

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

August 8, 2007

Kristopher Nicholas Wankewycz, M.T.
2818 Hearthstone
Parma, OH 44134

Dear Mr. Wankewycz:

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 August 8, 2007.

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 an original Notice of Appeal with the State Medical Board of Ohio and a copy with the Franklin County Court of Common Pleas. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. 91 7108 2133 3933 5241 3516
RETURN RECEIPT REQUESTED

Mailed 8-9-07

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 August 8, 2007, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of Kristopher Nicholas Wankewycz, M.T., as it appears in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D.
Secretary

(SEAL)

August 8, 2007

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :
:
KRISTOPHER NICHOLAS :
WANKEWYCZ, M.T. :

FINDINGS, ORDER AND JOURNAL ENTRY

This matter came on for consideration before the State Medical Board of Ohio on August 8, 2007, pursuant to a Notice of Opportunity for Hearing issued to Kristopher Nicholas Wankewycz, M.T., on April 12, 2007. No request for hearing having been received within the statutorily mandated time period, Hearing Examiner Patricia A. Davidson, Esq., on behalf of the Board, reviewed and summarized evidence supporting the Notice, and prepared Proposed Findings and a Proposed Order.

WHEREFORE, having reviewed Ms. Davidson's Proposed Findings and Proposed Order, which is attached hereto and incorporated herein, the Board hereby finds that there is reliable, probative and substantial evidence to support the allegations as set forth in the April 12, 2007, Notice of Opportunity for Hearing.

Accordingly, it is hereby ORDERED that:

The certificate of Kristopher Nicholas Wankewycz, M.T., to practice massage therapy in the State of Ohio is PERMANENTLY REVOKED.

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



Lance A. Talmage, M.D.
Secretary

(SEAL)

August 8, 2007

Date

STATE MEDICAL BOARD
OHIO

2007 JUL -2 A 11: 57

STATE MEDICAL BOARD
OHIO
2007 JUN 22 A 9: 10

**PROPOSED FINDINGS AND PROPOSED ORDER
IN THE MATTER OF KRISTOPHER NICHOLAS WANKEWYCZ, M.T.**

The Matter of Kristopher Nicholas Wankewycz, M.T., was reviewed by Patricia A. Davidson, Hearing Examiner for the State Medical Board of Ohio.

INTRODUCTION

Basis for the Review

- A. On April 12, 2007, the State Medical Board of Ohio [Board] issued a notice of opportunity for hearing [Notice] to Kristopher Nicholas Wankewycz, M.T., notifying him that the Board proposed to take disciplinary action with respect to his certificate to practice massage therapy in Ohio. The Board stated that its proposed action was based on Mr. Wankewycz's alleged violations of the Board's 2004 Order, constituting violations "of the conditions of limitation placed by the board upon a certificate to practice," under Ohio Revised Code Section [R.C.] 4731.22(B)(15). Further, the Board alleged that Mr. Wankewycz is impaired as defined in R.C. 4731.22(B)(26). Accordingly, the Board notified Mr. Wankewycz that he was entitled to a hearing if requested in writing within 30 days of the notice's mailing. (Ex. 1A)
- B. The Board mailed this Notice to Mr. Wankewycz on April 12, 2007, at his most recent address of record, by certified mail, return receipt requested. The U.S. Postal Service provided a receipt showing that, on April 14, 2007, the Notice was delivered to Mr. Wankewycz. (Exs. 1A, 2, 3)
- C. Barbara A. Jacobs, Public Services Administrator for the Board, attested in an affidavit signed May 21, 2007, that the Board had not received a hearing request from Mr. Wankewycz. (Ex. 3)

EVIDENCE EXAMINED

Exhibit 1: Documents maintained by the Board regarding Kristopher Nicholas Wankewycz, M.T., including the following:

Exhibit 1A: Notice of Opportunity for Hearing dated April 12, 2007, with attachments:

- Copy of sentencing order from Rocky River Municipal Court (see Ex. 4, below).
- Copy of Board Order of June 2004 (with attachments including Entry of Order, cover letter, excerpt from Board minutes, and Report and Recommendation) (see Ex. 1B, below).
- Copy of electronic receipt of delivery of Notice to Mr. Wankewycz on April 14, 2007.

Exhibit 1B: Entry of Order dated June 9, 2004, in the Matter of Kristopher N. Wankewycz, M.T., with attachments:

- Cover letter dated June 9, 2004.
- Excerpt from the minutes of the Board's meeting on June 9, 2004.
- Report and Recommendation filed April 27, 2004.

Note: The Hearing Examiner paginated Exhibit 1B for ease of reference in this report.

Exhibit 1C: December 2003 Notice of Opportunity for Hearing.

Exhibit 2: Affidavit of Debra L. Jones, CME and Renewal Officer.

Exhibit 3: Affidavit of Barbara A. Jacobs, Public Services Administrator.

Exhibit 4: Affidavit of Daniel S. Zinsmaster, Enforcement Attorney, with certified copies of the following documents attached:

- Entries from the Rocky River Municipal Court, Cuyahoga County, Ohio, in *Westlake v. Kristopher N. Wankewicz*, Case No. 05-TRC-15369, as follows: a Direct Sentencing Journal Entry (Aug. 22, 2005), and a Limited Privileges Journal Entry (Dec. 29, 2006).
- Ticket and Summons issued to Kristopher N. Wankewycz on July 3, 2005, for Operating a Motor Vehicle under the Influence; and Arrest Report by the Westlake Police Department for the arrest of Mr. Wankewycz on July 3, 2005.
- Ohio Bureau of Motor Vehicles, Report of Law Enforcement Officer, dated July 3, 2005, for an OVI/Physical Control Arrest of Mr. Wankewycz.

Exhibit 5: Affidavit of Danielle C. Bickers, Board Compliance Supervisor.

Exhibit 6: Memorandum from the Board's Public Services Administrator to the Board's Hearing Unit, requesting that a Hearing Examiner review the documents provided and prepare Proposed Findings and Proposed Order.

SUMMARY OF THE EVIDENCE

All exhibits, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Proposed Findings and Proposed Order.

1. In February 2003, Kristopher Nicholas Wankewycz, M.T., submitted an application to the Board for a certificate to practice massage therapy in Ohio. The Board learned during its review of the application that Mr. Wankewycz had a 1999 conviction for Driving Under the Influence and two convictions for the same offense in 2001; a conviction in 1999 for

Aggravated Possession of Drugs (Methamphetamine), a fifth-degree felony; and a conviction for Drug Abuse, a misdemeanor, in 2001. Mr. Wankewycz did not disclose all these matters on his application, and, when asked for further information, he did not provide complete disclosure. (St. Ex. 1B at 17-18)

2. The Board ordered Mr. Wankewycz to undergo a three-day evaluation by a Board-approved provider, Glenbeigh Hospital, which resulted in a diagnosis of chemical dependency. Mr. Wankewycz completed a 28-day inpatient treatment program. (St. Ex. 1B at 18)

2004 Board Order

3. In December 2003, the Board issued a notice of opportunity for hearing with regard to Mr. Wankewycz's application for a massage therapy certificate. Mr. Wankewycz requested a hearing, which was held in March 2004. The Hearing Examiner submitted a Report and Recommendation in April 2004. (Ex. 1B at 9, Ex. 1C)
4. At its meeting on June 9, 2004, the Board issued an Order [2004 Board Order] finding that Mr. Wankewycz had violated R.C. 4731.22(B)(5), 4731.22(B)(9), and 4731.22(B)(26). In its 2004 Board Order, the Board granted him a certificate to practice massage therapy, which was then suspended for an indefinite period of time not less than ninety days, during which he was subject to interim monitoring terms, conditions, and limitations. (Ex. 1B at 1-8)
5. The 2004 Board Order required, among other things, that Mr. Wankewycz must comply with the following terms, conditions and limitations during the period of his suspension:
 - Obey all federal, state, and local laws, and all rules governing the practice of massage therapy in Ohio (Paragraph B.1);
 - Abstain completely from the use of alcohol (Paragraph B.5);
 - Appear in person for an interview every three months before the full Board or its designated representative (Paragraph B.2);
 - Submit quarterly declarations stating whether there has been compliance with all the conditions of the above Board Order (Paragraph B.3); and
 - Maintain participation in an alcohol and drug rehabilitation program such as Alcoholics Anonymous, no less than three times per week, and submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for his Quarterly Declarations (Paragraph B.9).(Ex. 1B at 3-5; Ex. 5)
6. Danielle C. Bickers, the Board's Compliance Supervisor, has been responsible for monitoring Mr. Wankewycz's compliance with the terms of the 2004 Board Order, which became effective on June 14, 2004. (Ex. 5) She testified, by affidavit:

- With regard to the requirement of quarterly interviews, Mr. Wankewycz appeared for his initial appearance on September 8, 2004, before the full Board.
- By letter dated November 17, 2004, Ms. Bickers advised Mr. Wankewycz that he was scheduled to attend an office conference with the Board's Supervising Member on December 7, 2004. However, on December 6, 2004, Mr. Wankewycz left a voicemail message on her telephone, stating that he did not have transportation and would not be attending the office conference scheduled for the next day.
- By letter dated December 22, 2004, Ms. Bickers advised Mr. Wankewycz that he was rescheduled to attend his office conference with the Board's Supervising Member on January 11, 2005. However, on January 11, 2005, Mr. Wankewycz left a voicemail message indicating that he was unable to arrange transportation and would not be attending the conference.
- By letter dated January 21, 2005, Ms. Bickers advised Mr. Wankewycz that he was rescheduled to attend his office conference with the Board's Supervising Member on February 8, 2005. However, on February 7, 2005, Mr. Wankewycz left a voicemail message that he did not have transportation and would not be attending the conference.
- Mr. Wankewycz has not attended an office conference since his initial appearance before the Board in September 2004.
- With regard to the requirement in the 2004 Board Order that he must maintain participation in an alcohol and drug rehabilitation program no less than three times per week and submit acceptable documentation of his attendance on a quarterly basis, Mr. Wankewycz submitted attendance logs on September 2, 2004, showing his attendance at AA meetings from June 2004 through August 2004. However, Ms. Bickers has received no other documentation of Mr. Wankewycz's compliance with this requirement.
- With regard to the requirement in the 2004 Board Order that he must submit written quarterly declarations of compliance with the 2004 Board Order, Mr. Wankewycz has never submitted a written Declaration of Compliance.

(Ex. 5)

2005 Conviction for Operating a Motor Vehicle Under the Influence

7. On July 3, 2005, Mr. Wankewycz was arrested by a Westlake, Ohio, police officer. The officer noted a strong odor of alcohol, and a test of Mr. Wankewycz's breath showed a blood alcohol concentration of 0.237 percent. Mr. Wankewycz was cited for offenses including Operating a Motor Vehicle under the Influence in violation of R.C. 4511.19(A)(1)(a) (which the police department referred to as OMVI). (Ex. 4)

8. On August 16, 2005, Mr. Wankewycz pleaded guilty in the Rocky River Municipal Court, Cuyahoga County, Ohio, to violation of R.C. 4511.19(A)(1)(a) (which the court referred to as OVI). The court adjudged him guilty and sentenced him to suspension of his driver's license for five years, 60 days of incarceration to consist of 30 days of actual incarceration followed by 110 days of house arrest, and financial sanctions. In addition, the court imposed community control for two years with requirements including abstention from alcohol and drugs of abuse, inpatient treatment, and attendance at AA meetings. As of December 29, 2006, the Court granted Mr. Wankewycz limited driving privileges to go to and from work, medical appointments, church, etc. (Ex. 4)

PROPOSED FINDINGS

1. On June 9, 2004, by Order of the Board [2004 Board Order], Kristopher Nicholas Wankewycz, M.T., was found to be in violation of R.C. 4731.22(B)(5), 4731.22(B)(9), and 4731.22(B)(26). The 2004 Board Order granted Mr. Wankewycz a certificate to practice massage therapy in Ohio, which was then suspended for an indefinite period not less than ninety days. The 2004 Board Order required that, during this suspension, Mr. Wankewycz must comply with interim monitoring terms, conditions, and limitations.

Mr. Wankewycz's certificate to practice massage therapy in Ohio remains suspended under the 2004 Board Order, and he remains subject to the interim monitoring terms, conditions, and limitations.

