# BEFORE THE IOWA BOARD OF MASSAGE THERAPY

IN THE MATTER OF	)	CASE NO. 13-009
KIMBERLY BURGETT, LICENSE NO. 00194	<b>`</b>	COMBINED STATEMENT OF CHARGES, SETTLEMENT AGREEMENT, AND FINAL ORDER
RESPONDENT.	)	

COMES NOW the Iowa Board of Massage Therapy (Board) and Kimberly Burgett (Respondent), enter into this Combined Statement of Charges, Settlement Agreement, and Final Order (Agreement) pursuant to Iowa Code sections 17A.10(2), 272C.3(4), and 645 Iowa Administrative Code chapter 12.

- 1. Respondent was issued Iowa license number 00194 to practice massage therapy on March 31, 1994. Respondent's license is currently active and expires on March 15, 2015.
  - 2. Respondent's address as reported to the Board is 2315 Vasse Ave., Duncombe, IA 50532.
- 3. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 147, 154C, and 272C. Licensees are subject to the laws of the State of Iowa and the administrative rules promulgated by the Board.

### STATEMENT OF CHARGES

#### Count I

4. Respondent is charged with failing to submit documentation of continuing education hours in response to an audit, as required by 645 Iowa Administrative Code rule 4.11(1), pursuant to Iowa Code section 147.55(9) and 645 Iowa Administrative Code rule 134.2(21).

### FACTUAL CIRCUMSTANCES

- 5. Respondent reported at the time of her 2013 renewal of her massage therapy license that she had completed the required continuing education hours for the 2011-2013 biennium according to the Board guidelines.
- 6. Respondent was sent an initial letter from the Board on May 2, 2013, requesting Respondent to submit documentation of her continuing education for the 2011-2013 biennium.
- 7. Respondent was sent a second letter from the Board via certified mail, which was signed for on June 24, 2013, requesting Respondent to submit documentation of her continuing education for the 2011-2013 biennium.
- 8. As of September 3, 2013, the Board had not received any documentation or other response from Respondent regarding this mater.

# SETTLEMENT AGREEMENT AND FINAL ORDER

- 9. Execution of this Combined Statement of Charges, Settlement Agreement, and Final Order constitutes the resolution of a contested case. Respondent has a right to hearing before the Board on the charges, but Respondent waives the right to hearing and all attendant rights, including the right to appeal or seek judicial review of the Board's actions, by freely and voluntarily entering into this Agreement. This Agreement shall constitute the final order of the Board in this case and shall have the force and effect of a disciplinary order entered following a contested case hearing.
- 10. Respondent is freely and voluntarily entering into this Agreement. Respondent agrees that the State's counsel may present this Agreement to the Board and may have *ex parte* communications with the Board while presenting it.
- 11. Respondent is hereby CITED for failing to meet the continuing education requirements for licensure, and WARNED that Respondent's failure to comply with the law governing the practice of massage therapy in Iowa could result in further discipline against Respondent's Iowa massage therapy license, including suspension or revocation.
- 12. Respondent shall remit to the Board a civil penalty in the amount of two hundred fifty dollars (\$250.00) within ninety (90) days of Board approval of this Agreement. This civil penalty shall be made payable to the Treasurer of Iowa and mailed to the Board Executive Pierce Wilson, Bureau of Professional Licensure, Lucas State Office Building 5<sup>th</sup> Floor, 321 E. 12<sup>th</sup>, Des Moines, Iowa 50319-0075. All civil penalty payments shall be deposited into the State of Iowa general fund.
- 13. Respondent shall complete twenty-four (24) hours of continuing education in accordance with the specifications of 645 Iowa Administrative Code chapter 133. Said continuing education may consist of any continuing education hours obtained from March 16, 2011 through present or any continuing education hours completed within six (6) months of Board approval of this Agreement. Any course hour requirements obtained to fulfill the above requirement cannot be used as part of the continuing education hours Respondent submits for the 2013-2015 renewal cycle of Respondent's massage therapy license. Respondent shall provide copies of all certificates of completion to the Board as proof of successful completion of this requirement within six (6) months of Board approval of this Agreement. Respondent is responsible for all costs associated with obtaining the required continuing education.
- 14. Respondent shall complete an additional four (4) hour continuing education course in ethics. Said continuing education shall be completed within six (6) months of Board approval of this Agreement. The continuing education shall be obtained in person and not online. This ethics course requirement cannot be used as part of the continuing education hours Respondent submits for the 2013-2015 renewal cycle of Respondent's massage therapy license. Respondent shall provide copies of the certificates of completion as proof of successful completion of this requirement. Respondent is responsible for all costs associated with obtaining the required continuing education.
- 15. This Agreement shall be part of Respondent's permanent record and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.

- 16. In the event Respondent violates or fails to comply with any of the terms of this Agreement, the Board may impose other licensee discipline in accordance with Iowa Code section 147.55(9).
- 17. This Agreement is subject to approval by the Board. If the Board does not approve this Agreement, it shall be of no force or effect on either party, and shall not be admissible for any purpose in further proceedings in this matter.
  - 18. This Agreement is a public record.
  - 19. This Agreement shall not be binding as to any new complaints received by the Board.
  - 20. Respondent acknowledges that she has the right to be represented by counsel on this matter.

AGREED AND ACCEPTED:

KIMBERLY BURGET

RESPONDENT

Dated this \_\_\_\_\_ day of

MOVEMBER, 2013

CHAIRPERSON, IOWA BOARD OF MASSAGE THERAPY

Ellsworth

Dated this 3rd day of

December , 2013

Copies to:

Laura Cathelyn Assistant Attorney General Iowa Attorney General's Office Hoover Building, 2<sup>nd</sup> Floor Des Moines, IA 50319 ATTORNEY FOR THE STATE Kimberly Burgett 2315 Vasse Ave. Duncombe, IA 50532 RESPONDENT New Address 831 W. Valley DR Le Mars, IA 51031

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