

**BEFORE THE MINNESOTA
BOARD OF PHYSICAL THERAPY**

In the Matter of
Pamela J. Becker, P.T.
Year of Birth: 1946
License Number: 4994

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between Pamela J. Becker, 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 was represented by attorney Jennifer Nodes and attorney Jack T. Sullivan of Best and Flanagan, LLP, 225 South Sixth Street, Suite 4000, Minneapolis, MN 55402. The Committee was represented by Bryan D. Huffman, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, MN.

FACTS

3. On May 2, 1992, Licensee was licensed to practice physical therapy in the State of Minnesota.

4. At all times relevant to the proceeding facts, Licensee was employed as a physical therapist with a facility in Minnesota.

5. On three occasions in 2011, Licensee left patients unattended so she could answer her cell phone. For example, Patient 1, who was unable to safely ambulate alone, was left unattended and found wandering the halls by himself. As a result of the incidents, Licensee was placed on the final step of progressive discipline in August 2011.

6. On July 31, 2012, Licensee administered physical therapy to Patient 2. The following occurred during Patient 2's treatment:

a. Licensee left Patient 2 alone in the gym unattended on a diathermy machine and did not ask anyone to supervise Patient 2.

b. Licensee was outside of the gym performing gait training with another patient while Patient 2 was still on the diathermy machine.

c. Diathermy was not a part of Patient 2's plan of care.

d. Licensee did not document the diathermy treatment.

7. On August 7, 2012, Licensee's employment was terminated due to a serious violation of safety rules.

STATUTES

8. The Committee views Licensee's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 148.75(a)(6) and (7) (2012). Licensee agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

REMEDY

9. Upon this stipulation and all of the files, records, and proceedings herein, and without any further notice or hearing herein, Licensee hereby consents 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 **SUSPENDING** Licensee's license as a physical therapist in Minnesota. The suspension is **STAYED** so long as Licensee complies with the following **CONDITIONS**:

a. The Board imposes a **CIVIL PENALTY** in the amount of \$3,000 for the conduct described above. However, Licensee must only pay \$1,000 while the remaining \$2,000

will be stayed so long as Licensee complies with all of the terms and conditions set forth in this Stipulation and Order. Licensee must pay the civil penalty by cashier's check or money order made payable to the Minnesota Board of Physical Therapy, 2829 University Avenue S.E., Suite 420, Minneapolis, Minnesota 55414-3664, within 60 days of the date of this Order.

b. Within six months from the date this Stipulation and Order is adopted by the Board, Licensee must complete an Essentials of Physical Therapy course presented by the Minnesota Chapter of the American Physical Therapy Association. Licensee must obtain preapproval of the course from the Committee before attending the course.

c. Within six months from the date this Stipulation and Order is adopted by the Board, Licensee must complete a course regarding the Roles and Responsibilities of Physical Therapists and Physical Therapists Assistants. The course must be preapproved by the Committee.

10. Licensee may petition the Board for an unconditional license upon satisfactory completion of the terms of this Stipulation and Order. Licensee's petition for an unconditional license may be granted, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof falls 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.

At the time of Licensee's petition, Licensee may be required to meet with a Complaint Review Committee. The Committee will make a recommendation to the Board to continue, modify, or remove the conditions set out herein. However, the Board must render a final decision.

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

12. In the event Licensee resides or practices outside the State of Minnesota, Licensee must 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.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

A. Noncompliance With Requirements for Stayed Suspension

13. If the Committee has probable cause to believe Licensee has failed to comply with, violated any of the requirements for staying the suspension as outlined above, or has engaged in practice which violates the Minnesota Physical Therapy Practice Act, the Committee may remove the stay of suspension pursuant to the procedures outlined in paragraph 14 below, with the following additions and exceptions:

a. The removal of the stayed suspension will take effect upon service of an Order of Removal of Stayed Suspension ("Order of Removal"). Licensee agrees that the Committee is authorized to issue an Order of Removal, which shall remain in effect and will 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 14 below or until the complaint is dismissed and the order is rescinded by the Committee. The Order of Removal must confirm the Committee has probable cause to believe Licensee has failed to comply with or has violated one or more of the requirements for staying the suspension of Licensee's license. Licensee further agrees an Order of Removal issued pursuant to this paragraph shall be deemed a public document under the Minnesota Government Data Practices Act. Licensee waives any right to a conference or hearing before removal of the stayed suspension.

b. The Committee must schedule the hearing pursuant to paragraph 14 below to be held within 60 days of service of the Order of Removal.

B. Noncompliance With Stipulation and Order

14. If Licensee fails to comply with or violates this Stipulation and Order, the Committee may, in its discretion, seek additional discipline either by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14 (2012) or by bringing the matter directly to the Board pursuant to the following procedure:

a. The Committee may schedule a hearing before the Board. At least 20 days before the hearing, the Committee must mail Licensee a notice of the violation(s) alleged by the Committee. In addition, the notice must designate the time and place of the hearing. Within ten days after the notice is mailed, Licensee must submit a written response to the allegations. If Licensee 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 Licensee 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 Licensee may submit affidavits and written argument in support of their positions. At the hearing, the Committee and Licensee 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 Order. Unless stated otherwise in this Stipulation and Order, the Committee shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Licensee has failed to submit a timely response to the allegations, Licensee may not contest the allegations, but may present argument concerning the appropriateness of

additional discipline. Licensee 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. Licensee'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 Licensee'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 Licensee's license.

15. In the event the Board in its discretion does not approve this settlement, this stipulation is withdrawn and will be of no evidentiary value and may 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.

16. This stipulation does not in any way limit or affect the authority of the Board to temporarily suspend Licensee's license under Minn. Stat. § 148.755 or to initiate contested case proceedings against Licensee on the basis of any act, conduct, or omission of Licensee justifying

disciplinary action occurring before or after the date of this Stipulation and Order which is not related to the facts, circumstances, or requirements referenced herein.

17. 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.

18. 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: 11/19/14

Dated: 1-8-2015

SIGNATURE ON FILE

SIGNATURE ON FILE

PAMELA J. BECKER, 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 8th day of January, 2015

MINNESOTA BOARD OF
PHYSICAL THERAPY

SIGNATURE ON FILE

STEPHANIE LUNNING
Executive Director