

**BEFORE THE BOARD OF MASSAGE THERAPY EXAMINERS
STATE OF IOWA**

IN THE MATTER OF:)	CASE NO.: 02-012
)	
NATHAN KIRBY, RESPONDENT)	STATEMENT OF CHARGES
)	

COMES NOW the Board of Massage Therapy Examiners (“Board”) pursuant to Iowa Code sections 17A.12, 147.2, 152C.4-.5, and 272C.3 and 645 Iowa Administrative Code chapters 11, 13, and 134 and alleges the following:

I. JURISDICTION AND PARTIES

1. The Board has jurisdiction of this matter pursuant to Iowa Code sections 147.2, 152C.4-.5, 272C.3 (2003) and 645 Iowa Administrative Code rules 13.1 and 134.2(2).
2. Respondent Nathan Kirby is an individual residing in the state of Iowa.

II. FACTUAL ALLEGATIONS

3. Using his own name as well as names including, but not limited to, “Nathan Kirby Massage” and “The Healing Touch,” Respondent performed massage therapy as it is defined by Iowa Code section 152C.1(3) for compensation in the state of Iowa.
4. Respondent advertised his services as a massage therapist for compensation in a number of yellow page advertisements and newspapers.
5. Respondent is not licensed to provide massage therapy pursuant to Iowa Code chapter 152C.

III. ALLEGATIONS

6. Paragraphs 1-6 are incorporated herein by reference.

7. Beginning on a date uncertain, but no later than December of 2001, Respondent practiced "massage therapy" as it defined by Iowa Code section 152C.1(3).

8. Respondent violated Iowa Code section 152C.5 by practicing massage therapy for compensation without a license.

9. As authorized by Iowa Code section 152C.4, the Board may, by order, impose a civil penalty upon a person who practices as a massage therapist without a license.

10. In determining the amount of a civil penalty, the board may consider the following:

a. Whether the amount imposed will be a substantial economic deterrent to the violation;

b. The circumstances leading to or resulting in the violation;

c. The severity of the violation and the risk of harm to the public;

d. The economic benefits gained by the violator as a result of noncompliance;

e. The welfare or best interest of the public.

This Statement of Charges is approved by the board on July 30, 2003.

YOU ARE NOTIFIED that you must file an answer within twenty (20) days of service of this notice. Failure to do so may result in the entry of a default decision against you. You are further notified that you have an opportunity to respond and present evidence at your expense pursuant to Iowa Code chapter 17A (2003). You have the right to examine certain evidence before the date of hearing in accordance with chapter 17A. You are further notified that the Division may subpoena witnesses to testify against you and that subpoenas shall be issued to a party upon request. Any witness at the hearing, or any person whose testimony has been submitted in written form, if available, shall be subject to cross-examination by any party as necessary for a full and true disclosure of the facts. You are further notified that this hearing will be an oral proceeding open to the public and shall be recorded by mechanized means and will be transcribed at the request of any party with the expense of the transcription charged to the requesting party. If you fail to appear, a default decision may be entered against you or the State may proceed to the hearing, produce evidence and argument, and the final decision or order will be forthcoming.

If you require the assistance of auxiliary aids or services to participate in a hearing because of disability, immediately call (515) 281-5705, or if you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942.