



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

October 13, 2004

Richard A. Arko, M.T.
1263 Shannon Avenue
Barberton, Ohio 44203

Dear Mr. Arko:

Please find enclosed a certified copy of the Findings, Order and Journal Entry approved and confirmed by the State Medical Board meeting in regular session on October 13, 2004.

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

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. Any such appeal must be filed 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.

Very truly yours,

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7000 0600 0024 5143 7513
RETURN RECEIPT REQUESTED

1072 Challot Drive
West Salem, Ohio 44287

CERTIFIED MAIL NO. 7000 0600 0024 5143 7520
RETURN RECEIPT REQUESTED

Mailed 10-14-04

CERTIFICATION

I hereby certify that the attached copy of the Findings, Order and Journal Entry approved by the State Medical Board, meeting in regular session on October 13, 2004, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of Richard A. Arko, M.T., as it appears in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D.
Secretary

(SEAL)

October 13, 2004

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

RICHARD A. ARKO, M.T.

*

FINDINGS, ORDER AND JOURNAL ENTRY

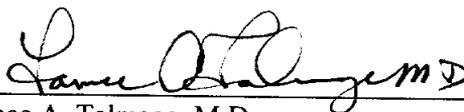
By letter dated August 11, 2004, notice was given to Richard A. Arko, M.T., that the State Medical Board issued an Order pursuant to Section 3719.121(C), Ohio Revised Code, immediately suspending Mr. Arko's license to practice massage therapy in Ohio and that the Board intended to consider further disciplinary action regarding his license. The Board advised Mr. Arko that he was entitled to a hearing if such hearing was requested within thirty (30) days of the mailing of said notice. On August 12, 2004, said Notice was mailed via certified mail, return receipt requested, to Mr. Arko's address of record, that being 1263 Shannon Avenue, Barberton, Ohio 44203. On August 13, 2004, a copy of the Notice was also personally served on Mr. Arko by Board Investigator Angelo Kissos.

A signed Acknowledgement of Receipt was returned to the Board Offices documenting proper service of the notice on Mr. Arko. However, no hearing request has been received from Mr. Arko and more than thirty (30) days have now elapsed since the mailing of that notice.

WHEREFORE, having reviewed the affidavit of Debra L. Jones, Continuing Medical Education and Renewal Officer, the Notice of Immediate Suspension and Opportunity for Hearing and a copy of the Journal Entry of the Court of Common Pleas, Summit County, Ohio, which are attached hereto and incorporated herein, the Board hereby finds that there is reliable, probative and substantial evidence to support the allegations as set forth in the notice of opportunity for hearing issued on August 11, 2004. Further, the Board hereby ORDERS that the license of Richard A. Arko, M.T., to practice massage therapy in the State of Ohio be PERMANENTLY REVOKED.

This Order shall become effective IMMEDIATELY.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 13th day of October 2004 and the original thereof shall be kept with said Journal.



Lance A. Talmage, M.D.
Secretary

(SEAL)

October 13, 2004

Date



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

August 11, 2004

Richard A. Arko, M.T.
1263 Shannon Avenue
Barberton, Ohio 44203

Dear Mr. Arko:

In accordance with Sections 2929.42 and/or 3719.12, Ohio Revised Code, the Office of the Prosecuting Attorney of Summit County, Ohio, reported that, on or about April 13, 2004, in the Summit County Court of Common Pleas, you pleaded guilty to, and were found guilty of, one (1) felony count of Illegal Cultivation of Marijuana, in violation of Section 2925.04(A), Ohio Revised Code.

Therefore, pursuant to Section 3719.121(C), Ohio Revised Code, you are hereby notified that your license to practice massage therapy in the State of Ohio is immediately suspended. Continued practice after this suspension shall be considered practicing massage therapy without a certificate in violation of Section 4731.41, Ohio Revised Code.

