



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

August 16, 1996

Robert L. Abdalla, M.T.  
843 N. 21st Street  
Newark, Ohio 43055

Dear Mr. Abdalla:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Esq., Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 14, 1996, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal may be taken to the Franklin County Court of Common Pleas only.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio, and a copy of that Notice of Appeal with the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

A large, stylized handwritten signature in black ink, which appears to read "T. Gretter".

THE STATE MEDICAL BOARD OF OHIO

Thomas E. Gretter, M.D.  
Secretary

TEG:em  
Enclosures

CERTIFIED MAIL RECEIPT NO. P 152 983 632  
RETURN RECEIPT REQUESTED

cc: Marc E. Myers, Esq.

CERTIFIED MAIL RECEIPT NO. P 152 983 633  
RETURN RECEIPT REQUESTED

Mailed 8-16-96



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

## CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of R. Gregory Porter, Esq., Attorney Hearing Examiner, State Medical Board; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 14, 1996, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Robert L. Abdalla, M.T., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

A handwritten signature in cursive script, appearing to read "T. E. Gretter, M.D.", written over a horizontal line.

Thomas E. Gretter, M.D.  
Secretary

(SEAL)

8/14/96

\_\_\_\_\_  
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

\*

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ROBERT L. ABDALLA, M.T.

\*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 14th day of August, 1996.

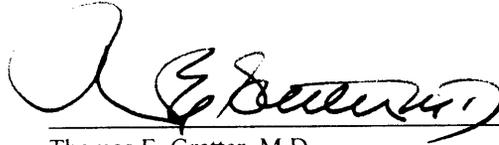
Upon the Report and Recommendation of R. Gregory Porter, Hearing Examiner, Medical Board, in this matter designated pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

1. The request of Robert L. Abdalla, M.T., to the Board to delay consideration of this Matter until the appellate court renders an opinion on Mr. Abdalla's criminal appeal is DENIED.
2. The certificate of Robert L. Abdalla, M.T., to practice massage therapy in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than one (1) year.
3. The State Medical Board shall not consider reinstatement of Mr. Abdalla's certificate to practice unless and until all of the following minimum requirements are met:
  - a. Mr. Abdalla shall submit an application for reinstatement, accompanied by appropriate fees. Mr. Abdalla shall not make such application for at least one (1) year from the effective date of this Order.
  - b. Prior to submitting his application for reinstatement, or as otherwise approved by the Board, Mr. Abdalla shall commence appropriate treatment, as determined by an informed assessment of Mr. Abdalla's current needs. Such assessment and treatment shall be by a provider or providers approved in advance by the State Medical Board. Prior to the initial assessment, Mr. Abdalla shall provide the approved provider with copies of the Board's Findings of Fact (including any documents incorporated therein by reference, Conclusions of Law, and Order in this Matter, and the Board may provide any other documentation from the hearing record which it may deem appropriate or helpful to that provider. Within ten (10) days after the completion of the initial assessment, Mr. Abdalla shall cause a written report to be submitted to the State Medical Board from the approved provider, which report shall include:
    - i. A detailed plan of recommended treatment based upon the provider's informed assessment of Mr. Abdalla's current needs; and

- ii Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.
  - c. In the event that Mr. Abdalla has not been engaged in the active practice of massage therapy for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Mr. Abdalla's fitness to resume practice.
- 4. Upon reinstatement, Mr. Abdalla's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five (5) years:
  - a. Mr. Abdalla shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy in Ohio.
  - b. Mr. Abdalla shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution stating whether there has been compliance with all the provisions of probation.
  - c. Mr. Abdalla shall appear in person for interviews before the full Board or its designated representative at three (3) month intervals, or as otherwise requested by the Board.
  - d. In the event that Mr. Abdalla should leave Ohio for three (3) consecutive months, or reside or practice outside the State, Mr. Abdalla must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.
  - e. Mr. Abdalla shall continue psychiatric treatment with a psychiatrist approved by the Board, at such intervals as are deemed appropriate by the treating psychiatrist but not less than once per month, until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require quarterly reports from the approved treating psychiatrist. Mr. Abdalla shall ensure that these reports are forwarded to the Board on a quarterly basis, or as otherwise directed by the Board.
  - f. The certificate of Mr. Abdalla to practice massage therapy in the State of Ohio shall be permanently LIMITED and RESTRICTED as follows:
    - i. Mr. Abdalla shall have a third party present while examining or treating female patients.
- 5. If Mr. Abdalla violates probation in any respect, the Board, after giving Mr. Abdalla notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of Mr. Abdalla's certificate.
- 6. Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Abdalla's certificate will be restored, but shall thereafter be permanently LIMITED and RESTRICTED as specified in paragraph 4.f., above.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.



