
In the Matter of	* LOUISIANA PHYSICAL THERAPY BOARD	
	*	
MARY CATHERINE SHANKS, PT	*	
PT License No. 00183	*	Case Number 2012-I-021
Respondent	*	

CONSENT ORDER

Mary Catherine Shanks, P.T. (“Ms. Shanks” or “Respondent”), came to the attention of the Louisiana Board of Physical Therapists (“Board”) on July 3, 2012 when she self-reported a workplace incident involving alcohol. At the time of the incident, Ms. Shanks worked for Egan Healthcare Services (“Egan”). On June 21, 2012, Ms. Shanks submitted a letter of resignation to Egan. Egan, however, did not accept Ms. Shanks’ resignation and chose to work with Ms. Shanks through her recovery. On June 22, 2012 Respondent was voluntarily admitted to the Townsend Intensive Outpatient Program for addiction treatment. Ms. Shanks successfully completed the eight week program.

Following the program, however, Ms. Shanks did not comply with the Townsend Continuing Care Plan. In addition, Respondent did not accept delivery of a certified letter from the Board, dated August 24, 2012, regarding participation in the Board’s Recovering Physical Therapy Program (“RPTP”). Finally, the Board received information that Egan shared with Townsend relating to Ms. Shanks admitted use of alcohol following detection by smell after Ms. Shanks arrived at the workplace on or about March 4, 2013.

Respondent was aware that her conduct had been reported to the Board and responded to a written request to participate in an Informal Conference at the Board office on Wednesday, March 20, 2013. Respondent appeared on that day and participated in the Conference with Board Member, Al Moreau, III, Executive Director, Cheryl Gaudin, and legal counsel representing the Board, George M. Papale.

At the Informal Conference Respondent acknowledged that she had not participated in the Townsend Continuing Care because she did not think it was “mandatory”. She reported that she is now participating in continuing care, is attending three AA meetings a week, is seeing a psychiatrist and is following all of the recommendations specified in Townsend’s March 4, 2013 letter to the Board. Ms. Shanks also acknowledged the conduct recited above and that her use of alcohol to the extent that it could be detected by smell in the workplace on two occasions implicated violations of Louisiana Physical Therapy Practice Act and Board Rules. Following the discussion, Ms. Shanks expressed her intent to resolve the pending complaint on the terms of this Consent Order as verbally proposed by Board Member, Mr. Moreau.

FACTUAL BASIS FOR CONSENT ORDER

On July 3, 2012 Respondent self-reported a workplace incident involving alcohol. Following completion of an eight week addiction treatment program, Respondent failed to participate in the required Continuing Care Plan and ignored Board correspondence related to her voluntary participation in the RPTP. Finally, following treatment, Respondent admitted consumption of alcohol after the smell of alcohol was detected on her person while in the workplace on or about March 4, 2013.

CONCLUSIONS OF LAW

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. The Board has the authority to suspend or revoke a professional license upon due proof that a licensee has "been habitually intemperate or abused controlled dangerous substances." La. R.S. 37:2420A(5). Rule 351A(1) defines "habitually intemperate" as the "repeated excessive use or abuse of alcohol." Respondent acknowledges her habitual impertinence.
2. Any person who "engage[s] in the practice of physical therapy while under the influence of mood-altering substance that compromises the professional judgment or practice or has the potential to compromise the medical judgment or practice" is a violation of the Practice Act and Board Rules.
3. As used in the Physical Therapy Act, "unprofessional conduct" includes: departure from, or failure to conform to the standards of acceptable and prevailing physical therapy practice in the State of Louisiana, regardless of whether actual injury to a patient results therefrom. Rule 345B(1).
4. Board Rules incorporate the *Code of Ethics* and *Guide for Professional Conduct* of the American Physical Therapy Association. Rules 345B.
5. By working as a physical therapist following the consumption of alcohol, Respondent engaged in unprofessional conduct. Rules 345B(1) and 373.
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". Rule 355. The Board has the authority to order an individual to participate in the RPTP. Rule 359A.

ORDER

Pursuant to the foregoing Findings of Fact and Conclusions of Law, and in order to avoid further administrative and judicial proceedings, Respondent and the Board, by vote of quorum,

agree as follows:

