State Medical Board of Ohio

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

April 10, 2002

Michael E. Coutts, L.M.T.
3 Colfret Court
Delaware, OH 43015

Dear Mr. Coutts:

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 April 10, 2002.

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,

Anand G. Garg, M.D. /TAD

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. 7000 0600 0024 5146 4861
RETURN RECEIPT REQUESTED

Cc: Inmate No. 419383
Pickaway Correctional Institute
P. O. Box 209
Orient, OH 43146
CERTIFIED MAIL RECEIPT NO. 7000 06000 0024 5146 4854
RETURN RECEIPT REQUESTED

Mailed 4-11-02

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 April 10, 2002, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of Michael E. Coutts, L.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.

Anand G. Garg, M.D. /MAD
Anand G. Garg, M.D.
Secretary

(SEAL)

April 10, 2002
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

MICHAEL E. COUTTS, L.M.T. *

FINDINGS, ORDER AND JOURNAL ENTRY

By letter dated February 13, 2002, notice was given to Michael E. Coutts, L.M.T., that the State Medical Board intended to consider disciplinary action regarding his license to practice massage therapy in the State of Ohio, and that he was entitled to a hearing if such hearing was requested within thirty (30) days of the mailing of said notice. In accordance with Section 119.07, Ohio Revised Code, said notice was sent via certified mail, return receipt requested, to the address of record of Mr. Coutts, that being 3 Colfret Court, Delaware, OH 43015. Notice was simultaneously sent via certified mail, return receipt requested, to Inmate No. 419383, Corrections Reception Center, P. O. Box 762, Orient, OH 43146.

A signed certified mail receipt was returned to the Medical Board offices, documenting proper service of the notice. However, no hearing request has been received from Mr. Coutts and more than thirty (30) days have now elapsed since the mailing of that notice.

WHEREFORE, for the reasons outlined in the February 13, 2002 letter of notice, which is attached hereto and incorporated herein, it is hereby ORDERED that the license of Michael E. Coutts, L.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 10TH day of APRIL 2002, and the original thereof shall be kept with said Journal.

Anand G. Garg, M.D. /TAD

Anand G. Garg, M.D.
Secretary

(SEAL)

April 10, 2002
Date

State Medical Board of Ohio

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

NOTICE OF IMMEDIATE SUSPENSION
AND
OPPORTUNITY FOR HEARING

February 13, 2002

Michael E. Coutts, L.M.T.
3 Colfret Court
Delaware, Ohio 43015

Dear Mr. Coutts:

In accordance with R.C. 2929.24 and/or R.C. 3719.12, the Office of the Prosecuting Attorney of Delaware County, Ohio reported that on or about December 1, 2000, in the Court of Common Pleas of Delaware County, Ohio, you pleaded guilty to one (1) count of Aggravated Possession of Drugs, in violation of R.C. 2925.11(A), a felony of the fifth degree.

Therefore, pursuant to R.C. 3719.121(C), you are hereby notified that your license to practice 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 R.C. 4731.41.

Furthermore, in accordance with R.C. Chapter 119., 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 or place you on probation for one or more of the following reasons:

(1) On or about May 10, 1995, the State Medical Board of Ohio (hereinafter the "Board") Order granted your application for permission to take the massage therapist examination in Ohio, provided that all statutory and regulatory requirements are met, and that upon receiving a certificate to practice massage therapy in Ohio, your certificate would be subject to probationary terms, conditions and limitations for a period of at least two (2) years. The Board Order was based upon your July 10, 1992, plea of no contest in the Hamilton County Court of Common Pleas, to the charge of Drug Abuse, a violation of R.C. 2925.11, a felony of the fourth degree which violated R.C. 4731.22(B)(10).

Mailed 2-14-02

Subsequently, on or about July 12, 1996, you were granted your certificate to practice massage therapy subject to the terms, conditions and limitations of the above Board Order. On or about July 8, 1998, you were released from the terms of the above Board Order.

Copies of the Board Order and subsequent Board Minutes for Release from the terms of that Board Order, are attached hereto and incorporated herein.

(2) On or about December 1, 2000, in the Court of Common Pleas of Delaware County, Ohio, you pleaded guilty to, and were adjudged guilty of, one (1) count of Aggravated Possession of Drugs, in violation of R.C. 2925.11(A), a felony of the fifth degree.

The conduct which resulted in the above-referenced plea of guilty, and adjudication of guilt, is more fully set forth in the attached documents from the Delaware County Court of Common Pleas, which are fully incorporated herein.

Your plea of guilty to and/or the judicial finding of guilt as alleged in paragraph two (2) 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 intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," as those clauses are used in R.C. 4731.22(B)(3).

Further, your plea of guilty to and/or the judicial finding of guilt, as alleged in paragraph 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 R.C. 4731.22(B)(9).

Pursuant to R.C. Chapter 119., 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 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.

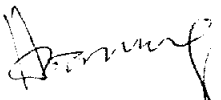
In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to

register or reinstate your certificate to practice massage therapy or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, R.C. 4731.22(L), effective March 9, 1999, 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,



Anand G. Garg, M.D.
Secretary

AGG/jag
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5140 0296
RETURN RECEIPT REQUESTED

Inmate No. 419383
Corrections Reception Center
P.O. Box 762
Orient, OH 43146

CERTIFIED MAIL # 7000 0600 0024 5140 0074
RETURN RECEIPT REQUESTED

July 9, 1998

PERSONAL APPEARANCES

MICHAEL E. COUTTS, M.T.

Mr. Coutts appeared before the Board pursuant to his request for release from the terms of the Board's Order of May 10, 1995.

In response to Ms. Noble's questions, Mr. Coutts stated that he is currently working as a roofer. He does a little massage therapy here and there, but he hasn't built up a big enough practice to quit his day job. He will continue with that. He will also continue to attend A.A. and be careful about people with whom he socializes. He appreciates the privilege of holding a license, and he won't do anything to jeopardize that.

In response to Dr. Stienecker's questions, Mr. Coutts stated that he has his own private practice. He usually sees clients at their location. He works in Delaware, Ohio.

DR. BHATI MOVED TO RELEASE MR. COUTTS FROM THE TERMS OF THE BOARD'S ORDER OF MAY 10, 1995. DR. STEINBERGH SECONDED THE MOTION.

In response to Mr. Albert's questions, Mr. Coutts stated that he still plans to move to Florida. His Ohio license was one of the big hurtles he faced in making the decision of when to go. He didn't want to try to move while still under probation.

