

**STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
Public Health Hearing Office**

Doug Spingola, LMT  
61 Petticoat Lane  
East Haddam, CT 06423

Petition Nos.: 2009-2009253  
2009-20091211  
2009-20091307  
February 15, 2011

**MEMORANDUM OF DECISION**

***Procedural Background***

On May 6, 2010, the Department of Public Health (“the Department”) issued a Notice of Hearing (“the Notice”) and a Statement of Charges (“the Charges”) against Doug Spingola, licensed massage therapist (“respondent”). Rec. Exh. 2. The Charges allege grounds for disciplinary action pursuant to Connecticut General Statutes (“the Statutes”) §§ 19a-10 and 19a-14. The Notice scheduled a hearing for May 14, 2010, and appointed this Hearing Officer to rule on all motions, make findings of fact and conclusions of law, and issue an Order. Rec. Exh. 2.

After three continuances at respondent’s request, a hearing was held on August 20, September 17, and October 22, 2010, in accordance with Chapter 54 of the Statutes and §19a-9-1, *et seq.* of the Regulations of Connecticut State Agencies. Respondent filed an Answer on August 5, 2010. Respondent was present at the hearing and was represented by Attorney Averum Sprecher; Attorney Diane Wilan represented the Department. Both parties were given the opportunity to present evidence and argument on all issues and to conduct cross-examination.

This Memorandum of Decision is based entirely on the record and sets forth this Hearing Officer’s findings of fact, conclusions of law and order.

***Allegations***

1. In paragraphs 1, 5, 9, 13, 17, and 22 of the Charges, the Department alleges that respondent is, and has been at all times referenced in the Charges, the holder of Connecticut massage therapy license number 003689.

***First Count***

2. In paragraph 2 of the Charges, the Department alleges that on or about March 11, 2009, respondent provided massage services for H.S. During the course of the massage, respondent inappropriately:
  - a. touched H.S.’s pubic area; and/or

- b. caused H.S. to feel apprehensive.
3. In paragraph 3 of the Charges, the Department alleges that on or about March 18, 2009, respondent provided massage services for H.S. During the appointment, respondent:
- a. held the drape completely off H.S.'s body;
  - b. viewed H.S.'s nude body in a full-length mirror placed near the table;
  - c. caused H.S. to feel apprehensive.

***Second Count***

4. In paragraph 6 of the Charges, the Department alleges that on or about August 27, 2009, respondent provided massage therapy to female patient, J.R.F. During the course of the massage, respondent inappropriately:
- a. allowed J.R.F.'s intimate areas to be uncovered several times;
  - b. massaged J.R.F.'s breasts although she asked him not to;
  - c. massaged J.R.F.'s pubic area without permission;
  - d. exhibited unprofessional behavior and anger toward J.R.F. when she told respondent she felt uncomfortable being touched in these areas; and/or
  - e. inflicted emotional trauma on J.R.F.
5. In paragraph 7 of the Charges, the Department alleges that on or about August 27, 2009, respondent was arrested by the Middletown Police for uncovering and massaging J.R.F.'s breasts against her will, and was charged with Sexual Assault in the 4<sup>th</sup> degree, in violation of §53a-73a of the Statutes.

***Third Count***

6. In paragraph 10 of the Charges, the Department alleges that on or about September 17, 2009, respondent provided massage services for M.M. During the course of the massage, respondent inappropriately:
- a. touched M.M.'s body, including massaging her breasts;
  - b. lifted M.M.'s legs to expose her vagina;
  - c. put his hand under M.M.'s underwear and massaged her pubic area to the pubic crest and within one inch of her vagina;
  - d. did not stop when M.M. told respondent he was causing her pain;
  - e. made sexual comments; and/or
  - f. caused M.M. emotional distress, and/or to feel scared and/or violated.
7. In paragraph 11 of the Charges, the Department alleges that on or about November 27, 2009, respondent was arrested by the Middletown Police for massaging M.M.'s breasts against her will, and was charged with Sexual Assault in the 4<sup>th</sup> degree, in violation of §53a-73a of the Statutes.

