

Before the
N.H. Physical Therapy Governing Board
Office of Allied Health Professionals
Concord, New Hampshire 03301

In the Matter of:

Docket No.: 03-2018

Karen L. Bowers (Robinson), PT
License No: 2910

SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of occupational therapy, the New Hampshire Board of Physical Therapy (“the Board”) and Karen L. Bowers (Robinson) (“the Respondent”) agree to settle certain allegations relating to the practice of physical therapy now pending before the Board in accordance with the following terms and conditions:

1. The Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by physical therapists who are its licensees pursuant to RSA 328-F: 23, I and RSA , 328-F: 24. The Board may dispose of any such allegations by settlement and without commencing or completing a disciplinary hearing pursuant to RSA 328-F:24, VI and Ahp 214.01.

2. The Board first granted Respondent a license to practice physical therapy in the State of New Hampshire on November 19, 2003. Respondent holds license number 2910. Respondent’s New Hampshire physical therapy license was suspended on an emergency basis by Order of the Board dated July 11, 2018. Respondent thereafter entered into a Preliminary Agreement for Practice Restrictions, by which she agreed not to practice physical therapy until the pending misconduct allegations are resolved. Respondent signed this agreement on July 18, 2018, and it was approved by the Board on the same date. The

hearing on the pending misconduct allegations was adjourned to September 19, 2018, by an agreement of the parties, which was approved by the Board's order dated July 24, 2018. Thereafter, the parties began to negotiate a Settlement Agreement, and, by an order dated September 14, 2018, the Board agreed to continue the hearing in this matter until such Settlement Agreement could be finalized.

3. The Board's investigation revealed and Respondent stipulates that if a disciplinary hearing were to take place, Hearing Counsel would prove that Respondent engaged in unprofessional misconduct in violation of RSA 328-F:23, II, Phy 405.01, Phy 501.02, and the Physical Therapist Code of Ethics, but no other laws, statutes or regulations, by the following facts:

- A. In September and October of 2016, Respondent continued to visit the home of a patient ("Patient 1") who had been discharged from physical therapy. On October 10, 2016, Respondent volunteered to pick up this patient's oxycodone prescription. Patient 1 agreed to allow Respondent to pick up her oxycodone prescription. When Respondent delivered the prescription to the Patient 1, the patient stated that ten (10) of the pills were missing. Patient 1 confronted Respondent about the missing pills, and, according to Patient 1, Respondent admitted she had the pills and stated she would return them to the patient. Respondent returned to the patient's home and gave the patient ten (10) oxycodone pills; however, three (3) of them were of a different dosage than those taken by the patient.
- B. On October 10, 2016, Respondent submitted work records to her employer by which she claimed to have spent the entire day providing physical

therapy to various patients in their homes. These work records covered the time when Respondent picked up Patient 1's prescription and delivered it to her home, but contained no mention of these activities.

- C. In the course of the investigation into the October 10, 2016 incident done by Respondent's employer, it came to light that Respondent had been prescribed oxycodone following back surgery in 2015. The result of the investigation was that Respondent was reprimanded by her employer for failing to maintain proper boundaries with Patient 1, and was instructed not to develop relationships with or visit the homes of former patients. Despite this, in January of 2017, Respondent maintained a relationship with another former patient ("Patient 2") and continued to visit her at her home. On two separate occasions, Respondent was observed going through the drawer where Patient 2 kept her medications, including prescribed oxycodone. Patient 2 discovered that she had run out of her oxycodone two weeks before the prescription was due to be refilled, and she accused Respondent of taking it. While this accusation was being investigated by her employer, Respondent took a medical leave of absence, after which she resigned from that employment.
- D. Respondent later took a job as a physical therapist with another employer. In March of 2018, while on duty for this employer, Respondent was observed to be possibly under the influence of some substance, and was required to submit to a drug test. This test was positive for opiates. Respondent did not contest this result, nor did she provide an explanation

for the positive result. Respondent resigned from her position while the investigation was pending.

- E. At the same time as the above investigation was pending, Respondent applied for a position as a supervising physical therapist with another agency. Respondent was hired for this position in April of 2018. In the application process, Respondent failed to disclose her positive drug test or that she had resigned while the investigation into it was pending.
- F. In March of 2017, Respondent filed a written response to the allegations then pending against her (which involved only Patients 1 and 2), in which she admitted visiting the homes of Patients 1 and 2 after their physical therapy had ended, but denied any other wrongdoing. In June of 2017, Respondent was interviewed by APU investigators. In this interview, Respondent stated that, with respect to Patient 1, she had only separated the ten pills from the prescription to set them aside for the Patient 1 so she would not over use her medication. With respect to Patient 2, Respondent claimed that she also overused her medication. Respondent also stated that the medical leave she took while the investigation into Patient 2's allegation was underway was due to marital problems. APU investigators later learned that the reason for her medical leave was that Respondent had voluntarily agreed to enter a hospital for treatment of her addiction to opiates.

4. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct Respondent violated RSA 328-F:23, II (a),

(c), (f), and/or (j), and Phy 405.01 (a), (d), (f), and/or (k), and/or Phy 501.02, and/or the Code of Ethics for the Physical Therapist.

5. Respondent acknowledges that this conduct constitutes grounds for the Board to impose disciplinary sanctions against Respondent's license to practice as a physical therapist in the State of New Hampshire.

6. Respondent consents to the following disciplinary action by the Board pursuant to RSA 328-F: 23, IV:

A. Respondent's license to practice physical therapy is hereby **suspended** for a minimum period of at least six (6) months, beginning on the effective date of this Settlement Agreement. Prior to any request to the Board to lift this suspension, Respondent must demonstrate compliance with the other terms of this Settlement Agreement, set forth below.

