

BEFORE THE IOWA BOARD OF PHYSICAL AND OCCUPATIONAL THERAPY

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IN THE MATTER OF:	)	CASE NUMBER: 09-011
	)	
Brian Gauer,	)	<b>SETTLEMENT AGREEMENT</b>
	)	<b>AND FINAL ORDER</b>
Respondent.	)	

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COME NOW the Iowa Board of Physical and Occupational Therapy (Board) and Brian Gauer (Respondent), and pursuant to Iowa Code sections 17A.10 and 272C.3(4), enter into the following Settlement Agreement and Final Order of the contested case currently on file against the Respondent:

1. The Respondent was originally licensed to practice as a physical therapist in Iowa on November 19, 1992 and holds license number 01916. That license is active and will expire on November 15, 2013.

2. A Notice of Hearing and Statement of Charges was filed against the Respondent on June 15, 2012. A contested case hearing in this matter is scheduled for September 28, 2012.

3. The Board has jurisdiction over the parties and subject matter of the Notice of Hearing and Statement of Charges.

4. Execution of this Settlement Agreement and Final Order constitutes the resolution of this contested case. Respondent has a right to a hearing on the charges, but waives his right to hearing and all attendant rights, including the right to appeal, by freely and voluntarily agreeing to this Settlement Agreement and Final Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following contested case hearing.

5. Respondent is freely and voluntarily entering into this Settlement Agreement and Final Order, and he agrees that the State's counsel may present this agreement to the Board.

6. This agreement is subject to approval of the Board. If the Board approves this agreement, it becomes the final disposition of this matter. If the Board fails to approve this agreement, it shall be of no force or effect to either party.

7. This Settlement Agreement and Final Order as well as the Notice of Hearing and Statement of Charges are public records available for inspection and copying in accordance with the requirements of Iowa Code Chapter 22.

8. The Board's approval of this agreement shall constitute a FINAL ORDER of the Board.

**IT IS THEREFORE ORDERED:**

9. Respondent shall pay to the Board a \$1,000.00 civil penalty. Respondent shall pay this penalty within 30 days of the Board's acceptance of this Agreement and Order.

10. Respondent's license to practice as a physical therapist in Iowa will be placed on probation for one (1) year from the date this Agreement and Order goes into effect. During the probationary period, Respondent's license shall be subject to the following conditions:

a) Abstinance from drugs and alcohol. Respondent shall not consume alcohol. Respondent shall not use any controlled or prescription drug in any form unless the controlled or prescription drug has been prescribed for his use by a licensed treating physician or other qualified treating health care provider. Respondent shall provide the

board written notice within 72 hours of the use of any controlled prescription drug.

b) Chemical screening. Respondent shall participate in the Board's chemical screening program. Respondent shall complete enrollment in the Board's chemical screening program within 30 days of the effective date of this Agreement and Order. Respondent shall provide random blood, urine, or other bodily substance samples when required. Respondent agrees to comply with all requirements of the chemical screening program, and shall be responsible for payment of all expenses he incurs through that program. Respondent understands that consuming or contacting foods, medications, and other products that contain alcohol or poppy seeds may cause a positive test; therefore Respondent agrees to avoid contact or ingestion of these substances.

c) Licensee reports. Respondent shall file sworn, quarterly reports with the Board attesting to his compliance with all the terms and conditions of this Agreement and Order. The reports shall detail each condition of this Agreement and Order and how the Respondent has complied with the requirement. The reports shall be filed no later than December 1, March 1, June 1, and September 1 during the year of Respondent's probation.


d) AA meeting attendance. Respondent shall attend at least one (1) Board approved aftercare meeting (Alcoholics Anonymous, Narcotics Anonymous, or a similar organization) weekly. Respondent will attach to each quarterly report statements signed or initialed by another person in attendance at the meetings attesting to his attendance. The statement shall include the time, date and location of the meetings attended. Respondent shall have an AA or NA sponsor, and shall contact the Board within ten

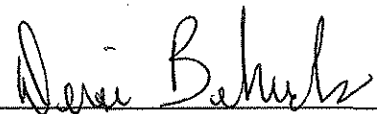
(10) days if the sponsor relationship is terminated for any reason.

11. Respondent may request early release from the terms of his probation after six (6) months from the effective date of this Decision and Order. The Board may grant such early release in its sole discretion.

12. Respondent's acceptance of this Agreement and Order does not constitute an admission of the facts alleged in the Statement of Charges in this matter.

AGREED AND ACCEPTED:

  
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BRIAN GAUER,  
RESPONDENT

  
\_\_\_\_\_  
CHAIRPERSON,  
IOWA BOARD OF  
PHYSICAL AND OCCUPATIONAL  
THERAPY

Dated this 24<sup>th</sup> day of  
August, 2012.

Dated this 28 day of  
September, 2012.

Copies to:

September Lau  
Assistant Attorney General  
Hoover State Office Building  
LOCAL

Brian Gauier  
4401 S. Solberg #9  
Sioux Falls, SD 57106