

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscga>

- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DSPS website: An individual who believes that information on the website is inaccurate may contact DSPS@wisconsin.gov

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

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JOSIAH L. GROTH,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

0004035

Division of Legal Services and Compliance Case No. 14 MAB 009

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

Josiah L. Groth
M405 State Highway 97
Marshfield, WI 54449-9216

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 Josiah Groth (DOB July 25, 1979) is licensed by the State of Wisconsin to practice massage therapy or bodywork therapy, having license number 2330-146, first issued on December 16, 2010, and current through February 28, 2017. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is M405 State Highway 97, Marshfield, WI 54449-9216.

2. At all times relevant to this proceeding, Respondent was employed as a massage and bodywork therapist in Marshfield, Wisconsin.

3. Respondent advertises that he does “intimate massage,” and that his work “connects you and opens your heart so that you can comfortably release deeply held muscle tension, emotions, and energy blocks.”

4. Respondent offers “date nights” during which he teaches couples, “tips and tricks to give each other a great massage that will help increase intimacy...”

5. Between approximately July 25 and August 5, 2013, Client A, a hairdresser, saw Respondent for a complementary massage. Respondent describes Client A as attractive.

6. Respondent offered Client A her choice of a larger massage room or a more intimate smaller space. Client A chose the larger room.

7. At the onset of the massage Respondent made a comment to Client A that hairstylists sometimes need “boobs and butt done.” Respondent acknowledges that the comment was “rash” and inappropriate. During the massage he told Client A that she had a wonderful muscular-type body.

8. During the massage Respondent had skin-to-skin contact with Client A’s breasts, massaging twice down the side of each breast and then under the arm-pit. Client A had not consented to having her breasts massaged. Client A became uncomfortable and stopped breathing. Respondent was aware that Client A held her breath as he massaged her breasts. He told Client A he could tell she was not relaxed, and that she should relax more. Respondent continued to touch her breasts and then told her, “I would really like to get to your sweet spot.” Respondent told Client A that in future sessions, as he got to know her better, he would massage her entire breast.

9. Respondent later massaged the area of Client A’s pubic bone, lower than the scar from her cesarean section.

10. Respondent acknowledges that he always massages muscles near women’s female “private areas” and the area of women’s pubic bones, including over the pubic bone.

11. Sixty percent of Respondent’s customers are fully nude; female clients sometimes have full draping, bikini draping or half-body draping.

12. Respondent did not have consent to massage Client A’s breasts or the area over her pubic bone.

13. Respondent has a client to whom he refers as “a gay creeper.” Respondent stays in the room as the client undresses, and after the client lays nude on the massage table, Respondent covers the client with a sheet.

14. The standard of minimal competence for massage therapists and bodywork therapists requires that prior to massaging a woman’s breasts or other intimate parts, the therapist must have specific informed consent to do so.

15. The standard of minimal competence for massage therapists and bodywork therapists requires all clients to be draped.

16. The standard of minimal competence for massage therapists prohibits therapists from remaining in the room as a client removes his clothing.

17. 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. § 460.14(1), 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 Josiah Groth engaged in unprofessional conduct as defined by Wis. Admin. Code § MTBT 5.01(7) by continuing to massage Patient A's breasts after becoming aware that she was uncomfortable with it.

3. By the conduct described in the Findings of Fact, Respondent Josiah Groth engaged in unprofessional conduct as defined by Wis. Admin. Code § MTBT 5.01(10) by not consistently providing draping that ensured the safety and privacy of the client.

4. By the conduct described in the Findings of Fact, Respondent Josiah Groth engaged in unprofessional conduct as defined by Wis. Admin. Code § MTBT 5.01(21) by engaging in practices that substantially departed from professional standards.

5. As a result of the above violations, Respondent Josiah Groth is subject to discipline pursuant to Wis. Stat. § 460.14(2).

ORDER

1. The attached Stipulation is accepted.

2. The license to practice massage therapy and bodywork therapy issued to Respondent, Josiah Groth, license number 2330-146, is hereby **SUSPENDED** for a period of one year.

