

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



### Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

#### Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>

- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DSPS website:** An individual who believes that information on the website is inaccurate may contact [DSPS@wisconsin.gov](mailto:DSPS@wisconsin.gov)

**STATE OF WISCONSIN  
BEFORE THE PHYSICAL THERAPY EXAMINING BOARD**

---

**IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST**

**FINAL DECISION AND ORDER  
WITH VARIANCE**

Order No. 0004151

**CHRISTOPHER W. HANSEN,  
RESPONDENT.**

DHA Case No. SPS-14-0018  
DLSC Case No. 12 PHT 019

---

**BACKGROUND**

On June 1, 2015, Administrative Law Judge Jennifer Nashold (ALJ), Division of Hearings and Appeals, issued a Proposed Decision and Order (PDO) in the above referenced matter. The PDO was mailed to all parties. No objections to the PDO were filed. On July 7, 2015, the Physical Therapy Examining Board (Board) met to consider the merits of the PDO. The Board voted to approve the PDO with variance. The PDO is attached hereto and incorporated in its entirety into this Final Decision and Order with Variance (Order).

**VARIANCE**

Pursuant to Wis. Stat. §§ 440.035(1) and 448.57, the Board is the regulatory authority and final decision maker governing disciplinary matters of those credentialed by the Board. The matter at hand is characterized as a class 2 proceeding pursuant to Wis. Stat. § 227.01(3)(b). The Board may make modifications to a PDO, in a class 2 proceeding, pursuant to Wis. Stat. § 227.46(2), provided the Board's decision includes an explanation of the basis for each variance.

In the present case, the Board adopts the PDO in its entirety except for the following variances:

1. During the pendency of this proceeding, Respondent's license to practice physical therapy (# 9916-24) expired on February 28, 2015. Respondent's license has not been renewed to date. Wisconsin Stat. § 448.57(2) gives the Board the authority to reprimand a *licensee* or to deny, limit, suspend, or revoke a *license* granted under this subchapter if the Board finds a violation. Since the Respondent does not have an active license at this time, the appropriate remedy and discipline is to suspend Respondent's five (5) year right to renew under Wis. Stat. § 440.08(3), providing for a stay of such suspension once Respondent meets the requirements of the Order.
2. If the Respondent is granted an initial stay of the suspension of his right to renew, the Order is varied to provide the Board with the authority to impose a suspension and to stay that suspension of his license in accordance with the terms of this Order.

3. The "ORDER" section found on pages thirteen through twenty one (13-21) is removed and replaced with the following:

### ORDER

For the reasons set forth above, IT IS ORDERED that:

#### SUSPENSION

- A.1. The five (5) year right to renew of Christopher W. Hansen, P.T., to practice physical therapy in the State of Wisconsin is SUSPENDED for an indefinite period.
- A.2. Respondent shall not engage in the practice of physical therapy in any capacity unless the suspension of his right to renew is stayed, he meets all of the requirements for renewal within 5 years in effect at the time he renews the license, and he is in full compliance with this Order.
- A.3. If a Stay of the Suspension of Respondent's right to renew is granted, the Board has the right to impose a suspension against Respondent's active license in accordance with the terms of B.2.
- A.4. Upon a showing by Respondent of continuous, successful compliance for a period of at least five (5) years with the terms of this Order, including at least 600 hours of active practice for every year the suspension is stayed, the Board may grant a petition by Respondent under paragraph D.5. for return of full licensure. At the Board's discretion, the five-year period may be started anew for every substantial or repeated violation of any provision of Sections C or D of this Order."
- A.5. The Board may, on its own motion or at the request of the Department Monitor, grant full licensure at any time."

#### STAY OF SUSPENSION

- B.1. The suspension of Respondent's right to renew shall not be stayed for the first 180 days, but will be stayed after 180 days upon Respondent having provided proof, which was determined by the Board or its designee to be sufficient, that Respondent is in compliance with the provision of Section C and D of this Order.
- B.2. The Board or its designee may, without hearing, impose a suspension of Respondent's license upon receipt of information that Respondent is in substantial or repeated violation of any provision of Sections C or D of this Order. Repeated violation is defined as the multiple violation of the same provision or violation of more than one provision. The Board may, in conjunction with any removal of any stay, prohibit Respondent for a specified period of time from seeking a reinstatement of the stay under paragraph B.4.

- B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:
- (a) Mailing to Respondent's last-known address provided to the Department of Safety and Professional Services pursuant to Wis. Stat. § 440.11; or
  - (b) Actual notice to Respondent or Respondent's attorney.
- B.4. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.
- B.5. If Respondent requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code ch. SPS 2. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within 60 days of receipt of Respondent's request, unless waived by Respondent. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

### LIMITATIONS

The license to practice physical therapy of Respondent is LIMITED as set forth in Wis. Stat. § 448.57(2), and as follows:

#### Treatment Required

- C.1. Respondent shall enter into and continue, in a drug addiction program with a Treater acceptable to the Board or its designee. Respondent shall participate in, cooperate with, and follow all treatment recommended by Treater.
- C.2. Respondent shall immediately provide Treater with a copy of this Final Decision and Order and all other subsequent orders.
- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation, drug monitoring and treatment program as required under the term of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See D.1., below). If Treater is unable or unwilling to serve as Treater, Respondent shall immediately seek approval of a successor Treater by the Board or its designee.
- C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater. Therapy may end only upon a determination by the Board or its designee after receiving a petition for modification as required by D.5., below.

- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in the drug and alcohol treatment program. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

#### Releases

- C.6. Respondent shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collection sites current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Division to: (a) obtain all urine, blood and hair specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Respondent's treatment and rehabilitation. Copies of these releases shall immediately be filed with the Department Monitor.

#### Sobriety

- C.8. Respondent shall abstain from all personal use of alcohol.
- C.9. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), and all mood-altering or psychoactive substances, except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, Treater and the Board or its designee.
- C.10. Respondent shall abstain from all use of over-the-counter medications or other substances which may mask consumption of controlled substances or alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation.
- C.11. Within 24 hours of ingestion or administration, Respondent shall report to Treater and the Department Monitor all medications and drugs, over-the-counter or prescription, taken by Respondent, shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs, and shall provide the Department Monitor with a copy of the prescription. If Respondent has not provided a release as required by C.9. above, within 24 hours of a request by Treater or the Board or its designee, Respondent shall provide releases in compliance with state and federal laws. The releases shall authorize the person who prescribed, dispensed, administered or ordered the medication to discuss Respondent's treatment with, and provide copies of treatment records to the requester.
- C.12. Respondent shall, within forty-eight hours, notify the Department Monitor of all non-prescription medications or nutritional supplement of any kind.

