

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

July 14, 2010

Please Michelle Fulgham
6404 Montgomery Road, Apt. 4
Cincinnati, OH 45213

RE: Case No. 10-CRF-003

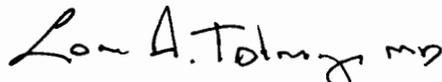
Dear Ms. Fulgham:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Siobhan R. Clovis, Esq., Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on July 14, 2010, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal must be taken to the Franklin County Court of Common Pleas.

Such an appeal 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. 
Secretary

LAT:baj
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3936 3124 2837
RETURN RECEIPT REQUESTED

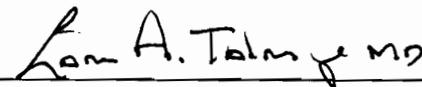
Cc: Terri-Lynne B. Smiles, Esq.
CERTIFIED MAIL NO. 91 7108 2133 3936 3124 2844
RETURN RECEIPT REQUESTED

Mailed 8-5-10

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Siobhan R. Clovis, Esq., State Medical Board Attorney Hearing Examiner; and excerpt of the Minutes of the State Medical Board, meeting in regular session on July 14, 2010, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Eleese Michelle Fulgham, Case No. 10-CRF-003, 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)

July 14, 2010

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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CASE NO. 10-CRF-003

ELEASE MICHELLE FULGHAM

*

ENTRY OF ORDER

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

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

It is hereby ORDERED that:

- A. **REPRIMAND:** Elease Michelle Fulgham is REPRIMANDED.
- B. **GRANT OF MASSAGE THERAPY LICENSURE; PROBATION:** Ms. Fulgham's application for a certificate to practice massage therapy in Ohio is GRANTED, provided that she otherwise meets all statutory and regulatory requirements, and subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least **two** years:
 1. **Obey the Law:** Ms. Fulgham shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy in Ohio.
 2. **Personal Appearances:** Ms. Fulgham shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Order, or as otherwise requested by the Board. Subsequent personal appearances must occur every **six** months thereafter, and/or as otherwise requested by the Board. If an appearance is

missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

3. **Quarterly Declarations:** Ms. Fulgham shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
4. **Personal/Professional Ethics Course:** During her probationary period, Ms. Fulgham shall provide acceptable documentation of successful completion of a course dealing with personal/professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee.

In addition, at the time Ms. Fulgham submits the documentation of successful completion of the required ethics course, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice of massage therapy in the future.

5. **Absence from Ohio:** Ms. Fulgham shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the term of probation, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.

In the event that Ms. Fulgham resides and/or is employed at a location that is within 50 miles of the geographic border of Ohio and a contiguous state, Ms. Fulgham may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Ms. Fulgham is otherwise able to maintain full compliance with all other terms, conditions and limitations set forth in this Order.

6. **Required Reporting of Change of Address:** Ms. Fulgham shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.

7. **Tolling of Probationary Period while Out of Compliance:** In the event Ms. Fulgham is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.

C. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Ms. Fulgham's certificate will be fully restored.

D. **VIOLATION OF THE TERMS OF THIS ORDER:** If Ms. Fulgham violates the terms of this Order in any respect, the Board, after giving her notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of her certificate.

E. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER**

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Ms. Fulgham shall provide a copy of this Order to all employers or entities with which she is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or healthcare center where she has privileges or appointments.

For massage therapists, the term "healthcare services" includes massage-therapy services, and the term "healthcare center" includes but is not limited to entities that may be referred to as a wellness center, exercise center, health club, spa, salon, or gymnasium.

This requirement shall continue until Ms. Fulgham receives from the Board written notification of the successful completion of her probation.

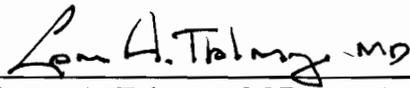
2. **Required Reporting To Other Licensing Authorities:** Within 30 days of the effective date of this Order, Ms. Fulgham shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license, as well as any federal agency or entity, through which she currently holds any license or certificate.

Ms. Fulgham further shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which she applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Ms. Fulgham

receives from the Board written notification of the successful completion of the probation.

3. **Required Documentation of the Reporting Required by Paragraph E:** Ms. Fulgham shall provide the Board with **one** of the following documents as proof of each required notification within 30 days of the date of each such notification: (1) the return receipt of certified mail within 30 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 Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

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



Lance A. Talmage, M.D. RW
Secretary

(SEAL)

July 14, 2010

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

Elease Michelle Fulgham,

Respondent.

