

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION & LICENSING

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
: FINAL DECISION AND ORDER  
LARRY D. PALMER, CMT, : LS07101710MTB  
RESPONDENT. :

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[Division of Enforcement Case #'s 03 MTB 005 & 06 MTB 001]

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Larry D. Palmer, CMT  
5209 Autumn Lane  
McFarland, WI 53558

Division of Enforcement  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter subject to the approval of the Department. The Department has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Larry D. Palmer, CMT, Respondent, date of birth May 31, 1958, is certified by the Department of Regulation and Licensing as a massage therapist and bodyworker in the state of Wisconsin, pursuant to certificate number 1546, which was first granted February 15, 2000.

2. Respondent's last address reported to the Department of Regulation and Licensing is 5209 Autumn Lane McFarland, WI 53558.

3. At the time of the events set out below, Respondent was employed as a massage therapist at a business in Madison, Wisconsin.

COUNT I

4. Ms. A, who was thirty years old, received massages from Respondent seven times from February 22, 2002 to December 17, 2002. Ms. A had never received a massage before and was referred to Respondent by her chiropractor. Ms. A was a recreational runner and at the first session reported back pain and sore shoulders. Ms. A was completely unclothed and was covered by a sheet at the beginning of each session.

5. During those sessions that Ms. A was lying on her back so that Respondent could work on her chest, neck, arm and stomach:

a. Respondent could perform the massages by reaching under the sheet, but did not tell that to Ms. A.

b. Respondent could have provided Ms. A with a second sheet to drape her breasts when she moved the first sheet further down her body, but he never offered her that option.

c. Respondent told her that she should move the draping sheet down from her neck to wherever she was comfortable.

d. Because Respondent failed to tell Ms. A that there was no need to expose her breasts and because she knew that Respondent would be working on her stomach muscles, Ms. A moved the draping sheet to a point between her belly button and pubic area. This left Ms. A's breasts completely uncovered and visible to Respondent.

## COUNT II

6. At the time of the December 17, 2002 session, Ms. A was pregnant and due to deliver in less than three weeks. During that session the following occurred which resulted in Ms. A not returning for additional massages:

a. Respondent and Ms. A talked about natural childbirth, breastfeeding and attachment parenting. Respondent told Ms. A that he and his spouse were thinking about having a baby but his spouse was concerned that he would think her ugly if she became pregnant and gained weight. Respondent said he told his wife that would not be true, but admitted to her he had never seen a nude pregnant woman.

b. After completion of the massage while Ms. A was lying on the massage table, Respondent asked if he could look at her naked body. He said he could then tell his spouse he had seen a naked 9-months pregnant woman and did not find her repulsive.

c. Ms. A was surprised by the request but agreed to allow it because Respondent had already seen most of her body. Ms. A sat up on the table with the sheet draping only over her lap. After Respondent looked at Ms. A for a few moments, she began to feel vulnerable, regretted allowing him to look at her nude body and told him she was going to leave.

d. Respondent thanked Ms. A, said his spouse would no longer be able to say that he had never seen a very pregnant body, told Ms. A that her body was beautiful and left the room.

7. Requesting to view and viewing the naked body of a client is a substantial departure from the standard of care ordinarily exercised by a massage therapist and bodyworker.

## COUNT III

8. On August 14, 2006, Ms. B, who was 24 years old, received a massage from Respondent. Ms. B had received massages from other massage therapists but had never received services from Respondent. Ms. B told Respondent that she would like him to work on her neck and shoulders because she gets tension headaches. She also told him that her legs and feet were sore from wearing high heels the past weekend. Respondent left the room, Ms. B disrobed and lay on her back on the massage table, covered by a draping sheet.

9. Respondent massaged Ms. B's face and neck and then did some range of motion stretching of her arms. Respondent did not secure the sheet around Ms. B before performing the arm stretches and Ms. B felt her breasts would have been exposed if she had not used her free hand to keep the sheet in place.