A vote was taken on Dr. Bhati's motion:

Vote:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Somani	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Steinbergh	- aye
	Dr. Buchan	- aye

The motion carried.

April 24, 1998

To: Jan Sussex (Compliance Officer) and State of Ohio Medical Board

From: Michael E. Coutts

Subject: Release from Compliance

I would like to make a formal request at this time to be released from probationary terms, conditions and limitations.

I have followed all requirements the Medical Board of Ohio set down on the 10th day of May, 1995. Those requirements went into effect on the 12th day of July, 1996.

Sincerely yours,

Michael E. Coutts
3 Colfret Court
Delaware, Ohio 43015

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, OHIO

THE STATE OF OHIO, :

Plaintiff, : Judge Henry E. Shaw, Jr.

vs. : Case No. 00CR-I-10- 313

MICHAEL E. COUTTS, :

Defendant. :

COMMON PLEAS COURT
DELAWARE COUNTY, OHIO
FILED
00 OCT -6 AM 8:50
BETTY J. PORTER
CLERK

INDICTMENT

Of the Term Part III in the year two thousand.

Count Two:

THE JURORS OF THE GRAND JURY of the State of Ohio, within and for the body of the County of Delaware, on their oaths, in the name and by the authority of the State of Ohio, do find and present that on or about the 19th day of December, 1999, in Delaware County, Ohio, MICHAEL E. COUTTS,

did knowingly obtain, possess, or use Hydromorphone,
a schedule II controlled substance,

this being in violation of Section 2925.11(A) of the Ohio Revised Code and against the peace and dignity of the State of Ohio.

Common Pleas Court
Delaware Co., Ohio
I hereby certify the within to be a True
copy of the original on file in this office.
, Clerk of Courts
Deputy

PROSECUTING ATTORNEY (0014341)

ASSISTANT PROSECUTING ATTORNEY
(0071257)

INDICTMENT FOR:

Possession Of Drugs ( )
Section 2925.11(A) O.R.C.

PROSECUTING ATTORNEY (0014341)

A TRUE BILL

This Bill of Indictment found upon testimony sworn and sent before the Grand Jury at the request of the Prosecuting Attorney.

FOREPERSON OF THE GRAND JURY

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, OHIO

THE STATE OF OHIO,

Plaintiff,

vs.

MICHAEL E. COUTTS,

Defendant.

: Case No. 00CR-I-10-313

COMMON PLEAS COURT
DELAWARE COUNTY, OHIO
FILED
00 DEC -1 PM 3:06
BETTY J. PORTER
CLERK

WITHDRAWAL OF FORMER PLEAS OF NOT GUILTY AND WRITTEN PLEA OF GUILTY TO COUNT TWO OF THE INDICTMENT

I, MICHAEL E. COUTTS, being present in Open Court and accompanied by my counsel, Thomas C. Clark, II, and being fully informed by my counsel and by the Court of the nature of the charges against me, the maximum penalties provided by law if found Guilty thereof, the effect of a plea of Guilty, the fact that, upon a plea of Guilty and acceptance thereof by the Court, that the Court may immediately proceed with Judgment and Imposition of Sentence, my right to face, confront and cross-examine the witnesses against me, my right to have compulsory process issued for obtaining witnesses in my favor and my right to require the State of Ohio to prove my guilt beyond a reasonable doubt at a Trial at which I cannot be compelled to testify against myself, do hereby waive the aforesaid rights and, acknowledging the fact that I am, indeed, a citizen of the United States of America, I hereby withdraw my former pleas of "Not Guilty" to the charges set forth in the Indictment and I hereby enter a plea of "Guilty" to the crime of Aggravated Possession Of Drugs as charged in Count Two of the Indictment, in violation of Section 2925.11(A) of the Ohio Revised Code, and being a Felony of the Fifth Degree.

I acknowledge and understand that the Trial Judge may impose upon me a prison term or any Community Control Sanction or combination of Community Control Sanctions as the same are enumerated in Sections 2929.16, 2929.17 and 2929.18 of the Ohio Revised Code. I further acknowledge that I have reviewed all of the statutory Community Control Sanctions with my attorney.

I also understand that, as to the crime of Aggravated Possession of Drugs, forth in the Indictment, if the Trial Judge after considering the seriousness and recidivism factors set forth in Section 2929.12 of the Ohio Revised Code, the Trial

I hereby certify the within to be a true copy of the original on file in this office.
Common Pleas Court
Delaware Co., Ohio
, Clerk of Courts
By _____ Deputy

Judge finds that a stated prison term is consistent with the purposes and principles of Felony Sentencing and the Trial Judge finds that I am not amenable to an available Community Control Sanction or Sanctions, than I may be Sentenced to a stated prison term of six (6) months, seven (7) months, eight (8) months, nine (9) months, ten (10) months, eleven (11) months or twelve (12) months, and that certain Financial Sanctions could be imposed upon me including the payment of Court Costs, Restitution, and a Fine not to exceed Two Thousand Five Hundred Dollars ($2,500.00). I further acknowledge that in addition to any other penalty imposed, the Court shall suspend my driver's license for a period of not less than six (6) months nor more than five (5) years pursuant to Section 2925.03(D)(2).

No promises, threats or inducements have been made to me by anyone to secure my plea of Guilty. I acknowledge that my plea of Guilty is freely, voluntarily, and intelligently made with my full and complete understanding of the nature of the charge and the consequences, including the maximum penalties. I understand that the effect of my plea of Guilty is an absolute, complete, full, total and utter admission of the truth of the charge against me. I understand that upon entering a plea of Guilty and acceptance thereof by the Court, that the Court may immediately proceed with Judgment and Imposition of Sentence. I understand that I have a right to face, confront and cross-examine the witnesses against me, to have compulsory process issued for obtaining witnesses in my favor and to require the State of Ohio to prove my guilt beyond a reasonable doubt at a Trial at which I cannot be compelled to testify against myself. I waive my right to Trial by Jury or Trial to the Court, my right to face, confront and cross-examine the witnesses against me, my right to have compulsory process issued for obtaining witnesses in my favor and my right to require the State of Ohio to prove my guilt beyond a reasonable doubt at a Trial at which I cannot be compelled to testify against myself. I further admit that I committed the crime of Aggravated Possession Of Drugs charged in Count Two of the Indictment, on or about the date charged in Count Two of the Indictment and in Delaware County, Ohio.

Dated: ~~November~~ December 1, 2000.

