

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHYSICAL THERAPY
EXAMINERS

IN THE MATTER OF THE	:	
SUSPENSION OR REVOCATION OF	:	
THE LICENSE OF	:	
	:	Administrative Action
HOWARD TRACHTENBERG, P.T.	:	
LICENSE NO. 40QA00041600	:	FINAL ORDER
	:	OF DISCIPLINE
TO PRACTICE PHYSICAL THERAPY	:	
IN THE STATE OF NEW JERSEY	:	

This matter came before the New Jersey State Board of Physical Therapy Examiners (“the Board”) upon information that the respondent has failed to complete a total of thirty (30) credits of continuing education in approved physical therapy courses during the period of February 1, 2006 through January 31, 2008, as required for the 2008-2010 biennial license renewal pursuant to N.J.S.A. 45:9-37.18 (a) 10 and N.J.A.C. 13:39A-9.1 et. seq. Based upon information received and which the Board has reviewed, the following preliminary findings are made:

FINDINGS OF FACT

1. Respondent is a physical therapist in the State of New Jersey and has been a licensee at

all times relevant hereto.

2. On December 10, 2007, the respondent submitted his completed application for renewal of license as a physical therapist in the State of New Jersey.

3. On April 25, 2008, the Board of Physical Therapy Examiners initiated a random audit of renewal applications for the 2008-2010 period, asking licensees to submit proof with regard to the satisfaction of continuing education requirements for the biennial renewal period, i.e., thirty (30) credit approved hours. The audit letter was sent by certified mail, return receipt requested, to the respondent's address of record and was received by the respondent on May 5, 2008.

4. Respondent submitted correspondence to the Board received on May 12, 2008 in response to the Board's audit which indicated that he had not completed the thirty (30) continuing education credits required upon renewal of the license to practice physical therapy, but that during his retirement from private practice he was involved in educational pursuits including teaching at the University of Medicine and Dentistry ("UMDNJ"), acting as a member of the board of trustees at UMDNJ, establishing a program with curriculum for Physical Therapy Assistants at South University in West Palm Beach Florida and acting as founder and President of the National Academy for Continuing Education. The respondent's correspondence did not include any proofs of attendance at continuing education courses. However, the respondent did inform the Board that he was unable to complete the continuing education credits because of problems with his health that include a mitral valve repair and a maze procedure during open heart surgery in November 2007.

5. On August 12, 2008, the Board issued a Consent Order in lieu of formal disciplinary action. The Order permitted respondent to maintain an active license and continue to practice as a physical therapist, conditioned upon respondent's completion of the thirty (30) outstanding

continuing education credits within sixty (60) days of the filing date of the order, and upon respondent's payment of a one thousand dollar (\$1,000.00) civil penalty due to his failure to obtain any of the credits within the time period required by law. The respondent was asked to respond to the Consent Order no later than August 29, 2008. The Consent Order was sent certified mail, return receipt requested, to the respondent's address of record and was received by the respondent on August 15, 2008.

6. Respondent failed to respond to the Consent Order.

CONCLUSION OF LAW

Respondent has not satisfied the requirements of N.J.S.A. 45:9-37.18 (a) 10 and N.J.A.C. 13:39A-9.1 et. seq. with regard to the completion of the appropriate number of approved continuing education credit hours and is therefore subject to sanctions pursuant to N.J.S.A. 45:1-21(h), failure to comply with the provisions of an act or regulation administered by the Board, which constitutes grounds for suspension or revocation of any certificate, registration or license, and grounds for sanction pursuant to N.J.S.A. 45:1-25.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline requiring respondent to pay a civil penalty of one thousand dollars (\$1,000.00) for violation of the above regulations was entered on October 28, 2008, and a copy was served on the respondent by second

day air on December 2, 2008 and was received on December 4, 2008. The Provisional Order also stated that respondent's license would be suspended by Final Order in the event that respondent failed to submit proof of having completed the requisite thirty (30) hours of continuing education credits within thirty (30) days of the date of receipt of the Final Order. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Finding of Fact and Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Respondent declined to reply or present any submissions to the Board in response to the Provisional Order of Discipline. The Board determined that further proceedings were not necessary and that no material discrepancies had been raised. The credits for continuing education must be obtained biennially by each holder of an active license during the period preceding the established license renewal date as required by N.J.S.A. 45:9-37.18 (a) 10. Thus, the respondent must have completed his thirty (30) credits by January 31, 2008. The Board determined that the respondent failed to submit proof of additional credits on a timely basis as the proofs presented indicated that respondent satisfied zero (0) of the required thirty (30) credits within the preceding license renewal period. The respondent failed to submit any additional correspondence indicating completion of any outstanding credits between August 2008 and February 2009.

Upon review of all available information, the Board finds that respondent has failed to complete thirty (30) continuing education credits, as required for the 2008-2010 biennial license

renewal pursuant to N.J.S.A. 45:9-37.18 (a) 10 and N.J.A.C. 13:39A-9.1 et. seq. . The Board requires the respondent to provide further documentation indicating completion of these thirty (30) credits. The Board affirmed its previous determination ordering respondent to pay a one thousand dollar (\$1,000.00) civil penalty and temporarily suspending respondent's license in the event that respondent fails to submit proof of having completed the requisite thirty (30) hours of continuing education credits within thirty (30) days of the date of receipt of the Final Order.

THEREFORE, IT IS ON THIS 14th **DAY OF** July **, 2009,**

ORDERED:

1. Respondent shall pay a civil penalty of one thousand dollars (\$1,000.00) pursuant to N.J.S.A. 45:1-25 for violation of N.J.S.A. 45:9-37.18 (a) 10, N.J.A.C. 13:39A-9.1 et. seq. and N.J.S.A. 45:1-21(h) as evidenced by your failure to satisfy the continuing education requirements. Payment is to be remitted by means of a certified check or money order, payable to the New Jersey State Board of Physical Therapy Examiners. Such payment is to be sent to the Board of Physical Therapy Examiners, attention Lisa Affinito, Executive Director at 124 Halsey Street, Sixth Floor, Post Office Box 45014, Newark, New Jersey 07101, no later than ten (10) days from the receipt of the Final Order.

2. Respondent must submit proof of having completed the thirty (30) outstanding hours of continuing education credits within thirty (30) days of the date of the receipt of the Final Order.

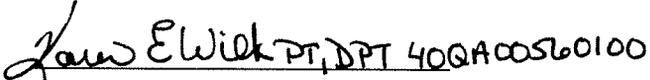
These continuing education credits are NOT to be used to renew respondent's license for the 2010-2012 renewal period.

3. In the event that respondent fails to present the proofs as required by paragraph #2, by the

date provided, the license of respondent shall be suspended, by operation of the Final Order, and shall remain suspended until respondent submits proof that he has fully complied with all continuing education requirements.

4. In the event that respondent's submissions establish a need for further proceedings, including, but not limited to, an evidentiary hearing, respondent shall be notified with regard thereto. In the event that an evidentiary hearing is ordered, and upon review of the record, the Board shall not be limited to the findings of facts and conclusions of law and sanctions herein.

NEW JERSEY STATE BOARD
OF PHYSICAL THERAPY EXAMINERS

By:  PT, DPT 400A00560100
Karen Wilk, P.T., D.P.T.
Chair