3. The Board's representative may remove the suspension from Respondent's license after six months from the date of this Order, and upon receiving proof satisfactory to the Board's designee that Respondent has fulfilled the requirements of paragraph 4.a. and 4.i. below.

4. The license to practice massage therapy and bodywork therapy issued by the State of Wisconsin to Josiah Groth, license number 2330-146, is **LIMITED** as follows:

a. Respondent shall successfully complete 6 hours of remedial education on the subject of ethics. The course(s) must be pre-approved by the Board's

designee. Successful completion requires that Respondent take and pass any exam offered for the course(s). Courses taken without preapproval may NOT be used to satisfy the remedial education requirements of this Order.

b. Respondent shall submit proof of successful completion of preapproved remedial education, which shall be in the form of verification from the institution or organization that provided the education.

c. None of the remedial education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department.

d. The Department shall remove this limitation from Respondent's license when Respondent has satisfied the Board's designee that Respondent has successfully completed the preapproved education.

e. Respondent shall obtain written informed specific consent before he touches any part of a female client's breast, buttocks, or area of the client's public bones. This limitation is permanent.

f. Before performing massage or bodywork therapy, Respondent shall inform the client, in writing, of the client's right to have a chaperone present during the massage. If the client declines a chaperone, Respondent shall require the client to sign written documentation of the refusal. The offer of a chaperone and written refusal shall be kept on file for a period of not less than five years. This limitation is permanent.

g. Respondent shall require all clients to be fully draped. This limitation is permanent.

h. At the request of the Board's designee, during regular business hours Respondent shall make available for immediate inspection any facility at which Respondent practices massage therapy and bodywork therapy. Such inspections may occur without advance notice and shall include examination and copying of client records. This limitation is permanent.

i. Respondent shall meet for one hour with a sexual assault advocate affiliated with Wood County Personal Development Center, for the purpose of discussing the impact of sexual victimization. Within 30 days of the date of the meeting, Respondent shall submit written proof of the meeting, including the signature of the advocate, to the Department Monitor below. Respondent may, with written preapproval of the Board or its designee, fulfill this requirement by meeting with a sexual assault advocate affiliated with a program other than the Wood County Personal Development Center if acceptable to the Board's designee.

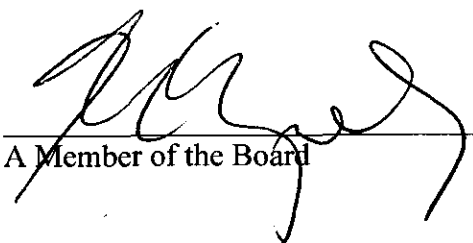
5. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$186.00.

6. Request of approval of courses, proof of compliance with the terms of this Order and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be 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

7. 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 maintain written records of specific informed consent from all patients, fails to provide draping, or fails to maintain documented proof of the offer of chaperones, Respondent's license to practice massage therapy and bodywork therapy 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, and the Board or its designee may further limit Respondent's license in any manner if the Board or its designee determines that the limitation is necessary to protect the public.

8. WISCONSIN MASSAGE THERAPY AND BODYWORK THERAPY
AFFILIATED CREDENTIALING BOARD

by: 
A Member of the Board

June 2, 2014
Date

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

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
JOSIAH L. GROTH, : STIPULATION
RESPONDENT. :
 :
 : 0004035

Division of Legal Services and Compliance Case No. 14 MAB 009

Respondent Josiah L. Groth, 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.

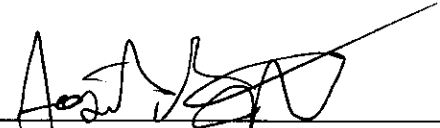
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Massage Therapy and Bodywork Therapy Affiliated Credentialing Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance 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.

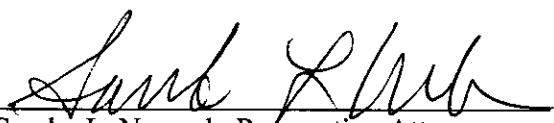
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



Josiah L. Groth, Respondent
M405 State Highway 97
Marshfield, WI 54449-9216
License no. 2330-146

4/3/15
Date



Sandra L. Nowack, Prosecuting 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

4/6/15
Date