

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF

JESUS ARREGUIN,
RESPONDENT.

:
:
: ADMINISTRATIVE INJUNCTION
:
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: **00031 27**

Division of Legal Services and Compliance Case No. 13 UNL 137

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

Jesus Arreguin
2044 S. Stoughton Road
Madison, WI 53716

Wisconsin Department of Safety and Professional Services
P.O. Box 8368
Madison, WI 53708-8368

Division of Legal Services and Compliance
Wisconsin Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Department of Safety and Professional Services (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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Jesus Arreguin's (dob November 24, 1984), most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 2044 South Stoughton Road, Madison, Wisconsin 53716.

2. Upon information and belief, Respondent's current address is 900 Clarence Court, Madison, Wisconsin 53715.

3. Respondent Jesus Arreguin is not and has never been licensed to practice massage therapy and bodywork therapy in the state of Wisconsin.

4. Respondent Jesus Arreguin is not and has never been licensed to practice physical therapy in the state of Wisconsin.

5. Respondent controls and maintains content of the website for his business, E3 Endurance Coaching, <http://e3coachingmadison.com/>.

6. On his website, Respondent advertises himself as qualified and authorized to perform trigger point therapy.

7. Trigger point therapy is a myofascial release technique that increases circulation and elasticity within muscles, improves strength, range of motion, balance, power, gait, and structural integrity, and enhances sports performance.

8. Respondent, while working on clients, uses his hands and other tools such as trigger point ball, foam rollers, foot rollers, quad rollers, and a massage stick for the purpose of relieving muscle knots, improving circulation, reducing tension, relieving soft tissue pain, and increasing flexibility.

9. On September 18, 2013, Respondent saw Client A. Client A is a post-operation hip surgery patient who sought Respondent's services to address pain while running and his limited range of motion.

10. During the above visit, Respondent had Client A lie down face-up on a table. Respondent rubbed and massaged Client A's feet to lower back to find muscle knots. Upon finding a muscle knot, Respondent used his fingers and forearms to push into the muscle and grab the muscle; holding it for approximately one minute and releasing muscle.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Safety and Professional Services has jurisdiction in this matter pursuant to Wis. Admin. Code ch. SPS 3 and Wis. Stat. § 440.21, and is authorized to enter into the attached Stipulation and Order pursuant to Wis. Stat. § 227.44(5).

2. Pursuant to Wis. Stat. § 460.01(4), Massage therapy or bodywork therapy means the science and healing art that uses manual actions and adjunctive therapies to palpate and manipulate the soft tissue of the human body in order to improve circulation, reduce tension, relieve soft tissue pain, or increase flexibility. Massage therapy and body work therapy includes determining whether manual actions and adjunctive therapies are appropriate or contraindicated, or whether a referral to another health care practitioner is appropriate. Massage therapy or bodywork therapy does not include making a medical, physical therapy, or chiropractic diagnosis.

3. Pursuant to Wis. Stat. § 448.50(4)(a), Physical therapy means examining, evaluating, or testing individuals with mechanical, physiological, or developmental impairments, functional limitations related to physical movement and mobility, disabilities, or other movement-related health conditions, in order to determine a diagnosis, prognosis, or plan of therapeutic intervention or to assess the ongoing effects of intervention. In this subdivision, "testing" means using standardized methods or techniques for gathering data about a patient. Alleviating impairments or functional limitations by instructing patients or designing, implementing, or modifying therapeutic interventions. Reducing the risk of injury, impairment, functional limitation, or disability, including by promoting or maintaining fitness, health, or quality of life in all age populations. Engaging in administration, consultation, or research that is related to any activity above.

4. Pursuant to Wis. Stat. § 460.02, no person may provide massage therapy or bodywork therapy, or hold oneself out to practice massage therapy or bodywork therapy unless the person is licensed.

5. Pursuant to Wis. Stat. § 448.51(1), no person may practice physical therapy unless the person is licensed to practice physical therapy.