Thomas E. Gretter, M.D.  
Secretary

(SEAL)

8/14/94

Date

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REPORT AND RECOMMENDATION  
IN THE MATTER OF ROBERT L. ABDALLA, M.T.

The Matter of Robert L. Abdalla, M.T., was heard by R. Gregory Porter, Esq., Attorney Hearing Examiner for the State Medical Board of Ohio, on June 4, 1996.

INTRODUCTION

I. Basis for Hearing

- A. By **letter** dated February 14, 1996 (State's Exhibit 1), the State Medical Board notified Robert L. Abdalla, M.T., that it proposed to take disciplinary action against or to refuse to register or reinstate his certificate to practice massage therapy in Ohio. The Board alleged that:

On or about December 14, 1995, [Mr. Abdalla was] found guilty in the Licking County Municipal Court of one count of Sexual Imposition, a misdemeanor of the third degree, in violation of Section 2907.06, Ohio Revised Code. The acts underlying the judicial finding of guilt occurred during the course of a massage therapy session. [Mr. Abdalla's] acts were sexual in nature and not for treatment of a disorder of the human body or determination of the advisability of massage.

The Board alleged that the above judicial finding of guilt constituted "(a) plea of guilty to, or a judicial finding of guilt of, a misdemeanor committed in the course of practice,' as that clause is used in Section 4731.22(B)(11), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code;" and/or "(a) plea of guilty to, or a judicial finding of guilt of, a misdemeanor involving moral turpitude,' as that clause is used in Section 4731.22(B)(13), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code."

Mr. Abdalla was advised of his right to request a hearing in this Matter.

- B. By letter received by the State Medical Board on March 12, 1996 (State's Exhibit 2), Marc E. Myers, Esq., requested a hearing on behalf of Mr. Abdalla.

II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by James McGovern, Assistant Attorney General
- B. On behalf of the Respondent: Marc E. Myers, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

A. Presented by the State

Robert B. Huffman

B. Presented by the Respondent

- 1. Robert L. Abdalla, M.T.
- 2. Linda Reed
- 3. Catherine Ware

II. Exhibits Examined

In addition to State's Exhibits 1 and 2, noted above, the following exhibits were identified and admitted into evidence:

A. Presented by the State

- 1. State's Exhibit 3: March 14, 1996, letter to Marc E. Myers, Esq., from the Board, advising that a hearing had been set for March 26, 1996, but further advising that the hearing had been postponed pursuant to Section 119.09, Ohio Revised Code.
- 2. State's Exhibit 4: March 21, 1996, letter to Attorney Myers from the Board, scheduling the hearing for May 3, 1996. (2 pp.)
- 3. State's Exhibit 5: Respondent's April 2, 1996, request for continuance.

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4. State's Exhibit 6: April 11, 1996, Entry granting the Respondent's request for continuance and rescheduling the hearing for June 4, 1996.
5. State's Exhibit 7: May 21, 1996, Entry changing the start time for the hearing.
- \* 6. State's Exhibit 8: Collection of documents from the Newark, Ohio, Police Department. (9 pp.)
- \* 7. State's Exhibit 9: Certified copy of a Newark Police Department transcription of a taped conversation between Patient 1 and Mr. Abdalla. (20 pp.)
- \* 8. State's Exhibit 10: Documents from Mark D. Gardner, Assistant Newark Law Director, consisting of: Prosecutor's Reporting Form, certified copy of Complaint and Journal Entry, and December 20, 1995, cover letter to the Board. (5 pp.)
- \* 9. State's Exhibit 11: Certified copy of the transcript of the trial in *State of Ohio vs. Robert Abdalla*, Case No. 95CRB00956, from the Licking County Municipal Court. (110 pp.)
10. State's Exhibit 12: Excerpt from the Ohio Revised Code, Section 2907.06, entitled: *Sexual imposition*. (3 pp.)
11. State's Exhibit 13: Excerpt from the Ohio Revised Code, Section 4731.22, entitled: *Grounds for refusal to grant and revocation of certificate; hearing and investigation; report; medical examinations; automatic suspension*. (10 pp.)