2. Mr. Wankewycz has failed to comply with the requirements of Paragraph B.1 of the 2004 Board Order, as follows:

Paragraph B.1 of the 2004 Board Order requires that Mr. Wankewycz obey all federal, state, and local laws, and all rules governing the practice of massage therapy in Ohio.

On or about August 16, 2005, Mr. Wankewycz was found guilty in the Rocky River Municipal Court, Cuyahoga County, Ohio, of Operating a Vehicle while under the Influence of Alcohol or Drugs [OVI] in violation of R.C. 4511.19(A)(1)(a).

At the time of his arrest for OVI on July 3, 2005, a test of Mr. Wankewycz's breath showed that his blood alcohol concentration was 0.237 percent.

3. Mr. Wankewycz has failed to comply with the requirements of Paragraph B.5 of the 2004 Board Order, as follows:

Paragraph B.5 of the 2004 Board Order requires that Mr. Wankewycz abstain completely from the use of alcohol.

As set forth above in Proposed Finding 2, Mr. Wankewycz was arrested for OVI on July 3, 2005, at which time his blood alcohol concentration was 0.237 percent.

4. Mr. Wankewycz has failed to comply with the requirements of Paragraph B.2 of the 2004 Board Order, as follows:

Paragraph B.2 of the 2004 Board Order requires that Mr. Wankewycz appear in person for an interview every three months before the full Board or its designated representative.

Although Mr. Wankewycz appeared in person before the full Board as scheduled for his initial appearance on September 8, 2004, he failed to appear at any of his subsequently scheduled appearances before the Board or its designated representative. Thus, he failed to appear for all of his subsequent required appearances.

5. Mr. Wankewycz has failed to comply with the requirements of Paragraph B.9 of the 2004 Board Order, as follows:

Paragraph B.9 of the 2004 Board Order requires that Mr. Wankewycz maintain participation in an alcohol and drug rehabilitation program no less than three times per week, and submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Mr. Wankewycz's quarterly declarations.

Since September 2, 2004, Mr. Wankewycz has failed to submit any documentary evidence of continuing compliance with the requirement to maintain participation in an alcohol and drug rehabilitation program.

6. Mr. Wankewycz has failed to comply with the requirements of Paragraph B.3 of the 2004 Board Order, as follows:

Paragraph B.3 of the 2004 Board Order requires that Mr. Wankewycz submit quarterly declarations stating whether he has complied with all the conditions of the 2004 Board Order.

Since September 2, 2004, Mr. Wankewycz has not submitted a quarterly declaration of compliance.

7. Mr. Wankewycz's acts, conduct, and/or omissions as set forth above in Proposed Findings 2 through 6, individually and/or collectively, constitute a "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice," as that language is used in R.C. 4731.22(B)(15).
8. Further, Mr. Wankewycz's acts, conduct, and/or omissions as set forth in Proposed Findings 2 and 3 above, individually and/or collectively, establish "[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that language is used in R.C. 4731.22(B)(26).

* * * * *

In its 2004 Order, the Board did not deny Mr. Wankewycz's application based on his history of OVI convictions, a misdemeanor conviction for drug abuse, and a drug-related felony. Instead, the Board gave Mr. Wankewycz an opportunity to participate in a recovery program and, ultimately, to pursue his career in massage therapy.

However, Mr. Wankewycz has not complied with the Board's 2004 Order. The evidence establishes numerous violations of the 2004 Order and also establishes that Mr. Wankewycz is impaired by chemical dependence and has not made a sustained effort toward recovery.

Mr. Wankewycz has presented no mitigating factors to the Board. To the contrary, his violations of the Board's Order include an aggravating factor: beyond his relapse by consuming alcohol, Mr. Wankewycz drove a motor vehicle when his blood alcohol concentration was more than double the level required to establish intoxication of a driver in Ohio. Under all the circumstances, a permanent revocation is warranted.

PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Kristopher Nicholas Wankewycz, M.T., to practice massage therapy in the State of Ohio is PERMANENTLY REVOKED.

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


Patricia A. Davidson
Hearing Examiner



State Medical Board of Ohio

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

April 12, 2007

Kristopher Nicholas Wankewycz, M.T.
2818 Hearthstone
Parma, Ohio 44134

Dear Mr. Wankewycz:

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 June 9, 2004, by Order of the Board [2004 Board Order], you were found to be in violation of Sections 4731.22(B)(5), 4731.22(B)(9), and 4731.22(B)(26), Ohio Revised Code. The 2004 Board Order granted you a certificate to practice massage therapy in Ohio, which was then suspended for an indefinite period of time, but not less than ninety days, during which you became subject to Interim Monitoring terms, conditions, and limitations.

As of this date, your certificate to practice massage therapy in Ohio remains suspended, and subject to the Interim Monitoring terms, conditions, and limitations of the 2004 Board Order, a copy of which is attached hereto and incorporated herein.

- (2) Paragraph B.1. of the 2004 Board Order requires that you obey all federal, state, and local laws, and all rules governing the practice of massage therapy in Ohio.

On or about August 16, 2005, you were found guilty in the Rocky River Municipal Court, Cuyahoga County, Ohio, of Operating a Vehicle while under the Influence of Alcohol or Drugs [OVI] in violation of Section 4511.19(A)(1)(a), Ohio Revised Code. At the time of your arrest for OVI on or about July 3, 2005, you produced a blood alcohol concentration level of 0.237%. A copy of the Direct Sentencing Journal Entry is attached hereto and incorporated herein. You have failed to comply with the requirements of Paragraph B.1. of the 2004 Board Order.

- (3) Paragraph B.5. of the 2004 Board Order requires that you abstain completely from the use of alcohol.

Mailed 4/12/07

As previously mentioned in paragraph (2) above, your actions on or about July 3, 2005, resulting in an arrest for OVI constitute a failure to comply with the requirements of Paragraph B.5. of the 2004 Board Order.

- (4) Paragraph B.2. of the 2004 Board Order requires that you appear in person for an interview every three months before the full Board, or its designated representative.

Although you appeared in person as scheduled for your initial appearance before the Board on or about September 8, 2004, you have failed to appear at all subsequent scheduled appearances before the Board or a designated representative of the Board. You have failed to comply with the requirements of Paragraph B.2. of the 2004 Board Order.

- (5) Paragraph B.3. of the 2004 Board Order requires that you submit quarterly declarations stating whether there has been compliance with all the conditions of the above Board Order.

Since September 2, 2004, you have failed to submit a Quarterly Declaration of compliance. You have failed to comply with the requirements of Paragraph B.3. of the 2004 Board Order.

- (6) Paragraph B.9. of the 2004 Board Order requires that you maintain participation in an alcohol and drug rehabilitation program no less than three times per week, and submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for your Quarterly Declarations.

Since September 2, 2004, you have failed to submit any documentary evidence of continuing compliance with the requirement to maintain participation in an alcohol and drug rehabilitation program. You have failed to comply with the requirements of Paragraph B.9. of the 2004 Board Order.

Your acts, conduct, and/or omissions as alleged in paragraphs (2) through (6) above, individually and/or collectively, constitute a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice,” as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (2) and (3) above, individually and/or collectively, constitute “[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,” as that clause is used in Section 4731.22(B)(26), 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 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, 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,

A handwritten signature in black ink, appearing to read "Lance A. Talmage M.D.", written in a cursive style.

Lance A. Talmage, M.D.
Secretary

LAT/DSZ/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3933 8841 3894
RETURN RECEIPT REQUESTED

IN THE ROCKY RIVER MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

SWL

05 TRC 15369

Plaintiff

Vs.

KRISTOPHER N. WANKEWYCZ

Case No.

JOURNALIZED
Rocky River Municipal Court

DIRECT SENTENCING
JOURNAL ENTRY

Defendant

AUG 22 2005

Offense: OVI 4511.19 a1a

Date: 8-16-05

WILLIAM E. GAREAU,
CLERK OF COURT.

WILLIAM E. GAREAU
CLERK OF COURT
AUG 22 2005
Rocky River Municipal Court
JOURNALIZED

DEFENDANT IN COURT: [] pro se [] w/counsel [x] w/ca counsel
Prosecutor's motion to amend to _____ granted.

[] City code will revert to state code if defendant found to be a probation violator.
[x] All rights fully explained in open court on tape, [] including 2943.031
[] Right to counsel waived [] Jury waiver signed and filed [x] Not guilty plea withdrawn
PLEA ENTERED: [] guilty [x] no contest [x] no contest w/stipulation to finding of guilty.
DEFENDANT FOUND: [x] guilty [] not guilty

PFS to 8-22-05 9:30 AM in d w/c for sentencing

THE FOLLOWING SENTENCE IS IMPOSED:

FINANCIAL SANCTIONS:

[x] \$ 550 F&C, _____ fine suspended if f&c paid by _____
[] Restitution to _____ in the amount of _____ by _____
(court costs will include a 5% collection and processing fee)

RESIDENTIAL SANCTIONS:

[] Defendant ordered to serve 60 days/months in jail commencing FORTHWITH
[] to be served by 30 d actual in incarceration
Unad. followed by 110 d BUNHA

NONRESIDENTIAL SANCTIONS:

[] EMHA _____ days/months commencing _____
[] _____ by CC Jail Reduction Program

COMMUNITY CONTROL SANCTIONS:

Defendant is placed on:

[] Monitored community control supervision until _____
[] Basic community control supervision until _____
[x] Intensive community control supervision until 8-22-07

Defendant is ordered to comply with the following sanctions:

[x] Report to Community Control Officer (hereinafter CCO) as directed
[x] Good behavior (obey all laws and ordinances)
[x] Not leave the State of Ohio without the permission of CCO
[x] Pay all financial sanctions as ordered
[x] Immediately notify Court in writing of change in residential address
[] TAI Lecture Series commencing _____ at 6:00 p.m. at defendant's costs
[x] No driving while under the influence of alcohol and/or drugs of abuse
[x] No driving while license suspended outside court-granted limited privileges
[x] Not to refuse to submit to alcohol test if requested and not to test greater than .00 BAC if stopped
[x] Weekly attendance at AA meetings as directed by CCO
[x] Obtain sponsor
[x] Enter into and complete all treatment recommendations of CCO and including inpatient treatment which will be ph out of CAC Fund as is deemed indigent for same
[x] Abstain from alcohol and drugs of abuse
[x] Subject to random screening at CCO's discretion at defendant's costs
[] Other _____

STATE OF OHIO
County of Cuyahoga)
City of Rocky River) SS. Rocky River Municipal Court
WILLIAM E. GAREAU, Clerk of Court, hereby certify this RECORD CERTIFICATION
I hereto subscribe my name and affix the seal of the Rocky River Municipal Court this 16 day of August, 2005
By: [Signature] Deputy Clerk

CLASS 3 LICENSE SUSPENSION: 5 year days less credit of 51 days ALS. ALS terminates upon plea herein.

[] Pretrial suspension terminated.

INSURANCE SHOWN: yes no

LIMITED PRIVILEGES: denied; granted (If granted, see additional journal entry outlining privileges)

VEHICLE IMMOBILIZATION: 5 year days immobilization of vehicle/impoundment of plates, less credit of 51 days pretrial seizure. Pretrial seizure terminated. Vehicle not to be released until reinstatement fee paid to BMV. Defendant ordered to show reinstatement release form to seizing agency before release.

[] vehicle may be clubbed at such location/manner designated by arresting police authority. Keys to vehicle, club and plates to be held by said authority.

Per 4507.164, plates of all other vehicles registered to defendant are impounded, SO ORDERED.

Charge # 2, 3, 4 : Roll at def's costs

Charge # _____ :

Charge # _____ :

ES as to F&C susp for due to indigency

Donna Congeni
JUDGE DONNA CONGENI FITZSIMMONS
MAGISTRATE KELLY LARRICK SERRAT

STATE OF OHIO)
County of Cuyahoga) SS. Rocky River Municipal Court
City of Rocky River) RECORD CERTIFICATION
I, WILLIAM E. GAREAU, Clerk of Court, hereby certify this to be a true and exact copy of the original record of this Court. I hereto subscribe my name and affix the seal of the Rocky River Municipal Court this 18 day of March, AD, 2007
By: William E. Gareau
Deputy Clerk

I acknowledge that I have been ordered to comply with all Sanctions imposed. Failure to do so may result in the imposition of 365 days, a fine of \$ 2500, and/or the imposition of longer time under sanctions or more restrictive sanctions.
10 year lic susp.

