

**BEFORE THE MINNESOTA
BOARD OF PHYSICAL THERAPY**

In the Matter of the
Physical Therapy License
of Nicole M. Pexsa, P.T.
Date of Birth: 11/05/1979
License Number: 7397

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between Nicole M. Pexsa, P.T. ("Respondent"), and the Complaint Review Committee ("Committee") of the Minnesota Board of Physical Therapy ("Board") as follows:

1. During all times herein, Respondent 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. Respondent has been advised by Board representatives that she may choose to be represented by legal counsel in this matter. Although aware of her right to representation by counsel, Respondent has knowingly and expressly waived that right. The Committee is represented by Geoffrey S. Karls, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota 55101-2131, telephone (651) 757-1254.

FACTS

3. For the purpose of this stipulation, the Board may consider the following facts as true:

a. Respondent was licensed to practice physical therapy in Minnesota on May 20, 2004.

b. On November 7, 2007, Respondent entered into an Agreement for Corrective Action ("ACA") with the Committee for failing to follow postoperative protocols as prescribed by referring surgeons, failing to change the plan of care when patients reported adverse reactions to a previous treatment or experienced a decline in physical status, and failing to accurately document information reported by patients.

c. Pursuant to paragraph 3.c. of the ACA, Respondent was to submit to a chart audit of five randomly selected charts for the Committee to review. On June 25, 2010, Respondent submitted five charts to the Board.

d. A number of current documentation and practice issues were identified, which included:

- 1) Failure to re-evaluate patients during months of care;
- 2) Failure to sign and verify documentation in a timely manner;
- 3) Failure to provide updated measurements;
- 4) Failure to appropriately document history, functional and physical limitations/requirements at home/work/community, etc.;
- 5) Failure to substantiate outcomes in documentation; and
- 6) Failure to substantiate information sent to physicians.

STATUTES

4. The Committee views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 148.75(a)(1) and Minn. Stat. §148.75(a)(6). Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

REMEDY

5. Upon this stipulation and all of the files, records, and proceedings herein, and without any further notice or hearing herein, Respondent does hereby consent that until further order of the Board, made after notice and hearing upon application by Respondent or upon the Board's own motion, the Board may make and enter an order **CONDITIONING** and **RESTRICTING** Respondent's license to practice physical therapy in the State of Minnesota as follows:

a. Respondent is hereby **REPRIMANDED** for the conduct referenced above.

b. Respondent shall submit to and cooperate with semi-annual reviews performed by the Professional Practice Review Committee of the Minnesota Chapter of the American Physical Therapy Associations ("MNAPTA"). Reviews shall include chart audits of non-redacted records, and billing reviews. Respondent shall be responsible for ensuring the Board receives the semi-annual peer review reports from MNAPTA.

c. Respondent shall develop a written plan of action based on any negative findings of the Professional Practice Review of the MNAPTA. This plan of action shall be submitted to the Committee.

d. Respondent shall obtain a mentor/work quality assessor, pre-approved by the Committee, who shall meet on a monthly basis to review Respondent's documentation, and assist Respondent in the development and implementation of the plan of action. The mentor/work quality assessor shall provide written quarterly reports to the Committee or its designee.

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

7. This Stipulation and Order shall remain in effect for a minimum of one year. At the end of this period, Respondent may petition for reinstatement of an unconditional license. Upon hearing the petition, the Board may continue, modify, or remove the conditions set out herein.

8. Within ten days of the date of this Order, Respondent shall provide the Board with a list of all work sites and locations at which Respondent currently has privileges, a list of all states in which Respondent is licensed or has applied for licensure, and the addresses and telephone numbers of Respondent's residences and all work sites. Within seven days of any change, Respondent 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.

9. In the event Respondent resides or practices outside the State of Minnesota, Respondent shall 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 Respondent's suspended, limited, or conditioned license in Minnesota unless Respondent demonstrates that practice in another state conforms completely with Respondent's Minnesota license to practice physical therapy.

10. If Respondent shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, the Committee shall schedule a hearing before the Board. The Committee shall mail Respondent a notice of the violation alleged by the Committee and of the

time and place of the hearing. Respondent shall submit a response to the allegations at least three days prior to the hearing. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

At the hearing before the Board, the Committee and Respondent may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Order. Respondent waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Respondent's practice, or suspension or revocation of Respondent's license.

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

12. 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.

13. Respondent 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: 9/23/11

Dated: 11-17-2011

SIGNATURE ON FILE

NICOLE PERKINS, P.T.
Respondent

SIGNATURE ON FILE

FOR THE COMMITTEE (Chair)

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 17th day of November, 2011.

MINNESOTA BOARD OF
PHYSICAL THERAPY

SIGNATURE ON FILE

STEPHANIE LUNNING
Executive Director