

LOUISIANA PHYSICAL THERAPY BOARD

IN THE MATTER OF

MARIO MACKAY, P.T.A.

LICENSE PTA NO. A4482

NUMBER: 2021-I-019

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND BOARD ORDER**

FINDINGS OF FACT

1. Mario Mackay was licensed as a physical therapist assistant in the state of Louisiana on or about February 19, 2004, as evidenced by P.T.A. License No. A4482.
2. A license issued to an applicant for the first time shall be for a term of one or two years, to be determined by the birth year of the applicant, LAC 46:LIV §175.
3. Licenses issued by the Board shall expire and thereby become void on April 30 of the last year for which it is issued, LAC 46:LIV §179A.
4. The timely, acknowledged receipt of a complete application for license renewal, operates to continue licensure in full force and effect pending issuance of the renewal license documents, LAC 46:LIV §179B.
5. LAC 46:LIV §194A requires that licensees successfully complete, document and report to the Board at least 30 hours of Board approved continuing education courses or activities in the biennial renewal period, unless exempted under LAC 46:LIV §198.
6. On the license renewal of Mario Mackay for the year 2021, Mario Mackay reported the continuing education courses he had completed. See Exhibit A, pp. 2, 3 and 4.
7. Continuing education activities undertaken for the purpose of license renewal shall be maintained by the licensee in a file in which records of activities are kept, including dates, subjects, duration of the program, certificate of participation and completion, and any other appropriate documentation for a period of four years after the program date, LAC 46:LIV §197C.
8. The Board shall conduct an audit of the continuing education records of a number of the licensees to be determined by the board each renewal period. The board will notify licensees who are randomly selected for audit to determine compliance with the continuing education requirements. Licensees chosen for the audit shall submit to the board by the specified date copies of all records and documentation showing completion of the continuing education courses or

activities previously submitted for fulfillment of continuing education requirements. LAC 46:LIV § 197D.

9. Exhibit B is the list of the individuals for 2021 Continuing Education Audit Random Selection.

10. Among those selected were Mario Mackay. See page 4 of Exhibit B.

11. Mario Mackay was sent to his address of record (1842 Ochsner Blvd., Apt. 422, Covington, LA 70433) by regular mail the letter date May 1, 2021, Exhibit C, advising Mr. Mackay that he had been selected for the 2021 continuing education audit and asking him to provide proof of all continuing education hours based on his 2021 renewal application.

12. The Board office received no response from Mario Mackay the May 1, 2021 letter.

13. By letter dated June 3, 2021, Exhibit D, Mario Mackay was sent a second letter advising that he had missed the May 31, 2021 deadline for response to the May 1, 2021 letter; and was given another 30 days following receipt of the June 3, 2021 letter to furnish the board with information (based on the letter) regarding continuing education requirements and his failure to respond to the May 1, 2021 letter.

14. The June 3, 2021 letter (Exhibit D) was mailed to Mario Mackay at his address of record, 1842 Oschner Blvd., Apt. 422, Covington, LA 70433, by certified mail, return receipt requested. The certified mailing was returned to the Board office marked "Return to Sender", "Unclaimed", "Unable to Forward." See Exhibit E.

15. No written response was received from Mario Mackay to the June 3, 2021 letter.

16. Sometime after the June 3, 2021 letter and before the August 20, 2021, subsequent letter, Mario Mackay called the Board office and advised that he was having trouble locating his continuing education certificates. He was advised to call the course sponsors.

17. By letter dated August 20, 2021, Mario Mackay was mailed by certified mail, return receipt requested, to his address of record, 204 W. Coleman Street, Apt. A, Hammond, LA 70403, Exhibit F, and given an additional 30 days to furnish the Board with specific requirements and documentation to prove compliance with the conditioning requirements or an affidavit for his failure to satisfy those continuing education requirements for specific reasons or a written explanation for failure to comply with the continuing education requirements. The letter further advised that if his response did not establish compliance or acceptable exemptions, he may be subject to disciplinary action.

18. The August 20, 2021 certified mail was returned to the Board office marked "Return to Sender", "Unclaimed", "Unable to Forward." See Exhibit G.

19. Mario Mackay “does not successfully establish compliance or acceptable exemption from compliance” with continuing education requirements for his 2021 renewal application.

20. Mario Mackay “has not successfully established compliance or acceptable exemption from compliance with continuing education requirements” for his 2021 renewal application. Disciplinary action may be taken against Mario Mackay, which may include, but is not limited to, requiring the licensing examination and pay the fees for the examination. LAC 46:LIV §199C(2) provides that passing the examination fulfills the licensing requirements for the year the noncompliance occurred (for the 2021 renewal) but shall not be applicable for subsequent reporting periods.