DEFENDANT _____

cc: BMV
 Community Control Officer
 Defendant



State Medical Board of Ohio

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

June 9, 2004

Kristopher N. Wankewycz, M.T.
2818 Hearthstone Road
Parma, OH 44134

Dear Mr. Wankewycz:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on June 9, 2004, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal 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, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7000 0600 0024 5150 2174
RETURN RECEIPT REQUESTED

Mailed 6-14-04

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on June 9, 2004, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Kristopher N. Wankewycz, 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.



Lance A. Talmage, M.D.
Secretary

(SEAL)

June 9, 2004

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

KRISTOPHER N. WANKEWYCZ, M.T.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on June 9, 2004.

Upon the Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

- A. **GRANT AND SUSPENSION OF CERTIFICATE:** The application of Kristopher N. Wankewycz, M.T., to practice massage therapy in Ohio is **GRANTED**, provided that he otherwise meets all statutory and regulatory requirements. Further, Mr. Wankewycz's certificate shall be **SUSPENDED** for an indefinite period of time, but not less than ninety days.
- B. **INTERIM MONITORING:** During the period that Mr. Wankewycz's license is suspended, he shall comply with the following terms, conditions, and limitations:
1. **Obey the Law:** Mr. Wankewycz shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy in Ohio.
 2. **Personal Appearances:** Mr. Wankewycz shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Order. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any

reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

3. **Quarterly Declarations:** Mr. Wankewycz shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
4. **Abstention from Drugs:** Mr. Wankewycz 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. Wankewycz's history of chemical dependency.
5. **Abstention from Alcohol:** Mr. Wankewycz shall abstain completely from the use of alcohol.
6. **Drug & Alcohol Screens; Supervising Physician:** Mr. Wankewycz shall submit to random urine screenings for drugs and/or alcohol on a twice monthly basis or as otherwise directed by the Board. Mr. Wankewycz shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Mr. Wankewycz shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Mr. Wankewycz shall submit the required specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Mr. Wankewycz. Mr. Wankewycz and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Mr. Wankewycz shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Mr. Wankewycz must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Mr. Wankewycz shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Mr. Wankewycz's quarterly declaration. It is Mr. Wankewycz's responsibility to ensure that reports are timely submitted.

7. **Submission of Blood or Urine Specimens upon Request:** Mr. Wankewycz shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Mr. Wankewycz's expense.
8. **Comply with the Terms of Treatment and Aftercare Contract:** Mr. Wankewycz shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflicts with terms of this Order, the terms of this Order shall control.
9. **Rehabilitation Program:** Mr. Wankewycz shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Mr. Wankewycz shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Mr. Wankewycz's quarterly declarations.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Mr. Wankewycz's license to practice massage therapy until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Mr. Wankewycz shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions:** Mr. Wankewycz shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.

3. **Demonstration of Ability to Resume Practice:** Mr. Wankewycz shall demonstrate to the satisfaction of the Board that he can practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Mr. Wankewycz has successfully completed any required inpatient treatment.
 - b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
 - c. Evidence of continuing full compliance with this Order.
 - d. Two written reports indicating that Mr. Wankewycz 's ability to practice has been evaluated for chemical dependency and/or impairment and that he has been found capable of practicing according to acceptable and prevailing standards of care. The evaluations shall have been performed by individuals or providers approved by the Board for making such evaluations. Moreover, the evaluations shall have been performed within sixty days prior to Mr. Wankewycz 's application for reinstatement or restoration. The reports of evaluation shall describe with particularity the bases for the determination that Mr. Wankewycz has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.
 4. **Additional Evidence of Fitness To Resume Practice:** In the event that Mr. Wankewycz 's certificate remains suspended for more than two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.
- D. **PROBATION:** Mr. Wankewycz's license to practice massage therapy shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Mr. Wankewycz shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.

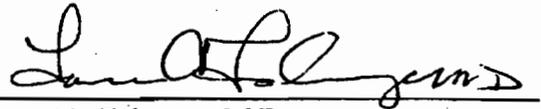
2. **Personal Ethics Course:** Before the end of the first year of probation, or as otherwise approved by the Board, Mr. Wankewycz shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee.
 3. **Tolling of Probationary Period While Out of State:** In the event that Mr. Wankewycz should leave Ohio for three consecutive months, or reside or practice outside the State, Mr. Wankewycz must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
 4. **Violation of Terms of Probation:** If Mr. Wankewycz violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his license.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Wankewycz's license to practice massage therapy will be fully restored.
- F. **RELEASES:** Mr. Wankewycz shall provide continuing authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Mr. Wankewycz's chemical dependency and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.
- Mr. Wankewycz shall also provide the Board written consent permitting any treatment provider from whom Mr. Wankewycz obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.
- G. **REQUIRED REPORTING BY LICENSEE TO THOSE WHO EMPLOY HIM TO PRACTICE MASSAGE THERAPY:** Within thirty days of the effective date of this Order, unless otherwise determined by the Board, Mr. Wankewycz shall

provide a copy of this Order to all employers or entities with which he is under contract to provide massage therapy services or is receiving training. Further, Mr. Wankewycz shall provide a copy of this Order to all employers or entities with which he contracts to provide massage therapy services, or applies for or receives training.

- H. **REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, unless otherwise determined by the Board, Mr. Wankewycz shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Mr. Wankewycz shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Mr. Wankewycz shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

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

(SEAL)



Lance A. Talmage, M.D.
Secretary

June 9, 2004
Date

2004 APR 27 P 12:44

**REPORT AND RECOMMENDATION
IN THE MATTER OF KRISTOPHER N. WANKEWYCZ, M.T.**

The Matter of Kristopher N. Wankewycz, M.T., was heard by Sharon W. Murphy, Esq., Hearing Examiner for the State Medical Board of Ohio, on March 30, 2004.

INTRODUCTION

I. Basis for Hearing

A. By letter dated December 10, 2003, the State Medical Board of Ohio [Board] notified Kristopher N. Wankewycz, M.T., that it had proposed to deny his application for, or to take disciplinary action against, his certificate to practice massage therapy in Ohio. The Board based its proposed action on the following allegations:

- Mr. Wankewycz failed to fully and truthfully report his criminal history in his February 24, 2003, application for certificate to practice massage therapy.
- On or about August 13, 1999, in Summit County Court of Common Pleas, Mr. Wankewycz entered a plea of guilty to and was convicted of Aggravated Possession of Drugs, to wit: Methamphetamine, a felony of the 5th degree, in violation of Section 2925.11, Ohio Revised Code.
- Mr. Wankewycz submitted to a three-day evaluation at Glenbeigh Hospital and Outpatient Centers, a Board approved treatment provider, pursuant to an October 14, 2003, Board Order. Mr. Wankewycz was diagnosed with chemical dependency and entered residential treatment at Glenbeigh.

The Board further alleged that Mr. Wankewycz's conduct constitutes "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code. The Board further alleged that Mr. Wankewycz's conduct constitutes "[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."

The Board also alleged that Mr. Wankewycz's criminal conviction constitutes "[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."

Lastly, the Board alleged that Mr. Wankewycz's conduct constitutes "[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that clause is used in Section 4731.22(B)(26), Ohio Revised Code."

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

- B. The Board received a written hearing request from Mr. Wankewycz on January 9, 2004. (State's Exhibit 1C)

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Kyle C. Wilcox, Assistant Attorney General.
- B. On behalf of the Respondent: Mr. Wankewycz, having been apprised of his right to be represented by counsel, appeared at the hearing on his own behalf.

EVIDENCE EXAMINED

I. Testimony Heard

Kristopher N. Wankewycz, M.T.

II. Exhibits Examined

- A. Presented by the State
 - 1. State's Exhibits 1A through 1F: Procedural exhibits.
 - 2. State's Exhibit 2: An Assessment and Weekly Treatment Plan Reviews for Kristopher N. Wankewycz, M.T., as maintained by Glenbeigh Hospital and Outpatient Centers [Glenbeigh] in Rock Creek, Ohio. (Note: this exhibit has been sealed to protect patient confidentiality.) (Further note: the Hearing Examiner numbered pages of this exhibit post-hearing.)

3. State's Exhibit 3: Certified copies of documents maintained by the Summit County [Ohio] Court of Common Pleas, relating to the prosecution and conviction of Mr. Wankewycz for Aggravated Possession of Drugs. (Note: portions of this exhibit were redacted by the Hearing Examiner post-hearing. See Procedural Matters.)
4. State's Exhibit 4: Certified copies of documents maintained by the Madison County Municipal Court in London, Ohio, related to Mr. Wankewycz's April 20, 1999, conviction for Driving Under the Influence While Underage.
5. State's Exhibits 5, 6, 7, and 8: Certified copies of documents maintained by the Parma [Ohio] Municipal Court relating to Mr. Wankewycz's March 9, 2001, conviction for Driving Under the Influence [DUI]; his June 4, 2001, conviction for misdemeanor Drug Abuse; and his June 4, 2001, conviction for DUI.
6. State's Exhibit 9: Certified copy of Mr. Wankewycz's Application for a Certificate to Practice a Limited Branch – Massage Therapy.
7. State's Exhibit 10: Copy of a July 25, 2003, letter from Mr. Wankewycz to the Board reporting his DUI convictions and history of alcohol abuse.

B. Presented by the Respondent

1. Respondent's Exhibit A: Copies of Alcoholics Anonymous [AA] logs indicating Mr. Wankewycz's attendance at AA meetings from July 30, 2003, through March 15, 2004. (Note: this exhibit has been sealed to protect the confidentiality of AA participants.)
2. Respondent's Exhibit B: Business card of Ruthanne M. Anderson, M.A., L.P.C.C., C.C.D.C. III E, Mr. Wankewycz's outpatient counselor at Glenbeigh.
3. Respondent's Exhibit C: Copy of a March 29, 2004, letter from Ms. Anderson addressed, "To Whom it may concern," regarding Mr. Wankewycz's outpatient treatment.
4. Respondent's Exhibit D: Copies of Mr. Wankewycz's December 12, 2003, January 12, 2004, and February 23, 2004, negative drug screen reports. (Note: the January 12, 2004, report is erroneously dated "2002." See Hearing Transcript at 64-65.)

PROCEDURAL MATTERS

With the agreement of the parties, the Hearing Examiner stated that she would strike in State's Exhibit 3 all references to certain matters that are not relevant to this proceeding but which may be unfairly prejudicial to one of the parties. (See Hearing Transcript at 49) Nevertheless, an unredacted copy of the exhibit will be proffered as Proffer A.

