

**BEFORE THE NEW MEXICO
PHYSICAL THERAPY BOARD**

IN THE MATTER OF:)
)
)
THOMAS A. GIAMMATTEO) **CASE No. PT 01, 11-01 APP**
Respondent.)
)
)
LICENSE NO.: 1811)
_____)

NOTICE OF CONTEMPLATED ACTION

YOU ARE HEREBY NOTIFIED that the New Mexico Physical Therapy Board (“Board”) has before it sufficient evidence that, if not rebutted or explained at a formal hearing, will justify the Board in denying your application for renewal of your license to practice as a physical therapist and/or imposing such other penalties as may be permitted by law. (NMSA (1978) § 61-12D-5(B), and § 61-12D-13(H).

APPLICABLE LAW

The Board has jurisdiction to hear this matter, and to take disciplinary action against you, pursuant to the *Physical Therapy Practice Act* (“Act”) NMSA 1978 § 61-12D-1 *et. seq.*, the *Uniform Licensing Act* NMSA (1978) § 61-1-1, *et. seq.* and the Rules and Regulations of the Board. The Act provides that “[The board has the power to] . . . conduct hearings on charges against applicants, licensees or registrants and take actions described in NMSA 1978 § 61-1-3 (C).” NMSA 1978, § 61-12D-13(H).

STATEMENT OF FACTS

1. Respondent, THOMAS A. GIAMMATTEO was a licensed Physical

Therapist in Massachusetts. On June 24, 2010, Respondent was disciplined by the Allied Health Board of Massachusetts. Respondent's practice of physical therapy in Massachusetts was suspended for two years with the second year stayed. Beginning in his second "stayed" year, Respondent's practice of physical therapy was to be monitored for two years.

2. Respondent was ordered to take additional CEU's in ethics, billing, and supervision delegation.

3. In proceedings by the Massachusetts Board of Chiropractors and Board of Registration of Allied Health Professionals it was found that the "...respondent violated pertinent Board regulations, statutes, and applicable case law..."

4. The record shows that the respondent failed to comply with the Board's order. On July 1, 2010, the Massachusetts Board of Chiropractors and Board of Registration of Allied Health Professionals voted to suspend Respondent Giammatteo's license to practice chiropractic (CH Lic. 1724) for three years.

5. The respondent's license to practice chiropractic (CH Lic. 1724) was suspended on July 8, 2010.

6. A final order was entered from which an appeal is now pending.

7. Respondent sought to renew his New Mexico physical therapy license in December of 2010.

RESPONDENT'S RIGHT TO A HEARING

The hearing, if requested, will be conducted in accordance with the *Uniform Licensing Act*, §61-1-1 through §61-1-31 NMSA 1978 ("ULA"). The ULA provides as follows regarding a licensee's opportunity for a hearing:

Every licensee or applicant shall be afforded notice and an opportunity to be heard, before the board has authority to take any action, which would result in:

- E. suspension of license;
- F. revocation of a license;
- G. restrictions or limitations on the scope of a practice;
- H. the requirement that the applicant complete a program of remedial education or treatment;
- I. monitoring of the practice by a supervisor approved by the board;
- J. the censure or reprimand of the licensee or applicant;
- K. compliance with conditions of probation or suspension for a specific period of time;
- L. payment of a fine for a violation not to exceed one thousand dollars (\$1,000) for each violation, unless a greater amount is provided by law;
- M. corrective action, as specified by the board; or
- N. a refund to the consumer of fees that were billed to and collected from the consumer by the licensee.

NMSA 1978, § 61-1-3

Furthermore, the ULA further provides as follows regarding the rights of persons entitled to a hearing:

A. A person entitled to be heard under the *Uniform Licensing Act* [61-1-1 to 61-1-31 NMSA 1978] shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefor to the board or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the board or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these

rights.

B. Upon written request to another party, any party is entitled to: (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and (2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing. The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.


C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.

NMSA 1978, § 61-1-8

CONCLUSION

The evidence before the Board, summarized above, if not rebutted or explained at a formal hearing, is sufficient to justify the Board denying your application to practice as a physical therapist in the State of New Mexico and imposing such other penalties as may be permitted by law. **The Board will take the contemplated action unless, within twenty (20) days after service of this Notice, the Respondent requests a formal hearing by certified mail return receipt requested. Such a request for a formal hearing should be mailed to Laura Romero Halama, Compliance Liaison; New Mexico Physical Therapy Board; P.O. Box 25101; Santa Fe, NM 87504.**

10) 27) 11
DATE



For the Physical Therapy Board
Regulation and Licensing Department
P.O. Box 25101
2055 S. Pacheco St., Ste. 400
Santa Fe, NM 87504-5101
(505) 476-4880

