

BEFORE THE LOUISIANA PHYSICAL THERAPY BOARD

IN THE MATTER OF

GARRETT DINICOLA

**(LOUISIANA PHYSICAL THERAPY
LICENSE NO. PT 10334)**

CONSENT ORDER

**CONFIDENTIAL COMPLAINT NO.
2021-I-013**

CONSENT ORDER

Mr. Garrett Dinicola, Louisiana Physical Therapist License No. PT 10334, hereinafter “Mr. Dinicola” or “Respondent”, initially came to the attention of the Louisiana Physical Therapy Board (“LPTB” or “Board”) on or about August 16, 2021, when the Louisiana Physical Therapy Board received a complaint regarding the practice of physical therapy by Mr. Dinicola. The complaint alleged that on or about August 12, 2021, Mr. Dinicola engaged in sexual intercourse with a female physical therapy patient at a location outside of the physical therapy office. Upon receipt of this information a confidential complaint was initiated, and an investigative committee was formed in accordance with Board Rule §123. On December 8, 2021, the Investigative Committee of the Board sent a letter to the Respondent requesting his participation in an Informal Conference scheduled for January 6, 2022 at the Board office in Lafayette, Louisiana. Respondent attended the Informal Conference with his attorney, Yigal Bander, and admitted to some extent his unprofessional conduct, including sexual misconduct, in his relationship with the physical therapy patient, but refused to answer questions regarding the specific allegations of sexual intercourse with the patient occurring on or about August 12, 2021.

FACTUAL BASIS FOR CONSENT ORDER

1. Respondent was originally licensed as a physical therapist in Louisiana on or about June 18, 2019.
2. At all times pertinent hereto, Respondent was licensed as a physical therapist in the state of Louisiana, Louisiana Physical Therapist License No. PT 10334.
3. On or about August 16, 2021, a complaint was submitted to the Board alleging that on or about August 12, 2021, Respondent engaged in sexual intercourse with a female physical therapy patient at a location outside of the physical therapy office.
4. Upon receipt of the complaint an Investigative Committee (“Committee”) was created in accordance with Board Rule §123, which Committee consisted of Charlotte Martin, Executive Director of the Board, Oday Lavergne, Investigatory Board Member, and Tani Rawlings, Board Investigator.

5. Following the formation of the Committee, a confidential investigation was conducted which included witness interviews and review of subpoenaed documents. Witness interviews revealed that Mr. Dinicola, did on or about August 12, 2021, engage in consensual sexual intercourse with a female physical therapy patient whom he had treated as a physical therapy patient on eight occasions (on or about June 24, 2021, June 28, 2021, June 30, 2021, July 2, 2021, July 26, 2021, July 28, 2021, July 30, 2021 and August 9, 2021), and who was last seen as a physical therapy patient in his office by another physical therapist on or about August 11 and August 12, 2021, all at Jones Physical Therapy in Hammond, Louisiana.

6. The evidence further revealed that the female physical therapy patient was still a "patient", as defined in LAC 46: LIV §123, of Respondent's and of the office in which he was employed on August 12, 2021; and as of August 12, 2021, had not been terminated as a "patient" in accordance with LAC 46: LIV §341A. (7).

7. Evidence further revealed that Garrett Dinicola communicated in a sexual manner with the patient using Snapchat from August 4 through August 12, 2021. The patient deleted Garrett Dinicola on Snapchat on August 13, 2021. On August 14, 2021, the patient unblocked Garrett Dinicola and sent him one message, not sexual in nature. No further physical contact between the two parties was established to have occurred after August 12, 2021.

8. On December 8, 2021, the Investigative Committee of the Board sent a letter to the Respondent requesting his participation in an Informal Conference scheduled for January 6, 2022, at the Board office in Lafayette, Louisiana.

9. Respondent participated in the Informal Conference at the Board office in Lafayette, Louisiana, represented by his attorney, Yigal Bander. Others in attendance at the Informal Conference were Charlotte Martin, Oday Lavergne, Board Complaint Counsel Celia Cangelosi, and Board Investigator Tani Rawlings.

10. During the Informal Conference, Respondent admitted to most of his contact with the female physical therapy patient, but refused to discuss the sexual intercourse allegations of August 12, 2021.

11. Following the completion of the Investigation, the Respondent was offered this Consent Order.

VIOLATIONS RELATED TO RESPONDENT'S CONDUCT

Respondent's conduct described above and otherwise reviewed in this action is subject to and is in violation of the following provisions of law regarding his practice of physical therapy.