B. Presented by the Respondent

1. Respondent's Exhibit A: Not admitted, but proffered.

\* **Note:** Exhibits marked with an asterisk (\*) have been sealed to protect patient confidentiality.

III. Post-Hearing Admissions to the Record

On the Hearing Examiner's own motion, the following additional exhibit is

hereby admitted to the record:

Board Exhibit A: June 27, 1996, Entry refusing to admit Respondent's Exhibit A to the record, but holding the exhibit as proffered material.

### PROCEDURAL MATTERS

1. At hearing, the Hearing Examiner reserved ruling on the question of whether or not to admit Respondent's Exhibit A to the record. By Entry dated June 27, 1996, the Hearing Examiner decided not to admit the exhibit to the record, but held the exhibit as proffered material for the Respondent.
2. Linda Reed and Catherine Ware, who are patients of Mr. Abdalla, testified on his behalf; each waived her right to patient confidentiality.

### SUMMARY OF THE EVIDENCE

All transcripts of testimony and exhibits, whether or not specifically referred to hereinafter, were thoroughly reviewed and considered by the Attorney Hearing Examiner prior to preparing this Report and Recommendation.

1. Patient 1, female, d.o.b. February 20, 1950, was a massage therapy patient of Mr. Abdalla's. She had been seeing Mr. Abdalla every three or four months for approximately eight years prior to June 9, 1995, for muscle strain. Patient 1 testified at Mr. Abdalla's criminal trial on December 14, 1995, in the Licking County Municipal Court that, on June 9, 1995, Mr. Abdalla made inappropriate sexual contact with her. (State's Exhibit [St. Ex.] 8, p. 2; St. Ex. 11, pp. 5, 7-10)

At the criminal trial, Patient 1 testified that her treatments normally consisted of heat treatment, massaging of muscles, and sometimes ultrasound and/or manipulating the spine. Until the episode on June 9, 1995, Patient 1 was satisfied with Mr. Abdalla's treatment of her, and trusted him completely. However, for about two or three visits prior to the episode, Patient 1 noticed a change in Mr. Abdalla's mannerisms. She speculated that it was because of her changed status as a widow; Patient 1 had become a widow in February 1994. (St. Ex. 11, pp. 5-6)

2. During her testimony at the criminal trial, Patient 1 described what happened on June 9, 1995. She stated that after arriving at Mr. Abdalla's office, she removed all of her clothing except her underpants, including her brassiere, and

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put a gown on. When Mr. Abdalla came in, he made a comment to Patient 1 about the color of her underpants. He had never previously made such a comment. (St. Ex. 11, pp. 6-7)

As was the usual practice, Mr. Abdalla placed some heat packs on Patient 1's back and left the room for a while. When he returned, he removed the heat packs and began massaging Patient 1's backs, arms, and legs while she lay on her stomach. Then he had Patient 1 stand up. He began massaging her neck area. She was facing him. Mr. Abdalla then began touching both of Patient 1's breasts in an inappropriate manner, including touching her nipples. (St. Ex. 11, pp. 8-10) Patient 1 testified at the criminal trial that, while this was happening, "[i]n a manner jokingly, he said to me he was mixing a little business with pleasure." (St. Ex. 11, p. 10) In addition, Mr. Abdalla attempted to move Patient 1's hand to his groin area. She stopped this by "just [keeping her] hands from touching him." (St. Ex. 11, p. 11) At one point, Mr. Abdalla lifted up his shirt and placed her hand on his back, and Patient 1 responded by scratching him. Patient 1 also stated that Mr. Abdalla also attempted to kiss her on the mouth. (St. Ex. 11, p. 12)

Patient 1 stated that she believed that Mr. Abdalla was somewhat sexually aroused. (St. Ex. 11, p. 13) She stated that she had not given Mr. Abdalla any reason to believe that she wanted to be sexually aroused. (St. Ex. 11, p. 14)

