

1 violations of ORS Chapter 687 and OAR Chapter 334. As such, the matter was forwarded for
2 investigation.

3 4.2 On 01/12/2013, a Board investigator met with and interviewed client AA. Client
4 AA reported that she had been receiving massages from the Licensee for approximately one year
5 at his place of business. She stated that during her very first massage session he asked her
6 questions about her relationships in general. She stated that she told him she did not want to talk
7 about it, but that she relented and shared information about her boyfriend and how she was upset
8 about their relationship. Client AA told the investigator that the Licensee told her that she needed
9 to cry, and at the conclusion of the massage he attempted to hug her but she stopped him. Client
10 AA reported that during her third massage, Licensee asked what she wanted in a relationship,
11 and that he told her that he wanted to take care of her more than she could know. Client AA
12 reported to the investigator that Licensee's comments became sexual in nature when he began
13 telling her stories of an individual's sex life. Client AA reports that in May 2012, Licensee went
14 on vacation for two weeks and did not want her to see another massage therapist while he was
15 away.

16 She reported that upon his return, the massages became more intimate. Client AA alleges
17 that Licensee would move the drape, exposing her underwear, that he would massage under her
18 underwear and that at the end of the massage while she was lying on her back, he would lean
19 over and kiss her on the forehead. Client AA reported to the investigator that after one massage,
20 as she was leaving, Licensee stepped back into the room and hugged and kissed her again. Client
21 AA reported to the investigator that during one massage session Licensee asked her what she
22 was thinking and she responded she was thinking about riding horses, to which he allegedly
23 replied, "Oh, mounting them," and laughed. Client AA reported that during one massage she
24 moved her arm and accidentally made contact with Licensee's groin. She apologized to the
25 Licensee for bumping him, to which he replied that Freud believed that there were no such things
26 as accidents. She reported to the investigator that the following session with the Licensee, he

1 would taunt her about the incident and make sexual innuendos. After that, Client AA felt that the
2 relationship was too personal and told the Licensee she wasn't going to be returning for further
3 sessions. She reported to the investigator that he asked why she would "leave something that is
4 so good for us." Client AA said that she spoke to the spa manager about the incidents.

5 4.3 The investigator met with the spa manager on 01/12/2013. The manager
6 confirmed the details as described by Client AA, stating that the story remained consistent and
7 Client AA did not seek anything from the spa. After hearing of the incidents, the spa manager
8 told the Licensee about the complaint. His response was to ask who filed the complaint. The spa
9 manager terminated the Licensee's employment.

10 4.4 On 02/20/2013, the investigator met with Licensee. He reported that Client AA
11 was friendlier than most clients. He shared with the investigator some of what was shared with
12 him during session. He admitted that he felt compassion towards her after the patient told him
13 she was terminally ill and kissed her on the forehead at the close of one session and hugged her
14 and kissed her on the cheek. When asked about sharing the information about F's sex life, the
15 Licensee provided details as to why he felt that it was pertinent and relatable to the information
16 shared by the client. Licensee admitted to the investigator that conversations often became too
17 personal and that during the conversations he was unclear about appropriate boundaries and use
18 of personal power. He indicated that he was also unsure about the ethics involving personal
19 conversations or hugging and kissing a client, or what crosses the client/therapist relationship
20 between being friendly and professional. Licensee denied all other allegations made by the
21 patient.

22 CONCLUSIONS OF LAW

23 5.

24 Based on the acts and conduct described above, the matter if taken to hearing, the Board
25 believes it could prove that Licensee committed the following violations of Board Rules and
26 Statutes:

1 \$100.00 is due on September 15, 2013. However, if timely minimum payments are not made
2 within 60 days of the order date or the scheduled payment date, the agency deems the full civil
3 penalties will be enacted and will be accelerated and due and payable immediately. Collection of
4 the amount owed may, in the discretion of the agency, be referred to collection or a lien may be
5 filed for recovery against your assets.