### Drug and Alcohol Screens

- C.13. Respondent shall enter into and continue in a drug and alcohol monitoring program which is approved by the Department pursuant to Wis. Admin. Code § SPS 7.11 (Approved Program). A list of Approved Programs is available from the Department Monitor.
- C.14. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program – including any positive tests for any controlled substance or alcohol – is a substantial violation of this Order. The requirements shall include:
- a. Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
  - b. Production of a urine specimen at a collection site designated by the Approved Program within five hours of notification of a test.
- C.15. The Approved Program shall require the testing of urine specimens at a frequency of not less than 48 times per year, for the first year of this Order. After the first year, the frequency may be reduced only upon a determination by the Board or its designee after receiving a petition for modification as required by D.5., below.
- C.16. The Department Monitor, Board or Board designee shall determine the tests to be performed upon the specimens. If any urine, blood or hair specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Treater or the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
- C.17. In addition to any requirement of the Approved Program, the Board or its designee may require Respondent to do any or all of the following: (a) submit additional urine specimens, (b) submit blood, hair or breath specimens, (c) furnish any specimen in a directly witnessed manner.
- C.18. All confirmed positive test results shall be presumed to be valid. Respondent must prove by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody.
- C.19. The Approved Program shall submit information and reports to the Department Monitor in compliance with the requirements of Wis. Admin. Code § SPS 7.11.

### Controlled Substance Privileges

- C.20. This Order does not impose any limitations on Respondent's prescribing, dispensing, administering or ordering of controlled substances.

### Reporting Required

- C.21. It is the responsibility of Respondent to promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this Order.
- C.22. Respondent shall provide a copy of this Final Decision and Order and all other subsequent orders immediately to supervisory personnel where Respondent is engaged in the practice of physical therapy as defined at Wis. Stat. § 448.50(4)(a).
- C.23. It is Respondent's responsibility to arrange for written reports from her employer or practice partner(s) to be provided to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance, and shall include the number of hours of active practice worked during that quarter.
- C.24. Respondent shall arrange for agreement by his employer or practice partner(s) to immediately report to the Board and to the Treater any conduct or condition of Respondent that may constitute a violation of this Order or a danger to the public.

### Education and Practice Monitoring Required

- C.25. Within 90 days of the date of this Order, Respondent shall complete 15 hours of continuing education on the practice of physical therapy with geriatric patients. Courses shall be preapproved by the Board or its designee. Courses not preapproved shall NOT be accepted to fulfill this requirement. This Limitation may be removed when Respondent provides proof acceptable to the Board or its designee that he had satisfactorily completed the education as required.
- C.26. Respondent shall obtain a professional mentor as follows:
- a. Within 90 days from the date of this Order, Respondent shall engage the services of a professional mentor who is licensed to practice physical therapy in the State of Wisconsin, and who has not been disciplined by the Board. Respondent shall submit to the Department Monitor at the address below a written request for approval of a proposed mentor. The request for approval shall be accompanied by the mentor's current curriculum vitae and a letter from the mentor confirming that he or she read the Final Decision and Order and agrees to undertake the duties of a professional mentor as set out herein.
  - b. The professional mentor shall be actively engaged in the practice of physical therapy and shall not have any personal or professional relationship, past or

present, with Respondent that could reasonably be expected to compromise the proposed mentor's ability to render fair and unbiased reports to the Department; the professional mentor may be Respondent's supervisor at a physical therapy practice.

- c. The Board's designee has the full and final authority to approve or reject a proposed mentor. This decision is based on an exercise of discretion and is not reviewable. The Board's designee may, for good cause, approve or direct a change in the professional mentor at any time.
- d. Every month in which Respondent is practicing at least half-time as a physical therapist, the mentor shall visit Respondent's practice, for the purposes of determining whether or not Respondent is maintaining standards of patient care.
- e. During the monthly visit, the mentor shall randomly select and review the charts of at least five patients that have presented to Respondent in the preceding month. The chart review shall thoroughly assess whether Respondent's records are compliant with the rules and regulation of the profession and that Respondent's patient care is appropriate. Respondent shall be assessed at the standard of minimum competence.
- f. The professional mentor shall offer feedback and direction to Respondent for the purposes of assisting Respondent in continued compliance with the standards of the profession. Respondent shall follow the appropriate guidance of the mentoring physical therapist. Whether or not guidance of the mentor is appropriate and whether or not Respondent has complied with the guidance shall be in the sole discretion of the Board's designee. These discretionary determinations are not reviewable.
- g. The mentor shall submit written and thorough quarterly reports identifying the number of charts reviewed in the previous quarter and identifying any concern with Respondent's practice. It is Respondent's responsibility to ensure the quarterly reports are submitted when due.
- h. The mentor shall immediately report any unprofessional conduct or suspected violation of this Order to the Department Monitor.
- i. After the timely submission of eight consecutive quarterly mentor reports demonstrating appropriate patient care, and with a written recommendation from the mentor expressly supporting the request, Respondent may petition the Board or its designee for modification or termination of any part of this limitation. Whether to modify the terms of this Limitation is in the sole discretion of the Board of its designee and is not reviewable.
- j. Respondent is responsible for any and all costs associated with the services of the professional mentor.

## MISCELLANEOUS

### Department Monitor

- D.1. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

Department Monitor  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

### Required Reporting by Respondent

- D.2. Respondent is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order. Respondent shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Respondent. Additionally, every three months, Respondent shall notify the Department Monitor of Respondent's compliance with the terms and conditions of the Order, and shall provide the Department Monitor with a current address and home telephone number.
- D.3. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five days of the date of the change.

### Change of Treater or Approved Program by Board

- D.4. If the Board or its designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that Respondent continue treatment and rehabilitation under the direction of another Treater or Approved Program

### Petitions for Modification of Limitations or Termination of Order

- D.5. Respondent may petition the Board for modification of the terms of this Order or termination; however, no such petition for modification shall occur earlier than one year from the date of this Order, no such petition shall be made any earlier than three months from the date the Board has acted on the last such petition, and no such petition for termination shall occur other than in compliance with paragraph A.3. Any such petition for modification shall be accompanied by a written recommendation from Respondent's Treater expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on the denial.

Costs of Compliance

- D.6. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

Additional Discipline

- D.7. In addition to any other action authorized by this Order or law, violation of any term of this Order may be the basis for a separate disciplinary action pursuant to Wis. Stat. § 448.02(3).

IT IS FURTHER ORDERED that violation of any of the terms of this Order, including failure to complete all of the required education, failure to obtain a preapproved mentor, or failure to pay costs 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 complete all of the required education, fails to obtain a preapproved mentor, fails to follow the recommendations of the inspector or professional mentor, or fails to pay costs as set forth above, Respondent's license (no. 9916-24) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the relevant portion of this Order.

IT IS FURTHER ORDERED that Respondent shall pay all recoverable costs in this matter in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18. Costs related to the Division's motions to compel and for default shall be paid by both Respondent and his attorney, Andrew Williams, jointly and severally. After the amount is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional Services and sent to:

Department Monitor  
Department of Safety and Professional Services  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

IT IS FURTHER ORDERED that the terms of this Order are effective the date the Final Decision and Order is signed by the Board.

IT IS FURTHER ORDERED that the above-captioned matter is hereby closed as to Respondent Christopher W. Hansen.

Dated at Madison, Wisconsin this 20<sup>th</sup> day of July, 2015.

