



State of Louisiana
Department of Health and Hospitals
Louisiana Physical Therapy Board
104 Fairlane Drive, Lafayette, Louisiana 70507
337/262-1043 FAX 337/262-1054

IN THE MATTER OF
EMILY HYMEL, PT
LICENSE NO. 08092

CONSENT ORDER
NUMBER: 2015-I-011

CONSENT ORDER

Mrs. Emily Hymel, PT (“Mrs. Hymel” or “Respondent”) came to the attention of the Louisiana Physical Therapy Board (“LPTB” or “Board”) when a formal complaint was filed against her on June 8, 2015. The complaint alleged that Mrs. Hymel was a physical therapist working in a physical therapy clinic located in Baton Rouge, LA. While employed at the clinic, Mrs. Hymel sent a partially nude photograph via text message to a married male patient. The complaint further alleged that the partially nude photographs were taken while Mrs. Hymel was wearing her work shirt with the work logo clearly visible, and the photograph was taken in the bathroom facilities of the PT clinic where she was employed. An Investigative Committee of the Board was formed. The Investigative Committee consisted of Charlotte Martin, Board Executive Director; Courtney Newton, Board Attorney; and Don Cassano, PT, Investigating Board Member. Numerous witnesses were interviewed and documents relevant to the complaint were subpoenaed and reviewed upon receipt. On Wednesday, July 22, 2015, pursuant to Board Rule §381 A (2), Mrs. Hymel participated in an Informal Conference with the Investigative Committee therein cooperating fully with all requests for information.

Following review of all relevant information and witness statements, the Investigative Committee concluded that Mrs. Hymel took partially nude photographs of her body utilizing her cell phone and a mirror in the bathroom of the physical therapy clinic where she was employed. The photographs were taken while Mrs. Hymel was wearing her physical therapy work shirt with the logo clearly visible. Mrs. Hymel did not have any clothing on below the waste in the

photographs. The Investigative Committee further found that contrary to the allegations within the complaint, the recipient of the photographs was not a current patient of Mrs. Hymel when the partially nude photograph was sent. There is no evidence indicating that Mrs. Hymel had unprofessional communications or contact while the individual was a patient.

FACTUAL BASIS FOR CONSENT ORDER

1. At all times relevant to these events, Respondent was a physical therapist licensed by the Board as evidenced by license number 08092.
2. On June 8, 2015 the Louisiana Physical Therapy Board received a complaint alleging that Mrs. Hymel took inappropriate and suggestive photograph of her body wearing her physical therapy work shirt with the logo clearly visible. The complaint further alleged that the photographs were taken in the bathroom facility of the Physical Therapy Clinic where she was employed and were sent via text message to a patient.
3. An Investigative Committee was formed which consisted of the Board Executive Director, Charlotte Martin; Board Attorney, Courtney Newton; and Board Investigating Member, Don Cassano.
4. The Investigative Committee conducted a confidential investigation which consisted of multiple witness interviews and review of subpoenaed records relevant to the issues contained within the complaint.
5. On July 22, 2015 Mrs. Hymel participated in an Informal Conference with the Investigative Committee. Mrs. Hymel cooperated fully with all requests of the Investigative Committee.
6. Following completion of the investigation, the Investigative Committee concluded that a majority of the allegations found within the complaint were valid.
7. Mrs. Hymel utilized her cell phone and a mirror in the bathroom of the physical therapy clinic where she was employed to take partially nude photographs of herself.
8. When taking the photographs Mrs. Hymel wore a work uniform shirt with the logo of the physical therapy clinic where she was employed clearly visible. Mrs. Hymel did not have any clothes on below the waste in the photograph.
9. Mrs. Hymel sent the photographs via text to a former patient. The investigative committee found no evidence proving that Mrs. Hymel engaged in inappropriate conduct with the photograph recipient while the recipient was a patient.

VIOLATIONS RELATED TO RESPONDENT'S CONDUCT

Respondent's conduct described above and otherwise reviewed in this action is subject to and/or in violation of the following provisions of law regarding his practice of physical therapy:

- A. The Board has the authority to suspend or revoke a professional license which it has issued, or place probationary conditions upon such license, upon proof that the licensee has practiced physical therapy in violation of the Practice Act, Board Rules, or standards of practice. La. R.S. 37:2420A(1) and Board Rule §343.
- B. The Board has the authority to suspend or revoke a professional license which it has issued, or place probationary conditions on such license upon proof of unprofessional conduct, including, but not limited to, departure from, or failing to conform to the *Minimal Standards of Acceptable and Prevailing Physical Therapy Practice*, the Code of Ethics and related documents of the APTA. La. R.S. 37:2420A(7) and Board Rule §345B(1).
- C. The Board has authority to suspend or revoke a professional license which it has issued, or place probationary conditions upon such license, upon proof that the licensee has failed to use sound professional judgment. Board Rule §345B(1)(a).
- D. The Board has the authority to suspend or revoke a professional license which it has issued, or place probationary conditions upon such license, upon proof that the licensee has practiced in a manner which evidences failure to perform on a continuing basis in compliance with the *Minimal Standards of Acceptable and Prevailing Physical Therapy Practice* as defined in §123. Board Rule §373A(8).

