

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

TAMARA R. PHILLIP, L.M.T.,
RESPONDENT.

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FINAL DECISION AND ORDER

ORDER 0007568

Division of Legal Services and Compliance Case No. 19 MAB 015

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

Tamara R. Phillip, L.M.T.
Stevens Point, WI 54482-9604

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. Tamara R. Phillip, L.M.T. (Respondent), (Year of Birth 1981) is licensed in the state of Wisconsin as a massage therapist or bodywork therapist, having license number 12272-146, first issued on March 1, 2013, and current through February 28, 2023. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Stevens Point, Wisconsin 54482-9604.

2. At all times relevant to this proceeding, Respondent was the sole owner and operator of a massage therapy or bodywork therapy business, located in Stevens Point, Wisconsin.

3. In August 2019, the Department received a complaint that Respondent had multiple convictions regarding theft and possession of controlled substances. The Division of Legal Services and Compliance (Division) investigated the allegations. In response to a letter sent by the Division requesting a response to the allegations, Respondent admitted that after years of being prescribed pain medication, she had become addicted and “ended up stealing them to support [her] habit.”

4. On August 24, 2018, Respondent was convicted of Theft-Movable Property <=\$2,500 (Misdemeanor A) and Possess/Illegally Obtained Prescription (Misdemeanor U) in Portage County District Court Case Numbers 2017CF000550 and 2017CM000495. Respondent was placed on probation for eighteen (18) months and ordered to have an alcohol and other drug abuse (AODA) assessment and to comply with treatment recommendations. On December 27, 2018, Respondent’s probation was revoked following a new drug and theft-related offense.

5. On August 30, 2019, Respondent was convicted of Theft-Movable Property <=\$2,500 (Misdemeanor A) and Criminal Trespass to Dwelling (Misdemeanor A) in Portage County District Court Case Numbers 2018CM000836 and 2018CF000453. Respondent was sentenced to nine (9) months in jail (stayed), twenty-four (24) months of probation, and ordered to have an AODA assessment and to comply with treatment recommendations. On October 2, 2019, Respondent’s probation was revoked, and she was sentenced to county jail following a new theft-related offense.

6. On October 10, 2020, Respondent was convicted of Burglary-Building or Dwelling, Repeater (Felony F) in Portage County District Court Number 2019CF000375. Respondent was sentenced to ninety-six (96) months in prison (stayed), probation for four (4) years, and conditions regarding possessing/consuming controlled substances.

7. On March 4, 2019, and February 8, 2021, Respondent renewed her credential. For both of those renewals, Respondent answered questions regarding any convictions or pending charges in the negative.

8. Respondent reports that she continues to receive AODA treatment and “has been sober and clean from all chemicals for one and a half years.”

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

CONCLUSIONS OF LAW

1. The 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 violated Wis. Stat. § 440.03(13)(am) by failing to send notice of felony or misdemeanor convictions to the department within 48 hours after the entry of the judgment of conviction.

3. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § MTBT 5.02(3) by engaging in fraud,

misrepresentation, or deceit in applying for or procuring a license to practice massage therapy or bodywork therapy, in connection with applying for or procuring periodic renewal of a license, or in otherwise maintaining a license.

4. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § MTBT 5.02(12) by practicing as a massage therapist with a mental or physical condition that impairs the ability of the licensee to practice within the standard of minimal competence or without exposing a client to an unacceptable risk of harm.

5. As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stat. § 460.14(2)(a), (b), (e), and (j).

ORDER

1. The attached Stipulation is accepted.

2. The massage therapist or bodywork therapist license issued to Respondent (license number 12272-146) is **SUSPENDED** as follows:

SUSPENSION

A.1. The license of Respondent to practice as a massage therapist or bodywork therapist in the state of Wisconsin is **SUSPENDED** for one (1) year.

STAY OF SUSPENSION

B.1. The suspension is immediately stayed, but may be reinstated upon:

- (a) Any violation of the impairment order which includes a positive drug or alcohol test; or
- (b) Any further criminal activity which includes arrests, charges, or supervision violations.

B.2. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in violation of any provision of this Order. The Board or its designee may, in conjunction with any removal of any stay, prohibit Respondent for a specified period of time from seeking a reinstatement of the stay under paragraph B.4.

B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:

- (a) Mailing to Respondent's last-known address provided to the Department of Safety and Professional Services (Department) pursuant to Wis. Stat. § 440.11; or
- (b) Actual notice to Respondent or Respondent's attorney.

B.4. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.

