

**BEFORE THE MINNESOTA  
BOARD OF PHYSICAL THERAPY**

In the Matter of the  
Physical Therapy License of  
Jeremy John Benacka, P.T.  
License Number 5489

**STIPULATION AND ORDER**

IT IS HEREBY STIPULATED AND AGREED, by and between Jeremy John Benacka, P.T. ("Licensee"), 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. Licensee holds a license from the Board and is subject to the Board's jurisdiction.
3. Although advised by the Board of the option to be represented by legal counsel, Licensee has elected to forgo legal representation. The Committee was represented by Alex Mountain, Assistant Attorney General.

**FACTS**

4. Licensee was granted a license to practice as a physical therapist ("P.T.") in Minnesota on January 21, 1995.
5. In January 2020, the Minnesota Attorney General Office's ("AGO") Medicaid Fraud Control Unit ("MFCU") charged Licensee with five felony-level charges. The complaint alleged that Licensee defrauded over \$750,000 from the Minnesota Medical Assistance ("Medicaid") program in a scheme lasting from January 1, 2016 through June 30, 2018.
6. On December 31, 2020, Licensee completed an application for renewal of his license. Licensee answered "No" in response to the question, "Since your last renewal, have there been

any criminal charges filed against you? This includes adult charges of misdemeanor, gross misdemeanor, or felony and any offenses which have been expunged, dismissed or otherwise removed from your record. If so, give particulars including the date of conduct, state or local jurisdiction in which the charges were filed.”

7. On November 19, 2021, Licensee completed an application for renewal of his license.

a. Licensee answered “No” in response to the question, “Since your last renewal, have you been charged with and/or convicted of any misdemeanor, gross misdemeanor, or felony crime including, but not limited to, any crime related to the use of alcohol or drugs?”

b. Licensee answered “No” in response to the question, “Since your last renewal, have you been notified that a complaint has been filed against you, that you are under investigation, that you have been disciplined and/or that you have been denied a license or registration by a state or federal agency or regulatory board?”

8. On November 22, 2021, Licensee entered a plea of guilty to one felony-level charge of Theft by Swindle.

9. On January 20, 2022 Licensee was convicted of the felony-level Theft by Swindle and was sentenced to a stay of imposition. Licensee is ordered to serve five (5) years of supervised probation, 60 days on electronic home monitoring, and pay restitution of \$511,233.39 in total.

### **STATUTES**

10. Licensee's conduct constitutes a violation of the following statutes and rules: Minnesota Statutes section 148.75(a)(3) (has been convicted of or has pled guilty to a felony, an element of which is dishonesty or fraud), and Minnesota Statutes section 148.75(a)(6) (unprofessional conduct). Licensee agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

## **REMEDY**

11. The Board hereby **SUSPENDS** Licensee's license to practice physical therapy. The suspension is **STAYED** so long as Licensee complies with the following requirements:

a. ***Completion of Continuing Education Ethics Course.*** Licensee shall complete no less than twelve (12) hours of continuing education on the topic of ethics. All fees for the course shall be paid by Licensee. Licensee must obtain preapproval from the Committee for the course(s) that Licensee selects. To secure preapproval, Licensee shall submit to the Committee a course description, including course objectives and the instructor's name and applicable credentials. Licensee shall complete the course(s) within twelve (12) months of the date of the Order. Successful completion of the continuing education requirement shall be determined at the sole discretion of the Committee and verified by Licensee's submission of an official certificate indicating completion of the preapproved course(s).

b. ***Quarterly Reports.*** Licensee shall cause to be submitted to the Board quarterly reports, from each of his employer(s) and/or self if self-employed, addressing his compliance with all applicable laws and rules relating to proper billing practices. The quarterly reports shall include an attestation that Licensee is in current compliance with all applicable laws and rules relating to proper billing practices. The first report is due from all current employers no less than 90 days following the date of this Order, and on a quarterly basis thereafter. For any new employer(s), a quarterly report should be submitted 90 days from the date of employment, and on a quarterly basis thereafter.

12. This Stipulation and Order shall remain in effect for a minimum of five (5) years. At the end of this period and upon satisfactorily completing the requirements described in paragraph 11., above, as determined by the Committee, Licensee may petition the Board for an unconditional license. Licensee may be required to meet with the Committee upon submitting his

petition. The Committee may make a recommendation to the Board regarding what action the Board should take on Licensee's petition. Upon hearing the petition, the Board may continue, modify, or remove the conditions set out herein.

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

14. In the event Licensee resides or practices outside the State of Minnesota, Licensee must promptly notify the Board in writing of all work sites and residences.

### **CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS**

#### **A. Noncompliance With Requirements for Stayed Suspension**

15. If the Committee has probable cause to believe Licensee has failed to comply with or has violated any of the requirements for staying the suspension as outlined 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"). Licensee 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 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 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 Order

16. 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 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 Licensee 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, Licensee shall 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.

f. Nothing herein shall limit the Committee's or the Board's right to temporarily suspend Licensee's license pursuant to Minnesota Statutes sections 214.077 or 148.755, based on a violation of this Stipulation and Order or based on conduct of Licensee not specifically referred to herein.

#### **OTHER INFORMATION**

17. No condition imposed as a remedy by this Stipulation and Order shall be used as a continuing education activity for the purpose of renewal of Licensee's license to practice as a physical therapist.

18. Within ten days of the date of this Stipulation and Order, Licensee shall provide the Board with a list of all work sites and locations at which Licensee currently has privileges, a list of all states in which Licensee is licensed or has applied for licensure, and the addresses and

telephone numbers of Licensee's residences and all work sites. Within seven days of any change, Licensee shall provide the Board with the new address and telephone information. The information shall be sent to the Minnesota Board of Physical Therapy, c/o Erin DeTomaso, Executive Director, 335 Randolph Avenue, Suite 285, St. Paul, MN 55102.

19. 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.

20. 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.

21. Licensee waives any claims against the Board, the Minnesota Attorney General's Office, the State of Minnesota, and their agents, employees, and representatives related to the investigation of the conduct herein, or the negotiation or execution of this Stipulation and Order, which may otherwise be available to Licensee.

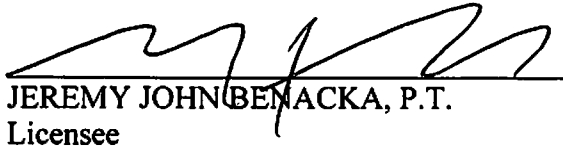
22. Licensee has hereby read and understands this Stipulation and has voluntarily entered into the Stipulation without threat or promise by the Board or any of its members, employees, or agents. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Stipulation.

23. Nothing herein will limit the Committee's or the Board's right to temporarily suspend Licensee's license pursuant to Minnesota Statutes section 214.077, based on a violation of this Stipulation and Order or based on conduct of Licensee not specifically referred to herein.

24. Either party may seek enforcement of this Stipulation and Order in any appropriate civil court.

25. This Stipulation and Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 5. Data regarding this action will be provided to data banks as required by Federal law or consistent with Board policy.

Dated: 8/10/22

  
JEREMY JOHN BENACKA, P.T.  
Licensee

Dated: 9/15/22

  
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 15<sup>th</sup> day of September, 2022.

MINNESOTA BOARD OF  
PHYSICAL THERAPY

  
ERIN D. MASO  
Executive Director

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