

# State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.  
Executive Director

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April 14, 2010

Daniel M. Moshos, D.O.  
Register No. A607-640  
Chillicothe Correctional Institution  
P. O. Box 5500  
Chillicothe, OH 45601

RE: Case No. 09-CRF-071

Dear Doctor Moshos:

Please find enclosed certified copies of the Entry of Order; the CORRECTED Report and Recommendation of Patricia A. Davidson, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 14, 2010, including motions approving and confirming the CORRECTED 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 an original Notice of Appeal with the State Medical Board of Ohio and a copy of the Notice of Appeal 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, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

  
Lance A. Talmage, M.D. *RW*  
Secretary

LAT:jam  
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3936 3068 9268  
RETURN RECEIPT REQUESTED

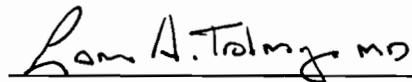
Cc: James P. Tyack, Esq.  
CERTIFIED MAIL NO. 91 7108 2133 3936 3068 9275  
RETURN RECEIPT REQUESTED

*Mailed 4-15-10*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; CORRECTED Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 14, 2010, 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 Daniel M. Moshos, D.O., Case No. 09-CRF-071, 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. RW  
Secretary

(SEAL)

April 14, 2010

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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CASE NO. 09-CRF-071

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DANIEL M. MOSHOS, D.O.

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on April 14, 2010.

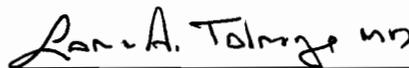
Upon the Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which CORRECTED Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by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

It is hereby ORDERED that:

The certificate of Daniel M. Moshos, D.O., to practice osteopathic medicine and surgery in Ohio, is PERMANENTLY REVOKED.

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

(SEAL)



Lance A. Talmage, M.D. *rw*  
Secretary

April 14, 2010

Date

2010 MAR 15 PM 12: 38

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

**In the Matter of**

\*

**Case No. 09-CRF-071**

**Daniel M. Moshos, D.O.,**

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**Hearing Examiner Davidson**

**Respondent.**

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**CORRECTED  
REPORT AND RECOMMENDATION<sup>1</sup>**

Basis for Hearing

In a notice of automatic suspension and notice of opportunity for hearing dated June 10, 2009, the State Medical Board of Ohio notified Daniel M. Moshos, D.O., that his certificate to practice osteopathic medicine and surgery in Ohio had been suspended automatically pursuant to Ohio Revised Code Section [R.C.] 4731.22(I), based on his having been found guilty of two felony counts of Gross Sexual Imposition in violation of R.C. 2907.05(A)(1). In addition, the Board notified Dr. Moshos that it intended to determine whether to impose discipline based on judicial findings of guilt with respect to the two felony counts of gross sexual imposition as well as one felony count of attempted rape and one misdemeanor count of public indecency. Last, the Board alleged violations of R.C. 4731.22(B)(9), 4731.22(B)(11), and 4731.22(B)(13). (St. Ex. 1)

On July 9, 2009, the Board received Dr. Moshos' request for a hearing. (St. Ex. 1)

Appearances

Richard Cordray, Attorney General, and Melinda Osgood, Assistant Attorney General, for the State.  
James P. Tyack, Esq., for the Respondent.

Hearing Date: March 9, 2010

**SUMMARY OF THE EVIDENCE**

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

**Background**

1. Daniel M. Moshos, D.O., was born in Dayton, Ohio, in 1956 and graduated from the Ohio University College of Osteopathic Medicine in 1990. He was licensed to practice in Ohio in 1991, under certificate number 34.005373. Dr. Moshos has described himself as specializing in

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<sup>1</sup>This Corrected Report and Recommendation replaces the Report and Recommendation filed March 12, 2010. The only changes were to correct several references to "Patient 1" that should have referred to "Patient 2."

family medicine and occupational medicine. (Ohio eLicense Center at <<https://license.ohio.gov/lookup/default.asp?division=78>>, March 9, 2010).