1. La. R.S. 37:2420(A)(7) [(7) Been found guilty of unprofessional conduct or sexual misconduct, including but not limited to departure from, or failure to conform to, the minimal standards of acceptable and prevailing physical therapy practice, in which proceeding actual injury to a patient need not be established];
2. LAC 46: LIV § 345 B (1) (g) [(1) departure from, failure to conform to, or failure to

perform on a continuing basis to the minimal standards of acceptable and prevailing physical therapy practice as defined in §123, or the commission of any act contrary to honesty, justice, good morals, patient safety or the best interest of the patient, whether committed in the course of the licensee's practice or otherwise, regardless of whether actual injury to a patient results therefrom, including, but not limited to: (g) *** causing, or permitting another person to cause, physical or emotional injury to the patient, or depriving the patient of his individual dignity]; and

3. LAC 46:LIV § 345 B(5) [As used in R.S. 37:2420(A)(7) of the Practice Act and in these rules, the term unprofessional conduct does not require actual injury to a patient, and includes, but is not limited to, the following: (5) sexual misconduct—inappropriate sexual or intimate conduct, includes, but is not limited to sexual intimacy, contact, exposure, gratification, abuse, exploitation or other sexual behavior with or in the presence of a patient or any other individual in connection to the licensee's practice of physical therapy regardless of consent by the patient. Such conduct may be verbal, physical, visual, written or electronic, or it may consist of expressions of thoughts, feelings or gestures that are sexual or reasonably may be construed by a patient or other individual as sexual or which may reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or another individual. Sexual misconduct between a licensee and a former patient after termination of the therapist–patient relationship may also constitute unprofessional conduct if the sexual misconduct is a result of the exploitation of trust, knowledge, influence or emotions derived from the professional relationship].

ORDER

Pursuant to the foregoing Factual Basis for Consent Order and Violations Related to Respondent's Conduct, and, in order to avoid further administrative and judicial proceedings, Respondent, Garrett Dinicola, La. Physical Therapist License No. 10334, and the Board, the date this Consent Order is approved by the Louisiana Physical Therapy Board, agree as follows:

1. Respondent's physical therapy license is suspended for a minimum period of one year from September 1, 2022 provided the Consent Order is approved by the Louisiana Physical Therapy Board and until the requirements of Paragraphs 2, 3, and 9 are satisfied; and Respondent shall not provide physical therapy services in any capacity during the period of suspension. Respondent shall submit to the Board Executive Director in writing no less than 30 calendar days prior to completion of the suspension period or 15 days following successful completion of the requirements of Paragraphs 2, 3, and 9, whichever is later, documentation of successful completion of all requirements found within Paragraphs 2, 3, and 9, and a request for a letter from the Board formally acknowledging the close of the suspension period. Respondent's suspension period concludes upon receipt by Respondent of the Board a letter acknowledging the close of the suspension period and upon review at the board meeting following completion of the suspension period dated from the acceptance of the Consent Order by the Board.
2. Within the first 30 days of suspension, Respondent will schedule at his own expense a Psychosexual Risk Assessment to be conducted on an outpatient basis by Brandon P. Romano, Psy.D. The psychosexual risk assessment report must be sent directly to the Louisiana Physical Therapy Board upon completion for review. The respondent's license will remain suspended

for at least one year and also until receipt of the evaluation report stating that Respondent is safe to return to the practice of physical therapy with reasonable skill and safety to the public.

3. Respondent agrees to follow all treatment recommendations resulting from the Psychosexual Risk Assessment. If individual therapy is recommended in the Psychosexual Risk Assessment, the individual therapy provider must meet the LPTB Criteria for Individual Treatment Providers. Respondent shall sign all necessary medical release forms for the full initial psychosexual risk assessment evaluation report and any treatment discharge summaries released directly to or by the individual therapy provider. Respondent agrees to allow the LPTB to send a copy of the Consent Order to the individual therapy provider. Individual therapy reports shall be sent directly to the LPTB from the individual therapy provider on a quarterly basis, to be received no later than the 15th days of January, April, July, and October of each year.
4. Following completion of the suspension period, Respondent's license shall be on probation for a minimum of one year. Respondent shall submit to the Board Executive Director in writing not less than 30 calendar days prior to completion of probationary period a request for a letter from the Board formally acknowledging the close of the probationary period. Respondent's probationary period concludes upon receipt by Respondent of a letter from the Board acknowledging the close of the probationary period, acknowledging the payment of all costs due as set forth in paragraph 10 of this Agreement, and final exit interview with the Board to be scheduled by the Board Executive Director.
5. During the one-year probationary period the Respondent shall not treat female patients.
6. During the one-year probationary period Respondent shall fully cooperate with the Board representatives making random unannounced monitoring visits to his work sites and shall provide complete access to his place of employment, employment and/or business records, patient treatment and billing records, and all other documentation necessary for a full legal compliance review. Respondent shall reimburse the Board \$150.00 for each such monitoring visit.
7. During the one-year probationary period, Respondent shall provide a copy of this Consent Order to his employer(s), direct supervisor(s), and any physical therapist(s), physical therapist assistant(s), or physical therapy technician(s) who are supervised by, work for, or contract with Respondent at any business, including, but not limited to, any business(es) Respondent owns, operates or manages before providing physical therapy services and shall have such person(s) notify the Executive Director in writing that he has received and reviewed a copy of this Consent Order prior to Respondent providing physical therapy services. Respondent shall do this also with any new or subsequent employer(s), direct supervisor(s), physical therapist(s), physical therapist assistant(s), or physical therapy technician(s) during the probationary period;
8. The one-year probation 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 an aggregate over the month that is at *least twenty* hours per week. If Respondent ceases to be regularly employed as a physical therapist in Louisiana, he shall notify the Executive Director in writing within *ten calendar days* of the last date 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 calendar days* of his return to practice;

