

BEFORE THE  
PHYSICAL THERAPIST LICENSING BOARD  
OF THE STATE OF OREGON

In the Matter of the  
Physical Therapist License of

ANDRE TATE, PT  
License # 5285

Licensee.

) Case No.: PT 246-7/07  
)  
)  
)  
)  
)  
)

NOTICE OF PROPOSED  
DISCIPLINARY ACTION  
(Suspension and Probation)

The Oregon Physical Therapist Licensing Board (Board) is the state agency responsible for licensing and disciplining physical therapists and physical therapist assistants pursuant to ORS 688.160. Andre Tate, PT (Licensee) is licensed by the Board to practice as a physical therapist in Oregon. The Board proposes to take disciplinary action against Licensee for violations of the statutes and rules listed below. The facts and violations are more particularly described as follows:

In a Stipulation and Final Order, executed by the Board on December 31, 2008, Licensee stipulated to failing to cooperate with an order of the Board and stipulated to the following sanctions:

1. A 30 day licensee suspension, commencing on March 1, 2009.
2. The assessment of a civil penalty in the amount of \$1000, payable within 30 days of the signing of the order.
3. A two year license probation, during which time the Board has the right to review his practice.

On January 16, 2009, via email to the Board Executive Director, Licensee requested to pay the imposed civil penalty in monthly installments. Due to Licensee's history of failure to cooperate with the Board, specifically failure to make civil penalty payments as scheduled, the Board communicated to Licensee that he may make two payments of \$500. One payment was to be paid by January 31, 2009 and the other was due on February 28, 2009. This information was sent to Licensee via email and regular mail to his address on file with the Board.

1 Licensee failed to cooperate with an order of the Board when he failed to make either payment  
2 and failed to communicate with the Board regarding the payments. Licensee's actions constitute a  
3 violation of ORS 688.140(2)(a), specifically OAR 848-045-0020(2)(h).

4 Based upon the alleged facts and violations, the Board proposes to impose the following  
5 sanctions:

6 1. Licensee's license to practice physical therapy will be suspended for one month.  
7 If Licensee fails to pay the outstanding stipulated \$1000 civil penalty by the end of  
8 the one month suspension, his license will remain suspended until the civil penalty  
9 is paid in full.

10 2. Licensee will be placed on probation for an additional one year. The probationary  
11 period will begin after the licensee completes his previously imposed two year  
12 probation.

13 If Licensee desires a hearing on the proposed action, Licensee has the right, if Licensee requests, to  
14 have a formal contested case hearing as provided by the Administrative Procedures Act (ORS  
15 chapter 183). If Licensee wishes to have a hearing regarding the proposed action, Licensee must  
16 file a written request for hearing with the Board **within 21 days** from the date this notice is mailed.  
17 Licensee may send or deliver a request for hearing to: Oregon Physical Therapist Licensing  
18 Board, 800 NE Oregon Street, Suite 407, Portland, Oregon 97232-2187.

19 If the request for hearing is not received within this 21-day period, Licensee's right to a  
20 hearing shall be considered waived. If Licensee requests a hearing, Licensee will be notified of  
21 the time and place of the hearing. Before the commencement of the hearing, Licensee will be  
22 given information on the procedure, right of representation and other rights of parties relating to  
23 the conduct of the hearing.

24 If Licensee does not request a hearing within 21 days, or if Licensee withdraws a request  
25 for hearing request, or notifies the Board or Administrative Law Judge that Licensee will not  
26 appear, or fails to appear at a scheduled hearing, the Board may issue a final order by default. If

1 the Board issues a final order by default, it designates its file on this matter as the record for the  
2 purpose of proving a *prima facie* case. ORS 183.415(6).

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Dated this 16<sup>th</sup> day of MARCH, 2009

OREGON PHYSICAL THERAPIST LICENSING BOARD

**SIGNATURE ON FILE**

James D. Heider, Executive Director

BEFORE THE  
PHYSICAL THERAPIST LICENSING BOARD  
OF THE STATE OF OREGON

3 In the Matter of the Physical Therapy ) License of ) 4 ) 5 ANDRE TATE, PT ) 6 License # 5285 ) 7 ) LICENSEE )	Case No.: PT 246-7/07  STIPULATED AGREEMENT AND FINAL ORDER
---	--

8       The Oregon Physical Therapist Licensing Board (Board) is the state agency responsible for  
 9 licensing and disciplining physical therapists and physical therapist assistants pursuant to ORS  
 10 688.140 and ORS 688.160. On August 14, 2007 the Board issued a Notice of Proposed  
 11 Disciplinary Action. The procedure for requesting a hearing was outlined in the Notice. Licensee  
 12 did not request a hearing. On October 18, 2007, the Board issued a Final Order by Default (Final  
 13 Order), Licensee failed to comply with the Final Order. Therefore, on April 15, 2008, the Board  
 14 issued another Notice of Proposed Disciplinary Action proposing additional disciplinary action  
 15 against Licensee for his failure to comply with a Board Order and additional violations. The Board  
 16 and the Licensee agree to resolve all issues raised in the Notice(s) through this Stipulated  
 17 Agreement and Final Order.