Furthermore, 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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice massage therapy, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about April 13, 2004, in the Summit County Court of Common Pleas, you pleaded guilty to, and were found guilty of, one (1) felony count of Illegal Cultivation of Marijuana, in violation of Section 2925.04(A), Ohio Revised Code.
- (2) Further, on or about April 13, 2004, in the Summit County Court of Common Pleas, you pleaded guilty to, and were found guilty of, one (1) felony count of Possession of Criminal Tools, in violation of Section 2923.24, Ohio Revised Code.

The conduct underlying the above pleas of guilty, and findings of guilt, is set forth in detail in the Indictment, Journal Entry filed April 13, 2004, in the Summit County Court of Common Pleas Criminal Case No. 2004-01-0311(A), and the Prosecutor's Reporting Form, copies of which are attached hereto and incorporated herein.

Your plea of guilty to, and/or the judicial finding of guilt, as alleged in paragraph one (1) above, individually and/or collectively, constitute "[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction of, a

Mailed 8-12-04

violation of any federal or state law regulating the possession, distribution, or use of any drug," as those clauses are used in Section 4731.22(B)(3), Ohio Revised Code.

Further, your pleas of guilty to, and/or the judicial findings of guilt, as alleged in paragraph one (1) and two (2) above, individually and/or collectively, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that clause is used in Section 4731.22(B)(9), 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 days of the time of mailing of this notice.

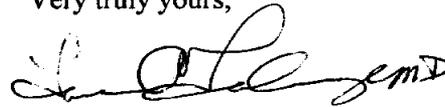
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at 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 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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice massage therapy or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/cw
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5142 2700
RETURN RECEIPT REQUESTED

1072 Challot Drive
West Salem, Ohio 44287

CERTIFIED MAIL # 7000 0600 0024 5142 2939
RETURN RECEIPT REQUESTED

DIANA ZALESKI
IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO

JUL 19 2004

2004 FEB -4 PM 2: 17

INDICTMENT TYPE: DIRECT

CR. CASE NO. 2004-01-0311A

2

SUMMIT COUNTY
CLERK OF COURTS

INDICTMENT FOR: A) ILLEGAL CULTIVATION OF MARIJUANA (1) 2925.04(A) F5;
POSSESSING CRIMINAL TOOLS (1) 2923.24 F5;

In the Common Pleas Court of Summit County, Ohio, of the term of JANUARY, in the year of our Lord, TWO THOUSAND FOUR.

The Jurors of the Grand Jury of the State of Ohio, within and for the body of the County aforesaid being duly impaneled and sworn and charged to inquire of and present all offenses whatever committed within the limits of said County, on their oaths, IN THE NAME AND BY THE AUTHORITY OF THE STATE OF OHIO,

COUNT ONE

DO FIND AND PRESENT, That A) RICHARD A. ARKO on or about the 21st day of January, 2004, in the County of Summit and State of Ohio, aforesaid, did commit the crime of **ILLEGAL CULTIVATION OF MARIJUANA**, in that he did knowingly cultivate a drug, marijuana, a Schedule I controlled substance, in an amount exceeding two hundred grams but not exceeding one thousand grams, in violation of Section 2925.04(A) of the Ohio Revised Code, A **FELONY OF THE FIFTH DEGREE** contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.

COUNT TWO

And the Grand Jurors of the State of Ohio, within and for the body of the County of Summit aforesaid, on their oaths in the name and by the authority of the State of Ohio, DO FURTHER FIND AND PRESENT that A) RICHARD A. ARKO on or about the 21st day of January, 2004, in the County of Summit and State of Ohio, did commit the crime of **POSSESSING CRIMINAL TOOLS**, in that he did possess or have under his control any substance, device, instrument, or article, to wit: hydroponic and cultivation equipment, with purpose to use it criminally, said substance, device, instrument, or article involved in the offense was intended for use in the commission of a felony, in violation of Section 2923.24 of the Ohio Revised Code, A **FELONY OF THE FIFTH DEGREE**, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.

