

BEFORE THE WYOMING ATHLETIC TRAINING BOARD

IN THE DISCIPLINARY MATTER OF)
RACHEL FREEMAN,) **Docket No. 2016-01A – MJ**
LICENSED ATHLETIC TRAINER)
LICENSE NO. 114.)

SETTLEMENT AGREEMENT, STIPULATION, AND ORDER FOR REPRIMAND

COMES NOW, the Investigative Board Member, Megan Jensen (PETITIONER) of the Wyoming Athletic Training Board (Board) and Rachel Freeman Licensed Athletic Trainer (LAT) (RESPONDENT), pursuant to Wyoming Statute § 16-3-107(n) of the Wyoming Administrative Procedure Act (WAPA), and Chapter 9, Section 2 [Investigations] of the Board’s administrative rules, do hereby enter into this Settlement Agreement, Stipulation, and Order for Reprimand (Agreement), subject to approval by the Board.

FINDINGS OF FACT

1. RESPONDENT is licensed as an athletic trainer in Wyoming and holds LAT 114, which will expire on September 30, 2017, according to the records of the Board.

Factual Allegations

2. On August 29, 2016, the Board received RESPONDENT’s application for licensure.
3. During a subsequent telephone call with the Board’s executive director, it was revealed:
 - a. RESPONDENT’s Colorado license expired on June 30, 2016.
 - b. RESPONDENT had been employed by South High School as an athletic trainer since fall of 2015.
 - c. RESPONDENT practiced in Wyoming without a license.
4. On August 29, 2016, the Board’s executive director imitated an administrative complaint that was assigned to PETITIONER for investigation and recommendation (Docket No. 2016-01A).

Procedural Prerequisites

5. On August 29, 2016, PETITIONER sent RESPONDENT a Notice of Complaint. PETITIONER sent the letter, with a copy of the complaint, via certified United States mail to RESPONDENT’s last known address.

6. On August 30, 2016, Board staff provide RESPONDENT a hard copy of the Notice of Complaint.
7. On August 30, 2016, RESPONDENT emailed her written response to the Notice of Complaint. She explained that she moved to Wyoming in August of 2015, and was employed as the Athletic Trainer at South High School in Cheyenne. She completed her application for licensure in August of 2015, but delayed filing it until August 29, 2016 due to financial circumstances. She stated that she accepts full responsibility for my decision, and have made quick, decisive, corrective action. Additionally, she resigned from my position.

Grounds for Disciplinary Action

8. PETITIONER alleges RESPONDENT's conduct in Paragraph 3, if established by clear and convincing evidence at a contested case hearing, constitutes violations of the WATLA, specifically:
 - a. Wyoming Statute § 33-45-107(a) [unlicensed practice].
9. PETITIONER further alleges RESPONDENT's conduct in the Paragraph 3, if established by clear and convincing evidence at a contested case hearing, constitutes violations of the Board's rules, Chapter 8, Section 2 [Grounds], specifically:
 - a. Chap. 8, Sec. 2(a)(ii) [unlicensed practice].

PETITIONER's Recommendation for Reprimand

10. **Authority for Discipline.** Pursuant to Wyoming Statute § 33-45-106(a)(iv), the Board shall "censure, suspend or revoke licenses as provided in this chapter and the Wyoming Administrative Procedure Act."
11. **Authority for Recommendation of Approval of Settlement Agreement.** Pursuant to Chapter 8, Section 2(c)(iii) of the Board's rules, the Board may resolve a complaint by "accepting conditional terms for settlement." Additionally, pursuant to Wyoming Statute § 16-3-107(n) of the WAPA, "informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default."
12. **Recommendation for Reprimand** A violation of the statutory and rule provisions identified in Paragraph 3 is grounds for disciplining RESPONDENT's LAT 114. PETITIONER has determined imposing reprimand upon RESPONDENT's LAT license is an appropriate resolution of the administrative complaint in lieu of initiating a formal disciplinary proceeding against RESPONDENT.
13. **Recommendation for Completion of Educational Courses.** PETITIONER recommends that RESPONDENT shall complete educational courses and ethics training described in

this subparagraph, and provide PETITIONER with proof of completion within **twelve (12) months** of the effective date of this Agreement:

- a. Six (6) continuing education units in the area of medical ethics.

These continuing education units are not eligible for satisfying the continuing education units necessary for renewal.