MICHAEL E. COUTTS
DEFENDANT

ACCEPTED BY:

HENRY E. SHAW, JR. JUDGE

Signed in the Presence of:

David A. Hejmanowski (0071257)
Assistant Prosecuting Attorney

Thomas C. Clark, II (0055434)
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, OHIO

THE STATE OF OHIO,

Plaintiff,

-vs-

MICHAEL E. COUTTS,

Defendant.

: Case No. 00CR-I-10-313

COMMON PLEAS COURT
DELAWARE COUNTY, OHIO
FILED
00 DEC -1 PM 3:38
BETTY J. PORTER
CLERK

JUDGMENT ENTRY ON GUILTY PLEA

This case came before the Court for Hearing on December 1, 2000. The Defendant, Michael E. Coutts, was present in Open Court and was accompanied by his counsel, Thomas C. Clark, appearing for Thomas C. Clark, II, and the State of Ohio was represented by David A. Hejmanowski, one of the Assistant Prosecuting Attorneys for Delaware County, Ohio. The Court then summarized all of the prior proceedings which had transpired in this case, and upon inquiry duly made, ascertained that the Defendant wished to withdraw his former plea of Not Guilty to the crime of Aggravated Possession Of Drugs set forth in Count Two of the Indictment, and to enter a plea of Guilty to the crime of Aggravated Possession Of Drugs set forth in Count Two of the Indictment, said crime of Aggravated Possession Of Drugs being in violation of Section 2925.11(A) of the Ohio Revised Code, and being a Felony of the Fifth Degree.

The Court then noted that, in conformity with Local Rule 54.01, a file-stamped copy of the Written Text of Rule 11(F) negotiations had been tendered to the Court, said

Common Pleas Court
Delaware Co., Ohio
I hereby certify the within to be a true copy of the original on file in this office.
, Clerk of Courts
By _____ Deputy

document bearing the signatures of the Assistant Prosecuting Attorney, counsel for the Defendant, and the Defendant.

Thereupon, and pursuant to the provisions of Rule 11(F) of the Ohio Rules of Criminal Procedure, the Assistant Prosecuting Attorney stated to the record and in Open Court the underlying agreement upon which the plea was based, and counsel for the Defendant stated to the record his agreement with the foregoing.

The Defendant was then placed under oath and the Court proceeded to conduct an in-depth inquiry of the Defendant, personally, relative to all aspects of his proposed change of plea.

In the first instance, the Court reviewed with the Defendant certain background information relating to the Defendant which had been presented to the Court at the time of the Defendant's Arraignment. Specifically, the Court found that the Defendant was 48 years of age, that his date of birth was September 5, 1952, that he was a high school graduate, and, possessed the ability to read and write. In addition thereto and in response to the Court's question, the Defendant acknowledged on the record that, indeed, he was a citizen of the United States of America.

Upon inquiry of the Defendant by the Court, the Court determined that within the past 24 hours, the Defendant had not consumed any alcoholic beverages, nor medicines nor drugs. The Court then determined and found that the Defendant was a mature, alert, reasonably educated individual, who was not under the influence of alcoholic beverages,

medicines or drugs, and who was able to fully understand the proceedings taking place in his case.

The Court next inquired of the Defendant with respect to the matter of the negotiations conducted in this case and the scope of the Defendant's understanding thereof, and, as a result of said inquiry, the Court ascertained that the Defendant fully and completely understood and agreed with all aspects of said negotiations, and, that the Defendant fully and completely understood and agreed with the statements relating to said negotiations immediately heretofore made in Open Court by the Assistant Prosecuting Attorney and Defendant's counsel.

The Court next informed the Defendant of the effect of a plea of Guilty, specifically, explaining to said Defendant that a plea of Guilty was an absolute, complete, full, total and utter admission of the truth of the charge, and ascertained that the Defendant understood the same, and, with such understanding, still wished to enter a plea of Guilty to the crime of Aggravated Possession Of Drugs as set forth in Count Two of the Indictment.

The Court next informed the Defendant that upon acceptance of his plea of Guilty, that the Court could immediately thereafter proceed with Judgment and Imposition of Sentence. The Court also informed the Defendant that even if his case was referred to the Ohio Adult Parole Authority for purposes of preparation of a Pre-Sentence Report, and, even if said Pre-Sentence Report recommended that some particular stated prison term be imposed upon him; or that some Community Residential Sanction or Sanctions be imposed upon him, as contemplated by Section 2929.16 of the Ohio Revised Code; or that some

Nonresidential Sanction or Sanctions be imposed upon him, as contemplated by Section 2929.17 of the Ohio Revised Code; or, that some Financial Sanction or Sanctions be imposed upon him, as contemplated by Section 2929.18 of the Ohio Revised Code, that the Court was in no way bound by such recommendation and the Court still retained the right to exercise its discretion and thereby proceed with Judgment and Imposition of Sentence, in a fashion deemed appropriate by the Court. The Court then determined that said Defendant understood all of the foregoing and still wished to enter a plea of Guilty.

The Court then inquired of the Defendant as to his understanding of the meaning of the word "voluntary", caused the Defendant to explain the meaning of the word "voluntary", in his own words, and inquired of the Defendant if he was then and there voluntarily entering a plea of Guilty to the crime of Aggravated Possession Of Drugs, as set forth in Count Two of the Indictment. The Defendant then informed the Court that he was voluntarily entering a plea of Guilty to the crime of Aggravated Possession Of Drugs.

The Court next inquired of the Defendant as to whether anyone had made any threats or promises to him in order to get him to plead Guilty, as to whether anyone had made any promises to him with respect to the matter of Sentencing, either in the form of the imposition of any stated prison term or in the form of the imposition of any particular Community Control Sanction or Sanctions, and as to whether anyone had promised him that if he would plead Guilty, that he would be Sentenced to some particular stated prison term, or that some particular Community Control Sanction or Sanctions would be imposed

upon him. The Defendant then informed the Court that no one had made any threats or promises to him in order to induce him to plead Guilty.

The Court then inquired of the Defendant in order to determine if the Defendant understood all of the elements of the crime of Aggravated Possession Of Drugs and had fully explored all of the possible defenses with his counsel. In addition thereto, the Court further inquired of the Defendant in order to determine if the Defendant understood the full range of statutory penalties applicable to a Felony of the Fifth Degree, including the mandatory Ohio Drivers License suspension; the full range of prison terms, the full range of Community Residential Sanctions, the full range of Nonresidential Sanctions and, the full range of Financial Sanctions, which could be imposed as a result of his plea of Guilty and, the Defendant acknowledged that he had carefully reviewed the legislation defining Community Control Sanctions with his attorney prior to the commencement of the instant Hearing. Thereupon, the Court ascertained that the Defendant understood all of the foregoing and still wished to enter a plea of Guilty.