2. During a period including September 2005 through August 2007, Dr. Moshos practiced medicine at a location called Corporate Health Services in Wilmington, Ohio. While there, he treated Patient 1 and Patient 2, whose names are set forth in a confidential Patient Key. (St. Ex. 6 at 202, 206, 212, 221, 539, 552-553; St. Ex. 8)

### **Indictment and Jury Trial**

3. In February 2008, the grand jury of Clinton County, Ohio, charged Daniel M. Moshos with the commission of four crimes: one count of Public Indecency in violation of R.C. 2907.09(A)(1), a misdemeanor of the fourth degree; two counts of Gross Sexual Imposition in violation of R.C. 2907.05(A)(1), felonies of the fourth degree; and one count of Attempted Rape in violation of R.C. 2907.02(A)(2) and 2924.02, a felony of the second degree. (St. Ex. 4)
4. A four-day jury trial was held on May 12 to May 15, 2009, in the Court of Common Pleas of Clinton County, Ohio, in *State v. Moshos*, Case No. CRI 2008-5051. (St. Exs. 5, 6)

### *Testimony of Patient 1 During the Jury Trial*

5. Patient 1's trial testimony begins at page 202 of the trial transcript. (St. Ex. 6) Among other things, she testified:
  - Patient 1 suffered an injury to her small left toe at work. A local emergency room referred her to the workers' compensation practice at Corporate Health, where she was seen by Dr. Moshos in June 2007.
  - During the examination, Dr. Moshos placed Patient 1's leg across his lap, stated that he was single, and talked about his former marriage. Dr. Moshos also gave her a card with his home and mobile telephone numbers on it and told her to hide it in her purse.
  - Patient 1 subsequently received a message that a telephone call had been made to her cell phone, that she must come to Corporate Health regarding her foot injury. She went within a few days, on June 14, 2007. In the examining room, Patient 1 sat on a chair, and Dr. Moshos again placed her leg on his lap. She was wearing shorts, and Dr. Moshos squeezed her leg. He said, "You are really something else" and rubbed her leg. Patient 1 took her leg off Dr. Moshos' lap. She leaned over to put her sandal back on, and Dr. Moshos walked toward the closed door with his back to her. When she sat up again, Dr. Moshos was turned around facing her, "and his penis was hanging out." He walked toward her and approached close to her face, "too close." Dr. Moshos had his hand on his penis.
  - Patient 1 further testified:

He asked me for -- he said do you do blow jobs And I said what did you say. And he said did you do blow jobs. And I started getting up and heading out. I thought I was going to go into a freaking panic attack. It

scared the crap out of me. And I went to stand up, and he was trying to calm me down at the same time, And he got to the door before I did, too.

- Patient 1 had the impression that the door was locked and that Dr. Moshos had moved quickly to the door to open it. She was “hyperventilating” and “couldn’t believe it.” She did not tell any of the staff members; she was “scared” and “just wanted to get out of there.”
- Patient 1 returned for another appointment about two weeks later and confronted Dr. Moshos. She told him that he owed her an apology for what he had done and that she had not been able to eat or sleep. She told him that, if he looked at her chart, he would see that she was taking anti-depressant medication. Dr. Moshos “just laughed.” Dr. Moshos told Patient 1 that he knew what she wanted, “what the others want,” and that she was not “going to get a dime” from him. Patient 1 responded that she was not asking for money but that he was going to apologize for what he did, but Dr. Moshos simply “laughed it off.” Dr. Moshos changed the subject, told her that it “looks like cancer on that toe,” and dictated some notes. Dr. Moshos brought in a nurse practitioner to look at the toe, gave Patient 1 the name of a cancer specialist, and “totally ignore[ed] the issue.”
- Patient 1 was initially reluctant to tell anyone what had happened because it was “so unreal” and she was worried that no one would believe her. However, she felt concern that this could have happened to her daughters or granddaughter, and so she went to the police in Wilmington and filed a report in July 2007.

