

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 APPLICATION FOR	:	ORDER 0006778
A MASSAGE THERAPIST OR BODYWORK	:	
THERAPIST LICENSE	:	
	:	
RACHELL TERRELL,	:	ORDER GRANTING
APPLICANT.	:	LIMITED LICENSE

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

Rachell Terrell
Appleton, WI 54913

Massage Therapy and Bodywork Therapy Affiliated Credentialing Board
4822 Madison Yards Way
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 resolution of this renewal application, 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. Rachelle Terrell (Applicant) filed an application for a Massage Therapist or Bodyworker Therapist license (Application no. 680102).
2. Information received in the application process reflects that Applicant was convicted of the following:
 - a. On or about July 31, 2012, Applicant was convicted in Outagamie County Circuit Court case number 2012CT520, of one (1) count of Cause Injury/Operate with a Controlled Substance (1st), a misdemeanor, in violation of Wis. Stat. § 346.63(2)(a)3.
 - b. On or about June 13, 2014, Applicant was convicted in Outagamie County Circuit Court case number 2013CM1087, of one (1) count of Resisting or Obstructing an officer, an ordinance, in violation of Wis. Stat. §§ 946.41(1) and 939.51(3)(a).

- c. On or about January 5, 2016, Applicant was convicted in Outagamie County Circuit Court case number 2015CM747, of one (1) count of Possession of THC, a misdemeanor, in violation of Wis. Stat. § 946.41(3g)(e) and one (1) count of Disorderly Conduct, a misdemeanor, in violation of Wis. Stat. § 947.01(1).
- d. On or about February 6, 2018, Applicant was convicted in Shawano County Circuit Court case number 2017CF93, of one (1) count of Operating with a Restricted Controlled Substance (2nd), a misdemeanor, in violation of Wis. Stat. § 346.63(1)(am).

3. Applicant's criminal convictions were offenses the circumstances of which were substantially related to the practice of massage therapy and bodywork therapy. Her most recent conviction was on February 6, 2018 and she is still on probation. While Applicant is in good standing with her probation agent, adequate time has not passed to establish rehabilitation. Accordingly, it is too early to determine whether Applicant is adequately rehabilitated.

4. For all of the above reasons, granting Applicant a Massage Therapy and Bodywork Therapy license without limitations would create the opportunity for Applicant to engage in similar conduct and put members of the public at the risk of harm.

5. In resolution of this matter, Applicant 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 over this matter pursuant to Wis. Stat. §460.14, 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, Applicant's application for a Massage Therapist and Bodywork Therapist license is subject to denial pursuant to Wis. Stat. § 460.14(2)(b) by being convicted of an offense the circumstances of which are substantially related to the practice of massage therapy, subject to Wis. Stats. §§ 111.321, 111.322 and 111.335.

3. As a result of the conclusions stated above, Applicant application for a Massage Therapist or Bodywork Therapist license is subject to denial, pursuant to Wis. Stat. § 460.14(2)(b).

ORDER

1. The attached Stipulation is accepted.

2. Applicant is granted a Massage Therapist or Bodyworker Therapist license that is LIMITED for a period of at least two (2) years from the date of this Order as follows:

Drug and Alcohol Testing

a. Applicant shall, upon request of the Board, its designee, or the Department Monitor, submit a urine, hair, and/or blood sample for testing as directed by the requestor.

- i. The Board, its designee, or the Department shall request no more than eight (8) tests per year, unless otherwise warranted pursuant to 3.a.iii., below.
 - ii. All positive test results are presumed valid and may result in automatic suspension of licensure by the Board or the Board's designee. Applicant must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
 - iii. If any urine, blood, sweat, fingernail, hair, saliva or other specimen is positive or suspected positive for any controlled substances, Applicant shall promptly submit to additional tests or examinations as the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
- b. Applicant shall report to the Department Monitor all prescription medications and drugs taken by Applicant. Reports must be received within twenty-four (24) hours of ingestion or administration of the medication or drug, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. Each time the prescription is filled or refilled, Applicant shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.
- c. Applicant shall provide the Department Monitor with a list of over-the-counter medications and drugs that Applicant may take from time to time. Over-the-counter medications and drugs that mask the consumption of controlled substances, create false positive screening results, or interfere with Applicant's treatment and rehabilitation, shall not be taken unless ordered by a physician, in which case the drug must be reported as described in the paragraph 2(c).

Sobriety

- d. Applicant shall abstain from all personal use of alcohol.
- e. Applicant shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Applicant shall disclose Applicant's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Applicant shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Applicant's treatment with, and provide copies of treatment records to, the Board or its designee. Copies of these releases shall immediately be filed with the Department of Safety and Professional Services Monitor (Department Monitor).

Practice Limitations

- f. Applicant shall, at all times, practice as a Massage Therapist or Bodywork Therapist under the direct supervision of a Wisconsin licensed Massage Therapist or Bodywork Therapist approved by the Board or its designee. Approval shall be obtained through correspondence with the Department Monitor.

g. Applicant shall notify her Massage Therapist or Bodywork Therapist supervisor(s) and employer(s) of her history of arrests and convictions prior to employment. Applicant shall show a copy of this Order to her current and any future employer. Applicant shall provide the Department Monitor with written acknowledgement from each employer that a copy of this Order has been received. Such acknowledgement shall be provided to the Department Monitoring within fourteen (14) days of beginning new employment and/or within fourteen (14) days of the date of this Order for employment current as of the date of this Order.

h. Applicant shall commit no new violations of law and shall report all law enforcement contacts leading to arrest, charge or conviction, including DWI/OWI and municipal/ordinance violations, to the Department Monitor within 48 hours of any such event, including any convictions resulting from pending charges.