By: Lou Dominguez, PT  
A Member of the Board 



**Before The  
State Of Wisconsin  
DIVISION OF HEARINGS AND APPEALS**

---

In the Matter of the Disciplinary Proceedings  
Against Christopher W. Hansen, P.T., Respondent

DHA Case No. SPS-14-0018  
DLSC Case No. 12 PHT 019

**000415.1**

---

**PROPOSED DECISION AND ORDER**

The parties to this proceeding for purposes of Wis. Stat §§ 227.47(1) and 227.53 are:

Attorney Andrew Williams  
Antiphon Law Offices  
PMB 264  
2221 South Webster Avenue, Suite A  
Green Bay, WI 54301-2157

Wisconsin Physical Therapy Examining Board  
P.O. Box 8366  
Madison, WI 53708-8366

Department of Safety and Professional Services, Division of Legal Services and  
Compliance, by

Attorney Cody Wagner  
Department of Safety and Professional Services  
Division of Legal Services and Compliance  
P. O. Box 7190  
Madison, WI 53707-7190

**PROCEDURAL SUMMARY**

These proceedings were initiated on March 7, 2014, when the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed and served on Respondent Christopher W. Hansen (Respondent) a formal Notice of Hearing and Complaint against Respondent. The Complaint alleged that Respondent violated Wis. Admin. Code § PT 7.02(8)<sup>1</sup> by engaging in conduct which tends to constitute a danger to the health,

---

<sup>1</sup> References to Wis. Admin. Code § PT 7.02 are to the provision as it existed during the relevant time period, 2012, prior to changes to the rule effective 12-1-13.

welfare or safety of a patient, and that Respondent violated Wis. Admin. Code § PT 7.02(9) by practicing when unable to do so with reasonable skill and safety to patients.

Following several telephone prehearing and status conferences and proceedings related to the Division's motions to compel discovery and for default, on December 8, 2014, a contested hearing was held. Respondent did not appear for the hearing, although subpoenaed by the Division; however, counsel for Respondent appeared. At hearing, the Division provided documentary evidence and testimony from four individuals: Robert Brady, Phillip Schaible, James Popp, and Dennis Fater. Respondent did not present any documentary evidence or witnesses.

Post-hearing briefing was ordered, which was delayed due to Respondent's inadvertent failure to serve the Division with its brief. The final brief was submitted in this matter on April 20, 2015.

### FINDINGS OF FACT

1. Respondent is licensed in the State of Wisconsin to practice physical therapy, having license number 9916-24, first issued on August 15, 2002, and current through February 28, 2015. (Complaint ¶ 1; Answer ¶ 1)

2. Respondent's most recent address on file with the Department is 9310 McPherson Road, Alden, Michigan 49612. (Complaint ¶ 2; Answer ¶ 2)

3. Respondent was employed as a physical therapist at Bellin Health (Bellin) for approximately two years, until his termination on October 16, 2012. Respondent was terminated for unsafe clinical practice, lack of documentation of his care, and dishonesty. (Ex. 4, pp. 3-4; Hrg. Tr., pp. 15-17)

4. Prior to and during employment with Bellin, Respondent was required by the Department to submit to random drug tests and submit quarterly reports due to an addiction to pain pills. (Complaint, ¶ 4; Answer, ¶ 4)

5. On August 1, 2012, Respondent met with Bob Brady, Respondent's supervising physical therapist, regarding reports from Respondent's colleagues that Respondent was being unduly aggressive with his patients. Staff expressed concerns that on numerous occasions while Respondent was doing range of motion with patients, the patients were "yelling and moving on the table" because of the pain Respondent was causing them. Brady had noticed this as well. In an August 1, 2012 memorandum of his meeting with Respondent, Brady noted that he informed Respondent that when patients are already struggling with pain and range of motion restrictions, causing more pain may not be beneficial, nor did it create a good environment when done in an open gym. Brady reported that Respondent "agreed and understood our concern." (Ex. 13; Hrg. Tr., pp. 17-19)

## Patient MR

6. On September 6, 2012, Patient MR, a 70 year-old man, complained to Brady about Respondent's treatment. MR reported that he had received "chiropractic care" for his condition and was told by his surgeon that because of Respondent's treatment, his recovery following surgery would be longer, two years rather than six months. The "chiropractic care" MR claimed to have received consisted of spinal/cervical manipulation. (Exs. 8, 14; Hrg. Tr., pp. 20-21)

7. On July 25, 2012, MR had presented to Respondent with a physician's diagnosis of spinal stenosis and complained of numbness and tingling in his hands and feet. Respondent treated Patient MR with the following manipulations on July 25, 2012:

- a. side postural bilateral L5-S1<sup>2</sup> MP high-velocity low-amplitude thrust (HVLAT) manipulation;
- b. seated cervicothoracic (CT) junction HVLAT manipulation;
- c. prone CT junction HVLAT manipulation; and
- d. supine C3-4 rotary HVLAT manipulation.

(Exs. 1, 8, 12; Hrg. Tr. pp. 23-24, 78, 93, 139; Complaint, 15, Answer, 15)

8. At the July 25, 2012 appointment, Respondent documented an evaluation of the lumbar spine region but did not document an evaluation of the cervical spine region. Respondent did not perform an evaluation or assessment of MR's cervical spine region prior to performing the high-velocity cervical manipulation techniques set forth above.<sup>3</sup> (Ex. 1, pp. 8, 12; Hrg. Tr., pp. 50-51, 127-128)

9. During MR's second visit, on July 27, 2012, Respondent performed the same treatment, without further screening or assessment of the cervical region, and despite MR's failure to improve with the previous treatment. Respondent also failed to incorporate any other therapeutic intervention that could have benefitted MR. (Ex. 1, p. 11, Hrg. Tr., p. 93)

10. On MR's third visit on July 30, 2012, Respondent did not provide treatment because MR reported no change in condition. Respondent determined that no further therapy could help MR, despite having tried no other treatment approach. MR was discharged from treatment with Respondent. There is no indication that Respondent advised MR to follow up with his physician or that Respondent contacted MR's physician. (Ex. 1, pp. 7, 10)

---

<sup>2</sup> L5-S1 refers to the area along the spine below the lumbar spine segment. (Hrg. Tr., p. 74). "L" refers to lumbar and "S" to sacrum or sacral.

<sup>3</sup> Respondent's counsel suggests that Respondent could have done the cervical spine evaluation but simply not documented it. There is no evidence in the record indicating that Respondent conducted the evaluation. With no evidence to the contrary, it is reasonable to infer from Respondent's failure to document a cervical spine evaluation, that he did not perform one, particularly in light of the fact that Respondent did document the lumbar spine evaluation and that he never informed Bellin management that he performed such an evaluation.