6. Pursuant to Wis. Stat. § 448.51(2)(b), no person may claim to render physical therapy unless the person is licensed to practice physical therapy.

7. Respondent, by the conduct described in the Findings of Fact above performed or held himself out as performing acts constituting the unlicensed practice of massage therapy and bodywork therapy, contrary to Wis. Stat. § 460.02.

8. Respondent, by the conduct described in the Findings of Fact above performed or held himself out as performing acts constituting the unlicensed practice of physical therapy, contrary to Wis. §§ 448.51(1) and (2)(b).

9. Pursuant to Wis. Stat. 440.21, the Department is authorized to issue this special order of injunction.

ORDER

1. The attached stipulation is accepted.

2. Unless and until Respondent is properly licensed to practice massage therapy or bodywork therapy by the Wisconsin Massage Therapy and Bodywork Therapy Affiliated Credentialing Board, Respondent is enjoined and prohibited from the practice of massage therapy and bodywork therapy in the state of Wisconsin, or as holding himself as engaging in acts constituting the practice of massage therapy and bodywork therapy. Violation of this special order may result in a forfeiture of up to \$10,000 for each day of violation. See Wis. Stat. § 440.21(4)(a).

3. Unless and until Respondent is properly licensed as a physical therapist by the Wisconsin Physical Therapy Examining Board, Respondent is enjoined and prohibited from the practice of physical therapy in the state of Wisconsin, and from holding himself out as practicing acts constituting the practice of physical therapy. Violation of this special order may result in a forfeiture of up to \$10,000 for each day of violation. See Wis. Stat. § 440.21(4)(a).

4. If the Department determines that there is probable cause to believe that Respondent has violated any terms of this Administrative Injunction, the Department may refer the violations covered by this decision and order to any appropriate prosecutorial unit for review for possible criminal charges.

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

Issued at Madison, Wisconsin, this 25th day of March, 2014.

By:



Michael J. Berndt, Chief Counsel
On behalf of the Department

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF

JESUS ARREGUIN,
RESPONDENT.

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STIPULATION

0003127

Division of Legal Services and Compliance Case No. 13 UNL 137

Respondent Jesus Arreguin, and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, 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 Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- 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 Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Attorney Jordan Loeb.

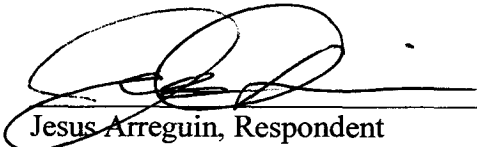
4. Respondent agrees to the adoption of the attached Administrative Injunction by the Department. The parties to the Stipulation consent to the entry of the attached Administrative Injunction without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Department's Administrative Injunction, 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 then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the 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 the consideration of this attempted resolution.

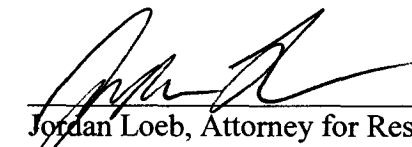
6. The parties to this Stipulation agree that the attorney for the Department of Safety and Professional Services may appear before the Department for the purposes of speaking in support of this agreement and answering questions that the Department may have in connection with deliberations on this Stipulation.

7. Respondent is informed that should the Department adopt this Stipulation; the Department's Administrative Injunction is a public record and will be published in accordance with standard Department procedure.


8. The Division of Legal Services and Compliance joins Respondent in recommending the Department adopt this Stipulation and issue the attached Administrative Injunction.


Jesus Arreguin, Respondent
900 Clarence Court
Madison, WI 53715

03/21/14
Date


Jordan Loeb, Attorney for Respondent
Cullen, Weston, Pines & Bach, LLC
122 West Washington Avenue, Ste. 900
Madison, WI 53703-2718

3/21/14
Date


Sandra L. Nowack, Attorney
State Bar Number 1025643
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190
Tel. (608) 266-8098
sandra.nowack@wisconsin.gov

3/21/14
Date