

**BEFORE THE MINNESOTA  
BOARD OF PHYSICAL THERAPY**

In the Matter of the  
Physical Therapy License  
of Melissa Thiry, P.T.  
Year of Birth: 1977  
License Number: 8043

**STIPULATION AND ORDER**

IT IS HEREBY STIPULATED AND AGREED, by and between Melissa Thiry, P.T. ("Licensee"), and the Complaint Review Committee ("Committee") of the Minnesota Board of Physical Therapy ("Board") as follows:

1. During all times herein, Licensee 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. Licensee has chosen to be represented by Dennis P. Casey, Esq., 15025 Butternut Lane, Burnsville, Minnesota 55306, telephone (612) 220-0500. The Committee was represented by Bryan D. Huffman, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota 55101-2131, telephone (651) 757-1439.

**BACKGROUND INFORMATION**

3. On March 18, 2010, the Board adopted the Stipulation and Order ("2010 Order"), suspending Licensee's license effective March 20, 2010, but staying the suspension after Licensee contacted the Health Professionals Services Program ("HPSP") and entered into a Participation Agreement and Monitoring Plan ("HPSP Plan"). Licensee was required to abstain from alcohol and all mood-altering chemicals unless prescribed by a physician or dentist who has first been informed of Licensee's chemical dependency history.

4. In paragraph 10 of 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 Licensee failed to comply with or violated any of the requirements for staying the suspension. The Committee maintained the right to resolve the alleged violations described below by removing the stay of suspension followed by a hearing before the Board pursuant to paragraph 11.a. of the 2010 Order.

5. HPSP reported that Licensee missed three random toxicology screens in 2010. On November 1, 2010, the Complaint Review Committee met with Licensee and decided not to remove the stay of suspension. However, Licensee was advised that the stay of suspension would be removed if Licensee did not fully and completely comply with all of the terms of the HPSP Plan.

#### FACTS

6. For the purpose of this stipulation, the Board may consider the following facts as true:

a. Under the terms of the 2010 Order, Licensee was required to contact HPSP and enter into a Participation Agreement and Monitoring Plan.

b. Licensee was required to abstain from alcohol and all mood-altering chemicals unless they are prescribed by a physician or dentist who has first been informed of Licensee's chemical dependency history.

c. On April 9, 2010, Licensee failed to submit a toxicology screen requested by HPSP.

d. On June 26, 2010, Licensee failed to submit a toxicology screen requested by HPSP.

e. On August 19, 2010, Licensee failed to submit a toxicology screen requested by HPSP.

f. On November 1, 2010, Licensee appeared at a conference before the Complaint Review Committee to discuss the missed toxicology screens requested by HPSP. As a result of the conference, the Committee agreed not to remove the stay of suspension as long as Licensee fully and completely cooperated and met all of the terms of the HPSP Plan, including providing random toxicology screens as requested by HPSP.

g. On October 10, 2011, Licensee failed to submit a toxicology screen requested by HPSP.

h. On November 28, 2011, Licensee contacted the Board's Executive Director to request a delay in her urine screen requested by HPSP for that day.

i. On November 30, 2011, Licensee contacted the Board's Executive Director and disclosed that she had relapsed on November 28, 2011.

j. On November 30, 2011, Licensee notified HPSP that she was charged with DUI on November 28, 2011.

k. On January 9, 2012, the Board served a Notice of Removal of Stay of Suspension, Imposition of Suspension, and Hearing ("Notice") and Order of Removal of Stay of Suspension upon Licensee.

l. On March 6, 2012, Licensee met with the Committee to discuss the allegations contained in the Notice, prior to a hearing before the Board scheduled for March 8, 2012.

## STATUTES

7. The Committee views Licensee's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 148.75(a)(1) and (2) (2010). Licensee agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

## REMEDY

8. Upon this stipulation and all of the files, records, and proceedings herein, and without any further notice or hearing herein, Licensee does hereby consent that until further order of the Board, made after notice and hearing upon application by Licensee or upon the Board's own motion, the Board may make and enter an order **INDEFINITELY SUSPENDING** Licensee's license to practice physical therapy in the State of Minnesota as follows:

a. During the period of suspension, Licensee shall not engage in any conduct which constitutes the practice of physical therapy as defined by Minn. Stat. § 148.65, subd. 1. Licensee shall not imply to any persons by words or conduct that she is authorized to practice physical therapy in the State of Minnesota.

b. Licensee shall surrender her physical therapy license to the Board. Licensee 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.

c. Licensee may petition for reinstatement of her physical therapy license after eight months of documented, uninterrupted sobriety. The Committee and Licensee agree that December 15, 2011, is the earliest date to which Licensee may reference in an effort to show at least eight months of documented, uninterrupted sobriety. Licensee's 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 fall upon Licensee to demonstrate by a preponderance of the evidence that she is capable of conducting herself in a fit and competent manner in the practice of physical therapy, is complying with all aspects of her court-ordered probation, and has been sober and free from all mood-altering chemicals during the eight months immediately preceding the petition for reinstatement.

d. At the time of Licensee's petition, Licensee must meet with the Board's Complaint Review Committee to review her response to the Findings of Fact and provide documentation of eight months of uninterrupted sobriety. Licensee shall undergo a chemical dependency evaluation performed by a chemical dependency treatment professional. Licensee shall submit, or cause to be submitted, the credentials of the chemical dependency evaluator for review and preapproval by Board staff for purposes of this evaluation. The results of the evaluation shall be sent directly to the Board and must include a statement verifying the evaluator has reviewed this Stipulation and Order. Upon hearing the petition, the Board may continue, modify, or remove the conditions set out herein. Licensee may submit the following in an effort to demonstrate eight months of uninterrupted sobriety:

1) Reports from Licensee's probation officer showing compliance with the terms of her probation;

2) Proof of attendance and participation in a chemical dependency treatment program, mutual support group meetings, such as Alcoholics Anonymous, or meetings with mutual support group sponsors; and

3) Any other documentation that Licensee would like to submit in order to meet her burden of proof.

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

10. In the event Licensee resides or practices outside the State of Minnesota, Licensee 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 Licensee's suspended, limited, or conditioned license in Minnesota unless Licensee demonstrates that practice in another state conforms completely with Licensee's Minnesota license to practice physical therapy.

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 Licensee agrees that should the Board reject this stipulation and if this case proceeds to hearing, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this stipulation or of any records relating hereto.

12. Licensee waives any further hearings on this matter before the Board to which Licensee 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. Licensee 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: 3-8-12

Dated: 3/8/2012

SIGNATURE ON FILE

SIGNATURE ON FILE

MELISSA THIRY, P.T.  
Licensee

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 8<sup>th</sup> day of March, 2012.

MINNESOTA BOARD OF  
PHYSICAL THERAPY

SIGNATURE ON FILE

STEPHANIE LUNNING  
Executive Director

AG: #2972113-v1