State Medical Board of Ohio

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October 13, 1999

John D. Spanos, L.M.T.
4196 Fulton Parkway
Cleveland, OH 44144

Dear Mr. Spanos:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 13, 1999, 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 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, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. Z 233 839 371
RETURN RECEIPT REQUESTED

cc: Scott R. Miller, Esq.
CERTIFIED MAIL RECEIPT NO. Z 23 3839 372
RETURN RECEIPT REQUESTED

Mailed 10/15/99

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 13, 1999, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner 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 John D. Spanos, L.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.

Anand G. Garg, M.D.
Secretary

(SEAL)

OCTOBER 13, 1999
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

JOHN D. SPANOS, L.M.T *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on October 13, 1999.

Upon the Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner, designated in this Matter 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:

> The certificate of John D. Spanos, L.M.T., to practice massage therapy in the State of Ohio is hereby PERMANENTLY REVOKED.

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

Anand G. Garg, M.D.
Secretary

(SEAL)

OCTOBER 13, 1999
Date

STATE MEDICAL BOARD
OF OHIO

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REPORT AND RECOMMENDATION
IN THE MATTER OF JOHN D. SPANOS, L.M.T.

The Matter of John D. Spanos, L.M.T., was heard by Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on July 29, 1999.

INTRODUCTION

I. Basis for Hearing

A. By letter dated April 14, 1999, the State Medical Board of Ohio [Board] notified John D. Spanos, L.M.T., that it had proposed to take disciplinary action against his certificate to practice massage therapy in Ohio. The Board's proposed action was based on the following allegations:

> On or about January 11, 1999, in the Lorain County Common Pleas Court, Mr. Spanos pleaded guilty to and was found guilty of one felony count of attempted gross sexual imposition in violation of Sections 2923.02 and 2907.05 (A)(5), Ohio Revised Code. On or about March 8, 1999, Mr. Spanos was sentenced to eight months in prison and fined $500.00.
>
> The guilty plea and judicial finding of guilt were based on the fact that, on or about July 8, 1998, Mr. Spanos had sexual contact in the course of practice with a client whose ability to resist was substantially impaired because of a physical condition.

The Board further alleged that the guilty plea and judicial finding of guilt alleged above constitute "'[a] plea of guilty to, or a judicial finding of guilt of, a felony,' as that clause is used in Section 4731.22(B)(9), Ohio Revised Code (as in effect prior to March 9, 1999)." Accordingly, the Board advised Mr. Spanos of his right to request a hearing in this matter. (State's Exhibit 1A).

B. On May 10, 1999, Mr. Spanos submitted a written hearing request. (State's Exhibit 1B).

II. Appearances

A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Anne B. Strait, Assistant Attorney General.

B. On behalf of the Respondent: Scott R. Miller, Esq.

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EVIDENCE EXAMINED

I. Testimony Heard

A. Presented by the State

Sergeant Duane Streator

B. Presented by the Respondent

John D. Spanos, L.M.T.

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A-10: Procedural exhibits. (Note: State's Exhibit 1M has been sealed to protect patient confidentiality.)

2. State's Exhibit 2: Copy of the Prosecutor's Reporting Form regarding *State of Ohio v. John D. Spanos,* Case No. 98-CR052322, [*State v. Spanos*] in the Common Pleas Court of Lorain County, Ohio.

3. State's Exhibit 3: Copy of the written statement of Patient 1 regarding Mr. Spanos filed with the City of Avon Lake Police Department. (Note: Exhibit has been sealed to protect patient confidentiality.)

4. State's Exhibit 4: Copies of documents filed with the Lorain County Court of Common Pleas in *State v. Spanos,* including the True Bill Indictment, Guilty Plea, Sentencing Entry, Judgment Entry of Conviction and Sentence. (Note: Pages numbered by the Attorney Hearing Examiner; Patient 1's name redacted.).

5. State's Exhibit 5: Copy of the Transcript of Proceedings in *State v. Spanos,* March 8, 1999. (Note: Patient 1's name redacted).

