

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE RADIOGRAPHY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
SEAN R. BABINO, R.T., :
RESPONDENT. :

0004629

Division of Legal Services and Compliance Case No. 15 RAD 001

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

Sean R. Babino, R.T.
1400 Katherine Street
Appleton, WI 54915

Wisconsin Radiography 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 Radiography 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 Sean R. Babino, R.T., (dob July 10, 1987) was licensed in the state of Wisconsin to practice radiography, having license number 3440-142, first granted on February 22, 2012. This license expired on August 31, 2014 and has not been renewed. Respondent retains the right to renew until August 30, 2019. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1400 Katherine Street, Appleton, Wisconsin 54915.

2. At all times relevant to this proceeding, Respondent was employed as a radiographer at a hospital located in Appleton, Wisconsin.

3. On October 9, 2014, in Outagamie County Circuit Court Case No. 13-CF-1005, Respondent was convicted of five counts of capturing an image of nudity without the consent of the person depicted, and five counts of invasion of privacy through the use of a surveillance device for the purposes of observing nudity without consent of the person observed, in violation of Wis. Stats. §§ 942.09(2)(am)1 and 942.08(2)(a), respectively. Seven additional counts were read-in for purposes of sentencing.

4. On September 11, 2013 a staff member at the hospital where Respondent worked discovered a device taped beneath a sink in the women's restroom. Over a course of the previous two years Respondent had used the device to covertly capture images of his co-workers while certain intimate parts were exposed.

5. Respondent neither admits nor denies the alleged conduct but agrees that there are sufficient facts to support the following Conclusions of Law and Order. Respondent has elected to resolve this matter through stipulation.

CONCLUSIONS OF LAW

1. The Wisconsin Radiography Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 462.07(2), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. Under the circumstances of this case Wis. Stats. §§ 942.09(2)(am)1 and 942.08(2)(a) are laws the circumstances of which are substantially related to the practice of radiography.

2. Respondent, by having been convicted of crimes, the circumstances of which are substantially related to the practice of radiography, has engaged in unprofessional conduct as defined by Wis. Admin. Code. § RAD 6.01(12).

3. As a result of the above violations, Sean R. Babino, R.T., is subject to discipline pursuant to Wis. Stat. § 467.07(2)(b).

ORDER

1. The attached Stipulation is accepted.

2. The license of Sean R. Babino, R.T., (license no. 3440-142) to practice radiography in the state of Wisconsin, and his right to renew that license, is REVOKED.

3. Respondent shall send all indicia of licensure in his possession 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

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

WISCONSIN RADIOGRAPHY EXAMINING BOARD

by: Ronald Bowe
A Member of the Board *R*

4/5/2016
Date

STATE OF WISCONSIN
BEFORE THE RADIOGRAPHY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

SEAN R. BABINO, R.T.,
RESPONDENT.

:
:
:
:
:

STIPULATION

0004629

Division of Legal Services and Compliance Case No. 15 RAD 001

Respondent Sean R. Babino, R.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 Melissa L. Barrette.


4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Radiography 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.

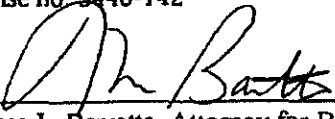
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's 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.

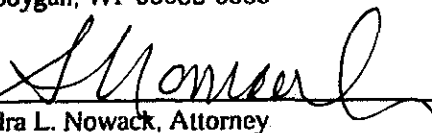
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Sean R. Babino, Respondent
1400 Katherine Street
Appleton, WI 54915
License no. 3440-142

12-4-15
Date


Melissa L. Barrette, Attorney for Respondent
Kirk Obear and Associates
603 South 8th Street
Sheboygan, WI 53082-0935

12/11/2015
Date


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

12/11/15
Date