



State of Louisiana
DEPARTMENT OF HEALTH AND HOSPITALS
Board of Physical Therapy Examiners

2014 WEST PINHOOK ROAD, SUITE 701
LAFAYETTE, LA 70508
318/262-1043
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In The Matter Of	-	CONSENT ORDER
DAVID D. HEBERT, P.T.	-	-----
License No. 01001	-	ADMINISTRATIVE CASE NO.
Respondent	-	94-100

TO: David D. Hebert, P.T.
c/o W. J. Riley, III
Millican, Cassidy and Riley
P. O. Drawer 1225
Jennings, Louisiana 70546

A Formal Evidentiary Hearing was scheduled before the Louisiana State Board of Physical Therapy Examiners (the "Board") on December 15, 1994, to address alleged, specific violations of the Louisiana Physical Therapy Practice Act by the Respondent, David D. Hebert, P.T. ("Hebert"), to-wit: "practicing physical therapy in violation of the provisions of this Chapter and any rules and regulations promulgated thereto in accordance with the Administrative Procedure Act," LSA R.S. 37:2413A(1); guilty of unprofessional conduct in violation of the Physical Therapy Practice Act, LSA R.S. 37:2413A,(7); violating other provisions of the Physical Therapy Practice Act LSA R.S. 37:2414(4); and for violating the Rules and Regulations promulgated by the Board, Rules and Regulations, Title 46, Sections 327E(1), and 325 et seq.

In attendance, at the Pre-hearing Conference were Respondent, David D. Hebert, his attorney, W. J. Riley, III; the complainant, namely: Rebecca B. Lege; and Michael A. Tomino, Jr., attorney for the Board.

Upon consideration of the discussion and evidence presented at the Conference, this Consent Order, effective January 1, 1994, is voluntarily entered into by and between the Board and Respondent, David D. Hebert:

FINDINGS OF FACT

1. Respondent, David D. Hebert, P.T., was a physical therapist possessing Louisiana License No. 1001 issued by the Board to practice physical therapy in the State of Louisiana in 1993 pursuant to the Physical Therapy Practice Act of Louisiana, LSA R.S. 37:2401 et seq.

2. Respondent performed physical therapy treatment on Caleb R. Sharp, then four years of age, beginning on May 31, 1993 through June 8, 1993.

3. Caleb was involved in a lawn mower accident which took place on March 22, 1993, which almost amputated his right foot. Thereafter, Caleb underwent a cross-leg graft and subsequently sought physical therapy services as rendered by Respondent.

4. Inappropriate name calling of the child was conducted by Respondent during physical therapy treatment.

5. Respondent made improper physical contact on the boy's buttock with the child's shoe during physical therapy treatment.

6. Respondent voluntarily agrees to the findings of fact, conclusions of law and terms of consent order set forth herein.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the following violations have occurred:

1. Respondent's conduct is unprofessional and as such is a violation of the Physical Therapy Act of Louisiana and the Rules and Regulations promulgated by the Board. LSA R.S. 37:2413A(1) and (7), and 37:2414(4); and Rules and Regulations Title 46, Sections 327E(1) and 325 et seq.

2. Respondent's violations of the provisions of the Physical Therapy Practice Act of Louisiana and the Rules and Regulations promulgated thereto establish grounds for the Louisiana State Board of Physical Therapy Examiners to enter into this consent order. LSA R.S. 37:2401 et seq.; and Rules and Regulations, Title 46, Sections 325, et seq.

TERMS OF CONSENT ORDER

Based upon the foregoing findings of fact and conclusions of law, Respondent and the Board, by vote of a quorum, mutually agree to the following:

1. Respondent shall undergo counselling with a professional counselor acceptable to the Board. The Board shall have contact with the professional counselor before and during treatment with regards to the nature of this Consent Order and the professional counselor shall report to the Board on Respondent's attendance and progress of the sessions.

