

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

November 12, 2009

Joshua Nathan Sype, M.T.
6835 Cordoury Road
Oregon, OH 43618

RE: 08-CRF-143

Dear Mr. Sype:

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 November 12, 2009.

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

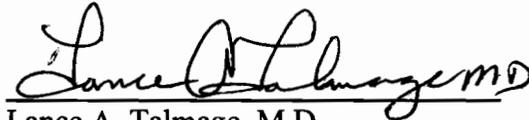
CERTIFIED MAIL RECEIPT NO. 91 7108 2133 3936 3068 1521
RETURN RECEIPT REQUESTED

Mailed 11-12-09

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 November 12, 2009, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of Joshua Nathan Sype, M.T., Case Number 08-CRF-143, 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)

November 12, 2009

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :
 : Case No. 08-CRF-143
JOSHUA NATHAN SYPE, M.T. :

FINDINGS, ORDER AND JOURNAL ENTRY

This matter came on for consideration before the State Medical Board of Ohio on November 12, 2009, pursuant to a Notice of Opportunity for Hearing issued to Joshua Nathan Sype, M.T., on December 10, 2008. 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 adopts the Proposed Findings and Proposed Order.

Accordingly, it is hereby ORDERED that:

The certificate of Joshua Nathan Sype, M.T., to practice massage therapy in the State of Ohio is REVOKED.

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



Lance A. Talmage, M.D.
Secretary

(SEAL)

November 12, 2009

Date

STATE MEDICAL BOARD
OF OHIO

2009 OCT 16 PM 3:58
BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

*

Joshua Nathan Sype, M. T.

*

Respondent.

*

Case No. 08-CRF-143

Hearing Examiner Davidson

PROPOSED FINDINGS AND PROPOSED ORDER

Basis for the Review

Notice of Opportunity for Hearing: In a notice of opportunity for hearing [Notice] dated December 10, 2008, the State Medical Board of Ohio [Board] notified Joshua Nathan Sype, M.T., that it proposed to take disciplinary action against his certificate to practice massage therapy in Ohio. (Exhibit 1A) The Board stated that its proposed action was based on allegations including the following:

- In an April 2008 letter, the Board ordered Mr. Sype to undergo a 72-hour inpatient examination to evaluate impairment pursuant to R.C. 4731.22(B)(26), due to one or more reasons outlined in the letter, set forth in the Notice as including convictions in 2006 and 2007 for operating a vehicle under the influence of alcohol or drugs [OVI], as well as convictions in 2004 and 2006 for possession of drug paraphernalia, and Mr. Sype's continued use of illegal drugs following inpatient treatment, which he reported he had completed in the spring of 2007;
- Mr. Sype attended the examination at Glenbeigh Hospital, which reported that Mr. Sype was dependent on alcohol and marijuana, and is impaired as that term is used in Ohio Administrative Code Section [Rule] 4731-16-01(A).
- Following his inpatient treatment in the spring of 2007, Mr. Sype did not enter into an aftercare contract that meets the requirements of Rule 4731-16-01(A).
- When Mr. Sype renewed his massage-therapy certificate in or about August 2007, he disclosed his convictions for OVI but failed to disclose the 2006 conviction for Drug Paraphernalia, and in written correspondence to the Board in November 2007, he again failed to disclose that conviction.

The Board alleged that Mr. Sype's ability to practice was impaired pursuant to R.C. 4731.22(B)(26). In addition, it alleged that Mr. Sype's failure to disclose his 2006 conviction constitutes "making a false, fraudulent, deceptive, or misleading statement * * * in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that language is used in R.C. 4731.22(B)(5). In addition, the Board notified Mr. Sype of his right to request a hearing and informed him that, if he wished to have a hearing, he must submit a written request within thirty days of the date the Notice was mailed. (Ex. 1A)

No Request for Hearing: The Board mailed the Notice to Mr. Sype on December 11, 2008, by certified mail, return receipt requested, to his most recent address of record. (Exs. 1, 1A, 2) The U.S. Postal Service provided documentation, including a signed receipt, that the Notice was delivered to Mr. Sype's address on December 13, 2008. (Ex. 1A) The Board's Public Services Administrator stated in a sworn affidavit signed February 24, 2009, that the Board had not received a hearing request from Mr. Sype. (Ex. 1)

