
In the Matter of
DAVID TREY DUKE
License No 04497F
Respondent

* **LOUISIANA STATE BOARD OF**
* **PHYSICAL THERAPY EXAMINERS**
*
* Case Number 2002-I25

CONSENT ORDER

Respondent came to Board attention after publication in local newspapers of Respondent's arrest on drunken driving charges, resulting in a Board complaint. Investigation revealed a history of other violations of criminal law and apparent falsification in response to questions on Respondent's License Renewal application for 2002. Respondent was notified of these potential violations of law and of the Rules of the Board and notified to be present at the Board office on October 24, 2002 for an informal conference which convened that date with Board Case Manager Pat Adams, Legal Counsel Glenn Ducote and Executive Director Cheryl Gaudin present.

FINDINGS OF FACT

Court records and Respondent's admissions indicate that Respondent pled guilty to Driving While Intoxicated, a B misdemeanor, on September 26, 2001 in Gregg County, Texas. He was sentenced to 180 days confinement in the county jail and that sentence was suspended and Respondent placed on probation for 2 years, with a fine and the requirement of 80 hours of community service. Respondent's probation was transferred from Texas to Louisiana upon sentencing and he has been under active probation by the Louisiana Department of Public Safety and Corrections since that time. Respondent was arrested by the Natchitoches Parish Sheriff's Office on September 2, 2002 for second offense DWI and was to be arraigned on that charge on November 6, 2002. There has been no disposition of that charge. Respondent acknowledged that he answered untruthfully at least two of the five questions on his application for renewal of his physical therapy license, which application is dated November 1, 2001. Respondent indicated in the informal conference that he is now regularly attending Alcoholics Anonymous meetings and presented a letter from his AA sponsor attesting to his commitment to participation in that recovery program. Respondent also presented a letter from Joe Bienvenu, Director of Rehab Services at Natchitoches Parish Hospital where Respondent is employed, indicating long term acquaintance and attesting to Respondent's professional competence and work ethic. Respondent related a recent history of family problems and indicated a willingness to commit seriously to a comprehensive recovery program.

CONCLUSIONS OF LAW

1. La. R.S. 37:2413A(2) authorizes the Board to suspend or revoke a license on several

grounds, including for any applicant who "attempts to or obtains a license by fraud or misrepresentation." Also, Rule 327 provides: "A person who 'attempts to or obtains a license by fraud or misrepresentation', . . . includes a person who . . . makes any misrepresentation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact..." Respondent did in fact renew his physical therapist based on misrepresentations in response to the third and fourth questions on his renewal application for 2002.

3. La. R.S. 37:2413A(5) authorizes the Board to suspend or revoke a license of one who "is habitually intemperate or is addicted to the use of habit forming drugs." Rule 327C defines "habitually intemperate" as the "repeated excessive use or abuse of alcohol or . . . the ingestion, self-administration, or other use of legally controlled substances or other medications affecting the central nervous system other than pursuant to and in accordance with a lawful prescription." Respondent's two arrests within fourteen months are strong evidence of intemperance or addiction. Respondent acknowledges his habitual intemperance.

4. The Board may revoke, suspend or impose probationary conditions and/or restrictions on a licensee for violations of the Physical Therapy Practice Act or the Rules and Regulation promulgated by the Board. Rule 325.

DECISION

Pursuant to the foregoing Findings of Fact and Conclusions of Law, Respondent and the Board, by vote of quorum, agree as follows:

A. Respondent is placed on Probation through October 24, 2005.

B. Respondent shall find and enroll in an out-patient substance abuse treatment program to begin no later than December 9, 2002, which treatment program shall be reviewed and approved in advance by the Board's representative.

C. Respondent shall regularly attend meetings of Alcoholics Anonymous and/or Narcotics Anonymous, attending and documenting at least ninety meetings within the ninety days beginning November 1, 2002.

D. Respondent shall submit blood, urine or hair specimens as requested for appropriate laboratory analysis upon request of LBPTTE staff or Monitor and understands that any such urine, blood or hair specimens will be requested without prior notice and that the cost of the specimen analysis will be paid by Respondent. Respondent acknowledges that a positive reading for proscribed substances in the analysis of any such specimen will constitute grounds for immediate termination of this Consent Order. Refusal to submit a specimen immediately upon request will likewise be grounds for termination of this Consent Order.

E. The Board shall designate a Monitor with whom Respondent shall fully and candidly cooperate throughout the term of his probation. The identity of the Monitor shall be provided by correspondence from Board staff. Respondent shall meet in person with Monitor at least once a month and will have additional telephone contact as requested by the Monitor. Respondent shall provide to his designated Monitor monthly documentation of attendance at AA or NA meetings on forms supplied by LBPTTE.

