

**LOUISIANA PHYSICAL THERAPY BOARD**

**IN THE MATTER OF:     ART PRADO, PTA  
                              LICENSE NO. A1993G  
                              ADMINISTRATIVE COMPLAINT NO. 2014-I-009**

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter came before the Louisiana Physical Therapy Board (the “Board”) for hearing on January 28, 2016, pursuant to written notice, at which time a quorum of the Board was present, consisting of Al C. Moreau III, Danny P. Landry, Don Cassano Jr., Kristina Lounsberry, Gerald J. Leglue, Jr. M.D., and Patrick Cook. Art Prado, the Respondent, was not present and did not participate in the hearing despite receiving service and notice of the proceedings.. Other appearances include:

Michael Vallan, hearing officer for the Board;

George Papale, complaint counsel for the Board;

Courtney Newton, appearing as a witness.

Charlotte Martin, Executive Director for the Board, appearing as a witness.

**BACKGROUND AND MATTERS AT ISSUE**

Proceedings to adjudicate an administrative enforcement action were initiated by the filing of an Administrative Complaint on September 9, 2015. The Administrative Complaint was signed by the complaint counsel for the Board, Courtney Newton, and set forth in numbered paragraphs a concise statement of the material facts and matters alleged to be proven at the hearing. The Respondent did not respond to the Administrative Complaint. The Administrative Complaint was originally docketed for hearing on September 29, 2015 at 8:00 a.m. The hearing was ultimately continued to January 28, 2016 and began on that date at 8:39 a.m.

The Administrative Complaint alleged the following:

- A. Mr. Prado was issued Louisiana Physical Therapy Assistant license number A1993G by the Louisiana Physical Therapy Board on November 17, 2013.
- B. On May 27, 2014 the Louisiana Physical Therapy Board received a complaint alleging therein that during the course of Respondent’s employment, respondent failed to communicate with staff, failed to treat patients as scheduled, failed to complete treatment records as required by rule and law, and refused to return company equipment, valuing approximately \$8,000.00, until threat of police.
- C. During the course of the investigation Respondent informed Board staff, through is parents, that he was struggling with alcoholism.

- D. Thereafter, Mr. Prado was provided a proposed Consent Order detailing the facts of the complaint and investigation, violations related to his conduct, and discipline as outlined in the Order. Mr. Prado accepted the proposed Consent Order.
- E. On February 25, 2015 the Louisiana Physical Therapy Board voted to approve the Consent Order with amendments.
- F. On February 27, 2015, Board staff emailed Respondent notifying him of the amendments, and request that Respondent sign, notarize and return the Consent Order if he accepts all amendments therein.
- G. On April 8, 2015, forty-two (42) days following the initial communication, following repeated attempts to communicate with Mr. Prado by Board staff, the signed and notarized Consent Order was received at the Board office. The entirety of the Consent Order is incorporated by reference into this allegation as if copied herein *in extenso* and is attached to this Administrative Complaint as Attachment "1."
- H. Following receipt of the signed and notarized Consent Order, on April 8, 2015, Board staff sent Respondent an email addressing the terms of the Consent Order, required documentation, best means to communicate, and information regarding Affinity Health System, the company utilized by the Board to schedule random drug and alcohol testing.
- I. On April 11, 2015, Mr. Prado communicated with Board staff regarding the Consent Order, the importance of daily communication, and Affinity Health System.
- J. On April 13, 2015, following three (3) missed Affinity call-ins, Board staff attempted to contact Mr. Prado, but was unable to do so. Later that same day Mr. Prado contacted Board staff by phone requesting that he call back after hours to discuss the missed call-ins. Since this telephone call, Mr. Prado has not communicated with Board staff.
- K. On April 30, 2015, respondent failed to renew his license thereby allowing his license to expire.
- L. Respondent has not once checked-in with Affinity either by phone or email, and accordingly has never submitted to an alcohol and drug test as required in Paragraph "H" of the Consent Order.
- M. As of August 31, 2015 Respondent failed to fulfill the following provisions found within the April 6, 2015 Consent Order:
1. Paragraph "D", fully participate in the Recovering Physical Therapy Program (RPTP);
  2. Paragraph "E", ninety (90) meetings in ninety (90) days of Alcoholics Anonymous, Narcotics Anonymous or other recovery support programs;

3. Paragraph “H”, comply with as directed, with the requests of the Board or its designated agent for random drug tests;
4. Paragraph “K”, complete an Ethics and Boundaries Assessment Examination through Ethics and Boundaries Services, LLC (“EBAS”) within six (6) weeks of Consent Order;
5. Paragraph “O”, pay the Board the sum of \$1,500.00 in partial reimbursement for legal and administrative expenses incurred in this matter, this amount to be paid in equal monthly installments.