**STIPULATIONS**

- 19       1. Licensee stipulates that he failed to comply with an order of the Board when he failed to  
 20       pay the civil penalty in the timeframe specified by the Board, in violation of ORS  
 21       688.140(2)(a).
- 22       2. Licensee stipulates that and failed to complete a HIPAA training course in the timeframe  
 23       specified by the Board, in violation of ORS 688.140(2)(a).
- 24       3. Licensee stipulates that he failed to cooperate with the Board when he provided false  
 25       information to the Board when appearing at its April 4, 2008 meeting, in violation of ORS  
 26       688.140(2)(m), specifically OAR 848-045-0020(2)(u)(A) and (B).

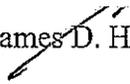
- 1 4. Licensee's stipulates to a 30 day license suspension, to commence on March 1, 2009.  
2 Licensee stipulates that he will not practice physical therapy during the period of license  
3 suspension.  
4 5. Licensee stipulates to the assessment of a civil penalty in the amount of \$1,000, payable  
5 within 30 days of the signing of this order.  
6 6. Licensee stipulates to a two year license probation, during which time the Board has the  
7 right to review Licensee's practice. During the period of probation, Licensee will comply  
8 with all statutes and rules governing the practice of physical therapy in the State of Oregon.  
9 7. Licensee stipulates that during the probationary period, he will provide a copy of this  
10 Stipulated Agreement and all other public records related to this case to all employers, and  
11 Licensee agrees to provide the Board with evidence that he has satisfied this provision.  
12

13 IT IS SO ORDERED this 31<sup>st</sup> day of DECEMBER, 2008.

14 OREGON PHYSICAL THERAPIST

15 LICENSING BOARD 

16 **SIGNATURE ON FILE**

17 James D. Heider, Executive Director  
18 

19 **CONSENT**

20 I HEREBY CERTIFY that I have read and understand the provisions of this Stipulated  
21 Agreement and Final Order. I understand that I have a right to a hearing with the assistance of  
22 legal counsel. I freely and voluntarily waive all rights to a hearing, further appeal or judicial  
23 review in this matter, and I understand that any violation of this Stipulated Agreement and Final  
24 Order shall be grounds for additional discipline.

25 **SIGNATURE ON FILE**  


26 Andre Tate, PT



1 The Final Order specified that the course on HIPAA regulations was to be completed  
2 within 60 days of the date of the Final Order, being due on December 18, 2007. The Licensee did  
3 not complete the course until April 3, 2008.

4 The above conduct constitutes a violation of ORS 688.140(2)(a).

5 **DISHONESTY/FAILURE TO COOPERATE WITH THE BOARD**

6 On multiple occasions prior to completion of the HIPAA course, the Licensee told the  
7 Board, in writing, that he was working on the course and would have it done by the end of that  
8 week. In fact, the Licensee did not register for the course until March 29, 2008.

9 The Licensee appeared in person at the Board meeting on April 4, 2008. At that  
10 appearance, the Licensee told the Board that he had completed the HIPAA course prior to April 3,  
11 2008, the date that was printed the certificate of completion. In fact, the Licensee did not register  
12 for the course until March 29, 2008, and completed the course on April 3, 2008.

13 Prior to his appearance at the Board meeting on April 4, 2008, the Board requested the  
14 Licensee to bring evidence of completion of continuing education, required for renewal of his  
15 2008-2009 license. The Licensee failed to provide the documentation to the Board as requested  
16 and subsequently failed to fax all course completion certificates to the Board, by noon that day, as  
17 directed by the Board.

18 This conduct constitutes a violation of ORS 688.140(2)(m), specifically OAR 848-045-  
19 0020(2)(u)(A) and OAR 848-045-0020(2)(u)(B).

20 Based upon the alleged facts and violations, the Board proposes to impose the following  
21 sanction:

- 22 1. Licensee is assessed a civil penalty in the amount of \$1,000, which is the stayed  
23 portion of the penalty assessed in the Final Order;
- 24 2. Licensee's license to practice physical therapy will be suspended for a period of 30  
25 days.

26 ///







1 that the records were accessible constitutes a violation of 848-040-0110(6) which is subject to  
2 discipline pursuant to ORS 688.140(2)(a).

3 The Board reviewed Licensee's records and found that the records of E.G. and M.G. did not  
4 contain a documented evaluation. The Board finds that the failure to document evaluations in  
5 these patient records constitute two documentation violations of OAR 848-040-0130 and is  
6 subject to discipline pursuant to ORS 688.140(2)(a).