F. Respondent shall keep the Board advised of his place of employment and his usual work schedule and shall welcome a member of the LBPTTE or its designated representative at his place of employment for unannounced inspections, at which time Respondent shall provide access to all treatment settings and records for review.


G. To help defray legal and other staff expenses related to complaint investigation and establishment of this Consent Order, Respondent shall pay to the Board the sum of \$500 by February 28, 2003. Respondent shall pay to the Board the sum of \$50 monthly beginning April 1, 2002 for ongoing monitoring expenses, said payments being due on or before the first day of each month during the term of this probation.

H. Respondent authorizes the Board, its agent and his Monitor to have full access to any and all records and information contained in records kept by any person or entity regarding his treatment and recovery from substance abuse. Respondent further authorizes his treating professionals to fully and candidly discuss his condition, attitude and treatment status with his Monitor and with the Board's agent.

I. Respondent shall notify the Board office and his designated Monitor of his current address and contact information and thereafter of any changes in such information within five days of such change.


J. Respondent voluntarily waives all privileges and rights to confidentiality which he may have under law concerning information received by members of the Board, Board staff and Monitor relating to his activities in the practice of Physical Therapy, or other matters relating to substance abuse or in any other way violative of this Consent Order.

SWORN TO AND SUBSCRIBED on this 11 day of December, 2002.


David Trey Duke, P.T. Lic #04497F

AGREED AND ACCEPTED by official action of the Board, the 24th day of October, 2002,
at Lafayette, Louisiana.

LOUISIANA STATE BOARD OF
PHYSICAL THERAPY EXAMINERS


Pat Adams, P.T., Chair

LOUISIANA STATE BOARD OF PHYSICAL THERAPY EXAMINERS
Monitor Tracking Guide

Case Number: _____

Date: 2/16/03 Licensee: Trey Duke

Purpose of monitor visit: Consent order provision
Checking out work status, sobriety, meeting
attendance.

Evidence of Compliance: Continues to AA mtgs. and interaction
with sponsor Mr. Alderins - Doing well @ work no problems

Evidence of Non-Compliance: 0

Attachments: Trey states is moving to West Monroe
will notify Board of A's.

Board Designee: Pat Adams, PT

LOUISIANA STATE BOARD OF PHYSICAL THERAPY EXAMINERS
Monitor Tracking Guide

Case Number: 2002 - I25

Date: 11-11-04 Licensee: David Trey Duke

Purpose of monitor visit: Monitoring visit in compliance with board decision E - to have monthly monitor visit with respondent to monitor Attendance at AA meetings and for unannounced inspections of all treatment settings and records for review.

Evidence of Compliance: It has been 2 yrs + 2mo since tray has had any alcohol. Last AA meeting attended was on 11/10/04.

Respondent has been reporting to Bill Beuins in Shreveport (218-688-1972). (Cont'd)

Evidence of Non-Compliance: _____

Attachments: _____

Board Designee: Angelle J. J. MPT

LOUISIANA STATE BOARD OF PHYSICAL THERAPY EXAMINERS
Monitor Tracking Guide

Case Number: _____

Date: 6-1-05 Licensee: Trey Duke

Purpose of monitor visit: Follow-up visit for consent order. Visited with Trey in Monroe, LA while Trey was attending the LSBPTE sponsored Jurisprudence Continuing Education.

Evidence of Compliance: Trey was able to express the number of days of sobriety. Employer expressed that Trey was as asset to his organization.

Evidence of Non-Compliance: _____

Attachments: _____

Board Designee: Mark Brown, PT

Trey Duke

- a.A. Probation from 10/24/2002 through 10/24/2005
 - b.B. Must enroll in out-patient substance abuse treatment program to begin no later than 12/3/2002
 - c.C. Regularly attend AA and/or NA meetings, attend and document at least 90 mtgs in 90 days beginning 11/1/2002
 - d.D. Submit specimens as requested for appropriate laboratory analysis upon request of LSBPTE staff or Monitor
 - e.E. A monitor will be designated and a monthly meeting will be documented to the board.
 - f.F. Respondent shall keep the board advised of his place of employment and usual work schedule
 - g.G. Welcome an LSBPTE representative at his place of employment for unannounced inspections
 - h.H. Pay \$500 by 2/28/2003 for legal expenses
 - i. I. Pay \$50 monthly beginning 4/1/2003 for ongoing monitoring expenses
 - j.J. Notify the board of designated monitor current address within 5 days of change
- April 2003 DHH Office of Addictive Disorders notified the board Duke place in After Care program.**

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Jan 05	Feb 05	Mar 05	Apr 05	May 05	June 05	July 05	Aug 05	Sept 05	Oct 05		
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Duke comes to board mtg in Oct 2005