

**CONSENT AGREEMENT  
BETWEEN  
NAKISHA SHWAINA SIMONE HINES  
AND  
THE STATE MEDICAL BOARD OF OHIO  
09 CRF-015**

This Consent Agreement is entered into by and between Nakisha Shwaina Simone Hines, ["Ms. Hines"], and the State Medical Board of Ohio ["Board"], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Ms. Hines enters into this Consent Agreement being fully informed of her rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

**BASIS FOR ACTION**

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4731.22(B)(5), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for "[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, podiatry, 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."
- B. The Board is also empowered by Section 4731.22(B)(13), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for "[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."
- C. On or about February 11, 2009, the Board issued to Ms. Hines a Notice of Opportunity for Hearing ["February 2009 Notice"], a copy of which is attached hereto and fully incorporated herein.
- D. Ms. Hines admits to the factual and legal allegations as set forth in the February 2009 Notice.

### **AGREED CONDITIONS**

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any further formal proceedings at this time, the application of Nakisha Shwaina Simone Hines to practice massage therapy in the State of Ohio shall be GRANTED, provided that she otherwise meets all statutory and regulatory requirements. Further, Ms. Hines knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

#### **Revocation, Stayed; Suspension**

1. The certificate of Nakisha Shwaina Simone Hines, to practice massage therapy in the State of Ohio shall be REVOKED. Such revocation is STAYED, and Nakisha Shwaina Simone Hines's certificate shall be SUSPENDED for six months.

#### **Probation**

2. Upon reinstatement, Ms. Hines' certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least three years:

#### **Personal Appearances**

- a. Ms. Hines shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Consent Agreement becomes effective or as otherwise directed by the Board. Ms. Hines shall also appear upon her request for termination of the probationary period and/or as otherwise requested by the Board.

#### **Obey the Law**

- b. Ms. Hines shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy in Ohio.

#### **Quarterly Declarations of Compliance**

- c. Ms. Hines shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. 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 Ms. Hines' certificate is reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

**Required Reporting by Licensee**

3. Within thirty days of the effective date of this Consent Agreement, Ms. Hines shall provide a copy of this Consent Agreement to all employers or entities with which she is under contract to provide massage therapy services (including but not limited to third party payors). Further, Ms. Hines shall promptly provide a copy of this Consent Agreement to all employers or entities with which she contracts to provide massage therapy services. Further, Ms. Hines shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
4. Within thirty days of the effective date of this Consent Agreement, Ms. Hines shall provide a copy of this Consent Agreement to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license, as well as any federal agency or entity through which she currently holds any license or certificate. Ms. Hines further agrees to provide a copy of this Consent Agreement at time of application to the proper licensing authority of any state in which she applies for any professional license or for reinstatement of any professional license. Further, Ms. Hines shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
5. Ms. Hines shall notify the Board in writing of any change of principal practice address or residence address within thirty days of such change.

### **FAILURE TO COMPLY**

If, in the discretion of the Secretary and Supervising Member of the Board, Ms. Hines appears to have violated or breached any term or condition of this Consent Agreement, the Board reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

If the Secretary and Supervising Member of the Board determine that there is clear and convincing evidence that Ms. Hines has violated any term, condition or limitation of this Consent Agreement, Ms. Hines agrees that the violation, as alleged, also constitutes clear and convincing evidence that her continued practice presents a danger of immediate and serious harm to the public for purposes of initiating a summary suspension pursuant to Section 4731.22(G), Ohio Revised Code.

### **DURATION/MODIFICATION OF TERMS**

Ms. Hines shall not request termination of this Consent Agreement for a minimum of three years. In addition, Ms. Hines shall not request modification to the probationary terms, limitations, and conditions contained herein for at least one year. Otherwise, the above-described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

In the event that the Board initiates future formal proceedings against Ms. Hines, including but not limited to issuance of a Notice of Opportunity for Hearing, this Consent Agreement shall continue in full force and effect until such time that it is superseded by ratification by the Board of a subsequent Consent Agreement or issuance by the Board of a final Board Order.

### **ACKNOWLEDGMENTS/LIABILITY RELEASE**

Ms. Hines acknowledges that she has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Ms. Hines hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Ms. Hines acknowledges that her social security number will be used if this information is so reported and agrees to provide her social security number to the Board for such purposes.

**EFFECTIVE DATE**

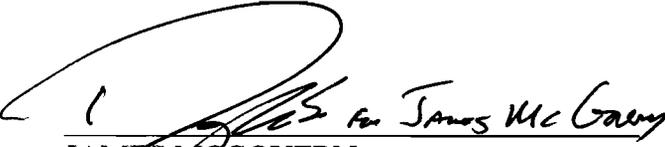
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

  
\_\_\_\_\_  
NAKISHA SHWAINA SIMONE HINES

  
\_\_\_\_\_  
LANCE A. TALMAGE, M.D.  
Secretary, State Medical Board of Ohio

June 30, 2009  
\_\_\_\_\_  
DATE

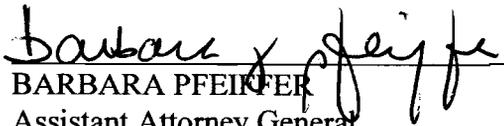
7-8-09  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
JAMES MCGOVERN  
Attorney for Nakisha Shwaina Simone Hines

  
\_\_\_\_\_  
RAYMOND J. ALBERT  
Supervising Member, State Medical Board  
of Ohio

7/1/09  
\_\_\_\_\_  
DATE

7/8/09  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
BARBARA PFEIFFER  
Assistant Attorney General

07/08/09  
\_\_\_\_\_  
DATE

# 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

February 11, 2009

Case number: 09-CRF- 015

Nakisha Shwaina Simone Hines  
11109 Earle Avenue  
Cleveland, OH 44108

Dear Ms. Hines:

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 February 22, 2008, you caused to be submitted to the Board an Application for Certificate to Practice a Limited Branch Massage Therapy [Application] including an Affidavit and Release of Applicant [Affidavit]. By signing said Affidavit, you certified under oath that the information provided in your Application was true, and that you would immediately notify the Board in writing of any changes to the answers to any of the questions contained in the "Additional Information" section of the Application. Your Application remains pending.
- (2) In the "Additional Information" section of your Application, you answered "Yes" to Questions 11 and 12 which ask, respectively:

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?