6 6.8 Licensee agrees to attend a 2 day PBI professional boundaries course and provide
7 proof of that attendance to the Board within 30 days of attendance.

8 6.9 Licensee shall be placed on Peer Supervision, at a cost to LMT, for six months,
9 through 02/28/2014; whereby LMT shall meet with his Peer Supervisor at a minimum of one
10 hour per month, for the duration of the probationary period. The LMT may, as part of the Peer
11 Supervision and the determination of the Peer Supervisor, conduct up to one supervised massage
12 session per calendar quarter during the supervision period. The Peer Supervisor will observe the
13 massage session(s) for draping practices, client communication sanitation, massage knowledge
14 and business practices. During non-session meetings, the Peer Supervisor may discuss business
15 practices and trends, client communication, ethics, boundaries and other matters pertaining to the
16 Applicant's practice of massage and other matters of concern to the LMT and his success as a
17 massage therapist; if at the end of the six months of supervision, Licensee receives a satisfactory
18 evaluation from the supervisor and no further issues are identified, Licensee shall allow to return
19 to practice without further review. If additional issues are identified, then licensee is willing to
20 follow any further recommendations made by the supervisor.

21 6.10 Licensee agrees to read the book entitled "The Ethics of Touch and provide a
22 brief summary of the book materials and what he became aware of in reading it to the Board
23 within 60 days of finishing the book.

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1 6.11 Licensee agrees not to engage in any conduct that would or could impact his
2 ability to safely and competently conduct his massage practice, or compromise the health and
3 safety of the clients served.

4 DATED AND SERVED upon the above-named Licensee by regular and certified mail,
5 addressed to Licensee at last known address, this 25th day of September, 2013.

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BOARD OF MASSAGE THERAPISTS
State of Oregon

Signature on File

Signature on File

BEFORE THE STATE OF OREGON
BOARD OF MASSAGE THERAPISTS

In the Matter of the licensure of

Case No. 1504

PURKIEWICZ, ROBERT M
LMT #16219

NOTICE OF PROPOSED ACTION
(Civil Penalties)
and
NOTICE OF RIGHT TO HEARING

Licensee

1.

Pursuant to ORS chapter 687, the Oregon Board of Massage Therapists (*Board*) is the agency responsible for licensing, disciplining and regulating massage therapists in the State of Oregon.

2.

Robert M. Purkiewicz (*Licensee*) is currently licensed to practice as a massage therapist in the State of Oregon and is subject to the jurisdiction of the Board. Licensee's last known address is 1129 SW WASHINGTON ST APT 205, PORTLAND, OR 97205.

FINDINGS OF FACTS

3.

The Board received a complaint alleging unprofessional and dishonorable conduct on the part of the Licensee. Contact was made, interviews were conducted, and the Licensee was found to be in violation.

4.

4.1 On 12/18/2012, the Board received a complaint alleging unprofessional and dishonorable conduct on the part of the Licensee. The complaint specifically alleged improper draping technique, which allegedly resulted in client exposure, kissing and hugging of the client by the Licensee without client consent, and inappropriate and unprofessional conversation with the client during massage sessions. The allegations, if substantiated, would be considered violations of ORS Chapter 687 and OAR Chapter 334. As such, the matter was forwarded for investigation.

