State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

January 12, 2011

Anthony Joseph DiCello, M.T.
1469 West Lane Avenue
Upper Arlington, OH 43221

RE: Case No. 10-CRF-026

Dear Mr. DiCello:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Danielle R. Blue, Esq., Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 12, 2011, 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 must be taken to the Franklin County Court of Common Pleas.

Such an appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board and the Franklin County Court of Common Pleas. The Notice of Appeal must set forth the Order appealed from and state that the State Medical Board's Order is not supported by reliable, probative, and substantive evidence and is not in accordance with law. The Notice of Appeal may, but is not required to, set forth the specific grounds of the appeal. 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, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3936 3160 1597
RETURN RECEIPT REQUESTED

CC: Eric J. Jones, Esq.
CERTIFIED MAIL NO. 91 7108 2133 3936 3160 1603
RETURN RECEIPT REQUESTED

mailed 1-25-11

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Danielle R. Blue, Esq., State Medical Board Attorney Hearing Examiner; and excerpt of the Minutes of the State Medical Board, meeting in regular session on January 12, 2011, 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 Anthony Joseph DiCello, M.T., Case No. 10-CRF-026, 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.

Lance A. Talmage, M.D.
Secretary

(SEAL)

January 12, 2011
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

* CASE NO. 10-CRF-026

ANTHONY JOSEPH DICELLO, M.T. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on January 12, 2011.

Upon the Report and Recommendation of Danielle R. Blue, Esq., 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.

Rationale for Amendment: Mr. DiCello is currently being monitored by court probation and should be given another chance to practice massage therapy if he establishes that he has been drug free and has not been charged with a criminal act for a five year period.

It is hereby ORDERED that:

A. The certificate of Anthony Joseph DiCello, M.T., to practice massage therapy in the State of Ohio shall be REVOKED.

B. The Board shall not consider any future application filed by Mr. DiCello for a certificate to practice massage therapy in the State of Ohio, or any other certificate issued by the Board, unless the information submitted with the application demonstrates that Mr. DiCello has been drug free and has not been charged with a criminal act for a period of at least 5 years immediately preceding the application.

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

Lance A. Talmage, MD

Lance A. Talmage, M.D.
Secretary

(SEAL)

January 12, 2011
Date

STATE MEDICAL BOARD OF OHIO
2010 NOV 29 PM 2:26

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of	*	
		Case No. 10-CRF-026
Anthony Joseph DiCello, M.T.,	*	
		Hearing Examiner Blue
Respondent.	*	

REPORT AND RECOMMENDATION

Basis for Hearing:

In a Notice of Immediate Suspension and Opportunity for Hearing dated March 10, 2010, the State Medical Board of Ohio [Board] notified Anthony Joseph DiCello, M.T., that pursuant to Ohio Revised Code Section [R.C.] 3719.121(C), the Board had immediately suspended his license to practice massage therapy in Ohio. In addition, the Board notified Mr. DiCello that it intended to determine whether to take disciplinary action against his certificate based on the following allegations: (a) on July 30, 2009, he pled guilty to one count of Trafficking in Cocaine, in violation of R.C. 2925.09, and one count of Possession of Cocaine, in violation of R.C. 2925.11; (b) on July 30, 2009, he pled guilty to one count of Possession of Criminal Tools, in violation of R.C. 2923.24; and (c) on an October 24, 2007 Renewal Application, he failed to disclose that, on February 23, 2006, he was indicted on one felony count of Vandalism, in violation of R.C. 2909.25, and one felony count of Possessing Criminal Tools, a violation of R.C. 2923.24.

