

In the Matter of
JOHN SCHMIDT, P.T.
License No 00177
Respondent

* LOUISIANA STATE BOARD OF
* PHYSICAL THERAPY EXAMINERS
*
* Case Number 2001-21

SECOND CONSENT ORDER

The conduct of Respondent in the treatment of patient May F. Lorenz during the period July 6, 2000 through April 23, 2001 resulted previously in a Consent Order agreed to April 25, 2002, which, among other provisions, required that Respondent undergo psychiatric and/or psychological evaluation by a Board approved mental healthcare provider, and undergo treatment, if suggested, at his expense. That Consent Order also placed Respondent on Probation for three years beginning April 25, 2002.

Pursuant to that Consent Order, Respondent was referred to F. Merritt Ayad, Ph.D., clinical psychologist, for testing and assessment. On three occasions in May, 2002 Respondent met with Dr. Ayad for the specified purpose and on August 28, 2002, a psychological assessment of Respondent was furnished to the Board. The Board still awaits a report of psychiatrist Howard Osofsky, M.D.

The Findings of Fact and Conclusions of Law of the Consent Order agreed to in this matter on April 25, 2002 are adopted and incorporated into this Second Consent Order by reference.

FINDING OF FACT

The psychological assessment conducted by F. Merritt Ayad, Ph. D, clinical psychologist, resulted in the following recommendation: "In the interest of the public, he [Respondent] should not be allowed to treat female patients without an assistant in the room."

CONCLUSIONS OF LAW

1. It is unlawful for a licensee of this Board to engage in unprofessional conduct such as kissing a client during the provision of preventative services. La. R.S. 37:2413A(7); and Rules and Regulations, LAC Title 46, Sections 305A, 307D, 325 and 327E6.
2. In order to protect public safety and welfare, this Board, upon receipt of the psychological assessment of Dr. Ayad, has invoked the emergency authority of LAC 46:345 to suspend the license of Respondent.
3. Dr. Ayad's assessment report is adequate grounds for the Board to impose restrictions on Respondent's treatment of female patients as an alternative to suspension of Respondent's license. LAC 46:325

EXHIBIT

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4. The Board may enter Consent Orders with regard to disciplinary action and with the consent of the Respondent. A Consent Order requires formal consent of a quorum of the Board of Examiners. LAC 46:335.

DECISION

Pursuant to the foregoing Finding of Fact, Conclusions of Law, and the Findings of Fact and Conclusions of Law in the original Consent Order in the matter agreed to April 25, 2002, Respondent and the Board, by vote of quorum, agree as follows:

A. Respondent is continued on Probation through April 24, 2005.

B. The following requirements are imposed as restrictions on Respondent's right to practice as a Physical Therapist licensee of Board:

1.) Whenever evaluating or treating female patients, respondent shall have present in the treatment room with him and the patient another female employee of his employer (monitor), who shall remain in the treatment room during the entire treatment session. Prior to beginning any treatment of a female patient, Respondent shall obtain the written consent of the patient to the presence of the monitor employee during treatment sessions.

2.) Any female employee designated by Respondent's employer as a monitor shall provide to the Board an affidavit acknowledging her responsibility to report to her employer and to the Board any inappropriate or unprofessional physical or verbal contact between Respondent and his female patients. It shall be Respondent's responsibility to see that this affidavit is produced in a form acceptable the Board's counsel and to see that the completed affidavit is delivered to the Board no later than ten days after that employee monitor assumes such duties. The monitor employee shall attest to her presence during the entirety of each treatment session by an entry in the patient's treatment record which shall be written, dated and signed by the monitor employee.

D. Respondent shall notify the Board of any change in his employment on the date that such change in employment takes effect and shall only practice under new employment when the Board, through its agent, concurs that the above conditions and restrictions will be fully complied with in the new employment setting.

E. By October 1, 2002 Respondent shall begin psychotherapy sessions with a mental health professional approved by the Board chair and shall continue such psychotherapy at his expense and until further order of the Board. Respondent shall authorize release of all information on his treatment to the Board and shall direct the treating mental health professional to prepare a full written report to the Board on Respondent's participation and progress, and any recommendations for further assessment and/or treatment, with particular focus on Respondent's inappropriate and unprofessional conduct with female patients. Such reports shall be furnished to the Board after each six months' treatment.

F. By September 30, 2002, Respondent shall pay to the Board the sum of \$1,000 as reimbursement of administrative expenses in this matter.

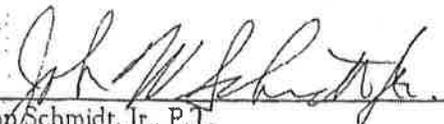
G. Respondent's failure to comply with any term of this agreement or with the terms of

the original Consent Order herein, shall constitute just cause for the suspension or revocation of Respondent's license as a Physical Therapist under the auspices of this Board, or for any other disciplinary action within the statutory and regulatory authority of the Board.

H. All of the Decision determinations of the Consent Order accepted April 25, 2002, in this matter are continued in effect.

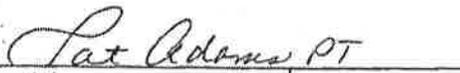
I. Respondent declares that before signing this Consent Order he has carefully read this document, understands the contents, and freely consents to it as valid and binding upon him. He is aware of his right to a formal hearing and to counsel and he freely waives those rights.

SWORN TO AND SUBSCRIBED on this 2nd day of September, 2002, at Baton Rouge, Louisiana.


John Schmidt, Jr., P.T.

AS AGREED AND ACCEPTED by official action of the Board, the 29th day of August, 2002, at Lafayette, Louisiana.

LOUISIANA STATE BOARD OF
PHYSICAL THERAPY EXAMINERS


Pat Adams, P.T., Chair