N. Paragraph “Q” of the Consent Order states that “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.”

### **VIOLATIONS ALLEGED**

Based on the factual allegations set forth in the Administrative Complaint, the Administrative Complaint alleged that the Respondent violated the provisions of the Louisiana Physical Therapy Practice Act, the Physical Therapy Rules and Regulations (Rules) as follows:

1. The Board has authority to pursue a complaint through administrative action not withstanding lapsed license due to the Board’s continuing jurisdiction.
2. 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.
3. The Board has the authority to suspend or revoke a professional license which it has issued, or place probationary conditions on such license upon proof of unprofessional conduct, including, but not limited to, departure from, or failing to conform to the *Minimal Standards of Acceptable and Prevailing Physical Therapy Practice*, the Code of Ethics and related documents of the APTA. La. R.S. 37:2420A(7) and Board Rule § 345B(1).
4. The Board has the authority to initiate regular disciplinary proceedings when a licensee ceases to be in compliance with the RPTP Agreement Under Board Rule § 361.
5. The Board has the authority to discipline licensees under a Consent Order for failure to respond to Board communications within four (4) [hours] pursuant to Board Rule § 385.
6. The Recovering Physical Therapy Program (RPTP) is intended “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.” Rule § 355A(1). The Board has the authority to order an individual to participate in the RPTP. Rule § 359A.

## **FINDINGS OF FACT**

On January 28, 2016, Complaint counsel presented evidence on the issues of fact; argument on the applicable law and policy; called, examined, and cross-examined witnesses, and was given an opportunity to offer and introduce documentary evidence and any other exhibit needed for a full and true disclosure of the facts. The Board made the following findings of fact:

On April 6, 2015, the Respondent entered into a Consent Order with the Board in Case Number 2014-I-009, a copy of which was introduced by Complaint counsel and admitted into evidence.

The Consent Order was entered to settle allegations related to the Respondent's failure to communicate with staff at his place of employment, his failure to treat patients as scheduled, his failure to complete treatment records as required by rule and law, his failure to return his employer's equipment until police action was threatened, and his admitted struggles with alcoholism.

Under the Consent Order, the Respondent's license was suspended for six months and the Respondent was placed on probation for five (5) years following the suspension.

The Consent Order required that, during the suspension and probation period, the Respondent refrain from the use of and ingestion by any means of any alcohol and/or controlled dangerous substance without a prescription, and that the Respondent attend ninety (90) meetings in ninety (90) days of Alcoholics Anonymous, Narcotics Anonymous, or other recovery support program.

The Consent Order further required that, during the suspension and probation period, the Respondent comply with Board requests for random drug and alcohol tests arranged by the Board.

The Consent Order also required that the Respondent complete an Ethics and Boundaries Assessment Examination through Ethics and Boundaries Services, LLC within six (6) weeks of the Consent Order, as well as pay the Board \$1,500 in partial reimbursement for legal and administrative expenses.

The Consent Order further required the Respondent to cooperate fully with the Board in providing information and documentation when requested by the Board.

The Consent Order additionally required the Respondent to participate in the Recovering Physical Therapy Program (RPTP), which includes the execution of an RPTP Participation Agreement.

The Consent Order stated that the failure to comply with the terms of the Consent Order could lead to further disciplinary action.

According to the testimony of Charlotte Martin, Executive Director for the Board, on April 8, 2015, she attempted unsuccessfully to contact the Respondent by phone, and thereafter, sent an email to Respondent addressing the terms of the consent order, providing contact information for Affinity Health System (“Affinity”), which is the company contracted by the Board to perform drug and alcohol testing, and providing Respondent a deadline of April 9, 2015 to register with Affinity.

On or about April 10, 2015, Ms. Martin spoke with the Respondent and provided him information about registering with Affinity and making daily check-ins with Affinity and provided him with contact information for Affinity. Ms. Martin stressed the importance of registering with Affinity and making the daily check-ins as those actions were required under the Consent Order. Respondent stated that he understood and that he would register with Affinity.

As of April 13, 2015, the Respondent had still not registered with Affinity nor made any check-ins with Affinity. Ms. Martin spoke with Respondent on that date and again told him that he had to register with Affinity and perform daily check-ins with Affinity. Again, Respondent stated that he understood, and that he would register with Affinity.