11. Bob Brady, who has been licensed as a physical therapist since 1995, stated the following opinions to a reasonable degree of professional certainty:

- Minimal standards of physical therapy required an evaluation of MR's cervical spine, which could have included a vertebral basilar insufficiency (VBI) test, because MR's symptoms were bilateral and in the upper and lower extremities, indicating that there could be spinal cord infringements in the cervical spine.
- It was below the minimal standard of care for Respondent to use cervical manipulation techniques on MR due to: MR's age (70); the presence of bilateral symptoms in MR's upper and lower extremities which indicated cervical stenosis with cord compression for which cervical manipulation would be ruled out as a treatment option; Respondent's failure to perform an evaluation of the cervical spine region prior to performing cervical manipulation; and the availability of other less aggressive treatments.
- The possible risks of using these cervical manipulation techniques on MR were exacerbating the condition, and vertebral artery dissection, which can negatively influence blood flow to the brain and cause an aneurism or stroke.
- At the first treatment, a minimally competent physical therapist would have evaluated the cervical spine and, if this was the area to be treated, started with passive range of motion and mobilizations.
- It was below the minimal standard of care for Respondent to repeat the same techniques at the second appointment without a cervical evaluation and without any indication that MR had benefitted from the treatment.
- It was below the minimal standard of care to discharge MR after the third appointment because MR had not benefitted from the treatments, there was no other type of intervention tried for MR besides manipulation, which was inappropriate, and Respondent did not recommend that MR follow up with a physician.

(Ex. 12; Hrg. Tr., pp. 14, 23-30, 46)

12. Phillip Schaible has been a physical therapist since 1995. He completed a transitional doctor of physical therapist in 2007 and a fellowship in manual therapy in 2007. He has been employed with Bellin since 1999 and is the team leader for sports medicine, supervising physical therapists, occupational therapists, speech therapists and athletic training staff across the Bellin health system. (Hrg. Tr., pp. 59-60)

13. Schaible stated the following opinions to a reasonable degree of professional certainty:

- A minimally competent physical therapist would have evaluated MR's entire spine, including the cervical spine.
- Treating MR with high-velocity cervical thrusts was contraindicated due to MR's age and diagnosis of spinal stenosis.
- Respondent's treatment of MR created unnecessary risks, including exacerbating the symptoms, especially if there was central cord compression on the spinal cord.

- Repeating these same treatments for the second appointment was not appropriate because the first treatment was not indicated and because MR did not have any change in symptoms.
- Discharging MR at the third appointment was not appropriate because the treatment that was provided did not represent the scope of physical therapy interventions available to treat stenosis.

(Hrg. Tr., pp. 73, 75-79)

14. Dennis Fater is a professor in the physical therapy program at the University of Wisconsin (UW) - La Crosse and works part-time in private practice as a physical therapist. He has a degree in physical therapy and a doctorate in medical physiology and underwent a three-year postoperative fellowship. He has worked as a physical therapist for 23 years and has been in the physical therapy program at UW - La Crosse for 27 years. (Hrg. Tr., pp. 123-24)

15. Fater stated the following opinions to a reasonable degree of professional certainty:

- It was below the minimal standards of care for a physical therapist to fail to evaluate the cervical spine for a patient with spinal stenosis. Such an evaluation should include VBI testing to ensure the integrity of the vestibular arteries.
- It would be below the minimal standards of care for a physical therapist to fail to document a cervical spine evaluation if one had been conducted.
- Respondent's use of high-velocity, low-amplitude thrust manipulations on MR was contraindicated by MR's age and diagnosis.
- Risks of Respondent's manipulations on MR included damage to structures already compromised by stenosis and compromising the vertebral basilar arterial system, potentially resulting in a stroke. Such techniques could also magnify the symptoms or increase the pain levels.
- A minimally competent physical therapist would have tried other techniques such as traction, therapeutic exercise to work on muscle imbalances around the lumbar or cervical spine, stretching and strengthening techniques for various musculature or a very gentle ranging of motion.
- Performing the same treatment at the second visit was not appropriate because there was no evaluation of the cervical spine.
- Discharging MR at the third visit was not appropriate because MR had no changes in symptoms and therefore a re-evaluation should have been done.

(Hrg. Tr., pp. 127-133)

16. On September 7, 2012, Respondent again met with Brady to discuss Respondent's treatment of MR. Brady expressed concerns that Respondent had not screened Patient MR as necessary to determine whether or not cervical manipulation was appropriate. Brady told Respondent that Respondent's first choice for manipulation of Patient MR was not likely to benefit MR, given MR's signs and symptoms. Brady's notes of the September 7, 2012 meeting do not reflect that Respondent ever indicated that he did perform a cervical spine evaluation of MR. (Hrg. Tr., pp. 31-33, 41; Ex. 14)

17. At the September 7, 2012 meeting, Respondent stated that he had taken a cycle of steroids in preparation for a body-building competition and he had not felt “right” since that time. He stated that he did not feel he was performing his job at the highest level because of current health problems. (Hrg. Tr., pp. 31-33, 41; Ex. 14; Complaint, ¶ 9; Answer, ¶ 9)

18. On September 11, 2012, Respondent told Schaible that he had previously been injecting himself with steroids until his girlfriend urged him to quit taking them. Respondent told Schaible that when he stopped taking the steroids, his health deteriorated significantly and his testosterone levels were below normal. He said that since he stopped using the steroid, he was feeling “poorly,” very fatigued, not sharp and was nearly unable to get out of bed in the morning. (Ex. 7; Hrg. Tr., pp. 62-64; Complaint, ¶ 10; Answer, ¶ 10)

19. Respondent admitted to Schaible that his steroid use was illegal. (Ex. 7; Hrg. Tr. p. 63; Complaint, ¶ 12; Answer, ¶ 12)

20. On September 28, 2012, Respondent attended a performance meeting with management at Bellin to discuss his substance abuse and his treatment of Patient MR. Respondent admitted that he had been using steroids from May 1, 2012 through August 23, 2012. (Ex. 8; Hrg. Tr., pp. 45, 65-67)

21. Bellin’s October 16, 2012 employee termination form states that Respondent “provided unsafe and irresponsible manipulations on a patient under his care;” “failed to provide other safer alternative treatment;” “failed to document evaluation of the patient’s cervical spine [ ] or any evidence of appropriate p[re]-manipulati[on] assessment” as is Bellin’s standard; and that on three different occasions Respondent “was either less than forthright, or directly dishonest with therapy leadership, director and HR.” The form further indicates that Respondent had had a previous incident with cervical manipulation which should have established a baseline for clinical expectations in his documentation and care and that his supervisor had previously discussed with Respondent his being too aggressive with patients. The form states that cervical manipulation should only be performed following a complete cervical evaluation which has ruled out any unnecessary risk factors, after reviewing the providers’ order and diagnosis and after reviewing results of any available imaging, and that documentation should be complete and reflect this evaluation. (Ex. 4, pp. 3-4; Hrg. Tr., pp. 15-17)

#### Patient LJ

22. Following Respondent’s termination, a complaint was received by Bellin regarding Patient LJ, an 84 year-old man. LJ’s son had complained that LJ had sustained a rib fracture as a result of Respondent’s treatment. (Ex. 5; Hrg. Tr., pp. 83-84)

23. Respondent saw LJ for five visits from May 9 – May 23, 2012. LJ had presented with sciatica. Respondent used a high-velocity, low-amplitude thrust of the L3-L4 segment of the lumbar spine, both seated and supine, as part of his treatment. (Exs. 2, 5; Hrg. Tr., p. 83)