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. Kristopher N. Wankewycz, M.T., testified that his high school education had ended during the tenth grade. Mr. Wankewycz testified that, later, he had obtained his GED and started a roofing apprenticeship. In his third year of the apprenticeship, however, Mr. Wankewycz decided that he did not want spend his life as a roofer. He then worked as a cook and at other "odd jobs," while trying to continue his education. Currently, Mr. Wankewycz is helping his sister with home improvement projects and working with a friend who owns a landscaping company. Mr. Wankewycz is twenty-four years old. (Hearing Transcript at [Tr.] 9-10, 13; State's Exhibit [St. Ex.] 9 at 4-6)
2. Mr. Wankewycz testified that he had started studying massage therapy in 2001 at the National Institute of Massage Therapy [National Institute]. Nevertheless, Mr. Wankewycz did not finish the program that year due to his mother's death. He started again the following year, and completed the program in May 2003. Mr. Wankewycz further testified that he had taken the massage therapy licensing examination in June 2003. He added that he has been told that he passed the examination, although he has not yet received official confirmation. (Tr. at 10-12, 35, 68; St. Ex. 9 at 20)
3. During his early adulthood, Mr. Wankewycz was convicted of Driving Under the Influence [DUI] on three occasions. Moreover, Mr. Wankewycz was convicted of Drug Abuse, a misdemeanor, and Aggravated Possession of Drugs, a fifth degree felony. (St. Exs. 3 through 8)
 - On April 20, 1999, in Madison County Municipal Court in London, Ohio, Mr. Wankewycz pleaded no contest to and was found guilty of DUI. Specifically, he was found guilty of driving with a blood-alcohol concentration greater than 0.02, to wit: 0.061, while under the age of twenty-one, in violation of Section 4511.19(B)(2), Ohio Revised Code. Mr. Wankewycz was nineteen years old at that time. The court sentenced him to non-reporting probation for two years and ordered him to attend "one-day underage counseling." (St. Ex. 4)

Mr. Wankewycz testified that that conviction had resulted from an incident during which he had been speeding on Interstate 71 as he was traveling from Cleveland to Kentucky to visit family. He further testified that he had had a few beers earlier in the day. Mr. Wankewycz was under the age of twenty-one at the time, so his breath-alcohol level of .061 was sufficient to warrant a DUI charge. (Tr. at 29-33) (See also Section 4511.19(B)(3), Ohio Revised Code)

- On August 10, 1999, in the Summit County [Ohio] Court of Common Pleas, Mr. Wankewycz pleaded guilty to Aggravated Possession of Drugs, a fifth-degree felony, in violation of Section 2925.11, Ohio Revised Code. On August 13, 1999, the court sentenced him to one year of community control, a six-month suspension of his driver's license, and random urinalysis. Mr. Wankewycz was nineteen years old at that time. (St. Ex. 3)

Mr. Wankewycz testified that methamphetamine had been discovered in his pocket during a routine security search at a concert. Mr. Wankewycz pleaded guilty to the offense, and successfully completed his sentence of one year of community control. Mr. Wankewycz added that he had been represented in that case by a family friend, who had advised Mr. Wankewycz that the conviction would be expunged from his record after he completed his year of community control. (Tr. at 47-51)

- On March 9, 2001, in Parma [Ohio] Municipal Court, Mr. Wankewycz pleaded no contest to and was found guilty of DUI, in violation of Section 4511.19(A)(1), Ohio Revised Code. Judge Gilligan sentenced Mr. Wankewycz to non-reporting probation for two years, ordered him to attend "one-day underage counseling," ordered him to complete an inpatient drug and alcohol program, and ordered him to attend four Alcoholic Anonymous [AA] meetings per week for twenty-four months. (St. Ex. 5)

Mr. Wankewycz testified that this offense had occurred in January 2001, two months after his mother's death. He added that, after returning home from his job at a restaurant, he had driven to a local bar. On the way home, he hit a parked car on his street. A neighbor called the police and Mr. Wankewycz was arrested. He added that the owner of the car he hit is a friend of his and that he has made restitution for the damage. (Tr. at 34-37)

- On June 4, 2001, in Parma Municipal Court, Mr. Wankewycz pleaded no contest to and was found guilty of Drug Abuse, a misdemeanor, in violation of Section 2925.11, Ohio Revised Code; and DUI, in violation of Section 4511.19(A)(1), Ohio Revised Code. Judge Gilligan sentenced Mr. Wankewycz to six months in jail for these offenses. He served four-and-one-half months before he was released, subject to the electronic home detention program. (St. Exs. 6, 7, and 8)

Mr. Wankewycz testified that these offenses had occurred on February 14, 2001, about one month after his arrest for his previous DUI. Mr. Wankewycz further testified that he had been using Ketamine, an animal tranquilizer also known as "Special K." He had also had a few drinks at a bar. Mr. Wankewycz stated that, after leaving the bar, he had driven into a telephone pole. A passing motorist blocked Mr. Wankewycz's car and called the police. During his booking for DUI, a bag containing Ketamine residue had been found in Mr. Wankewycz's coat. (Tr. at 37-44; St. Ex. 8)

Mr. Wankewycz explained that Judge Gilligan had been "pretty fed up" with him at that point, since it was the second time he had appeared before the judge in one month's time. (Tr. 43) Mr. Wankewycz further testified that, until being questioned by the Board, he had believed that Judge Gilligan had found him guilty of a lesser offense, Driving Under Suspension, rather than DUI, but had sentenced him to the maximum term of imprisonment, six months. (Tr. 28-29)

Mr. Wankewycz testified that his imprisonment had been "an eye-opener" for him. He stated that he had missed his son's second birthday. Moreover, his girlfriend, the mother of his son, decided that she no longer wanted to be Mr. Wankewycz's partner. He added that he had missed his family. Mr. Wankewycz concluded that jail had been a "very unpleasant" experience. (Tr. 38)

4. In June 2002, Mr. Wankewycz was involved in an automobile accident. His physician had prescribed Vicodin and Flexeril for problems with his back. Thereafter, Mr. Wankewycz developed an anxiety disorder, which included jaw clenching and shaking. His physician prescribed Xanax, which Mr. Wankewycz continued to take for the next 1½ years. (Tr. 14-15)
5. On or about February 24, 2003, Mr. Wankewycz submitted to the Board an Application for Certificate To Practice A Limited Branch – Massage Therapy [License Application]. (St. Ex. 9) Mr. Wankewycz signed the License Application, thereby certifying under oath that all of the information he had provided was true. (St. Ex. 9 at 17)

The Additional Information section of the License Application includes the instruction that, should an applicant answer "Yes" to any question, the applicant is "required to furnish complete details, including date, place, reason and disposition of the matter." (Emphasis in the original) (St. Ex. 9 at 8) In completing the License Application, Mr. Wankewycz answered "Yes" in response to question number 11, which asks:

Have you ever been convicted or found guilty of a violation of any law, regardless of the legal jurisdiction in which the act was committed, other than a minor traffic violation?

(St. Ex. 9 at 9)

In his written explanation, Mr. Wankewycz stated that he had been "pulled over for a D.U.I. in January 2001 in Parma. 'Judge Gilligan.'" He also stated that he had been "stopped for driving under suspension," that he had been sentenced to "the maximum time," and that he had been "released January 8th, 02." Moreover, in the "Massage Resume of Activities" section of the License Application, Mr. Wankewycz added that he had been in jail for six months, through January 2002, for "D.U.S." (St. Ex. 9 at 5, 6)

6. After Mr. Wankewycz submitted his application, Brenda Harrison, a Board investigator, contacted him and advised him that the Board was aware of his other arrests. Mr. Wankewycz testified that Ms. Harrison had suggested that he write a letter to the Board to more thoroughly explain his criminal record. (Tr. at 55-56)

Therefore, on July 25, 2003, Mr. Wankewycz wrote to the Board, in part, as follows:

I unintentionally omitted on my application the three DUI's (* * * in 1998, my license was suspended for six months in London, Ohio, again in January of 2001, my license was suspended for three years in Parma, Ohio) which led to my fourth DUI in May of 2001 in Parma Heights. That resulted in a five-year suspension of my license and six months of incarceration with two years of probation. I was not trying to conceal the previous offenses or I would not have listed my incarceration. I can only say that I misinterpreted the application because I was focused on giving an account [of] my time after high school. I was nervous filling out such [an] important application and tried to stay focused on accuracy and details and made a huge mistake in overlooking these offenses.

(St. Ex. 10)

7. Although Mr. Wankewycz admitted his DUI convictions, he did not admit his felony conviction in his conversation with Ms. Harrison or in his letter to the Board. He explained at hearing that he had not done so because he had believed that this conviction had been expunged from his record. (Tr. at 57-59; St. Ex. 10)
8. In his July 25, 2003, letter to the Board, Mr. Wankewycz also confessed to a history of alcohol abuse. Mr. Wankewycz testified at hearing that his history of drug and alcohol abuse had started when he was fifteen, shortly after he had switched from a private to a public school. He testified that the change in schools had been a significant change in his life and, after the change, his life had gone "downhill." (Tr. at 12; St. Ex. 10)

Mr. Wankewycz testified that he had used marijuana for a few years, cocaine for a few years, and then marijuana again. He had also used LSD a few times per year. He added that his use of chemicals had increased when camping or at concerts. (Tr. at 12-14)

Report and Recommendation

In the Matter of Kristopher N. Wankewycz, M.T.

Page 8

9. On October 14, 2003, the Board ordered Mr. Wankewycz to submit to a three-day evaluation at Glenbeigh Hospital and Outpatient Centers [Glenbeigh] in Rock Creek, Ohio. He completed the three-day evaluation. In his Biopsychosocial Assessment, it was noted that Mr. Wankewycz had been hospitalized at the age of fifteen for chemical dependency. He had also received outpatient treatment as a result of his DUI convictions. It was further noted that,

The approximate number of AA meetings the patient has attended is 250-300. He denies having a home group. He does not currently have a sponsor. The community resources are none. Precipitation factors of relapse as identified by the patient: 'I forgot the consequences. I pretty much said screw it. I thought I could use and it would be different. I had no responsibilities; I had nothing to own up to.' The counselor's assessment of relapse dynamics are: Given his young life of 24, his use history, and his legal history, it would appear nearly all of his treatment and AA experience has been under duress; he claims he has been living sober, but his behavior record and drug use does not support that; he appears to have an unclear understanding of a good, stable sobriety.

(St. Ex. 2 at 4) Mr. Wankewycz was diagnosed as chemically dependent, and inpatient treatment was recommended. Mr. Wankewycz left Glenbeigh for forty-eight hours to obtain leave from his job at McDonald's and to secure funds for the treatment since he had had no insurance. Mr. Wankewycz returned to Glenbeigh and successfully completed the twenty-eight day program. (Tr. at 16-18)

Mr. Wankewycz was discharged from Glenbeigh on December 10, 2003. Upon discharge, he entered into an aftercare contract which requires him to attend at least four AA meetings a week, as well as an aftercare meeting at Glenbeigh once a week. He is also being randomly drug tested, about once a month. Mr. Wankewycz testified that he has complied with his aftercare contract and has remained abstinent. He submitted attendance logs that verify his attendance at AA meetings, and reports of his negative urine toxicology screens. (Tr. at 24-27; Respondent's Exhibits [Resp. Exs.] C, D, and E)

10. In a letter dated March 29, 2004, Ruthanne M. Anderson, M.A., L.P.C.C., C.C.D.C. III E, Mr. Wankewycz's outpatient counselor at Glenbeigh, advised that Mr. Wankewycz has maintained full compliance with his aftercare recovery contract. (Resp. Exs. A, C)
11. Mr. Wankewycz testified that he lives with his grandfather who is in his eighties. He added that has a good support system to help him remain abstinent. His father is a recovering alcoholic who has been sober for eighteen years. Moreover, his family members have been actively involved in helping him to maintain sobriety. Further, he has found a new group of friends through his recovery activities. (Tr. at 15, 73-74; St. Ex. 2 at 2)

Mr. Wankewycz also testified that he has a four-year-old son. Mr. Wankewycz is trying to obtain greater custodial rights of his son, and realizes that his continued abstinence is essential to that aim. Mr. Wankewycz testified that his relationship with his son motivates him to remain sober. (Tr. at 64, 69, 74; St. Ex. 2 at 2)

Mr. Wankewycz further testified that, in his youth, he had not considered marijuana to be harmful in any way. Nevertheless, Mr. Wankewycz testified that, now,

I know that it's more trouble than it's worth. Alcohol and drugs have really – you know, my use and involvement with them has really made my life very difficult. Anything that's ever happened to me or any time I've hurt anybody close to me has been a direct result of alcohol or drugs.

(Tr. 69-70)

Mr. Wankewycz testified that he has not used alcohol or illicit drugs since 2001. However, he added that he had continued to use Xanax as prescribed by his physician. Therefore, he considers his sobriety date to be November 15, 2003, the date he ceased taking Xanax. (Tr. at 27; St. Ex. 2 at 3-4)

12. Finally, Mr. Wankewycz testified that he would like to be a massage therapist, in part, because he has memories of massages he had received as a child from his grandmother and mother. He testified, "I like to work with my hands. I like knowing that I help people and I know how beneficial and good it feels when I would receive massages." He also testified that he is committed to being a massage therapist and to remaining sober. He is willing to comply with any probationary terms. In fact, Mr. Wankewycz testified that he welcomes probation as an aid to his recovery. (Tr. at 66-67, 69, 72-73, 75)

FINDINGS OF FACT

1. Kristopher N. Wankewycz, M.T., submitted an Application for Certificate To Practice a Limited Branch – Massage Therapy [License Application] to the Board on February 24, 2003. Mr. Wankewycz signed the License Application, thereby certifying under oath that all of the information provided was true.

The Additional Information section of the License Application includes the instruction that, should an applicant answer "Yes" to any question, the applicant is "required to furnish complete details, including date, place, reason and disposition of the matter." (Emphasis in the original) In the "completing the License Application, Mr. Wankewycz answered "Yes" in response to question number 11, which asks:

Have you ever been convicted or found guilty of a violation of any law, regardless of the legal jurisdiction in which the act was committed, other than a minor traffic violation?