10. After finishing the arm stretches, Respondent told Ms. B she had tension in her pectoral muscles and asked if she would like her chest muscles massaged. She said yes. Respondent sat on a stool at Ms. B's head. Ms. B pulled the sheet to a position where it fully covered her breasts.

a. Respondent massaged Ms. B's chest and moved the sheet down, exposing the top area of the breasts.

b. Respondent asked if he could demonstrate massage strokes along her sternum "to her heart" and she said okay. Respondent moved his hand under the sheet and massaged her sternum (breast bone), with his hands between her breasts. His hands then moved an inch or two to each side, touching what Ms. B described as "breast tissue, no muscle."

c. Respondent then moved his hands to the bottom of her sternum and massaged at an outward angle in what she described as "the under side of my breasts, the area where the wire of a bra would lay." Ms. B became uncomfortable with where he was touching her and said "that is too much." Respondent misinterpreted her comment to

mean he was using too much pressure and he lightened the pressure.

d. When Respondent removed his hand from under the sheet, the sheet was barely covering her breasts. Ms. B moved the sheet up so that her breasts were fully covered, which made her feel more comfortable. Respondent stated he wasn't done yet and moved the sheet down to approximately one inch above Ms. B's nipples and continued to massage her chest.

e. He placed one hand in each of Ms. B's underarms and slid them back to her chest. He then placed his hands back in the underarm area, but lower so that he was massaging the outer edge of her breasts. Respondent told her it was to "get under the muscle."

11. Touching the breast tissue of a client while performing massage, without receiving specific consent of the client to touch that area, is a substantial departure from the standard of care ordinarily exercised by a massage therapist and a bodyworker.

### CONCLUSIONS OF LAW

1. The Wisconsin Department of Regulation and Licensing has jurisdiction over this matter pursuant to Wis. Stat. § 460.14(2) and has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. By failing to provide draping that ensured the safety and privacy of Ms. A and Ms. B, Respondent violated Wis. Admin. Code § RL 94.01(10), and is subject to discipline pursuant to Wis. Stat. § 460.14(2)(g). [Counts I and III]

3. By requesting to view and viewing the naked body of his client, Ms. A, Respondent violated Wis. Admin. Code § RL 94.01(21), and is subject to discipline pursuant to Wis. Stat. § 460.14(2)(g). [Count II]

4. By touching the breast tissue of Ms. B while performing a massage, without receiving specific consent of Ms. B to touch that area, Respondent violated Wis. Admin. Code § RL 94.01(21), and is subject to discipline pursuant to Wis. Stat. § 460.14(2)(g). [Count III]

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, Larry D. Palmer, CMT, is hereby REPRIMANDED for this conduct.

2. Respondent's certificate is LIMITED as follows:

a. Within 120 days of the date of this Order, Respondent shall provide proof sufficient to the Department, or its designee, of Respondent's satisfactory completion of a total of six (6) hours of continuing education on the topics of appropriate boundaries with clients and appropriate draping of patients, which course(s) shall first be approved by the Department, or its designee.

b. Upon Respondent providing proof sufficient to the Department, or its designee, that she has completed the education, the Department or its designee shall issue an Order removing this limitation of Respondent's license.

3. Respondent shall, within 120 days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$875.00 pursuant to Wis. Stat. § 440.22(2).

4. All payments, requests and evidence of completion of the education required by this Order shall be mailed, faxed or delivered to:

Department Monitor  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Ave.  
P.O. Box 8935  
Madison, WI 53708-8935  
Fax (608) 266-2264  
Telephone (608) 267-3817

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's certificate. The Department in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that Respondent fails to pay costs as ordered or fails to comply with the ordered continuing education, Respondent's certificate SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

6. This Order is effective on the date of its signing.

Department of Regulation and Licensing

By: Celia M. Jackson  
Secretary

10/17/2007  
Date

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION & LICENSING

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IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
LARRY D. PALMER, CMT,	:	LS _____ MTB
RESPONDENT.	:	

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[Division of Enforcement Case #'s 03 MTB 005 & 06 MTB 001]

It is hereby stipulated and agreed, by and between Larry D. Palmer, CMT, Respondent; and John R. Zwieg, attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of pending investigations of Respondent's certification by the Division of Enforcement (files 03 MTB 005 & 06 MTB 001). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation, he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has been provided an opportunity to obtain advice of legal counsel prior to signing this Stipulation.

4. Respondent asserts that he did not commit the violation alleged in Count II of the attached Final Decision and Order, but acknowledges there is evidence from which the Department could find that the violations occurred. Respondent agrees to the adoption of the attached Final Decision and Order by the Department. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Department's Order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Department, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Department, the parties agree not to contend that the Department has been prejudiced or biased in any manner by consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement may appear before the Department, without the presence of Respondent or his attorney, if any, for purposes of speaking in support of the agreement and answering questions that the Department may have in connection with deliberations on the Stipulation.

7. Respondent is informed that should the Department adopt this Stipulation, the Department's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondent in recommending that the Department adopt this Stipulation and issue the attached Final Decision and Order.

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Larry D. Palmer, CMT  
Respondent  
5209 Autumn Lane  
McFarland, WI 53558

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Date

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John R. Zwieg  
Attorney for Complainant  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935

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Date