

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MASSAGE THERAPY AND BODYWORK THERAPY AFFILIATED
CREDENTIALING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ANDREW F. CHARLAND,
RESPONDENT.

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FINAL DECISION AND ORDER

0003499

Division of Legal Services and Compliance Case No. 13 MAB 004

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

Andrew F. Charland
9318 Kettle Moraine Drive
Kewaskum, WI 53040

Wisconsin Massage Therapy and Bodywork Therapy Affiliated Credentialing 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 Massage Therapy and Bodywork Therapy Affiliated Credentialing 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 Andrew F. Charland, (dob January 25, 1982), is licensed in the State of Wisconsin to practice massage therapy and bodywork therapy, having license number 11601-146, first issued on December 30, 2011, with registration current through February 28, 2015. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 9318 Kettle Moraine Drive, Kewaskum, Wisconsin 53040.

2. Respondent applied for licensure on December 23, 2011. The application contains the following question:

Have you ever been convicted of a misdemeanor or a felony? If yes, attach a sheet providing details about the crime, including date of conviction, penalty and a copy of the court documents. [Please do not give details on minor traffic convictions, but do include information relating to Driving While Intoxicated (DWI) charges.]

3. Respondent checked the "no" box to this question, and signed the application under oath.

4. In fact, Respondent had the following criminal convictions, before the date of the application:

- a. On November 3, 2003, Respondent was convicted of criminal disorderly conduct in Winnebago County, Wisconsin, reduced from lewd and lascivious behavior. The circumstances of this were that Respondent exposed himself at the Country USA concert, an outdoor event, on June 29, 2003. Respondent was sentenced to three days in the county jail, and ordered to pay costs of \$55.
- b. On December 6, 2006, Respondent was convicted in Washington County for second offense DWI. Respondent was sentenced to 10 days in the county jail and paid a total of \$894 in fines, assessments, and costs. Respondent's driver's license was revoked for one year.
- c. On April 10, 2007, Respondent was stopped and cited in Milwaukee County for operating after revocation, a criminal offense under the circumstances. Respondent was convicted of this offense on June 15, 2007, and ordered to pay a fine and costs of \$150.
- d. On September 30, 2010, Respondent was convicted in Sheboygan County of third offense DWI. Respondent was sentenced to 40 days in the county jail and paid a total of \$1,273.92 in fines, costs, and assessments. Respondent's driver's license was revoked for 28 months, and Respondent was ordered to have an ignition interlock system in his vehicle.

5. Respondent represents to the Board that he was unaware that the first item was "criminal." Respondent further represents to the Board that the DWI part of the question was overlooked as he rushed through the form because he had waited until the last day he could apply. Respondent apologizes for the oversight. As to being arrested in Milwaukee, Respondent represents to the Board that he has no recollection or record of this event.

6. The Board has received the statements of six women clients of Respondent's, all of whom state that Respondent massaged their groin or chest areas in a manner which evidenced a lack of knowledge of, or the inability to apply, principles of massage therapy. Respondent denies any impropriety or unprofessional conduct in his contact with these clients. In view of the outcome of this matter, the Board draws no conclusions about these allegations.

7. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Massage Therapy and Bodywork Therapy Affiliated Credentialing Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 448.02(3), 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 Andrew F. Charland, violated Wis. Stat. § 460.14(2)(a) by making a material misstatement in an application for a license.

3. As a result of the above conduct, Andrew F. Charland is subject to discipline pursuant to Wis. Stat. § 460.14(2).

ORDER

1. The attached Stipulation is accepted.

2. The SURRENDER of the license by Andrew F. Charland, (license no. 11601-146) to practice massage therapy and bodywork therapy in the State of Wisconsin and the right to renew that license is hereby accepted, effective the date of this Order.

3. In the event that Respondent petitions the Wisconsin Massage Therapy and Bodywork Therapy Affiliated Credentialing Board for re-licensure to practice massage therapy or bodywork therapy in the future, the Board may enter an order denying such application without further notice or hearing. Whether to grant a license and whether to impose any limitations or restrictions on any license granted shall be in the discretion of the Board.

4. Before any petition for relicensure, Andrew F. Charland, shall pay COSTS of this matter in the amount of \$1,450.

5. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent 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

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

WISCONSIN MASSAGE THERAPY AND BODYWORK THERAPY AFFILIATED
CREDENTIALING BOARD

by: John E. Anderson
akt A Member of the Board

October 24, 2014
Date

STATE OF WISCONSIN
BEFORE THE MASSAGE THERAPY AND BODYWORK THERAPY
AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ANDREW F. CHARLAND,
RESPONDENT.

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STIPULATION

0003499

Division of Legal Services and Compliance Case No. 13 MAB 004

Respondent Andrew F. Charland 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 Kohler & Hart SC.


4. Respondent agrees to the adoption of the attached Final Decision and Order by
the Wisconsin Massage Therapy and Bodywork Therapy Affiliated Credentialing 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, 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.

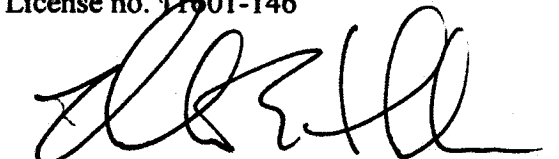
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.




Andrew Charland, Respondent
9318 Kettle Moraine Drive
Kewaskum, WI 53040
License no. 11601-146

10/10/14
Date



Martin E. Kohler, Attorney for Respondent
Kohler & Hart SC
735 N Water St # 1212
Milwaukee WI 53202-4105

10/10/14
Date



Arthur Thexton, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

10/14/14
Date