
In the Matter of
DEREK DAVID, P.T.
License No. 01589
Respondent

* LOUISIANA STATE BOARD OF
* PHYSICAL THERAPY EXAMINERS
* Case Number 2005-I23

CONSENT ORDER

A complaint was received by the Louisiana State Board of Physical Therapy Examiners (hereinafter referred to as "BOARD") raising several issues regarding Respondent, Derek David, (hereinafter referred to as "DAVID"), License No. 01589, a physical therapist licensed by the Louisiana State Board of Physical Therapy Examiners, and his provision of physical therapy services to patients at the Acadia-St. Landry Guest Home and the Rayne Guest Home.

Upon being presented with this information, investigating Board Member Charles Reynolds recommended to the BOARD, which was then in its monthly meeting, that Respondent's license be summarily suspended and that he be promptly provided with an opportunity to confront the allegations made against him.

The BOARD unanimously agreed to the summary suspension on May 19, 2005, and issued an "Order For Summary Suspension of Physical Therapist License," suspending the physical therapist license of DAVID effective that date. Respondent was requested to participate in an Informal Conference on May 23, 2005 with Investigating Board Member Chuck Reynolds, Executive Director Cheryl Gaudin and Board Counsel Glenn Ducote participating. Also present with Respondent was his attorney, Kirk Piccione. This Informal Conference was continued by consent to May 27, 2005 and discussions subsequently continued among counsel, including Celia Cangelosi who also represented Respondent, until this agreement was reached on July 25, 2005.

In these discussions DAVID has contended that the BOARD action summarily suspending his license, which action was taken by the Board without notice to him, was illegal, unlawful and not authorized by law. The BOARD asserts that its actions are in full compliance with the law.

In an effort to settle all issues between the parties and in order to avoid further administrative and judicial proceedings, the parties agree to the issuance of this Consent Order of the Board:

1. DAVID enters a plea of *nolo contendere* to charges of violating Board Rule 327E(1), (3) and (6); Board Rule 321A(1)(a); and Board Rule 323; regarding the provision of physical therapy services to patients at the Acadia - St. Landry Guest Home and the Rayne Guest Home at times prior to the date of this Agreement;

2. The previously issued summary suspension of the physical therapist license of DEREK DAVID (No. 01589) to practice physical therapy will terminate upon the execution of this Consent Order by Respondent and his counsel and by the Board representative;

3. The physical therapist license of DEREK DAVID (No. 01589) is placed on probation for a thirty-four month period, beginning on the date of the execution of this Consent Order by the Respondent and his counsel and by the Board representative. During this probationary period, DAVID's employment and contract records and patient treatment records (to the extent allowed by law) will be subject to reasonable and random inspection and review for full legal compliance by a designated Board representative. Respondent shall remit to the Board the sum of \$100 as reimbursement for each monitoring visit by a Board representative. This probationary period shall be extended for any period of time in which Respondent is not employed as a physical therapist and regularly working as such within the State of Louisiana for at least twenty hours per week. If Respondent ceases to be regularly employed as a physical therapist in Louisiana during this probationary period, he shall notify the Board in writing within ten days of the last date Respondent has practiced physical therapy in Louisiana.

4. During the probationary period, DAVID shall provide written notice to the Executive Director of all employment and/or contractual service arrangements which he has to provide physical therapy services and shall notify the Executive Director in writing within five days of any and all changes in such arrangements.

5. Any and all other complaints, if any, pending against DAVID before the BOARD and/or arising out of the provision of physical therapy services by DAVID to patients at the Acadia – St. Landry Guest Home and the Rayne Guest Home before the date of this agreement will be dismissed and/or will not be prosecuted; and

6. DAVID releases and renounces any and all claims which he may have against the Louisiana State Board of Physical Therapy Examiners, its members, employees, agents, investigators or attorneys arising out of these disciplinary proceedings and their pursuit of them. This waiver, release and renunciation includes, but is not limited to, any claim for damages or other relief, and whether or not based on any delay, constitutional right, or violation of law, rules or procedure. Likewise, DAVID waives and releases any claim which he might assert for reimbursement of attorney fees and/or costs.

By signing this Consent Agreement, DAVID agrees that the Board has jurisdiction in this matter and waives his right to Notice of Hearing, to a formal Administrative Hearing, and to

judicial review of this Consent Order, provided the Board approves the Consent Order at its formal meeting. DAVID also acknowledges that any failure on his part to comply with the terms of this Consent Order is a basis for disciplinary proceedings by the Board, provided the Board approves the Agreement in its formal meeting.

Both DAVID and the BOARD stipulate that this Consent Agreement shall not become effective and shall not become binding on either party unless and until approved by the Board at formal meeting.

I, DEREK DAVID, P.T., understand that this agreement is effective upon affirmative vote by the BOARD at a formal meeting. It is also understood that should the BOARD not approve the Consent Order, my agreement hereto does not preclude the Louisiana State Board of Physical Therapy Examiners from filing formal charges against me and from requiring a formal hearing of my case.

SIGNED, AGREED TO AND ENTERED on this 27 day of July, 2005.

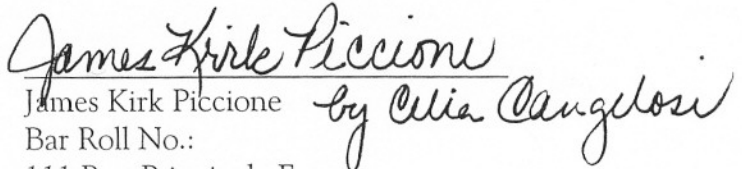


DEREK DAVID, P.T., Respondent

License No. 01589




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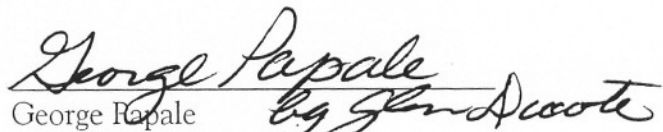
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In Re: Derek David, P.T.

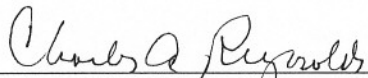
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ACCEPTANCE OF THE CONSENT ORDER BY THE LOUISIANA STATE BOARD OF
PHYSICAL THERAPY EXAMINERS:

By a majority vote of the Board members voting in favor of the foregoing Consent Agreement at the Special Board meeting on July 26, 2005, the Board has adopted this Consent Order.

FOR THE BOARD:



Charles Reynolds, P.T., Chair