

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

IN THE MATTER OF:)	NO. 12-016
)	DIA NO. 13POT001
)	
DEBRA LEWISON)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Respondent)	DECISION AND ORDER

On March 15, 2013, the Iowa Board of Physical and Occupational Therapy (Board) filed a Notice of Hearing and Statement of Charges against Debra Lewison (Respondent) charging her with two counts:

Count I: Failure to submit the required report of continuing education, in violation of 147.55(9) and 645 IAC 202.2(22) and 4.11(1).

Count II: Submission of a false report of continuing education, in violation of 147.55(9) and 645 IAC 202.2(22).

The hearing was held on June 14, 2013 at 9:50 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; Jenifer Furness, OT; Bradley Earp, PT; Morris Blankespoor and Jaclyn Fleming, public members. 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)(2013), 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)(2013), 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 State Exhibits 1-13 (See Exhibit Index for description)

FINDINGS OF FACT

1. On November 13, 2006, Respondent Debra Lewison was issued Iowa license 01148 to practice as a physical therapist assistant. Respondent's Iowa license is current and will expire on July 15, 2014. (Exhibit 9)

2. Respondent's birthdate is July 29, 1962. (Exhibit 3) Pursuant to Board rule, the biennial continuing education compliance period for each licensee extends for a two-year period that begins on the sixteenth day of the licensee's birth month and ends two years later on the fifteenth day of the birth month.¹

On July 17, 2012, Respondent renewed her physical therapist assistant license online for the biennial license period that extended from July 16, 2010 through July 15, 2012. On her renewal application, Respondent affirmatively stated that she had completed the required hours of continuing education to renew her license. (Exhibit 3). As a physical therapist assistant, Respondent is required to complete a minimum of 20 hours of continuing education approved by the Board during each biennium. A minimum of 10 hours of the continuing education must be clinical in nature.²

3. On September 12, 2012, Board staff sent Respondent a letter notifying her that she had been selected for a post renewal continuing education audit. Board records indicate that Respondent was selected for audit because she renewed her license during the grace period. The letter informed Respondent that she was required to:

- verify that her continuing education has met the standards and criteria required for her last license renewal;
- complete the enclosed Post Renewal Continuing Education Audit Report form; and
- provide individual copies of certificates of program or course completion issued to her by the course sponsor. The documents were required to identify the course title, date(s), contact hours, sponsor and licensee's name.

The letter further informed Respondent that she must provide the requested information by October 12, 2012 to meet audit requirements. The letter included the name and telephone number of a Department staff member that Respondent could

¹ 645 IAC 203.2(1).

² 645 IAC 203.2(1)"b."

contact if she had any questions. Respondent did not reply to the first audit letter. (Exhibits 4, 6)

4. Department staff sent Respondent a second audit letter on October 29, 2012, which provided a new deadline of November 28, 2012 for Respondent to submit the required documentation. The letter included the name and telephone number of a Department staff member that Respondent could contact if she had any questions. Respondent did not reply to the second audit letter and did not submit any certificates of continuing education by the November 28, 2012 deadline. (Exhibits 4, 5, 7)

5. The Board filed its Notice of Hearing and Statement of Charges against Respondent on March 15, 2013. Sometime after that, Respondent submitted the following two certificates of continuing education to the Board:

- Manual Skills for the Upper Quarter-Clinical Pearls, conducted in Sioux Falls, South Dakota on March 28, 2012 - 6 contact hours; and
- Pathology and Intervention in Musculoskeletal Rehabilitation Module 3: Extremity Injuries, post-graduate home study training, completed on July 17, 2012 – 10 contact hours.

The 10 hour home study course was completed the day that Respondent renewed her license, which was two days after the end of Respondent's biennial licensing period. (Exhibit 8) It is unknown why Respondent waited until after the Statement of Charges was filed to provide this documentation to the Board. Even if Respondent is given credit for the course that she completed outside the biennial renewal period, she is still missing 4 contact hours of continuing education for her last license renewal.