Board's Request for Proposed Findings and Proposed Order. In a memorandum dated March 4, 2009, the Board's Public Services Administrator requested that a hearing examiner review the evidence as provided and prepare Proposed Findings and a Proposed Order ("PFPO"). (Ex. 5) However, the evidence provided to the Hearing Unit did not include a copy of the renewal application in which Mr. Sype allegedly omitted information regarding a criminal conviction. In addition, the evidence did not include a copy of the letter that, according to the Notice, the Board had sent to Mr. Sype in April 2008 ordering him to report for a 72-hour examination. Accordingly, the Chief Hearing Examiner contacted the Public Services Administrator to inquire whether evidence existed to support these allegations.

On September 3, 2009, the Public Services Administrator provided additional evidence for review, including three affidavits with attached documents. (Exs. 6, 7, 8, 9) The PFPO request was deemed to be submitted on that date.

Evidence Examined:

Exhibit 1: Affidavit of Barbara Jacobs, Public Services Administrator for the Board, regarding service of the December 2008 Notice on Mr. Sype, and attesting, among other things, that the Board had not received a hearing request from Mr. Sype as of February 24, 2009. Ms. Jacobs also authenticated documents maintained by the Board:

Exhibit 1A: Notice of opportunity for hearing dated December 10, 2008; documentation from the U.S. Postal Service regarding delivery of the Notice by certified mail; and copy of the signed receipt for certified mail delivered to Mr. Sype's address of record.

Exhibit 2: Affidavit of Debra Jones, Continuing Medical Education and Renewal Officer of the Board, stating Mr. Sype's last known address of record.

Exhibit 3: Affidavit of Chad Yoakam, Enforcement Investigator for the Board, concerning statements that Mr. Sype made to him during an interview in October 2007, including Mr. Sype's statements regarding his current use of marijuana.

Exhibit 4: Affidavit of Mark Blackmer, Enforcement Attorney for the Board, attesting to several matters, including statements that Mr. Sype made to him during an interview in November 2007, and authenticating copies of conviction records:

Exhibit 4A: Journal Entry of the Municipal Court of Oregon, Ohio (Lucas County), in *State v. Joshua N. Sype*, Case No. 04-CRB-01047 (Sept. 2004), stating conviction for offenses including Drug Paraphernalia.

Exhibit 4B: Journal Entries of the Oregon Municipal Court in *State v. Joshua N. Sype*, Case No. 06-TRC-00597A, including an entry filed May 9, 2006, stating conviction for the offense of OVI in violation of Ohio Revised Code 333.01(A)(1)(a).

Exhibit 4C: Journal Entries of the Oregon Municipal Court in *State v. Joshua N. Sype*, Case No. 06-CRB-00136 (March 2006), stating conviction for the offense of Drug Paraphernalia.

Exhibit 4D: Journal Entries of the Oregon Municipal Court in *State of Ohio/City of Oregon v. Joshua N. Sype*, Case No. 07TRC00661, stating conviction for OVI, second offense, in March 2007.

Exhibits 4E, 4F, and 4G: Correspondence between Christopher L. Adelman, M.D., of Glenbeigh Hospital, and the Board:

- A letter dated August 21, 2008, from Dr. Adelman to Mr. Blackmer, including the following information and opinions:

Mr. Sype had been evaluated over a 72-hour period at the Board's request and had stated that he had previously completed a 28-day inpatient treatment program at Compass in Toledo, Ohio, in May 2008 [*sic*, the correct year was 2007, not 2008] "and has been clean and sober since then."¹ Dr. Adelman also stated that Mr. Sype had reported that he was "attending a men's substance abuse discussion group weekly, through the probation department until last week."

Dr. Adelman found Mr. Sype to be dependent on alcohol and marijuana.

According to "Mr. Sype and collateral contacts" with his mother, girlfriend, and roommate, the chemical dependence "has been in total remission since March 2007."

