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STATE OF FLORIDA  
BOARD OF PHYSICAL THERAPY PRACTICE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2004-39288  
License No.: PTA 1170

MICHAEL G. WESTROPE, P.T.A.,

Respondent.

**FINAL ORDER**

THIS MATTER came before the Board of Physical Therapy Practice (hereinafter "the Board") at a duly noticed public meeting on May 12, 2006, in Ft. Lauderdale, Florida, pursuant to Section 120.57(1)(l), Florida Statutes, for consideration of the Recommended Order issued April 7, 2006, by the Honorable Susan B. Harrell, Administrative Law Judge.

The Petitioner was represented by Lynne Quimby-Pennock Assistant General Counsel, with the Department of Health. The Respondent was present and represented by Louis Kwall, Esquire.

After a review of the complete record in this matter, including the Recommended Order, a copy of which is attached hereto as Exhibit A, the Board makes the following findings and conclusions:

**Exceptions**

1. Rule 28-106.217(1), Florida Administrative Code, provides that parties may file exceptions to findings of fact and conclusions of law contained in

recommended orders with the agency responsible for rendering final agency action within 15 days of entry of the recommended order except in proceeding conducted pursuant to Section 120.57(3), Florida Statutes.

2. Neither party filed exceptions to the findings of fact or the conclusions of law contained in the recommended order.

3. Respondent orally argued that there were additional facts that should have been included in the Recommended Order which were not and moved the Board for permission to allow introduction of said facts into the record.

4. The Board considered Respondent's oral argument and subsequent move to have the additional facts introduced into the record as non-timely exceptions to the recommended order and did not allow the introduction of said facts.

#### **Findings of Fact**

1. The Administrative Law Judge's findings of fact, set forth in paragraphs one (1) through thirteen (13) of the recommended order, are hereby adopted and incorporated herein.

2. Petitioner filed a Motion to Assess Costs in Accordance with Section 456.072(4), Florida Statutes. In support of the Motion, the Petitioner attached an Affidavit of Fees and Costs Expended and a Time Tracking Report which sets forth the itemized costs incurred by the Petitioner.

3. Respondent did not file a response to the Petitioner's Motion to Assess Costs.

4. The costs incurred by Petitioner during the investigation and prosecution of this matter are nine thousand three hundred eighty-seven dollars and seventy-seven cents (\$9,387.77).

5. There is competent, substantial evidence to support the findings of facts as adopted by the Board.

6. Respondent objected to the Board's adoption of the findings of facts of the Administrative Law Judge.

#### **Conclusions of Law**

1. The Administrative Law Judge's conclusions of law, set forth in paragraphs fourteen (14) through eighteen (18) of the recommended order, are hereby adopted and incorporated herein.

2. Section 456.072(4), Florida Statutes (2001), provides:

In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not a board, shall assess costs related to the investigation and prosecution of the case.

3. There is competent substantial evidence to support the conclusions of law as adopted by the Board.

4. Respondent objected to the Board's adoption of the findings of fact of the Administrative Law Judge.

## PENALTY

The recommended penalty of the Administrative Law Judge is adopted and incorporated herein. Respondent objected to the Board's adoption of the penalty recommendation of the Administrative Law Judge.

### IT IS THEREFORE ORDERED AND ADJUDGED

That the Respondent's license to practice as a physical therapy assistant be disciplined in the following manner:

1. **FINE.** The Respondent shall pay a fine of \$2,000.00 within 6 months of the date of the filing of this Final Order.
2. **COSTS.** The Respondent shall pay an assessment of costs in the amount of \$9,387.77 within six (6) months of the date of the filing of this Final Order.
3. **SUSPENSION.** The Respondent's license is suspended for six (6) months.
4. **PROBATION.** Following the suspension period, the Respondent's license is placed on probation for a period one (1) year under the following terms and conditions:
  - a. **Board-Approved Monitor.** Respondent is only to practice as a physical therapist assistant under the direct supervision of a Board-approved monitor. Respondent must obtain board approval prior to the conclusion of the suspension period. The Board hereby delegates the approval of the monitor to the Chair of the Board.
  - b. **Monitor Quarterly Reports.** The monitor shall provide reports to the Board's Compliance Officer at the address listed below. The reports shall

include: Respondent's name, address, license number, current place of employment (whether employed as a physical therapy assistant or not), a summary of Respondents job duties/responsibilities and an evaluation indicating whether the Respondent is performing his duties/responsibilities satisfactorily or not. These reports are to be filed every three (3) months.

c. **Practice Limitation.** The Respondent is restricted from practicing in the area of home health. In any setting in which the Respondent works as a physical therapy assistant, Respondent shall within ten (10) days, provide a copy of this Final Order to his employer. Respondent shall, within fifteen (15) days of beginning employment as a physical therapy assistant, submit a sworn affidavit to the Board's Compliance Officer, at the address below, that Respondent has submitted a copy of this Final Order to his employer. Respondent's affidavit shall state the name of the individual to whom the Final Order was provided.

d. **Respondent's Personal Quarterly Reports.** The Respondent shall provide reports to the Board's Compliance Officer at the address listed below. The reports shall include: Respondent's name, address, license number, phone number, current place of employment (whether employed as a physical therapy assistant or not), and a summary of Respondents job duties/responsibilities. These reports are to be filed every three (3) months.

e. **Tolling.** The Respondent's probation is tolled if the Respondent leaves the state of Florida or ceases practicing as a physical therapy assistant in the State of Florida for a period of thirty (30) days or more. **This tolling**

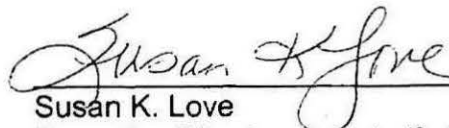
provision does not toll the quarterly reporting requirements placed on Respondent in paragraph 4(d) above.

5. **Continuing Education.** Respondent shall successfully complete five (5) hours of continuing education in the area of Physical Therapy Medical Records Documentation in the practice of physical therapy in Florida, all hours to be completed within one (1) year of entry of the Final Order. These continuing education hours shall be in addition to the hours required for license renewal. Within ten (10) days of completion of the courses and/or receipt of the certificate of completion, Respondent shall mail a copy of the continuing education certificate of completion to the Compliance Officer for the Board of Physical Therapy Practice at the address listed below.

6. **Compliance Address.** Payment of fines and costs, and the submission of documents, shall be to the Compliance Officer for the Board of Physical Therapy Practice, Department of Health, HMQ/AMS, Client Services, Post Office Box 6230, Tallahassee, Florida 32314-6320.

DONE AND ORDERED this 26<sup>th</sup> day of May, 2006

**BOARD OF PHYSICAL THERAPY PRACTICE**



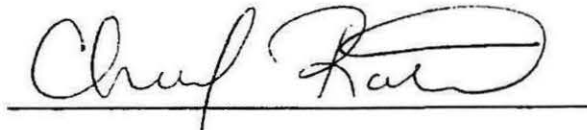
Susan K. Love  
Executive Director *on behalf of*  
MARTHA CLENDENIN, PH.D, P.T., CHAIR

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to: **Michael G. Westrope, P.T.A.**, 946 Valley View Circle, Palm Harbor, Florida 34684-4463; **Louis Kwall, Esquire**, 133 North Fort Harrison Avenue, Clearwater, Florida 33755; by interoffice mail to **Reginald D. Dixon**, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; and **Lynne Quimby-Pennock**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265 this 30<sup>th</sup> day of May, 2006.



**Deputy Agency Clerk**