(St. Ex. 6 at 206-211, 215-240, 242-263)

6. A detective provided a recording device to Patient 1 to record her next appointment. During the trial, portions of the audiotape were played. After Patient 1 commented on seeing Dr. Moshos’ penis and its size, Dr. Moshos was heard to say: “Maybe sometime I will give you a snack. What do you think?” (St. Ex. 6 at 262-281, 315, 320)

#### *Testimony of Patient 2 During the Jury Trial*

7. A portion of Patient 2’s testimony is set forth at pages 419 to 433 of the trial transcript, and the remainder of her testimony resumes at page 539.<sup>2</sup> (St. Ex. 6) Among other things, Patient 2 testified:
  - On September 14, 2005, Patient 2 went to Corporate Health Services, where she was seen by Dr. Moshos for a neck injury at work. On September 16, 2005, Patient 2 returned, very concerned about hand numbness and radiating pain. X-rays were taken.
  - Patient 2 was very anxious to learn the x-ray results at her next visit, due to increasing pain and continued numbness. On September 20, 2005, Patient 2 returned as scheduled, but Dr. Moshos did not review the radiology report with her. He said it was not in her file, but he would give her the results “next time for sure.” Patient 2 was disappointed. Not

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<sup>2</sup> No witnesses testified at the Board hearing, and the matter was submitted on the documentary evidence.

knowing the exact nature of her injury, she was afraid that her physical work was aggravating the injury.

- Patient 2 was very eager to receive the x-ray report on her next visit on September 23, 2005. After arriving, she waited two to three hours, and then Dr. Moshos rushed in and said he had to cancel her appointment because another group of doctors had to use the offices. (Apparently, an urgent-care practice used the same offices as Corporate Health during certain evening hours.) Patient 2 was upset at having waited so long only to be told her appointment was cancelled. Patient 2 urged Dr. Moshos to give her the test results before he left, but he said he could not. She assured him it would not take long to tell her. Dr. Moshos responded that, if she wanted her results that day, she could meet with him at Frisch's restaurant. It was about five o'clock. Patient 2 got her paperwork, scheduled an appointment, and went to her car. Dr. Moshos came out a side door, and they both drove to Frisch's.
- At Frisch's, Dr. Moshos did not get out of his car. Patient 2 waited for a while, and then walked to Dr. Moshos' car. Dr. Moshos said that she wouldn't believe this, but he had to go see a realtor. She asked him to give her the x-ray results first, but Dr. Moshos said that she could just ride with him and he could tell her on the way, and it would "just take a few minutes." Patient 2 got into Dr. Moshos' car.
- Dr. Moshos drove into the countryside. He told Patient 2 about her x-rays and symptoms. They arrived at a house in the countryside, and Dr. Moshos got out. Dr. Moshos walked around the property for ten to fifteen minutes while Patient 2 waited near the car. When Dr. Moshos came back to the car, he suggested that the realtor had left because Dr. Moshos was late. They got into the car, and Dr. Moshos began driving back to town.
- However, Dr. Moshos pulled over on the side of the road in an isolated area, and told Patient 2 to get out, which she did. She thought perhaps something was wrong with the car. He came around the car towards Patient 2 and then pulled on the back of her hair and pushed her against the car, pinning her with his body weight. He was fondling himself, masturbating. She briefly saw that he was rubbing his penis up against her clothes, before she quickly looked away. She realized later that he had ejaculated on her clothes. She said it all happened very quickly, and she was in shock and did not even scream or try to run away. Afterwards, they got back into the car, and he drove her back to her car. He started talking on the phone and said nothing to her during the rest of the drive.
- Patient 2 said she felt sick and was shocked. She did not tell anyone because she felt stupid and ashamed that she had allowed herself to be in that situation. She felt that if she said something to Corporate Health, she would not be able to get further medical care there, even from another doctor.
- Dr. Moshos' telephone records showed that he called Patient 2 that evening. He asked her if she was okay, and she answered that she was not. She said she would not be coming back to Corporate Health and he could cancel her appointment. She asked for a release,

which was necessary for her employer. Dr. Moshos said he expected to see her, but Patient 2 did not attend the appointment scheduled for September 30.