Dr. Adelman recommended continuation of the random drug screens in which Mr. Sype was already participating through the probation office, three mandatory AA meetings per week, selection of a sponsor and home group, and involvement with a sober social-support group. (Ex. 4E)

- A letter dated August 25, 2008, from Mr. Blackmer to Dr. Adelman including information that Mr. Sype's 28 days of inpatient treatment at Compass had actually taken place in 2007, and asking for clarification with regard to whether the recommended items were recommended for Mr. Sype's personal benefit/good, or whether Mr. Sype must follow the recommendations in order to practice massage therapy in accordance with acceptable and prevailing standards of care. Mr. Blackmer explained among other things that, under Rule 4731-16-01(A), Mr. Sype would be deemed "impaired" if he must comply with the

¹ According to the Board's website, the Compass facility in Toledo is no longer a Board-approved treatment provider. (See State Medical Board of Ohio, <<http://med.ohio.gov/>>, under Treatment and Compliance, List of Approved Treatment Providers at <http://med.ohio.gov/pdf/treatment_compliance/TREATMNT.pdf>, accessed 13 Oct. 2009)

recommendations in order to practice massage therapy in accordance with standards. (Ex. 4F)

- Email correspondence from Dr. Adelman dated September 13, 2008, in which Dr. Adelman stated that he had reviewed Mr. Sype's evaluation and had discussed his case with the treatment/evaluation team. Dr. Adelman further stated that, in his opinion and according to the Board's rule, Mr. Sype is "impaired" and "will require monitoring and supervision." (Ex. 4G)
- Email correspondence from Mr. Blackmer dated October 8, 2008, requesting further clarification. Specifically, Dr. Adelman was asked whether it was his expert opinion that, if Mr. Sype complies with all the monitoring and recommendations set forth in Dr. Adelman's August 2008 report, would Mr. Sype then be capable of practicing massage therapy in accordance with acceptable and prevailing standards of care. (Ex. 4G)
- Email correspondence dated October 8, 2008, from Dr. Adelman responding to Mr. Blackmer's question in the affirmative. (Ex. 4G)

Exhibit 5: Memorandum from the Public Services Administrator in March 2009, asking the Hearing Unit to provide a PFPO report and providing the documents listed above as Exhibits 1 through 4.

Exhibit 6: September 2009 affidavit of Kay L. Rieve, the Board's Administrative Officer, authenticating a copy of the on-line renewal application that licensees see when renewing their certificates by computer on-line, and a copy of the answers submitted by Mr. Sype when renewing his certificate on or about July 30, 2007. The renewal application shows that Mr. Sype answered "yes" when asked whether, since his last renewal application, he had been found guilty of, or pled guilty or no contest to, or received treatment or intervention in lieu of conviction of, a misdemeanor or felony.

Exhibit 7: September 2009 affidavit of Ms. Jacobs, including the following information:

- After Mr. Sype responded in the affirmative to the question on the renewal application regarding any misdemeanor or felony since the last renewal, Ms. Jacobs sent him a letter in September 2007, asking him to forward to the Board specific information regarding the proceedings against him. An authenticated copy of the letter is attached, showing that Ms. Jacobs asked Mr. Sype to provide "specific information concerning the proceedings against [him], including, but not limited to" the name and address of the court, the case number, the specific offense, the date of arrest, and other information. (Ex. 7A)
- In September 2007, Mr. Sype submitted documents in response to Ms. Jacobs' letter. Ms. Jacobs attached copies of these documents, which have been labeled Exhibit 7B. The documents submitted by Mr. Sype in September 2007 consist of:

Court documents regarding Case No. 07-TRC-00661 in Oregon Municipal Court (second OVI offense);

Court documents regarding Case No. 06-TRC-00597 in Oregon Municipal Court (first OVI offense); and

A certificate from Compass Corporation for Recovery Services dated September 17, 2007, stating that Mr. Sype “has successfully completed Compass CAD, Int. Outpatient, and Outpatient Aftercare Programs” and was “successfully discharged.” (Ex. 7B)

Exhibit 8: September 2009 affidavit from Mr. Blackmer regarding, among other things, Mr. Sype’s responses to the Board’s interrogatories. The affiant stated that a copy of the interrogatories was not provided due to confidentiality of certain information. Instead, a heavily redacted copy was provided, in which all but two of the questions and answers are redacted.