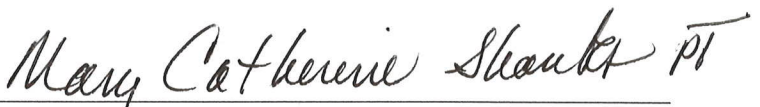
- A. Respondent is placed on probation for a period of three years (“probationary period”) beginning with the date this Consent Order is accepted by the Board.
- B. The probationary period shall be extended for any period of time in which the Respondent is not employed as a physical therapist within 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, she shall notify the Executive Director in writing within ten (10) days of the last date she has practiced physical therapy in Louisiana. Likewise, if Respondent returns to work as a physical therapist within the State of Louisiana, she shall notify the Executive Director in writing within ten (10) days of her return to practice.
- C. During the probationary period, Respondent shall abstain from the use of alcohol and ingestion by any means of any controlled dangerous substance as defined by Louisiana and federal laws. If Respondent is prescribed a medication by a treating physician which is a controlled dangerous substance, she shall within three (3) days of obtaining such a prescription to provide documentation of the prescription, the condition for which the medication is prescribed, and contact information for the prescribing physician. She will provide to the Board the names and contact information for all physicians who are treating her during the probationary period and a listing of all medication she is prescribed for any medication condition and by signing this document authorizes her treating physicians to provide information on her diagnosis, treatment and prescriptions to the Board Executive Director.
- D. During the probationary period Respondent will participate in the Recovering Physical Therapy Program (RPTP). This participation includes Respondent’s ongoing and strict compliance with the recommendations specified by Townsend in its correspondence to the Board of March 4, 2013 including testing for Medical Monitoring for Adherence to her treatment plan, attendance at the Tuesday and Thursday Continuing Care groups, submission to weekly tests to ensure that she is adherent to her medical plan and attendance at a minimum of 3 AA meetings per week and maintaining a written record of those meetings and a meeting log initialed by the group moderator. In addition, the Board reserves the right to have Respondent submit to psychological and substance abuse evaluations and testing to be performed by an appropriate professional designated by the Board and shall reimburse the Board for the expense of such testing and evaluation on a schedule agreed to with the Executive Director. In the event of such evaluation, the Respondent shall authorize release to the Board of the report made and data gathered as a result of this testing and evaluation. If, as a result of such evaluations, it is recommended that the Respondent receive additional treatment, Respondent shall do so at her own expense. Respondent further agrees to sign all releases and authorizations required to enable the Board and its RPTP to obtain reports, evaluations, test results from any physicians, health care providers, group moderators or other treating professionals.
- E. Respondent shall regularly attend meetings of Alcoholics Anonymous and/or Narcotics

Anonymous, attending and documenting at least ninety meetings within the ninety days following the Board's acceptance of this Consent Order. This requirement may be satisfied in part by attendance at the AA meetings recommended by Townsend.

- F. 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.
- G. During the probationary period, Respondent shall promptly comply, as directed, with Board requests for random drug tests arranged by the Board and shall reimburse the Board for the expense of such tests. She shall also authorize and direct her employer and any recovery treatment program in which she participates to furnish to the Board copies of results for all drug tests conducted by those entities.
- H. If any drug test of Respondent results in a positive finding for alcohol or any controlled dangerous substance for which Respondent does not have a legitimate prescription as specified in paragraph C of this Consent Order, 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 period to determine her future status as a licensee.
- I. Respondent shall write an essay of no fewer than 750 words explaining how her conduct violated the Practice Act and Board rules and what she has learned as a result of this disciplinary process. This essay shall be submitted to the Board Executive Director no later than May 24, 2013.
- J. Respondent authorizes the Board, its agent and her Monitor to have full access to any and all records and information contained in records kept by any person or entity regarding her treatment and recovery from substance abuse. Respondent further authorizes her treating professionals to fully and candidly discuss her condition, attitude and treatment status with her Monitor and with the Board's agent.
- K. Respondent shall provide a copy of this Consent Order to her employer(s) before providing services to that employer and shall have the employer(s) notify the Executive Director in writing that she has received and reviewed a copy of this Consent Order; Respondent shall do this also with any new or subsequent employer(s) during the probationary period.
- L. Respondent shall not seek or accept work in a setting that has not been approved in advance by the Board 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 and shall update the Executive Director in writing within five (5) days of any and all changes in such arrangements.
- M. Respondent declares that, before signing this Consent Order, she has carefully read this document, that she waives the participation and advice or legal counsel, that she understands the contents, and freely consents to it as valid and binding upon him. Recognizing her right

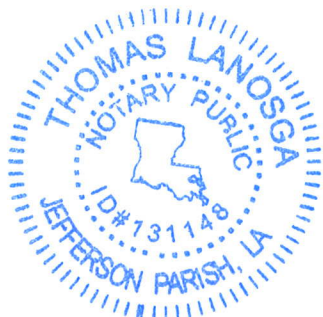
to have notice of allegations or charges asserted against her, to administrative adjudication of such allegations or charges, pursuant to La. R.S. 49:955-958, and to a subsequent decision rendered upon written findings of fact and conclusions of law, Mary Catherine Shanks nonetheless waives these rights and proceedings and, pursuant to La. R.S. 49:955D and Board Rule 387, agrees to entry of this Consent Order.


- N. Respondent authorizes the Investigating Board Member, Al Moreau, III, legal counsel assisting the Investigating Board Member, to present this Consent Order to the full Board for its consideration and to fully disclose to 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 Investigating Board Member's authority to file a formal Administrative Complaint against her, 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, her right to have notice of any allegations or charges asserted against her, to administrative adjudication of such allegations or charges, and to a subsequent final decision rendered upon written findings of fact and conclusions of law.
- O. Respondent acknowledges that this Consent Order becomes effective only upon signature by the Board Chair and recognizes that her failure to comply with any term of this Consent Order is a basis for further disciplinary action by the Board.
- P. 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 as proof of compliance or commitment.



Mary Catherine Shanks, P.T. 00183

SWORN TO AND SUBSCRIBED on this 11th day of April, 2013,
before me, Notary Public, at Harahan, Louisiana.





THOMAS LANOSGA, Notary Public
Notary Public #131148
Parish of Jefferson, State of Louisiana
-with Statewide Jurisdiction-
My Commission is issued for life

AGREED AND ACCEPTED by official action of the Board, the ___ day of _____,
2013, at Lafayette, Louisiana.

LOUISIANA PHYSICAL THERAPY BOARD

Donna "Dee" Cochran, PT