

BEFORE THE BOARD OF PHYSICAL & OCCUPATIONAL THERAPY
OF THE STATE OF IOWA

IN THE MATTER OF)	NO. 09-007
)	
Mark Peters,)	NOTICE OF HEARING
)	AND STATEMENT OF CHARGES
RESPONDENT.)	

COMES NOW the Iowa Board of **Physical & Occupational Therapy** (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) 11.6. Respondent was issued Iowa license 00970 on October 15, 2003. Respondent's license is current and will next expire on March 15, 2012. Respondent's address as reported to the Board is 2821 Cypress Drive, Bettendorf, IA 52722.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on **September 16, 2011**, before the Board of Physical & Occupational Therapy. The hearing shall begin at **9:00 a.m.** and shall be located in the Lucas State Office Building, Fifth Floor Board Conference Room 526, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Physical & Occupational Therapy, 5th Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 641 IAC chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC 11.17.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: September Lau, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file

with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148A, and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 148A, and 272C and 645 IAC chapter 202.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code Section 17A.12(3) and 645 IAC 11.21.

C. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

Respondent is charged habitual intoxication and the excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety in violation of Iowa Code 272C.10 and 645 IAC 202.2(6)(b).

D. FACTUAL CIRCUMSTANCES

1. Respondent is licensed to practice as a physical therapy assistant in the state of Iowa. His license is active and expires March 15, 2012.
2. In May, 2009, Respondent applied to reactivate his license. On the application, Respondent answered "Yes" to the question asking if he had "Been convicted, found guilty of or entered a plea of guilty or no contest to a felony or

misdemeanor crime (Other than minor traffic violations with fines under \$500)?”

3. In response to a Board request, Respondent provided information regarding a number of alcohol related convictions including two counts of operating while intoxicated (OWI), two counts of public intoxication, a disorderly conduct charge and an assault charge. The Board has since then received information regarding two additional charges of public intoxication.

5. Respondent has received a diagnosis of alcohol dependence from a substance abuse evaluator.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board’s settlement process are found at 645 IAC chapter 12. If you are interested in pursuing settlement of this matter, please contact September Lau, Assistant Attorney General, at 515/281-7175.

F. PROBABLE CAUSE FINDING

On this 16th day of June, 2011, the Iowa Board of Physical & Occupational Therapy found probable cause to file this Notice of Hearing and Statement of Charges.