

In the Matter of

DAVID WATKINS

PTA License No. A4091

Respondent

* LOUISIANA PHYSICAL THERAPY BOARD

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Case Number 2012 1 013

CONSENT ORDER

Respondent David Watkins was reported to the Board by his employer in April, 2012 after he was observed removing drugs from a sharps disposal container and then tested positive for two controlled substances. He was immediately terminated by his employer. After Board representatives reviewed the reported conduct with those who witnessed it, the Board acted on April 19, 2012 to summarily suspend Respondent's license and he was notified that date of the suspension.

Respondent participated in an Informal Conference in Baton Rouge on May 25, 2012 with Board case manager Al Moreau, III, Executive Director Cheryl Gaudin and Board attorney Glenn Ducote. In this meeting and in writing in advance of the meeting Respondent acknowledged that he did remove medications from sharps disposal containers on several occasions and that he tested positive on March 29, 2012 for opiates and hydromorphone. He indicated that he had been sick over a six month period with a blood infection and suffered fever, night sweats and pain. Having run out of his own medications, he had used pain killing medications which had previously been prescribed for his wife and when that supply was exhausted he resorted to searching for left over and discarded medicines at work. He agreed that by this point he had become dependent on these medications and was acting recklessly by putting his arm into a sharps disposal reservoir instead of obtaining appropriately prescribed medications

Respondent chose to enter into this Consent Order rather than face an Administrative Complaint and formal hearing before the full Board.

FINDINGS OF FACT

On March 29, 2012 Respondent tested positive for controlled substances after being observed removing items from a sharps disposal container. He was discharged by his employer on that date and was reported to the Board in April. His physical therapist assistant license was summarily suspended on April 19, 2012 and Respondent has not worked as a physical therapist assistant since that date.

CONCLUSIONS OF LAW

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:

1. The Board has the authority to suspend or revoke a license which it has issued, or place probationary conditions upon such license, upon proof that the licensee has been guilty of

unprofessional conduct or has violated the Practice Act of Rules of the Board. La. R. S. 37:2420A(7) and Board Rule 345B(1)(a),(6) and 351.

2. As used in the Physical Therapy Practice Act, “unprofessional conduct” includes: departure from, or failure to conform to the standards of acceptable and prevailing physical therapy practice in the State of Louisiana, regardless of whether actual injury to a patient results therefrom. Rule 345B(1).

3. Board Rules incorporate the *Code of Ethics* and *Guide for Professional Conduct* of the American Physical Therapy Association. Rules 345B.

4. Respondent’s ingestion, self-administration or other use of a controlled substance affecting the central nervous system without a lawful prescription is in violation of La. R.S. 37:2420A(5) and Rules 351 and 373.

5. By working as a physical therapist assistant during a period of chronic drug use, Respondent engaged in unprofessional conduct. Rules 345B(1) and 373.

ORDER

Pursuant to the foregoing Findings of Fact and Conclusions of Law, 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 shall remain suspended until April 20, 2013.
- B. Upon the expiration of that one year license suspension, Respondent’s license as a physical therapist assistant is placed on probation for five years, during which period his employment records, place of employment, patient treatment and billing records will be subject to random inspection and review for full legal compliance by a designated Board representative. Respondent and his employers are required to cooperate fully with these monitoring visits. During this five year probationary period, Respondent shall remit to the Board \$150 as reimbursement for the expenses of each such monitoring visit to his practice.
- C. The five-year probationary period shall be extended for any period of time in which Respondent is not employed as a physical therapist assistant within the State of Louisiana and regularly working at least twenty hours each week as such. If Respondent ceases to be regularly employed as a physical therapist assistant in Louisiana, he shall notify the Executive Director in writing within ten days of the last date he has practiced physical therapy in Louisiana. Likewise, if Respondent returns to work as a physical therapist assistant within the State of Louisiana, he shall notify the Executive Director in writing within ten days of his return to practice.
- D. During his license suspension and probation Respondent shall abstain from the use and ingestion by any means of any controlled dangerous substance as defined by Louisiana and federal laws. If Respondent is prescribed a medication by a treating physician which is a controlled dangerous substance, he shall within three days of obtaining such a prescription provide documentation of the prescription, the condition for which the medication is prescribed, and contact information for the prescribing physician. He will provide to the Board names and contact information for all

physicians who are treating him during his suspension and probationary periods and a listing of all medications he is prescribed for any medical condition and by signing this document authorizes his treating physicians to provide information on his diagnosis, treatment and prescriptions to the Board Executive Director.