3. Respondent's license to practice as a massage therapist or bodywork therapist in the state of Wisconsin (license number 12272-146), is LIMITED as follows:

- a. For a period of at least two (2) years from the date of this Order:
 - i. Respondent shall enroll and participate in a drug and alcohol monitoring program which is approved by the Department (Approved Program). Enrollment shall occur within thirty (30) calendar days from the date of this Order.
 - ii. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program is a substantial violation of this Order. The requirements shall include:
 1. Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
 2. Production of a urine, blood, sweat, fingernail, hair, saliva or other specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
 3. The Approved Program shall require the testing of specimens at a frequency of not less than forty-nine (49) times per year (one of which may be a hair test at the Board's discretion), for at least the first year of this Order. Thereafter, the Board may adjust the frequency of testing on its own initiative at any time.
 - iii. Respondent shall abstain from all personal use of alcohol.
 - iv. Respondent 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. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent 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

Respondent'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 Monitor. Respondent shall disclose the name and address of such practitioner to the Department Monitor within five (5) business days of receipt of a prescription for controlled substances.

- v. Respondent shall report to the Department Monitor all prescription medications and drugs taken by Respondent. 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, Respondent shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.
- vi. Respondent shall provide the Department Monitor with a list of over-the-counter medications and drugs that she may take from time to time. Respondent shall abstain from all use of over-the-counter medications, products, or other substances (including but not limited to natural substances, such as poppy seeds or any products containing alcohol) which may mask consumption of controlled substances or alcohol, create false positive screening results, or otherwise interfere with Respondent's test results, treatment, or rehabilitation, unless ordered by a physician and approved by Treater, in which case the drug must be reported as described in paragraph 3(a)v. It is Respondent's responsibility to educate herself about the medications and substances which may violate this paragraph, and to avoid those medications and substances.
- vii. All positive test results are presumed valid and may result in automatic suspension of licensure by the Board or the Board's designee. Respondent must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
- viii. If any urine, blood, sweat, fingernail, hair, saliva or other specimen is positive or suspected positive for any controlled substances or alcohol, Respondent 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.
- ix. Respondent shall practice only in a work setting pre-approved by the Board or its designee.

- x. Respondent shall provide her employer with a copy of this Order and any subsequent order modifying this Order before engaging in any massage therapy or bodywork therapy employment. Respondent shall provide the Department Monitor with written acknowledgment from each massage therapy or bodywork therapy employer that a copy of this Order and any subsequent order modifying this Order has been received. Such acknowledgment shall be provided to the Department Monitor within fourteen (14) days of beginning new employment and/or within fourteen (14) days of the date of this Order and any subsequent order modifying this Order for employment current as of the date of this Order.
- xi. Respondent shall not work in a setting in which Respondent has access to controlled substances. Respondent shall provide the Department Monitor with written acknowledgment from each massage therapy or bodywork therapy employer that Respondent does not have access to controlled substances. Such acknowledgement shall be provided to the Department Monitor within fourteen (14) days from the date of this Order for any current employer and on a quarterly basis thereafter from each nursing employer.

4. A violation of this Order includes a positive drug or alcohol screen.

5. After the first year from the date of this Order, Respondent may petition the Board on an annual basis for a modification of the terms of this Order. After two (2) consecutive years of successful compliance, the Respondent may petition the Board for return of full licensure. The Board may grant or deny any petition, in its discretion, or may modify this Order as it sees fit.

6. Within 120 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,244.00.

7. Any requests, petitions, payments of costs (made payable to Department of Safety and Professional Services), and other information required by this Order shall be submitted to:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dspsmonitoring.wi.gov>


8. In the event Respondent violates any term of this Order, Respondent's license (number 12272-146), or Respondent's right to renew her license, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing. The Board or its

designee may terminate the suspension if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the suspension to be terminated. Whether to terminate the suspension shall be wholly in the discretion of the Board or its designee. 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.

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

WISCONSIN MASSAGE THERAPY AND BODYWORK THERAPY AFFILIATED
CREDENTIALING BOARD

By:


A Member of the Board

31 August 2021

Date

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

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

TAMARA R. PHILLIP, L.M.T.,
RESPONDENT.

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STIPULATION

ORDER 0007568

Division of Legal Services and Compliance Case No. 19 MAB 015

Tamara R. Phillip, L.M.T. (Respondent) 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.

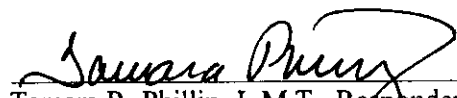
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Massage Therapy and Bodywork Therapy Affiliated Credentialing Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance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



Tamara R. Phillip, L.M.T., Respondent
Stevens Point, WI 54482-9604
License No. 12272-146

7/9/21

Date



Lesley McKinney, Prosecuting Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

7/15/2021

Date