



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

April 5, 2000

Steven P. Andrei, L.M.T.
3202 Brady Lake Road
Ravenna, OH 44266

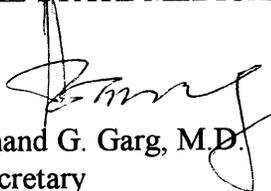
Dear Mr. Andrei:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Daniel Roberts, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 5, 2000, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

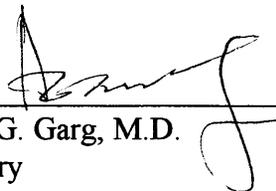
CERTIFIED MAIL RECEIPT NO. Z 281 981 284
RETURN RECEIPT REQUESTED

Mailed 4/27/00

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Daniel Roberts, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 5, 2000, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Steven P. Andrei, 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)

APRIL 5, 2000

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

STEVEN P. ANDREI, L.M.T.

*

ENTRY OF ORDER

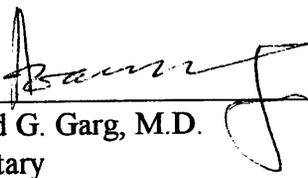
This matter came on for consideration before the State Medical Board of Ohio on April 5, 2000.

Upon the Report and Recommendation of Daniel Roberts, 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 modification, 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.

The certificate of Steven P. Andrei, L.M.T., to practice massage therapy in the State of Ohio shall be REVOKED.

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

(SEAL)



Anand G. Garg, M.D.
Secretary

APRIL 5, 2000
Date

2000 MAR -6 P 4:00

**REPORT AND RECOMMENDATION
IN THE MATTER OF STEVEN P. ANDREI, L.M.T.**

The Matter of Steven P. Andrei, L.M.T., was heard by Daniel Roberts, Attorney Hearing Examiner for the State Medical Board of Ohio, on February 1, 2000.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated October 13, 1999, the State Medical Board of Ohio [Board] notified Steven P. Andrei, L.M.T., that it had proposed to determine whether to take disciplinary action against his certificate to practice massage therapy in Ohio. The Board based its proposed action on the following allegation:

On or about June 11, 1999, in the Court of Common Pleas, Portage County, Ohio, Mr. Andrei was found guilty of one count of Abduction, a violation of Section 2905.02(A)(2), Ohio Revised Code, a felony of the third degree.

The conduct underlying this conviction was that, on or about December 18, 1998, by force or threat, Mr. Andrei restrained the liberty of another person, under circumstances which created a risk of physical harm to that person.

The Board alleged that the judicial finding of guilt as alleged, constitutes “[a] plea of guilty to or a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for, a felony;” as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.”

Accordingly, the Board advised Mr. Andrei of his right to request a hearing in this matter. (State’s Exhibit 1A)

- B. On November 8, 1999, Timothy J. Hart, Esq., filed a written hearing request on behalf of Mr. Andrei. (State’s Exhibit 1B)

II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Hanz R. Wasserburger, Assistant Attorney General.

STATE MEDICAL BOARD
OF OHIO

- 2009 MAR - 5 P 11: 00
- B. On behalf of the Respondent: Having been advised of his right to appear at hearing in person or by counsel, Mr. Andrei elected to submit his arguments and evidence in writing.

EVIDENCE EXAMINED

I. Testimony Heard

None

II. Exhibits Examined

A. Presented by the State:

1. State's Exhibits 1A-1F: Procedural exhibits.
2. State's Exhibits 2: Certified copy of June 11, 1999, Verdict in the Court of Common Pleas, Portage County, Ohio, *State of Ohio versus Steven Andrei*, Case No. 99 CR 0001.
3. State's Exhibits 3: Certified copy of June 11, 1999, Sentencing Entry in *State v. Andrei*.

B. Presented by the Respondent:

Respondent's Exhibit A: Copy of January 28, 2000, letter to the Board from Timothy J. Hart, Esq., with attached sentencing hearing transcript from *State v. Andrei*.

