

JOHN BEL EDWARDS
GOVERNOR



CHARLOTTE F. MARTINI, M.P.A.
EXECUTIVE DIRECTOR

State of Louisiana
DEPARTMENT OF HEALTH AND HOSPITALS
Louisiana Physical Therapy Board

IN THE MATTER OF

KEN CANNON

LICENSE NO. A2004G

CONSENT ORDER

NUMBER: 2021-I-026

CONSENT ORDER

Ken Cannon (“Mr. Cannon”) is a Physical Therapist Assistant (“PTA”), as evidenced by License No. A2004G, which expired on April 30, 2022, and is subject to the jurisdiction and rules and regulations of the Louisiana Physical Therapy Practice Act (La. R.S. 37:2401, et seq.), and the Rules and Regulations of the Louisiana Physical Therapy Board (“LPTB” or “Board”) (LAC 46:LIV §103, et seq.), and enters in the following agreement relative to Complaint No. 2021-I-026.

FACTUAL BASIS FOR CONSENT ORDER

1. Respondent received his Physical Therapist Assistant license, number A2004G, on or about on November 17, 1993. His license expired on April 30, 2022.
2. On or about December 27, 2021, the Board received a confidential complaint alleging that while employed at Reliant Rehabilitation at Legacy Nursing and Rehabilitation of Tallulah, between the timeframe of November 25, 2021 and December 8, 2021, Mr. Cannon documented that he provided physical therapy services to patients that he did not provide, and an internal billing audit by his employer revealed labor concerns, including that he inaccurately billed for physical therapy services, and other discrepancies, which resulted in his termination.

3. In association with the complaint, documentation was provided by Mr. Cannon's employer in support of the allegations against him.
4. On February 3, 2022, correspondence was sent to Mr. Cannon by the Executive Director of the Board, Charlotte Martin, informing him of the complaint filed against him, and requesting that he, within thirty (30) days, provide a written statement giving his view of the allegations addressed therein.
5. By correspondence dated March 2, 2022, and received by the Board on March 4, 2022, Mr. Cannon provided a response to the complaint, generally denying the majority of the allegations raised against him. However, he admitted that he would, at times, put his minutes/paperwork into his employer's computer system before providing services to patients, and that he failed to clock out when he left for lunch on one occasion. Respondent attributed the wrongdoing to the drastic changes to normal treatment procedures, such as changes in time and location, and the stress associated with the Covid-19 pandemic.
6. By correspondence dated March 28, 2022, the Board provided notice to Mr. Cannon that the investigative committee was scheduling an informal conference in the captioned matter to give him an opportunity to show that he met all lawful requirements for the retention of his license.
7. Mr. Cannon attended an informal conference with the investigative committee on June 23, 2022, after it was rescheduled from the originally date noticed.
8. During the informal conference, Mr. Cannon confirmed that he forgot to clock out for work when he left on one occasion, but denied that he routinely was gone from work for long periods of time as alleged in the complaint against him or that he inaccurately billed for physical therapy services that were not provided to patients. He further explained that while he had put his treatment times in for patients prior to treating them, sometimes he had to break up treatment in fifteen minute segments and would come back to the patient later in the day to complete treatment, which may have explained why he was not present during a scheduled treatment time. Mr. Cannon further advised that if he failed to accurately bill his time on a patient, it was unintentional.

VIOLATIONS RELATED TO RESPONDENT'S CONDUCT

Respondent's conduct described above and otherwise reviewed in this action is subject to and/or in violation of the following provisions of law regarding his practice of physical therapy:

1. La R.S. 37:2420(A)(1) - Practiced physical therapy in violation of the provisions of this Chapter, the rules of the board, or standards of practice;
2. La R.S. 37:2420(A)(7) - Been found guilty of unprofessional conduct or sexual misconduct, including but not limited to departure from, or failure to conform to, the minimal standards of acceptable and prevailing physical therapy practice, in which proceeding actual injury to a patient need not be established;