- Telephone records show that Dr. Moshos called Patient 2 several times in October 2005. Patient 2 stated that she answered only once, and asked Dr. Moshos to release her as a patient and release her records. He told her that she must come back for a final examination, in order to be released and get her paperwork.
- Patient 2's employer told her that she had to have the paperwork from her doctor. She had tried to make an appointment with another doctor, but when that office learned that it was a workers' compensation matter, they told her that workers' compensation matters must go through Corporate Health. When she talked with Corporate Health about seeing a different doctor, they told her that Dr. Moshos was the only doctor she could see, so she went back to see Dr. Moshos to obtain a release.
- On October 14, 2005, Patient 2 was seen by Dr. Moshos. He said he was happy to see her, but she replied that she could not say the same. When she asked to be released, "he said if he released me, he wouldn't be able to see me anymore." She demanded the release and walked out. When the paperwork came, Dr. Moshos had not released Patient 2.
- On November 3, 2005, Patient 2 again asked Dr. Moshos to provide the release. During the examination, 2 was seated in a chair with her head tucked down, and Dr. Moshos rolled his stool up against her, putting his hands over the back of her shoulders and feeling her neck and head. His groin was pushed against her legs. She had a wall behind her and to her right, and the table at her left. Dr. Moshos was "getting tighter against her," and she pushed him away. She told him to send her to someone else or release her, and walked out. Dr. Moshos came out of the examining room and told the nurse to start Patient 2 on physical therapy.
- At one point on October 14 or November 3, when Patient 2 was voicing a request to be discharged from his care, Dr. Moshos commented, "Well, I guess going out to dinner is totally out of the question." Patient 2 replied, "You're right." Dr. Moshos told her that he did not usually take time to eat due to the demands of his job, and she said, "I'm not going to go out with you."

(St. Ex. 6 at 545, 548, 552-553, 556-595)

8. Patient 2 was examined by Dr. Moshos again in December 2005, and on five occasions between January 4 and March 9, 2006, inclusive. Patient 2 testified that, each time, she would tell him to send her to someone else, and he would not respond. She was upset at what was happening but tried to bury herself in her work and not think about it. (St. Ex. 6 at 595 598, 607)
9. Patient 2 testified further:
  - She felt that Dr. Moshos had her life in his hands because he controlled whether she could report to work. After Patient 2 agreed to take medications, she would go to the appointments

simply to get prescriptions. She started carrying a pocketbook in order to place it across her lap, or she would put her coat across her lap as a barrier to keep him away.

- At one point, Patient 2 warned Dr. Moshos that he could “get in trouble for this.” She suggested he should be worried about losing his license to practice.

And he said that that was the thrill of it, that’s why he got excited. That was the thrill of it because he could get excited like he was getting away with something.

- Further, Patient 2 testified that Dr. Moshos told her that he could not “think like a doctor” when he was with her. He told her that, if he had acted like a doctor, he would have examined her thoroughly and sent her for diagnostic testing from the first visit. He said she should have had an MRI. When Patient 2 asked whether she still needed it or whether it was too late, Dr. Moshos took steps to schedule an MRI.

(St. Ex. 6 at 595-607)

10. At the visit on March 9, 2006, Dr. Moshos started rolling towards Patient 2 on his stool, but she stood up because she did not want to be closed in again. Dr. Moshos then stood behind her to examine her back and neck. She closed her eyes and “just cringed.” As Dr. Moshos stood behind Patient 2, he reached around her with both arms and grabbed her breasts, held her breasts, and asked her if she ever performed a blow job. She broke free from him. (St. Ex. 6 at 605-610) She testified:

A. He was behind me. His body wasn’t touching my back, but his arms w[ere]. And I turned around and I said, “What?” And he said, “Oral sex.” He said, “Do you like it?”

And I said, “I can’t believe you. I want out of her. Get me released.” And I just walked out. I went and waited at the nurse’s station then just to get my paperwork. I didn’t make another appointment. I told them, I said I can’t. I told them I didn’t know my schedule. \* \* \* And after that, I didn’t go back.