24. Following the third treatment session, LJ reported rib pain to Respondent, which was reflected in Respondent's treatment records at the fourth visit, with Respondent noting that it was likely costochondritis. Respondent did not evaluate LJ's rib pain and did not report the new symptom to LJ's health care provider.<sup>4</sup> Respondent repeated the same treatment in the fourth and fifth sessions that he performed in the prior sessions. Respondent discharged LJ after his fifth visit. His records state that LJ is still having rib pain, that his friends are telling him to stop seeing his physical therapist and that LJ "wishes to follow up with Dr. Halsey." The records do not indicate that Respondent was encouraged to see Dr. Halsey or that Respondent accommodated an appointment with Dr. Halsey. (Ex. 2, p. 8; Ex. 5; Hrg Tr., pp. 86-88, 102-105, 133-136)

25. Fater opined to a reasonable degree of professional certainty that the minimal standard of care required that, upon LJ's report of rib pain, Respondent follow up on that complaint. A minimally competent physical therapist would have done an evaluation of the new symptoms, and if there was no clear result from the evaluation, refer LJ back to his physician for further evaluation. Respondent's failure to follow up on LJ's rib pain posed the unnecessary risk to LJ that he would not get the treatment that he needed for that particular symptom. (Hrg Tr., pp. 101, 134-135)

26. Schaible testified to a reasonable degree of professional certainty to the following: a minimally competent physical therapist, after hearing the complaint of rib pain which could have been associated with Respondent's treatment, would have evaluated the new symptom and made sure something adverse had not happened, and if it had, made a clinical decision of how to manage that. A minimally competent physical therapist would have asked whether there was anything done by the physical therapist that would have caused or contributed to the rib pain and would certainly not have replicated those treatment techniques. Discharge after Respondent's fifth visit was inappropriate because there was no communication to the physician, particularly with regard to the rib injury. (Hrg. Tr., pp. 87-88)

27. In a letter to the Department dated November 2, 2012, Schaible informed the Department that in reviewing LJ's records, Bellin had the following concerns: (1) that given LJ's advanced age, spinal manipulation as the first level of treatment was not warranted; (2) that during the course of five sessions with LJ, Respondent provided the exact same treatment, despite no change in LJ's presentation; (3) that following Respondent's third treatment with LJ, LJ reported rib pain after receiving the supine thrust manipulation but Respondent continued to provide the same care; (4) that Respondent did not communicate LJ's rib symptoms to LJ's provider but simply discharged LJ at LJ's request after his fifth visit; and (5) Respondent did not report the adverse outcome of rib pain with his supervisor. (Ex. 5)

---

<sup>4</sup> Again, I draw the reasonable inference that because Respondent's records do not reflect an evaluation of LJ's rib pain, the evaluation was not conducted.

## DISCUSSION

### Burden of Proof

The burden of proof in disciplinary proceedings is on the Division to show by a preponderance of the evidence that the events constituting the alleged violations occurred. Wis. Stat. § 440.20(3); *see also* Wis. Admin. Code § HA 1.17(2). To prove by a preponderance of the evidence means that it is “more likely than not” that the examined action occurred. *See State v. Rodriguez*, 2007 WI App. 252, ¶ 18, 306 Wis. 2d. 129, 743 N.W.2d 460, citing *United States v. Sautter*, 60 F.3d 270, 280 (7th Cir. 1995).

### Violations

Pursuant to Wis. Stat. § 448.57(2),<sup>5</sup> the Wisconsin Physical Therapy Examining Board (Board) may reprimand a licensee or may deny, limit, suspend or revoke a license to practice physical therapy if it finds that the applicant or licensee has done any of the following:

(e) . . . practiced or assisted in the practice of physical therapy while the applicant's or licensee's ability to practice or assist was impaired by alcohol or other drugs.

(f) Engaged in unprofessional or unethical conduct in violation of the code of ethics established in the rules promulgated under s. 448.527.

...

(h) Violated this subchapter or any rule promulgated under this subchapter.

The Division alleges that Respondent practiced physical therapy while his ability to practice was impaired by the use of steroids, in violation of Wis. Stat. § 448.57(2)(e), and that this conduct also constitutes unprofessional conduct under Wis. Admin. Code § PT 7.02(9) in that Respondent was unable to practice with reasonable skill and safety to patients. Such conduct would also violate Wis. Stat. § 448.57(2)(f) and (h).

The Division also argues that Respondent engaged in unprofessional conduct as defined in Wis. Admin. Code § PT 7.02(8), by engaging in conduct which tends to constitute a danger to the health, welfare or safety of a patient. Such conduct would also be in violation of Wis. Stat. § 448.57(2)(f) and (h).

These violations are addressed in turn.

### Violation of Wis. Stat. § 448.57(2)(e)(f) and (h) and Wis. Admin. Code § PT 7.02(9)

Pursuant to Wis. Stat. § 448.57(2)(e) a physical therapist may be disciplined by the Wisconsin Physical Therapy Examining Board (Board) if he “practiced. . . physical therapy while . . . [his] ability to practice . . . was impaired by alcohol or other drugs.” Further, Wis.

---

<sup>5</sup> In its Complaint, the Division erroneously cited as grounds for discipline Wis. Stat. § 448.02, the disciplinary provision related to the Medical Examining Board. In its brief, however, the Division cites the correct provision, Wis. Stat. § 448.57.

Admin. Code § PT 7.02(9) states that it is unprofessional conduct to practiced physical therapy when unable to do so with reasonable skill and safety to patients.

The Division has met its burden of establishing that it is more likely than not that Respondent practiced physical therapy while the use of steroids impaired his ability to practice and that he was unable to practice with reasonable skill and safety to his patients. By his own admission to Bellin management, Respondent took illegal steroids from May 1, 2012 through August 23, 2012. This time period corresponds with Respondent's overly aggressive and inappropriate treatment of patients. On August 1, 2012, Respondent met with Brady because Brady had received reports from co-workers and had himself observed Respondent being overly aggressive with patients. On "numerous occasions" while Respondent was doing range of motion with patients, the patients were "yelling and moving on the table" because of Respondent's treatment. Respondent subsequently stated at a September 7, 2012 meeting that he had taken a cycle of steroids in preparation for a body-building competition and had not felt "right" since that time. He stated that he did not feel he was performing his job at the highest level because of current health problems.

In addition, during the same time period he was taking steroids, Respondent saw MR on three occasions in July of 2012 and did not provide appropriate care. On September 6, 2012, MR complained to Bellin about the "chiropractic care" he had received from Respondent, stating that his surgeon had informed him that because of Respondent's treatment, his recovery following surgery would take longer, two years rather than six months. Respondent had performed high velocity thrusts on MR's cervical spine region. Three physical therapist expert witnesses, Brady, Schaible and Fater, testified that such treatment was contraindicated for this 70 year-old patient with stenosis and did not meet the minimal standards of competency for a physical therapist, particularly where Respondent had failed to conduct a cervical spine evaluation. They also testified that it was inappropriate to repeat the same treatment on Respondent at the second appointment and to discharge him after the third appointment.