The Board further alleged that Mr. DiCello's acts, conduct, and/or omissions 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 set forth in R.C. 4731.22(B)(3);

- "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure and certificate to practice or certificate of registration issued by the board," as set forth in R.C. 4731.22(B)(5); and/or

- "[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 set forth in R.C. 4731.22(B)(9). (State Exhibit [St. Ex.] 1A)

Finally, the Board advised Mr. DiCello of his right to request a hearing in this matter, and the Board received Mr. DiCello's request for a hearing on May 27, 2010. (St. Ex. 1A)

Appearances:

Richard Cordray, Attorney General of Ohio, and Karen Unver, Assistant Attorney General for the State of Ohio. Eric A. Jones, Esq., for Mr. DiCello.

Hearing Date: November 12, 2010

SUMMARY OF THE EVIDENCE

All evidence admitted in this matter, including the testimony, even if not specifically mentioned, was thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

Background Information

1. Anthony DiCello was born in 1977 in Youngstown, Ohio. He attended one year of college at Youngstown State University [Y.S.U.]. After a "bitter" experience with a professor, he left Y.S.U. and enrolled at Northeast Ohio College of Massotherapy. In 1997, he moved to Columbus to work for his Uncle who owned a pharmacy while continuing his massage therapy education at Central Ohio School of Massage. Mr. DiCello was initially licensed to practice massage therapy in Ohio in 1999. (St. Ex. 3; Hearing Transcript [Tr.] at 43, 55; Ohio eLicensing Center at <https://license.ohio.gov/lookup>, query on November 18, 2010)

2007 Renewal Application

2. On October 24, 2007, Mr. DiCello completed and posted an online application to renew his Ohio certificate. In submitting his application for renewal, Mr. DiCello averred as follows:

> **I understand that submitting a false, fraudulent, or forged statement or document or omitting a material fact in obtaining licensure may be grounds for disciplinary action against my license.**
>
> **Under penalty of law, I hereby swear or affirm that the information I have provided in the application is complete and correct, and that I have complied with all criteria for applying on line.** (Emphasis in original)

(St. Ex. 2 at 4-6)

3. In the renewal application, Mr. DiCello answered "No" to the following question:

> 4. Has any board, bureau, department, agency, or any other body, **including those in Ohio other than this board**, filed any charges, allegations, or complaints against you? (Emphasis in original)

(St. Ex. 2 at 5; Tr. at 34)

4. Mr. DiCello was arrested on February 4, 2006, for breaking out nine windows at a Columbus business with wooden pallets. As a result, Mr. DiCello was indicted in the Franklin County Court of Common Pleas on February 23, 2006, on charges of Vandalism and Possessing Criminal Tools, in violation of R.C. Sections 2909.05 and 2923.24. *State v. DiCello*, Case No. 06CR-1269. (St. Exs. 3, 4)

5. The Franklin County Prosecuting Attorney's Office and the Columbus Police Department recommended a Diversion Program for Mr. DiCello. The Diversion Program "is an opportunity for first time offenders to reconcile themselves with society while participating in a closely supervised program not unlike probation." Among other things, Mr. DiCello was ordered to pay restitution in the amount of $7,130.00 to the victim, keep steady employment, and ***have no new charges or re-arrests***. (St. Ex. 3; Emphasis added)

6. Mr. DiCello explained why he answered "No" to question 4:

> At that time it was something that I was putting behind me, and it wasn't an issue that I wanted to bring up again.
>
> My understanding was - - I was completing all restitution payments. I was being seen once a month with a probation officer and verified employment. I was working hard to just continue on with my life, and it was something I was trying to put behind me.

(Tr. at 36-37)

7. Mr. DiCello further testified that he believed question 4 only related to a "health-related bureau or board." However, Mr. DiCello stated he did not contact the Board staff to get clarification on question 4 before he answered it. In retrospect, Mr. DiCello testified he would answer question 4 differently today. (Tr. at 36, 49)

Felony Convictions

8. In approximately 2007 or 2008, Mr. DiCello befriended a neighbor at his apartment complex. He testified that the neighbor asked him to obtain cocaine for a business

associate of his. In exchange for obtaining the drugs, Mr. DiCello stated that the neighbor promised to get him a job at one of the businesses he recruited for. (Tr. at 50-52)

