



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

IN THE MATTER OF

DANIEL HENNING, PT

LICENSE NO. 08872

CONSENT ORDER

NUMBER: 2016-I-029

CONSENT ORDER

Mr. Daniel Henning, PT, ("Mr. Henning" or "Respondent") initially came to the attention of the Louisiana Physical Therapy Board ("LPTB" or "Board") in 2014 when he applied for a physical therapy license. In his initial physical therapy license application Mr. Henning disclosed a history of substance abuse. As a condition for licensure Mr. Henning was required to participate in the Confidential Recovering Physical Therapy Program ("CRPTP"). Mr. Henning signed the CRPTP *Confidential Participation Agreement* ("Agreement") on July 1, 2014. On twenty (20) different occasions and following repeated requests for compliance respondent failed to timely comply with the daily log-in/call-in requirement of Affinity, the alcohol and drug testing company utilized by the LPTB, as required by the Agreement. **It is important to note that Mr. Henning's drug and alcohol tests to date have been negative and he remains in recovery.**

FACTUAL BASIS FOR CONSENT ORDER

1. Respondent is, and at all times pertinent hereto, was a physical therapist licensed by the Board as evidenced by license number 08872.
2. When completing his initial application for licensure in 2014, Respondent disclosed a history of substance abuse.
3. An investigative committee of the Board was formed, including George Papale, General Counsel of the Board, Al Moreau, III, Investigative Board Member, and Charlotte Martin, Executive Director of the Board.

4. Mr. Henning cooperated with all requests for documents and information.
5. Reivew of Mr. Henning's medical records dated June 27, 2014 reveal that Mr. Henning reported a history of alcohol dependency, use of benzodiazepines, marijuana and some infrequent opiod use.
6. Shortly thereafter, Respondent was notified by the Louisiana Physical Therapy Board that he met the qualifications of Rule §357. Admission to RPTP as an Alternative to Disciplinary Proceedings. Mr. Henning signed his confidential *Acknowledgments & Certifications for the Recovering Physical Therapy Program* ("Certifications") on June 26, 2014, incorporated herein *in extenso*.
7. Respondent entered into the *Confidential Participation Agreement* ("Agreement") on July 1, 2014, incorporated herein *in extenso*. Therein Mr. Henning agreed to participate in an initial assessment and/or evaluation, Paragraph "2" of the Agreement; to fully participate in following the recommendations which result from the assessment, Paragraph "2" of the Agreement; and timely compliance with random drug and/or alcohol screening and the monitoring thereof, Paragraph "5" of the Agreement,
8. On December 16, 2014, Respondent registered with Affinity, the company utilized by the Louisiana Physical Therapy Board for random drug and alcohol testing.
9. On January 28, 2015 Respondent became eligible for licensure, and, under Board Rule, 357.A.2.b., the terms of his Agreement became active.
10. On February 4, 2015, following a delay unrelated to Board activity or the CRPTP, Respondent received his physical therapy license.
11. Between January 28, 2015 and June, 2015, Respondent failed to contact the Board to schedule an initial evaluation, allowing four (4) months to lapse without evaluation; and failed to check-in with Affinity fourteen (14) times.
12. In June 2015 Charlotte Martin, Executive Director of the LPTB, contacted Mr. Henning regarding his initial evaluation as required in Paragraph "2" of the Agreement. Mr. Henning underwent his initial evaluation and the Board received the report related to the same on or about June 20, 2015.
13. On June 26, 2015, the Investigative Committee met with Mr. Henning at the Board office in Lafayette, LA to discuss the terms of the CRPTP and ensure understanding, as well as to stress the importance of proactive communication and explain the consequences for failure to fulfill the terms of the Agreement.
14. Thereafter, on five (5) different occasions, October 20, 2015; November 18, 2015; December 19, 2015; May 1, 2016; and June 18, 2016, Mr. Henning failed to check-in with Affinity.

15. On June 21, 2016 Mrs. Charlotte Martin, Executive Director of the LPTB, sent Mr. Henning a letter notifying him of his non-compliance with the terms of the CRPTP Agreement and stating that future non-compliance will result in the initiation of formal disciplinary action.
16. On December 10, 2016 Mr. Henning again failed to check-in with Affinity for drug and alcohol testing in violation of the CRPTP Agreement. Furthermore, Mr. Henning failed to contact the board office to notify the staff of the missed check-in. As a result, the board office staff scheduled a "HairStat 5 Drug Panel" for Mr. Henning to be completed on December 15, 2016. The drug test result was negative for amphetamines, cocaines, opiates, PCP, and cannabinoids.
17. On December 12, 2016, without contacting the board office staff, Mr. Henning self-tested to show the Investigative Committee of the Board that his December 10, 2016 missed check-in was not to avoid a drug test. The observed urine self-test result was negative for amphetamines, cocaines, opiates, PCP, and cannabinoids.
18. **Mr. Henning is in recovery and continues to abstain from any mood altering drugs and substances unless appropriately prescribed by a licensed physician or dentist treating an illness or condition requiring such medication(s).**