Q. You did not go back for the rest of the year?

A. \* \* \* I didn’t go back the rest of the year.

(St. Ex. 6 at 606-610)<sup>3</sup> Patient 2 testified that she did not return because she “couldn’t deal with the situation anymore.” (St. Ex. 6 at 612-613)

11. However, on January 3, 2007, Patient 2 went back to Dr. Moshos because she “couldn’t stand the pain anymore” and needed a prescription refill. Also, her employer had been pressuring her

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<sup>3</sup>In the quoted testimony, the Hearing Examiner has added punctuation marks to the trial transcript to make it more readable. The original text is on page 607 of State’s Exhibit 6.

about getting the release. During the appointment, the nurse kept closing the door and Patient 2 kept opening it. She stated that she felt trapped in the room. Her prescriptions for Soma, Clinoril, and Percocet were refilled. (St. Ex. 6 at 613-617) Patient 2 returned twice in January 2007, and it appears that these visits were short and uneventful except that Patient 2 testified that she still needed her release and felt trapped. (St. Ex. 6 at 617-623)

12. On February 7, 2007, Patient 2 again visited Dr. Moshos. She was lying on her stomach on the examination table, and Dr. Moshos was pushing on her neck and her back. Her eyes were closed. (St. Ex. 6 at 624-628) Patient 2 testified further regarding the events that day:

A. He put his hand behind my head again, and he grabbed my hair. He lifted underneath my hair and he clenched it. And I opened my eyes and tried to pull back. And I saw his hand on his genitals. And I pulled away and I turned my head and I tried to get up. I tried to sit up. And he let go of my hair and he walked around to the end of the table as I was getting up.

Q. \* \* \* When he had a hold of your hair, where was his penis in relationship to your face?

A. Pretty much directly in front of me. He knew – when I tried to turn to get up, I brushed against his hand or his penis, trying to turn my head to get away.

Q. Where would his penis – what do you believe would have happened if you had not turned your head?

\* \* \*

A. I'm afraid that he would have touched me with it.

Q. Where are you afraid he would have touched you?

A. Well, in my mouth. I'm afraid that he would have tried oral sex. That's what he was trying. \* \* \* I turned away and sat up – tried to sit up. The time I was sitting up, he came around to me and was rubbing his self. And he stood where I couldn't get down. I couldn't get off the table. He stood there and leaned towards me and he messed up my clothes again.

Q. When he had his penis near [your] face, you say that either his penis or his hand actually brushed your face?

A. Yes. \* \* \* On my chin.

Q. And where was his hand at that time? Did he still have a hold of your hair?

A. Yes. When I turned around, he let go.

Q. And did you – then you pushed away and tried to sit up?

A. Yes, I turned away against the wall, and I was trying to sit up. And the time I actually rolled over and sit up that he was right around at the end of the table still.

Q. And when you say he had his hand on himself, what was he doing?

A. He was still rubbing his self.

Q. Still masturbating?

A. Yes.

Q. What happened next?

A. Then he got on my clothes again. \* \* \* He came on my clothes.

Q. He ejaculated on your clothes again.

A. Yes.

(St. Ex. 6 at 625-628)

13. Patient 2 testified that she left the room and went to the bathroom for such a long time that the nurses thought she had left. She said that she just cried and tried to get hold of herself. She tried to get the semen off her pants and kept washing her hands. She refused to make another appointment. She went home, put the pants in a bag for the purpose of throwing them away, and broke down and cried. (St. Ex. 6 at 420-424; 629)

14. When asked why she did not tell someone what Dr. Moshos had done, she stated:

A. I couldn't believe it myself. I didn't expect anybody else to. And I feared no other doctor would see me.

Q. Why did you think nobody would believe you?

A. Because doctors aren't supposed to do this. They're not supposed to. You're supposed to trust them. I couldn't believe it myself.

(St. Ex. 6 at 630)

15. Patient 2 testified that, in September 2007, she saw a newspaper article describing allegations against Dr. Moshos regarding his conduct with a female patient. In part, Patient 2 felt relieved that she was not the only one. In addition, she wanted to contact the other person, to let her know that she was not alone. She also wanted to confirm to someone that this other woman was telling the truth, and that this kind of thing "has happened" and "is real." Eventually Patient 2 spoke with the prosecutor whose name was in the article. (St. Ex. 6 at 618-650) Patient 2 later talked with a detective, who asked if she had any proof of the events she related. Patient 2 found the pants on which Dr. Moshos had ejaculated. She gave them to the Wilmington police. (St. Ex. 6 at 428-432, 605-608)

