

**BEFORE THE MINNESOTA  
BOARD OF PHYSICAL THERAPY**

In the Matter of the  
Physical Therapy License  
of David L. Wilkening, P.T.  
Date of Birth: 10/18/1953  
License Number: 2863

**STIPULATION AND ORDER  
FOR VOLUNTARY SURRENDER**

IT IS HEREBY STIPULATED AND AGREED, by and between David L. Wilkening, 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 he holds a license to practice physical therapy in the State of Minnesota.

2. Respondent has been advised by Board representatives that he may choose to be represented by legal counsel in this matter. Although aware of his right to representation by counsel, Respondent has knowingly and expressly waived that right. The Committee was represented by Nathan W. Hart, Assistant Attorney General, 1400 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, telephone (651) 296-7575.

**FACTS**

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

a. On January 30, 2002, Respondent self-reported to the Health Professionals Services Program (“HPSP”), stating he had relapsed with alcohol in December 2001. Respondent provided a history of four previous chemical dependency treatments, beginning in 1989; a DWI on

December 3, 2001; a history of depression; and current treatment and medication with a psychiatrist. Respondent agreed to undergo monitoring of his chemical dependency by HPSP.

b. In December 2002, Respondent developed significant psychiatric problems. Respondent agreed not to practice physical therapy and was granted a six-month stay on his civil commitment so long as he obtained inpatient chemical dependency treatment at a psychiatric facility.

c. On September 5, 2003, HPSP revised Respondent's Monitoring Plan to allow practice under direct supervision and compliance with quarterly reports.

d. On November 25, 2003, Respondent submitted evidence of continuing education compliance, and his 2003 Minnesota physical therapy license was renewed.

e. On February 13, 2004, Respondent was terminated from his supervised employment.

f. On March 31, 2004, Respondent was discharged from HPSP for noncompliance, due to two missed screens and lack of contact and follow through with required care.

g. On April 7, 2004, Respondent informed HPSP of his relapse with alcohol in the last month.

## **STATUTES**

4. The Committee views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 148.75, subd. 1(a)(5) (2002), and Minn. R. 5601 (2003). 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 as follows:

a. Respondent shall **VOLUNTARILY SURRENDER** his license to practice as a physical therapist in Minnesota.

b. Upon Respondent's surrender of his license to practice as a physical therapist in Minnesota, the Board agrees to close its file in this matter.

c. Respondent shall not practice, attempt to practice, offer to practice, or advertise or hold himself out as authorized to practice physical therapy in Minnesota and shall not use the title physical therapist or any designation which indicates licensure as a physical therapist.

d. Should Respondent reapply for licensure as a physical therapist in Minnesota, the complaints against Respondent shall be reopened and Respondent shall appear before a Board Complaint Review Committee to discuss the issues raised by these complaints, as well as any complaints received subsequent to the termination of Respondent's license. Respondent agrees that this Stipulation and Order shall serve to toll the applicable statute of limitations. Further, should Respondent reapply for licensure as a physical therapist in Minnesota, he must meet the requirements for licensure in effect at the time of that application. At the time of application, Respondent shall demonstrate by clear and convincing evidence that he is capable of practicing physical therapy in a fit, competent, and ethical manner and with reasonable skill and safety to patients. Respondent shall not be relicensed in Minnesota until

further order of the Board, which may include conditions and/or restrictions on Respondent's license.

6. Within ten days of the date of this Order, Respondent shall provide the Board with a list of all hospitals 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 315, Minneapolis, Minnesota 55414-3222.

7. In the event the Board at its discretion does not approve this settlement or a lesser remedy than indicated in this settlement, then, and in that event, this stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced by either party to this stipulation, except that Respondent agrees that should the Board reject this stipulation and 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 to this matter.

8. Any appropriate court may, upon application of the Board, enter its decree enforcing the order of the Board.

9. Respondent waives all formal hearings on this matter and all other procedures before the Board to which Respondent may be entitled under the 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.

10. Respondent hereby knowingly and voluntarily waives any and all claims against the Board, the Minnesota Attorney General, and the State of Minnesota and their agents, employees and representatives which may otherwise be available to Respondent under the Americans With Disabilities Act or the Minnesota Human Rights Act relative to the action taken or authorized against Respondent's license to practice physical therapy under this stipulation.

11. Respondent hereby acknowledges that he has read, understands, and agrees to this stipulation and has freely and voluntarily signed the stipulation without threat or promise by the Board or any of its members, employees, or agents. When signing the stipulation, Respondent acknowledges he is fully aware the stipulation is not binding unless and until it is approved by the Board. The Board may either approve the Stipulation and Order as proposed, approve the Stipulation and Order subject to specified change, or reject it. If the changes are acceptable to Respondent, the stipulation will then take effect and the order as modified will be issued. If the changes are unacceptable to Respondent or the Board rejects the stipulation, it will be of no effect except as specified herein.

12. This Stipulation and Order constitutes a disciplinary action against Respondent.

13. This Stipulation and Order is a public document and will be sent to all appropriate data banks.

14. This stipulation contains the entire agreement between the parties there being no other agreement of any kind, verbal or otherwise, which varies this stipulation.

Dated: \_\_\_5/7\_\_\_\_\_, 2004

Dated: \_\_5-20-\_\_\_\_\_, 2004

SIGNATURE ON FILE

SIGNATURE ON FILE

\_\_\_\_\_  
DAVID L. WILKENING, 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 \_\_20th\_\_ day of \_\_\_\_May\_\_\_\_\_, 2004.

MINNESOTA BOARD OF  
PHYSICAL THERAPY

SIGNATURE ON FILE

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STEPHANIE LUNNING  
Executive Director

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