B. Presented by the Respondent

1. Respondent's Exhibits 1-11, 13-15: Letters from clients and colleagues in support of Mr. Spanos.

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2. Respondent's Exhibit 12: Copy of a certificate from the State of Ohio appointing Mr. Spanos to be "a Policeman for Central Bank of Cleveland," pursuant to Section 4973.17, Ohio Revised Code, dated January 7, 1975.

III. Proffered Exhibit

State's Exhibit 6: Audiotape of an interview with Mr. Spanos conducted by Sergeant Streator of the Avon Lake Police Department. (See Procedural Matters, ¶1, below).

PROCEDURAL MATTERS

1. At hearing, the State moved to admit an audiotape of an interview of the Respondent by Sergeant Duane Streator of the Avon Lake Police Department. Respondent objected to the admission of the audiotape, because the State had not provided Respondent with a copy of the recording prior to hearing, because the tape contains statements which are not relevant to this matter and which are prejudicial to the Respondent, and because the tape contains no information which could not be obtained through the testimony of Sgt. Streator or the Respondent. After considering the arguments of both parties, the Attorney Hearing Examiner sustained the Respondent's objections. In large part, however, the decision of the Attorney Hearing Examiner was rooted in administrative economy. Because the Respondent had not received a copy of the audiotape prior to hearing, admitting the audiotape at this time would necessitate holding the record open to allow the Respondent to review the tape and submit objections or additional testimony, if necessary. Moreover, the parties' arguments suggested that the benefit to the State in admitting the audiotape would not outweigh the potential prejudice to the Respondent. (Tr. at 50-53).

   Accordingly, the State requested an opportunity to proffer the audiotape, which the Attorney Hearing Examiner granted. Nevertheless, the proffered audiotape was not considered by the Attorney Hearing Examiner in preparing the Summary of Evidence, Findings of Fact, Conclusions of Law, or Proposed Order. Moreover, the proffered audiotape shall not be considered by the Board in its final determination of this matter, unless the Board first votes to admit the proffered audiotape to the record. Furthermore, if the Board should determine to admit the proffered audiotape, the Board should also vote to remand the matter to the Attorney Hearing Examiner in order to allow the Respondent to submit his objections to the record. (Tr. at 50-56, 121-124; State's Exhibit 6).

2. At hearing, the Respondent presented testimony regarding patients he has treated in the Cleveland area. In the course of presenting this testimony, the Respondent identified the patients by name and occupation. The Attorney Hearing Examiner advised the parties that she would strike the names of these patients and any identifying facts from the transcript in order to protect the confidentiality of patients who were not knowing and willing participants in this hearing. (Tr. at 82-83).

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SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Attorney Hearing Examiner prior to preparing this Report and Recommendation.

1. John D. Spanos, L.M.T., graduated from high school in Athens, Greece, in 1960. Mr. Spanos emigrated to the United States shortly thereafter. Mr. Spanos worked as a licensed cosmetologist for a number of years and, in September 1985, he accepted employment as a massage therapist at the Jewish Community Center in Cleveland, Ohio. Mr. Spanos remained at the Jewish Community Center until 1990. Mr. Spanos also worked at the Cleveland Athletic Club performing general and relaxation massages from approximately 1987 through 1992. Mr. Spanos testified that he had no complaints filed against him during his tenure at either institution. (Hearing Transcript [Tr.] at 59-64).

   Mr. Spanos attended the Ohio College of Limited Medical Practice, School of Massotherapy, and graduated in 1991. He received his license to practice massage therapy in 1992. Thereafter, Mr. Spanos accepted a position at the Cleveland Therapy Center, and also saw patients in their homes. (Tr. at 60-61, 65-66).