In his written explanation, Mr. Wankewycz stated that he had been "pulled over for a D.U.I. in January of 2001 in Parma. 'Judge Gilligan.'" He also stated that he had been given "the maximum time [and] was released January 8th, 02." Nevertheless, Mr. Wankewycz failed to disclose or explain his complete criminal record, which includes the following:

- On April 20, 1999, in Madison County Municipal Court in London, Ohio, Mr. Wankewycz pleaded no contest to and was found guilty of Driving Under the Influence [DUI]. Specifically, he was found guilty of driving with a blood-alcohol concentration greater than 0.02, to wit: 0.061, while under the age of twenty-one, in violation of Section 4511.19(B)(2), Ohio Revised Code.
- On August 10, 1999, in the Summit County [Ohio] Court of Common Pleas, Mr. Wankewycz pleaded guilty to Aggravated Possession of Drugs [Methamphetamine], a fifth-degree felony, in violation of Section 2925.11, Ohio Revised Code. Mr. Wankewycz was convicted on August 13, 1999, and sentenced to one year of community control.
- On March 9, 2001, in Parma [Ohio] Municipal Court, Mr. Wankewycz pleaded no contest to and was found guilty of DUI, in violation of Section 4511.19(A)(1), Ohio Revised Code.
- On June 4, 2001, in Parma Municipal Court, Mr. Wankewycz pleaded no contest to and was found guilty of Drug Abuse, a misdemeanor, in violation of Section 2925.11, Ohio Revised Code, and DUI, in violation of Section 4511.19(A)(1), Ohio Revised Code.

On July 25, 2003, after being contacted by a Board investigator, Mr. Wankewycz wrote a letter to the Board in which he admitted each of his DUI convictions. Nevertheless, Mr. Wankewycz failed to disclose the felony conviction for Aggravated Possession of Drugs.

2. On October 14, 2003, the Board ordered Mr. Wankewycz to submit to a three-day evaluation at Glenbeigh Hospital and Outpatient Centers [Glenbeigh], a Board-approved treatment provider. Mr. Wankewycz complied with the request and was diagnosed with chemical dependency. He has completed the recommended twenty-eight-day inpatient treatment program successfully and is currently complying with an aftercare contract.

CONCLUSIONS OF LAW

1. The conduct of Kristopher N. Wankewycz, M.T., as set forth in Findings of Fact 1, constitutes “[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.
2. Mr. Wankewycz’s plea of guilty and the judicial finding of guilt for Aggravated Possession of Drugs, as set forth in Finding of Fact 1, constitutes, “[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.
3. The conduct of Mr. Wankewycz, as set forth in Findings of Fact 1 and 2, constitutes “[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,” as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.
4. Mr. Wankewycz’s false or fraudulent answers on his application for licensure, as set forth in Findings of Fact 1, constitutes “fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board,” as that clause is used in Section 4731.22(A), Ohio Revised Code. Section 4731.22(A), Ohio Revised Code, provides that,

The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a certificate to a person found by the board to have * * * committed fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the Board.

R.C. 4731.22(A)

In a recent decision¹ by the Franklin County Court of Common Pleas interpreting this statute, the court held that, when the Board finds a violation of this provision, the Board may only “revoke or * * * refuse to grant a certificate of registration.” Thus, the range of penalties available to the Board does not include a fine, probation, suspension, or stayed revocation. Accordingly, unless the Board decides to deny Mr. Wankewycz’s application

¹ *Faye F. Istanbooly, M.D., v. State Medical Board of Ohio* (Dec. 4, 2003), Franklin C.P. No. 03CVF-02-2334, unreported.

for licensure, the Board shall take no further action based on the violation of Section 4731.22(A), Ohio Revised Code.

* * * * *

Mr. Wankewycz's failure to accurately report his criminal history to the Board in his License Application was a grave error. However, Mr. Wankewycz's dishonesty seems to have arisen from ignorance regarding the seriousness of the process, rather than from a deceitful nature. Nevertheless, based on his dishonest answers alone, the Board is justified in either denying his application for licensure or imposing a stern sanction after granting licensure.

Mr. Wankewycz also presents with a serious history of impairment. In fact, Mr. Wankewycz first underwent inpatient treatment for chemical abuse at the age of fifteen. It is significant, however, as noted by the Glenbeigh evaluator, that, prior to his recent inpatient treatment at Glenbeigh, Mr. Wankewycz had only experienced treatment under duress and had not had a clear understanding of sobriety.

Since his discharge from Glenbeigh in December 2003, Mr. Wankewycz has been fully committed to his recovery. Moreover, Mr. Wankewycz presents himself as an earnest young man who is working to better his life. He has a supportive family, and he is motivated to remain sober by his strong desire to be a good father to his four-year-old son. In addition, Mr. Wankewycz is so committed to his dream of practicing massage therapy that he underwent an evaluation for chemical dependency at the request of the Board, he completed the recommended, and costly, inpatient treatment, and has maintained sobriety since his discharge. Under these circumstances, the Board may wish to allow Mr. Wankewycz an opportunity to practice in this State, under strict monitoring conditions.

PROPOSED ORDER

- A. **GRANT AND SUSPENSION OF CERTIFICATE:** The application of Kristopher N. Wankewycz, M.T., to practice massage therapy in Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements. Further, Mr. Wankewycz's certificate shall be SUSPENDED for an indefinite period of time, but not less than ninety days.
- B. **INTERIM MONITORING:** During the period that Mr. Wankewycz's license is suspended, he shall comply with the following terms, conditions, and limitations:
 1. **Obey the Law:** Mr. Wankewycz shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy in Ohio.

2. **Personal Appearances:** Mr. Wankewycz shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Order. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
3. **Quarterly Declarations:** Mr. Wankewycz shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
4. **Abstinence from Drugs:** Mr. Wankewycz 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. Wankewycz's history of chemical dependency.
5. **Abstinence from Alcohol:** Mr. Wankewycz shall abstain completely from the use of alcohol.
6. **Drug & Alcohol Screens; Supervising Physician:** Mr. Wankewycz shall submit to random urine screenings for drugs and/or alcohol on a twice monthly basis or as otherwise directed by the Board. Mr. Wankewycz shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Mr. Wankewycz shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Mr. Wankewycz shall submit the required specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Mr. Wankewycz. Mr. Wankewycz and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Mr. Wankewycz shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have

been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Mr. Wankewycz must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Mr. Wankewycz shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Mr. Wankewycz's quarterly declaration. It is Mr. Wankewycz's responsibility to ensure that reports are timely submitted.

7. **Submission of Blood or Urine Specimens upon Request:** Mr. Wankewycz shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Mr. Wankewycz's expense.
8. **Comply with the Terms of Treatment and Aftercare Contract:** Mr. Wankewycz shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflicts with terms of this Order, the terms of this Order shall control.
9. **Rehabilitation Program:** Mr. Wankewycz shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Mr. Wankewycz shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Mr. Wankewycz's quarterly declarations.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Mr. Wankewycz's license to practice massage therapy until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Mr. Wankewycz shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions:** Mr. Wankewycz shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.

3. **Demonstration of Ability to Resume Practice:** Mr. Wankewycz shall demonstrate to the satisfaction of the Board that he can practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Mr. Wankewycz has successfully completed any required inpatient treatment.
 - b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
 - c. Evidence of continuing full compliance with this Order.
 - d. Two written reports indicating that Mr. Wankewycz's ability to practice has been evaluated for chemical dependency and/or impairment and that he has been found capable of practicing according to acceptable and prevailing standards of care. The evaluations shall have been performed by individuals or providers approved by the Board for making such evaluations. Moreover, the evaluations shall have been performed within sixty days prior to Mr. Wankewycz's application for reinstatement or restoration. The reports of evaluation shall describe with particularity the bases for the determination that Mr. Wankewycz has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.
 4. **Additional Evidence of Fitness To Resume Practice:** In the event that Mr. Wankewycz's certificate remains suspended for more than two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.
- D. **PROBATION:** Mr. Wankewycz's license to practice massage therapy shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Mr. Wankewycz shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.

Report and Recommendation

In the Matter of Kristopher N. Wankewycz, M.T.

Page 16

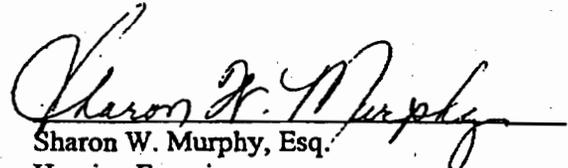
2. **Personal Ethics Course:** Before the end of the first year of probation, or as otherwise approved by the Board, Mr. Wankewycz shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee.
 3. **Tolling of Probationary Period While Out of State:** In the event that Mr. Wankewycz should leave Ohio for three consecutive months, or reside or practice outside the State, Mr. Wankewycz must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
 4. **Violation of Terms of Probation:** If Mr. Wankewycz violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his license.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Wankewycz's license to practice massage therapy will be fully restored.
- F. **RELEASES:** Mr. Wankewycz shall provide continuing authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Mr. Wankewycz's chemical dependency and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.
- Mr. Wankewycz shall also provide the Board written consent permitting any treatment provider from whom Mr. Wankewycz obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.
- G. **REQUIRED REPORTING BY LICENSEE TO THOSE WHO EMPLOY HIM TO PRACTICE MASSAGE THERAPY:** Within thirty days of the effective date of this Order, unless otherwise determined by the Board, Mr. Wankewycz shall provide a copy of this Order to all employers or entities with which he is under contract to provide massage therapy services or is receiving training. Further, Mr. Wankewycz shall provide a copy of

this Order to all employers or entities with which he contracts to provide massage therapy services, or applies for or receives training.

H. REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING

AUTHORITIES: Within thirty days of the effective date of this Order, unless otherwise determined by the Board, Mr. Wankewycz shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Mr. Wankewycz shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Mr. Wankewycz shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

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


Sharon W. Murphy, Esq.
Hearing Examiner



State Medical Board of Ohio

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

EXCERPT FROM THE DRAFT MINUTES OF JUNE 9, 2004

REPORTS AND RECOMMENDATIONS

Dr. Davidson announced that the Board would now consider the findings and orders appearing on the Board's agenda. She asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Veena V. Sengupta, M.D.; Gary Allen Blahnik, M.T.; Jeffrey Thomas Jones, P.A.; Willie L. Josey, M.D.; Grant F. Koher, D.O.; Barbara A. Reed, M.D.; Irene Shulga, M.D.; and Kristopher N. Wankewycz, M.T. A roll call was taken:

ROLL CALL:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye
Dr. Davidson	- aye

Dr. Davidson 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. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

Dr. Davidson - aye

Dr. Davidson 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.

Dr. Davidson 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.

.....
KRISTOPHER N. WANKEWYCZ, M.T.

.....
MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF KRISTOPHER N. WANKEWYCZ, M.T. DR. KUMAR SECONDED THE MOTION.

.....
A vote was taken on Mr. Browning's motion to approve and confirm:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.



State Medical Board of Ohio

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June 9, 2004

Kristopher N. Wankewycz, M.T.
2818 Hearthstone Road
Parma, OH 44134

Dear Mr. Wankewycz:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on June 9, 2004, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal 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, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

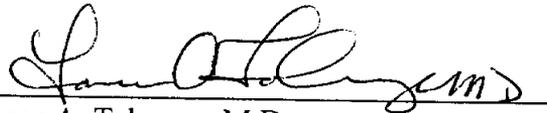
CERTIFIED MAIL NO. 7000 0600 0024 5150 2174
RETURN RECEIPT REQUESTED

Mailed 6-14-04

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on June 9, 2004, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Kristopher N. Wankewycz, 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.



Lance A. Talmage, M.D.
Secretary

(SEAL)

June 9, 2004

Date

reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

3. **Quarterly Declarations**: Mr. Wankewycz shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
4. **Abstention from Drugs**: Mr. Wankewycz 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. Wankewycz's history of chemical dependency.
5. **Abstention from Alcohol**: Mr. Wankewycz shall abstain completely from the use of alcohol.
6. **Drug & Alcohol Screens; Supervising Physician**: Mr. Wankewycz shall submit to random urine screenings for drugs and/or alcohol on a twice monthly basis or as otherwise directed by the Board. Mr. Wankewycz shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Mr. Wankewycz shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Mr. Wankewycz shall submit the required specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Mr. Wankewycz. Mr. Wankewycz and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Mr. Wankewycz shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Mr. Wankewycz must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Mr. Wankewycz shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Mr. Wankewycz's quarterly declaration. It is Mr. Wankewycz's responsibility to ensure that reports are timely submitted.