1 4.2 On 01/12/2013, a Board investigator met with and interviewed client AA. Client AA
2 reported that she had been receiving massages from the Licensee for approximately one year at his
3 place of business. She stated that during her very first massage session he asked her questions about
4 her relationships in general. She stated that she told him she did not want to talk about it, but that she
5 relented and shared information about her boyfriend and how she was upset about their relationship.
6 Client AA told the investigator that the Licensee told her that she needed to cry, and at the conclusion of
7 the massage he attempted to hug her but she stopped him. Client AA reported that during her third
8 massage, Licensee asked what she wanted in a relationship, and that he told her that he wanted to take
9 care of her more than she could know. Client AA reported to the investigator that Licensee's comments
10 became sexual in nature when he told her that bodies are meant to be enjoyed. Client AA reports that in
11 May 2012, Licensee went on vacation for two weeks and did not want her to see another massage
12 therapist while he was away. She reported that upon his return, the massages became more intimate.
13 Client AA alleges that Licensee would move the drape, exposing her underwear, that he would massage
14 under her underwear and that at the end of the massage while she was lying on her back, he would lean
15 over and kiss her on the forehead. Client AA reported to the investigator that after one massage, as she
16 was leaving, Licensee stepped back into the room and hugged and kissed her again, on the cheek.
17 Client AA reported to the investigator that during one massage session Licensee asked her what she was
18 thinking and she responded she was thinking about riding horses, to which he allegedly replied, "Oh,
19 mounting them," and laughed. Client AA reported that during one massage she moved her arm and
20 accidentally made contact with Licensee's groin. She reported that she noted he had an erection. She
21 apologized to the Licensee for bumping him, to which he replied that Freud believed that there were no
22 such things as accidents. She reported to the investigator that the following session with the Licensee,
23 he would taunt her about the incident and make sexual innuendos. After that, Client AA felt that the
24 relationship was too personal and told the Licensee she wasn't going to be returning for further sessions.
25 She reported to the investigator that he asked why she would "leave something that is so good for us."
26 Client AA said that she spoke to the spa manager about the incidents.

4.3 The investigator met with the spa manager on 01/12/2013. The manager

1 confirmed the details as described by Client AA, stating that the story remained consistent and Client AA
2 did not seek anything from the spa. After hearing of the incidents, the spa manager told the Licensee
3 about the complaint. His response was to ask who filed the complaint. The spa manager terminated the
4 Licensee's employment.

5 4.4 On 02/20/2013, the investigator met with Licensee. He reported that Client AA
6 was friendlier than most clients. He shared with the investigator some of what was shared with him during
7 session. He admitted that he felt compassionate toward her and kissed her on the forehead at the close
8 of one session and hugged her and kissed her on the cheek. When asked about sharing the information
9 about his father's sex life, the Licensee provided details as to why he felt that it was pertinent and
10 relatable to the information shared by the client. Licensee admitted to the investigator that conversations
11 often became too personal and that during the conversations he was unclear about appropriate
12 boundaries and use of personal power. He indicated that he was also unsure about the ethics involving
13 personal conversations or hugging and kissing a client, or what crosses the client/therapist relationship
14 between being friendly and professional.

15 16 CONCLUSIONS OF LAW

17 5.

18 Based on the acts and conduct described above, the Board found Licensee to have committed the
19 following violations of Board Rules and Statutes:

20 5.1 One violation of ORS 687.081(1)(i), licensee engages in unprofessional or
21 dishonorable conduct;

22 5.2 One violation of OAR 334-030-0005(2)(a), Standard II: Therapeutic Relationship --
23 the relationship between the LMT and the client. The LMT must: be accountable to his or her clients for
24 the quality and effectiveness of care and services and for creating the basic conditions and boundaries
25 necessary to foster safety and trust in the client-professional relationship; and

26 5.3 One violation of OAR 334-030-0005(2)(c), Standard II: Therapeutic Relationship --
the relationship between the LMT and the client. The LMT must: Ensure that their actions with a client are

1 based on understanding and implementing the core values of caring, respect, compassion, appropriate
2 boundaries, and appropriate use of personal power.

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4 6.

