

BEFORE THE IOWA BOARD OF MASSAGE THERAPY

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IN THE MATTER OF	)	NO. 09-009
	)	
	)	
Robert Porter,	)	<b>NOTICE OF HEARING;</b>
License No. 03484	)	<b>STATEMENT OF CHARGES</b>
	)	
Respondent.	)	

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COMES NOW the Iowa Board of Massage Therapy hereby files this Notice of Hearing and Statement of Charges pursuant to Iowa Code section 17A.12(2), 17A.18(3) and 645 Iowa Administrative Code 11.6. On November 24, 2003, the Board issued Respondent Iowa Massage Therapy License No.03484. Respondent's license is inactive having expired November 15, 2009.

**A. TIME, PLACE AND NATURE OF HEARING**

1. Hearing. A disciplinary contested case hearing shall be held on December 7, 2010 with the Iowa Board of Examiners for Massage Therapy. The hearing shall begin at 10:00 a.m. and shall be held in the conference room at the Lucas State Office Building, Fifth Floor Board Conference Room No. 526, Des Moines, Iowa.

2. Answer. Within twenty (20) days of the date you are served with this Statement of Charges you are required by Iowa Administrative Code section 645-11.12 to file an Answer. In the Answer you should also state whether you request a continuance of the date and time of the hearing.

3. Presiding Officer. The Board shall serve as the 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.

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

5. Prosecution. The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address: Kristin W. Ensign, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

6. Communications. You may not contact board members by telephone, letter, facsimile, e-mail, or in person about this Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in a pleading you file with the Board office and serve upon all parties in the case. You should direct any questions to Assistant Attorney General Kristin W. Ensign at 515-281-6547.

## **B. LEGAL AUTHORITY AND JURISDICTION**

7. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 147, 152C and 272C (2009).

8. 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, 152C and 272C and Iowa Administrative Code chapter 645.

9. Default. If you fail to appear at the 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 Iowa Administrative Code section 645-11.21.

### **C. SECTIONS OF STATUTES AND RULES INVOLVED**

#### **COUNT I**

10. Respondent is charged with practice harmful or detrimental to the public by engaging in improper sexual contact with, and/or making improper advances towards, clients when practicing massage therapy, in violation of Iowa Code sections 147.55(3) and 272C.10(3) (2009) and 645 Iowa Administrative Code 134.2(28)(b).

#### **COUNT II**

11. Respondent pled guilty to four counts of assault with intent to commit sexual abuse, crimes that would affect the Respondent's ability to practice within the massage therapy profession in violation of Iowa Code section 147.55(5).

### **D. FACTUAL CIRCUMSTANCES**

12. Respondent was a licensed massage therapist at the time of the events noted herein.

13. Respondent had improper sexual contact with, and/or made improper sexual advances towards Client #1 on or about September 11, 2009, when practicing massage therapy.

14. Respondent had improper sexual contact with, and/or made improper sexual advances towards Client #2 on or about September 5-6, 2009, when practicing massage therapy.

15. Respondent had improper sexual contact with, and/or made improper sexual advances towards Client #3 on or about May 1-31, 2009, when practicing massage therapy.

16. Respondent had improper sexual contact with, and/or made improper sexual advances towards Client #4 on or about August 1, 2007 - October 31, 2007, when practicing massage therapy.

17. Respondent pled guilty to four counts of assault with intent to commit sexual abuse.

#### **E. PROBABLE CAUSE FINDING**

18. On this 22<sup>nd</sup> day of October, 2010, the Iowa Board of Massage Therapy found probable cause to file this Statement of Charges.