After April 13, 2015, Ms. Martin received no communications from Respondent, despite numerous attempts to contact him, until September of 2015 when the current complaint process began. Despite her repeated statements to Respondent, Respondent never registered with Affinity and never performed a single check-in with Affinity. During that time, Respondent submitted no information to Ms. Martin or the Board showing that he had complied with any terms of the Consent Order, and, to this date, Respondent has not submitted any documentation or provided any verbal statements establishing that he complied with any of the terms of the Consent Order.

### **CONCLUSIONS OF LAW**

Based on the preceding findings of fact, the Board concludes that the Respondent’s actions constitute violations of the following:

- A. By failing to register for drug and alcohol screenings and failing to check-in and appear for drug and alcohol screening and testing as required by the Board Consent Order, the Respondent has violated Board Rule § 345(B)(12), and such conduct is also a basis for disciplinary action for Respondent’s failure to comply with the terms and conditions of a Board Order, as specified in Board Rule § 343(C).
- B. By failing to fully participate in the Recovering Physical Therapy Program, Respondent failed to comply with the terms and conditions of a Board Order, as required in Board Rule § 343(C).
- C. By failing to attend ninety (90) meetings in ninety (90) days of Alcoholics and/or Narcotics Anonymous meets, Respondent failed to comply with the terms and conditions of a Board Order, as required in Board Rule § 343(C).

- D. By failing to complete an Ethics and Boundaries Assessment Examination through Ethics and Boundaries Services, LLC (“EBAS”) within six (6) weeks of the Consent Order, Respondent failed to comply with the terms and conditions of a Board Order, as required in Board Rule § 343(C).
- E. By failing to pay the Board the sum of \$1,500 in partial reimbursement for legal and administrative expenses, Respondent failed to comply with the terms and conditions of a Board Order, as required in Board Rule § 343(C).
- F. By failing to respond to Board communications within four (4) hours, Respondent failed to comply with the requirements of Board Rule § 385 as well as the terms and conditions of a Board Order, as required in Board Rule § 343(C).
- G. By Respondent’s conduct with the Board, its Investigative Committee, and its Executive Director, as well as other actions, Respondent has violated the terms of the Consent Order, La. R.S. 37:2420(A)(7), and Board Rule § 345, and has engaged in a level of conduct as to constitute unprofessional conduct under Board Rule § 345(B)(1), including, but not limited to, departure from, or failing to conform to the *Minimal Standards of Acceptable and Prevailing Physical Therapy Practice*, the Code of Ethics and related documents of the APTA.

### SANCTIONS

In view of the foregoing findings, the following sanctions are imposed:

**IT IS ORDERED** that the license of Respondent, Art Prado, to engage in the practice of a Physical Therapist Assistant, is hereby suspended immediately, for a period of not less than two (2) years, and it shall remain suspended until reinstated by an Order of the Board, based upon his compliance with the following terms and conditions:

- A. Respondent shall undergo an evaluation by a qualified substance abuse and psychological evaluator approved by the Board and the Board shall receive the recommendations of the qualified substance abuse and psychological evaluator performing the evaluation, the expense of which shall be paid by the Respondent.
- B. During the suspension period, the Respondent shall abstain from the use of and ingestion by any means of any controlled dangerous substance, as defined by Louisiana and federal laws, including, but not limited to alcohol. If Respondent is prescribed a medication by a treating physician which is a controlled dangerous substance, he shall within three (3) days of obtaining such prescription provide documentation of the prescription, the condition for which the medication is prescribed and contact information for the prescribing physician. He will provide to the Board the names and contact information for all physicians who are treating himr during the probationary period and a listing of all medication he is prescribed for any medical condition.



- C. Respondent shall regularly attend meetings of Alcoholics Anonymous and/or Narcotic Anonymous, attending and documenting at least ninety (90) meetings within the ninety (90) days and the Respondent shall provide to the Board, through its Executive Director, proof that he attended such meetings by means of a signed statement by any supervisor or person acting in a supervisory capacity of said meetings.
- D. Respondent shall write an essay of no fewer than 750 words explaining how his conduct violated the Louisiana Physical Therapy Practice Act, Board Rules, the Consent Order, and the Participation Agreement. This essay shall be submitted to the Executive Director.
- E. During the suspension period, Respondent shall promptly comply, as directed, with Board requests for random drug and alcohol tests arranged by the Board, Respondent shall pay for or reimburse the Board for the expense of such tests.
- F. During the suspension period, if any drug or alcohol screening/test of Respondent results in a positive finding for any controlled dangerous substance, including, but not limited to alcohol, for which Respondent does not have a legitimate prescription, Respondent's license shall be subject to further disciplinary action.
- G. Respondent shall cooperate with the Board, its agents, and his Monitor in providing full access to any and all records and information contained in records kept by any person or entity regarding his treatment and recovery from substance abuse. Respondent shall authorize his treating professionals to fully and candidly discuss his condition, attitude and treatment status with her Monitor and with the Board's agent.
- H. Respondent shall reimburse the Board for all costs associated with the administrative hearing and investigative expenses.
- I. Respondent shall comply with the requirements of Board Rule § 187, concerning the Reinstatement of Lapsed Licenses.
- J. Respondent shall participation in the Recovering Physical Therapy Program and enter into a Recovering Physical Therapy Program Participation Agreement with the Board.
- K. Respondent shall remain subject to the terms and conditions of the Consent Order entered into with the Board on April 6, 2015, and the terms of the Consent Order shall be in effect for the duration of the suspension period.