3. LAC 46: LIV §345(B)(1)(a) - As used in R.S. 37:2420(A)(7) of the Practice Act and in these rules, the term unprofessional conduct does not require actual injury to a patient, and includes, but is not limited to, the following: (1) departure from, failure to conform to, or failure to perform on a continuing basis to the minimal standards of acceptable and prevailing physical therapy practice as defined in §123, or the commission of any act contrary to honesty, justice, good morals, patient safety or the best interest of the patient, whether committed in the course of the licensee's practice or otherwise, regardless of whether actual injury to a patient results therefrom, including, but not limited to: a. failure to use sound professional judgment;
4. LAC 46: LIV §345(B)(3)(a) - As used in R.S. 37:2420(A)(7) of the Practice Act and in these rules, the term unprofessional conduct does not require actual injury to a patient, and includes, but is not limited to, the following: (3) failing to create or maintain medical record—a licensee shall create and maintain adequate and legible patient records. In addition, a licensee shall: a. Not falsely create or alter a medical record;
5. LAC 46: LIV §345(B)(10) – As used in R.S. 37:2420(A)(7) of the Practice Act and in these rules, the term unprofessional conduct does not require actual injury to a patient, and includes, but is not limited to, the following: (10) making or participating in any communication, advertisement, or solicitation which is false, fraudulent, deceptive, misleading or unfair in violation of board rules, or which contains a false, fraudulent, deceptive, misleading or unfair statement or claim, including, but not limited to: a. documenting services provided which have not been provided as documented or billing for services which have not been provided;
6. LAC 46: LIV §341(B) – A licensee shall maintain accurate patient treatment and billing records and shall not falsify, alter, or destroy such records, the result of which would be to impede or evade investigation by the board or other lawful authorities.

ORDER

Pursuant to the foregoing Factual Basis for Consent Order and Violations Related to Respondent's Conduct, and, in order to avoid further administrative and judicial proceedings, Respondent and the Board, by vote of quorum, agree as follows:

1. The parties acknowledge that Respondent's license is currently expired. During the time his license is expired, Respondent shall not engage in the provision of physical therapy services. However, should Respondent seek and obtain reinstatement of his license, Respondent's license shall be on probation for a minimum of three (3) years from the date his license is reinstated. Respondent shall submit to the Board Executive Director in writing not less than thirty (30) calendar days prior to completion of the probationary period a request for a letter from the Board formally acknowledging the close of the probationary period. Respondent's probationary period concludes upon receipt by Respondent of the Board letter acknowledging the close of the probationary period and a final exit interview with the Board to be scheduled by the Board Executive Director.
2. During the three (3) year probationary period, Board representatives will make random unannounced monitoring visits to Respondent's work sites. Respondent shall fully

cooperate with Board representatives making random unannounced monitoring visits to his work sites and shall provide complete access to his place of employment, employment and/or business records, patient treatment and billing records, and all other documentation necessary for a full legal compliance review. Respondent shall reimburse the Board \$150.00 for each such monitoring visit.

3. During the three (3) year probationary period, Respondent shall provide a copy of this Consent Order to his employer(s), direct supervisor(s), and any physical therapist(s), physical therapist assistant(s), or physical therapy technician(s) who work for, or contract with Respondent at any business, including, but not limited to, any business(es) Respondent owns, operates or manages before providing physical therapy services and shall have such person(s) notify the Executive Director in writing that he/she has received and reviewed a copy of this Consent Order prior to Respondent providing physical therapy services. Respondent shall provide the written acknowledgement from such employer(s) and/or individual(s) named herein within five (5) days of approval of this Consent Order by the Board. Respondent shall do this also with any new or subsequent employer(s), direct supervisor(s), physical therapist(s), physical therapist assistant(s), or physical therapy technician(s) during the probationary period within five (5) days of hiring, or working with any new individuals within the above categories.
4. Respondent's employer shall complete the Employer Agreement Form to be reviewed and approved by the Board. Employer's worksite supervisor/monitor shall not be a licensee under current disciplinary action with the Board.
5. During his three (3) year probation period, Respondent shall not serve as the supervisor or clinical instructor to any physical therapist or physical therapist assistant.
6. The three (3) year probation period shall be extended for any period of time in which Respondent is not employed as a physical therapist assistant within the State of Louisiana and regularly working at least an aggregate over the month that is at *least eighty (80) hours*. If Respondent ceases to be regularly employed as a physical therapist assistant in Louisiana, he shall notify the Executive Director in writing within *ten (10) calendar days* of the last date he has practiced physical therapy in Louisiana. Likewise, if Respondent returns to work as a physical therapist assistant within the State of Louisiana, he shall notify the Executive Director in writing within *ten (10) calendar days* of his return to practice.
7. During the three (3) year probation period, Respondent shall complete four continuing education unit (CEU) hours in Ethics in addition to all standard requirements for PTA licensure renewal during each renewal cycle.
8. Respondent shall pay the Board the sum of \$3,250.00 in partial reimbursement for legal and administrative expenses incurred in this matter. This amount may be paid in a lump sum, or quarterly or monthly installments, if arranged in writing in advance with the Executive Director, which payments must be made by certified check or money order. If paid in installment payments, the total amount due must be paid in twenty-four (24) months, regardless of reinstatement status. In the event that the Respondent reimburses the Board in monthly installments, payment shall be submitted to the Board Executive Director no later than the 15th day of the month if monthly, or the fifteenth day of the first month of the quarter, if paying quarterly. The first payment, whether by lump sum or installment,

shall be made within fifteen (15) days of approval of this Agreement and Order by the Board. Failure to provide payment by the 15th day of the month three times is a basis for further disciplinary action by the Board.

