel, Respondent has elected to forgo legal representation. The Committee was represented by Nicholas Lienesch, Assistant Attorney General.

FACTS

4. Respondent was licensed to practice as a physical therapist ("P.T.") in Minnesota on September 21, 2000.

5. On, or about, November 18, 2014, Respondent self-reported to the Health Professionals Services Program ("HPSP"). Respondent contacted the HPSP in November 2014 due to several episodes of substance use relapse in the summer and fall of 2014. She had previously completed HPSP monitoring in December 2013.

6. On, or about, November 21 and 22, 2014, Respondent relapsed with alcohol and enrolled in residential treatment for substance abuse, which she completed December 31, 2014. Respondent subsequently completed aftercare.

7. Between July 15, 2015 and July 26, 2015, Respondent relapsed with alcohol and controlled substances.

8. On November 23 and 25, 2015, Respondent relapsed with a prescription medication and alcohol.

9. On December 3, 4, and 11, 2015, Respondent relapsed with alcohol.

10. On, or about, December 14, 2015, the HPSP informed the Board that Respondent's "illness is too severe to warrant continued monitoring."

11. On, or about, January 20, 2016, Respondent met with the Committee, explained that she is currently in a residential treatment program, and indicated that she would be willing to participate in substance use monitoring, as part of her recovery.

STATUTES

12. The Committee views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 148.75(a)(2) (2014). Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under this statute.

REMEDY

13. 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 must contact the HPSP at (651) 642-0487 to initiate reenrollment in the HPSP within 14 days of the date of this Stipulation and Order. Respondent is

then required to sign a Participation Agreement with the HPSP no later than 60 days following the date of this Stipulation and Order. Respondent's Participation Agreement shall be effective for a minimum of 36 months. Respondent must comply with and successfully complete the terms of her HPSP Participation Agreement.

14. Upon satisfactorily complying with and completing the terms of her HPSP Participation Agreement, Respondent may petition the Board for an unconditional license. Respondent may be required to meet with the Committee as part of the petition process. The burden of proof shall be upon Respondent to demonstrate by a preponderance of the evidence that Respondent is capable of practicing physical therapy without conditions on her practice. Upon hearing the petition, the Board may continue, modify, or remove the provisions set out herein.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

A. Noncompliance With Requirements for Stayed Suspension

15. 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 13.a., above, the Committee may remove the stayed suspension pursuant to the procedures outlined in paragraph 16 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 16 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 16 below to be held within 60 days of issuing the Order for Removal.

B. Noncompliance With Stipulation and Consent Order

16. 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

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

18. Within ten days of the date of this Stipulation and Consent 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 Marshall Shragg, M.P.H., Minnesota Board of Physical Therapy, University Park Plaza, 2829 University Avenue S.E., Suite 420, Minneapolis, Minnesota 55414-3664.

19. 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.

20. 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.

21. 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.

22. 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: 2-26-2016

Dated: 3-10-16

SARAH NELIE TEN BENSEL, 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 10th day of March, 2016.

MINNESOTA BOARD OF
PHYSICAL THERAPY

MARSHALL SHRAGG, M.P.H.
Executive Director