SI Sherrri Bevan Walsh
SHERRI BEVAN WALSH, Prosecutor RD/cs
County of Summit, Ohio

Prosecutor, County of Summit, by

SI Breanna Doherty
Assistant Prosecuting Attorney

A TRUE BILL

Georgianne B...
Grand Jury Foreperson/Deputy Foreperson
I certify this to be a true copy of the original.
Diana Zaleski, Clerk of Courts

COPY

IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT

DIANA ZALESKI

2004 APR 13 PM 4:01

JANUARY

Term 20 04

SUMMIT COUNTY OF OHIO
CLERK OF COURTS
vs.

No. CR 04 01 0311 (A)

JOURNAL ENTRY

RICHARD A. ARKO

THIS DAY, to-wit: The 6th day of April, A.D., 2004, now comes the Prosecuting Attorney on behalf of the State of Ohio, the Defendant, RICHARD A. ARKO, being in Court with counsel, DONALD VARIAN, and said Defendant was fully advised of his Constitutional rights and his rights as required under Rule 11 of the Ohio Rules of Criminal Procedure. The Court has considered the record, statements of counsel, as well as the principles and purposes of sentencing under O.R.C. 2929.11, and the seriousness and recidivism factors under O.R.C. 2929.12.

Thereupon, by plea and sentencing agreement, said Defendant retracts his plea of Not Guilty heretofore entered, and for plea to said Indictment, says he is GUILTY of ILLEGAL CULTIVATION OF MARIJUANA, as contained in Count 1 of the Indictment, Ohio Revised Code Section 2925.04(A), a felony of the fifth (5th) degree, and GUILTY of POSSESSING CRIMINAL TOOLS, as contained in Count 2 of the Indictment, Ohio Revised Code Section 2923.24, a felony of the fifth (5th) degree, which offenses both occurred after July 1, 1996, which pleas, voluntarily made and with a full understanding of the consequences, were accepted by the Court.

Thereupon, the Court inquired of the said Defendant if he had anything to say why judgment should not be pronounced against him; and having nothing but what he had already said and showing no good and sufficient cause why judgment should not be pronounced:

IT IS HEREBY ORDERED that the Defendant complete Two (2) years of community control, with the following sanctions being imposed:

- 1) That he report to the Adult Probation Department as directed and abide by the rules and regulations of said Department and/or the Adult Parole authority.
- 2) That he refrain from offensive conduct of every nature and obey all laws.

OHIO STATE MEDICAL BOARD

JUL 21 2004

COPY

- 3) That he pay a \$10.00 per month fee for services rendered by the Adult Probation Department; said monies to be paid to the Summit County Clerk of Courts, County Safety Building, 53 University Avenue, Akron, Ohio 44308-1662.
- 4) That he engage in a meaningful activity within the Community while under community control sanctions.
- 5) That he perform One-Hundred (100) hours of community service at a hospice or similar setting as directed by the Adult Probation Department.
- 6) That he not use any illegal drugs or chemicals, including any alcoholic beverages.
- 7) That he submit to random urinalysis and testing as directed by the Adult Probation Department.
- 8) That he obtain permanent full time employment, forthwith, as directed by the Adult Probation Department.
- 9) That he pay the costs of this prosecution as directed by the Adult Probation Department; said monies to be paid to the Summit County Clerk of Courts, County Safety Building, 53 University Avenue, Akron, Ohio 44308-1662.

IT IS FURTHER ORDERED that the Summit County Clerk of Courts shall collect monies from the Defendant in the following order of priority: (1) costs; (2) restitution, if applicable; (3) Adult Probation Department fees; (4) fines, if applicable.

Violation of this sentence shall lead to more restrictive sanctions for the Defendant, up to and including a prison term of One (1) year on each count, which sentences are to be served consecutively and not concurrently with each other (*total 2 years*), as well as post release control of up to Three (3) years.

Defendant is therefore ORDERED to report to the Summit County Adult Probation Department FORTHWITH.

Pursuant to the Ohio Department of Mental Health administrative rules, the Court hereby authorizes the Summit County Psycho-Diagnostic Clinic to provide forthwith a copy of any psychological/psychiatric records of the defendant to the Summit County Adult Probation Department.

SAID COMMUNITY CONTROL TO COMMENCE THIS 6TH DAY OF APRIL, A.D., 2004.

