



RECEIVED MAY 14 2018

CONSENT AGREEMENT

This Consent Agreement is made by and between the National Athletic Trainers' Association Board of Certification, Inc., ("BOC"), a North Carolina non-profit corporation with a place of business at 1415 Harney Street, Suite 200, Omaha, Nebraska 68102, and Upton R Dabney Jr ("Respondent") of [REDACTED] [REDACTED] Morristown, Tennessee, [REDACTED] referred to hereinafter collectively as the "Parties."

WHEREAS, Respondent has been certified by the BOC (Certification Number 080102207) as having satisfied the requirements established by the BOC with regards to knowledge and professional competence in the area of entry-level athletic training; and

WHEREAS, the Parties stipulate to the truth and accuracy of the following:

1. October 3, 2011, Respondent was indicted on Sexual Exploitation of a Minor and Aggravated Sexual Exploitation of a Minor. On or about April 19, 2012, Respondent pleaded guilty to SEX EXPLOITATIO and AGG SEXUAL EXPL OF A MINOR and was sentenced to ten (10) years on community corrections. On or about July 25, 2013, Respondent appealed his sentence. Respondent's sentence of the ten-year community corrections sentence was reversed for a judgement reflecting a sentence of six years in community corrections beginning with one year of confinement.
2. The Respondent's conduct violates the Code of Professional Responsibility ("Code") 3.11 of the BOC Standards of Professional Practice ("BOC Practice Standards"). 3.11 states "Does not take any action that leads, or may lead, to the conviction, plea of guilty or plea of nolo contendere (no contest) to any felony or to a misdemeanor related to public health, patient care, athletics or education,, this includes, but is not limited to: rape; sexual abuse of a child or patient; actual or threatened use of a weapon of violence; the prohibited sale or distribution of controlled substance, or its

possession with the intent to distribute; or the use of the position of an Athletic Trainer to improperly influence the outcome or score of an athletic contest or event or in connection with any gambling activity.

3. The above described Code violation constitutes grounds for disciplinary action pursuant to Section 8 of the BOC Professional Practice and Discipline Guidelines and Procedures ("BOC Discipline Procedures")."

WHEREAS, Respondent, in consideration of this Consent Agreement and for the purpose of terminating the BOC's investigation into his conduct, voluntarily admits that his actions as set forth above violates Code 3.11 of BOC Practice Standard violations and agrees that, for purposes of this or any future proceeding before the BOC, this Consent Agreement shall have the same effect as if ordered after a full hearing held pursuant to Section 6 of the BOC Discipline Procedures;

WHEREAS, Respondent understands and acknowledges Respondent's rights to a hearing and to appeal a decision by a hearing panel, but waives those rights and stipulates and agrees to the issuance of this Consent Agreement without further proceedings in this matter, and agrees to be fully bound by the terms and conditions specified herein; and

WHEREAS, the BOC Executive Director has consented to the execution of this Consent Agreement;

NOW, THEREFORE, pursuant to Section 4 of the BOC Discipline Procedures and in consideration of the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby stipulate and agree to the following:

1. The Parties agree that this Consent Agreement shall be and hereby is legally binding and is in full and complete settlement and resolution of any and all charges and/or claims that

were or could have been brought by the BOC regarding the actions of Respondent as set forth above in Paragraph 1 of Page 1, and shall constitute an admission by the Respondent that these actions violated Code 3.11 of the BOC Practice Standards.

2. In exchange for the summary termination of the BOC's investigation into Respondent's conduct as described in Paragraph 1 of Page 1 above, Respondent voluntarily admits: (1) the truthfulness of the factual allegation(s) set forth in Paragraph 1 of Page 1 above; and (2) that Respondent's actions, as set forth in Paragraph 1 of Page 1 above, violates Code 3.11 of the BOC Practice Standards. Respondent further agrees that for purposes of this or any future proceeding before the BOC, this Consent Agreement shall have the same effect as if ordered after a full hearing held pursuant to Section 6 of the BOC Discipline Procedures.