Exhibits 8A, 8B, & 8C: Letter dated April 28, 2009, from the Board to Mr. Sype ordering him to submit to a 72-hour inpatient examination at Glenbeigh Hospital (with documentation of receipt of certified mail), and two letters approving Mr. Sype’s requests to reschedule the examination.

Exhibit 8D: Mr. Sype’s responses to the Board’s interrogatories, redacted in part. In response to question 16, which asked whether he had ever used marijuana or other listed drugs, he responded:

Yes, marijuana only, this was never my drug of choice (which is alcohol). When I did I only used marijuana once in a wile [*sic*], [subsequent words blocked out].

Exhibit 9: September 2009 memorandum from the Public Services Administrator, forwarding the documents listed above as Exhibits 6 through 8.

Proposed Findings

1. By letter dated April 28, 2008, the Board notified Joshua Nathan Sype, M.T., of its determination that it had reason to believe he was in violation of R.C. 4731.22(B)(26). The Board ordered him to undergo a 72-hour inpatient examination for impairment beginning June 2, 2008, at Glenbeigh Hospital [Glenbeigh], in Rock Creek, Ohio. The Board stated that its determination was based, in part, on Mr. Sype’s convictions in 2006 and 2007 for Operating a Motor Vehicle Under the Influence of Alcohol or Drugs [OVI] as well as his convictions in 2004 and 2006 for Drug Paraphernalia.

This proposed finding is supported by the following evidence: Ex. 8A.

2. In addition, in its April 2008 letter, the Board stated that its determination was also based, in part, on Mr. Sype’s statements to a Board investigator: Mr. Sype had informed a Board investigator in October 2007 that he had completed 28 days of inpatient treatment at a Board-approved treatment provider in the spring of 2007; when the investigator asked

Mr. Sype how much marijuana he currently smoked, Mr. Sype initially indicated that he would like to “plead the Fifth”; and Mr. Sype subsequently told the Board investigator that he was smoking “a bowl” of marijuana every day when he returned from work.

This proposed finding is supported by the following evidence: Ex. 8A.

- 3 Further, in its April 2008 letter, the Board stated that its determination was also based, in part, on the following: when questioned by a Board attorney on or about November 5, 2007, Mr. Sype denied informing the investigator that he was using marijuana; Mr. Sype subsequently submitted written information to the Board in which he indicated that marijuana was not his drug of choice and that he had used marijuana only once in a while before receiving treatment, but, in fact, Mr. Sype had been diagnosed with cannabis abuse as well as alcohol abuse.

This proposed finding is supported by the following evidence: Ex. 8A

4. Pursuant to Mr. Sype’s requests, his 72-hour examination was rescheduled to begin on August 18, 2008. Mr. Sype attended the examination.

This proposed finding is supported by the following evidence: Exs. 4, 8

5. Christopher Adelman, M.D., of Glenbeigh communicated the results of the examination to the Board in correspondence dated August 21, 2008, September 13, 2008, and October 8, 2008. Dr. Adelman found that Mr. Sype is dependent on alcohol and marijuana. Dr. Adelman further reported that, according to the history Mr. Sype provided to the evaluation team at Glenbeigh, Mr. Sype had been clean and sober since March 8, 2007, and his chemical dependency is in remission. However, Dr. Adelman concluded that Mr. Sype is impaired, as that term is defined by Rule 4731-16-01(A), because he is unable to practice massage therapy according to acceptable and prevailing standards of care without appropriate monitoring and supervision.

This proposed finding is supported by the following evidence: Exs. 4E, 4F, and 4G.

6. According to a certificate dated September 17, 2007, from Compass Corporation for Recovery Services, Mr. Sype successfully completed an outpatient aftercare program following his inpatient treatment. However, the certificate does not provide information to establish whether or not the Compass aftercare program included an aftercare contract that met the requirements of Rule 4731-16-01. *See* Exs. 7, 7B.