***Fourth Count***

8. In paragraph 14 of the Charges, the Department alleges that on or about November 2008, respondent provided massage therapy to female patient, C.R. During the course of the massage, respondent inappropriately:
  - a. uncovered and massaged C.R.'s buttocks;
  - b. uncovered and massaged C.R.'s breasts including the nipples;
  - c. made unprofessional and/or sexual comments;
  - d. uncovered C.R.'s stomach and intimate areas;
  - e. lifted C.R.'s leg and put it over his shoulder;
  - f. exposed and massaged C.R.'s vagina; and/or
  - g. caused C.R. to feel sick, disgusted, and/or fearful.
  
9. In paragraph 15 of the Charges, the Department alleges that on or about January 15, 2010, respondent was arrested by the Middletown Police for massaging C.R.'s breasts and vagina, and was charged with Sexual Assault in the 4th degree, in violation of §53a-73a of the Statutes.

***Fifth Count***

10. In paragraph 18 of the Charges, the Department alleges that on or about July 2006, respondent provided massage therapy to female patient, K.K. During the course of the massage, respondent inappropriately:
  - a. massaged between K.K.'s breast, and the sides and tops of her breasts;
  - b. massaged between K.K.'s inner thighs to the crotch;
  - c. made K.K. fearful and uncomfortable.
  
11. In paragraph 19 of the Charges, the Department alleges that during approximately September 2006, respondent provided massage services for K.K. During the course of the massage, respondent inappropriately:
  - a. massaged between K.K.'s inner thighs close to her vagina; and/or
  - b. made K.K. fearful and uncomfortable.
  
12. In paragraph 20 of the Charges, the Department alleges that on or about January 15, 2010, respondent was arrested by the Middletown Police for touching K.K.'s vagina and massaging her breasts, and was charged with Sexual Assault in the 4th degree, in violation of §53a-73a of the Statutes.

***Sixth Count***

13. In paragraph 23 of the Charges, the Department alleges that during approximately 1999 respondent provided massage services for A.C. and charged for these massages on approximately 30 occasions, although he was not licensed as a massage therapist.
  
14. In paragraph 24 of the Charges, the Department alleges during the course of the massage sessions respondent provided to A.C. in 1999, respondent inappropriately:

- a. caused A.C.'s lower torso to be completely exposed while respondent massaged the upper part of A.C.'s body;
- b. massaged A.C.'s breasts including the nipples, although A.C. told him she was not comfortable with him doing that;
- c. caused A.C.'s lower torso to be completely exposed while respondent massaged the lower part of her body;
- d. massaged A.C.'s inner thighs and pubic area.

***Findings of Fact***

1. Respondent is, and has been at all times referenced in the Charges, the holder of Connecticut massage therapist license number 003689. Rec. Exh. 2, 6.

***First Count***

2. On or about March 11, 2009, respondent provided a massage therapy session to female patient, H.S. During the massage, respondent put his hand under the sheet, on H.S.'s pubic crest area, and caused H.S. to feel apprehensive. Tr. 8/20/10, pp. 200-201, 203.
3. On March 18, 2009, respondent again provided massage services to H.S. At that time, respondent inappropriately held the drape completely off H.S.'s body, and looked at her nude body in the full-length mirror in the room, causing H.S. to feel apprehensive. Tr. 8/20/10, pp. 204-205.

***Second Count***

4. In or about August 2009, respondent provided massage therapy to female patient, J.R.F. Dept. Exh. 1, Tr. 8/20/10 p. 141.
5. In or about August 2009, respondent inappropriately exposed J.R.F.'s intimate areas several times; massaged J.R.F.'s breasts although she asked him not to; massaged J.R.F.'s pubic area without permission; exhibited unprofessional behavior and anger toward her when she told him she felt uncomfortable being touched in these areas; and, inflicted emotional trauma on J.R.F. Tr. 8/20/10 pp. 142, 143-145, 183-184, 186, 187, 190.

