



KENTUCKY BOARD OF LICENSURE FOR MASSAGE THERAPY

Matthew Bevin
Governor

P. O. Box 1360
Frankfort, Kentucky 40602
Phone (502) 782-8808
Fax (502) 696-5230
<http://bmt.ky.gov>

David Dickerson
Secretary

Commonwealth of Kentucky
Board of Licensure for Massage Therapy

Kentucky Board of Licensure for Massage Therapy

Complainant

v. Settlement Agreement

Sarah N. Lubbe

Respondent

* * * * *

Whereas, the Kentucky Board of Licensure for Massage Therapy (“Board”) alleges that the Respondent Sarah N. Lubbe (“Respondent”) violated KRS 309.353 by practicing massage therapy in the Commonwealth of Kentucky without a license, for which a circuit court action may be filed by the Board pursuant to KRS 309.355(6);

Whereas, the Respondent is now approved for licensure as a Massage Therapist in the Commonwealth of Kentucky;

Whereas, the Respondent acknowledges that there is evidence that she violated sections of KRS 309.353 prior to becoming licensed and that the Board would prove those violations if the matter proceeded to a civil action in the circuit court;

Whereas, the parties mutually desire to settle the issues in an expeditious manner, without the need for a formal hearing or court action authorized by the Board;

It is hereby stipulated and agreed between the undersigned parties that this matter shall be settled and resolved upon the following terms:





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- (1) Fine of five hundred (\$500) dollars to be paid within nine (9) months of acceptance of the settlement agreement by the board.**
- (2) Respondent will comply with the requirements of Kentucky Law stated in KRS Chapter 309 and 201 KAR Chapter 42.**

Voluntary Waiver of Rights

The Respondent has had the opportunity at all times to seek the advice from competent counsel of choice. No coercion has been exerted upon the Respondent, nor have any promises been made other than those reflected in this agreement. The Respondent has freely and voluntarily entered into this agreement, motivated only by a desire to resolve the issues addressed herein. The Respondent has executed this Settlement Agreement only after a careful reading of it and a full understanding of all of its terms.

The Respondent is fully aware of her rights to contest charges in a formal hearing. These rights include: representation by an attorney at the Respondents own expense, the right to a public hearing on any charges or allegations filed, the right to confront and cross-examine witnesses called to testify against the Respondent, the right to present evidence on her own behalf, the right to compulsory process to secure the attendance of such witnesses, the right to testify on the Respondents own behalf, the right to receive written findings of fact and conclusions of law supporting the decision on the merits of the Formal Complaint, the right to obtain judicial review of the Boards decision, and the right to appeal from an order of the Board to the Franklin Circuit Court, pursuant to KRS Chapter 13B. All of these rights are being waived by the Respondent with acceptance of this Settlement Agreement.



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Jurisdiction

The Respondent acknowledges that the Board has jurisdiction over the Respondent and the conduct which has precipitated this Settlement Agreement. The Respondent also acknowledges that the Board has the legal power to take disciplinary action up to and including revocation of the Respondents license to practice massage therapy upon proof of violation of law and/or regulations. Respondent also understands that the Board is authorized to refer matters to the County Attorney and Commonwealth Attorney from criminal prosecution of violations of KRS 309.353.

The Respondent acknowledges that the Board will retain jurisdiction over this matter until all terms and conditions set forth in this Settlement Agreement have been met to the satisfaction of the Board.

Publication of Settlement Agreement

The Respondent acknowledges that, once adopted by the Board, this Settlement Agreement will be considered a public document, available for inspection at any time by any member of the public under the Kentucky Open Records Act. Further, the Respondent understands that the Board is free to make any use the Board is authorized to make by statute or administrative regulation of the contents of this Settlement Agreement. The Board agrees that when requested the Board will furnish a true and accurate copy of this Settlement Agreement to the requestor. The Board is authorized to make disclosures of this agreement when required by state and federal law.



