

LOUISIANA PHYSICAL THERAPY BOARD

**IN THE MATTER OF: WILLIAM HOOPER, PT
 LICENSE NO. 04480
 ADMINISTRATIVE COMPLAINT NO. 2015-I-0018**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter came before the Louisiana Physical Therapy Board (the “Board”) for hearing on August 26, 2015, pursuant to written notice, at which time a quorum of the Board was present, consisting of Al C. Moreau III, Danny P. Landry, , Kristina Lounsberry,, and Elizabeth Austin. William Hooper, the Respondent, was not present and did not participate in the hearing, despite receiving service and notice of the proceedings. Other appearances include:

John C. Morris IV, hearing officer for the Board;

George Papale, general counsel for the Board;

Courtney Newton, complaint counsel for the Board.

Charlotte Martin, Executive Director for the Board, appearing as a witness.

Dr. Barry Howard Lubin, appearing as a witness.

BACKGROUND AND MATTERS AT ISSUE

Proceedings to adjudicate an administrative enforcement action were initiated by the filing of an Administrative Complaint on July 24, 2015. The Administrative Complaint was signed by the complaint counsel for the Board, Courtney Newton, and set forth in numbered paragraphs a concise statement of the material facts and matters alleged to be proven at the hearing. The Administrative Complaint was served with Notice of the Hearing on July 24, 2015 by United States Postal Service, certified mail number 70150641000526999102. The Respondent did not respond to the Administrative Complaint, and he did not appear at the hearing. The Administrative Complaint was docketed for hearing for August 26, 2015 at 8:00 a.m. The hearing began on that date at 9:26 a.m.

The Administrative Complaint alleged the following:

- A. Respondent is, and at all times pertinent hereto, was a physical therapist licensed by the Board as evidenced by license number 04480.
- B. On or about September 4, 2014, Respondent submitted a physical therapy license reapplication to the Board office therein answering “yes” to questions pertaining to alcohol addiction and rehabilitation.

- C. An Investigative Committee of the Board convened, and after performing a confidential investigation, determined that Mr. Hooper was a candidate for the Confidential Recovering Physical Therapy Program.
- D. On November 24, 2014, Mr. Hooper signed a Confidential Recovering Physical Therapy Program Participation Agreement with the understanding that failure to comply with the terms of the agreement would result in immediate suspension and the initiation of disciplinary action. The entirety of the Confidential Recovering Physical Therapy Program signed by Mr. Hooper on November 24, 2014 is incorporated by reference into this allegation as if copied herein *in extenso* and is attached to this Consent Order as Attachment "1".
- E. On or about April 8, 2015, Mrs. Charlotte Martin sent a notification to Mr. Hooper that he was not in compliance with the terms of his CRPTP Participation Agreement and required that he provide all information pertaining to employment, address, telephone number, and email for Mrs. Martin by April 13, 2015. Mrs. Martin also informed Mr. Hooper that to be compliant with the terms of the Agreement he was required to enroll in Affinity for random drug testing on or before April 13, 2015.
- F. On April 20, 2015, Mr. Hooper sent Mrs. Martin an email with his employment information and stated he had not received the necessary paperwork to enroll in Affinity. Mrs. Martin resent the necessary information to enable Mr. Hooper to enroll in Affinity.
- G. On April 28, 2015, Respondent still had not enrolled in Affinity for random drug testing. Mrs. Martin contacted Mr. Hooper and instructed him to immediately activate his Affinity account. Mr. Hooper complied.
- H. On April 29, 2015, Mr. Hooper met with the Investigative Committee of the Board. At this meeting Mr. Hooper admitted that between November 24, 2014 and April 29, 2015 he failed to fulfill multiple obligations found within the CPRPT Agreement including, but not limited to, the obligations found within paragraphs "1", "4", "8", "9", and "26) of the Agreement. At this meeting all requirements were discussed in detail and Mr. Hooper was asked to confirm understanding. Mr. Hooper assured the Investigative Committee that he did fully understand the terms of the agreement.
- I. At the April 29, 2015 meeting involving Respondent and the Board Investigative Committee, Mrs. Martin asked Mr. Hooper if he had relapsed/consumed alcohol since signing the CRPTP Participation Agreement on November 24, 2015. Mr. Hooper assured the Investigative Committee and Mrs. Martin that he had not consumed alcohol since signing the Participation Agreement.
- J. On or about May 1, 2015, after his inability to submit to an alcohol/drug test on April 30, 2015, Respondent voluntarily submitted to a PEth alcohol test. Mr.