2. Sergeant Duane Streator of the City of Avon Lake Police Department testified at hearing on behalf of the State. Sgt. Streator testified that he first became aware of Mr. Spanos on July 1, 1998, when the wife of Patient 1 filed a complaint against Mr. Spanos with the Avon Lake Police Department. The Complaint alleged that Mr. Spanos had sexually abused Patient 1 earlier that evening during the course of a massage. In response to the Complaint, an officer from the department visited Patient 1 at his home and transported Patient 1 to a local hospital to be examined using a "rape kit." (Tr. at 13-17).

   Later that evening, Sgt. Streator met Patient 1 and his wife at the Avon Lake Police Department. Sgt. Streator noted that Patient 1 is confined to a wheelchair and has no muscular control of his lower extremities. Patient 1 advised Sgt. Streator that Patient 1's wife had purchased the massage as a gift for Patient 1. Patient 1 had not seen Mr. Spanos prior to this occasion. (Tr. at 16-19).

   Patient 1 provided Sgt. Streator a written statement describing the incident at Mr. Spanos' massage therapy clinic, as follows:

   > I had an appt. for a massage at Halcyon [Massotherapy Clinic] for 6 p.m. When I arrived, my wife and the therapist helped me to get onto the massage table on my stomach. The therapist told me to let him know if he caused me physical pain from the massage. I said I would. The massage proceeded normally [with] the feet, legs, back, shoulders and neck. When

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> he completed those areas, he assisted me to roll over on my back. He worked on my feet again and my legs. He focused a great deal on my arms; many times while massaging my arms and shoulders he would lean with his body against my hands. He did this several times. I thought he was leaning against me with a towel or something like that. After a while of doing this, he opened his pants and put his penis on my left hand. He then moved around the table, grabbed my right hand and put it on his penis. He rubbed my right hand on his penis and then let go of my hand and began to masturbate himself. He then ejaculated and began to fondle my genitals. At this point I asked him to please stop - which he did. I then heard my watch beep the 7:00 hour. He put his pants back on and finished the massage. I looked at my watch and it was 7:08 p.m. My wife returned and helped [me] get back to my wheelchair. We drove home. I did not mention any of this on the way home because of our children in the vehicle. When we arrived at home, I talked to my wife and we notified the police.
>
> Right before he started masturbating himself is when I pulled my hand away.

(St. Ex. 3). The statement was dictated to Patient 1's wife by Patient 1. Sgt. Streator testified that Patient 1 personally signed the statement recorded by his wife. (Tr. at 23-24).

Patient 1 also reported to Sgt. Streator that Mr. Spanos and Patient 1 had been alone in the clinic after Patient 1's wife left. Patient 1 explained that he had not demanded that Mr. Spanos stop what he was doing because Patient 1 had been afraid. Patient 1 knew that he the was alone with Mr. Spanos and that he did not have the ability to escape. (Tr. at 22, 41-42).

3. Sgt. Streator testified that he had interviewed Mr. Spanos the following day. Sgt. Streator contacted Mr. Spanos and asked him to submit to the interview. Mr. Spanos agreed and voluntarily reported to the police station. Sgt. Streator recorded the interview. Sgt. Streator stated that, during the interview, Mr. Spanos admitted that he had become aroused during the course of Patient 1's massage. Mr. Spanos further admitted rubbing against Patient 1 during the course of the massage, masturbating himself, and ejaculating in the presence of Patient 1. (Tr. at 27-29, 45).

4. On August 11, 1998, in the Court of Common Pleas for Lorain County, the Prosecuting Attorney filed a True Bill of Information in *State of Ohio v. John D. Spanos,* Case No. 98-CR052322, [*State v. Spanos*]. The Indictment charged Mr. Spanos with Gross Sexual Imposition, a fourth degree felony, in violation of Section 2907.05(A)(5) of the Ohio Revised Code. As basis for the charge, the Indictment charged that on or about July 1, 1998, Mr. Spanos had sexual contact with Patient 1, when Mr. Spanos "knew or had reasonable cause to believe" that Patient 1's "ability to resist or consent was substantially impaired because of the mental or physical condition." (St. Ex. 4 at 1).

