



CONSENT AGREEMENT

This Consent Agreement is made by and between the Board of Certification, Inc., ("BOC"), a North Carolina non-profit corporation with a place of business at 1411 Harney Street, Suite 100, Omaha, Nebraska 68102, and Benjamin P Pushard ("Respondent") of [REDACTED], Brewer, Maine, [REDACTED], referred to hereinafter collectively as the "Parties."

WHEREAS, Respondent has been certified by the BOC (Certification Number 2000033488) as having satisfied the requirements established by the BOC with regard 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. April 18, 2023, the BOC received the Criminal Docket from *State of Maine v Benjamin Pushard* showing Respondent pled guilty on April 11, 2023 to one (1) count of gross sexual assault (Seq 637 17-A 253 (1) (B)), one (1) count of unlawful sexual contact (Seq 8401 17-A 255-A(1) (F)), and one (1) count of criminal restraint (Seq 8417 17-A 302 (1) (A) (1)).
2. April 18, 2023, BOC issued and sent a Notice and Emergency Suspension Order via Eversign. Respondent viewed it the same day and signed it the following day.
3. September 8, 2023, legal counsel representing the Respondent emailed the BOC stating the Respondent had surrendered their state license. Further, on September 8, 2023, BOC responded to Respondent and their legal counsel stating the email request pertained to the Emergency Suspension order and status of court cases related to that Order. In addition, on September 8, 2023, legal counsel representing the Respondent emailed the BOC stating the Respondent wished to surrender their BOC certification as they no longer pursuing a career in the field of athletic training.

4. The Respondent's conviction is a violation of the Code of Professional Responsibility ("Code") Code 3.10 of BOC Standards of Professional Practice ("BOC Practice Standards"). Code 3.10 states, the Athletic Trainer, specialist or applicant, "Takes no 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."
5. 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 their conduct, voluntarily admits that their actions as set forth above violate Code 3.10 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 Chief Executive Officer 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 and shall constitute an admission by the Respondent that these actions violated Code 3.10 of the BOC Practice Standards.

2. In exchange for the summary termination of the BOC's investigation into Respondent's conduct as described above, Respondent voluntarily admits: (1) the truthfulness of the factual allegation(s) set forth in Paragraphs 1-3 of Page 1 above; and (2) that Respondent's actions violate Code 3.10 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 consents to and agrees that Respondent's current certification of suspended status shall be lifted to accept Respondent's request to voluntarily resign their certification resulting in an Expired status. Respondent acknowledges and agrees that this Consent Agreement and act of voluntary resignation of a BOC certification is considered public information and shall be published or otherwise disclosed by the BOC.

7. Further, while their certification is expired, Respondent is not authorized to do the following:

- a. Represent themselves to the public as a practicing Certified Athletic Trainer or use the certification mark "ATC" following their name;
- b. Serve as an item writer for the BOC certification exam; and/or
- c. Serve as a supervisor of students who are satisfying the athletic training requirements for certification eligibility.

8. If the Respondent submits an application for reinstatement, this Consent Agreement and all records related to this case shall be considered in the decision to grant reinstatement.

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 or tracked courier, return receipt requested, or by secure electronic delivery with receipt verification (e.g., Eversign) 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. Such a breach may result in the Respondent's state athletic trainer agency

and/or current employer being contacted as permitted by Section 13.2 of the BOC Discipline Guidelines.

- 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 Paragraphs 1-3 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 their 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 to receive such notice.

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 their 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 15th day of November 2023.

Board of Certification, Inc.

Anne M. Minton

Signature

Anne M Minton

Name

Chief Executive Officer

Title

Dec 05 2023

Date

Benjamin P Pushard

Signature

Benjamin P Pushard

Name

Dec 05 2023

Date