*
*
*

Case No. 10-CRF-003

Hearing Examiner Clovis

2010 JUN 17 PM 4:00

STATE MEDICAL BOARD
OF OHIO

REPORT AND RECOMMENDATION

Basis for Hearing

By letter dated January 13, 2010, the State Medical Board of Ohio [Board] notified Elease Michelle Fulgham that it proposed to deny her Application for Certificate to Practice Limited Branch Massage Therapy [Application] or to take other disciplinary action. The Board based its proposed action on allegations that Ms. Fulgham had three separate convictions of misdemeanor theft, as well as convictions for petty theft and passing bad checks, and had failed to disclose those convictions on her Application as required. The Board alleged that Ms. Fulgham's conduct and omissions constitute violations of Sections 4731.22(B)(5) and 4731.22(B)(13), Ohio Revised Code.

The Board advised Ms. Fulgham of her right to request a hearing, and received her request on February 3, 2010. (State's Exhibit [St. Ex.] 1B)

Appearances

Richard Cordray, Attorney General, by Kyle C. Wilcox, Assistant Attorney General, on behalf of the State of Ohio. Terri-Lynne B. Smiles, Esq., on behalf of the Respondent, Ms. Fulgham.

Hearing Date: May 14, 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.

1. On January 31, 2008, Elease Michelle Fulgham submitted to the Board an Application for Certificate to Practice a Limited Branch Massage Therapy, including an Affidavit and Release, in which she certified under oath that the information provided in the Application was true, and that she would immediately notify the Board in writing of any changes to the answers to any of the questions in the Additional Information section of the Application. (State's Exhibit [St. Ex.] 2 at 1, 10)
2. Ms. Fulgham failed the qualifying massage therapy examination twice. After each failure, she submitted a Massage Therapy Re-Examination Application. The first was filed on September 10, 2008, and the second on March 28, 2009. The March 2009 Application remains pending.

Each of these Re-Examination Applications included an Affidavit and Release, in which Ms. Fulgham certified under oath that the information provided in the Application was true, and that she would immediately notify the Board in writing of any changes to the answers to any of the questions in the Additional Information section of the Application. All three of the Applications submitted to the Board by Ms. Fulgham shall be hereinafter referred to as the “Applications.” (St. Ex. 2 at 17, 18, 26, 28, 29)

3. In the “Additional Information” section of each of the Applications, Ms. Fulgham answered “No” 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 for a minor traffic violation; been summoned into court as a defendant or had any lawsuit filed against you (other than a malpractice suit)?

(St. Ex. 2 at 5, 21, 32)

4. Ms. Fulgham’s answers to these questions were false. She had been convicted of violations of law, and had been summoned into court as a defendant, on the following occasions:

- (a) In April 1993, in the Municipal Court of Hamilton County, Ohio, Case No. C/93/CRB/10214, Ms. Fulgham was found guilty of misdemeanor theft, and fined \$250 and costs.
- (b) In April 1995, Ms. Fulgham was arrested for misdemeanor petty theft. Subsequently, in May 1995, she was found guilty of such offense and fined \$50.00 in the Mayor’s Court of Springdale, Ohio.
- (c) In October 1997, Ms. Fulgham was arrested for Passing Bad Checks. She was found guilty later that month in the Mayor’s Court of Springdale, Ohio, and fined \$200.00.
- (d) In November 1998, Ms. Fulgham was found guilty of misdemeanor theft and fined \$100.00 and costs in the Municipal Court of Hamilton County, Ohio, Case No. C/98/CRB/47648.
- (e) In June 2006, Ms. Fulgham was found guilty of misdemeanor theft in the Municipal Court of Hamilton County, Ohio, Case No. C/06/CRB/14174. She received a suspended sentence of 180 days in jail, fined \$150.00 and costs, and placed under community control for one year.

(St. Ex. 3 & 4)

