

In the Matter of  
**ALEXANDER CLAY COCKE**  
 PT License No. 04820  
 Respondent

\*        **LOUISIANA STATE BOARD OF**  
 \*        **PHYSICAL THERAPY EXAMINERS**  
 \*  
 \*        Case Number 2008 1 016

### **CONSENT ORDER**

A complaint received by the Louisiana State Board of Physical Therapy Examiners (Board) brought to the attention of the Board that Alexander Clay Cocke, a physical therapist licensed by the Board had tested positive for a controlled substance on a pre-employment examination at Ochsner Foundation Hospital in New Orleans. Documentation of the positive drug screen was provided to the Board pursuant to a subpoena.

Respondent was informed of the complaint received by the Board and was asked to participate in an Informal Conference on June 25, 2008. Respondent appeared and participated in the Informal Conference with Investigating Board Member Jerry Jones, Board Executive Director Cheryl Gaudin and Board General Counsel Glenn Ducote on that date at the Board office in Lafayette.

In the course of that conference, Respondent acknowledged that he had used cocaine at party the day before he had a job interview at Ochsner, but indicated that it was the only time he had used cocaine and that he did not use any other controlled substances. Respondent contended that since he was not working at Ochsner he did not place patients in danger, but acknowledged that the positive test result occurred while he was seeking employment as a physical therapist.

Respondent did not accept the terms of a Consent Order proposed at the Informal Conference and a formal public hearing was scheduled for October 24, 2008. Prior to that hearing date Respondent contacted Board counsel and agreed to accept the terms of this Consent Order which were agreed to by the Investigating Board Member and Respondent, for recommendation to the full Board.

### **FINDINGS OF FACT**

Respondent tested positive for the controlled substance cocaine in a pre-employment drug screen conducted by Ochsner Foundation Hospital on February 27, 2008 while seeking employment as a physical therapist at that facility.

### **CONCLUSIONS OF LAW**

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

1. The Board has the authority to suspend or revoke a license which it has issued, or place probationary conditions upon such license, upon proof that the licensee has been guilty of unprofessional conduct or has violated the Practice Act of Rules of the Board. La. R.

37:2413A(7) and Board Rule 325.

2. As used in the Physical Therapy Practice Act, "unprofessional conduct" includes: departure from, or failure to conform to the standards of acceptable and prevailing physical therapy practice in the State of Louisiana, regardless of whether actual injury to a patient results therefrom. Rule 327E.

3. Board Rules incorporate the *Code of Ethics and Guide for Professional Conduct* of the American Physical Therapy Association. Rules 305B and 331.

4. Respondent's ingestion, self-administration or other use of a controlled substance affecting the central nervous system without a lawful prescription is in violation of Rule 327C(2).

5. By seeking professional employment as a physical therapist while under the influence of a controlled substance without a lawful prescription, Respondent engaged in unprofessional conduct.

### DECISION

Pursuant to the foregoing Findings of Fact and Conclusions of Law, and in order to avoid further administrative and judicial proceedings, Respondent and the Board, by vote of quorum, agree as follows:

A. Respondent's license as a physical therapist is placed on probation for three years, beginning November 1, 2008, during which period his employment records, place of employment, patient treatment and billing records will be subject to random inspection and review for full legal compliance by a designated Board representative. Respondent and his employers are required to cooperate fully with these monitoring visits. During this three year probationary period, Respondent shall remit to the Board \$100 as reimbursement for the expenses of each such monitoring visit to his practice.

B. The three-year probationary period shall be extended for any period of time in which Respondent is not employed as a physical therapist within the State of Louisiana and regularly working at least twenty hours per week as such. If Respondent ceases to be regularly employed as a physical therapist in Louisiana, he shall notify the Executive Director in writing within ten days of the last date Respondent has practiced physical therapy in Louisiana. Likewise, if Respondent returns to work as a physical therapist within the State of Louisiana, he shall notify the Executive Director in writing within ten days of his return to practice.

C. During the three-year probationary period, Respondent shall be subject to random drug screens arranged by the Board and shall reimburse the Board for the expense of such drug screens.

D. Respondent shall notify the Executive Director in writing of all employment and/or contractual service arrangements which he has to work as a physical therapist and shall update the Executive Director in writing within five days of any and all changes in such arrangements.

E. Respondent shall provide a copy of this Consent Order to his employer(s) before providing services to that employer and shall have the employer(s) notify the Executive Director in writing that she/he has received and reviewed a copy of this Consent Order; Respondent shall do this also with any new or subsequent employer(s) during his probationary period.

F. Respondent shall reimburse the Board in the sum of \$4,000 for legal expenses arising out of preparation of this case for hearing. Payment of this amount may be made in installments over Respondent's probationary period which must be arranged in advance on terms acceptable to the Executive Director.

G. Respondent shall cooperate with Board representatives seeking to verify or document that the requirements of this Consent Order have been met and that legal and ethical procedures and practices are in place and being complied with in his practice.

H. Respondent declares that, before signing this Consent Order, he has carefully read this document, that he waives the participation of legal counsel, that he understands the contents, and freely consents to it as valid and binding upon him. Recognizing his right to have notice of allegations or charges asserted against him, to administrative adjudication of such allegations or charges, pursuant to La. R.S. 49:955-958, and to a subsequent final decision rendered upon written findings of fact and conclusions of law, Alexander Clay Cocke nonetheless waives these rights and proceedings and, pursuant to La. R.S. 49:955D and Board Rule 335, agrees to entry of this Consent Order.

I. Respondent authorizes the Investigating Board Member, Jerry Jones, and legal counsel assisting the Investigating Board Member, to present this Consent Order to the full Board for its consideration and to fully disclose to 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 Investigating Board Member's authority to file a formal Administrative Complaint against him, or to the Board's capacity 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 asserted 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.

J. Respondent acknowledges that this Consent Order becomes effective only upon signature by the Board Chair and recognizes that his failure to comply with any term of this Consent Order is a basis for further disciplinary action by the Board.

K. All communication 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 shall be considered as proof of compliance or commitment.

SWORN TO AND SUBSCRIBED on this 10 day of October, 2008.

Clay Cocke P.T.  
Clay Cocke, P.T.

AGREED AND ACCEPTED by official action of the Board, the \_\_\_\_ day of \_\_\_\_\_ 2008, at Lafayette, Louisiana.

LOUISIANA STATE BOARD OF  
PHYSICAL THERAPY XAMINERS

Dan Wood P.T.  
Dan Wood, P.T., Chair