The Court then reviewed the Defendant's basic Constitutional Rights with said Defendant, specifically, his right to a Trial, his right to face, confront and cross-examine the State's witnesses, his right to have compulsory process issued to obtain witnesses in his favor, his right to require the State of Ohio, at Trial, to prove his guilt beyond a reasonable doubt, and, his privilege against self-incrimination. Upon inquiry of the Defendant by the Court, singularly, with respect to each of the Defendant's aforesaid enumerated Constitutional Rights, the Defendant informed the Court that he wished to waive each of

said Rights, and, bearing in mind such waiver as to each of said Rights, that he still wished to enter a plea of Guilty. Upon further inquiry by the Court, the Defendant informed the Court of those acts that he performed which gave rise to the crime of Aggravated Possession Of Drugs, as set forth in Count Two of the Indictment, and to which said charge he wished to enter a plea of Guilty. The Court then afforded the Assistant Prosecuting Attorney and counsel for the Defendant an opportunity, if they so desired, to present any further matters which they deemed to be appropriate.

Thereupon, the Court determined that the Defendant was entering his plea of Guilty to the crime of Aggravated Possession Of Drugs freely and voluntarily and without any threats or promises; that the Defendant had a full and complete understanding of the essential elements of the crime of Aggravated Possession Of Drugs to which he was entering a plea of Guilty; that the Defendant understood the full range of statutory penalties, including the mandatory Ohio Drivers License suspension, and, the prison term and non-prison sanctions applicable to the crime of Aggravated Possession Of Drugs, a Felony of the Fifth Degree; that the Defendant understood the effect of his plea of Guilty; and, that the Defendant understood that the Court could immediately proceed with Judgment and Imposition of Sentence. The Court further determined that the Defendant knowingly, intelligently and voluntarily waived his right to a Trial; waived his right to face, confront and cross-examine the witnesses against him; waived his right to have compulsory process issued for obtaining witnesses in his favor; and, waived his right to require the State of Ohio to prove his guilt beyond a reasonable doubt at a Trial at which

he could not be compelled to testify against himself. The Court further found that the Defendant committed the crime of Aggravated Possession Of Drugs, set forth in the Indictment, on or about the 19th day of December, 1999, in Delaware County, Ohio. The Court then accepted the Defendant's plea of Guilty to said charge and made a finding of Guilty as to said charge. Thereupon, the Defendant executed, in Open Court, a Written Plea of Guilty to said charge, which was accepted by the Court.

In conformity with the negotiations conducted in this case, the Court then executed a Judgment Entry dismissing Count One of the Indictment.

The Court then referred this case to the Ohio Adult Parole Authority for purposes of preparation of a Pre-Sentence Report, Bail was continued, and this case was scheduled to come before this Court for Sentencing on **Friday, January 19, 2001 at 2:00 P.M.**

It was finally ORDERED that, upon completion of these proceedings the Defendant immediately report to the office of the Ohio Adult Parole Authority, 137 North Sandusky Street, Delaware, Ohio.

Date: December 1, 2000.

HENRY E. SHAW, JR., JUDGE

cc: David A. Hejmanowski, Assistant Prosecuting Attorney
Thomas C. Clark, II, Attorney for Defendant
Ohio Adult Parole Authority

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, OHIO

THE STATE OF OHIO, 119/1

Plaintiff, :

-vs- : Case No. 00CR-I-10-313

MICHAEL E. COUTTS, :

Defendant. :

COMMON PLEAS COURT
DELAWARE COUNTY, OHIO
FILED
01 JAN 29 PM 3:04
BETTY J. PORTER
CLERK

JUDGMENT ENTRY ON SENTENCE

This case came before the Court for Sentencing on January 29, 2001 and in conformity with the provisions of Section 2929.19 of the Ohio Revised Code. The Defendant, Michael E. Coutts, was present in Open Court and was accompanied by his counsel, Thomas C. Clark, II, and the State of Ohio was represented by David A. Hejmanowski, one of the Assistant Prosecuting Attorneys for Delaware County, Ohio. The Court then summarized all of the prior proceedings which had transpired in this case and afforded the Assistant Prosecuting Attorney and counsel for the Defendant an opportunity to present information to the Court relevant to Imposition of Sentence in this case. The Assistant Prosecuting Attorney addressed the Court relevant to Imposition of Sentence in this case and counsel for the Defendant addressed the Court on behalf of the Defendant relevant to Imposition of Sentence.

The Court then inquired of the Defendant in order to determine if the Defendant had anything to say as to why Sentence should not be imposed upon him, thereby giving the

TERMINATION CODE 12

Common Pleas Court
Delaware Co., Ohio
I hereby certify the within to be a true copy of the original on file in this office.
, Clerk of Courts
By _____ Deputy

Defendant an opportunity to address the Court on his own behalf. The Defendant then addressed the Court relevant to Imposition of Sentence.

Having considered the factual background of this case, the negotia tions conducted in this case and the Pre-Sentence Report prepared by the Ohio Adult Parole Authority, the Assistant Prosecuting Attorney's statement, the Defendant's counsel's statement and the Defendant's statement, and, having considered the two overriding purposes of felony sentencing set forth in Section 2929.11 of the Ohio Revised Code, and having balanced the seriousness and recidivism factors set forth in Section 2929.12 of the Ohio Revised Code, as well as the considerations in imposing Sanctions for a Felony set forth in Section 2929.13 of the Ohio Revised Code; the Sanctions where a prison term is not required set forth in Section 2929.15 of the Ohio Revised Code; the Community Residential Sanctions as set forth in Section 2929.16 of the Ohio Revised Code; the Nonresidential Sanctions as set forth in Section 2929.17 of the Ohio Revised Code; the Financial Sanctions as set forth in Section 2929.18 of the Ohio Revised Code; and, the mandatory provisions of Section 2925.11(E)(2) of the Ohio Revised Code, the Court proceeded with JUDGMENT AND IMPOSITION OF SENTENCE AS FOLLOWS:

It was ORDERED and ADJUDGED by the Court that the Defendant, Michael E. Coutts, as to the crime of Aggravated Possession of Drugs set forth in Count Two of the Indictment herein filed, and being in violation of Section 2925.11(A) of the Ohio Revised Code, said crime being a Felony of the Fifth Degree, be sentenced to the following mandatory penalty as required by Section 2925.11(E)(2) of the Ohio Revised Code and the following Community Control Sanctions, as authorized by Sections 2929.17 and 2929.18 of the Ohio Revised Code,

and under the general control and supervision of the Ohio Adult Parole Authority, as authorized by Section 2929.15(A)(2)(a) of the Ohio Revised Code, for a period not to exceed three (3) years from the date hereof:

1. The said Defendant shall be subject to a term of Basic Supervision in conformity with all of the general rules and regulations as established by the Probation Development Section of the Ohio Adult Parole Authority. Said term of Basic Supervision shall not be limited to, but may include, in the discretion of the Officer assigned to said Defendant, a term of electronically monitored house arrest, a term of electronic monitoring without house arrest, a term of house arrest without electronic monitoring, abiding by a curfew and Voice Track Supervision.