Hooper tested twenty-six point 6 (26.6) times higher than the permitted amount of Phosphatidylethanol, a biomarker for the measurement of binge or prolonged alcohol consumption, indicating ingestion of a significant amount of alcohol in the two to three weeks prior to testing.

- K. Following receipt of the positive alcohol test on April 30, 2015, Mrs. Martin contacted Mr. Hooper to advise him of the result. Mr. Hooper insisted there was a mistake in the test assuring Mrs. Martin that he had not relapsed.
- L. At 5:00 p.m. on April 30, 2015, prior to a PEth retest, Mr. Hooper sent an email to Charlotte Martin admitting to both relapse and lying to the Investigative Committee, action both in direct violation of the terms of the Participation Agreement paragraphs “3”, “9”, and “14”.
- M. On May 14, 2015, Mrs. Martin contacted Mr. Hooper to inform him that he was in direct violation of the terms of the Confidential Recovering Physical Therapy Participation Agreement, that he was no longer eligible for the CRPTP; and that disciplinary action would be initiated.

VIOLATIONS ALLEGED

Based on the factual allegations set forth in the Administrative Complaint, the Administrative Complaint alleged that the Respondent violated the provisions of the Louisiana Physical Therapy Practice Act, the Physical Therapy Rules and Regulations (Rules) as follows:

1. 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. 37:2420(A)(1) and Board Rule § 343.
2. The Board has the authority to initiate regular disciplinary proceedings when a licensee ceases to be in compliance with the RPTP Agreement under Board Rule § 361;
3. The Board has the authority to suspend or revoke a professional license upon due proof that a licensee has been “habitually intemperate or abused controlled dangerous substances”. La. R.S. 37:2420(A)(5); as further specified by Rule § 351(A)(1) specify “habitually intemperate” as “repeated excessive use of alcohol”;
4. 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 Therap*

Practice, the Code of Ethics and related documents of the APTA. La. R.S. 37:2420(A)(7) and Board Rule § 345(B)(1).

5. The Recovering Physical Therapy Program (RPTP) is intended to “ensure the health, safety and welfare of the public through a program which closely monitors practitioners whose capacity to practice physical therapy with reasonable skill and safety to patients has been, or may potentially be, compromised because of the use of alcohol or drugs.” Rule § 355(A)(1). The Board has the authority to order an individual to participate in the RPTP. Rule § 359(A).

FINDINGS OF FACT

On August 26, 2015, Complaint counsel presented evidence on the issues of fact; argument on the applicable law and policy; called, examined, and cross-examined witnesses, and were given an opportunity to offer and introduce documentary evidence and any other exhibit needed for a full and true disclosure of the facts. The Board made the following findings of fact:

On September 2, 2014, the Respondent executed and submitted an Application for Reinstatement (“Application”) to the Board, a copy of which was admitted into evidence. As part of the Application, the Respondent was required to answer “yes” or “no” to certain questions regarding the personal history of the applicant. The Respondent answered “yes” to question 17, which asked if the Respondent had been addicted to any chemical substance, including alcohol, in the past five (5) years. The Respondent also answered “yes” to question 18, which asked whether the Respondent had been treated for drug or alcohol addiction in the past five (5) years.

In addition to the Application, the Respondent submitted a Letter in Support (the “Letter”) of his Reinstatement Application, in which Respondent stated that he had failed to renew his PT license in March of 2013. Respondent further stated in the Letter that he was struggling with depression and alcohol addiction, and that he entered the drug and alcohol treatment program at Bridge House in New Orleans in February of 2015.

Respondent’s PT license was reinstated; however, he agreed to participate in a Recovering Physical Therapy Program (“RPTP”) as a condition of that reinstatement. Respondent entered into a Confidential Participation Agreement (the “Participation Agreement”) with the Board on November 24, 2014 as part of the Recovering Physical Therapy Program. Under the terms of the Participation Agreement, Respondent agreed to be honest, respectful and professional in all verbal, written, or other forms of communications with the representatives of the RPTP and the Board Investigative Committee. Additionally, Respondent, under the Participation Agreement, agreed to totally abstain from the use of alcohol and any mood altering drugs or substances unless appropriately prescribed by a licensed physician treating an illness or condition requiring such medication. Under the terms of the Participation Agreement, the Respondent also agreed to comply and fully cooperate with phone calls of the Board, the drug and alcohol screening company contracted with the Board, and submit to random drug and/or alcohol screens at such intervals and for such term as determined by the Board.