ORDER

Pursuant to the foregoing Factual Basis for Consent Order and Violations Related to Respondent's Conduct, and, in order to avoid further administrative and judicial proceedings, Respondent and the Board, by vote of quorum, agree as follows:

- A. Respondent's license as a physical therapist is placed on probation for a minimum of eighteen (18) months. Respondent shall submit to the Board Executive Director in writing no less than thirty (30) calendar days prior to completion of probationary period a request for a letter from the Board formally acknowledging the close of the probationary period. Respondent's probationary period concludes upon receipt by respondent of the Board a letter acknowledging the close of the probationary period;
- B. The probationary period shall be extended for any period of time in which Respondent is not employed as a physical therapist within the State of Louisiana and regularly working at

least *twenty (20) hours* each week as such. If Respondent ceases to be regularly employed as a physical therapist in Louisiana, she shall notify the Executive Director in writing within *ten (10) calendar days* of the last date she has practiced physical therapy in Louisiana. Likewise, if Respondent returns to work as a physical therapist within the State of Louisiana, she shall notify the Executive Director in writing within *ten (10) calendar days* of her return to practice;

- C. Respondent shall complete thirty (30) hours of board-approved continuing education courses or activities required in the biennial renewal period under Rule §194 during her probationary periods. In addition, Respondent shall complete an additional eight (8) hours of continuing education courses in Ethics and professionalism, and shall attend one live Jurisprudence Seminar prior to her license renewal in 2016. Respondent shall request in writing and receive approval from the Executive Director prior to taking the additional eight (8) hours of Ethics and professionalism. Respondent shall provide documentation in the form of a course completion certificate to the Executive Director within five (5) calendar days of receipt of such documentation. Furthermore, Respondent shall submit documentary evidence of completion of thirty-eight (38) hours of continuing education for license renewal in 2016;
- D. Respondent shall write an essay of no fewer than 750 words explaining how her conduct violated the Practice Act and Board Rules and what she has learned as a result of the disciplinary process. This essay shall be submitted to the Executive Director no later than December 2, 2015;
- E. During the entirety of her probationary period Respondent shall fully cooperate with the Board representatives making random unannounced monitoring visits to her work sites and shall provide complete access to her place of employment, employment and/or business records, patient treatment and billing records, and all other documentation necessary for a full legal compliance review. Respondent shall reimburse the Board \$150.00 for each such monitoring visit;
- F. Respondent shall meet with the Board, or with the Board's representative, whenever requested during the probationary period, and shall fully cooperate in providing information and documents requested in such meetings;
- G. Respondent shall provide a copy of this Consent Order to her employer(s) and direct supervisor(s) before providing services to that employer and shall have the employer(s) and direct supervisor(s) notify the Executive Director in writing that she/he has received and reviewed a copy of this Consent Order prior to Respondent providing physical therapy services. Respondent shall do this also with any new or subsequent employer(s) and direct supervisor(s) during the probationary period;
- H. Respondent shall have reliable access to a computer, internet, and telephone;

- I. Respondent shall pay the Board the sum of \$1,500.00 in partial reimbursement for legal and administrative expenses incurred in this matter, this amount may be paid in a lump sum, or in installments, if arranged in advance with the Executive Director, over her probationary period. Quarterly payments are due on or before November 15, February 15, May 15, and August 15;
- J. Respondent declares that, before signing this Consent Order, she has carefully read this document, understands the contents, and freely consents to it as valid and binding upon her. She is aware of her right to a notice of hearing, to a formal administrative hearing and to judicial review of an administrative finding, and freely waives those rights. She has waived her right to be represented by counsel;
- K. Respondent acknowledges that her failure to comply with any term of this Consent Order is a basis for immediate summary suspension of her license and for further disciplinary action by the Board;
- L. Respondent acknowledges that this Consent Order only addresses the specific violations outlined above;
- M. Respondent authorizes the Investigating Board Member, Don Cassano, PT, and legal counsel assisting the Investigating Board Member, to present this Consent Order to the full Board for its consideration and to fully disclose and discuss with the Board the nature and results of the investigation. Respondent waives any objection to such disclosures under La. R.S. 49:960 and expressly acknowledges that the disclosure of such information to the Board shall be without prejudice to the Investigative Board Member's authority to file a formal Administrative Complaint against her, or to the Board's capacity to adjudicate such Complaint, should the Board decline to approve this Consent Order. Should the Board decline to approve this Consent Order, Respondent retains all rights to due process including, but not limited to, her right to have notice of any allegations or charges against her, to administrative adjudication of such allegations or charges, and to a subsequent final decision rendered upon written findings of fact and conclusions of law.
- N. Respondent acknowledges that presentation to and consideration by the Board of this Consent Agreement, including presented documentary evidence and information, shall not unfairly or illegally prejudice or preclude the Board, or any of its members, from further participation in hearings or resolution to these proceedings; and
- O. Respondent acknowledges that this Consent Order becomes effective on the date of signature by the Board Chair.

P. Respondent acknowledges that all communication regarding compliance with and/or fulfillment of the requirements of this Consent Order shall be in writing between Respondent and the Board Executive Director. No verbal communication shall be considered proof of compliance or commitment. Respondent acknowledges that it is the responsibility of the Respondent to fully comply with the Consent Order and proactively communicate with the Board Executive Director.

THIS DOCUMENT NOT
PREPARED BY
THE UNDERSIGNED NOTARY
ATTESTING TO SIGNATURES ONLY

Emily Hymel, PT
Emily Hymel, PT

SWORN TO and subscribed before me, Notary Public 22nd day of October, 2015
E. Barton Royce, Louisiana.



Dajuana W. Moore
Notary Public Dajuana W. Moore, Notary No. 68583
"Commissioned for Life"

AGREED AND ACCEPTED by official action of the Board, the 28 day of October, 2015, at Lafayette, Louisiana.

Louisiana Physical Therapy Board
Al Moreau, III, P.T.
Al Moreau, III, P.T., Chair