



KENTUCKY BOARD OF PHYSICAL THERAPY

Andy Beshear
Governor

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Scott D. Majors
Executive Director

August 5, 2020

SERVED BOTH CERTIFIED MAIL AND REGULAR MAIL

James Clinton Wimsett, PTA and PT Exam Applicant
516 East Kentucky Street
Louisville, KY 40203

Re: Order and Notice of Immediate Temporary Suspension
Certificate No. A04068
Agency Case No. BIC2019-109

Dear Mr. Wimsett:

On June 30, 2020, you were selected for a PEth test as required by your Impaired Physical Therapy Practitioner's Committee (IPTPC) Contract and consistent with the Conditional Grant of Credential and Settlement Agreement (Settlement Agreement) which you signed on December 19, 2019, and which was adopted and entered by Order of the Kentucky Board of Physical Therapy (Board), dated December 19, 2019. The results for this test indicated the presence of 103 ng/mL of Phosphatidyl Ethanol.

On July 17, 2020, you submitted a follow up PEth test. The results for this test indicated the presence of 245 ng/mL of Phosphatidyl Ethanol.

As set forth in term #6 on page 4 of your Settlement Agreement, *"upon the concurrence of the Board Chair, Executive Director and IPTPC Chair, any violation of this Settlement Agreement's terms or other Order of the Board shall result in an Immediate Temporary Suspension ("ITS") of the Respondent's certificate to work as a physical therapy assistant or license to practice as a physical therapist in the Commonwealth of Kentucky."*

Pursuant to your Settlement Agreement referenced above, on August 5, 2020, the Board's Chair; the Board's Executive Director; and the IPTPC Chair uniformly determined that there is reasonable cause to believe you have violated terms #2 and #4 on page 4 of your Settlement Agreement, as follows:

2) if the Respondent applies for a credential to practice as a physical therapist or work as a physical therapist assistant in the Commonwealth of Kentucky ("Commonwealth") and otherwise meets all eligibility requirements for practicing physical therapy in the Commonwealth, the issuance of the credential shall be contingent upon the Respondent signing a five (5) year contract with the Impaired Physical Therapy Practitioners Committee ("IPTPC") and remain compliant with all terms and recommendations of IPTPC during the five year period;

* * *

4) the Respondent shall abstain from engaging in the use of alcoholic beverages as well as abstain from the use of illegal drugs or the use of scheduled drugs except scheduled drugs as prescribed by a duly licensed practitioner for a documented legitimate medical purpose. . . .

Based upon this factual information and legal determination, the Board concludes there is reasonable cause to believe that you have violated:

- (a) KRS 327.070(2)(a) through indulgence in excessive use of alcoholic beverages or abusive use of controlled substances;
- (b) KRS 327.070(2)(k) by failing or refusing to obey any lawful order of the Board; and
- (c) KRS 327.070(2)(m) by being impaired by reason of a mental, physical, or other condition that impedes your ability to practice competently.

Based upon the above, the Board further concludes there is reasonable cause to believe that you may be impaired by reason of a mental, physical, or other condition that impedes your ability to practice competently, as set forth in KRS 327.040(14), for which an Order of Immediate Temporary Suspension should issue in accordance with KRS 327.040(14) and KRS 13B.125.

Accordingly, upon the concurrence reached on August 5, 2020, by the Chair of IPTPC, the Chair of the Board, and the Executive Director of the Board, the Board hereby **ORDERS** that your physical therapist assistant Certificate No. A04068 issued by the Board is immediately and temporarily suspended.

This Order of Immediate Temporary Suspension shall become effective upon your receipt of this Order, but in no event later than Friday, August 7, 2020, at 5:00 p.m. E.T. You may not work or practice as a physical therapist assistant after receiving this Order, but in no event later than Friday, August 7, 2020, at 5:00 p.m. E.T., unless you hold a current certificate in good standing issued by the Board or are otherwise authorized by law.

You may appeal this action of the Board under KRS 13B.125 by filing a written request with the Board for an emergency hearing. You are hereby **ORDERED** by the Board that, if you wish to appeal this action by requesting an emergency hearing, you shall do so as set forth herein by notifying the Board through its staff that you desire an emergency hearing, which shall be

conducted under KRS 13B.125. A request for an emergency hearing does not stay the effectiveness of this Order. If you request an emergency hearing, the only issue to be adjudicated in such emergency hearing under KRS 13B.125 is whether "there is substantial evidence of a violation of law which constitutes an immediate danger to the public health, safety, or welfare."

Please review this Order, sign and date below, and provide a copy to a representative of the Board, or mail a copy to the Board at the address on this letterhead, to acknowledge receipt and compliance.

ISSUED at the express direction of the Board.

Sincerely,

A handwritten signature in blue ink, appearing to be "S. Majors", with a large, stylized flourish at the end.

Scott Majors, Executive Director
Kentucky Board of Physical Therapy

cc: M. Keith Poynter, General Counsel, Kentucky Board of Physical Therapy
Brian Fingerson, R.Ph., Chair, Impaired Physical Therapy Practitioner's Committee
Tom Pennington, PT, Chair, Kentucky Board of Physical Therapy