Mr. Blackmer, an Enforcement Attorney for the Board, stated in a March 2009 affidavit that the Board “has received no further documentation that Mr. Sype has entered into an aftercare contract as is required by Rule 4731-16-10.” However, it is not explicitly stated in the affidavit whether the affiant was familiar with the September 2007 certificate from Compass regarding successful completion of an aftercare program and whether a determination had been made regarding any agreement entered as part of that program. *See* Exs. 4, 8. If a hearing had been held, this matter could have been explored and clarified. Due to the

ambiguity of the evidence, the Hearing Examiner proposes that no finding be made at this time with regard to an aftercare contract.

This recommendation is based on the following evidence: Exs. 4, 7, 7B, 8.

7. When renewing his certificate to practice massage therapy in or about August 2007, Mr. Sype answered “yes” to question 1, which asked: “At any time since signing your last application for renewal of your certificate, have you been found guilty of, or pled guilty or no contest to, or received treatment in lieu of conviction of, a misdemeanor or felony?” Thereafter, the Board asked Mr. Sype to provide information regarding his affirmative response to this question. On September 27, 2007, the Board received Mr. Sype’s response indicating that he had two convictions for OVI. He did not disclose that he had been convicted of Drug Paraphernalia in 2006; the documents he provided did not include information that he had been convicted of Drug Paraphernalia in 2006.

This proposed finding is supported by the following evidence: Exs. 6A, 6B, 7A, 7B.

8. Proposed Findings 1 through 5, as set forth above, support the conclusion that Mr. Sype’s acts, conduct, and/or omissions, individually or collectively, demonstrate “[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).
9. Proposed Finding 7, as set forth above, supports the conclusion that Mr. Sype’s acts, conduct, and/or omissions, individually or collectively, constitute “[m]aking a false, fraudulent, deceptive, or misleading statement * * * in securing or attempting to secure any certificate to practice or certificate of registration issued by this board” as that language is used in R.C. 4731.22(B)(5).

Comments on the Proposed Order:

Two options provide the likeliest approaches for a Board order in this matter. First, the Board could impose standard terms and conditions for an impaired practitioner, although there would be no need for an additional 28 days of inpatient treatment according to Dr. Adelman. Thus, the Board could impose requirements for a brief suspension (during which Mr. Sype could comply with the aftercare requirements or provide satisfactory proof that he has already complied), and requirements for reinstatement of the certificate and five years of probation. During suspension and probation, Mr. Sype would be required, among other things, to abstain completely from the use of alcohol and drugs, submit to random urine screens, attend recovery meetings such as Alcoholic Anonymous, make quarterly reports to the Board, and participate in quarterly interviews with the Board.

The problem with this type of order is that the lack of a request for hearing means that the Board does not have information from Mr. Sype that he is willing to participate in Board-supervised monitoring during a suspension and probation, which involves a significant commitment of time and money. In a hearing, Mr. Sype could have explained that he wants to keep his license and is

able and ready to comply with Board monitoring and supervision. When a licensee is not interested in maintaining licensure under the Board's terms and conditions for suspension, reinstatement, and probation, then the imposition of such requirements may create a situation in which the licensee is set up for violation of the order.

A second option is to revoke the certificate on a non-permanent basis, so that Mr. Sype can reapply for a massage-therapy certificate when he is ready and able to participate in Board-ordered monitoring and supervision.

An additional possibility might be to place Mr. Sype on an indefinite suspension, unsupervised and unmonitored, until such time as he applies for reinstatement, at which point he must meet specific requirements for reinstatement and submit to probationary requirements for a period of five years. Such an order for an impaired practitioner would be extraordinary, as the point of a suspension is the documented performance of terms and conditions related to rehabilitation, prior to reinstatement.

The absence of a full evidentiary hearing means that the Board has no statement from Mr. Sype as to whether he is willing to maintain complete abstinence from alcohol and drugs and to participate in activities such as random urine screens, multiple weekly meetings such as Alcoholics Anonymous, quarterly interviews with the Board, and other requirements. The lack of a request for hearing suggests that Mr. Sype was not interested in participating in Board procedures and taking the opportunity to present his views and arguments. Therefore, a non-permanent revocation is proposed, which would allow Mr. Sype to reapply for licensure in the future.