SUMMARY OF THE EVIDENCE

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

1. On June 11, 1999, in the Court of Common Pleas, Portage County, Ohio, Steven P. Andrei, L.M.T., was found guilty in a bench trial of one count of Abduction, a violation of Section 2905.02(A)(2), Ohio Revised Code, a felony of the third degree (State's Exhibit [St Ex.] 2)

STATE MEDICAL BOARD
OF OHIO
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The conduct underlying this conviction was that, on or about December 18, 1998, by force or threat, Mr. Andrei restrained the liberty of another person, under circumstances which created a risk of physical harm to that person. (St Ex. 2)

2. On September 27, 1999, the court conducted a sentencing hearing and made the following findings and orders:
 - a. Mr. Andrei had been found guilty of Abduction, a felony of the third degree in violation of Section 2905.02(A)(2), Ohio Revised Code.
 - b. Mr. Andrei had been found guilty of Trespass, a misdemeanor of the fourth degree, in violation of Section 2911.21(A)(1), Ohio Revised Code.
 - c. Mr. Andrei had otherwise led a law abiding life.
 - d. Mr. Andrei had shown remorse for his actions leading to the convictions.
 - e. Mr. Andrei was amenable to Community Control Sanctions.
 - f. Mr. Andrei is to serve to 3 days in the Portage County Jail.
 - g. Mr. Andrei was placed on Community Control in the Intensive Supervision Program of the Portage County Adult Probation Department.
 - h. Mr. Andrei is to perform 200 hours of community service.
 - i. Mr. Andrei is to pay a fine of \$100.00 on the Trespass charge with thirty days in the county jail suspended provided he is convicted of no similar offense for 1 year.
 - j. Mr. Andrei is to pay court costs.

(Sts. Exs. 2 and 3; Respondent's Exhibit [Resp. Ex.] A)

At the sentencing hearing, the Assistant Prosecuting Attorney, noted that Mr. Andrei's difficulties had arisen out of a drug deal. No evidence appears in the Board's record to show that Mr. Andrei was personally or directly involved in the drug deal. The court observed, without making a formal finding of fact, that the victim had reported to the court that "Mr. Andrei did not do anything except try to calm Mr. Grice throughout the incident while he was there." The court further observed that Mr. Andrei's "major mistake was to put himself in a situation that he ought not to have been in." (St. Ex. 3; Resp. Ex. A)

3. On October 19, 1999, Timothy J. Hart, filed a notice of appeal in *State v. Andrei*. On October 27, 1999, the Portage County Common Pleas Court suspended the imposition of sentence in *State v. Andrei* pending the outcome of the appeal filed by Mr. Hart. (St. Ex. 1B)

FINDINGS OF FACT

2000 MAR -6 P 4:00

On or about June 11, 1999, in the Court of Common Pleas, Portage County, Ohio, Steven P. Andrei, L.M.T., was found guilty of one count of Abduction, a violation of Section 2905.02(A)(2), Ohio Revised Code, a felony of the third degree.

The conduct underlying this conviction was that, on or about December 18, 1998, by force or threat, Mr. Andrei restrained the liberty of another person, under circumstances which created a risk of physical harm to that person.

CONCLUSIONS OF LAW

The judicial finding of guilt of Steven P. Andrei, L.M.T., as described in the Findings of Fact, constitutes "[a] plea of guilty to or a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for, a felony;" as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

* * * * *

Respondent's argument that the Board refrain from acting because the underlying conviction is on appeal is without merit. Pursuant to Section 4731.22(H), Ohio Revised Code, the Respondent may request that the Board reconsider its Order should Mr. Andrei's conviction be reversed on appeal.

PROPOSED ORDER

The certificate of Steven P. Andrei, L.M.T., to practice massage therapy in the State of Ohio shall be PERMANENTLY REVOKED.