Also during the time period he was taking steroids, Respondent saw LJ five times in May of 2012 and performed high-velocity low-amplitude thrusts on the lumbar spine of this 84 year-old patient with sciatica. LJ's son subsequently complained that Respondent's treatment of LJ resulted in a fractured rib. Following Respondent's treatment at the third visit, LJ reported to Respondent that his rib was in pain; however, Respondent did not evaluate the rib pain, simply noting that the pain was likely costochondritis. Respondent did not follow up with LJ's physician and instead, engaged in the same treatment at the fourth and fifth visits as that provided in the prior visits.

Based on the foregoing, I conclude that the Division met its burden of establishing by a preponderance of the evidence that Respondent practiced as a physical therapist while his ability to do so was impaired by use of steroids, and that he engaged in unprofessional conduct by being unable to practice with reasonable skill and safety to patients, in violation of Wis. Stat. § 448.57(2)(e), (f) and (h) and Wis. Admin. Code § PT 7.02(9).

Violation of Wis. Stat. § 448.57(2)(f) and (h) and Wis. Admin. Code § PT 7.02(8)

Wisconsin Stat. § 448.57(2)(f) and (h), respectively, allow disciplinary action against a physical therapist when the therapist has engaged in unprofessional conduct or has violated a statute or applicable administrative rule. Wisconsin Admin. Code § PT 7.02(8) defines unprofessional conduct to include “[a]ny practice or conduct which tends to constitute a danger to the health, welfare or safety of a patient or the public.”

In interpreting similar language in the context of reviewing a decision by the Medical Examining Board, the Wisconsin Supreme Court has stated that “unprofessional conduct” is conduct which does not meet the level of minimal competence using accepted medical standards and which poses an unacceptable risk to the health, welfare or safety of the patients. *Gilbert v. Medical Examining Board*, 119 Wis. 2d 168, 196, 349 N.W.2d 68 (1984).

Three very experienced practicing physical therapists, including a professor in physical therapy, testified that Respondent’s conduct with respect to patients MR and LJ did not meet levels of minimal competency and that the conduct posed risks which were unacceptable. This testimony was completely unrefuted by any contrary testimony or other evidence. With respect to MR, all three witnesses agreed that Respondent’s failure to evaluate MR’s cervical spine and his use of high-velocity low-amplitude thrusts on MR’s cervical spine region, particularly where no evaluation of this region was conducted, was contraindicated or fell below the standards of minimal competence for a physical therapist. The risks included an increase in pain or other symptoms and vertebral artery dissection, which can negatively influence blood flow to the brain and cause an aneurism or stroke. They also testified that it was inappropriate or below the minimal standards of competency to repeat such treatments at the second appointment and to discharge MR after the third appointment without trying other approaches.

With respect to LJ, the evidence established that minimal standards of competency required an evaluation of the rib pain to determine whether another course of action or treatment was required, rather than simply repeating the same treatment for two more sessions. The unacceptable risk of failing to conduct such an evaluation was that LJ would not get the treatment that he needed for that particular symptom. As stated, LJ’s son subsequently reported that LJ’s rib was fractured. Whether such a fracture occurred is not the issue; the issue is whether Respondent’s failure to evaluate the rib pain fell below standards of minimal competency and posed an unacceptable risk to LJ. With no evidence to the contrary, I conclude that it did.

Moreover, as previously stated, Respondent’s treatment of these patients occurred during a time period when Respondent was taking illegal steroids, which, by his own admission, impacted his physical and mental state and work performance. His treatment of MR and LJ also occurred during a time period when his co-workers, including his supervisor, had serious concerns about Respondent’s aggressiveness toward his patients, which, on numerous occasions, had patients yelling out in pain.

In view of the foregoing, I conclude that a preponderance of the evidence establishes that Respondent also engaged in unprofessional conduct under Wis. Admin. Code § PT 7.02(8), and is therefore subject to discipline under Wis. Stat. § 448.57(2)(f) and (h).

### Discipline

The three purposes of discipline are: (1) to promote the rehabilitation of the licensee; (2) to protect the public from other instances of misconduct; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 237 N.W.2d 689 (1976).

The Division recommends as discipline in this matter a version of its “standard of impairment order” modified to include education and professional mentoring. This recommended discipline includes indefinite suspension of Respondent’s license, with the opportunity for a stay of the suspension and ultimate full reinstatement of his license if certain evaluation, treatment, monitoring, education and mentoring requirements are met.

Given Respondent’s history of substance abuse, including the use of steroids in this case, and his prior abuse of pain pills for which he had been given a “second chance” and was under monitoring by his employer, I agree with the discipline recommended by the Division, as set forth in the Order section below. Respondent has demonstrated that the public needs protection from his unsafe practices and that he should not practice physical therapy unless he is fully rehabilitated. In addition, the discipline ordered below will serve to deter others from engaging in abuse of substances and unsafe practices with respect to patients.

### Costs

The Division has the authority to assess costs pursuant to Wis. Stat. § 440.22. With respect to imposition of costs, factors to consider include: (1) the number of counts charged, contested and proven; (2) the nature and seriousness of the misconduct; (3) the level of discipline sought by the prosecutor; (4) the cooperation of the respondent; (5) any prior discipline; and (6) the fact that the Department is a program revenue agency, funded by other licensees. *See In the Matter of Disciplinary Proceedings against Elizabeth Buenzli-Fritz*, Order No. LS 0802183 CHI (Aug. 14, 2008).

The Division requests that before Respondent is permitted to apply for any change in the status of his credential, Respondent be required to pay the full costs of its investigation and of these proceedings. I agree that imposition of full costs is appropriate here.

Respondent’s misconduct is of a serious nature, involving illegal drug use and potential harm to vulnerable patients. Respondent has not been particularly cooperative, missing many of the deadlines set by the ALJ and failing to appear at hearing despite the Division’s subpoena. In addition, this is not Respondent’s first time engaging in unauthorized drug use; as stated, he had a previous addiction to pain pills and was on a monitoring program with Bellin at the time he was using steroids. Finally, given the fact that the Department is a “program revenue” agency, whose operating costs are funded by the revenue received for licensees, fairness dictates

imposing the costs of disciplining Respondent upon Respondent and not on fellow members of the profession who have not engaged in such conduct.

#### Costs Pertaining to the Division's Motions to Compel Discovery Responses

On July 3, 2014, the Division filed a Motion for Findings of Fact, Exclusion of Evidence, Exclusion of Witnesses and Costs related to a previous Motion to Compel filed by the Division. Respondent's attorney's conduct was outlined in great detail in the undersigned ALJ's September 17, 2014 Order Denying Default, which is incorporated by reference herein. On July 22, 2014, the ALJ issued an Order Compelling Discovery but reserved ruling on the issue of costs. The Division has renewed its request for costs pertaining to its motions to compel adequate discovery responses.

As stated above, all recoverable costs have been imposed on Respondent in this matter. Costs related to the motion to compel discovery would be included in such costs imposed on Respondent. However, Wis. Stat. § 804.12(1)(c)1 further allows that where a motion to compel discovery is granted, as it was here, the party and/or attorney whose conduct necessitated the motion may be required to pay reasonable expenses incurred in obtaining the order. The Division requests that those costs associated with the motion to compel discovery, including the eventual motion for default for failure to respond, be assessed against both Respondent and Respondent's attorney, jointly and severally.

