

OHIO OCCUPATIONAL THERAPY AND PHYSICAL THERAPY BOARD



PHYSICAL THERAPY SECTION OHIO OCCUPATIONAL THERAPY AND PHYSICAL THERAPY BOARD

THE MATTER OF MARK I. SIMON, LICENSE NO. 1174, CAME ON FOR HEARING PURSUANT TO CHAPTERS 119 and 4755 OF THE OHIO REVISED CODE ON MARCH 19, 1986. AFTER CONSIDERATION OF THE EVIDENCE THEREIN ADDUCED, THE REPORT AND RECOMMENDATIONS OF THE HEARING OFFICER, AND WRITTEN OBJECTIONS IN RESPONSE, MOTION WAS MADE AND RECORDED THAT THE FOLLOWING ORDER BE ADOPTED:

The report and recommendations of the Hearing Officer is hereby approved and the Board enters the following Finding of Fact and Conclusions of Law:

FINDINGS OF FACT

- 1). From the evidence presented, the Physical Therapy Section of the Ohio Occupational Therapy and Physical Therapy Board finds that Mark I. Simon did, during the course of his treatment in December, 1984, and January, 1985, of [REDACTED] make improper and unwarranted physical contact with said patient.
- 2). From the evidence presented, the Physical Therapy Section of the Ohio Occupational Therapy and Physical Therapy Board finds that Mark I. Simon did, during the course of his treatment in June, 1985, of [REDACTED] [REDACTED] act in an improper manner and did make unwarranted physical contact with said patient.

CONCLUSIONS OF LAW

The Physical Therapy Section of the Ohio Occupational Therapy and Physical Therapy Board concludes that the conduct found in paragraphs (1) and (2) of the Findings of Fact is in violation of Principles 1 and 4 of the Physical Therapy Code of Ethics of the American Physical Therapy Association, and that the physical therapist license held by Mark I. Simon is, therefore, subject to suspension and revocation under the terms of Section 4755.47(E) of the Ohio Revised Code.

ORDER

It is, therefore, ORDERED that the license of physical therapist Mark I. Simon is hereby suspended for a period of five years, however, four years of said suspension shall be stayed and Mark I. Simon shall be permitted to retain his license provided he complies with the following stipulations:

- 1). That Mr. Simon submit to psychiatric evaluation and psychological testing by a board-certified psychiatrist and a board-certified psychologist and, if warranted, psychiatric treatment. The psychiatrist and psychologist is of Mr. Simon's choice, subject to the Section's approval, at Mr. Simon's expense.

If the result of the psychological testing/psychiatric evaluation shows a diagnosis of being unfit to practice, Mr. Simon shall undergo treatment, and the suspension remains in effect until favorable psychological testing and psychiatric evaluation is received by the Section.

- 2). The Physical Therapy Section reserves the right to communicate and interact with the psychologist and psychiatrist prior to, during, and after testing and/or treatment.
- 3). After the one-year suspension, and fulfilling the requirements, during the next four years the Section requires that a third party be in the treatment cubicle area during the entire treatment program with all patients. A separate, concurrent log with attendees signatures and dates will be kept for all treatments, and a notarized log sheet will be sent to the Physical Therapy Section quarterly.
- 4). If Mr. Simon is brought before the Physical Therapy Section again for a similar or related matter, there shall then be revocation of his license after notice and opportunity for hearing.
- 5). During the one-year suspension, Mr. Simon agrees to attend two continuing education courses involving practice and management, upon Physical Therapy Section approval of the course matter.
- 6). All of the above being effective upon receipt of this notice.

MOTION CARRIED BY A VOTE OF THE PHYSICAL THERAPY SECTION OF THE OHIO OCCUPATIONAL THERAPY AND PHYSICAL THERAPY BOARD.

Leon Anderson	aye
Susan Hubbell	aye
Gerard Papp	aye
Bertram Gardner	aye
Stephen Heis	aye
Paul Ferrara	aye

It is hereby certified by the Board that the above language is a copy of the order entered upon its journal in this matter.

Section 119.12 of the Ohio Revised Code, authorized an appeal from this order. Such an appeal may be taken to the Court of Common Pleas in the county where your place of business is located or to the court of the county in which you reside. An appeal setting forth the order appealed from and the grounds of the appeal must be commenced by the filing of Notice of Appeal with the Physical Therapy Section of the Ohio Occupational Therapy and Physical Therapy Board and the appropriate court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Sec. 119.12 of the Ohio Revised Code.