5. Ms. Fulgham testified that she had not intended to hide her past from the Board; however, she admitted that she is ashamed of her past and that it has caused her to lose employment opportunities. She said that when she had signed up for massage therapy school, she had disclosed her criminal record to the school and had been told that it was irrelevant and would not be a problem. Ms. Fulgham testified that, with this advice in mind, she had interpreted Questions 11 and 12 to be inquiring only about the time period since she had started massage therapy school. She also said that she had been confused by Question 12, because it includes the term "malpractice". Ms. Fulgham said that this led her to believe that the question only applied to physicians. Ms. Fulgham admitted that she had not fully read the Affidavit and Release before signing it, and that she had not re-considered her answers to Questions 11 and 12 when completing her second and third applications. Rather, she had copied her answers from her original application. (Hearing Transcript [Tr.] at 15-24, 29, 34-36, 38)
6. Ms. Fulgham denied any criminal intent in the incident for which she was convicted for Passing Bad Checks. She said that she had simply bounced a check at a drugstore and had not even realized it until she found out about the arrest warrant about a month later. She said that she had tried to reimburse the store manager, but the manager had not been willing to negotiate with Ms. Fulgham. (Tr. at 41-42)
7. Ms. Fulgham's theft convictions have all arisen from shoplifting. Ms. Fulgham testified that she had not been raised to steal; her parents worked very hard and her father had taught her about integrity and honesty. She said that the shoplifting had not been caused by need; she had been able to pay for the items. She said that she had felt a "rush" from "getting away with it." Ms. Fulgham attributed her crimes to "hanging with the wrong people," who did not have her best interests at heart. She admitted having emotional difficulties; she said that she had felt a darkness and emptiness inside, which she found herself unable to share with anyone else, and that she had been angry at the world. She said that she believed her shoplifting to have been a cry for help, particularly the incident in 2006. (St. Ex. 3, 4; Tr. at 37-40)
8. Four of Ms. Fulgham's convictions occurred in the 1990s; the final one occurred in 2006. Ms. Fulgham testified that her life has changed since the most recent conviction, because she has finally disclosed and begun to address the secret that had been causing her emotional problems -- that she had been sexually abused as a child. (St. Ex. 3, 4; Tr. at 37, 40, 43-45)
9. Ms. Fulgham testified that since her most recent conviction, she has been making great efforts to finally deal in a healthy way with the abuse in her past. She meets weekly with the support group "Women Helping Women," whose members are all women who have been victims of abuse. Ms. Fulgham said that these sessions have been instrumental in allowing her to turn around her life and to deal with her abuse. She has become active in her church by volunteering and becoming involved with special events and groups. Ms. Fulgham said that she volunteers weekly at Bethany House, a place for homeless women and their children. (Tr. at 43-44)
10. Ms. Fulgham testified that the judge who convicted her in 2006 had recently granted her an expungement of that conviction, and that, during the expungement hearing, he had

commended her for turning her life around and told her that she deserved a second chance. (Respondent's Exhibit G; Tr. at 46-47)

11. Ms. Fulgham testified that she has worked in the healthcare field for over twenty years. After high school, she had studied for and received a certificate in medical assisting. Most recently, she has worked for Deaconess Hospital in Cincinnati, though her employment was terminated in 2009 due to a reduction in the workforce. She said that she feels that she has a gift in massage therapy, and a very good rapport with her patients. She would like to be involved in the health and wellness aspect of the profession. (Tr. at 32, 37, 48, 55-57)
12. When asked why the Board should believe that she has changed since her most recent conviction in 2006, Ms. Fulgham responded:

Why I have changed? Wow, I could write a book. Honestly, I realize now that, you know, I really made some mistakes and, you know -- But I believe that changes happen when you want it to change, and I have worked so hard.

I have always wanted to be some kind of professional, but I know it's always been on -- I wanted to be connected with healthcare some kind of way. And I have changed. I have taken certain steps. I have taken responsibility.

I have owned up to what I've done and, you know, I'm going up. I'm continuing to want to go up, to move forward, and I wish that you all would take that into consideration. And just like Judge Berry, to give me a second chance because, you know, I deserve it. I do. I deserve it.

I'm not that victim anymore. You know, I do take full responsibility. I love helping people. My passion is to make a difference in the community with massage, keep it in the medical realm and really try to make a difference and be the best.

(Tr. at 54-55)

13. During the State's closing argument, the State's counsel suggested that an appropriate order would include granting the certificate subject to a suspension and probation. In that way, the Board could "make sure she stays on the straight and narrow" and is "continuing to go down the path in a good way." (Tr. at 66-67)

FINDINGS OF FACT

1. On January 31, 2008, Elise Michelle Fulgham submitted to the Board an Application for Certificate to Practice a Limited Branch Massage Therapy [January 2008 Application], including an Affidavit and Release of Applicant [Affidavit No. 1]. Subsequently, on September 10, 2008, Ms. Fulgham submitted to the Board a Massage Therapy Re-Examination Application [September 2008 Application], including an Affidavit and

Release of Applicant [Affidavit No. 2]. Thereafter, on March 28, 2009, Ms. Fulgham submitted to the Board another Massage Therapy Re-Examination Application [March 2009 Application], including another Affidavit and Release of Applicant [Affidavit No. 3]. The January 2008 Application, September 2008 Application, and March 2009 Application, hereinafter shall be referred to collectively as the “Applications.”

