

**STATE OF VERMONT
OFFICE OF PROFESSIONAL REGULATION
PHYSICAL THERAPISTS**

In re: J. Gray O'Brien

Docket No. PT 03-0906

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DEFAULT JUDGMENT

Introduction

Specification of Charges of unprofessional conduct was filed against J. Gray O'Brien, licensed as a Physical Therapist, License No. 040-0003261, on January 25, 2007 and a Notice of Charges was sent by certified mail and first class mail on January 30, 2007. The certified receipt was returned by the Postal Service as undeliverable on March 13, 2007 after two notices to the addressee. The Notice of Charges sent by first class mail, however, was not returned. The undersigned was assigned as Administrative Law Officer for this matter and a Notice of Hearing for Default Judgment was sent to the Respondent on April 4, 2007.

The Hearing for Default Judgment was held as scheduled on this date, April 26, 2007, and present for the State was Prosecuting Attorney Edward Adrian, Esq. The Respondent failed to appear. Mr. Adrian indicated that he had had no contact with the Respondent with regard to the pending matter.

Findings of Fact

The Docket Clerk having made reasonable attempts to accomplish service at the last address known to the Office of Professional Regulation ("OPR") pursuant to Rule 3.2 of the OPR Administrative Rules of Practice, and the Respondent having failed to respond to the charges, the Respondent is, hereby, deemed to be in default. Pursuant to Rule 3.4 of the Administrative Rules of Practice, when a Respondent has defaulted, the allegations of the charges are to be treated as proven and, consequently, disciplinary action is to be taken based on those allegations. Pursuant to the rule, the undersigned, therefore, finds that:

1. The Administrative Law Officer has jurisdiction to hear matters involving allegations of unprofessional conduct by licensed Physical Therapists pursuant to 3 V.S.A. §§ 122, 129, and 129a; Title 26, Chapter 38 of the Vermont Statutes Annotated; Administrative Rules for Physical Therapists ("ARPT") and the Office of Professional Regulation's Rules.
2. The Respondent, J. Gray O'Brien, is licensed in the State of Vermont as a Physical Therapist under license number 040-0003261, which lapsed on September 30, 2002. The Respondent is also licensed as a physical therapist in the State of California.
3. Effective on or about April 11, 2006, the Respondent was disciplined for unprofessional conduct by the Physical Therapy Board of California. The Respondent received a public reprimand and was required to take a written examination on the laws and regulations governing the practice of physical therapy in California. This discipline was based on the Respondent's failure to supervise properly a physical therapy aide; several instances of insufficient documentation; and one instance where a patient record was altered.

Conclusions of Law

The above acts, omissions, and circumstances constitute grounds for discipline and Respondent has violated the following:

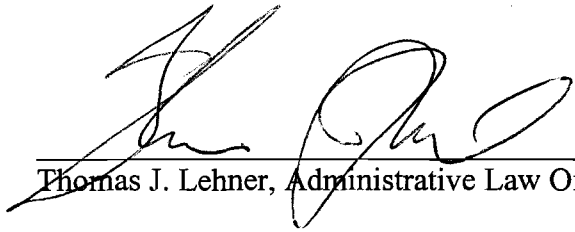
- A. 3 V.S.A. §129(a)(5) [In addition to any other provisions of law, a board may exercise the following powers: . . . (5) Discipline any licensee or refuse to license any person who has had a license revoked, suspended, limited, conditioned or otherwise disciplined by a licensing agency in another jurisdiction for an offense which would constitute unprofessional conduct in this state, or has surrendered a license while under investigation for unprofessional conduct];
- B. 3 V.S.A. §129a(b)(2) [Failing to practice competently by reason of any cause on a single occasion or on multiple occasions, which includes failure to conform to the essential standards of acceptable and prevailing practice]; and
- C. 3 V.S.A. §129a (a)(3) [Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession].

Order

Based on the above Findings of Fact and Conclusions of Law, **IT IS HEREBY**

ORDERED that the Respondent's license is **REPRIMANDED** and, pursuant to 3 V.S.A. §129a (d), the Respondent is **ASSESSED A \$200.00 ADMINISTRATIVE PENALTY**. Further, the Respondent's lapsed license shall not be reinstated unless and until the administrative penalty has been paid in full.

SO ORDERED:



Thomas J. Lehner, Administrative Law Officer

4/26/07
Date

Date of Entry: 4/27/07

**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
PHYSICAL THERAPISTS**

IN RE:)
J. GRAY O'BRIEN) Docket No: PT03-0906
License No: 040-0003261)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, J. Gray O'Brien, P.T.:

Authority

1. The Administrative Law Officer (ALO) has jurisdiction to hear matters involving allegations of unprofessional conduct by Physical Therapists pursuant to 3 V.S.A. §§122, 129 and 129a; Title 26, Chapter 38 of the Vermont Statutes Annotated; the Administrative Rules for Physical Therapists (ARPT); and the Office of Professional Regulation's Rules.

Statement of Facts

2. The Respondent, J. Gray O'Brien, is licensed in the State of Vermont as a Physical Therapist under license number 040-0003261, which is lapsed on September 30, 2002. The Respondent is also licensed as a physical therapist in the State of California.
3. Effective on or about April 11, 2006, the Respondent was disciplined for unprofessional conduct by the Physical Therapy Board of California. The Respondent received a public reprimand and was required to take a written examination on the laws and regulations governing the practice of physical therapy in California. This discipline was based on the Respondent's failure to properly supervise a physical therapy aide; several instances of insufficient documentation; and one instance where a patient record was altered.

Charges

4. The acts, omissions and/or circumstances described above constitute grounds for discipline because Respondent committed unprofessional conduct in violation of:

- i. 3 V.S.A. § 129(a)(5) (In addition to any other provisions of law, a board may exercise the following powers: . . . (5) Discipline any licensee or refuse to license any person who has had a license revoked, suspended, limited, conditioned or otherwise disciplined by a licensing agency in another jurisdiction for an offense which would constitute unprofessional conduct in this state, or has surrendered a license while under investigation for unprofessional conduct);

STATE OF VERMONT



Prosecuting Attorney
Office of
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9 Baldwin Street
Montpelier, VT
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ii. 3 V.S.A. §129a(b)(2) (Failing to practice competently by reason of any cause on a single occasion or on multiple occasions, which includes failure to conform to the essential standards of acceptable and prevailing practice); and

iii. 3 V.S.A. §129a(a)(3) (Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession).

Relief Requested

WHEREFORE, the license of J. Gray O'Brien should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 20th day of January 2007.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

pt.o'brien.soc

STATE OF VERMONT



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