

**BEFORE THE MINNESOTA
BOARD OF PHYSICAL THERAPY**

In the Matter of the
Physical Therapist License
of Randy Olson, P.T.
Year of Birth: 1958
License Number: 4761

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

The above-entitled matter came on for consideration by the Minnesota Board of Physical Therapy ("Board") on March 19, 2015, in Conference Room A on the fourth floor of University Park Plaza, 2829 University Avenue SE, Minneapolis, Minnesota 55414. The Board is authorized pursuant to Minn. Stat. §§ 148.65 to 148.78 to license and regulate physical therapists and has jurisdiction in this matter.

The Board conducted a hearing pursuant to the procedure set forth in paragraphs 14 and 15 of the Stipulation and Consent Order ("2014 Consent Order") issued by the Board to Randy Olson, P.T. ("Respondent"), on May 15, 2014. At the hearing, the Complaint Resolution Committee ("Committee") presented affidavit evidence of Respondent's violations of the 2014 Consent Order. Respondent, appeared *pro se* at the hearing and presented oral argument. Nicholas Lienesch, Assistant Attorney General, appeared and presented oral argument on behalf of the Complaint Review Committee ("Committee"). As members of the Committee that initially reviewed the matter, the following Board members did not participate in deliberations and did not vote in the matter: Kathy Fleischaker, Linda Gustafson, Barbara Liebenstein, Debra Sellheim, and Debra Newel. Stephanie Lunning, Executive Director of the Board, did not participate in the deliberations. Jennifer Middleton, Assistant Attorney General, was present as legal advisor to the Board.

The Board has reviewed the record of this proceeding and hereby makes the following findings of fact:

FINDINGS OF FACT

1. Respondent agreed to and signed a Stipulation and Order adopted by the Board on May 15, 2014 ("2014 Consent Order") to place Respondent's license in a conditional status. The 2014 Consent Order was based on Respondent's improper delegation of physical therapy functions to an individual who was not licensed or trained as a Physical Therapist ("P.T.") or Physical Therapist Assistant ("P.T.A.").

2. In paragraphs 13 and 14 of the 2014 Consent Order, Respondent expressly acknowledged and agreed to the procedure the Committee may use to resolve alleged noncompliance with or violation of the 2014 Consent Order.

3. Paragraph 9.a. of the 2014 Consent Order stated as follows:

Licensee must submit to and cooperate with peer reviews performed by the Peer Review Committee of the Minnesota Chapter of the American Physical Therapy Association ("MN APTA"). Reviews will be conducted quarterly for the first year and then semiannually until the Committee determines the Licensee has successfully met the peer review criteria. Reviews must include on-site observation of practice, chart audits, billing reviews, billing review, and verification of proper supervision of PTAs and aides. Review must also include a selection of recently discharged patient records from all practice locations. Licensee is responsible for ensuring that the Board receives reports from MN APTA regarding the findings of each review.

4. Between May 15, 2014 and March 19, 2015, Respondent failed to submit to any peer reviews, as required by paragraph 9.a. of the 2014 Consent Order. Respondent's quarterly reviews would have been due on approximately August 15, 2014, and December 15, 2014.

5. Respondent failed to comply with the terms of the 2014 Consent Order.

6. During the summer of 2014, Respondent attempted to contact the peer review organization for information on the costs of the peer review process. Respondent

experienced a lengthy delay on the part of the organization in providing Respondent with the cost information.

7. Respondent made a good faith effort to contact the peer review organization in a timely manner after the Board adopted the 2014 Consent Order.

8. The cost of the peer review was not known to Respondent at the time the 2014 Consent Order was adopted. The cost of six peer review sessions was shown to cause a substantial economic burden on Respondent.

9. The Board recognizes Respondent's use of myofascial release as an accepted form of physical therapy.

10. The Board recognizes the disparity between urban and rural Minnesota with regard to access to physical therapists, noting that rural Minnesotans have limited access to physical therapists.