14. **Failure to Timely Complete Educational Courses.** If RESPONDENT fails to complete the required educational course within twelve months (12) of the effective date of this Agreement, RESPONDENT's LAT license shall be immediately suspended for thirty (30) days.
15. **Acknowledgement of Effect of Violation of Terms and Conditions.** In lieu of proceeding with a formal contested case hearing, RESPONDENT hereby agrees to reprimand upon her and her Wyoming LAT 114, and in doing so agrees her conduct set forth in Paragraph 3, if proven by clear and convincing evidence at a contested case hearing, constitutes a violation of the provisions of the WATLA and Board rules as indicated in Paragraphs 8 and 9.

I, RACHEL FREEMAN, ACKNOWLEDGE AND UNDERSTAND THAT A FAILURE TO COMPLETE THE CONTINUING EDUCATION DESCRIBED ABOVE WILL RESULT IN THE IMMEDIATE SUSPENSION OF MY LICENSE FOR THIRTY (30) DAYS.


INITIALS

RESPONDENT's Representations Regarding this Agreement

16. RESPONDENT represents she has read this Agreement in its entirety, has had an opportunity to consult with counsel, fully understands the contents and requirements herein, and agrees to abide by the Order set forth herein *in lieu* of a contested case hearing.
17. By executing this Agreement, RESPONDENT waives her right to any applicable administrative contested case hearing or appeals in this matter pursuant to the WAPA [Wyoming Statute §§ 16-3-107 through -115], the WATLA, the Board's rules, or any other applicable law or constitutional right.
18. Due and proper notice of this matter has been afforded to RESPONDENT, and RESPONDENT agrees she has not been subjected to undue influence, pressure, or coercion by PETITIONER, the Board, its staff, or the Office of the Attorney General, and she is entering into this Agreement under her own free will after having the opportunity to obtain advice from an attorney regarding the consequences of entering into this Agreement.

19. RESPONDENT understands this Agreement shall be submitted to the Board which may either approve or reject the Agreement. Should the Board reject the Agreement, RESPONDENT shall have an opportunity to request a contested case hearing in accordance with the WAPA, the WATLA, and the Board's rules. If the Board does not approve this Agreement and a contested case hearing takes place as a consequence, RESPONDENT further represents and agrees she does not object to the Board's hearing the case on the basis the Board has become disqualified due to its review and consideration of this Agreement and its contents.
20. RESPONDENT understands this Agreement is a disciplinary action and shall become a permanent part of her record with the Board. By signing this Agreement, RESPONDENT understands this Agreement constitutes a public record within the meaning of the Wyoming Public Records Act [Wyoming Statute § 16-4-201 through -205], and, upon proper request, shall be subject to disclosure, inspection, and dissemination in accordance with or except as otherwise provided by applicable federal and state laws.

CONCLUSIONS OF LAW

21. Paragraphs 1 through 20 of the Findings of Fact are incorporated herein by reference.

Jurisdiction

22. The Board has jurisdiction in this matter and over RESPONDENT pursuant to the WATLA and the Board's rules.

Disciplinary Authority

23. Pursuant to Chapter 9, Section 2(c)(iii) of the Board's rules, the Board may resolve an administrative complaint by approving a proposed settlement agreement.

Grounds for Disciplinary Action

24. The WATLA identifies grounds for disciplining licensees upon proof a LAT:

After July 1, 2010, no person shall use any card, title, letters, insignia or abbreviation indicating that the person is an athletic trainer, except under a license issued in accordance with this chapter and rules adopted pursuant to this chapter.

Wyo. Stat. Ann. § 33-45-107(a).

25. The Board's rules also identifies grounds for disciplining licensees upon proof a LAT:

Representation of oneself as legally authorized to engage in the practice of athletic training without a license issued by this Board.

Rules Wyo. Dept. of Admin. & Info., Athletic Training Bd., Ch. 8, § 2(a)(ii) (Oct. 2011).

Conclusions

26. The Board concludes RESPONDENT's conduct as set forth in Paragraph 3, if established by clear and convincing evidence at a contested case hearing, constitutes violations of the WATLA, specifically Wyoming Statute § 33-45-107(a).
27. The Board concludes RESPONDENT's conduct as set forth in Paragraph 3, if established by clear and convincing evidence at a contested case hearing, constitutes violations of the Board's rules, specifically Chapter 8, Section 2(a)(ii).
28. The Board concludes the violations of the statutory and rule provisions identified is grounds for disciplining RESPONDENT. Based on PETITIONER's recommendation, the Board concludes reprimanding RESPONDENT's LAT license is appropriate.