With regard to Affidavit No. 1, Affidavit No. 2, and Affidavit No. 3, hereinafter collectively referred to as the “Affidavits”, Ms. Fulgham certified under oath that the information provided in the Applications was true, and that she would immediately notify the Board in writing of any changes to the answers to any of the questions in the Additional Information section of the Applications. Ms. Fulgham’s March 2009 Application remains pending.

2. In the “Additional Information” section of each of the Applications, Ms. Fulgham answered “No” 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 for a minor traffic violation; been summoned into court as a defendant or had any lawsuit filed against you (other than a malpractice suit)?

In fact, Ms. Fulgham has been convicted of, and failed to disclose:

- (a) In April 1993, in the Municipal Court of Hamilton County, Ohio, Case No. C/93/CRB/10214, Ms. Fulgham was found guilty of misdemeanor theft, and fined \$250 and costs.
- (b) In April 1995, Ms. Fulgham was arrested for misdemeanor petty theft. Subsequently, in May 1995, she was found guilty of such offense and fined \$50.00 in the Mayor’s Court of Springdale, Ohio.
- (c) In October 1997, Ms. Fulgham was arrested for Passing Bad Checks. She was found guilty later that month in the Mayor’s Court of Springdale, Ohio, and fined \$200.00.
- (d) In November 1998, Ms. Fulgham was found guilty of misdemeanor theft and fined \$100.00 and costs in the Municipal Court of Hamilton County, Ohio, Case No. C/98/CRB/47648.
- (e) In June 2006, Ms. Fulgham was found guilty of misdemeanor theft in the Municipal Court of Hamilton County, Ohio, Case No. C/06/CRB/14174. She received a suspended sentence of 180 days in jail, fined \$150.00 and costs, and placed under community control for one year.

CONCLUSION OF LAW

1. The acts, conduct, and/or omissions of Elease Michelle Fulgham, as set forth in Findings of Fact 1 and 2 above, individually and/or collectively constitute “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.
2. The acts, conduct, and/or omissions of Elease Michelle Fulgham, as set forth in Finding of Fact 2 above, individually and/or collectively constitute “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility in lieu of conviction for, a misdemeanor involving moral turpitude,” as that clause is used in Section 4731.22(B)(13), Ohio Revised Code.

Rationale for the Proposed Order

Ms. Fulgham appeared sincere in her efforts to change her life. She testified that, since her latest conviction in 2006, she has for the first time begun addressing what she believes to have been the underlying cause for her criminal activity. As part of the healing process from the abuse she suffered as a child, Ms. Fulgham has reached out to help others through her volunteer work, and has been regularly meeting with other women who are dealing with abusive pasts. If the emotional issues that caused her to seek the “rush” from shoplifting are indeed being addressed, then it seems unlikely that she will commit any further crimes. Ms. Fulgham is enthusiastic about the practice of massage therapy, and sees this new career as a part of the effort to change her life. For these reasons, the Hearing Examiner is willing to recommend that Ms. Fulgham receive a second chance.

Notwithstanding the foregoing, Ms. Fulgham was deceptive in her answers to the Board about her criminal past. Although she had rationalizations for her answers, it appears that her false answers were really driven from shame and from fear of losing a chance to start a new career. While that is understandable, it merits a suspension from practice.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **GRANT OF MASSAGE THERAPY LICENSURE SUBJECT TO CONDITIONS:**
The application of Elease Michelle Fulgham for a certificate to practice massage therapy in Ohio is GRANTED, provided that she otherwise meets all statutory and regulatory requirements, and subject to the conditions set forth below.

- B. **SUSPENSION:** The certificate of Ms. Fulgham to practice massage therapy in the State of Ohio shall be **SUSPENDED** for an indefinite period of time but not less than **180** days from the effective date of this Order.
- C. **INTERIM MONITORING:** During the period that Ms. Fulgham's certificate to practice in Ohio is suspended, she shall comply with the following terms, conditions, and limitations:
1. **Obey the Law:** Ms. Fulgham shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy in Ohio.
 2. **Personal Appearances:** Ms. Fulgham shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Order, or as otherwise requested by the Board. Subsequent personal appearances must occur every **six** months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
 3. **Quarterly Declarations:** Ms. Fulgham shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
 4. **Absence from Ohio:** Ms. Fulgham shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the term of suspension, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
 5. **Required Reporting of Change of Address:** Ms. Fulgham shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.
- D. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Ms. Fulgham's certificate to practice massage therapy in Ohio until all of the following conditions have been met:
1. **Application for Reinstatement or Restoration:** Ms. Fulgham shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.