7. **Submission of Blood or Urine Specimens upon Request:** Mr. Wankewycz shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Mr. Wankewycz's expense.
8. **Comply with the Terms of Treatment and Aftercare Contract:** Mr. Wankewycz shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflicts with terms of this Order, the terms of this Order shall control.
9. **Rehabilitation Program:** Mr. Wankewycz shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Mr. Wankewycz shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Mr. Wankewycz's quarterly declarations.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Mr. Wankewycz's license to practice massage therapy until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Mr. Wankewycz shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions:** Mr. Wankewycz shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.

3. **Demonstration of Ability to Resume Practice:** Mr. Wankewycz shall demonstrate to the satisfaction of the Board that he can practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Mr. Wankewycz has successfully completed any required inpatient treatment.
 - b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
 - c. Evidence of continuing full compliance with this Order.
 - d. Two written reports indicating that Mr. Wankewycz 's ability to practice has been evaluated for chemical dependency and/or impairment and that he has been found capable of practicing according to acceptable and prevailing standards of care. The evaluations shall have been performed by individuals or providers approved by the Board for making such evaluations. Moreover, the evaluations shall have been performed within sixty days prior to Mr. Wankewycz 's application for reinstatement or restoration. The reports of evaluation shall describe with particularity the bases for the determination that Mr. Wankewycz has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.
4. **Additional Evidence of Fitness To Resume Practice:** In the event that Mr. Wankewycz 's certificate remains suspended for more than two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.

D. **PROBATION:** Mr. Wankewycz's license to practice massage therapy shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Mr. Wankewycz shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.

2. **Personal Ethics Course**: Before the end of the first year of probation, or as otherwise approved by the Board, Mr. Wankewycz shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee.
3. **Tolling of Probationary Period While Out of State**: In the event that Mr. Wankewycz should leave Ohio for three consecutive months, or reside or practice outside the State, Mr. Wankewycz must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
4. **Violation of Terms of Probation**: If Mr. Wankewycz violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his license.

E. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Wankewycz's license to practice massage therapy will be fully restored.

F. **RELEASES**: Mr. Wankewycz shall provide continuing authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Mr. Wankewycz's chemical dependency and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.

Mr. Wankewycz shall also provide the Board written consent permitting any treatment provider from whom Mr. Wankewycz obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

G. **REQUIRED REPORTING BY LICENSEE TO THOSE WHO EMPLOY HIM TO PRACTICE MASSAGE THERAPY**: Within thirty days of the effective date of this Order, unless otherwise determined by the Board, Mr. Wankewycz shall

provide a copy of this Order to all employers or entities with which he is under contract to provide massage therapy services or is receiving training. Further, Mr. Wankewycz shall provide a copy of this Order to all employers or entities with which he contracts to provide massage therapy services, or applies for or receives training.

- H. **REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, unless otherwise determined by the Board, Mr. Wankewycz shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Mr. Wankewycz shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Mr. Wankewycz shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

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

(SEAL)



Lance A. Talmage, M.D.
Secretary

June 9, 2004

Date

2004 APR 27 P 12:44

**REPORT AND RECOMMENDATION
IN THE MATTER OF KRISTOPHER N. WANKEWYCZ, M.T.**

The Matter of Kristopher N. Wankewycz, M.T., was heard by Sharon W. Murphy, Esq., Hearing Examiner for the State Medical Board of Ohio, on March 30, 2004.

INTRODUCTION

I. Basis for Hearing

A. By letter dated December 10, 2003, the State Medical Board of Ohio [Board] notified Kristopher N. Wankewycz, M.T., that it had proposed to deny his application for, or to take disciplinary action against, his certificate to practice massage therapy in Ohio. The Board based its proposed action on the following allegations:

- Mr. Wankewycz failed to fully and truthfully report his criminal history in his February 24, 2003, application for certificate to practice massage therapy.
- On or about August 13, 1999, in Summit County Court of Common Pleas, Mr. Wankewycz entered a plea of guilty to and was convicted of Aggravated Possession of Drugs, to wit: Methamphetamine, a felony of the 5th degree, in violation of Section 2925.11, Ohio Revised Code.
- Mr. Wankewycz submitted to a three-day evaluation at Glenbeigh Hospital and Outpatient Centers, a Board approved treatment provider, pursuant to an October 14, 2003, Board Order. Mr. Wankewycz was diagnosed with chemical dependency and entered residential treatment at Glenbeigh.

The Board further alleged that Mr. Wankewycz's conduct constitutes "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code. The Board further alleged that Mr. Wankewycz's conduct constitutes "[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."

The Board also alleged that Mr. Wankewycz's criminal conviction constitutes "[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."

Lastly, the Board alleged that Mr. Wankewycz's conduct constitutes "[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that clause is used in Section 4731.22(B)(26), Ohio Revised Code."

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

- B. The Board received a written hearing request from Mr. Wankewycz on January 9, 2004. (State's Exhibit 1C)

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Kyle C. Wilcox, Assistant Attorney General.
- B. On behalf of the Respondent: Mr. Wankewycz, having been apprised of his right to be represented by counsel, appeared at the hearing on his own behalf.

EVIDENCE EXAMINED

I. Testimony Heard

Kristopher N. Wankewycz, M.T.

II. Exhibits Examined

- A. Presented by the State
 - 1. State's Exhibits 1A through 1F: Procedural exhibits.
 - 2. State's Exhibit 2: An Assessment and Weekly Treatment Plan Reviews for Kristopher N. Wankewycz, M.T., as maintained by Glenbeigh Hospital and Outpatient Centers [Glenbeigh] in Rock Creek, Ohio. (Note: this exhibit has been sealed to protect patient confidentiality.) (Further note: the Hearing Examiner numbered pages of this exhibit post-hearing.)

3. State's Exhibit 3: Certified copies of documents maintained by the Summit County [Ohio] Court of Common Pleas, relating to the prosecution and conviction of Mr. Wankewycz for Aggravated Possession of Drugs. (Note: portions of this exhibit were redacted by the Hearing Examiner post-hearing. See Procedural Matters.)
4. State's Exhibit 4: Certified copies of documents maintained by the Madison County Municipal Court in London, Ohio, related to Mr. Wankewycz's April 20, 1999, conviction for Driving Under the Influence While Underage.
5. State's Exhibits 5, 6, 7, and 8: Certified copies of documents maintained by the Parma [Ohio] Municipal Court relating to Mr. Wankewycz's March 9, 2001, conviction for Driving Under the Influence [DUI]; his June 4, 2001, conviction for misdemeanor Drug Abuse; and his June 4, 2001, conviction for DUI.
6. State's Exhibit 9: Certified copy of Mr. Wankewycz's Application for a Certificate to Practice a Limited Branch – Massage Therapy.
7. State's Exhibit 10: Copy of a July 25, 2003, letter from Mr. Wankewycz to the Board reporting his DUI convictions and history of alcohol abuse.

B. Presented by the Respondent

1. Respondent's Exhibit A: Copies of Alcoholics Anonymous [AA] logs indicating Mr. Wankewycz's attendance at AA meetings from July 30, 2003, through March 15, 2004. (Note: this exhibit has been sealed to protect the confidentiality of AA participants.)
2. Respondent's Exhibit B: Business card of Ruthanne M. Anderson, M.A., L.P.C.C., C.C.D.C. III E, Mr. Wankewycz's outpatient counselor at Glenbeigh.
3. Respondent's Exhibit C: Copy of a March 29, 2004, letter from Ms. Anderson addressed, "To Whom it may concern," regarding Mr. Wankewycz's outpatient treatment.
4. Respondent's Exhibit D: Copies of Mr. Wankewycz's December 12, 2003, January 12, 2004, and February 23, 2004, negative drug screen reports. (Note: the January 12, 2004, report is erroneously dated "2002." See Hearing Transcript at 64-65.)

PROCEDURAL MATTERS

With the agreement of the parties, the Hearing Examiner stated that she would strike in State's Exhibit 3 all references to certain matters that are not relevant to this proceeding but which may be unfairly prejudicial to one of the parties. (See Hearing Transcript at 49) Nevertheless, an unredacted copy of the exhibit will be proffered as Proffer A.

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. Kristopher N. Wankewycz, M.T., testified that his high school education had ended during the tenth grade. Mr. Wankewycz testified that, later, he had obtained his GED and started a roofing apprenticeship. In his third year of the apprenticeship, however, Mr. Wankewycz decided that he did not want spend his life as a roofer. He then worked as a cook and at other "odd jobs," while trying to continue his education. Currently, Mr. Wankewycz is helping his sister with home improvement projects and working with a friend who owns a landscaping company. Mr. Wankewycz is twenty-four years old. (Hearing Transcript at [Tr.] 9-10, 13; State's Exhibit [St. Ex.] 9 at 4-6)
2. Mr. Wankewycz testified that he had started studying massage therapy in 2001 at the National Institute of Massage Therapy [National Institute]. Nevertheless, Mr. Wankewycz did not finish the program that year due to his mother's death. He started again the following year, and completed the program in May 2003. Mr. Wankewycz further testified that he had taken the massage therapy licensing examination in June 2003. He added that he has been told that he passed the examination, although he has not yet received official confirmation. (Tr. at 10-12, 35, 68; St. Ex. 9 at 20)
3. During his early adulthood, Mr. Wankewycz was convicted of Driving Under the Influence [DUI] on three occasions. Moreover, Mr. Wankewycz was convicted of Drug Abuse, a misdemeanor, and Aggravated Possession of Drugs, a fifth degree felony. (St. Exs. 3 through 8)
 - On April 20, 1999, in Madison County Municipal Court in London, Ohio, Mr. Wankewycz pleaded no contest to and was found guilty of DUI. Specifically, he was found guilty of driving with a blood-alcohol concentration greater than 0.02, to wit: 0.061, while under the age of twenty-one, in violation of Section 4511.19(B)(2), Ohio Revised Code. Mr. Wankewycz was nineteen years old at that time. The court sentenced him to non-reporting probation for two years and ordered him to attend "one-day underage counseling." (St. Ex. 4)

Mr. Wankewycz testified that that conviction had resulted from an incident during which he had been speeding on Interstate 71 as he was traveling from Cleveland to Kentucky to visit family. He further testified that he had had a few beers earlier in the day. Mr. Wankewycz was under the age of twenty-one at the time, so his breath-alcohol level of .061 was sufficient to warrant a DUI charge. (Tr. at 29-33) (See also Section 4511.19(B)(3), Ohio Revised Code)

- On August 10, 1999, in the Summit County [Ohio] Court of Common Pleas, Mr. Wankewycz pleaded guilty to Aggravated Possession of Drugs, a fifth-degree felony, in violation of Section 2925.11, Ohio Revised Code. On August 13, 1999, the court sentenced him to one year of community control, a six-month suspension of his driver's license, and random urinalysis. Mr. Wankewycz was nineteen years old at that time. (St. Ex. 3)

Mr. Wankewycz testified that methamphetamine had been discovered in his pocket during a routine security search at a concert. Mr. Wankewycz pleaded guilty to the offense, and successfully completed his sentence of one year of community control. Mr. Wankewycz added that he had been represented in that case by a family friend, who had advised Mr. Wankewycz that the conviction would be expunged from his record after he completed his year of community control. (Tr. at 47-51)

- On March 9, 2001, in Parma [Ohio] Municipal Court, Mr. Wankewycz pleaded no contest to and was found guilty of DUI, in violation of Section 4511.19(A)(1), Ohio Revised Code. Judge Gilligan sentenced Mr. Wankewycz to non-reporting probation for two years, ordered him to attend "one-day underage counseling," ordered him to complete an inpatient drug and alcohol program, and ordered him to attend four Alcoholic Anonymous [AA] meetings per week for twenty-four months. (St. Ex. 5)

Mr. Wankewycz testified that this offense had occurred in January 2001, two months after his mother's death. He added that, after returning home from his job at a restaurant, he had driven to a local bar. On the way home, he hit a parked car on his street. A neighbor called the police and Mr. Wankewycz was arrested. He added that the owner of the car he hit is a friend of his and that he has made restitution for the damage. (Tr. at 34-37)

