

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE PHYSICAL THERAPY EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF	:	FINAL DECISION & ORDER
	:	FOR REMEDIAL EDUCATION
BARBARA A.E. FLAHERTY, P.T.,	:	
RESPONDENT.	:	ORDER 0000948

Division of Enforcement Case No. 09PHT002

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Barbara A.E. Flaherty, P.T.
4144 Coronado Lane
Oshkosh, WI 54902

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Physical Therapy Examining Board
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Barbara A.E. Flaherty, P.T., Respondent, date of birth February 3, 1949, is licensed by the Physical Therapy Examining Board as a physical therapist in the state of Wisconsin pursuant to license number 1263-24, which was first granted July 17, 1973.

2. Respondent's address of record with the Wisconsin Physical Therapy Examining Board is 4144 Coronado Lane, Oshkosh, WI 54902.

3. At all times relevant to this action, Respondent was employed as a physical therapist at Samaritan Health Center, 531 E. Washington Street, West Bend, Wisconsin.

4. This is the first time that Respondent's professional activities have come to the Board's attention.

5. On March 11, 2008, 80 yoa GW fell while walking unassisted at Samaritan Health Center, where she was a resident. On March 12, 2008, 80 yoa GW died of apparent cardiac arrest during hip replacement surgery. GW's death certificate identified "complications from subcapital fracture of right hip".

6. Prior to her death, GW was medically frail, with a complex history including cardiac disease with a pacemaker, malunion of left ankle with lateral subluxation, knee arthroplasty, degenerative arthritis, diabetes mellitus, chronic renal failure, breast cancer with mastectomy and post decompressive laminectomy (spinal stenosis). On February 20, 2008, a neurologist diagnosed GW with early stage Parkinson's disease, and indicated GW would have to be careful walking and transferring.

7. Respondent provided physical therapy to GW prior to her death. Between February 28, 2008, and March 7, 2008, Respondent provided seven one-hour physical therapy sessions. During that time GW ambulated with "assist of one", meaning staff walked with GW with a belt around her waist, and other safety measures. On March 6, 2008, Respondent released GW from "assist of one" to independent ambulation with a walker, and supervision at night. On March 11, during the fall that precipitated her death, GW had been walking unaided.

8. On January 21, 2009, a member of GW's family complained to the Department concerning care provided to GW, and particularly, the apparently abrupt manner in which GW was released to independent ambulation. The complaint concluded:

In summary, the fact that [GW] fell just five days after the change in her level of care; the physical therapist, according to records, did not consult with a multidisciplinary team to make an informed decision; and the physicians orders were not signed until after [GW]'s death; lead me to believe that negligence on the part of the physical therapist...played a vital role in my mother's fall, which lead to her untimely death.

9. Following an investigation, the Division has determined that physical therapy care Respondent provided to GW was within standards of at least minimal competence, the power of attorney was appropriately consulted and nursing staff was trained to address the change in GW's level of care. An expert opined that it is possible that GW made sufficient progress to support the change in care level.

10. While care Respondent provided to GW was within the standard of minimal competence, it is obvious that Respondent's records of physical therapy she provided to GW did

not adequately document Respondent's assessments of and consultations about GW. Failure to fully and timely create and maintain patient health care records places patients at risk for lapses or errors in patient care, untimely referrals and medication errors.

CONCLUSIONS OF LAW

The Wisconsin Physical Therapy Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 448.57, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

ORDER

IT IS HEREBY ORDERED as follows:

1. Within 6 months of the date of this Final Decision and Order, Respondent shall successfully complete at least 6 hours of continuing education in medical record keeping for physical therapists. The activities undertaken in satisfaction of this Order must be pre-approved by the Physical Therapy Examining Board or its designee. Respondent will be responsible for locating a course or courses satisfactory to the Physical Therapy Examining Board and for obtaining the required preapproval of the course or courses through the Department Monitor at the address below.

2. Respondent shall, within 30 days of completion of this educational requirement, file an affidavit with the Physical Therapy Examining Board stating under oath that she has attended in its entirety the course approved for satisfaction of this requirement along with supporting documentation of attendance from the sponsoring organization. Requests for preapproval, the affidavit of attendance and the supporting documentation of attendance will be filed with:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, Wisconsin 53708-8935

All certifications, affidavits or other documents required to be filed with the Physical Therapy Examining Board will be deemed filed upon receipt by the Department Monitor. Limitation of Respondent's license shall be removed upon receipt by the Division of proof of satisfactory completion.

3. Respondent will be responsible for paying the full cost of attendance at this course.

4. Respondent shall, within ninety (90) days from the date of this Order, pay costs of this proceeding in the amount of nine hundred (\$900.00) dollars. Payment shall be made payable to the Wisconsin Department of Regulation and Licensing and mailed to the Department Monitor at the address provided above.

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit payment of the costs as ordered or fails to comply with the ordered continuing education, as set forth above, the Respondent's license may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs or completion of the continuing education.

6. This Order is effective on the date of its signing.

PHYSICAL THERAPY EXAMINING BOARD

By:


A Member of the Board

7/7/11
Date