2. In addition to the requirements of Paragraph No. 1, the said Defendant shall report to the Intensive Supervision Community Control Office, and shall undergo a period of Intensive Supervision pursuant to the directions of an Intensive Supervision Officer. Said Intensive Supervision may include, but not be limited to said Defendant abiding by a curfew as directed by an Intensive Supervision Officer, a term of electronically monitored house arrest, a term of electronic monitoring without house arrest, a term of house arrest without electronic monitoring, and Voice Track Supervision at a level deemed appropriate by said Intensive Supervision Officer. **Commencing in February of 2001 and continuing monthly during the period of Intensive Supervision, the said Defendant shall pay a monthly Supervision Fee in the sum of $10.00, said fee to be paid at the Intensive Supervision Office.**

3. Commencing on January 29, 2001, the said Defendant shall not accept as a gift, purchase, consume or possess alcoholic beverages, nor frequent either public or private business establishments where alcoholic beverages are sold or consumed, the foregoing not including grocery stores or restaurants.

4. Commencing on January 29, 2001, the said Defendant shall not accept as a gift, purchase, consume or possess any Controlled Substance as defined by Section 3719.01(D) of the Ohio Revised Code.

5. The said Defendant, pursuant to the directions of a Probation Officer duly attached to the Ohio Adult Parole Authority or an Intensive Supervision Officer, shall submit to periodic and random urinalysis testing.

6. The said Defendant, pursuant to the directions of a Probation Officer duly attached to the Ohio Adult Parole Authority or an Intensive Supervision Officer, shall undergo a substance abuse evaluation, and, if so recommended, shall participate in such or substance abuse counseling program or programs as deemed appropriate by said

Probation Officer or an Intensive Supervision Officer, at such place or places as directed by said Probation Officer, and for such period of time as directed by said Probation Officer or an Intensive Supervision Officer.

7. The said Defendant, pursuant to the directions of a Probation Officer duly attached to the Ohio Adult Parole Authority or an Intensive Supervision Officer, shall continue to maintain gainful and verifiable employment and shall not change his present place of employment without first securing the written consent of his Probation Officer or an Intensive Supervision Officer.

8. In conformity with the provisions of Section 2925.11(E)(2) of the Ohio Revised Code, the said Defendant's Driver's License shall be suspended for a period of six (6) full months, commencing on January 29, 2001. Notwithstanding the foregoing, the Defendant shall be granted driving privileges for purposes of employment, for purposes of attending substance abuse counseling and for purposes of attending office visits with a Probation Officer assigned to said Defendant or an Intensive Supervision Officer.

9. The said Defendant shall pay all of the Costs of the prosecution of this case, <u>including Public Defender Fees</u>, through the office of the Clerk of this Court, on or before December 31, 2003 and <u>in conformity with a payment plan to be developed by a Probation Officer duly attached to the Ohio Adult Parole Authority or an Intensive Supervision Officer</u>.

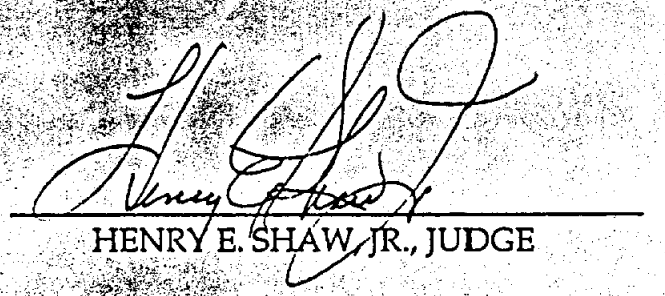
10. Pursuant to the provisions of Section 2743.70(A)(1) of the Ohio Revised Code, the $30.00 heretofore posted by this Defendant with the Clerk of this Court shall be taxed as additional costs in this case, and, pursuant to the provisions of Section 2949.091(A)(1) of the Ohio Revised Code, the $11.00 heretofore posted with the Clerk of this Court shall also be taxed as additional costs in this case, and the Clerk of this Court shall make disposition of said sums of money pursuant to said statutes.

It was further ORDERED that a violation of this Sentence may lead to a longer or more restrictive Sanction or Sanctions, up to and including a prison term of eleven (11) months.

It was finally ORDERED that, upon completion of these proceedings, the Defendant immediately report to the office of the Ohio Adult Parole Authority, 137 North Sandusky Street, Delaware, Ohio and immediately after that to the Intensive Supervision Office also

situated at 137 North Sandusky Street, Delaware, Ohio, and that any Bail in effect in this case be released.

Dated: January 29, 2001.



HENRY E. SHAW, JR., JUDGE

cc: David A. Hejmanowski, Assistant Prosecuting Attorney
Thomas C. Clark, II, Attorney for Defendant
Ohio Adult Parole Authority
Intensive Supervision Community Control Office
Ms. Debbie Drum, Records and Communications Manager, City of Delaware Police Department, City of Delaware Justice Center, 70 North Union Street, Delaware, Ohio 43015

STATE MEDICAL BOARD OF OHIO

May 12, 1995

Michael E. Coutts, M.T.
3 Colbert Street
Delaware, Ohio 43015

Dear Mr. Coutts:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Suzanne E. Kelly, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on May 10, 1995, including a Motion 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 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Thomas E. Gretter, M.D.
Secretary

TEG:em
Enclosures

CERTIFIED MAIL RECEIPT NO. P 741 124 574
RETURN RECEIPT REQUESTED

cc: Douglas E. Graff, Esq.
CERTIFIED MAIL RECEIPT No. P 741 124 576
RETURN RECEIPT REQUESTED

Mailed 5-12-95

STATE MEDICAL BOARD OF OHIO

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 Suzanne E. Kelly, Attorney Hearing Examiner, State Medical Board; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on May 10, 1995, including a Motion 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 Michael E. Coutts, 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.