3. Respondent waives all right to a hearing on the merits of this matter as provided in Section 6 of the BOC Disciplinary Procedures.

4. Respondent waives all right to appeal the charges and/or claims set forth herein to the BOC or to any administrative, regulatory, judicial or other forum.

5. Respondent waives all right to challenge or otherwise contest the validity of this Consent Agreement to the BOC or to any administrative, regulatory, judicial or other forum. The Consent Agreement may be enforced by either party in an action at law or equity.

6. Respondent consent to and agrees that Respondent's certification status is considered Suspended. Respondent acknowledges and agrees that the suspension of a BOC certification is considered public information and may be published or otherwise disclosed by the BOC.

7. Further, while suspended Respondent is not authorized to do the following:

- a. Represent himself to the public as a practicing Certified Athletic Trainer or use the certification marks "ATC" or C.A.T." following your name; or
- b. Serve as an item writer for the BOC certification exam; or
- c. Serve as a supervisor of students who are satisfying the athletic training requirements for certification eligibility.

8. Respondent may petition for reinstatement after suspension in accordance with Section 13 of the BOC Discipline Procedures. Such petition may be brought by Respondent no sooner than the completion of Respondent's sentence for the offenses listed in Paragraph 1 of Page 1, above.

9. Any alleged breach of any provision of this Consent Agreement by Respondent may, at the sole and absolute discretion of the BOC, result in the following actions:

- a. The BOC shall notify Respondent in writing by certified mail, return receipt requested or by tracked courier that the term(s) of this Consent Agreement have been breached and include a description of the acts or omission(s) constituting a breach the term(s) of this Consent Agreement.
- b. Respondent shall be allowed fifteen (15) days from the date of the receipt of notification required in Paragraph 9(a) above to demonstrate to the sole satisfaction of the BOC that he has cured the breach in question.
- c. Failure to cure the breach within the fifteen (15) day time period will terminate the BOC's obligations under this Consent Agreement and will cause the original matter, as outlined in Paragraph 1 of Page 1, above, to be referred to the BOC Professional Practice and Discipline Committee ("PPD Committee") which shall make a final determination of the disciplinary action, if any, to be taken.
- d. In addition, Respondent's breach of any term of this Consent Agreement may constitute an additional and independent Code violation and may provide separate grounds for the BOC to suspend, revoke, or otherwise take action with regard to his BOC certification.

10. Any notice by the BOC pertaining to this Consent Agreement shall be sufficient if sent to Respondent at the last address of record Respondent has reported to the BOC, or to an attorney designated by Respondent.

11. Respondent agrees that the factual and legal allegations as contained in this Consent Agreement shall be deemed true and admitted in any subsequent proceeding before the BOC in which his compliance with this Consent Agreement or the BOC Practice Standards is at issue.

12. Any extension of time or grace period for reporting granted by the BOC in its sole and absolute discretion shall not be a waiver or preclude the BOC from taking action at a later time. The BOC shall not be required to grant any waiver, extensions of time, or grace periods.

13. This Consent Agreement shall be binding on and shall inure to the benefit of the Parties, their successors, assigns, or other legal representatives.

14. No waiver, change, amendment, or discharge of any term or condition hereof and no consent of either Party shall be of any force or effect unless made in writing and signed by both Parties or by duly authorized agents of the Parties. Any waiver granted by the BOC shall be at the sole and absolute discretion of the BOC and shall not function as a continuing waiver.

15. This Consent Agreement contains the entire understanding between the Parties and supersedes any and all pre-existing understandings, either oral or written, between the Parties relating to the subject matter hereof.

IN WITNESS WHEREOF, the Parties have executed this Consent Agreement, effective as of
the 2nd day of April 2018.

National Athletic Trainers' Association Board of Certification, Inc.

Denise M Fandel
Signature

Denise Fandel
Printed Name

Executive Director
Title

5/15/18
Date

[Signature]
Signature

Upton R Dabney Jr
Printed Name

13 APR 18
Date