6. On March 26, 2013, the Notice of Hearing and Statement of Charges was served on Respondent by restricted certified mail return requested. Respondent failed to appear for hearing. (Exhibits 1, 2)

CONCLUSIONS OF LAW

Pursuant to Board rule, the biennial continuing education compliance period shall extend for a two-year period that begins on the sixteenth day of the birth month and ends two years later on the fifteenth day of the birth month.³ Physical therapist assistants are required to complete a minimum of 20 hours of continuing education

³ 645 IAC 203.2(1).

approved by the Board during each biennium. A minimum of 10 hours of the continuing education must be clinical in nature.⁴

Following license renewal, the Board is authorized to audit licensees for compliance with the continuing education requirement.⁵ When audited, licensees are required to provide an individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor. These documents must contain the course date, title, contact hours, sponsor, and licensee's name.⁶ This information must be submitted within 30 days after the date on the letter of notification of audit. Extension of time may be granted on an individual basis.⁷

For auditing purposes, all licensees must retain their certificates of completion for two years after the biennium has ended.⁸ If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit. The deadline for receipt of documentation of make-up credit is 90 days from the date of mailing of the notice of deficit to the address of record at the board office. The licensee shall be re-audited following the next renewal period when make-up credit has been accepted.⁹

The Board may impose any of the disciplinary sanctions provided in rule 645 IAC 202.3 when the Board determines that the licensee has failed to submit the required report of continuing education or has submitted a false report of continuing education.¹⁰ The preponderance of the evidence established that Respondent violated Iowa Code section 147.55(9) and 645 IAC 202.2(22) when she failed to submit the required report showing her completion of 20 hours of continuing education for the biennial renewal period from July 16, 2010 to July 15, 2012. [Count I] The preponderance of the evidence further established that Respondent violated Iowa Code section 147.55(9) and 645 IAC 202.2(22) when she submitted a false report that she had completed the continuing education required to renew her license. [Count II] In fact, Respondent had not completed all of the continuing education at the time of her license renewal.

⁴ 645 IAC 203.2(1)"b."

⁵ 645 IAC 4.11.

⁶ 645 IAC 4.11(1)"a."

⁷ 645 IAC 4.11(1)"b."

⁸ 645 IAC 4.11(2).

⁹ 645 IAC 4.11(3).

¹⁰ Iowa Code sections 147.55(9)(2011); 645 IAC 202.2(22).

When Respondent renewed her license during the grace period, she stated on the renewal application that she had completed the required hours of continuing education. As of the end of her biennial renewal period on July 15, 2012, however, Respondent had completed only six (6) of the twenty (20) contact hours of continuing education required for license renewal. The Board notes that these six (6) contact hours of continuing education were clinical in nature.

Respondent completed an additional ten (10) contact hours of (home-study) continuing education on July 17, 2012. Although these hours were completed outside of the biennial licensing period, the Board has decided to accept those hours as make-up credit. Respondent is still missing four (clinical in nature) contact hours of continuing education for her 2012 license renewal. These additional four (4) contact hours of continuing education, which must be clinical in nature, will have to be completed in-person and may not be completed online or through a home-study course.

DECISION AND ORDER

IT IS THEREFORE ORDERED that Respondent Debra Lewison shall submit verification of her completion of four (4) contact hours of continuing education, which is clinical in nature and attended in-person, within sixty (60) days of the issuance of this Decision and Order. None of the contact hours submitted to satisfy Respondent's continuing education requirement for her 2012 license renewal may be used for any future license renewals.

IT IS FURTHER ORDERED that Respondent Debra Lewison shall pay a civil penalty of \$350, within sixty (60) days of the issuance of this Decision and Order.

Failure to provide verification of completion of the additional hours of continuing education and failure to pay the civil penalty in a timely manner will result in additional disciplinary action, up to and including a license suspension.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6, that Respondent Debra Lewison shall pay \$75.00 for fees associated with the disciplinary hearing and \$41.25 for the court reporter fees. The total fees of \$466.25 shall be paid within sixty (60) days of receipt of this decision.

Dated this 2nd day of July, 2013.



Denise Behrends, OT
Chairperson
Iowa Board of Physical and Occupational Therapy

Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action, unless, within 15 days after the date of notification or mailing of this decision, a motion to vacate is filed and served on all parties or an appeal of the decision on the merits is timely initiated. A motion to vacate shall state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact attached to the motion. 645 IAC 11.21(3). The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate. 645 IAC 11.21(4).

Pursuant to Iowa Code section 17A.19(2013) and 645 IAC 11.29, any appeal to the district court from a decision in a contested case shall be taken within 30 days from the issuance of the decision by the board. The appealing party shall pay the full costs for the transcript of the hearing. 645 IAC 11.23.

cc: September Lau, Assistant Attorney General