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:

- A. The RPTP's objectives are to ensure "the health, safety, and welfare of the public through a program which closely monitors practitioners whose capacity to practice physical therapy with reasonable skill and safety to patients has been, or may potentially be, compromised because of the use of alcohol or drugs . . ." (Board Rule §355)
- B. When a licensee ceases to be in compliance with his RPTP Agreement, he shall be referred back to the board for regular disciplinary proceedings. (Board Rule §361)
- C. Paragraph "14" of the *CRPTP Agreement* provides that "[p]articipant agrees that full compliance with the terms and conditions of this agreement is a prerequisite of Participant's continued physical therapy practice. Participant agrees and acknowledges that failure to comply with the terms and conditions of this agreement can form the basis for disciplinary action under the practice act and board rules . . ."
- D. Paragraph "15" of the *CRPTP Agreement* provides that ". . . [p]articipant specifically agrees that non-compliance or complications relative to Participant's impairment during the monitoring period, as herein specified, warrant immediate action to enable the Board to protect the public. (a) Participant's repeated failure to contact the laboratory approved by

the RPTP for performing substance abuse tests or screens on Participant's bodily fluids or samples."

- E. The Board has the authority to suspend or revoke a professional license which it has issued, or place probationary conditions upon such license, upon proof that the licensee has practiced physical therapy in violation of the Practice Act, Board Rules, or standards of practice. (La. R.S. 37:2420A(1) and Board Rule §343)

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 and the Board, by vote of quorum, agree as follows:

1. Respondent's physical therapy license is on probation for a minimum period of eighteen (18) months from the date of acceptance of the Consent Order by the Louisiana Physical Therapy Board. 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 eighteen (18) month 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 by the deadline provided for payment following each visit;
3. Respondent shall provide a copy of this Consent Order to his employer(s) and direct supervisor(s) before providing services to that employer and shall have the employer(s) and direct supervisor(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 within (5) calendar days of reviewing. Respondent shall do this also with any new or subsequent employer(s) and direct supervisor(s) during the probationary period;
4. Respondent shall submit to the Board Executive Director a written request for approval of any work setting prior to accepting work. Once the setting is approved, Respondent shall notify the Executive Director in writing of all employment and/or contractual service arrangements which he has to work as a physical therapist within five (5) calendar days of securing employment or contractual service arrangements. Respondent shall do this also with any and all changes in such arrangements.

5. The eighteen (18) month 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 *twenty (20) hours* each week as such. If Respondent ceases to be regularly employed as a physical therapist in Louisiana, he shall notify the Executive Director in writing within *five (5) 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 *five (5) calendar days* of his return to practice;
6. Respondent shall write an essay of no fewer than 750 words explaining how his conduct violated the Practice Act and Board Rules and what he learned as a result of the disciplinary process. The essay shall be submitted to Charlotte Martin on or before Friday, March, 10, 2017 at 3:00 p.m. Upon request by the Board Executive Director, Respondent shall present his essay to the Board at a scheduled Board meeting;
7. Respondent shall pay the Board the sum of \$800.00 in partial reimbursement for legal and administrative expenses incurred in this matter, this amount may be paid in a lump sum, or monthly installments, if arranged in writing in advance with the Executive Director, over the eighteen (18) month of his probation. Failure to provide payment by the deadlines set forth in the written payment agreement may result in further disciplinary action by the Board;
8. During the probation period, Respondent shall abstain from the use and ingestion by any means of alcohol, including, but not limited to, foodstuffs, beverages, or toiletries containing alcohol; mood altering substances; any controlled substance as defined by Louisiana and federal laws; or any drugs requiring a prescription unless lawfully prescribed by an individual legally authorized to prescribe medications. Respondent shall also abstain from foodstuffs containing poppy seeds, hemp products, herbal or health preparations containing derivatives of controlled substances, and all over-the-counter medications, unless authorized in writing by a physician knowledgeable of Respondent's substance abuse history, except plain aspirin, plain acetaminophen, or ibuprofen. If Respondent is prescribed or authorized in writing a mood altering substance, controlled substance, drug, or over-the-counter medication, or administered such by physician order, Respondent shall within five (5) calendar days of obtaining such a prescription/medication provide the following in writing to the Executive Director:
 - i. Documentation of the prescription or written authorization;
 - ii. Witten explanation of the condition for which the medication is prescribed;
 - iii. Contact information for the prescribing or authorizing physician;
 - iv. Names and contact information for the following:
 1. Prescribing/authorizing healthcare provider;
 2. The pharmacy where the prescription has been filled, if applicable;
 3. The pharmacist filling the prescription, if applicable.
9. Respondent shall abstain from any and all opiate replacement therapies, including, but not limited to, Methadone and Buprenorphine;

