

**BEFORE THE MINNESOTA  
BOARD OF PHYSICAL THERAPY**

In the Matter of the  
Physical Therapy License  
of Valeri V. Zaiats, P.T.  
Date of Birth: 1/12/65  
License Number: 6,171

**FINDINGS OF FACT,  
CONCLUSIONS,  
AND FINAL ORDER**

The above-entitled matter came on for hearing before the Honorable Raymond R. Krause, Administrative Law Judge (“ALJ”), on June 2, 2004. The hearing was held pursuant to a Notice and Order for Prehearing Conference and Hearing issued by the Complaint Review Committee (“Committee”) of the Minnesota Board of Physical Therapy (“Board”) on May 3, 2004. Nathan W. Hart, Assistant Attorney General, represented the Committee. Valeri V. Zaiats (“Respondent”) made no appearance.

On June 4, 2004, the ALJ issued Findings of Fact, Conclusions and Recommendation, recommending that the Board take disciplinary action against Respondent’s physical therapist license.

The Board met to consider the matter on July 15, 2004, at University Park Plaza, 2829 University Avenue S.E., Minneapolis, Minnesota. The following members of the Board were present: Kathy Fleischaker, P.T., Corinne Ellingham, P.T., Timothy Fedje, P.T., Bruce I. Idelkope, M.D., Neng Lee, Therese McDevitt, P.T.A., Jack Schaaf, and Don Sheffield. Nathan W. Hart, Assistant Attorney General, appeared and presented oral argument on behalf of the Committee. Tiernee Murphy, Assistant Attorney General, was present as legal adviser to the Board. Kathy Fleischaker, P.T., Corinne Ellingham, P.T., and Don Sheffield were members of

the Committee that initially reviewed this matter, and therefore, they did not participate in deliberations and did not vote in the matter.

Based on the testimony, records, and arguments in this matter, the Board makes the following:

### **FINDINGS OF FACT**

The Board has reviewed the record of this proceeding and hereby accepts the June 4, 2004, ALJ's report and accordingly adopts and incorporates by reference the Findings of Fact therein. Paragraph 5 states, "Pursuant to Minn. R., part 1400.6000, the allegations contained in the Notice of and Order for Hearing, Notice of Prehearing Conference, and Statement of Charges are taken as true and incorporated by reference into these Findings of Fact."

The allegations contained in the Notice of Hearing are as follows:

1. Respondent was licensed to practice physical therapy on May 9, 1998. Respondent failed to renew his physical therapy license for 2003.

2. On May 20, 2003, Respondent was convicted of criminal sexual conduct in the second degree. On July 24, 2003, Respondent was sentenced to 21 months in prison, stayed; 25 years of probation; 365 days in jail; a \$4,000 fine; completion of an outpatient sex offender treatment program; completion of a polygraph test within 60 days; and, if Respondent passed the test, Respondent must enter into and complete the sexual attitude assessment course as well as complete the sexual boundaries course, register as a criminal sexual conduct offender, provide a DNA sample, and have no contact with the victim or the victim's family.

### **CONCLUSIONS**

Based on the foregoing Findings of Fact, the Board makes the following conclusions of law:

1. The Board and the ALJ have jurisdiction of this matter pursuant to Minnesota Statutes sections 214.10, subd. 2, and 14.50 (2002).

2. The Board has authority to take disciplinary action against licensed physical therapists, including Respondent, under Minnesota Statutes section 148.75 (2002).

3. The Committee gave proper notice of the prehearing conference and hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law and rules.

4. The Committee has the burden of proof in this proceeding and must establish the facts at issue by a preponderance of the evidence as provided by Minnesota Rules 1400.7300, subpart 5.

5. The Committee has proven by a preponderance of the evidence that Respondent has violated a rule promulgated by the Board or a state or federal law that relates to the practice of physical therapy.

6. The Committee has proven by a preponderance of the evidence that Respondent was convicted of a felony, in violation of Minnesota Statutes section 148.75(a)(2)(2002).

As a result of the statutory violations set forth above, the Board has the power to take disciplinary action against Respondent's license as set forth in Minnesota Statutes sections 148.75 and 148.775.

### **ORDER**

Based on the foregoing Findings of Fact and Conclusions, the Board issues the following order:

1. Respondent's license to practice physical therapy in the State of Minnesota is **REVOKED**.

2. Respondent shall immediately cease to engage in the practice of physical therapy.
3. Respondent shall immediately cease to advertise or otherwise represent himself in any manner to be a licensee of the Board of Physical Therapy in this state.
4. Respondent shall surrender his license to the Board within five (5) days of service of this Order on his counsel of record by delivering or mailing it to Stephanie Lunning, Board of Physical Therapy, Suite 315, University Park Place, 2829 University Avenue SE, Minneapolis, Minnesota 55414-3222.
5. Within sixty (60) days of the date of this Order, Respondent shall pay to the Board a civil penalty in the amount of \$2,773.60 for his statutory and Board rule violations, to reimburse the Board for the cost of the investigation and proceeding.
6. Respondent shall not apply for licensure as a physical therapist in the State of Minnesota for a period of two (2) years from the date of this Order. Should Respondent make application after two years, the following conditions shall apply:
  - a. Respondent must meet the statutory and Board rule requirements for licensure in effect at time of application;
  - b. Respondent must provide evidence, satisfactory to the Board, that he has successfully completed outpatient sex offender treatment as required under the terms and conditions of his sentence for the above referenced conviction; and
  - c. Respondent must 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 clients.

7. The Board specifically reserves all of its rights pursuant to Minnesota Statutes sections 148.75 and 148.775 when considering any such application of Respondent. Those rights include, among other things:

a. The right to refuse to grant a license to any physical therapist on grounds including conviction of a felony, conduct unbecoming a person licensed as a physical therapist, conduct detrimental to the best interests of the public, and gross negligence in the practice of physical therapy; and

b. The right to deny the application for license, limit a person's physical therapy license to a certain scope of practice, impose retraining requirements, require practicing under the supervision of another licensed physical therapist, and condition continued practice on demonstrating knowledge or skills by appropriate examination, monitoring, or other review.

MINNESOTA BOARD OF  
PHYSICAL THERAPY

SIGNATURE ON FILE

Dated: July 22, 2004

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Timothy Fedje, P.T.  
Secretary and Presiding Board Member  
Minnesota Board of Physical Therapy