Patient 1 was unable to recall at the criminal trial the length of time that this episode lasted, although she said it was a "[s]omewhat short period of time." (St. Ex. 11, p. 10) She stated that she became "frightened, scared, not knowing what to do." (St. Ex. 11, p. 10) When asked why she didn't get up and leave when he started touching her breasts, Patient 1 responded:

To be very honest, I was, I went into a numbness. I didn't realize for a while what was happening to me. I was scared. And then once I realized, I knew I had to get out of the office. Something just kept me together from anything further happening. But I honestly, at the beginning, did not realize what was happening. You know I trusted this man. He's a person that I've gone to for like I say eight years or whatever. So you do go into a shock when you realize someone's voided that trust.

(St. Ex. 11, p. 13)

Patient 1 testified that, up until the episode on June 9, 1995, Mr. Abdalla had not touched her breasts or nipples. He occasionally would work on her

breastbone area, but that was different from what happened on June 9, 1995: "Well actually he would pick you up and try to snap the vertebrae. He would pick you up from the table using his fists and trying to press from the back to snap vertebrae back into place or what have you." (St. Ex. 11, p. 10)

3. Detective Robert B. Huffman, of the Newark Police Department, testified on behalf of the State. Detective Huffman has been a detective with the Newark Police for four years, and was a patrol officer for 15 years prior to that. He is presently assigned to the sex crimes and child abuse unit. (Transcript [Tr.] 15-16)
4. Detective Huffman became involved in Mr. Abdalla's case when Patient 1 contacted him on June 12, 1995, regarding the incident that Patient 1 said had occurred on June 9, 1995. Patient 1 told Detective Huffman that she wanted to know what her options were. (Tr. 16-18) Detective Huffman told Patient 1 that her options were to assist in prosecuting Mr. Abdalla, or "let things slide." (Tr. 20) Patient 1 was concerned that it would be just her word against Mr. Abdalla's. Detective Huffman suggested to Patient 1 that she be fitted with an electronic monitoring device [wire], then go to see Mr. Abdalla and discuss with him what happened. After thinking about the matter for a few days, she decided to wear the wire. She made an appointment with Mr. Abdalla for 6-16-95 at 11:30 A.M. (St. Ex. 8, pp. 1-2; St. Ex. 11, p. 15; Tr. 20)

Prior to appearing at Mr. Abdalla's office, Patient 1 went to Detective Huffman's office to be fitted with the wire. Patient 1 wore the wire concealed on her person. The conversation was heard by Detective Huffman, who was listening on the receiver, and recorded on a standard audio cassette tape. The tape was transcribed by a Newark Police Department secretary. (Tr. 20-21, 25-27) Note: The Respondent raised strenuous objections at hearing concerning the reliability of the transcript. (Tr. 47-49, 56) Therefore, although the transcript was admitted into evidence as St. Ex. 9, the Attorney Hearing Examiner did not rely on the transcript in reaching any Findings of Fact or Conclusions in this Matter.

5. Mr. Abdalla was charged with one count of sexual imposition, a misdemeanor of the third degree, and one count of attempted sexual imposition, a misdemeanor of the fourth degree. Following a jury trial on December 14, 1995, Mr. Abdalla was found guilty of sexual imposition, but found not guilty of attempted sexual imposition. Detective Huffman testified that the facts underlying the attempted sexual imposition charge were Mr. Abdalla's attempts to place Patient 1's hands on Mr. Abdalla's person. (St. Ex. 10; St. Ex. 11, pp. 103; Tr. 41, 51-52)

On December 18, 1995, the court fined Mr. Abdalla \$500 plus costs, and sentenced him to 60 days in the county jail, 40 of which were suspended. The court also placed Mr. Abdalla on probation for one year and ordered him to attend counseling. (St. Ex. 10, p. 5; St. Ex. 11, pp. 108-109)

6. At the present hearing, Mr. Abdalla testified that he has been a licensed massage therapist for 28 years. He stated that he has never been disciplined before. (Tr. 51)

Mr. Abdalla denied that he touched Patient 1 inappropriately, or said anything inappropriate to her, on June 9, 1995. He testified that, on that date, Patient 1 said nothing to him to indicate that she was dissatisfied. She paid for her appointment that day. (Tr. 52)