21. Mario Mackay’s physical therapist assistant license in the state of Louisiana (La. P.T.A. License No. A4482) expired on April 30, 2021, and is thereby void, for failure to satisfy the continuing education requirements for license renewal.

22. Should the Board choose to allow Mario Mackay to take the licensing examination and pay the fees for the examination, it is submitted that he must be given a specific time period within which to do so, in default of which his license is revoked.

CONCLUSIONS OF LAW

The activities of Mario Mackay as set forth in the Findings of Facts violate the following provisions of the Physical Therapy Practice Act and the rules and regulations adopted thereunder in the following particulars:

La. R.S. 37:2420A(2) [attempted to or obtained a license by fraud or misrepresentation];

LAC 46:LIV §347 [§347. FRAUD OR MISREPRESENTATION A. A person who “attempts to or attains a license by fraud or misrepresentation,” as used in R.S. 2420.A (2) of the Practice Act, includes a person who: (1) makes any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to an application for a license under Chapter 1 of these rules; or (2) makes any representation, or fails to make a representation or engages in any act or omission, the result of which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the qualifications for a license required by Chapter 1 of these rules];

LAC 46:LIV 194A [Unless exempted under §198, licensees shall successfully complete, document and report to the board at least 30 hours of board–approved continuing education courses or activities in the biennial renewal period];

LAC 46:LIV §197C [Continuing education activities undertaken for the purpose of license renewal shall be maintained by the licensee in a file in which records of activities are kept, including dates, subjects, duration of the program, certificates of participation and completion, and any other appropriate documentation for a period of four years after the program date. Upon request, course or activity sponsors and licensees shall supply the board with such documentation];

LAC 46:LIV §199A [Noncompliance. Noncompliance with continuing education requirements includes, but is not limited to, incomplete reports, unsigned reports, unsigned verification of course or activity completion, failure to report a sufficient number of approved continuing education hours as defined in §193, or any other matters considered to be noncompliance by the board];

LAC 46:LIV §199B [Notice. The board shall send written notice of noncompliance to a licensee requesting that the licensee furnish to the board within 30 days of receipt of the notice, the following: (1) a written explanation for failure to complete required CE; or if applicable; (2) an affidavit with documentary proof that the licensee has complied with the continuing education requirements, or an affidavit setting forth the reasons for failure to comply with the continuing education requirements because of illness, natural disaster, other personal hardship or extended active military service during the reporting period and stating that he did not provide physical therapy services during that period];

LAC 46:LIV §199C(2) [Finding: If the licensee: ...does not successfully establish compliance or acceptable exemption from compliance with continuing educational requirements, he may be subject to disciplinary action and may be required to take the licensing examination and pay the fees for examination];

LAC 46:LIV §153D [An applicant who submits false information may be denied licensure by the board];

LAC 46:LIV §383A(1) [respond or provide information or items requested, respond to a subpoena, comply to a request for a meeting, or complete an evaluation within the time designated by the board or its staff];

and constitute sufficient cause for the revocation and/or suspension or other sanction of the physical therapist license of Respondent Mario Mackay as a physical therapist assistant in the State of Louisiana.

BOARD ORDER

IT IS ORDERED, ADJUDGED AND DECREED that the physical therapist assistant license of Mario Mackay in the state of Louisiana (PTA License No. A4482) expired and became void on April 30, 2021 for failure to satisfy the continuing education requirements for license renewal;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that before the PTA license of Mario Mackay can be considered for reinstatement, Mario Mackay, prior to the next renewal date of April 30, 2023, shall take and pass the Physical Therapist Assistant licensing examination and pay the fees for examination, as well as the payment of which is ordered herein below;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that passage of the examination will fulfill the continuing education requirement for the year the non-compliance occurred but shall not be applicable for any subsequent reporting period(s). Therefore compliance with all requirements for the 2023 renewal period shall be met;

IT IS FURTHER ORDERED ADJUDGED AND DECREED that in the event the license is reinstated after successful completion of this Order, Mario Mackay shall mandatorily comply with continuing education audits for three (3) subsequent renewal periods;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Mario Mackey shall pay the Board the sum of \$1,406.25 plus fees associated with the Board Hearing in partial reimbursement for legal and administrative expenses incurred in this matter. The Board staff will communicate with respondent the total amount due with said amount due at the time of 2023 renewal period; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that failure to meet the requirements of this Order by April 30, 2023 shall result in revocation of his license.

ORDER RENDERED on the 19th day of January, 2022; ORDER READ AND SIGNED on the 19th day of January, 2022.

LOUISIANA PHYSICAL THERAPY BOARD


Judith Halverson, Chair

Please serve Respondent with final Findings of Fact, Conclusions of Law and Board Order:

Mario Mackay

By certified mail, return receipt requested, and regular mail, 204 W. Coleman Street, Apt. A, Hammond, LA 70403; and via email to: mariomackay42@gmail.com.