

**BEFORE THE MINNESOTA
BOARD OF PHYSICAL THERAPY**

In the Matter of the
Physical Therapy License
of Wageed Girgis, P.T.
Year of Birth: 1956
License Number: 5775

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between Wageed Girgis, 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 he holds a license to practice physical therapy in the State of Minnesota. Licensee became licensed in Minnesota on July 13, 1996.
2. Licensee has been advised by Board representatives that he may choose to be represented by legal counsel in this matter. Licensee has chosen to be represented by Mark W. Wolf, Esq., 936 Nebraska Avenue West, St. Paul, Minnesota 55117-3329, telephone (612) 424-4516. The Committee was represented by Bryan D. Huffman, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota 55101-2131, telephone (651) 296-7575.

FACTS

3. Since 1993, Respondent has been disciplined on thirteen occasions in eight different states, in addition to multiple disciplinary actions in Minnesota discussed below.
4. On or about September 17, 2009, Respondent and the Board mutually entered a Stipulation and Order ("2009 Order") conditioning Respondent's license. The 2009 Order was based on Respondent's substandard practice of physical therapy in home care and hospital

settings. Respondent expressly acknowledged that the conduct underlying the 2009 Order provided bases for discipline. Accordingly, he agreed to cooperate with semiannual peer review conducted by the Minnesota Chapter of the American Physical Therapy Association ("MN APTA") until his practice improved.

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6. Based upon information received in or about March 2013, the Board determined that peer review reports indicated that Licensee's practice was still substandard.

7. Beginning on March 10, 2010, and at all times henceforward, Licensee was employed as a physical therapist with a home care agency in Minnesota ("Agency").

8. On September 2, 2011, Licensee met with Agency officials to discuss to discuss his patients' progress. Licensee states that Agency employees also brought up his physical therapy practice. The following was discussed during the meeting:

a. The Agency expected physical therapists to administer no less than 30 minutes of treatment, although 45 to 60 minutes of treatment was typical. Licensee, however, only provided 5 to 15 minutes of treatment on numerous occasions. Licensee contends that the Agency had no written policy concerning the length of treatment to be rendered, and he used his professional judgment on a case-by-case basis.

b. Licensee was informed of complaints that he did not wait long enough for patients to answer the door when he arrived for sessions. He was advised by the Agency to wait at least 15 minutes to allow patients time to answer the door. Licensee contends that he should be able to use his professional judgment when determining how long to wait at a patient's door.

9. On September 9, 2011, the agency noted that Licensee failed to show up for sessions with Patient #1 and Patient #2 as well as numerous sessions with patient #3. Licensee denies failing to show up for visits with Patients #1, #2, or #3.

10. In 2011, Licensee began treating Patient #5, who suffers from a degenerative bone disease and an autonomic dysfunction disorder which attacks the nervous system. Licensee spoke about other clients to Patient #5. He also discussed his personal life with Patient #5, including discussions about his ex-wife. Licensee also spoke to Patient #5 about her home, which was soon going to be in foreclosure.

11. In or about April 2011, Respondent rendered physical therapy services to patient #6, who previously suffered a stroke and used a walker. Licensee completed transfer exercises with Patient #6 by using his personal vehicle.

12. On October 28, 2011, Licensee's employment with the agency was terminated.

STATUTES

13. While not admitting all of the factual assertions contained herein, Licensee agrees that, if proven, the conduct set forth in the facts above constitute a reasonable basis in law and fact to justify the disciplinary action below. Accordingly, the Committee views the facts above as inappropriate in such a way as to require Board action under Minn. Stat. § 148.75(a)(1), (6), and (7) (2012).

REMEDY

14. All previous orders are hereby rescinded and have no future force or effect except as restated herein.

15. 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. However, the suspension is **STAYED** so long as Licensee complies all terms of this Stipulation and Order, including following **CONDITIONS** and **LIMITATIONS**:

a. Within 6 months from the date of this Order, Licensee must successfully complete a preapproved professional boundaries course taught by Dr. John Hung.

b. Within ten days of the date of this 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 Stephanie Lunning, Minnesota Board of Physical Therapy, University Park Plaza, 2829 University Avenue S.E., Suite 420, Minneapolis, Minnesota 55414-3664.

c. Licensee must cause his employer to submit monthly reports to the Committee addressing Licensee's physical therapy practice, patient care, and any related issues. Licensee must submit the name and role of the person submitting the reports to the Committee for approval. The Committee is solely responsible for determining whether the person

designated by Licensee is the most appropriate person to submit monthly reports, based upon the practice setting.

c. Licensee must submit to and cooperate with quarterly reviews performed by the Problem Identification/Peer Review Committee of the Minnesota Chapter of the American Physical Therapy Associations ("MNAPTA"). Reviews shall include randomly selected chart audits, billing reviews, and on-site observation of Licensee's practice. Licensee will be responsible for ensuring the Board receives quarterly reports from MNAPTA regarding the findings of each review performed.

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

17. In the event Licensee resides or practices outside the State of Minnesota, Licensee must promptly notify the Board in writing of the location of his 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.

18. This Stipulation and Order will remain in effect for a minimum of 24 months. Upon successful completion of the terms and conditions set forth in this Stipulation and Order, and after 24 months from the date of this Stipulation and Order, Licensee may petition for reinstatement of an unconditional license provided that the two peer reviews preceding the petition do not note practice concerns. Upon petitioning, Licensee may be required to meet with the Complaint Review Committee. Upon hearing the petition, the Committee may recommend that the Board continue, modify, or remove the conditions set out herein.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

A. Noncompliance With Requirements for Stayed Suspension

~~19.~~ If the Committee has probable cause to believe Respondent 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 20 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"). Respondent 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 20 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 Respondent has failed to comply with or has violated one or more of the requirements for staying the suspension of Respondent's license. Respondent further agrees an Order of Removal issued pursuant to this paragraph shall be deemed a public document under the Minnesota Government Data Practices Act. Respondent waives any right to a conference or hearing before removal of the stayed suspension.

b. The Committee must schedule the hearing pursuant to paragraph 20 below to be held within 60 days of service of the Order of Removal.

B. Noncompliance With Stipulation and Order

20. If Respondent 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 Respondent 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, Respondent must submit a written response to the allegations. If Respondent 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 Respondent 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 Respondent may submit affidavits and written argument in support of their positions. At the hearing, the Committee and Respondent 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 Respondent has failed to submit a timely response to the allegations, Respondent may not contest the allegations, but may present argument concerning the appropriateness of additional discipline. Respondent 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. Respondent'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 Respondent'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 Respondent's license.

21. 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 Respondent agrees that should the Board reject this stipulation and if 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 hereto.

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

23. Respondent waives any further hearings on this matter before the Board to which Respondent 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.

24. Respondent hereby acknowledges that he 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: 08-15-13

Dated: 09-19-13

SIGNATURE ON FILE

SIGNATURE ON FILE

WAGEED CIRGIS, 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 19th day of September 2013

MINNESOTA BOARD OF
PHYSICAL THERAPY

SIGNATURE ON FILE

STEPHANIE LUNNING
Executive Director