(SEAL)

Thomas E. Gretter, M.D.
Secretary

5/12/95
Date

STATE MEDICAL BOARD OF OHIO

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

MICHAEL E. COUTTS, M.T. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 10th day of May, 1995.

Upon the Report and Recommendation of Suzanne E. Kelly, 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 the application of Michael E. Coutts, M.T., for permission to take the massage therapist examination in Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements, with the following additional requirements:

1. Upon Mr. Coutts receiving a certificate to practice massage therapy in the State of Ohio, his certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least two (2) years:

   a.) Mr. Coutts shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy in Ohio.

   b.) Mr. Coutts shall submit quarterly declarations under penalty of falsification, pursuant to section 2921.13, Ohio Revised Code, stating whether or not there has been compliance with all the provisions of probation.

   c.) Mr. Coutts shall appear in person for interviews before the full Board or its designated representative at three month intervals, or as otherwise requested by the Board.

   d.) Mr. Coutts shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Mr. Coutts' history of drug abuse.

e.) Mr. Coutts shall abstain completely from the use of alcohol.

f.) Mr. Coutts shall submit to random urine screenings for drugs on an every other week basis or as otherwise directed by the Board. Mr. Coutts shall ensure that all screening reports are forwarded directly to the Board on a monthly basis. Mr. Coutts shall submit the required urine specimens to a supervising physician to be approved by the Board. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the Board of any positive screening results. In the event that the designated supervising physician becomes unable or unwilling to so serve, Mr. Coutts must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable.

g.) Mr. Coutts shall submit blood or urine specimens for analysis without prior notice at such times as the Board may request.

h.) Mr. Coutts shall maintain participation in an alcohol and drug rehabilitation program, such as AA or NA, approved in advance by the Board specifically for Mr. Coutts, no less than two (2) times per week, or as otherwise directed by the Board. At his appearances before the Board or its designed representative, Mr. Coutts shall submit acceptable documentary evidence of continuing compliance with this program.

2. If Mr. Coutts violates probation in any respect, the Board, after giving Mr. Coutts notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of Mr. Coutts' certificate to practice.

3. Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Coutts' certificate will be fully restored, except for any permanent limitations or restrictions the Board deems fit to impose as a condition of release from probation.

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)

5/12/95

Date

REPORT AND RECOMMENDATION
IN THE MATTER OF MICHAEL E. COUTTS, M.T.

The Matter of Michael E. Coutts, M.T. was heard on April 17, 1995, by Suzanne E. Kelly, Esq. Hearing Examiner for the State Medical Board of Ohio.

INTRODUCTION

I. Basis for Hearing

A. By letter dated December 7, 1994, (State's Exhibit 1), the State Medical Board of Ohio notified Michael E. Coutts, 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, based upon the following allegations:

"1) On or about October 12, 1994, [Mr. Coutts] applied to the State Medical Board of Ohio for a license to practice massage therapy. 2) On or about July 10, 1992, in the Hamilton County Court of Common Pleas, [Mr. Coutts] pled no contest to the charge of Drug Abuse, Ohio Revised Code Section 2925.11, a fourth degree felony."

The Board alleged that these "acts, conduct, and/or omissions individually and/or collectively, constitute 'commission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed,' as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: 2925.11, Drug Abuse, Ohio Revised Code."

The Board advised Mr. Coutts of his right to request a hearing in this Matter.

B. On December 23, 1994, Douglas E. Graff, Esq., submitted a written hearing request on behalf of Mr. Coutts. (State's Exhibit 2)

II. Appearances

A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Robert McClaren, Assistant Attorney General.

B. On behalf of Respondent: Douglas E. Graff, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

A. Presented by the State

No witnesses were presented.

B. Presented by the Respondent

Michael E. Coutts, M.T.

II. Exhibits Examined

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

A. Presented by the State:

1. State's Exhibit 1A: Certified mail receipt showing that State's Exhibit 1 was delivered on December 9, 1994 to Mr. Coutts.

2. State's Exhibit 3: December 28, 1994 letter to Douglas E. Graff, Esq., from the Board advising that a hearing had been set for January 6, 1995, and further advising that the hearing had been postponed pursuant to Section 119.09, Ohio Revised Code.

3. State's Exhibit 4: January 3, 1995 letter to Attorney Graff from the Board scheduling the hearing for March 7, 1995.

4. State's Exhibit 4A: Certified mail receipt showing that State's Exhibit 4 was delivered on January 5, 1995 to Attorney Graff.

5. State's Exhibit 4B: Certified mail receipt showing that State's Exhibit 4 was delivered on January 5, 1995 to Mr. Coutts.

6. State's Exhibit 5: State's February 22, 1995 Motion for Continuance. (4 pp.)

7. State's Exhibit 6: February 23, 1995 Entry granting State's Motion for Continuance.

8. State's Exhibit 7: February 7, 1992 Complaint filed in Hamilton County Municipal Court, in *State of Ohio v. Michael Coutts,* Case No. 92CRA4348.

9. State's Exhibit 8: April 7, 1992 Hamilton County Municipal Court Journal Entry.

10. State's Exhibit 9: Hamilton County Grand Jury indictment of Michael E. Coutts, charging him with one count of Drug Abuse.

11. State's Exhibit 10: Hamilton County Court of Common Pleas, Entry, Plea of No Contest, in *Ohio v. Coutts,* Case No. B922206.

12. State's Exhibit 11: Hamilton County, Court of Common Pleas, Journal Entry of Sentence, *Ohio v. Coutts.*

13. State's Exhibit 12: Hamilton County Court of Common Pleas, Entry Directing Disbursement of Mandatory Fines.

14. State's Exhibit 13: November 30, 1994 Letter To Whom It May Concern from Tracey Rammelsberg, State Probation/Parole Officer.

15. State's Exhibit 14: Mr. Coutts' State Medical Board of Ohio, Application For Certificate To Practice A Limited Branch Of Medicine And Surgery - Massage. (18 pp.)

B. Presented by the Respondent

1. Respondent's Exhibit A: Hamilton County, Court of Common Pleas, Judgment Entry of Sentence, *Ohio v. Coutts.* Attached is a docket sheet. (3 pp.)