Mr. Abdalla stated at the present hearing that he does not specifically recall making a comment concerning the color of Patient 1's underwear, but stated that he and Patient 1 had been friends for a long time, and "we always kidded and joked around on a frequent basis." (Tr. 53)

Mr. Abdalla stated that he did not touch Patient 1's breasts in an inappropriate manner, but that he did treat her in the upper left chest for costal chondritis. He testified that he had touched her in that area many times:

I don't know if anyone in this room is familiar with trigger-point therapy. When you're holding a trigger point, an intercostal trigger point, either to the left, right, or below a mammary gland, you're going to hold that for several seconds, okay, and in the course of whatever is released, both emotionally and physically, can excite, you know, have an adverse reaction. I've had people cry. I've had people get mad, you know. I mean, they're emotional excitations, you know, as well as physical, when you're releasing deep intercostal pain.

(Tr. 56-17)

Mr. Abdalla stated that it was "[a]bsolutely not" his intention to sexually arouse either Patient 1 or himself while he was providing treatment to Patient 1. (Tr. 57)

Mr. Abdalla indicated that he is appealing his criminal conviction. (Tr. 57) He said that massage therapy is the sole basis of his livelihood. Mr. Abdalla

renders between 4,000 and 5,000 treatments per years, or from 10 to 20 per day. (Tr. 58) He testified that he denies the allegations of sexual imposition (Tr. 59)

7. Concerning the transcript of the tape of the June 16, 1995, conversation that took place between Mr. Abdalla and Patient 1, Mr. Abdalla testified that he had been unaware that Patient 1 was wearing a wire. (Tr. 55) Mr. Abdalla testified at the present hearing that during that conversation, he never admitted, or intended to admit, that he had done something inappropriate. He said he intended to apologize if he offended her in any way, but did not intend to agree with her accusation that he had done something wrong:

Well, if anyone in this room's been in business and ever had to deal with a disgruntled patient or customer for whatever reason, it has always been my professional philosophy in 28 years of practice is to agree, to calm them down, to defuse the situation. If you call someone a liar and they're crazy and they should get out of your office, you know, then you have created a larger problem.

This woman had been my friend. I counseled her during her husband's death. You know, I had known her forever. You know, I assume I was — You know, if you would know Patient No. 1, she's a very emotionally volatile individual, always looking over her shoulder, always very apprehensive about anything, and so I just couldn't imagine how she had snapped during this, but — so I would say things like, 'Okay; gee, I'm very sorry this happened; sure, I agree; I understand,' you know, just in a rapid kind of rapport as she was going on about, you know, how upstanding and wonderful a woman she was, and I certainly agreed with her, and et cetera, et cetera.

(Tr. 55-56)

8. Two of Mr. Abdalla's female patients testified on Mr. Abdalla's behalf at the present hearing.

Linda Reed testified that she has been a patient of Mr. Abdalla's for seven or eight years. He has treated her for a weak spine, back problems and headaches. She sees him every two or three months. During the time that Mr. Abdalla has treated her, he has had occasion to touch Ms. Reed's body, including her upper chest area. Ms. Reed stated that Mr. Abdalla has never

95 JUL -6 11 01 52

touched her inappropriately, nor has he ever made any advances to her. She stated that she is still his patient. (Tr. 63-64)

Catherine Ware testified that she has been a patient of Mr. Abdalla's for two and one-half years. Ms. Ware works for the Longaberger Basket Company, and in the course of her work, and as the result of a car accident, has suffered strain on her arms, shoulders, and hands. Mr. Abdalla has treated her for those conditions. She sees Mr. Abdalla every two or three months. During the course of her treatment, Mr. Abdalla has had occasion to work on Ms. Ware's upper body and breast area rather extensively, because of the nature of her problems. At times, Mr. Abdalla has had Ms. Ware place her hand on his hip to get leverage to give her tendons a better stretch. Ms. Ware testified that Mr. Abdalla has never touched her inappropriately, done anything inappropriate, or given her any reason to complain. She intends to continue seeing him. She testified that she is aware of the nature of Mr. Abdalla's current legal difficulties. (Tr. 67-70)

### LEGAL ISSUES

1. The Respondent argued at hearing, through his counsel, that the Board is limited by its allegations to Mr. Abdalla's conviction, and cannot review or consider the facts underlying the conviction. This argument is rejected.
2. There was evidence presented that Mr. Abdalla has appealed his conviction, and his counsel argued that he believes there is a chance that Mr. Abdalla's conviction will be reversed. He asked at hearing that the Board delay consideration of this Matter until the appeals court has ruled, which he expected within 60 to 90 days from the date of the hearing. This argument is without merit. The Respondent may, upon the exhaustion of the criminal appeals process and if his conviction is reversed, initiate a process for reinstatement with the Board under Section 4731.22(E), Ohio Revised Code.