9. Mr. DiCello was arrested and indicted in the Franklin County Court of Common Pleas for Trafficking in Cocaine and Possession of Cocaine, in violation of R.C. Sections 2925.03 and 2925.11. (St. Ex. 5)

10. As the result of his arrest on the above-mentioned felony charges, Mr. DiCello was re-charged and indicted for Vandalism and Possessing Criminal Tools arising out of the 2006 incident because he violated a condition of the Diversion Program. (St. Ex. 4; Tr. at 61)

11. On July 30, 2009, Mr. DiCello entered a plea of guilty to the felony charges. On October 26, 2009, the Franklin County Court of Common Pleas found him guilty of Trafficking in Cocaine in violation of R.C. 2925.03 and Possession of Cocaine in violation of R.C. 2925.11. The court sentenced Mr. DiCello to three years of community control, required him to submit to alcohol/drug testing and treatment, including random urine screens, and ordered him to pay a fine of $250.00. Also, on July 30, 2009, Mr. DiCello entered a plea of guilty to Possession of Criminal Tools. On October 26, 2009, the Franklin County Court of Common Pleas found him guilty of Possession of Criminal Tools in violation of R.C. 2923.24. The court sentenced Mr. DiCello to twenty-four months of community control, required him to submit to alcohol/drug testing and treatment, including random urine screens, and ordered him to pay restitution in the amount of $7,130.00. (St. Exs. 4, 5)

Mr. DiCello's Testimony

12. Mr. DiCello explained the circumstances surrounding the 2006 vandalism incident as follows:

> I was drinking. It was an evening. I was out with my girlfriend at the time. We were meeting with different types of friends and stopping at different restaurants. I was having a drink at different restaurants with different friends and family. And I think a combination of the different types of drinks that I had at each location ended up putting me over the edge.
>
> And when we returned to the car, the car was towed. It was missing. And I - - But I assume that I lost my temper, and I saw the first thing that was close to this building, which was a wooden pallet that happened to be by a Dumpster. And I ended up losing my temper and breaking the windows.

(Tr. at 34, 44-55)

13. As a result of the 2006 incident, Mr. DiCello testified that he stopped drinking alcohol. However, he later testified that he still has "occasional sips" of alcohol or a "glass of wine." (Tr. at 45, 49, 69)

14. After the 2006 incident, Mr. DiCello formally apologized to the business owner in person and paid full restitution to the owner in April 2009. (Tr. at 46; Resp. Ex. B)

15. Mr. DiCello testified that he was moving forward with his life following the 2006 incident but admitted that he was still "surrounding myself with the wrong type of individuals and got [him]self into some more trouble." Mr. DiCello explained the circumstances that preceded his arrest for trafficking cocaine and possession of cocaine:

> I had a relationship that I was involved with and the woman she - - we had been dating for two years, and she started to get into bodybuilding, weight training and her trainer happened to be a neighbor of mine. We were acquaintances just through passing. He was a professional bodybuilder, trainer, and locally here is very involved with the community for bodybuilding and exercise sciences.
>
> He became a mentor figure for both of us giving us knowledge on exercise, dieting. * * *
>
> And this man - - He also has another side to him which is a corporate recruiter. Besides being a bodybuilder, he also was a corporate recruiter. He was a very optimistic man and likable and whatnot. * * *
>
> And he had a dark side, a dark past - - He was selling steroids, and he was indicted on some charges. And he approached me to obtain some cocaine for a business associate of his. And, at the time, I was really shocked that he would do such a thing.
>
> And it happened that he was leading me to believe that I would obtain a career through one of his businesses that he does recruiting for. And if I would go through with this - - And he kind of pursued me to obtain this cocaine for this business associate of his, and I resisted over a month's time or so.
>
> * * * And that business associate of his happened to be an FBI agent, an undercover agent. He was trying to use me to help with his indictment case on his steroid possession, so he pulled me into this trap.