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On January 11, 1999, in the Court of Common Pleas for Lorain County, Mr. Spanos pleaded guilty to and was found guilty of attempted gross sexual imposition, a fifth degree felony, in violation of Sections 2923.02 and 2907.05(A)(5), Ohio Revised Code. (St. Ex. 4 at 2). On March 8, 1999, Mr. Spanos appeared before the court for sentencing. At the sentencing hearing, the court was advised that Mr. Spanos had made a voluntary statement to the police and had fully cooperated with the probation department. In addition, Mr. Spanos had begun counseling with a priest. It was further noted that Mr. Spanos had no previous felony record. (St. Ex. 5 at 3-4).

At sentencing, Patient 1 also made a statement, which included the following:

> As somebody who is challenged physically, to become a victim as well is very humiliating. It's very hard on me. It's been very hard on me ever since this happened.
>
> I've been very afraid whenever a male is involved to do anything with me. I'm very glad that I have a female doctor, for example. I went with my wife shortly after this to get a haircut, and I became terrified because one of the barbers was a man, and I wanted to make sure that he would not be cutting my hair, and I became very frightened.

(St. Ex. 5 at 6-7).

5. The court sentenced Mr. Spanos to eight months in prison and fined him $500.00. (St. Ex. 4 at 4-7). In imposing the sentence, the court found that there had been "psychological harm" caused to Patient 1. (St. Ex. 5 at 9). Mr. Spanos served two and one half months in prison before the court granted judicial release. The court ordered Mr. Spanos to serve probation, which includes participation in a court sponsored program for sexual offenders. (Tr. at 90-91).

6. Mr. Spanos testified at hearing. Regarding the incidents in his clinic on June 24, 1998, Mr. Spanos stated that Patient 1 had been transported to the clinic by his wife. Patient 1's wife and Mr. Spanos assisted Patient 1 to the table, because Patient 1 has no use of his lower extremities. Afterwards, Patient 1's wife left the clinic.

   Mr. Spanos stated that Patient 1 had been lying prone when Mr. Spanos started the massage. While Mr. Spanos was massaging Patient 1's arm and rotating his scapula, Patient 1 started brushing his arm against Mr. Spanos' genitals. In time, Patient 1's contact became more aggressive. Mr. Spanos knew he should have "put a stop to it," but continued the massage instead.

   Mr. Spanos further stated that, when Mr. Spanos finished massaging Patient 1's back, Patient 1 rolled over to a supine position with minimal assistance from Mr. Spanos.

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Mr. Spanos went to the bathroom to empty his bladder. When Mr. Spanos resumed the massage, Patient 1 again started brushing his arm against Mr. Spanos' genital area. At that time, Mr. Spanos noticed that he had forgotten to fully zip his pants after going to the bathroom. Mr. Spanos noticed this despite the fact that he wore a towel which covered from his abdomen to his thighs.

Mr. Spanos continued by stating that, shortly thereafter, Patient 1 reached out his hand and touched Mr. Spanos' genitals so that Mr. Spanos became aroused. Throughout this time, Mr. Spanos was massaging Patient 1's upper arm. Somehow, Mr. Spanos zipper came completely undone, but Mr. Spanos does not know how. Mr. Spanos denied that anyone had removed his penis from inside his pants and explained instead that it had simply "poked out." Mr. Spanos also denied that Patient 1 had "leaned down and grabbed it out" but "sort of reached out and put his hand on there." Patient 1 started to ejaculate Mr. Spanos and Mr. Spanos pulled away from Patient 1. Mr. Spanos went to the end of the massage table and masturbated himself to the point of ejaculation.

Thereafter, Mr. Spanos finished the massage. Patient 1's wife came into the room five or ten minutes later. (Tr. at 85-89, 98-99).