2. Respondent's Exhibit B: December 12, 1994 Memorandum to the Board from Kathy Butler, Probation Case Review.

3. Respondent's Exhibit C: December 20, 1994 letter to the Board from Sharon K. Thompson, Registrar, Central Ohio School of Massage. (7 pp.)

4. Respondent's Exhibit D: Mr. Coutts' log of AA meeting attendance. (10 pp.)

5. Respondent's Exhibit E: Respondent's April 20, 1995, Waiver of Ten Day Period for filing of Objections.

III. Post-Hearing Admissions to the Record

On the Hearing Examiner's own motion, the following document was admitted into evidence:

A. Board Exhibit A: April 19, 1995 Entry agreeing to expedite consideration of this Matter.

A. Board Exhibit B: Section 2925.11, Ohio Revised Code, entitled "Drug Abuse." (4 pp.)

PROCEDURAL MATTERS

At the hearing, Respondent requested that completion of the Report and Recommendation be expedited. If the Board did not consider this Matter at its May 1995 meeting, then, even with a favorable outcome, Respondent would be unable to take the June 1995 massage therapist examination. Respondent agreed to pay for the expedited transcript and waive the ten day period for objections. Due to the fact that the Board's heavy hearing schedule in March necessitated the rescheduling of Mr. Coutts' hearing, the hearing examiner agreed to make every effort to have this Matter considered by the Board in its May 1995 meeting.

SUMMARY OF THE EVIDENCE

The complete transcript of testimony and all exhibits, regardless of whether specifically mentioned, were thoroughly reviewed and considered by the hearing examiner prior to preparation of this Report and Recommendation.

1. On February 7, 1992, Cincinnati, Ohio police arrested Michael E. Coutts for possession of a dangerous drug, Lysergic Acid Diethylamide (LSD). (State's Exhibit 7) The arrest occurred after police officers observed a car, in which the occupants appeared to smoking marijuana, in a parking garage. A police officer searched Mr. Coutts, a passenger in the car, and found two vials of LSD in his pocket. (Tr. 24-26) Mr. Coutts was charged with violating Drug Abuse, Section 2925.11, Ohio Revised Code. Drug Abuse is a felony of the fourth degree. (State's Exhibit 7; Board Exhibit B) On July 10, 1992, after a preliminary hearing and grand jury indictment, Mr. Coutts entered a plea of no contest to the charges. (State's Exhibits 8, 9, 10) The court ordered a presentence investigation. Following the investigation, on September 10, 1992, the court sentenced Mr. Coutts to a definite sentence of one year, suspended the sentence, and placed Mr. Coutts on three years probation. The court also imposed a $1,500.00 fine, and suspended $500.00 of it. (State's Exhibits 11 & 12) Mr. Coutts paid his fine. (State's Exhibit 13; Respondent's Exhibit A)

2. Mr. Coutts' arrest became a turning point for him. He gave up all illegal drugs and substances. On August 28, 1992, he stopped drinking alcohol. Mr. Coutts came to the realization that he wanted to better his life, and substance abuse stood in his way. (Tr. 22) As required by his probation, Mr. Coutts began attending and logging his AA meetings. (Tr. 16-17) These meetings opened his eyes to the problems that drinking and drug abuse had caused other people. (Tr. 17) During Mr. Coutts' probation all of his drug screens were negative. (Tr. 18) After Mr. Coutts' probation ended, he continued going to AA meetings, but stopped logging them. He began logging his meetings again in December 1994. (Tr. 16-17; Respondent's Exhibit D) Mr. Coutts attends two AA meetings per week. Although he hasn't gone through the twelve steps, he appears to have benefited greatly from his participation. (Tr. 29-30)

3. Prior to Mr. Coutts' arrest, he worked as a laborer in construction, landscaping, and roofing. (State's Exhibit 14) Sometime in April 1993,Mr. Coutts decided to apply to the Central Ohio School of Massage. He disclosed his conviction on his application . (Tr. 18) After the school expressed concern about the effect of his conviction, he contacted Kathy Butler, his original probation officer, who called the Board. (Tr. 18-19; Respondent's Exhibit B) Ms. Butler stated that she understood that Mr. Coutts would be allowed to take the massage therapists examination upon his successful completion of his course of study. (Respondent's Exhibit B) Sharon K. Thompson, the registrar of the Central Ohio School of Massage, also spoke with the Board. Her understanding was that "no one had been denied the opportunity to take the board even for a drug conviction....It was after being given this information, we decided to accept [Mr. Coutts] with the understanding that there was no guarantee at the end but that we both understood from what had been said to us that it should not be a problem." (Respondent's Exhibit C) Mr. Coutts began his studies on April 14, 1993. (Respondent's Exhibit C)

   Mr. Coutts was a very conscientious student. Ms. Thompson noted that Mr. Coutts practiced outside of class, received compliments for his work in the student clinic, and received an excellent on his final massage on an instructor. (Respondent's Exhibit C) Mr. Coutts' assessment of his overall performance was that he maintained a 82% average. His probation officers noticed the change in his attitude. Ms. Butler noticed a maturing in Mr. Coutts. She observed that Mr. Coutts developed a focus on his future and began striving to reach his long-term goals. She attributed this change to his enrollment in massage therapy classes. (Respondent's Exhibit B)

4. In September 1994, Mr. Coutts graduated from the Central Ohio School of Massage. On or about October 12, 1994, Mr. Coutts applied to the Board to take the December 1994 massage therapist examination and for a license to practice massage therapy. (State's Exhibit 14) Mr. Coutts answered "yes" to the following question:

   > 13. Have you ever been convicted or found guilty of a violation of federal law, state law, or municipal ordinance other than a minor traffic violation?

   (State's Exhibit 14, p. 13) Mr. Coutts' attached explanation gave the dates of his arrest and conviction, and the names of the presiding judge and Mr. Coutts' probation officer. (State's Exhibit 14, p. 15)

5. On November 18, 1994, the Court filed an Entry discharging Mr. Coutts from probation and restoring his rights of citizenship. This release from probation was approximately ten months early. (Respondent's Exhibit A & B; State's Exhibit 13)

6. Mr. Coutts presented recommendations from his probation officer and the registrar of his massage therapy school. Both of these people described a conscientious, hard-working, and goal-oriented individual. (Respondent's Exhibit B & C) Mr. Coutts, aged 42, lives with his parents in Delaware, Ohio. Mr. Coutts testified that he plans to open a massage practice in conjunction with his sister's beauty salon and to advertise through a local college newspaper. (Tr. 34-35) After learning that he would be unable to take the December 1994 examination, Mr. Coutts took a 120 hour advanced course in massage therapy. (Tr. 33, Respondent's Exhibit C, p. 6)

FINDING OF FACT

1. On July 10, 1992, Michael E. Coutts pleaded no contest to and was found guilty of one count of Drug Abuse, Section 2925.11, Ohio Revised Code, a felony of the fourth degree.