(Tr. at 50-52)

16. Mr. DiCello further explained his reaction when his former "mentor" asked him to get drugs:

> I was shocked when he asked me to do that. I said I wasn't going to do that. He was an influential person. And he was like, "Come on. This will really help me out with my client." He takes a lot of clients - - He's someone who can get you in. He said this individual worked with Chase Bank, a highly respected employer in the community.
>
> I was really adamant about not doing it, and he begged and begged and pursued, sent text messages and was kind of badgering me over the course of a month to do this. He said it would really help my future out.
>
> * * *
>
> It was kind of really a horrible thing to do, and it was a horrible position to be in. I was very mistaken about someone's character and how wrapped up I got into believing this person wanted to better my life as opposed to hurting it.

(Tr. at 81-82)

17. Prior to his arrest, Mr. DiCello admitted that he used cocaine "lightly" for about two years and had "tried marijuana." He denied, however, that he was dealing drugs on an ongoing basis. He testified that he thought his neighbor asked him to obtain cocaine because "he [the neighbor] thought some of my associates would be willing to obtain it for me." (Tr. at 50, 53)

18. Mr. DiCello denies that he has used any illicit drug since his arrest. He further testified that he has not had trouble stopping his drug use:

> And I haven't had any trouble staying away from it or feeling that I needed it. I discovered there's great healthy alternatives, chocolate, actually, you know, and there's antioxidants which helps clarify the mind and gives me energy.
>
> * * *
>
> I also have been really focusing on the natural medicine beliefs that I have and the education that I have with natural medicine.
>
> I've been utilizing acupuncture therapy for stress and addiction therapy and just massage, as well as being around individuals that are not - - in

> more of an entertainment style of living where I was involved with a lot of the community.

(Tr. at 53, 58, 66-67)

19. Mr. DiCello stated that he has not had any formal treatment for drugs and/or alcohol addiction. But, he testified that after his release from jail, he was evaluated by Netcare and attended NA counseling. (Tr. at 54, 58, 62)

20. In regard to Mr. DiCello's criminal behavior, he acknowledged that he got "carried away in a bigger city with the wrong individuals, and the promise of fast success really lured [him] way out of [his] core values and belief system of God, family and job." Mr. DiCello testified that he is on the right path again. He states he has returned to his faith and relies upon family members for support. He currently works at Piada Italian Grill in Columbus and also as an independent distributor of pressed cocoa. (Tr. at 62, 66-67, 76)

Supporting Testimony

21. Tim Maurer, owner of Mukha Spa and Cosmetics, testified that he employed Mr. DiCello for five years as a massage therapist. He described Mr. DiCello as "an exemplary employee" and "would have him back if we could." Mr. Maurer denied that Mr. DiCello appeared to be chemically impaired at work. He testified that Mr. DiCello told him about his drug arrest shortly after it occurred. However, Mr. Mauer testified that Mr. DiCello did not tell him about the vandalism arrest until after the drug arrest.

22. Jim Hallos is Mr. DiCello's stepfather. Mr. Hallos testified that his stepson was raised with "wholesome family values" and believes his stepson "got caught up in the big city." He stated that he would not describe his stepson as "street-wise" and therefore, "people took advantage of him." Mr. Hallos stated that his stepson told them immediately about the vandalism incident and the drug incident. Finally, Mr. Hallos agreed with his stepson that he "was going down the right path." (Tr. at 97-105)

23. Michael DiCello is Mr. DiCello's biological father. Mr. DiCello testified that he stays in close contact with his son daily by text messages. He further added that his family was behind his son "100 percent." (Tr. at 108)

FINDINGS OF FACT

1. On October 24, 2007, Mr. DiCello posted an online renewal application to renew his Ohio massage therapy certificate. By submitting his application for renewal, Mr. DiCello certified that the information provided therein was true.

2. In the renewal application, Mr. DiCello answered "No" to question number 4 which asked: "Has any board, bureau, department, agency, or any other body, **including those**

in Ohio other than this board, filed any charges, allegations or complaints against you?"

