
In the Matter of
MICHAEL J. JOHNSTON, P.T.
License No. 01401
Respondent

* LOUISIANA STATE BOARD OF
* PHYSICAL THERAPY EXAMINERS
*
* Case Number 2004115

SECOND CONSENT ORDER

On July 16, 2004, Michael Johnston, P.T., (Respondent) entered into a Consent Order with the Louisiana State Board of Physical Therapy Examiners (Board) to resolve a complaint lodged with the Board regarding his professional conduct while providing professional services to Louisiana Medical Management Corp. (LMMC), d/b/a Metropolitan Health Group (MHG) as a contract therapist. That Consent Order was accepted by the Board and became effective on that date. Since that time Respondent has failed to comply with several requirements of that agreement and was notified to appear before the Board at its regular Board meeting on February 17, 2005, where he appeared with counsel, John M. Gallagher, Jr. Participating in this session were Board Chair Charles A. Reynolds, Board Members Pat Adams, Mark Brown and Barbara Adcock, Board Executive Director Cheryl Gaudin and Board Counsel Glenn Ducote. Respondent answered questions regarding his compliance with specific requirements of the original Consent Order, and was confronted with treatment and documentation issues which arose out of a site visit made by Ms. Adcock as part of the practice monitoring provided in the Consent Order. At the conclusion of his session with the Board, this Consent Order was agreed to by Board representatives and by Respondent, after consulting with his attorney.

FINDINGS OF FACT

1. Respondent failed to comply with paragraph C of the original Consent Order which required him to "notify the Executive Director of all employment and/or contractual service arrangements which he has to provide physical therapy services and shall update the Executive Director within five days of any and all changes in such arrangements". Respondent twice changed his employment arrangements since entering the Consent Order and provided no notification of such changes to the Executive Director.

2. Respondent was required by paragraph E of the original Consent Order to reimburse the Board for administrative expenses in the amount of \$2,500, "to be paid in equal monthly installments, arranged in advance with the Executive Director". Respondent made no payment on the amount due until he was contacted by Board Counsel on October 27, 2004, after which he paid one-half of the amount due and agreed with the Executive Director to make monthly payments on the balance due thereafter. He made no further payments until notified on January 31, 2005 to appear before the Board. He has, since that notification, paid the balance due on that assessment.

3. Treatment records for physical therapy outpatients seen by Respondent at Premier Physical Therapy, his recent employer, were examined by Board member Barbara Adcock as part of

a monitoring visit on February 1, 2005, as provided by paragraph D of the original Consent Order. The records were found to be incomplete and, where present, reflected inadequate or deficient documentation. At the meeting with the Board, Respondent stated that he had withheld certain patient treatment documentation as a means of obtaining payment from his employer at Premier for funds due to him as part of the buyout arrangement for the business. He presented these records at the Board meeting, which filled in some gaps in documentation, but further demonstrated failure to comply with documentation requirements set forth in the Rules of the Board. Among these omissions were absence of evaluations, inadequate or missing progress notes, and repeated failure to reevaluate at least monthly and establish new goals and treatment plans. Respondent acknowledged that his documentation was seriously deficient and not in compliance with legal requirements.

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. Respondent's failure to notify the Board Executive Director of his changes in employment arrangements violated Paragraphs C of the Decision portion of the Consent Order dated July 16, 2004, also resulting in breach of Rule 335.
2. Respondent's failure to make monthly payments against the sum of \$2,500 for reimbursement of legal and administrative expenses violated Paragraph E of the Decision portion of the Consent Order dated July 16, 2004 and also breached Rule 335.
3. Respondent's incomplete and inadequate documentation of patient treatment violated the requirements of Rule 323 and constitutes unprofessional conduct as defined in Rule 327E.
4. Respondent's removal or withholding of patient treatment records in order to leverage payment of a business debt due to him constitutes further unprofessional conduct, in violation of Rules 327 and 325 and APTA Guide for Professional Conduct 7.1A, B.

DECISION

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 as a physical therapist is suspended, effective February 25, 2005 at 5:00 p.m. for a period of thirty days;
- B. During the thirty days of his suspension, Respondent shall successfully complete a continuing education course on patient treatment documentation which is designated by the Executive Director;
- C. Respondent shall develop and document to the Board by 5:00 p.m. on March 18, 2005, a Quality Assurance Plan which includes appropriate performance indicators for his present place of employment, Metropolitan Health Group, Canal Street Clinic, which plan shall be agreed to and authorized for implementation by the owner(s) and medical director(s) of that facility.
- D. Respondent will continue to be subject to all provisions and requirements of the Consent Order which he entered with the Board on July 16, 2004.


E. Respondent shall cooperate fully with Board representatives in providing information relevant to compliance issues in the practice settings where he is and has been employed to provide professional services and will facilitate access to appropriate documentation for such purposes.

F. Respondent declares that, before signing this Consent Order, he has carefully read this document, understands the contents, and freely consents to it as valid and binding upon him. He is aware of his right to a notice of hearing, to a formal administrative hearing and to judicial review of an administrative finding, and freely waives those rights. He has been represented by counsel throughout these proceedings and has reviewed this instrument with his counsel;

G. Respondent acknowledges that his failure to comply with any term of this Consent Order is a basis for further disciplinary action by the Board and that the 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 for resolution of these proceedings; and

H. Respondent acknowledges that this Consent Order becomes effective only upon signature by the Board Chair.

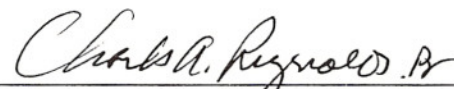
SWORN TO AND SUBSCRIBED on this 24TH day of FEBRUARY, 2005.



Michael J. Johnston, P.T.

AGREED AND ACCEPTED by official action of the Board, the 17th day of February, 2005, at Lafayette, Louisiana.

LOUISIANA STATE BOARD OF
PHYSICAL THERAPY EXAMINERS



Charles A. Reynolds, P.T., Chair