***Third Count***

6. In or about September 2009, respondent provided massage therapy to female patient M.M. Tr. 8/20/10, p. 88.
7. In or about September 2009, respondent inappropriately touched M.M.'s body, including massaging her breasts; lifting M.M.'s legs to expose her vagina; and, putting his hands under her underwear and massaging her pubic area to the pubic crest and within one inch of her vagina. He refused to stop when she told him he was causing her pain. He also made sexual comments, and caused M.M. emotional distress, and to feel scared and violated. Tr. 8/20/10, p. 90-91, 117-118, 120-122.

8. On November 27, 2009, respondent was arrested by the Middletown Police for massaging M.M.'s breasts against her will, and charged with Sexual Assault in the 4<sup>th</sup> degree, in violation of §53a-73a of the Statutes. Dept. Exh. 4.

***Fourth Count***

9. In or about November 2008, respondent provided massage therapy to female patient, C.R. Tr. 9/17/10 p. 8.
10. Respondent massaged C.R.'s breasts and buttocks without first discussing the procedure with her and obtaining her permission. Tr. 9/17/10 pp. 79-80.
11. In or about November 2008, respondent massaged C.R.'s breasts under the sheet, including her nipples. Tr. 9/17/10 pp. 10-11.
12. In or about November 2008, respondent massaged C.R.'s buttocks making her feel uncomfortable. Tr. 9/17/10 pp. 54-55.
13. In or about November 2008, respondent placed C.R.'s leg on his shoulder and massaged her leg, causing her to feel uncomfortable. Tr. 9/17/10 p. 11.
14. In or about November 2008, respondent did not properly drape C.R. during two separate instances: (1) as she lay on her back, respondent exposed her entire upper torso from the waist up; and, (2) while massaging her leg, respondent exposed her from the waist down. Tr. 9/17/10 pp. 11, 59, 65.
15. Respondent inappropriately exposed and massaged C.R.'s vaginal area. Tr. 09/17/10, pp. 10-13.
16. Respondent's conduct during the massage made C.R. feel sick, disgusted, and fearful. Tr. 09/17/10, pp. 10, 14.
17. In the course of the massage, respondent made inappropriate comments to C.R. about her body and about respondent having private parties at his massage parlor. Tr. 09/17/10, p. 14.

***Fifth Count***

18. During approximately July 2006, respondent provided massage therapy to K.K. Dept. Exhs. 1-2, Tr. 8/20/10 pp. 18-21.

19. During the first treatment in approximately July 2006, respondent inappropriately massaged below K.K.'s breast, the sides and tops of her breast, and between her inner thighs to the crotch; he also brushed his finger against K.K.'s vagina and made K.K. feel uncomfortable. Dept. Exhs. 1-2; Tr. 08/20/2010, pp.18-21, 24.
20. In approximately September 2006, respondent provided massage services to K.K. the second time. At that time, he inappropriately massaged between K.K.'s inner thighs close to her vagina, and made her feel fearful and uncomfortable. Dept. Exhs. 1-2; Tr. 8/20/10 p. 22-24, 59.
21. On or about January 15, 2010, respondent was arrested by the Middletown Police for touching K.K.'s vagina and massaging her breasts, and was charged with Sexual Assault in the 4<sup>th</sup> degree. Dept. Exh. 2.

***Sixth Count***

22. In or about 1999 or 2000, respondent first provided massage therapy to female patient, A.C. Thereafter, respondent charged A.C. for such massages on approximately 30 different occasions, three times per week. At the time, respondent was not licensed as a massage therapist. Dept. Exh. 11; Tr. 9/17/10, pp. 88-9, 119.
23. In 1999, respondent completely exposed A.C.'s upper torso while massaging the upper part of A.C.'s body. Dept. Exh. 11; Tr. 09/17/10, p. 127.
24. In or about 1999 or 2000, respondent touched A.C.'s vaginal area claiming that the area was toxic and that A.C. needed to "loosen up." Tr. 9/17/10, p. 92.
25. In or about 1999 or 2000, respondent massaged A.C.'s breasts and nipples. A.C. complained to respondent that she did not want him to massage her breast area because it caused her soreness in that area. Dept. Exh. 11; Tr. 9/17/10, pp. 92- 93.
26. In 1999, respondent inappropriately massaged A.C.'s inner thighs and pubic area. Tr. 09/17/2010, p. 124.

