

BEFORE THE WYOMING ATHLETIC TRAINING BOARD

IN THE DISCIPLINARY MATTER OF)
JOSHUA LEWIS,) Docket No. 2018-12 – MJ
LICENSED ATHLETIC TRAINER)
LICENSE NO. 077.)

SETTLEMENT AGREEMENT, STIPULATION, AND ORDER FOR REPRIMAND

COMES NOW, the Investigative Committee, Megan Jensen (PETITIONER) of the Wyoming Athletic Training Board (Board) and JOSHUA LEWIS, 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 077, which will expire on September 30, 2019, according to the records of the Board.

Factual Allegations

2. On September 20, 2013, the Board issued RESPONDENT license 077.
3. RESPONDENT's previous supervisor, Jake Johnson, M.D., moved to Rock Springs and he decided to find a new supervisor. Connie Fauntleroy, M.D., agreed to be his supervisor. However, a new supervision agreement was never submitted to the Board Office for approval.
4. On September 30, 2018, RESPONDENT failed to timely renew his license and his license expired.
5. RESPONDENT continued to practice after your license had expired. RESPONDENT practiced without a Board approved supervisor.
6. On November 4, 2018, RESPONDENT submitted a late renewal through the online renewal system.
7. With his application, RESPONDENT submitted a signed supervision agreement with Dr. Fauntleroy.
8. Based on RESPONDENT's late renewal, Board staff inquired whether he had been practicing while his license was expired and RESPONDENT indicated he had practiced while his license was expired.
9. Board staff initiated an administrative complaint against RESPONDENT alleging unlicensed practice and practice without proper supervision. The administrative complaint

IN THE DISCIPLINARY MATTER OF JOSHUA LEWIS, 077 -- Docket No. 2018-02--MJ

Settlement Agreement, Stipulation, and Order for Reprimand

was assigned to PETITIONER for review, investigation, and recommendation (Docket No. 2018-02).

Grounds for Disciplinary Action

10. PETITIONER alleges RESPONDENT's conduct in Paragraphs 2 through 9, 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];
 - b. Wyoming Statute § 33-45-107(b) [practice only under the direction of a physician]; and
 - c. Wyoming Statute § 33-45-111(a)(vii) [violating any provision of this chapter].
11. PETITIONER further alleges RESPONDENT's conduct in the Paragraphs 2 through 9, if established by clear and convincing evidence at a contested case hearing, constitutes violations of the Board's rules, specifically:
 - a. Chap. 7, Sec. 4(b) [practice only under the direction of a physician]; and
 - b. Chap. 8, Sec. 2(a)(ii) [unlicensed practice].

PETITIONER's Recommendation for Reprimand

12. **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."
13. **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."
14. **Recommendation for Reprimand** A violation of the statutory and rule provisions identified in Paragraphs 10 and 11 is grounds for disciplining RESPONDENT's LAT 077. 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.
15. **Recommendation for Completion of Educational Courses.** PETITIONER recommends that RESPONDENT shall complete educational courses and ethics training described in this paragraph, and provide PETITIONER with proof of completion by **September 30, 2019**. RESPONDENT shall complete one (1) hour of continuing education in the area of medical ethics.

- 16. **Failure to Timely Complete Educational Courses.** If RESPONDENT fails to complete the required educational course identified in Paragraph 15, **RESPONDENT's LAT license shall be immediately suspended for thirty (30) days.**
- 17. **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 him and his Wyoming LAT 077, and in doing so agrees her conduct set forth in Paragraphs 2 through 9, 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 10 and 11.

I, JOSHUA LEWIS, 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

- 18. RESPONDENT represents he 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.
- 19. By executing this Agreement, RESPONDENT waives his 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.
- 20. Due and proper notice of this matter has been afforded to RESPONDENT, and RESPONDENT agrees he has not been subjected to undue influence, pressure, or coercion by PETITIONER, the Board, its staff, or the Office of the Attorney General, and he is entering into this Agreement under his own free will after having the opportunity to obtain advice from an attorney regarding the consequences of entering into this Agreement.
- 21. 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 he/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.
- 22. RESPONDENT understands this Agreement is a disciplinary action and shall become a permanent part of his record with the Board and shall be subject to publication on the Board's website.

23. 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.
24. RESPONDENT understands this Agreement shall be reported in accordance with applicable federal and state law.

CONCLUSIONS OF LAW

25. Paragraphs 1 through 24 of the Findings of Fact are incorporated herein by reference.

Jurisdiction

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

Disciplinary Authority

27. 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.
28. Pursuant to the WAPA, "informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default." Wyo. Stat. Ann. § 16-3-107(n).

Grounds for Disciplinary Action

29. The WATLA prohibits any person from practicing as a LAT unless properly licensed by the Board:
 - (a) 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;
 - (b) No person licensed as an athletic trainer under this chapter shall engage in the practice of athletic training except under the direction of a physician licensed by the Wyoming board of medicine[.]