7 In reviewing Licensee's records, the Board also found that the records of H.G., H.K., P.E.,  
8 D.W. and R.D. showed that Licensee did not complete all visits as per the documented plan of  
9 care and the Licensee failed to document a summary of the patient's status at discharge. The  
10 Board therefore finds that Licensee's failure to document a final discharge summary constitute  
11 five violations of OAR 848-040-0170, which is subject to discipline pursuant to ORS 688.040  
12 (2)(a).

13 As discussed above, the Board has found one violation of failure to maintain patient  
14 confidentiality, one violation of failure to ensure that records are accessible, and seven  
15 documentation violations. Based on those findings and the authority contained in ORS  
16 688.140(1)(e), (f) and (i), the Board finds that the appropriate sanction is that delineated in the  
17 Order portion of this document.

18 **ORDER**

19 IT IS HEREBY ORDERED THAT:  
20

- 21 1. Licensee is assessed a civil penalty of \$2000.00 with \$1000.00 stayed. The  
22 Civil Penalty is payable within 30 days from the date this document is executed  
23 by the Board.
- 24 2. Licensee must complete a Board approved course on HIPAA regulations within  
25 60 days of the execution of this document and provide proof of course  
26 completion to the Board.



BEFORE THE  
PHYSICAL THERAPIST LICENSING BOARD  
OF THE STATE OF OREGON

In the Matter of the  
Physical Therapist License of

ANDRE TATE, PT  
License # 5285

Licensee.

Case No.: PT 246-7/07

NOTICE OF PROPOSED  
DISCIPLINARY ACTION  
(Assessment of Civil Penalty)

The Oregon Physical Therapist Licensing Board (Board) is the state agency responsible for licensing and disciplining physical therapists and physical therapist assistants pursuant to ORS 688.160. Andre Tate, PT (Licensee) is licensed by the Board to practice as a physical therapist in Oregon. The Board proposes to take disciplinary action against Licensee for violations of the statutes and rules listed below. The alleged violations relate to the Licensee's employment with Adventist Home Health Services and support the proposed sanction. The facts and violations are more particularly described as follows:

1. From May 22, 2007 through July 2, 2007, Licensee had fifteen (15) patient charts containing protected health information in his possession. During this timeframe, Licensee was no longer providing physical therapy services to these patients. Licensee failed to maintain patient confidentiality by failing to return the records despite multiple requests by Adventist Home Health. Licensee's actions constitute a violation of ORS 688.140(2)(t).

2. From May 22, 2007 through July 2, 2007, Licensee failed to ensure that the records of physical therapy treatment he provided were readily accessible. Licensee's actions constitute a violation of OAR 848-040-0110(6).

3. Licensee failed to document his evaluation of patients, E.G, and M.G. Licensee's actions constitute a violation of OAR 848-040-0130.

4. Licensee failed to complete all physical therapy visits per the written plan of care and subsequently failed to prepare a final discharge summary for patients H.G., H.K., P.E., D.W., R.D. Licensee's actions constitute a violation of OAR 848-040-0170.

1 The above referenced facts and violations are grounds for discipline pursuant to ORS  
2 688.140(2)(a).

3 Based upon the alleged facts and violations, the Board proposes to impose the following  
4 sanction:

- 5 1. Licensee is assessed a civil penalty in the amount of \$2,000 with \$1,000 stayed  
6 pending successful completion of a one year probation;
- 7 2. Licensee will be placed on probation for one year. During the period of probation,  
8 Licensee will complete a Board approved course on HIPAA regulations and  
9 Licensee will comply with all statutes and rules governing the practice of physical  
10 therapy in the State of Oregon.

11 If Licensee desires a hearing on the proposed action, Licensee has the right, if Licensee  
12 requests, to have a formal contested case hearing as provided by the Administrative Procedures  
13 Act (ORS chapter 183). If Licensee wishes to have a hearing regarding the proposed action,  
14 Licensee must file a written request for hearing with the Board within 21 days from the date this  
15 notice is mailed. Licensee may send or deliver a request for hearing to: Oregon Physical  
16 Therapist Licensing Board, 800 NE Oregon Street, Suite 407, Portland, Oregon 97232-2187.

17 If the request for hearing is not received within this 21-day period, Licensee's right to a  
18 hearing shall be considered waived. If Licensee requests a hearing, Licensee will be notified of  
19 the time and place of the hearing. Before the commencement of the hearing, Licensee will be  
20 given information on the procedure, right of representation and other rights of parties relating to  
21 the conduct of the hearing.

22 If Licensee does not request a hearing within 21 days, or if Licensee withdraws a request  
23 for hearing request, or notifies the Board or Administrative Law Judge that Licensee will not  
24 appear, or fails to appear at a scheduled hearing, the Board may issue a final order by default. If  
25 the Board issues a final order by default, it designates its file on this matter as the record for the  
26 purpose of proving a *prima facie* case. ORS 183.415(6).

1 Dated this 14<sup>TH</sup> day of AUGUST, 2007

2  
3 OREGON PHYSICAL THERAPIST LICENSING BOARD

4 **SIGNATURE ON FILE**

5 James D. Heider, Executive Director  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26