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ORDER FOR REPRIMAND

IT IS THEREFORE HEREBY STIPULATED AND ORDERED AS FOLLOWS:

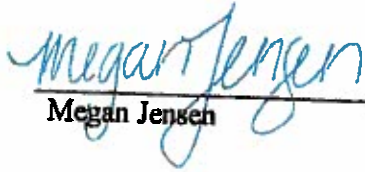
1. **Board Approval of Agreement.** The Board approves this Agreement which constitutes disciplinary action for the conduct set forth in the Findings of Fact and Conclusions of Law in this Agreement.
2. **Reprimand.** RESPONDENT's LAT 114 shall be **REPRIMANDED** as identified in this Agreement.
3. **Required Educational Courses.** RESPONDENT shall complete educational courses described in this paragraph, and provide PETITIONER with proof of completion within **twelve (12) month** of the effective date of this Agreement:
 - a. Six (6) continuing education units in the area of medical ethics.

These continuing education units shall not be eligible for satisfying the continuing education units necessary for RESPONDENT's renewal.
4. **Failure to Timely Complete Educational Courses.** If RESPONDENT fails to complete the required educational course within twelve (12) months of the effective date of this Agreement, **RESPONDENT's LAT license shall be immediately suspended for thirty (30) days.**
5. **Reporting by Board of Discipline.** This Agreement constitutes authorized disciplinary action of the Board and, as such, shall become a part of RESPONDENT's permanent record with the Board. This Agreement, as well as the information that is part of Docket No. 2016-01A, constitutes public records within the meaning of the Wyoming Public Records Act [Wyoming Statute § 16-4-201 through -205], and is, therefore, upon proper request, shall be available for inspection and dissemination in accordance with applicable federal and state law.
6. **Publication of Discipline.** This Agreement shall be subject to publication on the Board's website.
7. **Continuing Jurisdiction.** The Board shall retain continuing jurisdiction in this matter to take further action as may be necessary to conclude this matter or other actions permitted by law.
8. **Waiver of Contested Case Hearing.** RESPONDENT's execution of this Agreement includes her full waiver of any contested case hearing or appeal to which she may be entitled to pursuant to the WAPA, the WATLA, the Board's rules, or any other applicable law or constitutional right.

9. **Effective Date.** This Agreement shall become effective upon full and complete execution by all signatories below. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement. Signatures, originally signed by hand, but transmitted via e-mail or fax shall also be deemed valid and binding original signatures.
10. **Enforcement.** This Agreement shall be enforceable in the Laramie County District Court in and for the State of Wyoming according to the laws of the State of Wyoming.
11. **Entire Agreement.** This Agreement constitutes the full and entire understanding between the parties RESPONDENT, PETITIONER, and the Board. RESPONDENT's execution of this Agreement includes her representation and acknowledgement she has read and understands the terms and conditions of this Agreement, has been given an opportunity to consult and/or has consulted with counsel of her choice, and accordingly voluntarily enters into this Agreement of her own choosing and shall be bound by the terms and conditions thereof, until the Board issues any order to the contrary. RESPONDENT has been given no additional inducement to enter into and execute this Agreement. Should any portion of this Agreement be judicially determined to be void, illegal or unenforceable, the remainder of the Agreement shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.

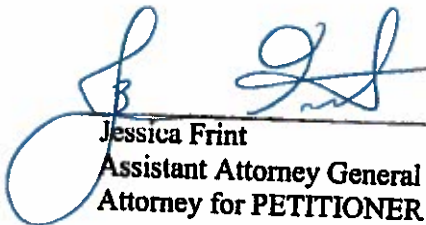
[SIGNATURES APPEAR ON FOLLOWING PAGE]

AGREED TO AND ACCEPTED BY PETITIONER, INVESTIGATIVE BOARD MEMBER:


Megan Jensen

08 Sept. 2016
Date

APPROVED AS TO FORM:


Jessica Frint
Assistant Attorney General
Attorney for PETITIONER

9/8/16
Date

APPROVED BY AND FOR THE WYOMING ATHLETIC TRAINING BOARD:


President or President's Designee

9-14-2016
Date