In view of counsel's conduct as set forth in the September 17, 2015 order, I agree that this outcome is warranted. As indicated in the September 17, 2014 order, counsel never opposed the Division's motion to compel discovery; rather, counsel simply failed to respond to the Division's discovery request and subsequent motion. Respondent's attorney failed to file a response to the Division's initial motion by June 19, 2014, as ordered by the ALJ, and failed to file a response to the Division's July 3, 2014 motion. At a July 21, 2014 telephone hearing, counsel offered no excuse but simply requested more time. On July 28, 2014, Respondent's attorney filed an inadequate discovery response but, after being prompted to so by the ALJ on August 19, 2014, subsequently filed additional information. Counsel never explained his behavior or opposed the Division's motion in any substantive way. Thus, there was no reasonable opposition to the Division's motions, and both Respondent and his attorney should be held accountable for the resultant expenses related to the motions to compel and for default, consistent with Wis. Stat. § 804.12(1)(c)1.

#### CONCLUSIONS OF LAW

1. The Division met its burden of establishing by a preponderance of the evidence that Respondent practiced as a physical therapist while his ability to do so was impaired by use of steroids, and that he engaged in unprofessional conduct by being unable to practice with reasonable skill and safety to patients, in violation of Wis. Stat. § 448.57(2)(e), (f) and (h) and Wis. Admin. Code § PT 7.02(9).

2. The Division met its burden of establishing by a preponderance of the evidence that Respondent engaged in unprofessional conduct under Wis. Admin. Code § PT 7.02(8), and is therefore subject to discipline under Wis. Stat. § 448.57(2)(f) and (h).

3. The discipline set forth in the Order section below is warranted pursuant to the facts of record and the factors delineated in *Aldrich*.

4. Imposition of the costs of these proceedings on Respondent is warranted under the facts of this case and the Department's prior decision in *Buenzli-Fritz*, with the exception that reasonable costs related to the Division's motions to compel discovery and for default shall be assessed against both Respondent and his attorney, jointly and severally.

### ORDER

For the reasons set forth above, IT IS ORDERED that:

#### SUSPENSION

- A.1. The license of Christopher W. Hansen, P.T., to practice physical therapy in the State of Wisconsin is SUSPENDED for an indefinite period.
- A.2. Respondent shall not engage in the practice of physical therapy in any capacity unless his suspension is stayed and he is in full compliance with this Order. Respondent shall mail or physically deliver all indicia of registration to the Department Monitor within 14 days of the effective date of this Order.
- A.3. Upon a showing by Respondent of continuous, successful compliance for a period of at least five years with the terms of this Order, including at least 600 hours of active practice for every year the suspension is stayed, the Board may grant a petition by Respondent under paragraph D.5. for return of full licensure. At the Board's discretion, the five-year period may be started anew for every substantial or repeated violation of any provision of Sections C or D of this Order.
- A.4. The Board may, on its own motion or at the request of the Department Monitor, grant full licensure at any time.

#### STAY OF SUSPENSION

- B.1. The suspension shall not be stayed for the first 180 days, but will be stayed after 180 days upon Respondent having provided proof, which was determined by the Board or its designee to be sufficient, that Respondent is in compliance with the provisions of Sections C and D of this Order.
- B.2. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in substantial or repeated violation of any provision of Sections C or D of this Order. Repeated violation is defined as the multiple violation of

the same provision or violation of more than one provision. The Board may, in conjunction with any removal of any stay, prohibit Respondent for a specified period of time from seeking a reinstatement of the stay under paragraph B.4.

- B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:
- (a) Mailing to Respondent's last-known address provided to the Department of Safety and Professional Services pursuant to Wis. Stat. § 440.11; or
  - (b) Actual notice to Respondent or Respondent's attorney.
- B.4. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.
- B.5. If Respondent requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code ch. SPS 2. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within 60 days of receipt of Respondent's request, unless waived by Respondent. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

### LIMITATIONS

The license to practice physical therapy of Respondent is LIMITED as set forth in Wis. Stat. § 448.57(2), and as follows:

#### Treatment Required

- C.1. Respondent shall enter into and continue, in a drug addiction program with a Treater acceptable to the Board or its designee. Respondent shall participate in, cooperate with, and follow all treatment recommended by Treater.
- C.2. Respondent shall immediately provide Treater with a copy of this Final Decision and Order and all other subsequent orders.
- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation, drug monitoring and treatment program as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See D.1., below). If Treater is unable or unwilling to serve as Treater, Respondent shall immediately seek approval of a successor Treater by the Board or its designee.
- C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater. Therapy may end only upon a determination by

the Board or its designee after receiving a petition for modification as required by D.5., below.

- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in the drug and alcohol treatment program. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

#### Releases

- C.6. Respondent shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collections sites current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Division to: (a) obtain all urine, blood and hair specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Respondent's treatment and rehabilitation. Copies of these releases shall immediately be filed with the Department Monitor.

#### AA/NA Meetings

- C.7. Respondent shall attend support group meetings or an equivalent program for recovering professionals, at the frequency recommended by Treater. Attendance of Respondent at such meetings shall be verified and reported monthly to Treater and the Department Monitor.

#### Sobriety

- C.8. Respondent shall abstain from all personal use of alcohol.
- C.9. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), and all mood-altering or psychoactive substances, except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, Treater and the Board or its designee.
- C.10. Respondent shall abstain from all use of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation.
- C.11. Within 24 hours of ingestion or administration, Respondent shall report to Treater and the Department Monitor all medications and drugs, over-the-counter or prescription, taken by Respondent, shall identify the person or persons who prescribed, dispensed, administered

or ordered said medications or drugs, and shall provide the Department Monitor with a copy of the prescription. If Respondent has not provided a release as required by C.9 above, within 24 hours of a request by Treater or the Board or its designee, Respondent shall provide releases in compliance with state and federal laws. The releases shall authorize the person who prescribed, dispensed, administered or ordered the medication to discuss Respondent's treatment with, and provide copies of treatment records to, the requester.

- C.12 Respondent shall, within forty-eight hours, notify the Department Monitor of all non-prescription medications or nutritional supplement of any kind.

#### Drug and Alcohol Screens

- C.13. Respondent shall enter into and continue in a drug and alcohol monitoring program which is approved by the Department pursuant to Wis. Admin. Code § SPS 7.11 (Approved Program). A list of Approved Programs is available from the Department Monitor.
- C.14. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program – including any positive test for any controlled substance or alcohol – is a substantial violation of this Order. The requirements shall include:
- (a) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
  - (b) Production of a urine specimen at a collection site designated by the Approved Program within five hours of notification of a test.
- C.15. The Approved Program shall require the testing of urine specimens at a frequency of not less than 48 times per year, for the first year of this Order. After the first year, the frequency may be reduced only upon a determination by the Board or its designee after receiving a petition for modification as required by D.5., below.
- C.16. The Department Monitor, Board or Board designee shall determine the tests to be performed upon the specimens. If any urine, blood or hair specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Treater or the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
- C.17. In addition to any requirement of the Approved Program, the Board or its designee may require Respondent to do any or all of the following: (a) submit additional urine specimens, (b) submit blood, hair or breath specimens, (c) furnish any specimen in a directly witnessed manner.