Proposed Order

It is hereby ORDERED, that:

The certificate of Joshua Nathan Sype, M.T., to practice massage therapy in the State of Ohio is hereby REVOKED.

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



Patricia A. Davidson
Hearing Examiner

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
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December 10, 2008

Case number: 08-CRF- 143

Joshua Nathan Sype, M.T.
6835 Corduroy Rd.
Oregon, OH 43618

Dear Mr. Sype:

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) By letter dated April 28, 2008, the Board notified you of its determination that it had reason to believe that you are in violation of Section 4731.22(B)(26), Ohio Revised Code, and ordered you to undergo a seventy-two hour inpatient examination beginning on June 2, 2008, to determine if you are in violation of Section 4731.22(B)(26), Ohio Revised Code. The Board's determination was based upon one or more reasons outlined in such letter, including:
 - (a) You had convictions in 2006 and 2007 for Operating a Vehicle Under the Influence of Alcohol or Drugs [OVI], as well as convictions in 2004 and 2006 for Drug Paraphernalia.
 - (b) Although you had informed a Board investigator during an interview in or around October 2007 that you had completed twenty-eight days of inpatient treatment at a Board-approved treatment provider in the spring of 2007, when the investigator asked you how much marijuana you currently smoke, you indicated that you would like to "plead the Fifth." You further indicated that you were smoking a bowl of marijuana every day when you returned from work.
 - (c) When you were questioned by a Board attorney on or about November 5, 2007, you denied informing the investigator that you were using marijuana. While you subsequently submitted written information to the Board wherein you indicated that marijuana was not your drug of choice and that you had only used marijuana once in while before receiving treatment, in fact, you had been diagnosed with cannabis abuse as well as alcohol abuse.

Mailed 12-11-08

- (2) Pursuant to your requests, your Board-ordered seventy-two hour examination was rescheduled to begin on August 18, 2008. By letter dated August 21, 2008, and electronic correspondences dated September 13, 2008, and October 8, 2008, from Christopher Adelman, M.D., of Glenbeigh Hospital [Glenbeigh], a Board-approved treatment provider in Rock Creek, Ohio, the Board was notified that following the Board-ordered evaluation, you were found to be dependent on alcohol and marijuana. Dr. Adelman further reported to the Board that according to the history you provided to the evaluation team at Glenbeigh, you had been clean and sober since on or about March 8, 2007, and your chemical dependency was in remission; however, you were impaired, as that term is defined by Rule 4731-16-01(A), Ohio Administrative Code, because you were unable to practice massage therapy according to acceptable and prevailing standards of care without appropriate monitoring and supervision.
- (3) You did not enter into an aftercare contract that meets the requirements of Rule 4731-16-10, Ohio Administrative Code, following your aforementioned treatment in the spring of 2007.
- (4) When renewing your certificate to practice massage therapy in or about August 2007, you responded affirmatively to question 1, which asked: "At any time since signing your last application for renewal of your certificate, have you been found guilty of, or pled guilty or no contest to, or received treatment in lieu of conviction of, a misdemeanor or felony?" On or about September 27, 2007, the Board received from you documentation indicating that you had two recent convictions for OVI, however, you failed to disclose that you had also been convicted of Drug Paraphernalia in or around 2006. In the written information that you submitted to the Board in November 2007, you again failed to disclose that you had been convicted of Drug Paraphernalia in 2006.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) through (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.

Your acts, conduct, and/or omissions as alleged in paragraph (4) 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.

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.

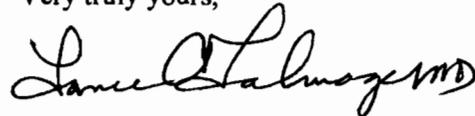
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at 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,



Lance A. Talmage, M.D.
Secretary

LAT/MRB/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3683 8440
RETURN RECEIPT REQUESTED