

BEFORE THE IOWA BOARD OF PHYSICAL AND OCCUPATIONAL THERAPY

IN THE MATTER OF:)	NO. 10-006
)	DIA NO. 10DPHPT002
)	
)	FINDINGS OF FACT,
PAUL J. PURSLEY)	CONCLUSIONS OF LAW,
)	DECISION AND ORDER
License No. 03232)	

On September 24, 2010, the Iowa Board of Physical and Occupational Therapy (Board) filed a Notice of Hearing and Statement of Charges against Paul J. Pursley (Respondent) charging him with two counts:

- Count I: Representing oneself as a licensed physical therapist when one's license has been suspended or revoked or when the license is on inactive status, in violation of Iowa Code sections 147.2 and 272C.10(3) and 645 IAC 202.2(26).

- Count II: Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public, in violation of 147.55(3), 272C.10(3) and 645 IAC 202.2(3).

The hearing was held on December 17, 2010 at 9:10 a.m. in the Lucas State Office Building, fifth floor conference room, Des Moines, Iowa. Respondent failed to appear for hearing. The state was represented by Assistant Attorney General September Lau. The following Board members were present for the hearing: Denise Behrends, OT, Chairperson; Todd Bradley, PT; Dr. Erin Hytrek, PT; and Helen McNurlen, public member. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1)(2009), and was recorded by a certified court reporter. After hearing all the evidence and examining the exhibits, the Board convened in closed session, pursuant to Iowa Code section 21.5(1)(f)(2009), to deliberate its decision. The administrative law judge was instructed to prepare the Board's written decision, in accordance with its deliberations.

THE RECORD

The record includes the testimony of the witness and State Exhibits 1-7 (See Exhibit Index for description)

FINDINGS OF FACT

1. Respondent Paul Pursley was issued Iowa license 03232 to practice as a physical therapist on March 16, 2001. Respondent's license is currently active and will expire on April 15, 2012. (Exhibits 2, 3, 4)
2. Respondent's Iowa license to practice as a physical therapist was inactive from April 15, 2009 until June 11, 2010. Respondent was employed and working as a physical therapist at the University of Iowa Hospitals and Clinics (UIHC) during the time that his license was inactive. Respondent did not receive any notification from the Board that it was time to renew his license because he had moved and did not notify the Board of his new address. In addition, there was an internal error in the UIHC monitoring system that alerts physical therapists when it is time to renew their licenses. (Testimony of Tony Alden; State Exhibits 4-7)
3. As soon as Respondent realized that his license had expired, he notified his supervisor. Respondent was immediately placed on leave until he reinstated his license. Respondent had kept his continuing education up-to-date and was able to reinstate his license within two days. However, Respondent's employer sanctioned him with a one week suspension from work. (State Exhibits 3-7)
4. The original Notice of Hearing and Statement of Charges were served on Respondent by restricted certified mail on October 4, 2010. (State Exhibit 3)

CONCLUSIONS OF LAW

A person shall not engage in the practice of physical therapy unless the person has obtained a license for that purpose from the Board.¹ A license to practice a profession shall be revoked, suspended or otherwise disciplined for knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a

¹ Iowa Code section 147.2(2009).

profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.² In addition, the Board may impose any of the disciplinary sanctions provided in rule 645-202.3 when the Board determines that the licensee is guilty of representing oneself as a licensed physical therapist when one's license has been suspended or revoked, or when the license is on inactive status.³

The preponderance of the evidence established that Respondent represented himself as a physical therapist and worked as a physical therapist for a period of fourteen months when his license was inactive, in violation of Iowa Code section 147.2 and 645 IAC 202.2(26)[Count I]. However the evidence failed to establish that Respondent knowingly misrepresented his licensure status or engaged in unethical conduct. [Count II] Respondent had completed the continuing education required for license renewal and was eligible to renew his license when it expired. The evidence in the record tends to support Respondent's claim that he did not realize that his license was inactive and that he would not have intentionally practiced physical therapy without an active license.

DECISION AND ORDER

IT IS THEREFORE ORDERED that Respondent Paul Pursley (License No. 03232) is hereby CITED for his violation of Iowa Code section 147.2 and 645 IAC 202.2(26) and is WARNED that future violations will result in more severe disciplinary sanctions.

IT IS FURTHER ORDERED that Respondent Paul Pursley shall pay a civil penalty of one thousand dollars (\$1000) within thirty (30) days of the date of this Decision and Order.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6, that Respondent Paul J. Pursley shall pay \$75.00 for fees associated with the disciplinary hearing and \$55.00 for the court reporter fees. The total fees of \$130.00 shall be paid within thirty (30) days of receipt of this decision.

² Iowa Code sections 147.55(3), 272C.10(3)(2009); 645 IAC 202.2(3).

³ 645 IAC 202.2(26).

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This Findings of Fact, Conclusion of Law, Decision and order is approved by the Board January 13, 2011.