BEFORE THE LOUISIANA PHYSICAL THERAPY BOARD

IN THE MATTER OF **JEFFREY DELA CRUZ** **(LOUISIANA PHYSICAL THERAPY LICENSE NO. 04183F)**	**CONSENT ORDER** **CONFIDENTIAL COMPLAINT NO. 2021-I-022**

CONSENT ORDER

Mr. Jeffrey Dela Cruz, Louisiana Physical Therapist License No. 04183F, hereinafter "Mr. Dela Cruz" or "Respondent", initially came to the attention of the Louisiana Physical Therapy Board ("LPTB" or "Board") on or about November 2, 2021, when the Louisiana Physical Therapy Board received a complaint regarding the practice of physical therapy by Mr. Dela Cruz. The complaint alleged that on or about October 15, 2021, Mr. Dela Cruz, while employed as a physical therapist at Kindred Healthcare, went to the home of a home health care physical therapy patient, J.A., for a physical therapy reassessment, and even though the physical therapy patient, J.A., was not present in the home, Mr. Dela Cruz documented that Mr. Dela Cruz had performed the assessment on October 15, 2021, although he did not perform or provide physical therapy assessment as documented; and that Mr. Dela Cruz admitted this improper conduct to his employer, Kindred Healthcare, upon which his employment was terminated. Upon receipt of this information a confidential complaint was initiated, and an investigative committee was formed in accordance with Board Rule §123. On January 10, 2022, the Investigative Committee of the Board sent a letter to the Respondent requesting his participation in an Informal Conference scheduled for January 31, 2022 at the Board office in Lafayette, Louisiana. Respondent attended the Informal Conference and admitted to some extent his unprofessional conduct, including the false documentation of physical therapy patient records.

FACTUAL BASIS FOR CONSENT ORDER

1. Respondent was originally licensed as a physical therapist in Louisiana on or about December 15, 1999.

2. At all times pertinent hereto, Respondent was licensed as a physical therapist in the state of Louisiana, Louisiana Physical Therapist License No. 04183F.

3. On or about November 2, 2021, a complaint was submitted to the Board alleging that on or about October 15, 2021, Mr. Dela Cruz, while employed as a physical therapist at Kindred Healthcare, went to the home of a home health care physical therapy patient, J.A., for a physical therapy reassessment, and even though the physical therapy patient, J.A., was not present in the home, Mr. Dela Cruz documented that Mr. Dela Cruz had performed the assessment on October 15, 2021, although he did not perform or provide physical therapy assessment as documented.

4. Mr. Dela Cruz admitted this improper conduct to his employer, Kindred Healthcare, upon which his employment was terminated.

5. 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, John Marius, Investigatory Board Member, and Tani Rawlings, Board Investigator.

6. Following the formation of the Committee, a confidential investigation was conducted which included witness interviews and review of subpoenaed documents. Witness interviews and documents revealed that Mr. Dela Cruz, documented a physical therapy assessment of J.A. allegedly conducted by Mr. Dela Cruz in a home health visit in the home of J.A. on or about October 15, 2021, which assessment was not conducted and even though J.A. was not present in the home at the time the documented physical therapy assessment was conducted.

7. The evidence further revealed that Mr. Dela Cruz admitted this falsified documentation of medical records to his employer, Kindred Healthcare, and was terminated from his employment as a physical therapist at Kindred Healthcare.

8. On January 10, 2022, the Investigative Committee of the Board sent a letter to the Respondent requesting his participation in an Informal Conference scheduled for January 31, 2022, at the Board office in Lafayette, Louisiana.

9. Respondent participated in the Informal Conference at the Board office in Lafayette, Louisiana. Others in attendance at the Informal Conference were Charlotte Martin, John Marius, Board Complaint Counsel Celia Cangelosi, and Board Investigator Tani Rawlings.

10. During the Informal Conference, Respondent admitted the fraudulent documentation of physical therapy records.

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/or in violation of the following provisions of law regarding his practice of physical therapy.