16. Patient 2 described the emotional problems she experienced following the actions by Dr. Moshos. She began to isolate herself and did not want to go anywhere. She had difficulty dealing with people and could not relate to others as she once had. At the time of the trial in May 2009, Patient 2 testified that she was "still closed up." She had changed jobs and moved to

another city because she could not be in the same place. Patient 2 testified: “I just – I just closed myself in a corner and I don’t know where to go. \* \* \* I tried to bury it. That didn’t help. I tried to just do everything I could to make it go away and it hasn’t.” At times, she has regretted coming forward to talk with the prosecutor. (St. Ex. 6 at 648-654)

### **Jury Verdict, Judgment Entry, and Affirmance on Appeal**

17. The jury found Dr. Moshos guilty on all four counts of the indictment. On May 15, 2009, the trial court filed a judgment entry in *State v. Moshos*, Case No. CRI2008-5051 in the Court of Common Pleas of Clinton County, Ohio. (St. Ex. 5) In the entry, the court found Dr. Moshos guilty of
  - Public Indecency in violation of R.C. 2907.09(A)(1) as charged in the first count of the indictment,
  - Gross Sexual Imposition in violation of R.C. 2907.05(A)(1) as charged in the second count,
  - Attempted Rape in violation of R.C. 2907.02(A)(2) and 2924.02 as charged in the third count, and
  - Gross Sexual Imposition in violation of R.C. 2907.05(A)(1) as charged in the fourth count.
18. Dr. Moshos appealed the judgment. On March 1, 2010, the Court of Appeals for the Twelfth District of Ohio issued its opinion in *State v. Moshos*, 2010-Ohio-735, Clinton App. No. CA2009-06-008. The appellate court affirmed the trial court’s judgment. (St. Ex. 7)

### **FINDINGS OF FACT**

1. On May 15, 2009, the Court of Common Pleas of Clinton County, Ohio, found Daniel M. Moshos, D.O., guilty of the following criminal offenses: one count of Attempted Rape in violation of R.C. 2923.02 and 2907.02(A)(2), a felony of the second degree; two counts of Gross Sexual Imposition in violation of R.C. 2907.05(A)(1), felonies of the fourth degree; and one count of Public Indecency in violation of R.C. 2907.09(A)(1), a misdemeanor of the fourth degree.
2. With respect to each of these crimes, Dr. Moshos committed the crime in the course of his medical practice. In each of these crimes, the victim was a patient of Dr. Moshos.
3. The evidence supporting the finding of guilt with respect to the two counts of Gross Sexual Imposition included that Dr. Moshos twice exposed himself and masturbated in front of a female patient, and ejaculated onto the patient. The evidence supporting the finding of guilt with respect to Attempted Rape included that, during one of these incidents, Dr. Moshos held the patient’s hair and attempted to place his penis in the patient’s mouth. The conduct underlying the finding of guilt with respect to Public Indecency included that, while examining a female patient, he exposed his penis to the patient and asked whether she performed oral sex.

### CONCLUSIONS OF LAW

1. The facts as set forth above in Finding of Fact 1, individually and/or collectively, establish 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 language is used in R.C. 4731.22(B)(9).
2. The facts as set forth above in Findings of Fact 1 and 2 and establish, individually and/or collectively, 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 misdemeanor committed in the course of practice,” as that language is used in R.C. 4731.22(B)(11).
3. Further, the facts as set forth above in Finding of Fact 1 establish 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 misdemeanor involving moral turpitude,” as that language is used in R.C. 4731.22(B)(13).

### Discussion of Proposed Order

Dr. Moshos was found guilty of multiple criminal offenses in which he victimized his patients. He used physical force against a patient. Any one of the felonies by itself would support a permanent revocation. Indeed, the Hearing Examiner believes that the misdemeanor alone would warrant the permanent revocation of Dr. Moshos’ certificate, given the nature of the misdemeanor and the fact that it took place in his examining room and that the victim was his patient.

### PROPOSED ORDER

It is hereby **ORDERED** that:

The certificate of Daniel M. Moshos, D.O., to practice osteopathic medicine and surgery in Ohio, is PERMANENTLY REVOKED.