7. Mr. Spanos testified that, during the interview at the Avon Lake Police Department, Mr. Spanos had told Sgt. Streator that Patient 1 initiated the sexual contact with Mr. Spanos. Mr. Spanos further stated that Sgt. Streator had "struck out" Mr. Spanos' statement and asked him to repeat the story. Mr. Spanos stated that, despite the fact that Sgt. Streator had informed him of his legal rights, Mr. Spanos was under coercion and duress. As a result, when he repeated the story, Mr. Spanos provided a different version of the events. Mr. Spanos further stated that, although Sgt. Streator had recorded the interview, he had failed to record the portion of the interview during which Mr. Spanos had accused Patient 1 of initiating the sexual contact. (Tr. at 100-101, 108, 110).

   Later, Mr. Spanos testified that his first and second versions of events had been consistent and truthful, despite his feeling coerced and under duress. He did not explain the inconsistencies in his testimony. (Tr. at 111-112).

8. On rebuttal, Sgt. Streator testified that Mr. Spanos had made only one statement during his interview at the Avon Lake Police Department. In addition, Sgt. Streator testified that the entire interview had been recorded, and that Mr. Spanos had not made any statement prior to the conversation being recorded. Finally, Sgt. Streator denied that Mr. Spanos had alleged that Patient 1 had initiated the sexual contact. (Tr. at 116-117).

9. Mr. Spanos testified that his conduct during the course of Patient 1's massage had not been professional or appropriate. He clarified his statement as follows: "I should have put a stop to it when he first initiated it; therefore, I'm guilty of that." Mr. Spanos stressed however, that at the beginning of the massage, he had instructed Patient 1 to tell Mr. Spanos should

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any of Mr. Spanos' actions cause Patient 1 to feel uncomfortable, but Patient 1 had not complained. Moreover, Mr. Spanos noted that Patient 1 could have pulled away or pushed Mr. Spanos away, but he had not done so. (Tr. at 89, 91-92).

Mr. Spanos testified that he hoped the Board would let him retain his license since he has a family of four children under the age of 18 years. Moreover, Mr. Spanos feels that he is "a big asset to the community, regardless of this isolated incident." In addition, Mr. Spanos has been receiving counseling with his priest as a condition of the sex offender's program through the court. (Tr. at 89-90).

10. Mr. Spanos submitted letters of support from colleagues and clients. (Respondent's Exhibits 1-11, 13-15) (Note: the State did not have an opportunity to cross-examine the authors of these letters.)

11. The record contains no evidence of other sexual misconduct by Mr. Spanos.

FINDINGS OF FACT

On or about January 11, 1999, in the Lorain County Common Pleas Court, John D. Spanos, L.M.T., pleaded guilty to and was found guilty of one felony count of attempted gross sexual imposition in violation of Sections 2923.02 and 2907.05(A)(5), Ohio Revised Code. Mr. Spanos' guilty plea and judicial finding of guilt were based on the fact that, on or about July 8, 1998, Mr. Spanos had sexual contact in the course of practice with a client whose ability to resist was substantially impaired because of a physical condition.

CONCLUSIONS OF LAW

The guilty plea and judicial finding of guilt of John D. Spanos, L.M.T., as set forth in the Findings of Fact, constitute "[a] plea of guilty to, or a judicial finding of guilt of, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code (as in effect prior to March 9, 1999).

* * * * *

The testimony presented at hearing by Mr. Spanos was inconsistent and absurd. Even if his testimony could be wholly believed, Mr. Spanos' conduct would warrant permanent revocation of his license to practice massage therapy.

Notwithstanding, Mr. Spanos' explanation of the events was neither reasonable nor credible. First, Mr. Spanos testified that Patient 1, a man who suffers muscular impairment, leaned over and rubbed his elbow against Mr. Spanos' genitals, despite the fact that Patient 1 was lying prone on a table and Mr. Spanos was massaging his upper arm and rotating his scapula. Such agility is beyond comprehension even in a person with no impairment.