BY ORDER OF THE
PHYSICAL THERAPY SECTION
OHIO OCCUPATIONAL THERAPY AND PHYSICAL THERAPY BOARD

Dated:

By 
Rachel A. Mallory
Executive Director

Certified Mail
Return Receipt Requested
P19 0645953

SETTLEMENT AGREEMENT

On May 16, 1986 the Ohio Occupational Therapy and Physical Therapy Board (hereinafter "the Board") issued an adjudication Order based on a hearing it held in March 1986 concerning two patient complaints it had received concerning Mark I. Simon, L.P.T. In its Order the Board suspended Mr. Simon's Ohio license subject to a number of conditions. Mr. Simon timely filed an appeal of the Board's adjudication Order with this Court. Thereafter, while the appeal was pending, Mr. Simon and the Board reached an agreement suspending the Board's Order and permitting Mr. Simon to continue practice subject to a number of conditions.

Pursuant to the terms and conditions enumerated herein, the parties hereto agree to a settlement of the instant action.

1. Mr. Simon agrees to dismiss this action, Case No. 86-1548, with prejudice.

2. Mr. Simon agrees to surrender his license to practice physical therapy in the State of Ohio within ninety (90) days of the effective date of this agreement. Upon surrender of his license he shall not practice physical therapy in the State of Ohio. Mr. Simon further agrees that he shall not for a period of at least five (5) years from the date upon which he surrenders his license apply or reapply for a license as a physical therapist in the State of Ohio.

3. Mr. Simon agrees to waive and surrender any and all

claims he may have against the Board arising out of the investigation or hearing leading to the adjudication Order which was the subject of the instant action, including but not limited to any claims for recovery of attorneys fees expended by him.

4. For its part the Board accepts the dismissal of this appeal, the surrender by Mr. Simon of his license to practice physical therapy in the State of Ohio, and his agreement not to apply or reapply for a license to practice physical therapy in this State for at least five (5) years from the date of the surrender of his license as finally and fully resolving all matters regarding Mr. Simon in which the Board has or might have jurisdiction.

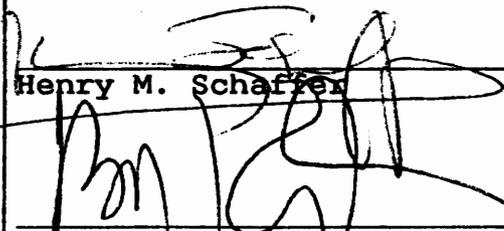
5. The Board agrees that the adjudication Order that was the subject of this appeal will remain in the Board's records, along with a copy of this Settlement Agreement, subject to disclosure in accordance with Ohio's Public Records Law, R.C. §149.43.

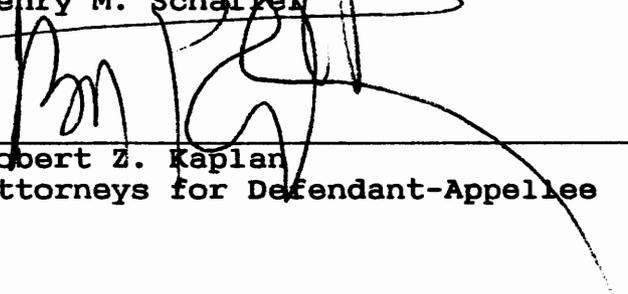
6. The Board further agrees that any other confidential or investigative information regarding Mr. Simon, if any, in the Board's possession or control but not the subject of adjudication hearing and Order, shall be kept confidential and not subject to public disclosure.

7. This Agreement is intended to resolve and terminate all matters between the parties hereto as of the date hereof, and shall never be treated as an admission of liability by either party for any purpose.

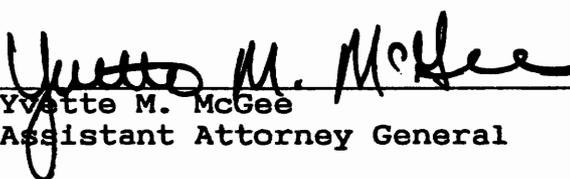
8. The parties agree that should Mr. Simon fail to surrender his license within ninety (90) days of the date of this Agreement, this Agreement shall be a nullity and the undertakings of disclosure and/or confidentiality and non-disclosure on the part of the Board shall be a nullity.

Attorneys for Plaintiff-Appellant


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Attorney General


Yvette M. McGee
Assistant Attorney General

Effective Date: July 29, 1987