

1 more likely true than false. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402
2 (1987).

3 The Board is responsible for licensing and disciplining physical therapists pursuant to
4 ORS 688.140(2), which provides, in part:

5 Grounds exist for the imposition of sanctions as specified in subsection (1) of this
6 section when a person:

7 (a) Violates any provision of ORS 688.010 to 688.201, board rules or a written
8 order from the board.¹

9 OAR 848-045-0020 provides, in relevant part:

10 (2) A licensee commits or engages in illegal, unethical or unprofessional conduct
11 if the licensee:

12 * * * * *

13 (r) Practices physical therapy with a lapsed license.

14 Licensee does not dispute the material facts of this case. He acknowledges that he failed
15 to renew his license by March 31, 2011. Nevertheless, he contends that he should not be
16 disciplined because his failure to renew the license was unintentional and he only treated one
17 patient while his license was lapsed. The Board's statutes and rules do not provide for a "good
18 cause" exception to sanctioning a licensee who practices physical therapy without a valid license.
19 Moreover, the Board has been consistent and unwavering in disciplining licensees who practice
20 while their license is in lapsed status. Therefore, the Board finds Licensee violated OAR 848-
21 045-0020(2)(r) for practicing physical therapy with a lapsed license.

22
23 ¹ ORS 688.100(1) provides:

24 A person who is licensed as a physical therapist or physical therapist assistant
25 shall renew the person's license pursuant to the rules of the physical Therapist
26 Licensing Board. A person who fails to renew the license on or before the
expiration date specified by board rule may not practice as a physical therapist
or work as a physical therapist assistant in this state until the lapsed license is
renewed.

1 **SANCTION**

2 ORS 688.140(1), which provides, in relevant part:

3 The Physical Therapist Licensing Board, after notice and hearing as provided in
4 ORS 688.145, may impose any or all of the following sanctions or take any of the
5 following actions upon any of the grounds specified in subsection (2) of this
6 section:

7 * * * * *

8 (e) Impose a civil penalty not to exceed \$5,000.

9 The Board has the authority to impose a civil penalty not to exceed \$5,000 when a
10 licensee violates its rules. Here, Licensee practiced physical therapy with a lapsed license, which
11 constitutes unprofessional conduct. The Board's penalty matrix provides that a licensee who
12 practices physical therapy with a lapsed license for one day to one month should be imposed a
13 civil penalty in the amount of \$100. Considering the circumstances of this case and the fact that
14 the Board does not deviate from the matrix, the Board hereby finds that a civil penalty in the
15 amount of \$100 should be imposed against Licensee.

16 **ORDER**

17 IT IS HEREBY ORDERED that Licensee is assessed a civil penalty of \$100, which must
18 be paid within 30 days that this Final Order is issued by the Board.

19 DATED this 25th day of January, 2012.

20 PHYSICAL THERAPIST LICENSING BOARD
21 State of Oregon

22 **SIGNATURE ON FILE**

23 L.j. _____
24 James D. Heider
25 Executive Director
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