### FINDINGS OF FACT

The evidence presented in this Matter is sufficient to support the Board's allegation that:

On or about December 14, 1995, [Mr. Abdalla was] found guilty in the Licking County Municipal Court of one count of Sexual Imposition, a misdemeanor of the third degree, in violation of Section 2907.06, Ohio

Revised Code. The acts underlying the judicial finding of guilt occurred during the course of a massage therapy session. [Mr. Abdalla's] acts were sexual in nature and not for treatment of a disorder of the human body or determination of the advisability of massage.

### CONCLUSIONS OF LAW

The judicial finding of guilt, as set forth in the Findings of Fact, above, constituted: "(a) plea of guilty to, or a judicial finding of guilt of, a misdemeanor committed in the course of practice,' as that clause is used in Section 4731.22(B)(11), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code;" and/or "(a) plea of guilty to, or a judicial finding of guilt of, a misdemeanor involving moral turpitude,' as that clause is used in Section 4731.22(B)(13), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code."

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Evidence was presented that Mr. Abdalla was convicted of sexual imposition by a court of law. The facts underlying this conviction occurred during the course of Mr. Abdalla's practice as a massage therapist, and were of such nature as to involve moral turpitude. Such conduct justifies stern measures in order to protect the public.

Nevertheless, the crime for which Mr. Abdalla was convicted was a misdemeanor of the third degree, which is a relatively minor offense. This appears to have been an isolated incident; he has practiced massage therapy for 28 years with no previous disciplinary record. Although the Board on numerous occasions in the past has determined that sexual abuse of patients merits revocation, these mitigating factors warrant consideration of a less severe penalty.

### PROPOSED ORDER

It is hereby ORDERED that:

1. The request of Robert L. Abdalla, M.T., to the Board to delay consideration of this Matter until the appellate court renders an opinion on Mr. Abdalla's criminal appeal is DENIED.

2. The certificate of Robert L. Abdalla, M.T., to practice massage therapy in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but not less than one (1) year.
3. The State Medical Board shall not consider reinstatement of Mr. Abdalla's certificate to practice unless and until all of the following minimum requirements are met:
  - a. Mr. Abdalla shall submit an application for reinstatement, accompanied by appropriate fees. Mr. Abdalla shall not make such application for at least **one** (1) year from the effective date of this Order.
  - b. Prior to submitting his application for reinstatement, or as otherwise approved by the Board, Mr. Abdalla shall commence appropriate treatment, as determined by an informed assessment of Mr. Abdalla's current needs. Such assessment and treatment shall be by a provider or providers approved in advance by the State Medical Board. Prior to the initial assessment, Mr. Abdalla shall provide the approved provider with copies of the Board's Findings of Fact ( including any documents incorporated therein by reference, Conclusions of Law, and Order in this Matter, and the Board may provide any other documentation from the hearing record which it may deem appropriate or helpful to that provider. Within ten (10) days after the completion of the initial assessment, Mr. Abdalla shall cause a written report to be submitted to the State Medical Board from the approved provider, which report shall include:
    - i A detailed plan of recommended treatment based upon the provider's informed assessment of Mr. Abdalla's current needs; and
    - ii Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.
  - c. In the event that Mr. Abdalla has not been engaged in the active practice of massage therapy for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Mr. Abdalla's fitness to resume practice.
4. Upon reinstatement, Mr. Abdalla's certificate shall be subject to the following **PROBATIONARY** terms, conditions, and limitations for a period of at least

five (5) years:

- a. Mr. Abdalla shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy in Ohio.
  - b. Mr. Abdalla shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution stating whether there has been compliance with all the provisions of probation.
  - c. Mr. Abdalla shall appear in person for interviews before the full Board or its designated representative at three (3) month intervals, or as otherwise requested by the Board.
  - d. In the event that Mr. Abdalla should leave Ohio for three (3) consecutive months, or reside or practice outside the State, Mr. Abdalla must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.
  - e. Mr. Abdalla shall continue psychiatric treatment with a psychiatrist approved by the Board, at such intervals as are deemed appropriate by the treating psychiatrist but not less than once per month, until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require quarterly reports from the approved treating psychiatrist. Mr. Abdalla shall ensure that these reports are forwarded to the Board on a quarterly basis, or as otherwise directed by the Board.
  - f. The certificate of Mr. Abdalla to practice massage therapy in the State of Ohio shall be permanently LIMITED and RESTRICTED as follows:
    - i. Mr. Abdalla shall have a third party present while examining or treating female patients.
5. If Mr. Abdalla violates probation in any respect, the Board, after giving Mr. Abdalla notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of Mr. Abdalla's certificate.

STATE OF OHIO

DEPARTMENT OF HEALTH

6. Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Abdalla's certificate will be restored, but shall thereafter be permanently LIMITED and RESTRICTED as specified in paragraph 4.f. above.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.



R. Gregory Porter  
Attorney Hearing Examiner



EXCERPT FROM THE DRAFT MINUTES OF AUGUST 14, 1996

REPORTS AND RECOMMENDATIONS

Dr. Stienecker announced that the Board would now consider the findings and orders appearing on the Board's agenda.

Dr. Stienecker asked whether each member of the Board had received, read, and considered the hearing record, the proposed **findings**, conclusions, and orders, and any objections filed in the matters of: Robert L. Abdalla, M.T.; Matthew A. Polito, D.P.M.; Barbara A. Reed, M.D.; Esther Elizabeth Reed, M.D.; Joseph E. Rich, M.D.; and Anthony D. Zucco, D.O.

A roll call was taken:

ROLL CALL:	Mr. Albert	- nay
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Gretter	- aye
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Stienecker	- aye

Dr. Stienecker asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Gretter	- aye
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Stienecker	- aye

In accordance with the provision in Section 4731.22(C)(1), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of this matter.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

REPORT AND RECOMMENDATION IN THE MATTER OF ROBERT L. ABDALLA, M.T.

.....

**DR. GARG MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF ROBERT L. ABDALLA, M.T. DR. STEINBERGH SECONDED THE MOTION.**

.....

A vote was taken on Dr. Garg's motion to approve and confirm:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- nay
	Dr. Heidt	- aye
	Dr. Gretter	- abstain
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- nay
	Dr. Steinbergh	- aye

The motion carried.



## STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

February 14, 1996

Robert L. Abdalla, M.T.  
843 N. 21st Street  
Newark, OH 43055

Dear Mr. Abdalla:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice massage therapy, or to reprimand or place you on probation for one or more of the following reasons:

- (1) On or about December 14, 1995, you were found guilty in the Licking County Municipal Court of one count of Sexual Imposition, a misdemeanor of the third degree, in violation of Section 2907.06, Ohio Revised Code. The acts underlying the judicial finding of guilt occurred during the course of a massage therapy session. Your acts were sexual in nature and not for treatment of a disorder of the human body or determination of the advisability of massage.

The judicial finding of guilt as alleged in paragraph (1) above, constitutes "(a) plea of guilty to, or a judicial finding of guilt of, a misdemeanor committed in the course of practice," as that clause is used in Section 4731.22(B)(11), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code.

Further, the judicial finding of guilt as alleged in paragraph (1) above, constitutes "(a) plea of guilty to, or a judicial finding of guilt of, a misdemeanor involving moral turpitude," as that clause is used in Section 4731.22(B)(13), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing this notice.

You are further advised that you are entitle to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evident and examine witnesses appearing for or against you.

Mailed 2/15/96

ABDALLA  
PAGE 2

February 14, 1996

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice massage therapy or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink, appearing to read 'T. E. Gretter', written in a cursive style.

Thomas E. Gretter, M.D.  
Secretary

TEG/bjm

Enclosures

CERTIFIED MAIL # P 348 887 260  
RETURN RECEIPT REQUESTED