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



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P. 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

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## EXCERPT FROM THE DRAFT MINUTES OF APRIL 14, 2010

### REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDERS

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

Dr. Amato asked whether each member of the Board had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law and Proposed Orders, and any objections filed in the matters of: George D. J. Griffin, III, M.D.; Narendra Kumar Gupta, M.D.; Daniel M. Moshos, D.O.; Joseph P. Sitarik, D.O.; Craig Warren-Marzola, D.O. A roll call was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Madia	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Suppan	- aye

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

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Madia	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Suppan	- aye

Dr. Amato noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. In the matters before the Board today, Dr. Talmage

served as Secretary and Mr. Albert served as Supervising Member.

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

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

.....

DANIEL M. MOSHOS, D.O.

.....

**DR. MADIA MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF DANIEL M. MOSHOS, D.O. MR. HAIRSTON SECONDED THE MOTION.**

.....

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

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Madia	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye
	Dr. Varyani	- aye
	Dr. Talmage	-abstain
	Dr. Suppan	- aye

The motion carried.



# State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.  
Executive Director

(614) 466-3934  
med.ohio.gov

## NOTICE OF AUTOMATIC SUSPENSION AND OPPORTUNITY FOR HEARING

June 10, 2009

Case number: 09-CRF- 071

Daniel M. Moshos, D.O.  
1800 Clarissa Avenue  
Kettering, Ohio 45429

Dear Doctor Moshos:

Pursuant to Section 4731.22(I), Ohio Revised Code, you are hereby notified that your license to practice osteopathic medicine and surgery in the State of Ohio has been automatically suspended as of May 15, 2009, by operation of law pursuant to Section 4731.22(I), Ohio Revised Code. This automatic suspension is based upon you having been found guilty of two counts of Gross Sexual Imposition, in violation of Section 2907.05(A)(1), Ohio Revised Code, felonies of the fourth degree, as detailed below. Continued practice after this suspension shall be considered practicing without a certificate.

Furthermore, in accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice osteopathic medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about May 15, 2009, in the Court of Common Pleas, Clinton County, Ohio, you were found guilty of one count of Attempted Rape, in violation of Section 2923.02 and Section 2907.02(A)(2), Ohio Revised Code, a felony of the second degree; two counts of Gross Sexual Imposition [GSI], in violation of Section 2907.05(A)(1), Ohio Revised Code, felonies of the fourth degree; and one count of Public Indecency, in violation of Section 2907.09(A)(1), Ohio Revised Code, a misdemeanor of the fourth degree.

The conduct underlying your Attempted Rape and two GSI convictions was that twice you exposed yourself and masturbated in front of a female patient, including ejaculating onto said patient. Furthermore, during one of these

*Mailed 6-11-09*

Notice of Automatic Suspension  
& Opportunity for Hearing  
Page 2

incidents, you held said patient's hair and attempted to place your penis in the patient's mouth.

The conduct underlying your Public Indecency conviction was that, while examining a female patient, you exposed your penis to said patient and asked her to perform oral sex on you.

The facts as alleged in paragraph (1) above, individually and/or collectively, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

Further, the facts as alleged in paragraph (1) above, individually and/or collectively, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice," as that clause is used in Section 4731.22(B)(11), Ohio Revised Code.

Further, the facts as alleged in paragraph (1) above, individually and/or collectively, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude," as that clause is used in Section 4731.22(B)(13), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, and Chapter 4731., Ohio Revised Code, you are hereby advised that you are entitled to a hearing concerning these matters. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

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

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board shall, in your absence and upon consideration of this matter, enter a final order permanently revoking your certificate to practice osteopathic medicine and surgery.

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/DSZ/flb  
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3083 4460  
RETURN RECEIPT REQUESTED

*Duplicate Copy:*

Daniel M. Moshos, D.O.  
Clinton County Jail  
1645 Davids Drive  
Wilmington, Ohio 45177

BY PERSONAL SERVICE

cc: James Patrick Tyack, Esq.  
Tyack, Blackmore & Liston Co., LPA  
536 South High Street  
Columbus, Ohio 43215

CERTIFIED MAIL #91 7108 2133 3936 3083 4446  
RETURN RECEIPT REQUESTED