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



Daniel Roberts
Attorney Hearing Examiner



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF APRIL 5, 2000

REPORTS AND RECOMMENDATIONS

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

Dr. Egner 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 Steven P. Andrei, L.M.T.; Chowdhury F. Azam, M.D.; John C. Stare, P.A.; and Deleno H. Webb, III, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Egner	- aye

Dr. Egner 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. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Egner	- 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. Egner 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.

STEVEN P. ANDREI, L.M.T.

Dr. Egner directed the Board's attention to the matter of Steven P. Andrei, L.M.T. She advised that objections were filed to Hearing Examiner Roberts' Report and Recommendation and were previously distributed to Board members.

DR. BUCHAN MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF STEVEN P. ANDREI, L.M.T. DR. SOMANI SECONDED THE MOTION.

Dr. Egner stated that she would now entertain discussion in the above matter.

Dr. Stienecker stated that, in reviewing the Respondent's exhibits, one of the things he noted, as contained in the Report and Recommendation, is that the victim of this process reported to the court at the time of Mr. Andrei's felony conviction that Mr. Andrei did not do anything except try to calm the principal perpetrator throughout the incident while he was there, and his major mistake was to put himself in a situation he ought not to have been in. Dr. Stienecker stated that, that being the case, permanent revocation may be a bit much.

DR. STIENECKER MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF STEVEN P. ANDREI, L.M.T., TO DELETE THE WORD, "PERMANENT." DR. BHATI SECONDED THE MOTION.

Dr. Stienecker noted that by deleting the word, "permanent," the Board would allow Mr. Andrei a chance to make amends for his poor judgment.

Dr. Agresta stated that he had similar thoughts. He believes the amendment is appropriate. Dr. Agresta stated that permanently revoking Mr. Andrei based on the record before the Board would be too harsh.

A vote was taken on Dr. Stienecker's motion to amend:

VOTE:

Mr. Albert	- abstain
Dr. Bhati	- aye
Dr. Talmage	- aye
Dr. Somani	- aye
Dr. Buchan	- aye
Mr. Browning	- aye
Dr. Stienecker	- aye
Dr. Agresta	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

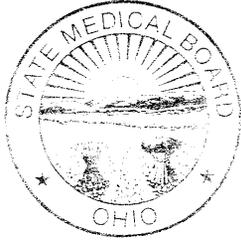
The motion carried.

DR. BHATI MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF STEVEN P. ANDREI, L.M.T. DR. STIENECKER SECONDED THE MOTION. A vote was taken:

VOTE:

Mr. Albert	- abstain
Dr. Bhati	- aye
Dr. Talmage	- aye
Dr. Somani	- aye
Dr. Buchan	- aye
Mr. Browning	- aye
Dr. Stienecker	- aye
Dr. Agresta	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

The motion carried.



State Medical Board of Ohio

77 S. High Street, 17th Floor * Columbus, Ohio 43266-0315 * 614/466-3934 * Website: www.state.oh.us/mcb/

October 13, 1999

Steven P. Andrei, L.M.T.
3202 Brady Lake Road
Ravenna, Ohio 44266

Dear Mr. Andrei:

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 or place you on probation for one or more of the following reasons:

- (1) On or about June 11, 1999, in the Court of Common Pleas, Portage County, Ohio, you were found guilty of one count of Abduction, a violation of Section 2905.02(A)(2), Ohio Revised Code, a felony of the third degree.

The acts underlying this conviction were that, on or about December 18, 1998, by force or threat, you restrained the liberty of another person, under circumstances which created a risk of physical harm to that person.

The judicial finding of guilt as alleged in paragraph (1) above, constitutes “[A] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment 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 (30) days of the time of mailing of 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.

Mailed 10/14/99

Steven P. Andrei, L.M.T.

Page 2

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, permanently 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, Section 4731.22(L), Ohio Revised Code, 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 # Z 233 896 472
RETURN RECEIPT REQUESTED

cc: Timothy Hart, Esq.
Hart & Hart
136 N. Water Street, Suite 209
Kent, Ohio 44240

CERTIFIED MAIL # Z 233 896 473
RETURN RECEIPT REQUESTED