APPROVED:
April 6, 2004
tms

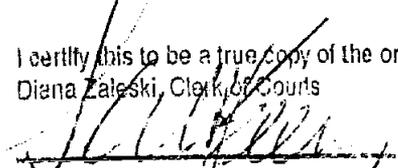
cc: Prosecutor Nancy Mercurio/Kim Kaplan
Criminal Assignment
Attorney Donald Varian
Adult Probation Department


PATRICIA A. COSGROVE, Judge
Court of Common Pleas
Summit County, Ohio

OHIO STATE MEDICAL BOARD

JUL 21 2004

I certify this to be a true copy of the original.
Diana Zaleski, Clerk of Courts


Deputy

STATE MEDICAL BOARD OF OHIO

PROSECUTOR'S REPORTING FORM

Pursuant to Sections 2929.42, 3719.12, 4730.31 (B), 4730.31 (C),
4731.223(B), or 4731.223(C),
Ohio Revised Code

Pursuant to Section 3719.12, Section 4730.31(B) and/or Section 4731.223(B), Ohio Revised Code, the prosecutor shall report to the State Medical Board of Ohio whenever any practitioner licensed pursuant to Chapter 4730. or 4731., Ohio Revised Code, pleads guilty to, is convicted of, or is found eligible for treatment or intervention in lieu of conviction for:

- a violation of Chapter 2925., Ohio Revised Code
- a violation of Chapter 3719., Ohio Revised Code
- a violation of Chapter 2907., Ohio Revised Code
- a violation of any substantively comparable ordinance of a municipal corporation, in connection with his practice

Pursuant to Section 2929.42, Section 4730.31 (C) and/or Section 4731.223(C), Ohio Revised Code, the prosecutor shall report to the State Medical Board of Ohio whenever any practitioner licensed pursuant to Chapter 4730. or 4731., Ohio Revised Code, pleads guilty to, is found guilty of, or is found eligible for treatment or intervention in lieu of conviction for:

- a felony
- a misdemeanor committed in the course of practice
- a misdemeanor involving moral turpitude

or whenever a trial court issues an Order of Dismissal upon technical or procedural grounds of any of the above charges.

To comply with these mandatory reporting requirements, return this form with the information completed on the back of this form and certified copies of the Bill of Information or Indictment and the Plea of Guilty, the Judicial Finding of Guilt, the Judgment Entry of Conviction, or of Eligibility for Treatment/Intervention in lieu of conviction, or the Notice of Dismissal to:

State Medical Board of Ohio
77 South High St., 17th Floor

Columbus, Ohio 43215-6127

Practitioners licensed pursuant to Chapters 4730., 4731., 4760. and 4762., Ohio Revised Code are:

- doctors of medicine (M.D.)
- doctors of osteopathic medicine (D.O.)
- doctors of podiatric medicine (D.P.M.)
- practitioners of limited branches of medicine or surgery (mechanotherapy, massage, cosmetic therapy, naprapathy)
- physician assistants (P.A. or P.A.-C.)
- anesthesiology assistants (A.A.)
- acupuncturists (R.Ac.)

Pursuant to Sections 2929.42, 3719.12, 4730.31(B), 4730.31(C) 4731.223(B) and/or 4731.223(C), Ohio Revised Code, the State Medical Board is hereby notified that the following practitioner has:

- pleaded guilty to
- been found guilty of
- been found eligible for treatment or intervention in lieu of conviction
- been convicted of
- received an Order of Dismissal upon technical or procedural grounds of criminal charges, as evidenced by the attached certified documents.

Richard Arko
Practitioner's Name

Nancy Mercurio
Prosecuting Attorney

1263 Shannon Ave
Street

53 University Avenue
Street
7th Floor Pros Office

Norton Ohio
City State Zip

Akron Ohio 44308
City State Zip

OHIO STATE MEDICAL BOARD

JUL 21 2004

Date of Birth (if known)

Telephone Number 330-643-8515

JUL 2 1 2004
OHIO STATE MEDICAL BOARD

Summit
County