2. **Compliance with Interim Conditions:** Ms. Fulgham shall have maintained compliance with all the terms, conditions and limitations set forth in Paragraph C of this Order.
3. **Personal Ethics Course:** At the time she submits her application for reinstatement or restoration, Ms. Fulgham shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee.

In addition, at the time Ms. Fulgham submits the documentation of successful completion of the course or courses dealing with personal ethics, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice of massage therapy in the future.

4. **Professional Ethics Course:** At the time she submits her application for reinstatement or restoration, Ms. Fulgham shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee.

In addition, at the time Ms. Fulgham submits the documentation of successful completion of the course or courses dealing with professional ethics, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice in the future.

- E. **PROBATION:** Upon reinstatement or restoration, Ms. Fulgham's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least **five** years:

1. **Obey the Law:** Ms. Fulgham shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
2. **Terms, Conditions, and Limitations Continued from Suspension Period:** Ms. Fulgham shall continue to be subject to the terms, conditions, and limitations specified in Paragraph C of this Order.
3. **Tolling of Probationary Period while Out of Compliance:** In the event Ms. Fulgham is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.

- F. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Ms. Fulgham's certificate will be fully restored.
- G. **VIOLATION OF THE TERMS OF THIS ORDER:** If Ms. Fulgham violates the terms of this Order in any respect, the Board, after giving her notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of her certificate.
- H. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER**

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Ms. Fulgham shall provide a copy of this Order to all employers or entities with which she is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or healthcare center where she has privileges or appointments.

For massage therapists, the term "healthcare services" includes massage-therapy services, and the term "healthcare center" includes but is not limited to entities that may be referred to as a wellness center, exercise center, health club, spa, salon, or gymnasium.

In the event that Ms. Fulgham provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider, Ms. Fulgham shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

This requirement shall continue until Ms. Fulgham receives from the Board written notification of the successful completion of her probation.

2. **Required Reporting To Other Licensing Authorities:** Within 30 days of the effective date of this Order, Ms. Fulgham shall provide a copy of this Order 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, including but not limited to the Drug Enforcement Agency, through which she currently holds any license or certificate.

Ms. Fulgham further shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which she applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Ms. Fulgham receives from the Board written notification of the successful completion of the probation.

3. **Required Documentation of the Reporting Required by Paragraph H:**

Ms. Fulgham shall provide the Board with **one** of the following documents as proof of each required notification within 30 days of the date of each such notification: (1) the return receipt of certified mail within 30 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 Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

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

Siobhan R. Clovis / by
Siobhan R. Clovis
Hearing Examiner *PT Davidson*

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

EXCERPT FROM THE DRAFT MINUTES OF JULY 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, Proposed Orders, and any objections filed in the matters of: Alfred Larry Boulware, M.D.; Kevin Wayne Bowers, D.O.; Calvin Richard Brown, M.D.; Hatem Marwan Dajani, M.D.; Adam Lee Fowler; Eleese Michelle Fulgham; Joseph James Koenigsmark, D.O.; Rhonda Kay Masci; Kwabena Mawulawde, M.D.; Giovanni A. Pupillo, M.D.; and Stephen Alan Straubing, M.D. A roll call was taken:

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

Mr. Morris - aye
Dr. Ramprasad - aye

Dr. Amato noted that, in accordance with the provision in Section 4731.22(F)(2), Ohio Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. They may, however, participate in the matter of Ms. Masci, as that case is not disciplinary in nature and concerns only Ms. Masci's qualifications for licensure. 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.

.....
ELEASE MICHELLE FULGHAM

Dr. Amato directed the Board's attention to the matter of Elease Michelle Fulgham. He advised that objections were filed to Hearing Examiner Clovis' Report and Recommendation and were previously distributed to Board members.

Dr. Amato continued that a request to address the Board has been timely filed on behalf of Ms. Fulgham. Five minutes would be allowed for that address.

Ms. Fulgham appeared with her attorney, Terri-Lynne Smiles.

Ms. Smiles stated that Ms. Fulgham and she agreed with the Findings of Fact in Ms. Clovis' Report and Recommendation, with one exception. Ms. Smiles stated that Ms. Clovis took Ms. Fulgham's embarrassment over her past shoplifting convictions and the fact that it resulted in some loss of employment opportunities as showing she had a motivation to conceal those crimes. Ms. Smiles stated that this was an incorrect conclusion and said that despite the problems it had caused in finding employment, Ms. Fulgham has always disclosed her past convictions. Ms. Smiles stated that the one time Ms. Fulgham did not disclose her past convictions was on her application for a massage therapy license, and this occurred because Ms. Fulgham's massage therapy school had told her that the application only required information from the time she entered massage therapy school.