9. Prior to the completion of the suspension period, Respondent shall complete the three-day PBI Professional Boundaries and Ethics Course (Essential Edition). Respondent shall provide documentation in the form of a course completion certificate to the Executive Director within five calendar days of receipt of such documentation;
10. Respondent shall pay the Board the sum of \$14,590.00 in partial reimbursement for legal and administrative expenses incurred in this matter, this amount may be paid in a lump sum, or monthly installments, if arranged in writing in advance with the Executive Director, over the one year of suspension and one year of probation. In the event that the Respondent reimburses the Board in monthly installments, payment shall be submitted to the Board Executive Director no later than the 15th day of the month. Failure to provide payment by the 15th day of the month three times is a basis for further disciplinary action by the Board. All payments must be made by certified check or money order payable to the Louisiana Physical Therapy Board;
11. Respondent shall comply with La R.S. 37:2415. B. and notify the Executive Director of the Louisiana Physical Therapy Board in writing and prior to a change of residence to another country, state, or jurisdiction. Upon relocation, all provisions of this Consent Order are suspended until Respondent again resides within Louisiana, notifies the Executive Director of his Louisiana residence, and receives written confirmation from the Executive Director;
12. Respondent shall meet with the Board, or with the Board's representative, whenever requested during the suspension period and probationary period, and shall fully cooperate in providing information and documents requested in such meetings;
13. Respondent shall have reliable access to a computer, internet, and telephone. In accordance with Board Rule §385 Respondent shall provide to the executive director his preferred telephone number and/or email address in writing for expedited communications regarding compliance with board order within 48 hours of signing the Consent Order. Respondent shall reply to Board emails and telephone calls within four hours of such communication. Respondent shall notify the Executive Director in writing of any change to his preferred telephone number and/or email address immediately upon change;
14. Respondent declares that, before signing this Consent Order, he is of sound mind 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. As is his right, he has been represented by legal counsel, Yigal Bander, throughout these proceedings;
15. Respondent acknowledges that his failure to comply with any term of this Consent Order is a basis for immediate summary suspension of his license and for further disciplinary action by the Board;
16. Respondent acknowledges that this Consent Order only addresses the specific violations outlined above;

17. Respondent authorizes the Investigating Board Member Oday Lavergne and legal counsel assisting the Investigating Board Member to present this Consent Order to the full Board for its consideration and to fully disclose 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 an Investigative Committee 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 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;
18. Respondent acknowledges that 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 or resolution to these proceedings; and
19. Respondent acknowledges that this Consent Order does not become effective until September 1, 2022, provided the Consent Order has been approved by the Louisiana Physical Therapy Board through a majority vote of the membership present at an official board meeting; and
20. Respondent acknowledges that 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 proof of compliance or commitment. Respondent acknowledges that it is the responsibility of the Respondent to fully comply with the Consent Order and proactively communicate with the Board Executive Director.

Date: 8/25/22

Garrett Dinicola

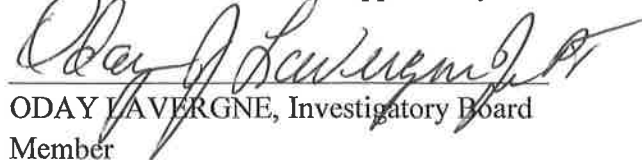
GARRETT DINICOLA, Respondent
Louisiana Physical Therapist License No.
PT 10334
528 Southdown Loop
Covington, LA 70433



YIGAL BANDER
Manasseh, Gill, Knipe & Belanger, P.L.C.
8075 Jefferson Highway
Baton Rouge, LA 70809

Attorney for Respondent, Garrett Dinicola

Submitted to the Board for approval by:


ODAY LAVERGNE, Investigatory Board
Member

AGREED AND ACCEPTED by official action of the Board, this 25th day of August, 2022, at Baton Rouge, Louisiana.

LOUISIANA PHYSICAL THERAPY BOARD


JUDITH HALVERSON, Board Chair