- On June 4, 2001, in Parma Municipal Court, Mr. Wankewycz pleaded no contest to and was found guilty of Drug Abuse, a misdemeanor, in violation of Section 2925.11, Ohio Revised Code; and DUI, in violation of Section 4511.19(A)(1), Ohio Revised Code. Judge Gilligan sentenced Mr. Wankewycz to six months in jail for these offenses. He served four-and-one-half months before he was released, subject to the electronic home detention program. (St. Exs. 6, 7, and 8)

Mr. Wankewycz testified that these offenses had occurred on February 14, 2001, about one month after his arrest for his previous DUI. Mr. Wankewycz further testified that he had been using Ketamine, an animal tranquilizer also known as “Special K.” He had also had a few drinks at a bar. Mr. Wankewycz stated that, after leaving the bar, he had driven into a telephone pole. A passing motorist blocked Mr. Wankewycz’s car and called the police. During his booking for DUI, a bag containing Ketamine residue had been found in Mr. Wankewycz’s coat. (Tr. at 37-44; St. Ex. 8)

Mr. Wankewycz explained that Judge Gilligan had been “pretty fed up” with him at that point, since it was the second time he had appeared before the judge in one month’s time. (Tr. 43) Mr. Wankewycz further testified that, until being questioned by the Board, he had believed that Judge Gilligan had found him guilty of a lesser offense, Driving Under Suspension, rather than DUI, but had sentenced him to the maximum term of imprisonment, six months. (Tr. 28-29)

Mr. Wankewycz testified that his imprisonment had been “an eye-opener” for him. He stated that he had missed his son’s second birthday. Moreover, his girlfriend, the mother of his son, decided that she no longer wanted to be Mr. Wankewycz’s partner. He added that he had missed his family. Mr. Wankewycz concluded that jail had been a “very unpleasant” experience. (Tr. 38)

4. In June 2002, Mr. Wankewycz was involved in an automobile accident. His physician had prescribed Vicodin and Flexeril for problems with his back. Thereafter, Mr. Wankewycz developed an anxiety disorder, which included jaw clenching and shaking. His physician prescribed Xanax, which Mr. Wankewycz continued to take for the next 1½ years. (Tr. 14-15)
5. On or about February 24, 2003, Mr. Wankewycz submitted to the Board an Application for Certificate To Practice A Limited Branch – Massage Therapy [License Application]. (St. Ex. 9) Mr. Wankewycz signed the License Application, thereby certifying under oath that all of the information he had provided was true. (St. Ex. 9 at 17)

The Additional Information section of the License Application includes the instruction that, should an applicant answer “Yes” to any question, the applicant is “required to furnish complete details, including date, place, reason and disposition of the matter.” (Emphasis in the original) (St. Ex. 9 at 8) In completing the License Application, Mr. Wankewycz answered “Yes” in response to question number 11, which asks:

Have you ever been convicted or found guilty of a violation of any law, regardless of the legal jurisdiction in which the act was committed, other than a minor traffic violation?

(St. Ex. 9 at 9)

In his written explanation, Mr. Wankewycz stated that he had been “pulled over for a D.U.I. in January 2001 in Parma. ‘Judge Gilligan.’” He also stated that he had been “stopped for driving under suspension,” that he had been sentenced to “the maximum time,” and that he had been “released January 8th, 02.” Moreover, in the “Massage Resume of Activities” section of the License Application, Mr. Wankewycz added that he had been in jail for six months, through January 2002, for “D.U.S.” (St. Ex. 9 at 5, 6)

6. After Mr. Wankewycz submitted his application, Brenda Harrison, a Board investigator, contacted him and advised him that the Board was aware of his other arrests. Mr. Wankewycz testified that Ms. Harrison had suggested that he write a letter to the Board to more thoroughly explain his criminal record. (Tr. at 55-56)

Therefore, on July 25, 2003, Mr. Wankewycz wrote to the Board, in part, as follows:

I unintentionally omitted on my application the three DUI's (* * * in 1998, my license was suspended for six months in London, Ohio, again in January of 2001, my license was suspended for three years in Parma, Ohio) which led to my fourth DUI in May of 2001 in Parma Heights. That resulted in a five-year suspension of my license and six months of incarceration with two years of probation. I was not trying to conceal the previous offenses or I would not have listed my incarceration. I can only say that I misinterpreted the application because I was focused on giving an account [of] my time after high school. I was nervous filling out such [an] important application and tried to stay focused on accuracy and details and made a huge mistake in overlooking these offenses.

(St. Ex. 10)

7. Although Mr. Wankewycz admitted his DUI convictions, he did not admit his felony conviction in his conversation with Ms. Harrison or in his letter to the Board. He explained at hearing that he had not done so because he had believed that this conviction had been expunged from his record. (Tr. at 57-59; St. Ex. 10)
8. In his July 25, 2003, letter to the Board, Mr. Wankewycz also confessed to a history of alcohol abuse. Mr. Wankewycz testified at hearing that his history of drug and alcohol abuse had started when he was fifteen, shortly after he had switched from a private to a public school. He testified that the change in schools had been a significant change in his life and, after the change, his life had gone “downhill.” (Tr. at 12; St. Ex. 10)

Mr. Wankewycz testified that he had used marijuana for a few years, cocaine for a few years, and then marijuana again. He had also used LSD a few times per year. He added that his use of chemicals had increased when camping or at concerts. (Tr. at 12-14)

9. On October 14, 2003, the Board ordered Mr. Wankewycz to submit to a three-day evaluation at Glenbeigh Hospital and Outpatient Centers [Glenbeigh] in Rock Creek, Ohio. He completed the three-day evaluation. In his Biopsychosocial Assessment, it was noted that Mr. Wankewycz had been hospitalized at the age of fifteen for chemical dependency. He had also received outpatient treatment as a result of his DUI convictions. It was further noted that,

The approximate number of AA meetings the patient has attended is 250-300. He denies having a home group. He does not currently have a sponsor. The community resources are none. Precipitation factors of relapse as identified by the patient: 'I forgot the consequences. I pretty much said screw it. I thought I could use and it would be different. I had no responsibilities; I had nothing to own up to.' The counselor's assessment of relapse dynamics are: Given his young life of 24, his use history, and his legal history, it would appear nearly all of his treatment and AA experience has been under duress; he claims he has been living sober, but his behavior record and drug use does not support that; he appears to have an unclear understanding of a good, stable sobriety.

(St. Ex. 2 at 4) Mr. Wankewycz was diagnosed as chemically dependent, and inpatient treatment was recommended. Mr. Wankewycz left Glenbeigh for forty-eight hours to obtain leave from his job at McDonald's and to secure funds for the treatment since he had had no insurance. Mr. Wankewycz returned to Glenbeigh and successfully completed the twenty-eight day program. (Tr. at 16-18)

Mr. Wankewycz was discharged from Glenbeigh on December 10, 2003. Upon discharge, he entered into an aftercare contract which requires him to attend at least four AA meetings a week, as well as an aftercare meeting at Glenbeigh once a week. He is also being randomly drug tested, about once a month. Mr. Wankewycz testified that he has complied with his aftercare contract and has remained abstinent. He submitted attendance logs that verify his attendance at AA meetings, and reports of his negative urine toxicology screens. (Tr. at 24-27; Respondent's Exhibits [Resp. Exs.] C, D, and E)

10. In a letter dated March 29, 2004, Ruthanne M. Anderson, M.A., L.P.C.C., C.C.D.C. III E, Mr. Wankewycz's outpatient counselor at Glenbeigh, advised that Mr. Wankewycz has maintained full compliance with his aftercare recovery contract. (Resp. Exs. A, C)
11. Mr. Wankewycz testified that he lives with his grandfather who is in his eighties. He added that has a good support system to help him remain abstinent. His father is a recovering alcoholic who has been sober for eighteen years. Moreover, his family members have been actively involved in helping him to maintain sobriety. Further, he has found a new group of friends through his recovery activities. (Tr. at 15, 73-74; St. Ex. 2 at 2)

Mr. Wankewycz also testified that he has a four-year-old son. Mr. Wankewycz is trying to obtain greater custodial rights of his son, and realizes that his continued abstinence is essential to that aim. Mr. Wankewycz testified that his relationship with his son motivates him to remain sober. (Tr. at 64, 69, 74; St. Ex. 2 at 2)

Mr. Wankewycz further testified that, in his youth, he had not considered marijuana to be harmful in any way. Nevertheless, Mr. Wankewycz testified that, now,

I know that it's more trouble than it's worth. Alcohol and drugs have really – you know, my use and involvement with them has really made my life very difficult. Anything that's ever happened to me or any time I've hurt anybody close to me has been a direct result of alcohol or drugs.

(Tr. 69-70)

Mr. Wankewycz testified that he has not used alcohol or illicit drugs since 2001. However, he added that he had continued to use Xanax as prescribed by his physician. Therefore, he considers his sobriety date to be November 15, 2003, the date he ceased taking Xanax. (Tr. at 27; St. Ex. 2 at 3-4)

12. Finally, Mr. Wankewycz testified that he would like to be a massage therapist, in part, because he has memories of massages he had received as a child from his grandmother and mother. He testified, "I like to work with my hands. I like knowing that I help people and I know how beneficial and good it feels when I would receive massages." He also testified that he is committed to being a massage therapist and to remaining sober. He is willing to comply with any probationary terms. In fact, Mr. Wankewycz testified that he welcomes probation as an aid to his recovery. (Tr. at 66-67, 69, 72-73, 75)

FINDINGS OF FACT

1. Kristopher N. Wankewycz, M.T., submitted an Application for Certificate To Practice a Limited Branch – Massage Therapy [License Application] to the Board on February 24, 2003. Mr. Wankewycz signed the License Application, thereby certifying under oath that all of the information provided was true.

The Additional Information section of the License Application includes the instruction that, should an applicant answer "Yes" to any question, the applicant is "required to furnish complete details, including date, place, reason and disposition of the matter." (Emphasis in the original) In the "completing the License Application, Mr. Wankewycz answered "Yes" in response to question number 11, which asks:

Have you ever been convicted or found guilty of a violation of any law, regardless of the legal jurisdiction in which the act was committed, other than a minor traffic violation?

In his written explanation, Mr. Wankewycz stated that he had been “pulled over for a D.U.I. in January of 2001 in Parma. ‘Judge Gilligan.’” He also stated that he had been given “the maximum time [and] was released January 8th, 02.” Nevertheless, Mr. Wankewycz failed to disclose or explain his complete criminal record, which includes the following:

- On April 20, 1999, in Madison County Municipal Court in London, Ohio, Mr. Wankewycz pleaded no contest to and was found guilty of Driving Under the Influence [DUI]. Specifically, he was found guilty of driving with a blood-alcohol concentration greater than 0.02, to wit: 0.061, while under the age of twenty-one, in violation of Section 4511.19(B)(2), Ohio Revised Code.
- On August 10, 1999, in the Summit County [Ohio] Court of Common Pleas, Mr. Wankewycz pleaded guilty to Aggravated Possession of Drugs [Methamphetamine], a fifth-degree felony, in violation of Section 2925.11, Ohio Revised Code. Mr. Wankewycz was convicted on August 13, 1999, and sentenced to one year of community control.
- On March 9, 2001, in Parma [Ohio] Municipal Court, Mr. Wankewycz pleaded no contest to and was found guilty of DUI, in violation of Section 4511.19(A)(1), Ohio Revised Code.
- On June 4, 2001, in Parma Municipal Court, Mr. Wankewycz pleaded no contest to and was found guilty of Drug Abuse, a misdemeanor, in violation of Section 2925.11, Ohio Revised Code, and DUI, in violation of Section 4511.19(A)(1), Ohio Revised Code.

On July 25, 2003, after being contacted by a Board investigator, Mr. Wankewycz wrote a letter to the Board in which he admitted each of his DUI convictions. Nevertheless, Mr. Wankewycz failed to disclose the felony conviction for Aggravated Possession of Drugs.

2. On October 14, 2003, the Board ordered Mr. Wankewycz to submit to a three-day evaluation at Glenbeigh Hospital and Outpatient Centers [Glenbeigh], a Board-approved treatment provider. Mr. Wankewycz complied with the request and was diagnosed with chemical dependency. He has completed the recommended twenty-eight-day inpatient treatment program successfully and is currently complying with an aftercare contract.

