

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

APRIL L. KIELER,
RESPONDENT.

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FINAL DECISION AND ORDER

0005382

Division of Legal Services and Compliance Case No. 16 MAB 013

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

April L. Kieler
116 Tainter Street
Chetek, WI 54728

Wisconsin Massage Therapy and Bodywork 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 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 April L. Kieler, (dob April 27, 1971), is licensed in the state of Wisconsin to practice massage therapy or bodywork therapy, having license number 12450-146, first issued on June 10, 2013, and current through February 28, 2019. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 116 Tainter Street, Chetek, Wisconsin 54728.

2. At all times relevant to this proceeding, Respondent was the sole owner and operator of a massage therapy center (Center) located in Barron, Wisconsin.

3. On November 21, 2014 and November 20, 2015, Respondent provided massages to Client A, a male born in 1978. Client A completed a Health Information and Consent for Treatment and does not allege any sexual contact occurred during these appointments.

4. On July 13, 2016, and July 22, 2016, Client A had massage therapy appointments performed by Respondent at Respondent's Center. Client A alleges that inappropriate sexual contact occurred at these appointments but that the contact was consensual. Respondent denies these allegations.

5. During an investigation of Respondent's massage therapy practice, the Department gathered Respondent's massage therapy records. Respondent's massage therapy appointments are tracked in Respondent's personal planner and do not sufficiently or accurately identify Respondent's massage therapy clients or services rendered.

6. 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 Affiliated Credentialing Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 460.14(2), 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 April L. Kieler, violated Wis. Admin. Code § MTBT 5.02(8) by failing to maintain accurate and timely records necessary for the continuity of a client's massage therapy or bodywork therapy treatment. Records are to be maintained for a period of at least 5 years.

3. By the conduct described in the Findings of Fact, Respondent April L. Kieler, violated Wis. Admin. Code § MTBT 5.02(15) by engaging in sexually explicit conduct, sexual conduct, exposure, gratification, or other sexual behavior with or in the presence of a client, a client's immediate family member, or a person responsible for the client's welfare.

4. As a result of the above conduct, April L. Kieler, is subject to discipline pursuant to Wis. Stat. § 460.14(2).

ORDER

1. The attached Stipulation is accepted.

2. Respondent April L. Kieler, is REPRIMANDED.

3. The massage therapy license issued to April L. Kieler, (license number 12450-146) is LIMITED as follows:

a. Within nine (9) months of the date of this Order, Respondent shall successfully complete two (2) hours of education on the topic of record

keeping, and five (5) hours on the topic of professional ethics and boundaries.

b. Respondent shall be responsible for obtaining the courses required under this Order, for providing adequate course descriptions to the Department Monitor, and for obtaining pre-approval of the courses from the Wisconsin Massage Therapy and Bodywork Affiliated Credentialing Board, or its designee, prior to commencement of the courses. Respondent must select courses accepted by the NCBTMB.

c. The Board or its designee may reject any course and may accept a course for less than the number of hours for which Respondent seeks approval.

d. Within thirty (30) days of completion of each educational component, Respondent shall submit proof of successful completion of the ordered education in the form of verification from the institution providing the education to the Department Monitor at the address stated below.

e. Respondent is responsible for all costs associated with compliance with this educational requirement.

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

4. Within ninety (90) days from the date of this Order, April L. Kieler, shall pay COSTS of this matter in the amount of \$1423.00.

5. Proof of successful course completion 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

6. 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 or fails to submit proof of successful completion of the ordered education as set forth above, Respondent's license (no. 12450-146) may, in the discretion of the Board or its designee, be SUSPENDED,

without further notice or hearing, until Respondent has complied with payment of the costs and completion of the education.

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

WISCONSIN MASSAGE THERAPY AND BODYWORK
AFFILIATED CREDENTIALING BOARD

by:  _____
A Member of the Board

July 18, 2017
Date

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

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

APRIL L. KIELER,
RESPONDENT.

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STIPULATION

0005382

Division of Legal Services and Compliance Case No. 16 MAB 013

Respondent April L. Kieler, 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.

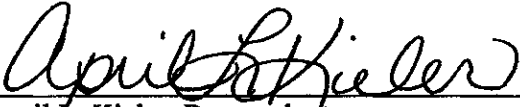
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Massage Therapy and Bodywork Affiliated Credentialing Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance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

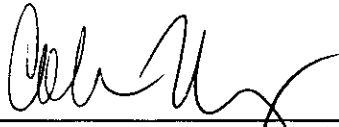
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes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


April L. Kieler, Respondent
116 Tainter Street
Chetek, WI 54728
License no. 12450-146

March 29, 2017
Date


Colleen L. Meloy, Prosecuting Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

April 4, 2017
Date