Wyo. Stat. Ann. § 33-45-107(a), (b).

30. The WATLA also identifies grounds for disciplining licensees upon proof a LAT "[v]iolat[ed] any provision of this chapter[.]" Wyo. Stat. Ann. § 33-45-111(a)(vii).
31. The Board's rules requires a LAT to "[p]ractice only under the direction of a physician licensed by the State of Wyoming Board of Medicine[.]" *Athletic Training Bd. Rules*, Ch. 7, Section 4(b), 065.0001.7.02122016.

32. The Board's rules also identifies grounds for disciplining licensees upon proof of "[r]epresentation of oneself as legally authorized to engage in the practice of athletic training without a license issued by this Board[.]" *Athletic Training Bd. Rules, Ch. 8, § 2(a)(ii)*, 065.0001.8.10312011.

Conclusions

33. The Board concludes RESPONDENT's conduct as set forth in Paragraphs 2 through 9, if established by clear and convincing evidence at a contested case hearing, constitutes violations of the WATLA, specifically Wyoming Statute §§ 33-45-107(a) and (b) and 33-45-111(a)(vii).
34. The Board concludes RESPONDENT's conduct as set forth in Paragraphs 2 through 9, if established by clear and convincing evidence at a contested case hearing, constitutes violations of the Board's rules, specifically Chapter 7 § 4(b) and Chapter 8 § 2(a)(ii).
35. 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:
- a. Reprimanding RESPONDENT's LAT license; and
 - b. Requiring continuing education is appropriate.

[CONTINUED ON FOLLOWING PAGE]

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 077 shall be **REPRIMANDED**.
3. **Required Educational Courses.** RESPONDENT shall complete one (1) hour of continuing education in the area of medical ethics, and provide PETITIONER with proof of completion by **September 30, 2019**.
4. **Failure to Timely Complete Educational Courses.** If RESPONDENT fails to timely complete the required educational course, **RESPONDENT's LAT license shall be immediately suspended for thirty (30) days.**
5. **Publication of Discipline.** This Agreement shall be subject to publication on the Board's website.
6. **Reporting by Board of Discipline.** This Agreement constitutes authorized disciplinary action of the Board and, as such, shall be reported in accordance with applicable federal and state law.
7. **Public Record of the Board.** This Agreement, as well as the information that is part of Docket No. 2018-02, constitutes public records within the meaning of the Wyoming Public Records Act [Wyoming Statute §§ 16-4-201 through -205], and, upon proper request, shall be available for inspection and dissemination in accordance with applicable federal and state law.
8. **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.
9. **Waiver of Contested Case Hearing.** RESPONDENT's execution of this Agreement includes his full waiver of any contested case hearing or appeal to which he may be entitled to pursuant to the WAPA, the WATLA, the Board's rules, or any other applicable law or constitutional right.
10. **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.

11. **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.
12. **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 his representation and acknowledgement he 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 his choice, and accordingly voluntarily enters into this Agreement of his 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 RESPONDENT:

I, JOSHUA LEWIS, RESPONDENT herein, swear I have read the foregoing Agreement and agree to its terms and conditions as provided above.



Joshua Lewis

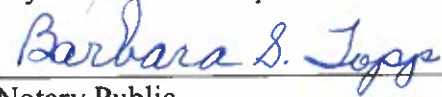


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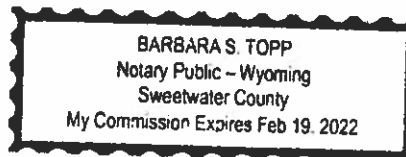
STATE OF WYOMING)
) SS
COUNTY OF Sweetwater)

The foregoing document was subscribed and sworn to before me by Joshua Lewis, personally known to me or having established his identity by means of sufficient documentation, purporting to be the person signing the document, and the signature on the foregoing document was made in my presence, on the 22nd day of February, 2019.

My Commission Expires: 2/19/2022




Notary Public



[ADDITIONAL SIGNATURES ON FOLLOWING PAGE]

AGREED TO AND ACCEPTED BY PETITIONER, INVESTIGATIVE COMMITTEE:

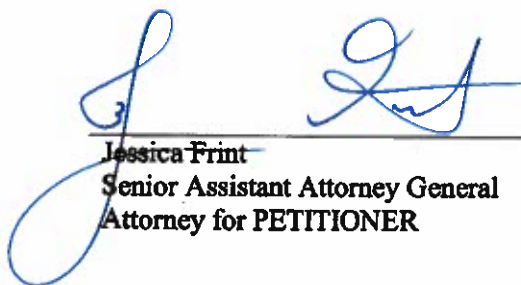


Megan Jensen

January 28, 2019

Date

APPROVED AS TO FORM:



Jessica Frint
Senior Assistant Attorney General
Attorney for PETITIONER

1/29/19

Date

APPROVED BY AND FOR THE WYOMING ATHLETIC TRAINING BOARD:



President or President's Designee

4-22-2019

Date