Reporting Requirements

i. Applicant shall file quarterly reports with the Board at the direction of the Department Monitor commencing ninety (90) days after Applicant commences employment. Each report shall include the following:

- i. The name, address and telephone number of Applicant, and name, address and telephone number of her employer;
- ii. A statement from the Applicant as to whether she has had any law enforcement contacts leading to arrest, charge or conviction (including DWI/OWI and municipal/ordinance violations) during the term of the Order; and
- iii. Applicant shall report to the Department Monitor any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

j. Applicant shall arrange for written reports from her Massage Therapist or Bodywork Therapist supervisor(s) to be provided to Department Monitor on a quarterly basis, as directed by Department Monitor. These reports shall assess Applicant's work performance and describe the circumstances of her employment, including the nature and extent of the Applicant's activities and whether she has practiced in compliance with all laws governing the practice of massage or bodywork therapy.

3. Applicant is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Applicant shall promptly notify Department Monitor of any suspected violations of any of the terms and conditions of this Order.

4. The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order. Any requests, petitions, reports or other information required by this Order shall be mailed, faxed or emailed to:

Department Monitor
Department of Safety and Professional Services
Division of Legal Services & Compliance
P.O. Box 7190

Madison, WI 53707-7190
Fax: (608) 266-2264
Telephone: (608) 267-3817
DSPSMonitoring@wi.gov

You may also submit this information online via DSPS' Monitoring Case Management System,
here:

<https://dspsmonitoring.wi.gov>.

Petitions for Modification

5. Applicant may petition the Department Monitor for modification of the terms of this Order after completion of one (1) year of practice in compliance with all terms and conditions of this Order. "Practice in compliance" includes the submission of work reports, the content of which are satisfactory to the Board. Applicant's petition must include her history of employment from the effective date of this Order that states the dates and names of any employer, such employment in total equaling one (1) year of practice. Any such petition shall be accompanied by a written recommendation from Applicant's current employer that includes, among other things, the dates of employment and scope of responsibility during such employment. A denial of such a petition for modification shall not be deemed a denial of license under Wis. Stat. §§ 227.01(3), or 227.42, or Wis. Admin. Code ch. SPS 1, and shall not be subject to any right to further hearing or appeal.

6. Applicant may petition for full, unrestricted licensure upon demonstration of continuous, successful practice in compliance with the terms of the Order for at least two (2) years.

Costs

7. Applicant shall be responsible for all costs and expenses associated with compliance with the terms of this Order.

Suspension

8. In the event that the Applicant violates any term of this Order, Applicant's license may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Applicant has provided proof, which is determined by the Board or its designee to be sufficient, that Applicant is in compliance with the terms of the Order. The Board may, in addition and/or in the alternative, refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

Dated at Madison, Wisconsin this 29th day of April, 2020.

Robert Coleman Jr.

By:

A Member of the Massage Therapy and Bodywork Therapy
Affiliated Credentialing Board

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

IN THE MATTER OF APPLICATION FOR
A MASSAGE THERAPIST OR BODYWORK
THERAPIST LICENSE

RACHELL TERRELL,
APPLICANT.

:
:
:
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:
:

STIPULATION

ORDER 0006778

It is hereby stipulated between the above-referenced Applicant and the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board (Board) as follows:

1. The Applicant has filed an application for a Massage Therapist or Bodyworker Therapist license.

2. Information received by the Board reflects a basis for denial of the application of the licensure.

3. Based upon the information of record herein, the Board agrees to issue, and the Applicant agrees to accept, an Order granting a license as a Massage Therapist or Bodyworker Therapist, subject to the terms and conditions set forth in the attached Order adopting the Stipulation.

4. Applicant understands that by signing this Stipulation, Applicant voluntarily and knowingly waives the following rights:

- the right to request a hearing related to the denial of the application;
- the right to confront and cross-examine the witnesses against Applicant;
- the right to call witnesses on Applicant's behalf and to compel their attendance by subpoena;
- the right to testify on Applicant'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 the Applicant under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

5. Applicant is aware of Applicant's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

6. Applicant agrees to the adoption of the attached Order Granting Limited License by the Board. The parties to the Stipulation consent to the entry of the attached Order Granting Limited License without further notice, appearance, or consent of the parties.

7. Applicant waives all rights to any appeal of the Board's Order, as adopted in the form as attached.

8. Applicant is informed that the Order Granting Limited License is a public record and will be published in accordance with standard procedure.

Rachelle A. Terrell

Rachell Terrell, Applicant
Appleton, WI 54913
Application no. 680102

April 23, 2020

Date

Robert Coleman, Jr.

A Member of the Massage Therapy and Bodywork
Therapy Affiliated Credentialing Board
Department of Safety and Professional Services
4822 Madison Yards Way
P.O. Box 7190
Madison, WI 53707-7190

April 29, 2020

Date