CONCLUSIONS OF LAW

1. The conduct of Kristopher N. Wankewycz, M.T., as set forth in Findings of Fact 1, constitutes “[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.
2. Mr. Wankewycz’s plea of guilty and the judicial finding of guilt for Aggravated Possession of Drugs, as set forth in Finding of Fact 1, constitutes, “[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.
3. The conduct of Mr. Wankewycz, as set forth in Findings of Fact 1 and 2, constitutes “[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,” as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.
4. Mr. Wankewycz’s false or fraudulent answers on his application for licensure, as set forth in Findings of Fact 1, constitutes “fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board,” as that clause is used in Section 4731.22(A), Ohio Revised Code. Section 4731.22(A), Ohio Revised Code, provides that,

The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a certificate to a person found by the board to have * * * committed fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the Board.

R.C. 4731.22(A)

In a recent decision¹ by the Franklin County Court of Common Pleas interpreting this statute, the court held that, when the Board finds a violation of this provision, the Board may only “revoke or * * * refuse to grant a certificate of registration.” Thus, the range of penalties available to the Board does not include a fine, probation, suspension, or stayed revocation. Accordingly, unless the Board decides to deny Mr. Wankewycz’s application

¹ *Faye F. Istanbuly, M.D., v. State Medical Board of Ohio* (Dec. 4, 2003), Franklin C.P. No. 03CVF-02-2334, unreported.

for licensure, the Board shall take no further action based on the violation of Section 4731.22(A), Ohio Revised Code.

* * * * *

Mr. Wankewycz's failure to accurately report his criminal history to the Board in his License Application was a grave error. However, Mr. Wankewycz's dishonesty seems to have arisen from ignorance regarding the seriousness of the process, rather than from a deceitful nature. Nevertheless, based on his dishonest answers alone, the Board is justified in either denying his application for licensure or imposing a stern sanction after granting licensure.

Mr. Wankewycz also presents with a serious history of impairment. In fact, Mr. Wankewycz first underwent inpatient treatment for chemical abuse at the age of fifteen. It is significant, however, as noted by the Glenbeigh evaluator, that, prior to his recent inpatient treatment at Glenbeigh, Mr. Wankewycz had only experienced treatment under duress and had not had a clear understanding of sobriety.

Since his discharge from Glenbeigh in December 2003, Mr. Wankewycz has been fully committed to his recovery. Moreover, Mr. Wankewycz presents himself as an earnest young man who is working to better his life. He has a supportive family, and he is motivated to remain sober by his strong desire to be a good father to his four-year-old son. In addition, Mr. Wankewycz is so committed to his dream of practicing massage therapy that he underwent an evaluation for chemical dependency at the request of the Board, he completed the recommended, and costly, inpatient treatment, and has maintained sobriety since his discharge. Under these circumstances, the Board may wish to allow Mr. Wankewycz an opportunity to practice in this State, under strict monitoring conditions.

PROPOSED ORDER

- A. **GRANT AND SUSPENSION OF CERTIFICATE:** The application of Kristopher N. Wankewycz, M.T., to practice massage therapy in Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements. Further, Mr. Wankewycz's certificate shall be SUSPENDED for an indefinite period of time, but not less than ninety days.
- B. **INTERIM MONITORING:** During the period that Mr. Wankewycz's license is suspended, he shall comply with the following terms, conditions, and limitations:
 1. **Obey the Law:** Mr. Wankewycz shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy in Ohio.

2. **Personal Appearances**: Mr. Wankewycz shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Order. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
3. **Quarterly Declarations**: Mr. Wankewycz shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
4. **Abstention from Drugs**: Mr. Wankewycz 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. Wankewycz's history of chemical dependency.
5. **Abstention from Alcohol**: Mr. Wankewycz shall abstain completely from the use of alcohol.
6. **Drug & Alcohol Screens; Supervising Physician**: Mr. Wankewycz shall submit to random urine screenings for drugs and/or alcohol on a twice monthly basis or as otherwise directed by the Board. Mr. Wankewycz shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Mr. Wankewycz shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Mr. Wankewycz shall submit the required specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Mr. Wankewycz. Mr. Wankewycz and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Mr. Wankewycz shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have

been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Mr. Wankewycz must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Mr. Wankewycz shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Mr. Wankewycz's quarterly declaration. It is Mr. Wankewycz's responsibility to ensure that reports are timely submitted.

7. **Submission of Blood or Urine Specimens upon Request:** Mr. Wankewycz shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Mr. Wankewycz's expense.
8. **Comply with the Terms of Treatment and Aftercare Contract:** Mr. Wankewycz shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflicts with terms of this Order, the terms of this Order shall control.
9. **Rehabilitation Program:** Mr. Wankewycz shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Mr. Wankewycz shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Mr. Wankewycz's quarterly declarations.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Mr. Wankewycz's license to practice massage therapy until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Mr. Wankewycz shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions:** Mr. Wankewycz shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.

3. **Demonstration of Ability to Resume Practice:** Mr. Wankewycz shall demonstrate to the satisfaction of the Board that he can practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Mr. Wankewycz has successfully completed any required inpatient treatment.
 - b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
 - c. Evidence of continuing full compliance with this Order.
 - d. Two written reports indicating that Mr. Wankewycz 's ability to practice has been evaluated for chemical dependency and/or impairment and that he has been found capable of practicing according to acceptable and prevailing standards of care. The evaluations shall have been performed by individuals or providers approved by the Board for making such evaluations. Moreover, the evaluations shall have been performed within sixty days prior to Mr. Wankewycz 's application for reinstatement or restoration. The reports of evaluation shall describe with particularity the bases for the determination that Mr. Wankewycz has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.
 4. **Additional Evidence of Fitness To Resume Practice:** In the event that Mr. Wankewycz 's certificate remains suspended for more than two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.
- D. **PROBATION:** Mr. Wankewycz's license to practice massage therapy shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Mr. Wankewycz shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.

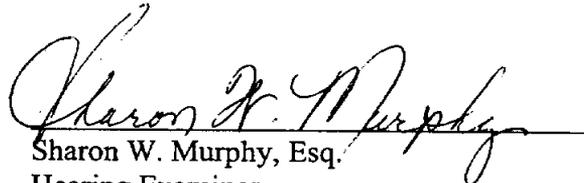
2. **Personal Ethics Course**: Before the end of the first year of probation, or as otherwise approved by the Board, Mr. Wankewycz shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee.
 3. **Tolling of Probationary Period While Out of State**: In the event that Mr. Wankewycz should leave Ohio for three consecutive months, or reside or practice outside the State, Mr. Wankewycz must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
 4. **Violation of Terms of Probation**: If Mr. Wankewycz violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his license.
- E. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Wankewycz's license to practice massage therapy will be fully restored.
- F. **RELEASES**: Mr. Wankewycz shall provide continuing authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Mr. Wankewycz's chemical dependency and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.
- Mr. Wankewycz shall also provide the Board written consent permitting any treatment provider from whom Mr. Wankewycz obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.
- G. **REQUIRED REPORTING BY LICENSEE TO THOSE WHO EMPLOY HIM TO PRACTICE MASSAGE THERAPY**: Within thirty days of the effective date of this Order, unless otherwise determined by the Board, Mr. Wankewycz shall provide a copy of this Order to all employers or entities with which he is under contract to provide massage therapy services or is receiving training. Further, Mr. Wankewycz shall provide a copy of

this Order to all employers or entities with which he contracts to provide massage therapy services, or applies for or receives training.

H. REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING

AUTHORITIES: Within thirty days of the effective date of this Order, unless otherwise determined by the Board, Mr. Wankewycz shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Mr. Wankewycz shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Mr. Wankewycz shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

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


Sharon W. Murphy, Esq.
Hearing Examiner



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF JUNE 9, 2004

REPORTS AND RECOMMENDATIONS

Dr. Davidson announced that the Board would now consider the findings and orders appearing on the Board's agenda. She asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Veena V. Sengupta, M.D.; Gary Allen Blahnik, M.T.; Jeffrey Thomas Jones, P.A.; Willie L. Josey, M.D.; Grant F. Koher, D.O.; Barbara A. Reed, M.D.; Irene Shulga, M.D.; and Kristopher N. Wankewycz, M.T. A roll call was taken:

ROLL CALL:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye
Dr. Davidson	- aye

Dr. Davidson 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. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

Dr. Davidson - aye

Dr. Davidson 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.

Dr. Davidson 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.

.....
KRISTOPHER N. WANKEWYCZ, M.T.

.....
MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF KRISTOPHER N. WANKEWYCZ, M.T. DR. KUMAR SECONDED THE MOTION.

.....
A vote was taken on Mr. Browning's motion to approve and confirm:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.



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December 10, 2003

Kristopher N. Wankewycz, M.T.
2818 Hearthstone Road
Parma, Ohio 44134

Dear Mr. Wankewycz:

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

- (1) On or about February 24, 2003, you submitted an Application for Certificate To Practice A Limited Branch– Massage Therapy [License Application] to the Board. Your License Application is currently pending. By signing the License Application, you certified that the information provided therein was true.
- (2) The “Additional Information” section of your License Application includes the instruction that, should you answer “Yes” to any question, “you are required to furnish complete details, including date, place, reason and disposition of the matter” (emphasis in the original). In the “Additional Information” section of your License Application, you answered “Yes” in response to question number 11, which asks:

Have you ever been convicted or found guilty of a violation of any law, regardless of the legal jurisdiction in which the act was committed, other than a minor traffic violation?

In your written explanation, you stated that you were “pulled over for a D.U.I. in January of 2001 in Parma.” You also stated in your application that you were “given 6 months [in jail] for D.U.S.” [Driving Under a Suspended License]. Nonetheless, you failed to disclose, in your written explanation submitted with your License Application, the following convictions and/or findings of guilt:

- (a) On or about March 9, 2001, in Parma Municipal Court, you entered a plea of no contest to and were found guilty of Driving While Under the Influence of Alcohol or Drugs [DUI], in violation of Section 4511.19(A)(1), Ohio Revised Code.
- (b) On or about June 4, 2001, in Parma Municipal Court, you entered pleas of no contest to and were found guilty of Drug Abuse, in violation of Section 2925.11, Ohio Revised Code, and DUI, in violation of Section 4511.19(A)(1), Ohio Revised Code.

Mailed 12-11-03

- (c) On or about April 20, 1999, in Madison County Municipal Court, you entered a plea of no contest to and were found guilty of DUI, being under the age of 21 and having a blood alcohol concentration greater than 0.02, to wit: 0.061, in violation of Section 4511.19(B)(2), Ohio Revised Code.
- (d) On or about August 13, 1999, in Summit County Court of Common Pleas, you entered a plea of guilty to and were convicted of Aggravated Possession of Drugs, to wit: Methamphetamine, a felony of the 5th degree, in violation of Section 2925.11, Ohio Revised Code.

Although, after being contacted by a Board investigator, you submitted to the Board a letter, dated July 25, 2003, in which you admitted to the DUI convictions set forth in paragraphs (2)(a), (b), and (c) above, you still failed to disclose your felony conviction for Aggravated Possession of Drugs.

- (3) By letter dated October 14, 2003, the Board ordered you to submit to a three-day evaluation, beginning on November 10, 2003, at Glenbeigh Hospital [Glenbeigh], a Board approved treatment provider in Rock Creek, Ohio, in order to determine whether you are in violation of Section 4731.22(B)(26), Ohio Revised Code. You submitted to this examination and received a diagnosis of chemical dependency. It was recommended that you undergo inpatient treatment and follow continuing care recommendations. Subsequently, you entered residential treatment for chemical dependence at Glenbeigh.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) and (2) 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, your plea of guilty and the judicial finding of guilt, as alleged in paragraph (2)(d) above, constitutes "[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.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (2) and (3) above, individually and/or collectively, constitute “[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,” as that clause is used in Section 4731.22(B)(26), 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 this notice.

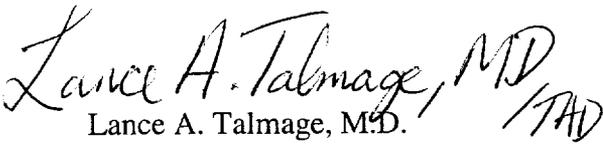
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at 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, 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, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,


Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5150 6721
RETURN RECEIPT REQUESTED