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**In the Matter of  
PERCY DWAYNE HOGAN, P.T.  
EXAMINERS**

**License No. 02220**

Respondent

\* **LOUISIANA STATE BOARD OF  
\* PHYSICAL THERAPY**

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Case Number 2007I031

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## **CONSENT ORDER**

A complaint received by the Louisiana State Board of Physical Therapy Examiners (Board) brought to the attention of the Board issues regarding the conduct of Respondent Percy Dwayne Hogan, a physical therapist licensed by the Board, in the course of his employment by United Home Health Care (United) out of its office in West Monroe. The complaint was sent to the Board by United after United received a complaint from a family member of a home health client who had been assigned to Respondent Hogan for physical therapy treatments.

The family member indicated to United that when he arrived at his father's home on September 20, 2007 Respondent was in the parking lot of the apartment complex preparing to leave. Respondent told the son that his father could not be seen because the CNA was bathing him when Respondent arrived to provide the day's PT treatment. Respondent indicated that he was not coming back to provide the treatment and used profanity in the conversation with the family member. Notwithstanding the above circumstances, Respondent submitted to United a treatment record for this patient for September 20, 2007, signed by the patient, indicating that treatment had been provided on that date.

When Respondent was confronted by United regarding the complaint from the family member, he denied cursing, but acknowledged not treating the patient and writing the treatment note. His employment by United was terminated that day.

Respondent was informed about the complaint which was filed with the Board and was requested to participate in an Informal Conference on October 25, 2007. Respondent voluntarily participated in the Informal Conference with Investigating Board Member Barbara Adcock, Board Executive Director Cheryl Gaudin and Board General Counsel Glenn Ducote on that date at the Board office in Lafayette.

In the course of that conference, Respondent denied that he used foul language in front of the patient or the CNA, but indicated that he may cursed in the course of the conversation with the family member. He acknowledged that he did not treat the patient on September 20, 2007 and that he had submitted a treatment note for that date indicating that he did provide treatment. He said that the note was submitted on a blank treatment note in the patient chart which had been signed by the patient on some previous occasion.

Respondent indicated that on September 20, 2007 he left his home in Calhoun at 5:30 a.m., drove 330 miles in the course of treating 14 patients, and returned home at 7:30 p.m. He indicated that he spent an average of 21-22 minutes with each patient he



saw. He was seeing patients for two other home health services in addition to United on the date in question.

It was determined that additional investigation was required and that Respondent would be notified of the time for a second Informal Conference. Pursuant to subpoenas served on each of the home health services for whom Respondent was seeing patients, records of all of the patients seen by Respondent on September 20, 2007 were obtained along with Respondent's time and mileage reports. Upon review of the information provided by these records, Respondent was requested to appear for a second Informal Conference on February 20, 2008, which was held at the Board Office with the same participants and Board Investigator Dan Evans.

A review of the records provided by Collins Haworth Home Health, Hancock Home Health and United Home Health for patients seen by Dwayne Hogan, P.T., on September 20, 2007, indicated that Respondent saw a total of 14 patients, claimed treatment time of 10.5 hours and claimed reimbursement for in excess of 500 miles. Respondent informed the panel that mileage reimbursement was "always inflated" and that the agencies knew that it was inflated and indicated that he actually drove only the 330 miles which he had volunteered in his first meeting with Board representatives. Using the 330 mile figure and estimating an average speed optimistically at 50 m.p.h. would mean that Respondent spent 6.5 hours driving, in addition to 10.5 hours of treatment time, totaling 17 hours, with no time allowed for documentation, eating or bathroom breaks. Respondent had reported to Board representatives that he was away from home on that date from 5:30 a.m. until 7:30 p.m., a period of 14 hours.

Further review of patient treatment and billing records indicated that in at least two instances he billed two separate agencies for seeing two different patients during the same time period. In one such case, the patients resided in excess of 50 miles apart. Respondent answered that maybe he had documented in error.

At the conclusion of the informal conference the terms of a Consent Order were presented to Respondent. He was given time to review the proposed terms for a Consent Order with his wife and with counsel. After such consideration, Respondent has indicated agreement with the terms of this Consent Order as set forth below.

### **FINDINGS OF FACT**

1. Respondent provided inaccurate documentation of patient treatment to his employer, United Home Health, for a patient who was not treated on September 20, 2007. The documentation submitted to United for this patient for September 20, 2007 contained a patient signature which had been obtained on an earlier occasion on a blank treatment note.