The Participation Agreement also required the Respondent to immediately notify the Board's Executive Director of any relapses related to unauthorized use of mood altering drugs and/or alcohol abuse. The Participation Agreement also stated that the Respondent could be subject to additional disciplinary action if he failed to comply with the terms of the Participation Agreement.

According to the testimony of Charlotte Martin, the Executive Director of the Board, the Respondent did not actively seek to comply with the terms of the Participation Agreement. Under the RPTP, the Respondent was required to enroll with Affinity by April 13, 2015, the third-party drug screening company used by the Board. According to Ms. Martin, from September 14, 2014 to April 28, 2015 the Respondent did not enroll with Affinity as required by the RPTP and the Participation Agreement, despite repeated attempts on the part of Ms. Martin to get the Respondent to do so. Respondent finally signed up for Affinity on April 28, 2015.

Due to Respondent's failure to timely enroll in Affinity, a meeting was scheduled with Respondent and the Board's Investigative Committee on April 29, 2015. At the April 29 meeting, Ms. Martin and others went over the Participation Agreement with Respondent line by line, and expressed to him the importance of complying with all of the terms of the Participation Agreement. The Respondent indicated that he understood all of the terms. At that meeting, Respondent also stated that he had not relapsed since entering into the Participation Agreement.

Following the meeting, a Phosphatidylethanol ("PEth") test was scheduled for Respondent on April 30, 2015. Respondent said he could not make it for the April 30 test, because the facility was already closed, so the test was rescheduled for May 1, 2015, the following day. Despite some claims that he would not be able to get a ride to the testing facility, Respondent took the PEth test on May 1, 2015. The Board received the results of the test on May 13, 2015.

According to the results of the PEth test admitted into evidence, which was performed with a blood sample from Respondent, Respondent tested positive for PEth at the level of 532 ng/mL. After receiving the results on May 13, 2015, Ms. Martin called Respondent that day to make him aware that he tested positive for PEth at a level of 532 ng/mL, which is significantly higher than the cutoff of 20 ng/mL. Respondent told Ms. Martin that something must have been wrong with the test, and that he had been sober since before entering into the Participation Agreement without a relapse. Given Respondent's assertion that he had not relapsed, Ms. Martin offered him the opportunity to have a re-test; however, he never did get retested.

Later in the day on May 13, 2015, Respondent sent Ms. Martin an email, the substance of which was admitted into evidence, in which Respondent admitted to lying to Ms. Martin about not relapsing. According to the email, Respondent had one long day and night of heavy alcohol consumption prior to the PEth test. Respondent claimed that this was his only relapse since becoming sober in February of 2014. On May 14, 2015, Ms. Martin contacted Respondent to inform him that due to his violation of the Participation Agreement, he needed to immediately cease practicing physical therapy.

Dr. Barry H. Lubin was qualified as an expert witness in this matter, and testified as to the results of the Respondent's PEth test. According to Dr. Lubin, PEth is a metabolic breakdown product of alcohol. Dr. Lubin testified that the only thing that will produce the substance PEth, is the consumption of a minimum of seven ounces of alcohol within the fourteen to seventeen days prior to the removal of the blood. According to Dr. Lubin's testimony, if a person consumed seven and a half ounces of alcohol within the last two weeks, he would expect that person to have a PEth result of approximately 20 ng/mL, which is the minimum cut-off that the testing machines can detect. In Dr. Lubin's opinion, the Respondent consumed a very significant amount of alcohol, on probably more than one occasion, in the fourteen to seventeen days prior to the May 1, 2015 PEth test.

Considering the results of the PEth test, the testimony by Dr. Lubin, and the admissions made in the May 13, 2015 email to Ms. Martin, the Board concludes that Respondent consumed a significant amount of alcohol in the fourteen to seventeen days prior to his May 1, 2015 PEth test.

CONCLUSIONS OF LAW

Based on the preceding findings of fact, the Board concludes that the Respondent's actions constitute violations of the following:

- A. By his repeated and excessive use and consumption of alcohol, the Respondent has violated La. R.S. 37:2420(A)(5) of the Louisiana Physical Therapy Practice Act, by being habitually intemperate and/or abusing a controlled dangerous substance, as further defined by Board Rule § 351.
- B. By Respondent's ongoing use of alcohol, the Respondent has violated the terms and conditions of the Participation Agreement, for which the Respondent is subject to further disciplinary action in accordance with the terms of the Participation Agreement and Board Rule § 361.
- C. By Respondent's dishonest conduct with the Board, its Investigative Committee, and its Executive Director, as well as other actions, Respondent has violated the terms of the Participation Agreement, La. R.S. 37:2420(A)(7), and Board Rule § 345, and has engaged in a level of conduct as to constitute unprofessional conduct under Board Rule § 345(B)(1), 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.