CONCLUSIONS

1. As set forth in Finding of Fact 1, Mr. Coutts' conviction of a fourth degree felony constituted "'(c)ommission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed,' as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: 2925.11, Drug Abuse, Ohio Revised Code."

2. Although Mr. Coutts' drug conviction brings into question his moral character, his actions since his conviction demonstrate that Mr. Coutts' has redeemed himself through hard work and perseverance. Therefore, he has furnished "satisfactory proof of good moral character as required by Section 4731.20, Ohio Revised Code, to wit: 4731.08, Ohio Revised Code."

Many people would have used a criminal conviction as an excuse to stop trying to improve their lives. Mr. Coutts took his conviction as a wake-up call. Through the intervention of a caring probation officer and supportive school, Mr. Coutts completed his massage therapy classes with excellent reviews. When he learned that he would be unable to take the December 1994 examination, Mr. Coutts used the time to take an advanced massage therapy course.

Mr. Coutts' Drug Abuse conviction does merit close communication with the Board. A period of supervision would assure the Board that Mr. Coutts can ably serve the health consuming public of Ohio.

PROPOSED ORDER

It is hereby ORDERED that the application of Michael E. Coutts, M.T., for permission to take the massage therapist examination in Ohio is GRANTED,

provided that he otherwise meets all statutory and regulatory requirements, with the following additional requirements:

1. Upon Mr. Coutts receiving a certificate to practice massage therapy in the State of Ohio, his certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least two (2) years:

   a.) Mr. Coutts shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy in Ohio.

   b.) Mr. Coutts shall submit quarterly declarations under penalty of falsification, pursuant to section 2921.13, Ohio Revised Code, stating whether or not there has been compliance with all the provisions of probation.

   c.) Mr. Coutts shall appear in person for interviews before the full Board or its designated representative at three month intervals, or as otherwise requested by the Board.

   d.) Mr. Coutts shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Mr. Coutts' history of drug abuse.

   e.) Mr. Coutts shall abstain completely from the use of alcohol.

   f.) Mr. Coutts shall submit to random urine screenings for drugs on an every other week basis or as otherwise directed by the Board. Mr. Coutts shall ensure that all screening reports are forwarded directly to the Board on a monthly basis. Mr. Coutts shall submit the required urine specimens to a supervising physician to be approved by the Board. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the Board of any positive screening results. In the event that the designated supervising physician becomes unable or unwilling to so serve, Mr. Coutts must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable.

   g.) Mr. Coutts shall submit blood or urine specimens for analysis without prior notice at such times as the Board may request.

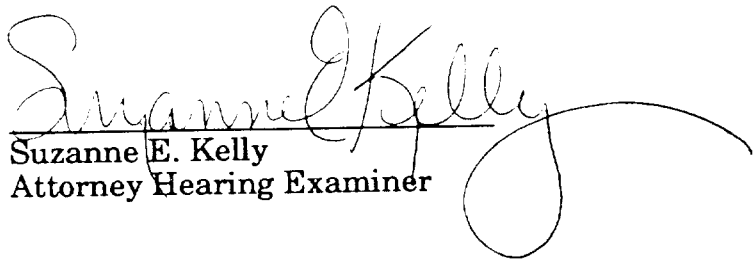
   h.) Mr. Coutts shall maintain participation in an alcohol and drug rehabilitation program, such as AA or NA, approved in advance by the Board specifically for Mr. Coutts, no less than two (2) times per week, or

as otherwise directed by the Board. At his appearances before the Board or its designed representative, Mr. Coutts shall submit acceptable documentary evidence of continuing compliance with this program.

2. If Mr. Coutts violates probation in any respect, the Board, after giving Mr. Coutts notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of Mr. Coutts' certificate to practice.

3. Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Coutts' certificate will be fully restored, except for any permanent limitations or restrictions the Board deems fit to impose as a condition of release from probation.

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



Suzanne E. Kelly
Attorney Hearing Examiner

EXCERPT FROM THE DRAFT MINUTES OF MAY 10, 1995

REPORTS AND RECOMMENDATIONS

.....

Dr. Garg 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: Michael Gerard Baggot, M.D.; Clyde D. Brown, M.D.; Michael E. Coutts, M.T.; Vincent Tripi, D.O.; John Sy Uy, M.D.; and Brent Woodfield, M.D. A roll call was taken:

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

Mr. Sinnott noted that he did not read the hearing record in the matter of Clyde D. Brown, M.D.

Dr. Garg 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. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Heidt	- aye

Dr. Steinbergh	- aye
Dr. Garg	- 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. Dr. Gretter did not serve as Secretary in any of these cases.

.....

Mr. Albert left the meeting at this time.

.....

All Enforcement Coordinators and all Assistant Attorneys General left the meeting at this time.

REPORT AND RECOMMENDATION IN THE MATTER OF MICHAEL E. COUTTS, M.T.

.....

DR. STIENECKER MOVED TO APPROVE AND CONFIRM MS. KELLY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF MICHAEL E. COUTTS, M.T. DR. GRETTER SECONDED THE MOTION.

.....

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

VOTE:	Dr. Bhati	- aye
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Heidt	- aye
	Dr. Steinbergh	- aye

The motion carried.

STATE MEDICAL BOARD OF OHIO
77 South High Street, 17th Floor * Columbus, Ohio 43266-0315 * (614) 466-3934

December 7, 1994

Michael E. Coutts, M.T.
3 Colfert Street
Delaware, Ohio 43015

Dear Mr. Coutts:

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 October 12, 1994, you applied to the State Medical Board of Ohio for a license to practice massage therapy.

2) On or about July 10, 1992, in the Hamilton County Court of Common Pleas, you pled no contest to the charge of Drug Abuse, Ohio Revised Code Section 2925.11, a fourth degree felony.

Your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "(c)omission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: 2925.11, Drug Abuse, Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute a failure to furnish satisfactory proof of good moral character as required by Section 4731.20, Ohio Revised Code, to wit: 4731.08, 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

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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.

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,

Carla S. O'Day, M.D.
Secretary

CSO/bjm

Enclosures

CERTIFIED MAIL # P 348 888 292
RETURN RECEIPT REQUESTED