10. Within five (5) calendar days of Board approval of this Consent Order and during the entirety of the probation period, Respondent shall provide the Executive Director the name, telephone number, and address for all physicians or other healthcare providers who are treating him during his probationary period and a listing of all medication he is prescribed for any medical condition. Respondent shall notify in writing any and all physicians or other healthcare providers who are treating him during his probationary period of his Consent Order, participation in the Recovering Physical Therapy Program, and ordered abstinence. Respondent shall provide copies of all written notification to physicians or other healthcare providers within five (5) calendar days of Board approval of this Consent Order and throughout the entirety of the probationary period.
11. By signing this document Respondent authorizes his treating physicians to provide information on his diagnosis treatment and prescriptions and communicate with the Board Executive Director or board agent.
12. In the event that Respondent ingests alcohol, mood altering substances, any controlled dangerous substance as defined by Louisiana and federal laws, and/or any other substance specified in Paragraph "8" during the eighteen (18) month probationary period, Respondent shall immediately cease practice and shall notify the Executive Director of the Board in writing within twenty-four (24) hours of ingestion;
13. Respondent shall comply with the requests of the Board or its designated agent for random drug and/or alcohol tests. Respondent is responsible for the cost of all testing. If tested by any other entity at any time during the probationary period, Respondent shall authorize and direct said entity or individual to furnish the Board Executive Director with a copy of the results for all drug and/or alcohol tests within twenty-four (24) hours of receipt of the test results.
14. During the probationary period, if any drug test of Respondent results in a positive finding for alcohol, mood altering substance, controlled dangerous substance, and/or any substance specified in Paragraph "8" taken without a valid prescription or authorization in accordance with Paragraph "8", or medication utilized in opiate replacement therapy in accordance with Paragraph "9", Respondent's license shall automatically and summarily be suspended without further action by the Board, subject to Respondent's right to a full due process hearing before the Board within a reasonable time period;
15. During Respondent's license probation, Respondent shall avoid all situations and environments where others are utilizing illegal substances. In the event that Respondent finds himself in a situation or environment where others are utilizing illegal substances, Respondent shall notify the Board Executive Director within twenty-four (24) hours of such occurrence;
16. Respondent shall participate in a weekly continuing care outpatient treatment program for the duration of the probationary period. Respondent shall document attendance on

Board-provided forms. Completed forms shall be submitted monthly to the Board Executive Director no later than the 15th day of the month following the month of program attendance. Forms may be submitted via FAX, mail or email attachment;

17. For the minimum eighteen (18) month probationary period, Respondent shall attend three (3) meetings per week of Alcoholics Anonymous, Narcotics Anonymous or other recovery support programs. Respondent shall obtain a 12-step sponsor and document attendance on Board-provided forms. Completed forms shall be submitted monthly to the Board Executive Director no later than the 15th day of the month following the month of meeting attendance. Forms may be submitted via FAX, mail or email attachment;
18. During the probationary period, Respondent shall attend a minimum of (1) one monthly individual counseling session with a Board approved substance abuse counseling professional. Respondent shall direct the approved substance abuse counseling professional to submit quarterly progress reports to the Board no later than the 15th day of the month in May, August, November, and February for the entirety of the probationary period.
19. During the probationary period, Respondent shall promptly comply, as directed, with the requests of the Board or its designated agent to obtain and provide to the Board Prescription Monitoring Program (“PMP”) reports at his expense. Respondent shall provide the Executive Director of the Board with the PMP report within five (5) calendar days of request by the Board or its designated agent;
20. Respondent shall comply with Board Rule §363 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 “7” 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;
21. 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 by the Board, or the Board’s representative;
22. 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 and within forty-eight (48) hours following any such change throughout the entirety of the probationary period. Respondent shall reply to Board emails and telephone calls within four (4) hours of such communication.
23. Respondent declares that, before signing this Consent Order, he is of sound mind and 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. Respondent has waived his right to counsel;

24. 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;
25. Respondent acknowledges that this Consent Order only addresses the specific violations outlined above;
26. Respondent authorizes the Investigating Board Member, Donald Cassano, PT, 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;
27. Respondent acknowledges that presentation to and consideration by the Board of this Consent Agreement, 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;
28. Respondent acknowledges that this Consent Order becomes effective only upon signature by the Board Chair; and
29. 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.

Daniel Henning, PT, OPT

Daniel Henning, PT

SWORN TO and subscribed before me, Notary Public 8th day of Feb., 2017
Lake Charles, Louisiana.

[Signature] #483
Notary Public

AGREED AND ACCEPTED by official action of the Board, the 15 day of February,
2017, at Lafayette, Louisiana.

Louisiana Physical Therapy Board
[Signature] PT, OCS
Donald Cassano, P.T., Chair