- C.18. All confirmed positive test results shall be presumed to be valid. Respondent must prove by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody.
- C.19. The Approved Program shall submit information and reports to the Department Monitor in compliance with the requirements of Wis. Admin. Code § SPS 7.11.

#### Controlled Substance Privileges

- C.20. This Order does not impose any limitations on Respondent's prescribing, dispensing, administering or ordering of controlled substances.

#### Reporting Required

- C.21. It is the responsibility of Respondent to promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this Order.
- C.22. Respondent shall provide a copy of this Final Decision and Order and all other subsequent orders immediately to supervisory personnel where Respondent is engaged in the practice of physical therapy as defined at Wis. Stat. § 448.50(4)(a).
- C.23. It is Respondent's responsibility to arrange for written reports from her employer or practice partner(s) to be provided to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance, and shall include the number of hours of active practice worked during that quarter.
- C.24. Respondent shall arrange for agreement by his employer or practice partner(s) to immediately report to the Board and to the Treater any conduct or condition of Respondent that may constitute a violation of this Order or a danger to the public.

#### Education and Practice Monitoring Required

- C.25. Within 90 days of the date of this order, Respondent shall complete 15 hours of continuing education on the practice of physical therapy in geriatric patients. Courses shall be preapproved by the Board or its designee. Courses not preapproved shall NOT be accepted to fulfill this requirement. This Limitation may be removed when Respondent provides proof acceptable to the Board or its designee that he has satisfactorily completed the education as required.
- C.26. Respondent shall obtain a professional mentor as follows:
- a. Within 90 days from the date of this Order, Respondent shall engage the services of a professional mentor who is licensed to practice physical therapy in the State of Wisconsin, and who has not been disciplined by the Board. Respondent shall

submit to the Department Monitor at the address below a written request for approval of a proposed mentor. The request for approval shall be accompanied by the mentor's current curriculum vitae and a letter from the mentor confirming that he or she has read the Final Decision and Order and agrees to undertake the duties of a professional mentor as set out herein.

- b. The professional mentor shall be actively engaged in the practice of physical therapy and shall not have any personal or professional relationship, past or present, with Respondent that could reasonably be expected to compromise the proposed mentor's ability to render fair and unbiased reports to the Department; the professional mentor may be Respondent's supervisor at a physical therapy practice.
- c. The Board's designee has the full and final authority to approve or reject a proposed mentor. This decision is based on an exercise of discretion and is not reviewable. The Board's designee may, for good cause, approve or direct a change in the professional mentor at any time.
- d. Every month in which Respondent is practicing at least half-time as a physical therapist, the mentor shall visit Respondent's practice, for the purposes of determining whether or not Respondent is maintaining standards of patient care.
- e. During the monthly visit, the mentor shall randomly select and review the charts of at least five patients that have presented to Respondent in the preceding month. The chart review shall thoroughly assess whether Respondent's records are compliant with the rules and regulations of the profession and that Respondent's patient care is appropriate. Respondent shall be assessed at the standard of minimum competence.
- f. The professional mentor shall offer feedback and direction to Respondent for the purposes of assisting Respondent in continued compliance with the standards of the profession. Respondent shall follow the appropriate guidance of the mentoring physical therapist. Whether or not guidance of the mentor is appropriate and whether or not Respondent has complied with the guidance shall be in the sole discretion of the Board's designee. These discretionary determinations are not reviewable.
- g. The mentor shall submit written and thorough quarterly reports identifying the number of charts reviewed in the previous quarter and identifying any concern with Respondent's practice. It is Respondent's responsibility to ensure the quarterly reports are submitted when due.
- h. The mentor shall immediately report any unprofessional conduct or suspected violation of this Order to the Department Monitor.

- i. After the timely submission of eight consecutive quarterly mentor reports demonstrating appropriate patient care, and with a written recommendation from the mentor expressly supporting the request, Respondent may petition the Board or its designee for modification or termination of any part of this limitation. Whether to modify the terms of this Limitation is in the sole discretion of the Board or its designee and is not reviewable.
- j. Respondent is responsible for any and all costs associated with the services of the professional mentor.

## MISCELLANEOUS

### Department Monitor

- D.1. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

Department Monitor  
Division of Legal Services and Compliance  
Wisconsin Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone: (608) 267-3817; Fax: (608) 266-2264  
DSPSMonitoring@wisconsin.gov

### Required Reporting by Respondent

- D.2. Respondent is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order. Respondent shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Respondent. Additionally, every three months, Respondent shall notify the Department Monitor of Respondent's compliance with the terms and conditions of the Order, and shall provide the Department Monitor with a current address and home telephone number.
- D.3. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five days of the date of a change.

### Change of Treater or Approved Program by Board

- D.4. If the Board or its designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that Respondent continue treatment and rehabilitation under the direction of another Treater or Approved Program.

#### Petitions for Modification of Limitations or Termination of Order

- D.5. Respondent may petition the Board for modification of the terms of this Order or termination; however, no such petition for modification shall occur earlier than one year from the date of this Order, no such petition shall be made any earlier than three months from the date the Board has acted on the last such petition, and no such petition for termination shall occur other than in compliance with paragraph A.3. Any such petition for modification shall be accompanied by a written recommendation from Respondent's Treater expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on the denial.

#### Costs of Compliance

- D.6. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

#### Additional Discipline

- D.7. In addition to any other action authorized by this Order or law, violation of any term of this Order may be the basis for a separate disciplinary action pursuant to Wis. Stat. § 448.02(3).

IT IS FURTHER ORDERED that violation of any of the terms of this Order, including failure to complete all of the required education, failure to obtain a preapproved mentor, or failure to pay costs 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 complete all of the required education, fails to obtain a preapproved mentor, fails to follow the recommendations of the inspector or professional mentor, or fails to pay costs as set forth above, Respondent's license (no. 9916-24) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the relevant portion of this Order.

IT IS FURTHER ORDERED that Respondent shall pay all recoverable costs in this matter in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18. Costs related to the Divisions' motions to compel and for default shall be paid by both Respondent and his attorney, Andrew Williams, jointly and severally. After the amount is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional Services and sent to:

Department Monitor  
Department of Safety and Professional Services  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

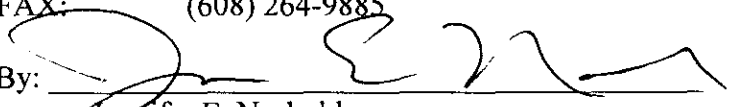
IT IS FURTHER ORDERED that the terms of this Order are effective the date the Final Decision and Order is signed by the Board.

IT IS FURTHER ORDERED that the above-captioned matter is hereby closed as to Respondent Christopher W. Hansen.

Dated at Madison, Wisconsin on June 1, 2015.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
5005 University Avenue, Suite 201  
Madison, Wisconsin 53705  
Telephone: (608) 266-7709  
FAX: (608) 264-9885

By: \_\_\_\_\_

  
Jennifer E. Nashold  
Administrative Law Judge