***Conclusions of Law and Discussion***

Section 20-206 of the Statutes provides in pertinent part:

The Department may take any action set forth in section 19a-17 if a person issued a license pursuant to section 20-206b fails to conform to the accepted standards of the massage therapy profession, including, but not limited to, the following: . . . fraud

or deceit in the practice of massage therapy; negligent, incompetent or wrongful conduct in professional activities; . . .

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Goldstar Medical Services, Inc., et al. v. Department of Social Services*, 288 Conn. 790 (2008); *Swiller v. Commissioner of Public Health*, No. CV 95-0705601 (Sup. Court, J.D. Hartford/New Britain at Hartford, October 10, 1995).

The Department sustained its burden of proof with regard to all of the allegations contained in the Charges. The evidence establishes that respondent repeatedly violated the minimum standards of the massage therapy profession by engaging in sexual misconduct with his clients. All of the clients' testimony at the hearing was detailed and consistent with the sworn statements they provided to the police and the Department staff.

#### ***First Count***

With regard to the allegations contained in the First Count, the Department sustained its burden of proof. A preponderance of the evidence establishes that on March 11, 2009, when respondent provided massage therapy to H.S., he placed his hand under the sheet and on H.S.'s pubic crest area, causing H.S. to feel apprehensive. On March 18, 2009, while providing massage services, respondent exposed H.S.'s body and looked at her nude body in the full-length mirror he had in the room, again causing H.S. to feel apprehensive. Respondent denies the allegations contained in this count, and argues that H.S. had extensive experience with massages and, therefore, consented to his massage by failing to complain. Respondent's defense is not credible. H.S. provided detailed and credible testimony that after the first massage therapy session, she scolded respondent about inappropriately touching her, and that she gave respondent a second chance by going to him for another massage, at which time, he again abused her. Therefore, the Department sustained its burden of proof with regard to the allegations contained in the First Count.

#### ***Second Count***

With regard to the allegations contained in the Second Count, the Department sustained its burden of proof. A preponderance of the evidence establishes that on August 27, 2009, when respondent provided massage services to J.R.F., he exposed her intimate areas several times; massaged her breasts although she asked him not to; massaged her pubic area without permission; exhibited unprofessional behavior and anger toward her when she told him she felt

uncomfortable being touched in these areas; and, inflicted emotional trauma on her. The evidence further establishes that on November 27, 2009, Middletown Police arrested respondent for massaging her breast against her will, and charged him with Sexual Assault in the 4<sup>th</sup> degree, in violation of §53a-73a of the Statutes.

Respondent claims that J.R.F. consented to the manner in which he performed his massage, and provided him with a great evaluation and a tip after he had finished performing the massage. He denies the allegations and argues that J.R.F. was very experienced with massages. Respondent's denial is specifically found to lack credibility; and, J.F.R. is found to be credible. J.R.F. testified that she specifically told respondent she did not want to receive a breast massage, and that respondent abruptly ended the massage the moment she told him she was uncomfortable with the manner he was touching her. She further testified that the only reason she gave respondent a good evaluation and tip was because she was alone and afraid of him. Respondent's argument that J.R.F. has extensive experience with massages is irrelevant. Therefore, the Department sustained its burden of proof with regard to all of the allegations contained in the Second Count.

### ***Third Count***

With regard to the Third Count, the Department sustained its burden of proof. A preponderance of the evidence establishes that in or about September 2009, when respondent provided massage therapy to M.M., he massaged her breasts; lifted her legs to expose her vagina; put his hands under her underwear and massaged her pubic area to the pubic crest and within one inch of her vagina; did not stop when she told him he was causing her pain; made sexual comments; and, caused her emotional distress and to feel scared and violated. As a result, on November 27, 2009, respondent was arrested by the Middletown Police for massaging M.M.'s breast against her will, and charged with Sexual Assault in the 4<sup>th</sup> degree, in violation of §53a-73a of the Statutes.