1. La R.S. 37: §2420A.(1) - Practiced physical therapy in violation of the provisions of this Chapter, the rules of the board, or standards of practice;

2. La R.S. 37: §2420A.(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;

3. LAC 46: LIV §345 B.(1)a. - 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: (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 licensees practice or otherwise, regardless of whether actual injury to a patient results therefrom, including, but not limited to: a. failure to use sound professional judgment;

4. LAC 46: LIV §345 B.(3)a. - 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: (3) failing to create or maintain medical record—a licensee shall create and maintain adequate and legible patient records. In addition, a licensee shall: a. Not falsely create or alter a medical record;

5. LAC 46: LIV §345 B. (10) – 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: (10) making or participating in any communication, advertisement, or solicitation which is false, fraudulent, deceptive, misleading or unfair in violation of board rules, or which contains a false, fraudulent, deceptive, misleading or unfair statement or claim, including, but not limited to: a. documenting services provided which have not been provided as documented or billing for services which have not been provided;

6. LAC 46: LIV §341 B – A licensee shall maintain accurate patient treatment and billing records and shall not falsify, alter, or destroy such records, the result of which would be to impede or evade investigation by the board or other lawful authorities.

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, Jeffrey Dela Cruz, La. Physical Therapist License No. 04183F, and the Board, as of the date this Consent Order is approved by the Louisiana Physical Therapy Board, agree as follows:

1. Respondent's Louisiana physical therapist license, PT License No. 04183F, shall be on probation for a minimum of three years. Respondent shall submit to the Board Executive Director in writing not less than thirty (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 the Board a letter acknowledging the close of the probationary period and final exit interview with the Board to be scheduled by the Board Executive Director;

2. During the three year probationary period Respondent shall not provide physical therapy services to physical therapy patients through home health visits.

3. Prior to the start or return to work, or within five days of signing this Consent Order if currently engaged in the practice of physical therapy, Respondent is to have an Employer's Agreement submitted for review and approval by the Board. An Employer Agreement requires that the employer assign to Respondent a single worksite monitor who is over the Respondent on the organizational chart and will see the Respondent at a minimum of both the beginning and end of his/her workday. Respondent shall enter into an Employer's Agreement with each employer or contractor. Each Employer Agreement and worksite monitor is specific to a single location. If Respondent is working in multiple locations or with multiple employers, an Employer Agreement and worksite monitor is required for each location and/or employer. The worksite monitor(s), as indicated on the Employer's Agreement(s), will submit monthly hardcopy Performance Evaluations directly to the Board for the duration of the Consent Order. Monthly hardcopy Performance Evaluations are to be received at the Board office no later than the 15th day of each month. The worksite monitor cannot be a licensee under current disciplinary action or monitoring with the Board;

4. During the three 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;

5. During the three 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;

6. The three 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 (20)* 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 (10) 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 (10) calendar days* of his return to practice;

7. Respondent shall pay the Board the sum of $2,405.00 in partial reimbursement for legal and administrative expenses incurred in this matter, this amount to be paid in a lump sum, by certified check or money order made payable to the Louisiana Physical Therapy Board at the time the Consent Order is signed by Respondent and prior to the time it is submitted to the Board for approval.

8. 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, except Paragraph "12" pertaining to reimbursement of legal and administrative expenses, are suspended until Respondent again resides within Louisiana, notifies the Executive Director of his Louisiana residence, and receives written confirmation from the Executive Director;

9. 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;

10. Respondent shall have reliable access to a computer, internet, and telephone. In accordance with Board Rule §385 Respondent shall provide to the executive director their preferred telephone number and/or email address in writing for expedited communications regarding compliance with board order within forty-eight (48) hours of signing the Consent Order. Respondent shall reply to Board emails and telephone calls within four (4) hours of such communication. Respondent shall notify the Executive Director in writing of any change to their preferred telephone number and/or email address immediately upon change;

11. 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;

12. 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;

13. Respondent acknowledges that this Consent Order only addresses the specific violations outlined above;

14. Respondent authorizes the Investigating Board Member, John Marius, 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 the Investigative 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 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;

15. Respondent acknowledges that presentation to and consideration by the Board of this Consent Order, 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

16. Respondent acknowledges that this Consent Order does not become effective until approved by the Louisiana Physical Therapy Board through a majority vote of the membership present at an official board meeting; and

17. 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.

JEFFREY DELA CRUZ, Respondent
Louisiana Physical Therapist License No. 04183F
109 Lacrosse Circle
West Monroe, LA 71291

Submitted to the Board for approval by:

JOHN MARIUS, Investigatory Board Member

AGREED AND ACCEPTED by official action of the Board, this 18 day of May, 2022, at Lafayette, Louisiana.

LOUISIANA PHYSICAL THERAPY BOARD

JUDITH HALVERSON, Board Chair