

**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
PHYSICAL THERAPISTS**

IN RE:)
Andrew M. Eames) **Docket No. 2018-4**
License No. 040.0103934)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through Prosecuting Attorney Jennifer B. Colin, and Respondent Andrew M. Eames, by and through his counsel, Thomas E. McCormick, Esq., who hereby Stipulate and Agree as follows:

Authority

1. The Administrative Law Officer ("ALO") has jurisdiction to adjudicate matters involving allegations of unprofessional conduct by Physical Therapists pursuant to 3 V.S.A. §§127, 129, 129a; 26 V.S.A. Chapter 38; the Administrative Rules for Physical Therapists (the "ARPT"); and the Rules of the Vermont Office of Professional Regulation ("OPR").

Stipulated Facts

2. Andrew M. Eames ("Respondent") of Bennington, Vermont is licensed by the State of Vermont as a Physical Therapist under license number 040.0103934. This license was originally issued on July 30, 2014, and expires on September 30, 2018.
3. During the relevant period, Respondent was employed by The EDGE Physical Therapy in South Burlington, Vermont ("the Facility") as a Physical Therapist and Athletic Trainer.
4. On August 23, 2017, Respondent had sexual intercourse with an existing patient at the patient's home.
5. The Facility terminated Respondent's employment based on the conduct described above.

Violation One: 26 V.S.A. §2121(b)(2) Engaging in unprofessional conduct which shall include engaging in a sexual act as defined in 13 V.S.A. §3251 with a patient.

6. Paragraphs 2 through 5 above are incorporated herein.

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05620-3402

7. Vermont law prohibits a physical therapist from engaging in a sexual act as defined in 13 V.S.A. §3251. See 26 V.S.A. §2121(b)(2).
8. 13 V.S.A. §3251(1) defines "sexual act" as:

[C]onduct between persons consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any intrusion, however slight, by any part of a person's body or any object into the genital or anal opening of another.
9. Paragraphs 2 through 4 above demonstrate that Respondent engaged in a sexual act with a patient.
10. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of 26 V.S.A. §2121(b)(2).

Understandings

11. Respondent admits that the facts above are true and that the conditions below are appropriate to protect the public.
12. Respondent understands that the ALO must review and accept the terms of the Order set forth below and that if the ALO rejects all or any portion of the Order, then this entire document shall be null and void.
13. Respondent waives any notification period and requests that this be heard at the next available meeting of the ALO. Respondent specifically waives any claim that any disclosures made to the ALO during the ALO's review of this agreement prejudice Respondent's right to a fair and impartial hearing if this agreement is not accepted by the ALO and proceeds to a hearing on the merits before the same ALO.
14. Respondent has read and reviewed this document fully and agrees that it contains the entire agreement between the parties.
15. This Stipulation and Consent Order is entered into voluntarily by Respondent after the opportunity to consult with legal counsel. Respondent has not been coerced by anyone into signing this Stipulation and Consent Order.
16. Respondent voluntarily waives his right to a contested hearing before the ALO and waives any right to appeal from this Stipulation and Consent Order.
17. Respondent is of sound mind and is not under the influence of drugs or alcohol when signing this Stipulation and Consent Order.
18. Respondent agrees that the Order set forth below may be entered by the ALO.
19. Respondent understands that he is responsible for all compliance costs associated with this Stipulation and Consent Order.

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ORDER

Based upon the above stipulation, it is **ORDERED AND ADJUDGED** as follows:

- A. Respondent's Physical Therapist license is hereby **REPRIMANDED**.
- B. Respondent's Physical Therapist license is hereby **CONDITIONED** commencing with the date of entry of this Stipulation and Consent Order. The conditions are as follows:
 - 1. Respondent shall, within sixty (60) days of this Order, at his own expense, complete five hours minimum of pre-approved online courses set forth below (or equivalents that are pre-approved by the Enforcement Case Manager), must achieve a passing score on the post-tests for the courses, and submit test results, workbooks and certificates of completion to the Office of Professional Regulation:
 - i. Ethics for Physical Therapy Clinicians: Real World Cases (#109) – PTcourses.com (2 hours);
 - ii. Professionalism Module 3: Ethical Compass – APTA Learning Center (3 hours).

Failure to complete the courses within the prescribed timeframe shall constitute a violation of this Order. The coursework may not be counted toward any continuing education requirement of licensure.

- 2. Upon receipt of satisfactory evidence that Respondent has completed the pre-approved coursework, the conditions shall terminate and the license restored to unencumbered status.
 - 3. Respondent shall bear all costs of complying with this Consent Order.
 - 4. Any violation of this Order may be a basis for an additional disciplinary action.
- C. Notwithstanding any provision above, Respondent must continue to meet all requirements to maintain a Physical Therapist license, for license renewal, and for license reinstatement.
- D. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- E. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

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AGREED TO:

Dated: 2/5/18

**STATE OF VERMONT
SECRETARY OF STATE**

By:

JAC
Jennifer B. Colin
Prosecuting Attorney

Dated: 02/05/2018

APPROVED AS TO FORM:

RESPONDENT

By:

Andrew M. Eames
Andrew M. Eames

Dated: 2/05/18

RESPONDENT'S ATTORNEY

By:

Thomas E. McCormick
Thomas E. McCormick, Esq.
Attorney for Respondent

APPROVED AND SO ORDERED:

Dated: Feb 6, 2018

By:

Gary V. Belcher
Administrative Law Officer

Date of Entry: 2/6/2018

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