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Effect Upon Licensure Status

It is stipulated that as the agreed upon settlement:

- 1) The Respondent will be licensed by the Kentucky Board of Licensure for Massage Therapy upon payment of the initial licensure fee of one hundred twenty-five (\$125) dollars;
- 2) The Respondent will pay an administrative fine of five hundred (\$500) dollars for practicing massage therapy without a license within nine (9) months of acceptance of this agreement, and the Board agrees that it will not refer the matter to the Commonwealth of Kentucky for criminal prosecution under KRS 309.3535;
- 3) The Respondent waives the right to appeal from this agreement notwithstanding any provision of the KRS Chapter 309 or 201 KAR Chapter 42 or other relevant statute or regulation. Respondent expressly agrees that the conditions of this agreement are strictly a matter of private right;
- 4) This Settlement Agreement shall constitute a binding contract between the Respondent and the Board, subject only to approval by the Board as set forth above. The Respondent shall not rescind, revoke, or withdraw this Settlement Agreement prior to its presentation to the Board at a regularly scheduled meeting of the Board;
- 5) Respondent understand and agrees that violation of the terms of this settlement or failure to pay the administrative fine within nine (9) months of the adoption of the settlement agreement by the Board will result in the immediate revocation of her license to practice massage therapy without hearing.



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Release of Liability

In consideration of execution of this Settlement Agreement, the Respondent and the Respondents executors, administrators, successors and assigns, hereby release and forever discharge the Commonwealth of Kentucky, the Kentucky Board of Licensure for Massage Therapy, and the Kentucky Attorney General and each of their members, agents, and employees in their individual and representative capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that the Respondent ever had, now has, may have or claim to have against any or all of the persons or entities named in this paragraph arising out of or by reason of this investigation, this disciplinary action, this Settlement Agreement, or its administration.

Acceptance by the Board

It is hereby agreed between the parties that this Settlement Agreement shall be presented to the Kentucky Board of Licensure for Massage Therapy at the next regularly-scheduled meeting of the Board.

The Respondent understands that the Board is free to accept or reject this Settlement Agreement, and if rejected by the Board, a formal disciplinary hearing on the accusation against the Respondent may be rescheduled thereafter. The Respondent hereby agrees to waive any right the Respondent might have to challenge the impartiality of the Board, based solely upon the presentation of this Settlement Agreement, and to hear the disciplinary accusation if, after review by the Board, this Settlement Agreement is rejected.



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If the Settlement Agreement is not accepted by the Board, it shall be regarded as null and void. Admissions by the Respondent in the Settlement Agreement will not be regarded as evidence against the Respondent at the subsequent disciplinary hearing. The Respondent will be free to defend, and no inferences against the Respondent will be made from the Respondents willingness to have entered into this agreement.

The Settlement Agreement will not be submitted for Board consideration until after it has been agreed to and executed by the Respondent. The Settlement Agreement shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board. The date of approval and signature by the Board Chair shall be the effective date of the settlement.

Cooperation With the Board and Indemnity

The Respondent agrees to permit and cooperate with the Board, its members, agents, and employees to monitor the Respondents compliance with the terms and conditions of this Agreement.

Complete Agreement

This Settlement Agreement consists of seven (7) pages and embodies the entire agreement between the Board and the Respondent. This Settlement Agreement shall constitute a binding contract between the Respondent and the Board, subject only to approval by the Board as set forth above. The Respondent shall not rescind, revoke, or withdraw this Settlement Agreement prior to its presentation to the Board at a regularly scheduled meeting of the Board. It may not be altered, amended or modified without the express written consent of both parties.

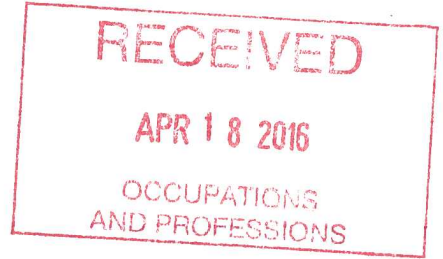


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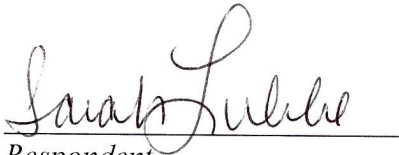
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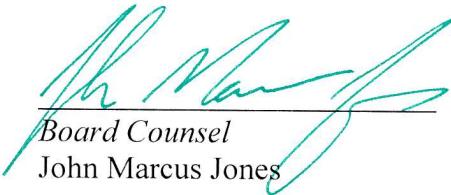
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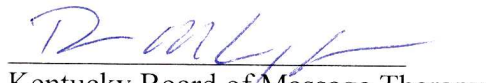
Have Seen, Understood, and Approved:


Respondent
Sarah N. Lubbe

Date: 4/13/16


Board Counsel
John Marcus Jones

Date: 4/6/16


Kentucky Board of Massage Therapy
Chair

Date: 5/2/16