BEFORE THE BOARD OF MASSAGE THERAPY
OF THE STATE OF IOWA

IN THE MATTER OF	)	CASE NO. 10-013
	)	
Misael Cooper	)	**NOTICE OF HEARING AND**
License No. 005763	)	**STATEMENT OF CHARGES**
RESPONDENT.	)	
	)	

COMES NOW the Iowa Board of Massage Therapy (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 645 Administrative Code rule 11.6. Respondent was issued Iowa license 005763 on May 10, 2010. Respondent's license is active and will next expire on May 15, 2012.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on December 13, 2011, before the Board. The hearing shall begin at 10:00 a.m. and shall be located in the Lucas State Office Building, room 526, Des Moines, Iowa 50319.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 Iowa Administrative Code rule 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Massage Therapy, 5th Floor, Lucas State Office Building, Des Moines 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found in Iowa Administrative Code chapter 11. At hearing, you may appear personally or be represented by counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements in 645 Iowa Administrative Code rule 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained in 645 Iowa Administrate Code rule 11.17.

Prosecution. The Office of Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address:

Meghan Gavin
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319

Ms. Gavin can also be reached by phone at (515)281-6736 or e-mail at Meghan.Gavin@iowa.gov.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board Members may only receive information about the case when all parties have notice and opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 151, and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 147, 151, and 272C and under 645 Iowa Administrative Code rule 11.21.

Default. If you fail to appear at hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 645 Iowa Administrative Code rule 11.21.

C. STATUTES AND RULES INVOLVED

Count I

Respondent is charged with violation of a regulation or law of this state, which relates to the practice of the profession in violation of Iowa Code section 147.55(5) and 645 Administrative Code rule 134.2(19).

D. FACTUAL CIRCUMSTANCES

1. On October 25, 2010, the Respondent was charged with assault with intent to commit sexual abuse in violation of Iowa Code section 709.11, an aggravated misdemeanor.

2. Trial information alleged that the assault occurred at the Respondent's place of business, Massage Envy, during a scheduled appointment with a client.

3. The trial information alleged that the Respondent rubbed his hand over the victim's vagina and placed the victim's hand on his penis without her permission and against her will.

4. On May 23, 2011, the Respondent entered an "Alford" plea to the charge of assault with intent to commit sexual abuse.

5. On June 28, 2011, the Respondent was sentenced to a suspended two-year term of imprisonment, a two-year term of probation, and ordered to register as a sex offender.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 Iowa Administrative Code chapter 12.

F. FINDING OF PROBABLE CAUSE

On September 6, 2011, the Iowa Board of Massage Therapy found probable cause to file this Statement of Charges and to order a hearing set in this case.