9. Respondent shall comply with La R.S. 37:2415(B) and notify the Executive Director of the Louisiana Physical Therapy Board in writing and prior to a change of residence to another country, state, or jurisdiction. Upon relocation, all provisions of this Consent Order, except Paragraph 8 pertaining to reimbursement of legal and administrative expenses, are suspended until Respondent again resides within Louisiana, notifies the Executive Director of his Louisiana residence, and receives written confirmation from the Executive Director.
10. Respondent shall meet with the Board, or with the Board's representative, whenever requested during the probationary period, and shall fully cooperate in providing information and documents requested in such meetings.
11. Respondent shall have reliable access to a computer, internet, and telephone. In accordance with Board Rule §385 Respondent shall provide to the executive director his preferred telephone number and/or email address in writing for expedited communications regarding compliance with this board order within forty-eight (48) hours of signing the Consent Order. Respondent shall reply to Board emails and telephone calls within four (4) hours of such communication. Respondent shall notify the Executive Director in writing of any change to his preferred telephone number and/or email address immediately upon such change.
12. Respondent declares that, before signing this Consent Order, he is of sound mind has carefully read this document, understands the contents, and freely consents to it as valid and binding upon him. He is aware of his right to a notice of hearing, to a formal administrative hearing and to judicial review of an administrative finding, and freely waives those rights. Although he has not been represented by legal counsel in this matter, he is aware that he has the right to be represented by legal counsel relative to this Consent Order.
13. Respondent acknowledges that his failure to comply with any term of this Consent Order is a basis for the immediate summary suspension of his license and for further disciplinary action by the Board.
14. Respondent acknowledges that this Consent Order only addresses the specific violations outlined above.
15. Respondent authorizes the Investigating Board Member, John Marius, and legal counsel assisting the Investigating Board Member, to present this Consent Order to the full Board for its consideration and to fully disclose and discuss with the Board the nature and results of the investigation. Respondent waives any objection to such disclosures under La. R.S. 49:960 and expressly acknowledges that the disclosure of such information to the Board shall be without prejudice to the Investigative Board Member's authority to file a formal Administrative Complaint against him, or to the Board's capacity, as currently comprised, or any future composition of the Board, to adjudicate such Complaint, should the Board decline to approve this Consent Order. Should the Board decline to approve this Consent Order, Respondent retains all rights to due process including, but not limited to, his right

to have notice of any allegations or charges against him, to administrative adjudication of such allegations or charges, and to a subsequent final decision rendered upon written findings of fact and conclusions of law.


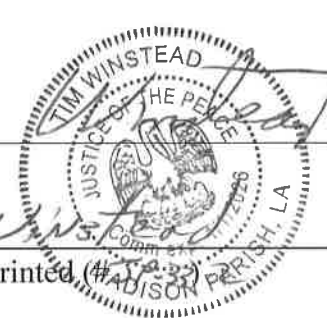
16. Respondent acknowledges that presentation to and consideration by the Board of this Consent Agreement, including presented documentary evidence and information, shall not unfairly or illegally prejudice or preclude the Board, or any of its members, as the Board is currently constituted, or any future appointments to the Board, from further participation in hearings or resolution to these proceedings.
17. Respondent acknowledges that this Consent Order becomes effective only upon signature by the Board Chair.
18. Respondent acknowledges that all communication(s) regarding compliance with and/or fulfillment of the requirements of this Consent Order shall be in writing between Respondent and the Board Executive Director. No verbal communication(s) shall be considered proof of compliance or commitment. Respondent acknowledges that it is the responsibility of the Respondent to fully comply with the Consent Order and proactively communicate with the Board Executive Director.

I, Ken Cannon, have read this Consent Order, understand it, and agree to be bound by its terms and conditions.



KEN CANNON

SWORN TO and subscribed before me, Notary Public this 23 day of November, 2022,
in Tallulah, Louisiana.


Notary Public

Notary Name printed (#15932)

AGREED AND ACCEPTED by official action of the Board, this 7 day of December, 2022, at Lafayette, Louisiana.

Louisiana Physical Therapy Board

 PT, DPT, MHA
Judith Halverson, P.T., D.P.T., M.H.A., Chair