In fact, Mr. DiCello was indicted on February 23, 2006 in the Franklin County Court of Common Pleas on charges of Vandalism and Possessing Criminal Tools, in violation of R.C. Sections 2909.05 and 2923.24. As a result of his indictment, he entered into a Diversion Program that required among other things, to pay restitution in the amount of $7,130.00 to the victim, keep steady employment, and have no new charges or re-arrests.

3. On July 30, 2009, in the Franklin County Court of Common Pleas, Columbus, Ohio, Mr. DiCello was found guilty of one felony count of Trafficking in Cocaine, in violation of R.C. 2925.03 and one felony count of Possession of Cocaine, in violation of R.C. 2925.11

4. Because Mr. DiCello violated the "no new charges or re-arrests" condition of the Diversion Program, Mr. DiCello was found guilty of one felony count of Possession of Criminal Tools, in violation of R.C. 2923.24, in the Franklin County Court of Common Pleas, on July 30, 2009.

CONCLUSIONS OF LAW

1. Mr. DiCello's acts, conduct, and/or omissions set forth in Findings of Fact 1 and 2, individually and/or collectively, constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery; osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as set forth in R.C. 4731.22(B)(5).

2. Mr. DiCello's acts, conduct, and/or omissions as set forth in Finding of Fact 3 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 set forth in R.C. 4731.22(B)(3).

3. Mr. DiCello's acts, conduct, and/or omissions as set forth in Findings of Fact 3 and 4 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 set forth in R.C. 4731.22(B)(9).

DISCUSSION CONCERNING THE PROPOSED ORDER

Disclosure and honesty are essential to the licensure process. In this case, Mr. DiCello should have disclosed on his 2007 Renewal Application that he was indicted in February 2006 on one felony count of Vandalism and one felony count of Possessing Criminal Tools. Mr. DiCello testified that he did not disclose the charges in the indictment because he wanted to put it behind him and "it wasn't an issue that I wanted to bring up again."

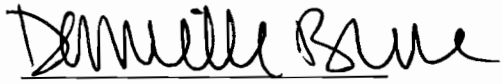
In regard to his felony convictions, Mr. DiCello testified that he got "carried away in a bigger city with the wrong individuals, and the promise of fast success really lured me way out of my core values and belief system." While the Hearing Examiner believes that Mr. DiCello may have got in over his head, the evidence reveals that Mr. DiCello was not an innocent victim in this situation. His explanation concerning the events that lead up to his drug arrest is unbelievable and not credible. If one believes Mr. DiCello's version of the story, one must conclude that his judgment is either severely flawed or there is more to the story than Mr. DiCello is telling. Either way, the Hearing Examiner concludes that Mr. DiCello is not fit to hold a massage therapy license in this state.

PROPOSED ORDER

It is hereby ORDERED that:

> The certificate of Anthony Joseph DiCello, 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 the notification of approval by the Board.



Danielle R. Blue, Esq.
Hearing Examiner

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
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EXCERPT FROM THE DRAFT MINUTES OF JANUARY 12, 2011

REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Suppan announced that the Board would now consider the Reports and Recommendations, and the Proposed Findings and Proposed Order appearing on its agenda.

Dr. Suppan asked whether each member of the Board had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Anthony Joseph DiCello, M.T.; Bruce T. Faure, M.D.; Modesto Fontanez, M.D.; Kenneth James Fox, P.A., Josh Utah Hill, P.A.; Sridhar K. Iyer, M.D.; Parag Patel, M.D.; Stephen Nels Rhinehart, M.D.; and Jose Vargas, M.D. A roll call was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Suppan	- aye
	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Ramprasad	- aye

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

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Suppan	- aye
	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Ramprasad	- aye

Dr. Suppan noted that, in accordance with the provision in section 4731.22(F)(2), Ohio 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. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member. Dr. Suppan stated that all Board

members may vote on the matters of Kenneth James Fox, P.A., and Jose Vargas, M.D., as those cases are not disciplinary in nature and only involves the respondents' qualifications for licensure.