Ms. Smiles stated that Ms. Fulgham passed the massage-therapy licensure examination more than a year ago. Ms. Smiles stated that Ms. Fulgham acknowledges that she made a mistake on the application and was very remorseful. Ms. Smiles stated that she has spent a great deal of time with Ms. Fulgham and opined that Ms. Fulgham will never make a mistake of this nature again.

Ms. Smiles stated that the Proposed Order would grant Ms. Fulgham a license, but then suspend the license for 180 days. Ms. Smiles suggested that Ms. Fulgham has, in effect, already served a much longer suspension and asked that the Board grant her license without a suspension. Ms. Smiles also suggested that shortening the proposed five-year probation would also be appropriate.

Ms. Fulgham stated that, at this point, the only thing the Board knew about her was a list of shoplifting crimes and the mistakes she made on her application for a massage therapy license. Ms. Fulgham stated that, while this looks bad, this is not who she is. Ms. Fulgham stated that in 2006, for the first time, she took charge of her life and stopped allowing the bad things that happened in her childhood to define her. Ms. Fulgham stated that she joined a support group, dealt with those issues, and stopped being a victim.

Ms. Fulgham continued that since she started massage therapy school, she has realized that helping people through medical massage is her true calling and her dream job. Ms. Fulgham stated that she has worked very hard, stayed out of trouble, surrounded herself with good, positive people who support her efforts, and studied hard to pass the licensure examination.

Ms. Fulgham stated that the mistakes she made on her application were not an attempt to hide her past. Ms. Fulgham stated that because of what she was told by her massage therapy school, she thought the application only wanted information starting from 2006, when she started massage therapy school.

Ms. Fulgham stated that she cannot undo her past, but asked the Board to give her a chance. Ms. Fulgham continued that a few months ago, Judge Berry in Cincinnati, Ohio, expunged all of Ms. Fulgham's convictions except for one from 1998. Ms. Fulgham stated that, although the convictions have been expunged, she had no intention of hiding those convictions. Ms. Fulgham stated that Judge Berry's expungement indicated that he believed in her and thought she had changed. Ms. Fulgham asked the Board to believe in her as well.

Dr. Amato asked if the Assistant Attorney General wished to respond. Mr. Wilcox replied that he did wish to respond.

Mr. Wilcox stated that the State supports the R&R. Mr. Wilcox stated that Ms. Fulgham had a checkered past, with many misdemeanor convictions from 1993 to 2006. However, Ms. Fulgham testified convincingly at her hearing that she has changed her life.

Mr. Wilcox expressed concern with Ms. Fulgham's explanation that her massage therapy school had told her she did not have to report her past convictions. Mr. Wilcox stated that the State Medical Board of Ohio, not the school, issues the license. At the hearing, Ms. Fulgham testified that she did not contact the Medical Board to ask how to answer the questions on the application. Mr. Wilcox stated that this is the responsibility of the applicant.

Mr. Wilcox stated that the Proposed Order grants Ms. Fulgham's massage therapy license, thus

acknowledging that her hard work should be rewarded and that she has changed her life. Also, the Proposed Order will allow for monitoring during the probationary period.

Dr. Madia moved to approve and confirm Ms. Clovis' Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Elease Michelle Fulgham. Dr. Steinbergh seconded the motion.

Dr. Amato stated that he would now entertain discussion in the above matter.

Mr. Hairston stated that this is the latest of many instances in which a massage therapy school has allegedly misled their students about the licensure process. Mr. Hairston stated that most people attending a massage therapy school do not have a lot of money and may be trying to change their lives. After spending a great deal of money, in some cases borrowed from family members, they learn that their past history is an obstacle to licensure.

Mr. Hairston stated that Ms. Fulgham's past will always be with her and she must be completely open and honest anytime she fills out an application.

Mr. Hairston moved to amend the Proposed Order such that the suspension is reduced from 180 days to 90 days and the probationary period is reduced from five years to three years. Dr. Steinbergh seconded the motion.

Dr. Amato stated that he would now entertain discussion on the Proposed Amendment.

Dr. Madia agreed with Mr. Hairston's Proposed Amendment and felt that something must be done about massage therapy schools that mislead their students.