2. In interacting with the patient, the CNA and the patient's son on September 20, 2007, Respondent behaved inappropriately and unprofessionally by refusing to wait or return to treat the patient at another time and by using foul language at some point in those interactions.

3. Respondent has documented inaccurately by submitting treatment records for patients seen for three home health agencies on September 20, 2007, by logging inaccurate treatment times for these patients.



4. Respondent has documented patient treatment inaccurately by claiming to have seen two patients during the same time period, when those patients resided many miles apart.

### 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. 37:2413A(7) and Board Rule 325.

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 327E.

3. Board Rules incorporate the *Code of Ethics and Guide for Professional Conduct* of the American Physical Therapy Association. Rules 305B and 331. The repeated instances of inaccurate documentation of patient treatment as set forth in Findings of Fact 1, 3 and 4, above, are distinctly unprofessional and in violation of La. R. S. 37:2413A(7); Board Rule 323; APTA Code of Ethics Principles 1, 2, 3, 4, 6, 7, 8 and 9; and APTA Guides for Professional Conduct 1.1 B, C and D; 2.1 A, B and D; 2.2; 3.1; 4.1 A, D and E; 6.1; 7.1 A, B and E; 8.1 A and 9.1 B.

4. By submitting inaccurate documentation regarding patient treatment, Respondent has violated the requirements of Board Rule 323, *Documentation Standards*.

5. By submitting inaccurate documentation regarding patient treatment, Respondent is guilty of "unprofessional conduct" as defined in Rule 327E (1), (3) and (6).

### 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 physical therapist license is suspended for a period of one year, beginning March 17, 2008, during which period he shall not provide physical therapy services.

B. At the end of the period of suspension, Respondent's license is placed on probation for three years, beginning March 18, 2009, during which period his employment records, place of employment, patient treatment records and all forms of communication between patient and therapist 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 three year probationary period, Respondent shall remit to the Board \$100 as



reimbursement for the expenses of each such monitoring visit to his practice.

C. The three year 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 hours per week as such. If Respondent ceases to be regularly employed as a physical therapist in Louisiana, he shall notify the Executive Director in writing within ten days of the last date Respondent has practiced physical therapy in Louisiana. Likewise, if Respondent returns to work as a physical therapist within the State of Louisiana, he shall notify the Executive Director in writing within ten days of his return to practice.

D. Respondent shall pay to the Board the sum of \$2,000 as partial reimbursement of legal and administrative expenses incurred in connection with his case. This amount may be paid by Respondent to the Board in monthly payments as may be agreed to by the Board Executive Director, but must be paid in full no later than March 18, 2011.

E. At his own expense, Respondent shall enroll in and successfully complete during each of the three years of his probation a continuing education course in the ethical practice of physical therapy which has been approved in advance by the Board Executive Director, and the Louisiana physical therapy jurisprudence course offered by the Board. These courses shall be in addition to continuing education hours required for the maintenance of Respondent's license.

F. Respondent shall notify the Executive Director in writing of all employment and/or contractual service arrangements which he has to work as a physical therapist and shall update the Executive Director within five days of any and all changes in such arrangements.

G. Respondent shall provide a copy of this Consent Order to his employer before providing services to that employer and shall have the employer notify the Executive Director in writing that he has received and reviewed a copy of this Consent Order; Respondent shall do this also with any new or subsequent employer during his probationary period.

H. Respondent shall cooperate with Board representatives seeking to verify or document that the requirements of this Consent Order have been met and that legal and ethical procedures and practices are in place and being complied with in his practice.

I. Respondent declares that, before signing this Consent Order, he has carefully read this document, fully reviewed it with his attorney, Michael Dubos, 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 final decision rendered upon written findings of fact and conclusions of law, Percy Dwayne Hogan nonetheless waives these rights and proceedings and, pursuant to La. R.S. 49:955D and Board Rule 335, agrees to entry of this Consent Order.

J. Respondent authorizes the Investigating Board Member, Barbara Adcock, and 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.

K. 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.

L. 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.

SWORN TO AND SUBSCRIBED on this 1<sup>st</sup> day of April, 2008.

*Percy Dwayne Hogan LPT 62220*  
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**Percy Dwayne Hogan, P.T.**

AGREED AND ACCEPTED by official action of the Board, the 21<sup>st</sup> day of February, 2008, at Lafayette, Louisiana.

**LOUISIANA STATE BOARD OF  
PHYSICAL THERAPY EXAMINERS**

*Dan Wood PT*  
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**Dan Wood, P.T., Chair**