Respondent denies these allegations and contends that M.M. did not express any disagreement while she was receiving the massage, except that "she may have groaned a little," and that M.M. was apprehensive because she was so young and inexperienced with massages. Respondent's defenses are not credible and not relevant. M.M. was, indeed, a young girl who was having a massage for the first time. That fact renders her testimony even more credible, and

renders respondent's conduct even more reprehensible. Therefore, the Department sustained its burden of proof with regard to all of the allegations contained in the Third Count.

#### ***Fourth Count***

With regard to the Fourth Count, the Department sustained its burden of proof. A preponderance of the evidence establishes that sometime in November 2008, when respondent provided massage services to C.R., he exposed C.R.'s buttocks, breast, stomach, and intimate areas, including her vagina; he massaged her buttocks, breasts, and her vaginal area; he made unprofessional and sexual comments about C.R.'s body; he lifted her leg and put it over his shoulder; and, he caused C.R. to feel sick, disgusted, and fearful. Respondent again denies these allegations and claims that C.R. had extensive experience with massages, provided him with a good evaluation and tip after the massage, and had her husband in the waiting room, who could have protected her if, in fact, she needed help. Respondent's defenses, however, are not credible and are contradicted by C.R.'s detailed and credible testimony regarding the allegations. She further testified that she was afraid to say anything to her husband because her daughter was also present in the waiting room, and that her husband was carrying a gun, which made C.R. concerned that the situation could escalate. She, therefore, decided not to say anything to him at the time. Thus, the Department sustained its burden of proof regarding the allegations in the Fourth Count.

#### ***Fifth Count***

With regard to the allegations in the Fifth Count, the Department sustained its burden of proof. A preponderance of the evidence establishes that during approximately July and September of 2006, respondent provided massage services for K.K. K.K. testified that respondent massaged below and on the sides and tops of K.K.'s breast and between K.K.'s inner thighs to the crotch; he brushed his finger against K.K.'s vagina; and, he made K.K. feel uncomfortable. In September 2006, respondent also inappropriately massaged between K.K.'s inner thighs close to her vagina, and made K.K. feel fearful and uncomfortable. As a result, on or about January 15, 2010, respondent was arrested by the Middletown Police for touching K.K.'s vagina and massaging her breasts, and was charged with Sexual Assault. Respondent claims that K.K. should not be believed because she had extensive experience with massages and should have complained to him, and that she even came back for a second massage. Respondent defenses are irrelevant to the issue of whether he abused K.K. K.K. presented credible and

detailed testimony as to her experience with respondent on both of her massage sessions. Her statements were consistent with what she told the police officer and the Department's investigator. Therefore, the Department sustained its burden of proof with regard to the allegations contained in the Fifth Count.

### ***Sixth Count***

With regard to the allegations in paragraph 24, the Department sustained its burden of proof. Section 20-206b of the Statutes provides that "no person shall engage in the practice of massage therapy unless the person has obtained a license from the Department pursuant to this section."

A preponderance of the evidence establishes that during approximately 1999, respondent provided massage services for A.C., charging for these services on approximately 30 occasions. At such time, he was not licensed as a massage therapist. A.C. credibly testified that she began going to respondent for massage therapy sessions in 1999 or 2000, and continued to receive massage therapy from respondent for months, three times per week. A.C. also testified that in or around March or April 2000, respondent asked her to meet him at the Galen Institute in Wethersfield to help him demonstrate his competency as a massage therapist so he could obtain his license, and that respondent showed her the license once he had obtained it in approximately 2000 and 2001.