Administrative Prosecutor:
William J. Moon
Assistant Attorney General
Litigation Division
P.O. Drawer 1508
Santa Fe, NM 87504-1508
(505) 827-6079

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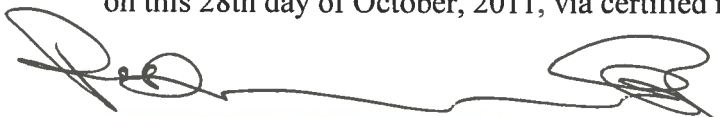
CERTIFICATE OF SERVICE

I certify that a copy of the foregoing NOTICE OF CONTEMPLATED ACTION was served via:

Email and United States Postal Service to
Thomas A. Giammateo
800 Cottage Grove Road
Suite 211
Building 2
Bloomfield, Connecticut 06002
(860) 243-6571
CIMTBloomfield@CenterIMT.com

Email to
William J. Moon
Assistant Attorney General
Litigation Division
408 Galisteo Street
Santa Fe, NM 87501
(505) 827-6079
bmoon@nmag.gov

on this 28th day of October, 2011, via certified mail return receipt requested.



Robert Hollingsworth, Compliance Liaison
Physical Therapy Board of New Mexico
Regulation and Licensing Department
Post Office Box 25101
2550 Cerrillos Road, Second Floor
Santa Fe, NM 87504
(505) 476-4634



**BEFORE THE STATE OF NEW MEXICO
PHYSICAL THERAPY BOARD**

IN THE MATTER OF:)
)
)
THOMAS A. GIAMMATTEO)
) **CASE No. PT-01, 11-01 APP**
 Respondent.)
)
)
LICENSE NO 1811)

DEFAULT ORDER

THIS MATTER, having come before the New Mexico Physical Therapy Board and with a quorum present and a majority voting in the affirmative the Board finds as follows:


1. On October 28, 2011, in accordance with the *Uniform Licensing Act*, NMSA 1978, §61-1-1 to §61-1-33, service of the Notice of Contemplated Action by certified mail in this matter was served upon the Respondent.
2. Pursuant to the provisions of the *Uniform Licensing Act* at section 61-1-5, a Notice of Contemplated Action shall be deemed to have been “served” on the date of the last “attempted” delivery to the addressee of such an attempt. The Notice of Contemplated Action in this matter was therefore served on the Respondent no later November 21, 2011.
3. Respondent did not request a hearing within twenty (20) days of receipt of service of the NCA as set forth in the ULA, in accord with Section 61-1-4(B)(3) NMSA 1978.

4. Pursuant to the provisions of the *Uniform Licensing Act*, if the Respondent has not requested a hearing, the State of New Mexico Physical Therapy Board may now proceed to take action against the license of the Respondent by default, in accord with Section §61-1-4(E) NMSA 1978.

WHEREFORE, after review of all of the facts and documents in this case and upon careful consideration of the law:

IT IS THEREFORE ORDERED AND ADJUDGED THAT RESPONDENT DID FAIL TO RESPOND TO A PROPERLY SERVED NOTICE OF CONTEMPLATED ACTION IN CASE #PT 01, 11-01 APP AND IS THEREFORE FOUND TO BE IN DEFAULT IN SAID ACTION. AN ORDER OF DEFAULT IS HEREBY ENTERED ON CASE # PT 01, 11-01 APP IS HEREBY REVOKED.

3/08/12
DATE


Robert Pattillo, CHAIRPERSON
NEW MEXICO PHYSICAL
THERAPY BOARD
2250 Cerrillos Road 2nd Floor
Santa Fe, New Mexico 87505



CERTIFICATE OF SERVICE

I Robert Hollingsworth, Compliance Liaison, do hereby certify that a true copy of the following document

DEFAULT ORDER
CASE No. #PT 01, 11-01 APP

Was sent on this 9th day of MARCH 2012 as follows to:

Thomas A. Giammatteo
800 Cottage Grove Road
Suite 211
Building 2
Bloomfield, Connecticut 06002
Email: CIMTBloomfield@CenterIMT.com

Thomas A. Giammatteo
16 Seminole Way
Bloomfield, Connecticut 06002
Email: dcrhealth2@aol.com

Michael T. Kogut, Esq-Attorney for Thomas A. Giammatteo
O'Connell Plumb & MacKinnon, P.C.
75 Market Place
Springfield, MA 01103
Email: mkogut@ocpllaw.com or mkogut3977@aol.com

mailed via the United States Postal Service

via fax

via email



By: Robert Hollingsworth
FOR THE BOARD