Dr. Ramprasad agreed that Ms. Fulgham's license should be granted and questioned the utility of a suspension period. Dr. Suppan agreed. Dr. Amato noted that, due to these proceedings, Ms. Fulgham has already effectively been suspended for more than a year. Dr. Amato agreed with Dr. Ramprasad and opined that Ms. Fulgham has already been punished more than adequately. Dr. Amato also suggested that a one-year probationary period would be appropriate. Dr. Stephens agreed. Mr. Hairston also agreed that a one-year probationary period with no suspension would be acceptable. Dr. Stephens suggested that the requirement of a personal/professional ethics course be removed from the probationary terms. Dr. Suppan agreed.

Dr. Steinbergh agreed that a reduction of Ms. Fulgham's probationary period is appropriate. However, Dr. Steinbergh noted that Ms. Fulgham did, in fact, lie on her application. Dr. Steinbergh recognized that Ms. Fulgham is trying to improve her life, but reiterated that she failed to disclose her misdemeanors and offenses. Dr. Steinbergh emphasized Mr. Hairston's point that Ms. Fulgham must be absolutely honest on applications. Dr. Steinbergh stated that Ms. Fulgham's past will not go away, regardless of the expungement of a conviction.

Dr. Steinbergh continued that the first Conclusion of Law is such that these things constitute making a false, fraudulent, deceptive statement, which is a violation of 4731.22(B)(5), Ohio Revised Code. Dr. Steinbergh also noted the second Conclusion of Law, which found the Ms. Fulgham had been found guilty of a misdemeanor involving moral turpitude. Dr. Steinbergh agreed that Ms. Fulgham should be granted the massage therapy license, but questioned the removal of the suspension of the license from the Order. Dr. Steinbergh stated that it is not the Board's fault that Ms. Fulgham has been unable to be licensed for more than a year. Dr. Steinbergh also opined that Ms. Fulgham should be required to take the personal/professional ethics course, noting that the course has been extremely helpful to others. Dr. Steinbergh agreed that the probationary period should be reduced, but opined that it should be two years, not one year.

Ms. Debolt stated that the Board appeared to agree with the Findings of Fact and Conclusions of Law that Ms. Fulgham had made false statements regarding her conviction and had been convicted of a misdemeanor involving moral turpitude. Ms. Debolt cautioned the Board that, if it does agree with the Findings of Fact and Conclusions of Law, their Order should reflect the seriousness of those accusations. Ms. Debolt also noted that in the Proposed Order, the personal/professional ethics course is a condition for reinstatement; however, if there will be no suspension, there will be no reinstatement.

Ms. Debolt recommended tabling this discussion so that an Alternative Order can be drafted to address the Board's concerns.

Mr. Hairston moved to table this discussion. Dr. Madia seconded the motion. All members voted aye, except for Mr. Albert and Dr. Talmage, who abstained from voting. The motion passed.

.....
Dr. Steinbergh moved to remove the topic of Elease Michelle Fulgham from the table for discussion. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

Mr. Hairston stated that a Proposed Amendment to the Proposed Order has been drafted. The Proposed Amendment provides for a reprimand instead of a suspension, grants Ms. Fulgham's massage therapy license, and provides for a minimum two-year probationary period. During the probationary period, Ms. Fulgham will be required to take a personal/professional ethics course.

Mr. Hairston moved to amend the Proposed Order as follows:

It is hereby ORDERED that:

- A. **REPRIMAND:** Elease Michelle Fulgham is REPRIMANDED.
- B. **GRANT OF MASSAGE THERAPY LICENSURE; PROBATION:** Ms. Fulgham's application for a certificate to practice massage therapy in Ohio is

GRANTED, provided that she otherwise meets all statutory and regulatory requirements, and subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least **two** years:

1. **Obey the Law:** Ms. Fulgham shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy in Ohio.
2. **Personal Appearances:** Ms. Fulgham shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Order, or as otherwise requested by the Board. Subsequent personal appearances must occur every **six** months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
3. **Quarterly Declarations:** Ms. Fulgham shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
4. **Personal/Professional Ethics Course:** During her probationary period, Ms. Fulgham shall provide acceptable documentation of successful completion of a course dealing with personal/professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee.

In addition, at the time Ms. Fulgham submits the documentation of successful completion of the required ethics course, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice of massage therapy in the future.

5. **Absence from Ohio:** Ms. Fulgham shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the term of probation, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that

probationary monitoring is otherwise being performed.

In the event that Ms. Fulgham resides and/or is employed at a location that is within 50 miles of the geographic border of Ohio and a contiguous state, Ms. Fulgham may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Ms. Fulgham is otherwise able to maintain full compliance with all other terms, conditions and limitations set forth in this Order.