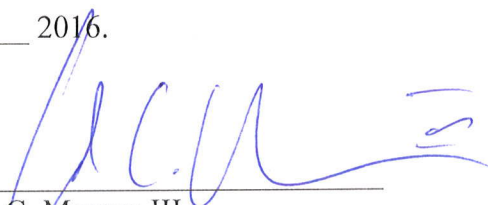
**IT IS FURTHER ORDERED** that upon satisfaction of the preceding terms, and Order by the Board, Respondent, Art Prado's license to practice as a Physical Therapist Assistant shall be reinstated **on probation**, subject to the strict compliance with the following terms and conditions:

- L. Following suspension of license, Respondent's license will be placed on probation for a period of five (5) years ("probationary period") beginning with the date of the Board's reinstatement of Respondent's PTA license.
- M. The probationary period shall be extended for any period of time in which the Respondent is not employed as a Physical Therapist Assistant 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 Assistant in Louisiana, he shall notify the Executive Director in writing within ten (10) days of the last day he has practiced physical therapy in Louisiana. Likewise, if Respondent returns to work as a Physical Therapist Assistant within the State of Louisiana, he shall notify the Executive Director in writing within ten (10) days of his return to practice.
- N. During the probationary period, the Respondent shall abstain from the use of and ingestion by any means of any controlled dangerous substance, as defined by Louisiana and federal laws, including, but not limited to alcohol. If Respondent is prescribed a medication by a treating physician which is a controlled dangerous substance, he shall within three (3) days of obtaining such prescription provide documentation of the prescription, the condition for which the medication is prescribed and contact information for the prescribing physician. He will provide to the Board the names and contact information for all physicians who are treating him during the probationary period and a listing of all medication he is prescribed for any medical condition.
- O. During the probationary period, Respondent will participate in the Recovering Physical Therapy Program (RPTP), and Respondent shall execute an RPTP Participation Agreement. This participation includes Respondent's submission to psychological and substance abuse evaluation and testing to be performed by an appropriate professional designated by the Board. Respondent will reimburse the Board for the expense of such testing and evaluation on the schedule agreed to with the Executive Director.
- P. Respondent shall remain subject to the terms and conditions of the Consent Order entered into with the Board on April 6, 2015, and the terms of the Consent Order shall be in effect for the duration of the probationary period.
- Q. 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.
- R. During the probationary period, Respondent shall promptly comply, as directed, with Board requests for random drug tests arranged by the Board. Respondent shall pay for or reimburse the Board for the expense of such tests. During the probationary period, Respondent shall also authorize and direct his employer and any recovery treatment program in which he participates to furnish to the Board copies of results for all drug tests conducted by those entities.



- S. During the probationary period, if any drug or alcohol screening/test of Respondent results in a positive finding for any controlled dangerous substance, including, but not limited to alcohol, for which Respondent does not have a legitimate prescription, Respondent's license shall be subject to further disciplinary action.
- T. During the probationary period, Respondent shall provide a copy of this Order to his employer(s) and supervising physical therapist before providing services to that employer and shall have the employer(s) and the supervising physical therapist notify the Executive Director in writing that they have received and reviewed a copy of this Order. Respondent shall do this also with any new or subsequent employer(s)/supervising physical therapist during the probationary period.
- U. During the probationary period, Respondent shall not seek or accept work in a setting that has not been approved in advance by the Executive Director and shall notify the Executive Director in writing of all employment and/or contractual service arrangements which she has to work as a Physical Therapist Assistant and shall update the Executive Director in writing within five (5) days of any and all changes in such arrangements.

Signed this 23 day of February 2016.

  
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Al C. Moreau III  
Chairman