

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF

NICK BREWER,
RESPONDENT.

:
:
: ADMINISTRATIVE INJUNCTION
:
:
: **ORDER 0008281**

Division of Legal Services and Compliance Case No. 22 UNL 070

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

Nick Brewer
St. Paul, MN 55119

Wisconsin Department of Safety and Professional Services
P.O. Box 8368
Madison, WI 53708-8368

Division of Legal Services and Compliance
Wisconsin 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 Department of Safety and Professional Services (Department). The Department has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Nick Brewer (Respondent), (Year of Birth: 1988) is not and has never been licensed as a massage therapist or bodywork therapist in the state of Wisconsin.
2. On July 13, 2022, the Department received a complaint alleging that Respondent is practicing massage therapy and bodywork therapy without a credential at a facility in Hudson, Wisconsin (Facility). The Department opened this matter to investigate.
3. In August 2020, Respondent began providing services via a business called "Brewer Barbell Recovery Lab" located in St. Paul, Minnesota. Respondent's services include Red Light Therapy, Compression Therapy, Deep Tissue, Graston and/or IASTM (instrument

assisted soft tissue mobilization), and Cupping and Dragging (all terms utilized and advertised by Respondent on social media sites). Beginning sometime in 2021, Respondent began offering these same services to paying customers in Hudson, Wisconsin.

4. Respondent advertises and performs these services to assist body builders recover from training. One or more pictures on Respondent's social media sites depict Respondent using his hands and/or a massage wand/gun to apply pressure to areas on another person's body.

5. Respondent's social media sites contained the following language as of August 2022:

- a. "Give it a shot if you want your toughest knots beat up."
- b. "With the slabs of muscle this man has on em [sic], my elbows are needed to dig in and make it count!"
- c. "...has some gnarly tightness in the shoulders and triceps."
- d. "This is the last thing your knots, adhesions, and scar tissue sees."

6. Deep Tissue work, and Graston and/or IASTM, fall within the scope of practice of massage therapy.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Safety and Professional Services has jurisdiction in this matter pursuant to Wis. Admin. Code ch. SPS 3 and Wis. Stat. § 440.21 and is authorized to enter into the attached Stipulation and Order pursuant to Wis. Stat. § 227.44(5).

2. Wisconsin Stat. § 460.01(4) provides that "massage therapy" or "bodywork therapy" means the science and healing art that uses manual actions and adjunctive therapies to palpate and manipulate the soft tissue of the human body in order to improve circulation, reduce tension, relieve soft tissue pain, or increase flexibility. "Massage therapy" or "bodywork therapy" includes determining whether manual actions and adjunctive therapies are appropriate or contraindicated, or whether a referral to another health care practitioner is appropriate. "Massage therapy" or "bodywork therapy" does not include making a medical, physical therapy, or chiropractic diagnosis.

3. Wisconsin Stat. § 460.01(3) provides that "Manual action" includes holding, positioning, rocking, kneading, compressing, decompressing, gliding, or percussing the soft tissue of the human body or applying a passive range of motion to the human body without joint mobilization or manipulation.

4. Wisconsin Stat. § 460.02 provides that except as provided in s. 460.03, no person may provide massage therapy or bodywork therapy, designate himself or herself as a massage therapist or bodywork therapist or masseur or masseuse, or use or assume the title "massage therapist and bodywork therapist" or "massage therapist" or "bodywork therapist" or "masseur" or "masseuse" or any title that includes "massage therapist," "bodywork therapist," or "bodyworker," or append to the person's name the letters "M.T.," "R.M.T.," "L.M.T.," "C.M.T.," "B.T.," "B.W.," "L.B.W.," "R.B.W.," or "C.B.W.," or use any other title or designation that

represents or may tend to represent that he or she is licensed under this chapter, unless the person is licensed under this chapter.

5. The conduct described above constitutes the unlicensed practice of massage therapy or bodywork therapy, contrary to Wis. Stat. § 460.02.

ORDER

1. The attached stipulation is accepted.

2. Unless and until Respondent is properly licensed as a massage therapist or bodywork therapist by the Wisconsin Massage Therapy and Bodywork Therapy Affiliated Credentialing Board, Respondent is enjoined and prohibited from the practice of massage therapy or bodywork therapy in the state of Wisconsin. Violation of this special order may result in a forfeiture of up to \$10,000 for each day of violation. See Wis. Stat. § 440.21(4)(a).

3. If the Department determines that there is probable cause to believe that Respondent has violated any terms of this Administrative Injunction, the Department may refer the violations covered by this decision and order to any appropriate prosecutorial unit for review for possible criminal charges.

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

By: Alo Rohmeyer
Aloysius Rohmeyer, Chief Legal Counsel
On behalf of the Department

12/7/2022
Date

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF
NICK BREWER,
RESPONDENT.

:
:
:
:

STIPULATION

ORDER 0008281

Division of Legal Services and Compliance Case No. 22 UNL 070

Nick Brewer (Respondent), and the Division of Legal Services and Compliance (Division), Department of Safety and Professional Services (Department), stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division. 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 Administrative Injunction by the Department. The parties to the Stipulation consent to the entry of the attached Administrative Injunction without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Department's Administrative Injunction, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Department, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division for further proceedings. In the event that the Stipulation is not accepted by the

Department, the parties agree not to contend that the Department 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 for the Department may appear before the Department for the purposes of speaking in support of this agreement and answering questions that the Department may have in connection with deliberations on this Stipulation.

7. Respondent is informed that should the Department adopt this Stipulation; the Department's Administrative Injunction is a public record and will be published in accordance with standard Department procedure.

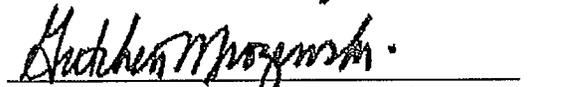
8. Respondent is further informed that should the Department adopt this Stipulation, the Department's Administrative Injunction will be reported as required by the National Practitioner Databank (NPDB) Guidebook and as otherwise required by any licensure compact or any other state or federal law.

9. The Division joins Respondent in recommending the Department adopt this Stipulation and issue the attached Administrative Injunction.



Nick Brewer, Respondent
St. Paul, MN 55119

11/30/2022
Date



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

11/30/22
Date