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Moreover, as Sgt. Streator testified, at no time during his interview at the Avon Lake Police Department did Mr. Spanos accuse Patient 1 of initiating the sexual contact. In fact, the most accusatory statement made by Mr. Spanos at that time was that Patient 1 had brushed against Mr. Spanos' genitals. At hearing, however, Mr. Spanos testified that Patient 1 had initiated the sexual contact, and had leaned down and grabbed Mr. Spanos' penis. It is impossible to rectify the discrepancies in Mr. Spanos' testimony. As the State noted in its closing argument: if Patient 1 had, in fact, initiated the sexual contact, Mr. Spanos surely would have reported it to police during an interview shortly after the event. This inconsistency, in conjunction with Mr. Spanos' dubious explanations of the versions of events he may have provided to Sgt. Streator, renders Mr. Spanos' testimony completely unconvincing.

Finally, it is significant that Mr. Spanos does not comprehend the gravity of his actions. Instead, he believes his only shortcoming was his failure to terminate the sexual contact more quickly. He described his actions as, at the most, unprofessional and inappropriate. At no time did Mr. Spanos convey an awareness of the potential harm to Patient 1.

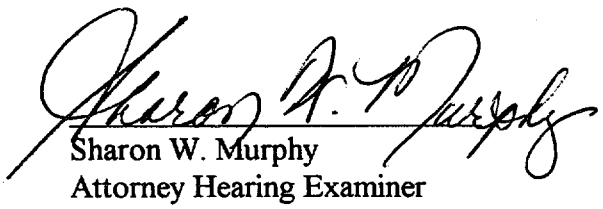
In conclusion, the evidence presented demonstrates that Mr. Spanos does not fully appreciate the impropriety of his behavior. Mr. Spanos victimized a man who was unable to defend himself. Mr. Spanos is undeserving of the privilege of attending the people of Ohio as a licensed massage therapist.

PROPOSED ORDER

It is hereby ORDERED that:

> The certificate of John D. Spanos, L.M.T., to practice massage therapy in the State of Ohio is hereby PERMANENTLY REVOKED.

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



Sharon W. Murphy
Attorney Hearing Examiner

State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF OCTOBER 13, 1999

REPORTS AND RECOMMENDATIONS

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

Dr. Steinbergh 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 Elizabeth R. Benyi, D.O.; Frederic T. Huffnagle, M.D.; Romeo A. Quini, M.D.; and John D. Spanos, L.M.T. A roll call was taken:

ROLL CALL:	Dr. Bhati	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Garg	- aye
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

Dr. Steinbergh 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:	Dr. Bhati	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Garg	- aye
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

In accordance with the provision in Section 4731.22(F)(2), 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 these matters.

Dr. Steinbergh stated that if there were no objections, the Chair would dispense with the reading of the

proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

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

.....

JOHN D. SPANOS, L.M.T.

.....

DR. BHATI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JOHN D. SPANOS, L.M.T. MS. NOBLE SECONDED THE MOTION.

.....

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

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Garg	- abstain
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

The motion carried.

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April 14, 1999

John D. Spanos, L.M.T.
4196 Fulton Parkway
Cleveland, OH 44144

Dear Mr. Spanos:

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 January 11, 1999, in the Court of Common Pleas for Lorain County, you pleaded guilty to and were found guilty of one (1) felony count of attempted gross sexual imposition in violation of Sections 2923.02 and 2907.05 (A)(5), Ohio Revised Code. On or about March 8, 1999, you were sentenced to eight months in prison and fined $500.00.

The acts underlying your guilty plea and the judicial finding of guilt, included that on or about July 8, 1998, you had sexual contact in the course of practice with a client whose ability to resist was substantially impaired because of a physical condition.

Your guilty plea to and judicial finding of guilt as alleged in paragraph (1) above, individually and/or collectively, constitute "[a] plea of guilty to, or a judicial finding of guilt of, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code (as in effect prior to March 9, 1999).

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 entitled 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 evidence and examine witnesses appearing for or against you.

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,

Anand G. Garg, M.D.
Secretary

AGG/jag
Enclosures

CERTIFIED MAIL # Z 233 895 063
RETURN RECEIPT REQUESTED