SANCTIONS

In view of the foregoing findings, the following sanctions are imposed:

IT IS ORDERED that the license of Respondent, William Hooper, to engage in the practice of a Physical Therapist, is hereby suspended immediately, for a period of not less than

six (6) months, and it shall remain suspended until reinstated by an Order of the Board, based upon his compliance with the following terms and conditions:

- A. Respondent shall undergo an evaluation by a qualified substance abuse and psychological evaluator approved by the Board and the Board shall receive the recommendations of the qualified substance abuse and psychological evaluator performing the evaluation, the expense of which shall be paid by the Respondent.
- B. During the suspension period, the Respondent shall abstain from the use of and ingestion by any means of any controlled dangerous substance, as defined by Louisiana and federal laws, including, but not limited to alcohol. If Respondent is prescribed a medication by a treating physician which is a controlled dangerous substance, he shall within three (3) days of obtaining such 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 the names and contact information for all physicians who are treating his during the probationary period and a listing of all medication he is prescribed for any medical condition.
- C. Respondent shall regularly attend meetings of Alcoholics Anonymous and/or Narcotic Anonymous, attending and documenting at least ninety (90) meetings within the ninety (90) days following the Respondent's receipt of this Order, and the Respondent shall provide to the Board, through its Executive Director, proof that he attended such meetings by means of a signed statement by any supervisor or person acting in a supervisory capacity of said meetings.
- D. Respondent shall complete the Ethics and Boundaries Assessment Services evaluation, as coordinated with the Executive Director, all expenses of which shall be paid by Respondent.
- E. During the suspension period, Respondent shall promptly comply, as directed, with Board requests for random drug tests arranged by the Board, Respondent shall pay for or reimburse the Board for the expense of such tests.
- F. During the suspension period, if any drug or alcohol screening/test of Respondent results in a positive finding for any controlled dangerous substance, including, but not limited to alcohol, for which Respondent does not have a legitimate prescription, Respondent's license shall be subject to further disciplinary action.
- G. Respondent shall cooperate with the Board, its agents, and his Monitor in providing 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 shall authorize his treating professionals to fully and candidly discuss his condition, attitude and treatment status with his Monitor and with the Board's agent.
- H. Respondent shall reimburse the Board for all costs associated with the administrative hearing and investigative expenses.

- I. Respondent shall enter into a Recovering Physical Therapy Program Agreement with the Board.

IT IS FURTHER ORDERED that upon satisfaction of the preceding terms, and Order by the Board, Respondent, William Hooper's license to practice as a Physical Therapist shall be reinstated **on probation**, subject to the strict compliance with the following terms and conditions:

- A. Following suspension of license, Respondent's license will be placed on probation for a period of five (5) years ("probationary period") beginning with the date of the Board's reinstatement of Respondent's PT license.
- B. The probationary period shall be extended for any period of time in which the 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, he shall notify the Executive Director in writing within ten (10) days of the last day he 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 (10) days of his return to practice.
- C. During the probationary period, the Respondent shall abstain from the use of and ingestion by any means of any controlled dangerous substance, as defined by Louisiana and federal laws, including, but not limited to alcohol. If Respondent is prescribed a medication by a treating physician which is a controlled dangerous substance, he shall within three (3) days of obtaining such 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 the names and contact information for all physicians who are treating him during the probationary period and a listing of all medication he is prescribed for any medical condition.
- D. 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.
- E. During the probationary period, Respondent shall promptly comply, as directed, with Board requests for random drug and alcohol tests arranged by the Board. Respondent shall pay for or reimburse the Board for the expense of such tests. During the probationary period, Respondent 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.
- F. During the probationary period, if any drug or alcohol screening/test of Respondent results in a positive finding for any controlled dangerous substance, including, but not

limited to alcohol, for which Respondent does not have a legitimate prescription, Respondent's license shall be subject to further disciplinary action.

- G. During the probationary period, Respondent shall provide a copy of this Order to his employer(s) and immediate supervisor before providing services to that employer and shall have the employer(s) and the immediate supervisor notify the Executive Director in writing that they have received and reviewed a copy of this Order. Respondent shall do this also with any new or subsequent employer(s)/immediate supervisor during the probationary period.
- H. During the probationary period, Respondent shall not seek or accept work in a setting that has not been approved in advance by the 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 and shall update the Executive Director in writing within five (5) days of any and all changes in such arrangements.

Signed this 7th day of October 2015.



Al C. Moreau III
Chairman