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

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LAFAYETTE, LA 70508
337/262-1043
FAX 337/262-1054

In the Matter of
DONALD FITZGERALD, P.T.
License No. 00399
Respondent

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CONSENT ORDER

ADMINISTRATIVE CASE NO.
2001-09

A Formal Evidentiary Hearing was scheduled before the Louisiana State Board of Physical Therapy Examiners (the "Board") on March 29, 2001, to address alleged, specific violations of the Louisiana Physical Therapy Practice Act by the Respondent, Donald Fitzgerald, P.T. ("Fitzgerald"), 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); violating provisions of the Physical Therapy Practice Act, LSA R.S. 37:2402A, 37:2407A, 37:2414(2); and for violating the Rules and Regulations promulgated by the Board, Rules and Regulations, Title 46, Sections 165A, 307A and 325 et seq.

In attendance, at the Pre-hearing Conference were Respondent, Donald Fitzgerald, P.T.; the Complainant, Gail Pearce, P.T.; and Michael A. Tomino, Jr., attorney for Board.

Upon consideration and discussion and evidence presented at the Conference and thereafter to the Board, this Consent Order, effective March 29, 2001, is voluntarily entered into by and between Respondent, Donald Fitzgerald, P.T. and the Board which was comprised of Sharon Toups, Pat Adams and Becky Lege' for the purposes of this proceeding.

FINDINGS OF FACT

1. Respondent, Donald Fitzgerald, P.T., was a physical therapist possessing Louisiana License No. 00399 issued by the Board to practice physical therapy in the State of Louisiana in 2000 pursuant to the Physical Therapy Practice Act of Louisiana, LSA R.S. 37:2401 et seq.
2. Respondent failed to timely renew his license for the calendar year of 2001.
3. Respondent failed to annually renew on or before December, 31, 2000. Respondent's application for renewal was received by the Board on or about February 7, 2001.

4. Respondent practiced physical therapy while employed at Opelousas Physical Therapy beginning on or about January 1, 2001, through February 7, 2001.

5. Respondent practiced physical therapy in the State of Louisiana without a license issued by the Board beginning January 1, 2001, through February 7, 2001.

6. Respondent failed to timely renew his license to practice physical therapy for the calendar year 2001 in violation of the Physical Therapy Practice Act of Louisiana and the Rules and Regulations promulgated by the Board.

CONCLUSIONS OF LAW

7. Respondent unlawfully practiced, held himself out, or designated himself, as a physical therapist without a license duly issued by the Board. LSA R.S. 37:2402A, 37:2414(2) and 37:2413A(1); and Rules and Regulations, Title 46, Sections 307A and 325 et seq.

8. Respondent unlawfully practiced physical therapy without timely renewing his 2001 license prior to the deadline establish by law for such renewal. LSA R.S. 37:2407A and 37:2413A(1); and Rules and Regulations, Title 46, Sections 165A and 325 et seq.

9. Respondent's violations of the provisions of the Physical Therapy Practice Act of Louisiana and the Rules and Regulations promulgated thereto constitute lawful grounds for the Louisiana State Board of Physical Therapy Examiners, upon due notice of hearing and proof of such violations, to suspend or revoke Respondent's license or other disciplinary action as provided by law. LSA R.S. 37:2402A, 37:2407A, 37:2414(2) and 37:2413A(1); and Rules and Regulations, Title 46, Sections 165A, 307A and 325 et seq.

DECISION

Based upon the foregoing Findings of Fact, Respondent and the Board, by vote of the quorum, mutually agree to the following:

1. Respondent shall pay \$250.00 lump sum to the Board as an agreed upon fine in this matter.

2. 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.

3. Respondent shall pay the costs associated with this proceeding.

4. 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 by the Board.

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

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

7. The effective date of this Consent Order shall be March 29, 2001, if Respondent executes and returns the Consent Order to the Board within five (5) days of his receipt of same.

8. Upon timely receipt by the Board of Respondent's signed Consent Order, payment of the \$250.00 fine, payment of costs associated with this proceedings, and Affidavit that he has read the Physical Therapy Practice Act and the Rules and Regulations, the Board shall thereafter issue a license to practice physical therapy to Respondent for 2001.

9. Upon Respondent timely complying with the requirements set forth in Paragraph 8, his licensure to practice physical therapy for 2001 shall be considered renewed and reinstated effective January 1, 2001.

10. Respondent declares that, before signing this Consent Order, he has carefully read this document, he knows and understands the contents thereof, he signs it as an act of his own free will, he understands its meaning and effect, he has had the opportunity to retain counsel if he so chose, he waives all rights to a formal public hearing and he consents to this Order.

THUS DONE AND PASSED, on the 14th day of March, 2001, at the City of Opelousas, Parish of St. Landry, 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:

Charlith M. Fitzgerald
Rebecca A. Saul

Donald Fitzgerald, P.T.
Donald Fitzgerald, P.T.

Novella Taylor
Notary Public

AGREED TO AND ACCEPTED this 29th day of March, 2001.

LOUISIANA STATE BOARD OF
PHYSICAL THERAPY EXAMINERS

Pat Adams, PT
Pat Adams, P.T.