6. **Required Reporting of Change of Address:** Ms. Fulgham shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.
 7. **Tolling of Probationary Period while Out of Compliance:** In the event Ms. Fulgham is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
- C. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Ms. Fulgham's certificate will be fully restored.
- D. **VIOLATION OF THE TERMS OF THIS ORDER:** If Ms. Fulgham violates the terms of this Order in any respect, the Board, after giving her notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of her certificate.
- E. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER**
1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Ms. Fulgham shall provide a copy of this Order to all employers or entities with which she is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or healthcare center where she has privileges or appointments.

For massage therapists, the term "healthcare services" includes massage-therapy services, and the term "healthcare center" includes but is not limited to entities that may be referred to as a wellness center, exercise center, health club, spa, salon, or gymnasium.

This requirement shall continue until Ms. Fulgham receives from the Board written notification of the successful completion of her probation.

2. **Required Reporting To Other Licensing Authorities:** Within 30 days of the effective date of this Order, Ms. Fulgham shall provide a copy of this Order 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. Fulgham further shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which she applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Ms. Fulgham receives from the Board written notification of the successful completion of the probation.

3. **Required Documentation of the Reporting Required by Paragraph E:** Ms. Fulgham shall provide the Board with **one** of the following documents as proof of each required notification within 30 days of the date of each such notification: (1) the return receipt of certified mail within 30 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 Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

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

Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye

Mr. Albert	- abstain
Dr. Madia	- aye
Dr. Talmage	- abstain
Dr. Suppan	- aye
Mr. Morris	- aye
Dr. Ramprasad	- aye

The motion to amend carried.

Mr. Albert exited the meeting at this time.

Dr. Steinbergh moved to approve and confirm the Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Elease Michelle Fulgham. Dr. Mahajan seconded the motion. A vote was taken:

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

The motion carried.

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

January 13, 2010

Case number: 10-CRF-003

Elise Michelle Fulgham
6404 Montgomery Road, #4
Cincinnati, OH 45213

Dear Ms. Fulgham:

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 January 31, 2008, you caused to be submitted to the Board an Application for Certificate to Practice a Limited Branch Massage Therapy [January 2008 Application], including an Affidavit and Release of Applicant [Affidavit No. 1]. Subsequently, on or about September 10, 2008, you caused to be submitted to the Board a Massage Therapy Re-Examination Application [September 2008 Application], including an Affidavit and Release of Applicant [Affidavit No. 2]. Thereafter, on or about March 28, 2009, you caused to be submitted to the Board another Massage Therapy Re-Examination Application [March 2009 Application], including another Affidavit and Release of Applicant [Affidavit No. 3]. The January 2008 Application, September 2008 Application, and the March 2009 Application, hereinafter shall be referred to collectively as "the Applications."

With regard to Affidavit No. 1, Affidavit No. 2, and Affidavit No. 3, hereinafter referred to collectively as "the Affidavits", you certified under oath that the information provided in the Applications 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 Applications. Your March 2009 Application remains pending.

- (2) In the "Additional Information" section of your Applications, you answered "No" to Questions 11 and 12, which ask respectively:

Mailed 01-14-10

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 for a minor traffic violation; been summoned into court as a defendant or had any lawsuit filed against you (other than a malpractice suit)?

In fact, you have been convicted of and failed to disclose:

- (a) In or about April 1993, in the Municipal Court of Hamilton County, Ohio, Case No: C/93/CRB/10214, you were found guilty of theft, a misdemeanor, and fined \$250.00 and costs.
- (b) In or about April 1995, in the Mayor's Court of Springdale, Ohio, after being arrested for petty theft, a misdemeanor, you were found guilty and fined \$50.00.
- (c) In or about October of 1997, in the Mayor's Court of Springdale, Ohio, after being arrested for Passing Bad Checks, a misdemeanor, you were found guilty and fined \$200.00.
- (d) In or about November, 1998, in the Municipal Court of Hamilton County, Ohio, Case No.: C/98/CRB/47648, you were found guilty of theft, a misdemeanor, and fined \$100.00 and costs.
- (e) In or about June, 2006, in the Municipal Court of Hamilton County, Ohio, Case No.: C/06/CRB/14174, you were found guilty of theft, a misdemeanor, and sentenced to 180 days, suspended, fined \$150.00 and costs, and placed under community control for one year.

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

eligibility for intervention in lieu of conviction for, a 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/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3068 4911
RETURN RECEIPT REQUESTED