Dr. Suppan reminded all parties that no oral motions may be made during these proceedings.

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

.....

ANTHONY JOSEPH DICELLO, M.T., Case No. 10-CRF-026

.....

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Anthony Joseph DiCello, M.T. Dr. Mahajan seconded the motion.

.....

Dr. Mahajan moved to amend the Proposed Order to a non-permanent revocation of Mr. DiCello's massage therapy license. Dr. Mahajan further moved to allow Mr. DiCello to reapply for another license in not less than five years, provided that Mr. DiCello remains drug-free and commits no criminal acts in that time. Dr. Ramprasad seconded the motion.

.....

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

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- nay
	Dr. Suppan	- aye
	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Ramprasad	- aye

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Anthony Joseph DiCello, M.T. Dr. Strafford seconded the motion. A vote was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Suppan	- aye
	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Ramprasad	- aye

The motion carried.

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

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NOTICE OF IMMEDIATE SUSPENSION
AND
OPPORTUNITY FOR HEARING

March 10, 2010

Case number: 10-CRF- 026

Anthony Joseph DiCello, M.T.
1469 W. Lane Ave.
Upper Arlington, Ohio 43221

Dear Mr. DiCello:

In accordance with Sections 2929.42 and/or 3719.12, Ohio Revised Code, the Franklin County Prosecutor's Office, Franklin County, Ohio, reported that on or about July 30, 2009, you pled guilty to, and were found guilty of, one count of Trafficking in Cocaine, in violation of Section 2925.03, Ohio Revised Code, a felony of the fifth degree; and one count of Possession of Cocaine, in violation of Section 2925.11, Ohio Revised Code, a felony of the fifth degree.

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 medicine, or any of its branches, 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 [Board] 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 July 30, 2009, in the Court of Common Pleas, Franklin County, Ohio, you pled guilty to, and were found guilty of, one count of Trafficking in Cocaine, in violation of Section 2925.03, Ohio Revised Code, a felony of the fifth degree; and one count of Possession of Cocaine, in violation of Section 2925.11, Ohio Revised Code, a felony of the fifth degree. On or about October 26, 2009, you were sentenced, *inter alia*, to three years of community control, required to submit to alcohol/drug testing and treatment, including random urine screens, and ordered to pay a fine of $250.00.

Mailed 3-11-10

(2) On or about July 30, 2009, in the Court of Common Pleas, Franklin County, Ohio, you pled guilty to, and were found guilty of, one count of Possession of Criminal Tools, in violation of Section 2923.24, Ohio Revised Code, a felony of the fifth degree. On or about October 26, 2009, you were sentenced, *inter alia*, to twenty-four months of community control, required to submit to alcohol/drug testing and treatment, including random urine screens, and ordered to pay restitution in the amount of $7,130.00.

(3) On or about October 24, 2007, you caused to be submitted to the Board an application for renewal of your certificate to practice massage therapy in the State of Ohio. By signing the "Certification" as part of the renewal, you certified under oath that the information provided therein was complete and correct. In the "Discipline" section of your renewal, you answered "NO" in response to question number 4, which asks:

> Has any board, bureau, department, agency, or any other body, including those in Ohio **other than this board**, filed any charges, allegations or complaints against you?

In fact, on or about February 23, 2006, in the Court of Common Pleas, Franklin County, Ohio, you were indicted on one felony count of Vandalism, in violation of Section 2909.05, Ohio Revised Code, and one felony count of Possessing Criminal Tools, in violation of Section 2923.24, Ohio Revised Code.

Your acts, conduct, and/or omissions as alleged in paragraph (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 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 Section 4731.22(B)(3), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, the facts as alleged in paragraphs (1) and (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 MD
RWS

Lance A. Talmage, M.D.
Secretary

LAT/DSZ/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3067 2543
RETURN RECEIPT REQUESTED