2. The length and extent of the counselling shall be at the discretion of the professional counselor.

3. Respondent's license to practice physical therapy shall be placed on probation for a minimum of one calendar year beginning January 1, 1995. This probation shall be without any restrictions on his practice except to the extent that he shall be prohibited from personally rendering clinical treatment to any child 12 years of age or younger for the duration of his probation.

4. With regards to the prohibition for Respondent to treat any child 12 years of age or younger, such requirement shall become effective on December 15, 1994 and shall exist through December 31, 1995, unless the professional counselor suggests that the prohibition remain in effect beyond December 31, 1995, at which time the period of the prohibition shall conform to the professional counselor's recommendation.

5. Within five (5) days of the effective date of this Consent Order, Respondent shall submit a signed Affidavit to the Board that he has read the Physical Therapy Practice Act of Louisiana and the Rules and Regulations promulgated thereto.

6. During the entire prohibition period, Respondent is to be available for meetings with the Board or a representative committee of the Board upon reasonable notice.

7. At the end of the probation period, Respondent shall meet with the Board or a representative committee of the Board to discuss compliance with the probation.

8. Respondent's failure to comply with any of the terms of this Order shall be deemed just cause for the suspension or revocation of Respondent's licensure, or any other disciplinary action, as if such violation were enumerated among the causes provided in LSA R.S. 37:2413 and the Rules and Regulations promulgated by the Board.

9. If Respondent ceases to practice physical therapy in Louisiana, or does not practice continuously, for the term of his probation, the effect of the probationary practice shall be suspended for the duration of the cessation. Respondent may timely petition the Board in writing for review of this matter on the basis of personal hardship or other necessitous circumstances. The Board in its discretion may alter the terms of this provision depending upon the facts of the matter. "Timely" shall mean prior to the cessation or within five (5) days after the commencement of the cessation.

10. The existence and terms of this Consent Order will not be confidential or privileged information.

11. Respondent hereby releases the Board, its representatives and attorney from any obligations or liability in their endeavors to administer this Consent Order.

12. The effective date of this Consent Order shall be January 1, 1995, if Respondent executes and returns the Consent Order to the Board within five (5) days of his receipt of same.

13. Respondent shall pay the costs of the administrative proceeding.

14. Upon timely receipt by the Board of Respondent's signed Consent Order, payment of the costs of the administrative proceeding, and Affidavit that he has read the Physical Therapy Practice Act and the Rules and Regulations, the Board shall thereafter, upon completion of all renewal requirements, issue a license to practice physical therapy to Respondent for 1995 with the appropriate sanction stamped thereon.

THUS DONE AND PASSED-on the 10th day of January, 1995 at the City of Jennings, Parish of Jeff Davis, Louisiana, in the presence of the two undersigned competent witnesses, who hereunto sign their names with appearer and me, Notary, after due reading of the whole.

WITNESSES

Phillip B. Durio

Kamela Ray

David D. Hebert, P.T.

Notary Public

THUS DONE AND PASSED on the 19~~th~~ day of January
1994 at the City of Lafayette, Parish of Lafayette, Louisiana, in the
presence of the two undersigned competent witnesses, who hereunto
sign their names with appearer and me, Notary, after due reading of
the whole.

WITNESSES

LOUISIANA STATE BOARD OF
PHYSICAL THERAPY EXAMINERS

Lobby Reynolds

BY:

Paul A. Lamothe, Jr. P.T.

Wanda P. McMillan

Paul A. Lamothe, Jr., P. T.

Hubert J. [Signature]
Notary Public

AFFIDAVIT

: STATE OF LOUISIANA
: PARISH OF JEFFERSON DAVIS

BEFORE ME, the undersigned authority, personally came and appeared:

DAVID D. HEBERT

after being duly sworn did depose and state that:

In compliance with the requirements of that certain consent order in Administrative Case No. 94-100, he has read the Physical Therapy Practice Act of Louisiana and the rules and regulations promulgated thereto.

SWORN TO AND SUBSCRIBED before me, Notary, on this 10th day of

January, 1995.

WITNESSES:

Angela B. Duran

Kamela Ray

DAVID D. HEBERT

NOTARY PUBLIC