

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE PHYSICAL THERAPY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JAMES LAWRENCE SMITH, P.T.,
RESPONDENT.

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FINAL DECISION AND ORDER

0003365

Division of Legal Services and Compliance Case No. 13 PHT 010

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

James Lawrence Smith, P.T.
1302 Jackson Street
La Crosse, WI 54601

Wisconsin Physical Therapy Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
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 Physical Therapy Examining Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent James Lawrence Smith, P.T., (dob November 17, 1955) is licensed in the State of Wisconsin as a physical therapist, having license number 3319-24, first issued on December 10, 1986 and current through February 28, 2015. James Lawrence Smith's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1302 Jackson Street, La Crosse, Wisconsin 54601.

2. On or about November 13, 2011, Patient A reported to police that Respondent engaged in sexual misconduct while providing physical therapy services to her.

3. As a result of the November 13, 2011 incident, on June 15, 2012, a criminal complaint was filed in La Crosse County Circuit Court, Case No. 2012CM000934, charging Respondent with 4th degree sexual assault, a Class A Misdemeanor.

4. On April 05, 2013, Respondent, while maintaining his innocence, entered a plea in La Crosse County Circuit Court, Case No. 2012CM000934. Respondent was found guilty of disorderly conduct, Class B Misdemeanor.

5. Respondent self-reported his conviction to the Board, as required.

6. Respondent denies the allegation described in paragraph 2, above. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Physical Therapy Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 448.57, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent James Lawrence Smith, P.T., violated Wis. Stat. § 448.57(2)(b) and Wis. Admin. Code § PT 7.02(18) by being convicted of crime the circumstances of which are substantially related to the practice of physical therapy.

3. As a result of the above violations, James Lawrence Smith, P.T., is subject to discipline pursuant to Wis. Stat. § 448.57(2).

ORDER

1. The attached Stipulation is accepted.

2. Respondent James Lawrence Smith, P.T., is REPRIMANDED.

3. Within 90 days from the date of this Order, James Lawrence Smith, P.T., shall pay COSTS of this matter in the amount of \$175.00.

4. Payment of forfeiture and costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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 license. The Board 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 Respondent fails to timely submit payment of costs as ordered, Respondent's license (no. 3319-24) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of costs.

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

WISCONSIN PHYSICAL THERAPY EXAMINING BOARD

by: Michelle Thorman
A Member of the Board

9/11/14
Date

STATE OF WISCONSIN
BEFORE THE PHYSICAL THERAPY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JAMES LAWRENCE SMITH, P.T.,
RESPONDENT.

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STIPULATION

0003365

Division of Legal Services and Compliance Case No. 13 PHT 010

Respondent James Lawrence Smith, P.T., 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 James R. Koby.

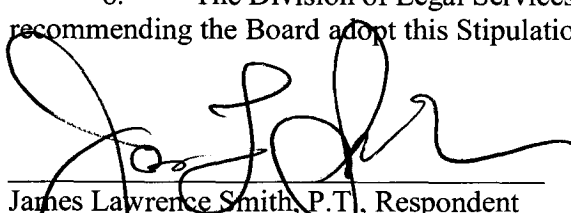
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Physical Therapy Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, 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 Board, the parties agree not to contend that the Board 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 or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

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

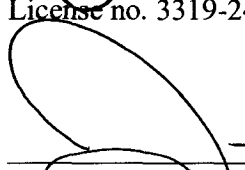
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



James Lawrence Smith, P.T., Respondent
1302 Jackson Street
La Crosse, WI 54601
License no. 3319-24

5/12/14

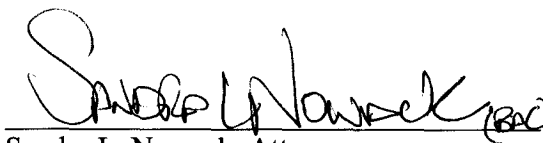
Date



James R. Koby, Attorney for Respondent
Koby Law, LLC
US Bank Place, Third Floor
201 Main Street
La Crosse, WI 54601

5/12/14

Date



Sandra L. Nowack, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

5/16/14

Date