5 Based on the foregoing, the Board proposes to:

6 6.1 Pursuant to ORS 687.250(2), Issue a Notice of Proposed Action for a total civil
7 penalty of \$1,000 for:

8 6.2 One violation of ORS 687.081(1)(i), licensee engages in unprofessional or
9 dishonorable conduct;

10 6.3 One violation of OAR 334-030-0005(2)(a), Standard II: Therapeutic Relationship --
11 the relationship between the LMT and the client. The LMT must: be accountable to his or her clients for
12 the quality and effectiveness of care and services and for creating the basic conditions and boundaries
13 necessary to foster safety and trust in the client-professional relationship; and

14 6.4 One violation of OAR 334-030-0005(2)(c), Standard II: Therapeutic Relationship --
15 the relationship between the LMT and the client. The LMT must: Ensure that their actions with a client are
16 based on understanding and implementing the core values of caring, respect, compassion, appropriate
17 boundaries, and appropriate use of personal power; and

18 6.5 Pursuant to ORS 687.081(1), Licensee shall be considered on probationary status
19 through 01/31/2016, after which the Board may review his application for renewal to determine if the
20 probationary period shall be extended;

21 6.6 Pursuant to ORS 687.081(2)(a), Licensee is restricted from providing services to
22 minors, developmentally disabled persons, or other at-risk populations, through 01/31/2016;

23 6.7 Pursuant to ORS 687.081(2)(a), Licensee shall work only at a business or location
24 that facilitates a group practice setting, through 01/31/2016;

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26 6.8 Pursuant to ORS 687.081(2)(a), Licensee agrees that any time he engages in the

1 practice of massage, it will be in a manner that facilitates a group practice setting, through 01/31/2016.
2 LMT may not perform massage independent of a group practice setting, which includes a restriction from
3 performing massage from his home or in an office environment when other employees are not on the
4 premises;

5 6.9 Pursuant to ORS 687.081(2)(a), Licensee shall disclose to his employer, or in the
6 case of other settings, organizer, manager or individual responsible for the event, his stipulations for
7 licensure, through 01/31/2016;

8 6.10 Pursuant to ORS 687.081(2)(a), Licensee shall be placed on Peer Supervision, at
9 a cost to LMT, through 01/31/2016; whereby LMT shall meet with his Peer Supervisor at a minimum of
10 one hour per month, for the duration of the probationary period. The LMT may, as part of the Peer
11 Supervision and the determination of the Peer Supervisor, conduct up to one supervised massage
12 session per calendar quarter during the supervision period. The Peer Supervisor will observe the
13 massage session(s) for draping practices, client communication sanitation, massage knowledge and
14 business practices. During non-session meetings, the Peer Supervisor may discuss business practices
15 and trends, client communication, ethics, boundaries and other matters pertaining to the Applicant's
16 practice of massage and other matters of concern to the LMT and his success as a massage therapist;

17 6.11 Licensee agrees not to engage in any conduct that would or could impact his
18 ability to safely and competently conduct his massage practice, or compromise the health and safety of
19 the clients served; and

20 6.12 Pursuant to ORS 687.081(6), Licensee is assessed costs of this disciplinary
21 proceeding, including attorney fees.

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26 **NOTICE OF RIGHT TO HEARING**

7.

1 You have the right, if you so request, to have a formal hearing to contest the matter set out above,
2 as provided by the Administrative Procedures Act (Chapter 183), Oregon Revised Statutes. You may be
3 represented by an attorney at the hearing. Your request for hearing must be made in writing to the Board
4 and ***received by the Board*** within 21 days from the date of mailing of this notice (or if not mailed, the
5 date of personal service).

6 8.

7 If you request a hearing, before commencement of that hearing, you will be notified of the date,
8 time, and location of the hearing, and you will be given information on the procedures, rights of
9 representation, and other rights of the parties relating to the conduct of the hearing.

10 9.

11 If you fail to timely request a hearing, withdraw a hearing request, or fail to appear at a scheduled
12 hearing, you shall have waived your right to a hearing and the Board may issue a Final Order by Default
13 and impose against you the above sanctions. If the Board issues a Final Order by Default, it designates
14 its file on this matter as the record for the purposes of proving a *prima facie* case.

15 DATED AND SERVED upon the above-named Respondent by regular and certified mail,
16 addressed to Respondent at last known address, this 26th day of March, 2013.

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19 BOARD OF MASSAGE THERAPISTS
20 State of Oregon

21 **Signature on File**
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