Have you ever forfeited collateral, bail, or bond for breach or violation of any law, police regulation, or ordinance other than a minor traffic violation; been summoned into court as a defendant or had any lawsuit filed against you (other than a malpractice suit)?

*Mailed 2-12-09*



On or about February 22, 2008, you submitted additional documentation to the Board wherein you explained that in March of 2005 you were convicted of petty theft for a pair of children's shoes. You further submitted two certified copies of disposition entries relating to:

- (a) Case No. 0500674, from the Cleveland Heights Municipal Court, Cleveland Heights, Ohio, dated November 28, 2005, which disclosed that you were found guilty of the following misdemeanors: safety of child, petty theft, and resisting arrest. You were fined \$250.00 and sentenced to six months in jail with all but four days suspended and credit for time served.
  - (b) Case No. 0501959, from the Cleveland Heights Municipal Court, Cleveland Heights, Ohio, dated November 28, 2005, which disclosed that you were found guilty of the following misdemeanors: child endangering and obstruction of official business. You were fined \$75.00 and sentenced to six months in jail with all but four days suspended and credit for time served.
- (3) You failed to disclose that you were also convicted of the following:
- (a) In or about February 2005, you were found guilty in Euclid Municipal Court, Euclid, Ohio, of reckless operation, in violation of Section 333.02, of the Euclid Ordinances, a misdemeanor. Subsequently, the court ordered you to serve three days in jail for failing to do the court ordered community service.
  - (b) In or about March 2008, in the Cleveland Municipal Court, Cleveland, Ohio, you entered a plea of no contest to disorderly conduct, a violation of Section 2917.11(E) Ohio Revised Code. The court subsequently found you guilty and ordered you to perform 25 hours of community service in lieu of a fine. You completed the community service by April 11, 2008.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) and (3) above, individually and/or collectively, constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, 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 pleas of guilty or the judicial findings of guilt as alleged in paragraph (2) above, individually and/or collectively, 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 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, 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/SRS/fib  
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3066 6870  
RETURN RECEIPT REQUESTED



# 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

February 11, 2009

Case number: 09-CRF- 015

Nakisha Shwaina Simone Hines  
11109 Earle Avenue  
Cleveland, OH 44108

Dear Ms. Hines:

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 February 22, 2008, you caused to be submitted to the Board an Application for Certificate to Practice a Limited Branch Massage Therapy [Application] including an Affidavit and Release of Applicant [Affidavit]. By signing said Affidavit, you certified under oath that the information provided in your Application was true, and that you would immediately notify the Board in writing of any changes to the answers to any of the questions contained in the "Additional Information" section of the Application. Your Application remains pending.
- (2) In the "Additional Information" section of your Application, you answered "Yes" to Questions 11 and 12 which ask, respectively:

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?

Have you ever forfeited collateral, bail, or bond for breach or violation of any law, police regulation, or ordinance other than a minor traffic violation; been summoned into court as a defendant or had any lawsuit filed against you (other than a malpractice suit)?

*Mailed 2-12-09*

On or about February 22, 2008, you submitted additional documentation to the Board wherein you explained that in March of 2005 you were convicted of petty theft for a pair of children's shoes. You further submitted two certified copies of disposition entries relating to:

- (a) Case No. 0500674, from the Cleveland Heights Municipal Court, Cleveland Heights, Ohio, dated November 28, 2005, which disclosed that you were found guilty of the following misdemeanors: safety of child, petty theft, and resisting arrest. You were fined \$250.00 and sentenced to six months in jail with all but four days suspended and credit for time served.
  - (b) Case No. 0501959, from the Cleveland Heights Municipal Court, Cleveland Heights, Ohio, dated November 28, 2005, which disclosed that you were found guilty of the following misdemeanors: child endangering and obstruction of official business. You were fined \$75.00 and sentenced to six months in jail with all but four days suspended and credit for time served.
- (3) You failed to disclose that you were also convicted of the following:
- (a) In or about February 2005, you were found guilty in Euclid Municipal Court, Euclid, Ohio, of reckless operation, in violation of Section 333.02, of the Euclid Ordinances, a misdemeanor. Subsequently, the court ordered you to serve three days in jail for failing to do the court ordered community service.
  - (b) In or about March 2008, in the Cleveland Municipal Court, Cleveland, Ohio, you entered a plea of no contest to disorderly conduct, a violation of Section 2917.11(E) Ohio Revised Code. The court subsequently found you guilty and ordered you to perform 25 hours of community service in lieu of a fine. You completed the community service by April 11, 2008.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) and (3) above, individually and/or collectively, constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, 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 pleas of guilty or the judicial findings of guilt as alleged in paragraph (2) above, individually and/or collectively, 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 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, 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,

Handwritten signature of Lance A. Talmage in black ink, with initials 'ms' and 'rw' written to the right of the signature.

Lance A. Talmage, M.D.  
Secretary

LAT/SRS/flb  
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3066 6870  
RETURN RECEIPT REQUESTED