11. Respondent testified at the March 19, 2015, hearing that he no longer employs or utilizes unlicensed support staff.

12. Public safety will be served by requiring Respondent to have two consecutive, successful peer review visits over the course of a twelve month period.

CONCLUSIONS

1. The Minnesota Board of Physical Therapy has jurisdiction in this matter pursuant to Minn. Stat. §§ 214.10, 214.103, and 148.65—148.78.

2. Based on the Findings of Fact set forth above, the Board has grounds to take disciplinary action against Respondent's license under Minn. Stat. § 148.75(a)(1).

3. An order by the Board taking disciplinary action against Respondent's license is in the public interest.

ORDER

1. NOW, THEREFORE, IT IS HEREBY ORDERED that the 2014 Consent Order is **RESCINDED** effective immediately. The 2014 Consent Order shall have no future force or effect.

2. Respondent's license to practice physical therapy in the State of Minnesota is **SUSPENDED**. The suspension is **STAYED** as long as Respondent complies with the following **CONDITIONS**:

a. Within twenty-four months from the date of this Order, Respondent must successfully complete two consecutive peer reviews within a twelve month period. The peer reviews must be performed by the Peer Review Committee of the Minnesota Physical Therapy Association ("MN APTA"). Reviews must include on-site observation of practice, chart audits, billing reviews, and verification of proper supervision of PTAs and aides. Review must also include a selection of recently discharged patient records from all practice locations. Respondent is responsible for the costs associated with the peer reviews. Respondent is responsible for ensuring that the Board receives reports from MN APTA regarding the findings of each review.

b. Within 60 days from the date of this Order, Respondent must provide proof to the board of having scheduled his first peer review visit.

3. After successful completion of the conditions set forth in paragraph 2 of this Order, the stayed suspension status and conditions on Respondent's license to practice physical therapy in the State of Minnesota shall administratively lift.

4. If the Committee has probable cause to believe Respondent has failed to comply with or has violated any of the requirements for staying the suspension as outlined in

paragraph 2.a. above, the Committee may remove the stayed suspension pursuant to the procedures outlined in paragraph 5 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”). Respondent 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 5. below. The Order of Removal shall 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 shall schedule the hearing pursuant to paragraph 5. below to be held within 60 days of the notice.

5. If Respondent fails to comply with or violates this Order or it is determined Respondent has further violated Minnesota Statutes chapter 148.65 to 148.78 or Minnesota Rules chapter 5601, 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 ten days prior to the hearing, the Committee shall mail Respondent a notice of the violation(s) alleged by the Committee. In addition, the notice shall designate the time and place of the hearing. Within seven days after the notice is mailed, Respondent shall 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 the Respondent prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through the procedures of Minnesota Statutes Section 214.103, subdivision 6.

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 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.

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 this order is in effect.

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 conditions or limitations on Respondent's practice, suspension, or revocation of Respondent's license.

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

6. **IT IS FURTHER ORDERED** that within ten days of execution of this Order, Respondent shall provide the Board with the names of all states in which Respondent is licensed to practice as a P.T. or holds any other professional or occupational license or registration.

7. **IT IS FURTHER ORDERED** that in the event Respondent should leave Minnesota to reside or to practice outside of the state, Respondent shall notify the Board in writing of the new address and telephone number within ten days. If Respondent leaves the state, the terms of this Order continue to apply unless waived in writing.

8. **IT IS FURTHER ORDERED** that Respondent's violation of this Order shall constitute the violation of a Board order for purposes of Minnesota Statutes section 148.75(a)(1), and provide grounds for further disciplinary action.

10. This Order constitutes disciplinary action against Respondent.

11. This Order is a public document and will be forwarded to all appropriate databanks as required by law.

Dated: 4/15/15

MINNESOTA BOARD
OF PHYSICAL THERAPY

< SIGNATURE ON FILE

Julie McDonald, P.T.A.
Board Member