B. Within thirty (30) days of the effective date of this Settlement Agreement, Respondent shall **enroll and participate in a substance abuse rehabilitation program**, the requirements of which shall be as follows:

(1) The substance abuse program that Respondent enters into must include random drug testing at least two times per month.

(2) Respondent's continued participation in such program, and the results of any random drug testing shall be reported to the Board on a monthly basis by the program.

(3) Respondent shall execute the necessary consent(s) to allow such reporting to occur.

- (4) Respondent shall remain in the treatment program for no less than a period of six (6) months.
 - (5) Respondent shall demonstrate a minimum of ninety (90) days compliance with the treatment program prior to requesting that the Board lift the suspension of her license.
 - (6) The treatment program shall submit a report to the Board at the end of the program, which shall include any recommendations for continued treatment, if such is deemed necessary. If continued treatment is recommended, Respondent shall follow said recommendations and remain in treatment for the proscribed period of time.
- C. Respondent is assessed an **administrative fine** in the amount of \$2,000 dollars. Respondent shall be allowed to enter into a payment plan for the payment of this fine during the period of license suspension. All payments made under such plan shall be by money order or bank check, made payable to "Treasurer, State of New Hampshire, " and delivered to the Board's office at 121 South Fruit Street, Concord, New Hampshire.
- D. Respondent is **assessed for the costs of the investigation** of these misconduct allegations, pursuant to RSA 332-G:11, in the amount of \$1,000.00. This payment may also be made pursuant to a payment plan during the period of license suspension. Any payments made to satisfy the assessed costs of investigation shall be by money order or bank check, shall be made payable to "Treasurer, State of New Hampshire," but shall further contain the notation "Investigative Costs: Physical Therapy Governing

Board, pursuant to RSA 332-G:11.” Payments for assessed investigative costs shall be delivered to the Board's office at 121 South Fruit Street, Concord, New Hampshire.

- E. For a continuing period of one (1) year from the date that Respondent's suspension from the practice of physical therapy ends, Respondent shall furnish a copy of this Settlement Agreement to any employer to which Respondent may apply for work as a physical therapist or for work in any capacity which requires physical therapy training or license, or directly or indirectly involves patient care, and to any agency or authority that licenses, certifies or credentials physical therapists to which Respondent may apply for any such professional privileges or recognition.
- F. Upon Respondent's return to practice, she shall refrain from practicing in a home or hospice care setting for a minimum of two (2) years. Respondent's license shall remain under this restriction until further order of the Board. Respondent is further prohibited from contacting or visiting former physical therapy clients in their homes.
- G. Upon Respondent's return to practice, Respondent shall continue to submit to random drug and alcohol testing for a period of one (1) year. Such testing shall occur at least monthly for the first six (6) months. If all screens are negative, testing may then continue on a bi-monthly basis for the next six (6) months. The treatment program monitoring Respondent's continued drug and alcohol testing shall submit monthly or bi-monthly reports of the

results to the Board. If Respondent has twelve (12) consecutive months of negative screens, random drug and alcohol testing may cease.

7. Respondent's breach of any terms or conditions of this Settlement Agreement shall constitute unprofessional conduct and a separate and sufficient basis for further disciplinary action.

8. Except as provided herein, this Settlement Agreement shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by this Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future. Any future discipline by the Board could include further license suspension or revocation.

9. This Settlement Agreement shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.

10. Respondent voluntarily enters into and signs this Settlement Agreement and states that no promises or representations have been made to her other than those terms and conditions expressly stated herein. Respondent agrees that no force, threat, duress or coercion of any kind has influenced her decision to sign this Settlement Agreement.

11. The Board agrees that in return for Respondent executing this agreement, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.

12. Respondent understands that her action in entering into this agreement is a final act and not subject to reconsideration or judicial review or appeal.

13. Respondent has had the opportunity to seek and obtain the advice of an attorney of her choosing in connection with her decision to enter into this agreement.

14. Respondent understands that the Board must review and accept the terms of this agreement. If the Board rejects any portion, the entire agreement shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this agreement have prejudiced her right to a fair and impartial hearing in the future if the Board does not accept this agreement.

15. Respondent is not under the influence of any drugs or alcohol at the time she signs this agreement.

16. Respondent certifies that she has read this document entitled Settlement Agreement. Respondent understands that she has the right to a formal adjudicatory hearing concerning the matters stated herein and that at said hearing she would possess the rights to confront and cross examine witnesses, to call witnesses, to present evidence, to testify on her own behalf, to contest the allegations to present oral argument and to appeal to the courts. Further, Respondent fully understands the nature, qualities and dimensions of these rights. Respondent understands that by signing this agreement she waives these rights as they pertain to the misconduct described herein.

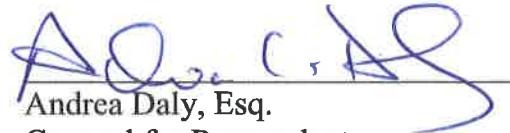
17. This Settlement Agreement shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

FOR THE RESPONDENT

Date: 11/28/2018



Karen L. Bowers, (Robinson)
Respondent




Andrea Daly, Esq.
Counsel for Respondent

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

FOR THE BOARD/*

Date: 12-19-18


(Signature)

Joseph V Shank Jr.
(Print or Type Name)

Authorized Representative of the
New Hampshire Physical Therapy
Governing Board

/* Greg Woonsum, Board Member(s), recused.