Respondent rebuts the Department's allegation by stating that he only performed massages on A.C. in order to meet its training requirement as permitted by § 20-206d of the Statutes which allows students to perform massages in order to satisfy their course requirements. In support of his claim, respondent presented a copy of his records of the massages he performed while he was training as a massage therapist at Galen Institute. Such record lists the dates, names of participants, and hours spent by respondent practicing massage techniques starting on July 20, 2003 and continuing to November 7, 2003. The list contains A.C.'s name twice: on October 25, 2003, and on November 5, 2003. However, respondent presented no additional evidence, other than his denial, to refute the claim that he engaged in unlicensed practice in 1999 and 2000. Moreover, respondent was compensated for the treatment he provided A.C., and § 20-206d of the Statutes prohibits compensation for treatment provided as part of a licensed training program. Respondent's bald denial is not credible, and a preponderance of the evidence

establishes that respondent practiced as a massage therapist without a license during 1999 and 2000.

With regard to the allegations contained in paragraph 24 of the Charges, the Department sustained its burden of proof. A preponderance of the evidence demonstrates that sometime in 1999, respondent exposed A.C.'s upper torso while massaging the upper part of A.C.'s body; touched A.C.'s vaginal area claiming that the area was toxic and that A.C. needed to "loosen up;" and, massaged A.C.'s breasts and nipples. A.C. complained to respondent that she did not want him to massage her breast area because it caused her soreness in that area. Respondent again denies these allegations and claims A.C. should have stopped him if she was uncomfortable or if he was doing anything inappropriate. Respondent's denial is unsupported by any evidence and is not credible. His claim that the client should have objected, is not a defense. A.C. is specifically found to be credible. This allegation is supported by a preponderance of the evidence.

The overwhelming evidence supports all of the allegations. Six unrelated women independently testified about their traumatic experiences receiving massage therapy services from respondent. All of the women were credible when they testified that they were too scared to complain because they were alone with him and were shocked and unable to react logically. None of the women knew each other before the day of the hearing, yet all of their stories were consistent, and they all filed police reports. Most, if not all of their testimony, is consistent with their written statements to the Department staff and the police officers. Respondent himself agreed that it is inappropriate to touch his clients' bodies in private areas, and to expose clients' bodies. Respondent's conduct caused all of the victims to feel fear, anxiety, and suffer panic attacks. Many of these symptoms persisted even up to the day of the hearing.

The only remaining question is what remedy is appropriate. The Department requests that respondent's license be revoked. A revocation is appropriate. The evidence establishes that respondent repeatedly engaged in wrongful and reprehensible sexual misconduct for which he fails to take any responsibility. Therefore, his continuing practice as a massage therapist poses a significant danger to the public health and safety of the public.

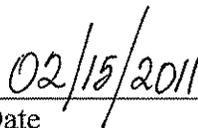
***Order***

Based on the record in this case, the above findings of fact and conclusions of law, and pursuant to §§19a-17 and 20-206c of the Statutes, the following is ordered in this case against Doug Spingola, LMT, regarding Connecticut massage therapist number 003689:

1. Respondent's license number 003689 to practice as a massage therapist in the State of Connecticut is hereby revoked.
2. This Order shall become effective upon signature.



\_\_\_\_\_  
Olinda Morales, Esq.  
Hearing Officer



\_\_\_\_\_  
Date

**CERTIFICATION**

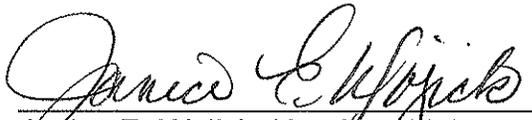
I hereby certify that, pursuant to Connecticut General Statutes Section 4-180(c), a copy of the foregoing final Memorandum of Decision was sent this 15th day of February, 2011 certified mail return receipt requested to:

Averum Sprecher, Esq.  
90 Court Street  
Middletown CT 06457

CMRRR# 91 7108 2133 3932 0601 6252

*and by E- Mail to:*

[matthew.antonetti@ct.gov](mailto:matthew.antonetti@ct.gov)  
Matthew Antonetti, Principal Attorney  
Legal Office, MS#12LEG  
Department of Public Health  
410 Capitol Avenue  
P. O. Box 340308  
Hartford CT 061343-0308

  
Janice E. Wojick, Hearings Liaison