- F. Respondent shall submit to and fully cooperate in psychological and substance abuse evaluations and testing to be performed by an appropriate professional designated by the Board and shall reimburse the Board for the expense of such testing and evaluation on a schedule agreed to with the Executive Director. Respondent shall authorize release to the Board of the report made and data gathered as a result of this testing and evaluation. If, as a result of such evaluations, it is recommended that Respondent participate in a substance abuse treatment program, Respondent shall do so at his own expense.
- G. Respondent shall meet with the Board, or with the Board's representative, whenever requested during his suspension and probationary period and shall fully cooperate in providing information and documents requested in such meetings.
- H. During his license suspension and probation periods, Respondent shall promptly comply, as directed, with Board requests for random drug tests arranged by the Board and shall reimburse the Board for the expense of such tests. He shall also authorize and direct his employer and any recovery treatment program in which he participates to furnish to the Board copies of results for all drug tests conducted by those entities.
- I. If any drug test of Respondent results in a positive finding for any controlled dangerous substance, Respondent's license shall automatically and summarily be suspended without further action by the Board, subject to Respondent's right to a full due process hearing before the Board within a reasonable time period to determine his future status as a licensee.
- J. Respondent shall attend each week no less than two meetings of Alcoholics Anonymous, Narcotics Anonymous or other recovery support program approved by the Executive Director and shall document attendance on Board-provided forms.
- K. Respondent shall write an essay of no fewer than 750 words explaining how his conduct violated the Practice Act and Board rules and what he has learned as a result of this disciplinary process. This essay shall be submitted to the Board Executive Director no later than November 1, 2013.
- L. Respondent shall not seek or accept work in a setting that has not been approved in advance by the Board Executive Director and shall notify the Executive Director in writing of all employment and/or contractual service arrangements which he has to work as a physical therapist assistant and shall update the Executive Director in writing within five days of any and all changes in such arrangements.
- M. Respondent shall provide a copy of this Consent Order to his employer(s) before providing services to that employer and shall have the employer(s) notify the Executive Director in writing that she/he has received and reviewed a copy of this Consent Order; Respondent shall do this also with any new or subsequent employer(s) during the probationary period.
- N. Respondent declares that, before signing this Consent Order, he has carefully read this document, that he waives the participation and advice of legal counsel, that he

understands the contents, and freely consents to it as valid and binding upon him. Recognizing his right to have notice of allegations or charges asserted against him, to administrative adjudication of such allegations or charges, pursuant to La. R.S. 49:955-958, and to a subsequent decision rendered upon written findings of fact and conclusions of law, David Watkins nonetheless waives these rights and proceedings and, pursuant to La. R.S. 49:955D and Board Rule 387, agrees to entry of this Consent Order.

- O. Respondent authorizes the Investigating Board Member, Al Moreau, III, legal counsel assisting the Investigating Board Member, to present this Consent Order to the full Board for its consideration and to fully disclose to 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 Investigating Board Member's authority to file a formal Administrative Complaint against him, 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, his right to have notice of any allegations or charges asserted against him, to administrative adjudication of such allegations or charges, and to a subsequent final decision rendered upon written findings of fact and conclusions of law.
- P. Respondent acknowledges that this Consent Order becomes effective only upon signature by the Board Chair and recognizes that his failure to comply with any term of this Consent Order is a basis for further disciplinary action by the Board.
- Q. 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 as proof of compliance or commitment.

David Watkins P.T.A.

David Watkins, P.T.A.

SWORN TO AND SUBSCRIBED on this 19th day of December, 2012, before me, Notary Public, at Metairie, Louisiana.

Jared A. Wilkes, Jr. NP, Notary Public



AGREED AND ACCEPTED by official action of the Board, the 19th day of APRIL,
2012, at Lafayette, Louisiana.

LOUISIANA PHYSICAL THERAPY BOARD



A handwritten signature in blue ink, appearing to read "Jenny Lee B", is written above a horizontal dashed line.

1 From

Date 12/19/12

Senders Name

David Watkins

Phone

955 502-2382

Company

317 Orleans Ave

Address

Dept./Floor/Suite/Room

City

Covington

State

LA 70433

3 To

Recipients Name

Cheryl Gaudin

Company

LA Physical Therapy Board
104 Fairlane Dr

Address

We cannot deliver to P.O. boxes or P.O. ZIP codes.

Dept./Floor/Suite/Room

Address

Use this line for the HOLD location address or for continuation of your shipping address.

City

Lafayette

State

LA 70507



8022 9932 7331

4 Express Package Service * To most locations.

NOTE: Service order has changed. Please select carefully.

Next Business Day

FedEx First Overnight

Monday unless SATURDAY Delivery is selected.

Weekends, Friday shipments will be delivered on Saturday unless SATURDAY Delivery is selected.

Most business mornings, Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

FedEx Priority Overnight

Next business morning, Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

FedEx Standard Overnight

Next business morning.

Saturday Delivery NOT available.

FedEx Express Saver

Third business day.

Saturday Delivery NOT available.

2 or 3 Business Days

FedEx 2Day A.M.

Second business morning.

Saturday Delivery NOT available.

FedEx 2Day

Second business morning.

FedEx Express Saver

Third business day.

Saturday Delivery NOT available.

6 Special Handling and Delivery Signature Options

SATURDAY Delivery

NOT available for FedEx Standard Overnight, FedEx 2Day A.M., or FedEx Express Saver.

No Signature Required

Package may be left without obtaining a signature for delivery.

Direct Signature

Someone at recipient's address may sign for delivery. Fee applies.

Indirect Signature

If no one is available at address, someone at residential delivery address may sign for delivery. Fee applies.

Does this shipment contain dangerous goods? One box must be checked.

Yes

No

As per attached Shipper's Declaration.

Yes

Shippers Declaration not required.

Dry Ice, 9, UN 1815

Cargo Aircraft Only

7 Payment Bill to:

Enter FedEx Acct. No. or Credit Card No. below.

Recipient

Third Party

Credit Card

Other

Total Packages

Total Weight

lbs:

Our label is limited to US\$00 unless you declare a higher value. See the current FedEx Service Guide for details.