



**State Medical  
Board of Ohio**

30 E. Broad St., 3<sup>rd</sup> Floor  
Columbus, Ohio 43215  
(614) 466-3934  
www.med.ohio.gov

January 8, 2025

**VIA EMAIL ONLY**

Wendy Dayton-Scherl, L.M.T.  
P.O. Box 20743  
Columbus, Ohio 43220  
xintaotherapy@gmail.com

RE: 24-CRF-0048

Dear Ms. Dayton-Scherl:

Enclosed please find a certified copy of the Findings, Order and Journal Entry approved and confirmed by the State Medical Board meeting in regular session on January 8, 2025.

Any party desiring to appeal this order shall file a notice of appeal with the State Medical Board of Ohio, located at 30 E. Broad St., 3<sup>rd</sup> Floor, Columbus, Ohio 43215, setting forth the order appealed from and stating that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal may, but need not, set forth the specific grounds of the party's appeal beyond the statement that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law.

The notice of appeal shall also be filed by the appellant with the court of common pleas of Franklin County or the court of common pleas in the county in which the place of business of the licensee is located or the county in which the licensee is a resident. If the party appealing is not a resident of and has no place of business in this state, the party shall appeal to the court of common pleas of Franklin County. In filing a notice of appeal with both the Medical Board and the court, the notice that is filed may be either the original notice or a copy of the original notice.

The party filing the appeal shall comply with all requirements of Ohio Revised Code section 119.12 (R.C. 119.12). The notice of appeal shall be filed within fifteen days after the service of the notice of the Medical Board order as provided in section 119.05 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

*Kim G Rothermel MD / Ket*  
Kim G. Rothermel, M.D.  
Secretary *per authorization*

KGR:jam  
Enclosures

CERTIFICATION

I hereby certify that the attached copy of the Findings, Order and Journal Entry approved by the State Medical Board, meeting in regular session on January 8, 2025 constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of Wendy Dayton-Scherl, L.M.T., Case No. 24-CRF-0048, as it appears in the Journal of the State Medical Board of Ohio.

This Certification is made by the authority of the State Medical Board of Ohio in its behalf.



Kim G. Rothermel MD / Klet per  
Kim G. Rothermel, M.D. / authorization  
Secretary

January 8, 2025  
Date

## BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :  
 : Case No. 24-CRF-0048  
WENDY DAYTON-SCHERL, L.M.T. :

### **FINDINGS, ORDER AND JOURNAL ENTRY**

This matter came on for consideration before the State Medical Board of Ohio on January 8, 2025, pursuant to a Notice of Opportunity for Hearing issued to Wendy Dayton-Scherl, L.M.T., on March 13, 2024. No request for hearing having been received within the statutorily mandated time period, Hearing Examiner James T. Wakley and prepared Proposed Findings and a Proposed Order.

WHEREFORE, having reviewed Mr. Wakley's Proposed Findings and Proposed Order, which is attached hereto and incorporated herein, the Board hereby adopts the Proposed Findings and Proposed Order.

It is hereby ORDERED that:

- A. **SUSPENSION OF LICENSE:** The license of Wendy Dayton-Scherl, L.M.T., to practice massage therapy in the State of Ohio shall be **SUSPENDED** for an indefinite period of time.
- B. **FINE:** Within thirty days of the effective date of this Order, Ms. Dayton-Scherl shall remit payment in full of a fine of three thousand dollars (\$3,000.00). Such payment shall be made via credit card in the manner specified by the Board through its online portal, or by other manner as specified by the Board. In the Matter of Wendy Dayton-Scherl, L.M.T. Page 4 Case No. 24-CRF-0048
- C. **CONDITIONS FOR REINSTATEMENT:** The Board shall not consider reinstatement or restoration of Ms. Dayton-Scherl's license to practice massage therapy until all of the following conditions have been met.
  - 1. **Application for Termination of Suspension:** Ms. Dayton-Scherl shall submit a written request for termination of the suspension of his license. In the event Ms. Dayton-Scherl's license expired while her license was suspended, the termination of suspension shall not reinstate the license to active status and Ms. Dayton-Scherl shall not be authorized to practice. In order to reinstate her license to active status, Ms. Dayton-Scherl must file a renewal or restoration application. An application for termination of suspension will not be accepted unless either (i) Ms. Dayton-Scherl's license did not expire

either before or during the suspension; or (ii) the application for termination of suspension is accompanied by an application for renewal or restoration and any necessary fees. An application for renewal is required if Ms. Dayton-Scherl's license has been expired for less than two years, and an application for restoration is required if Ms. Dayton-Scherl's license has been expired in excess of two years.

2. **Payment of Fine:** Ms. Dayton-Scherl shall have fully paid the fine as set forth in Paragraph B of this order.
3. **Certification of Cooperation with Board Investigation:** Ms. Dayton-Scherl shall submit a written statement from the Board's Enforcement Division that she has fully complied with all subpoenas and interrogatories issued to her by the Board.
4. **Additional Evidence of Fitness To Resume Practice:** In the event that Ms. Dayton-Scherl has not been engaged in the active practice of massage therapy for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of her fitness to resume practice.

**D. VIOLATION OF THE TERMS OF THIS ORDER:** If Ms. Dayton-Scherl violates the terms of this Order in any respect, the Board, after giving her notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of her license.

**E. REQUIRED REPORTING TO THIRD PARTIES; VERIFICATION:**

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Ms. Dayton-Scherl shall provide a copy of this Order to all employers or entities with which she is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training, and the Chief of Staff at each hospital or healthcare center where she has privileges or appointments.

Further, Ms. Dayton-Scherl shall promptly provide a copy of this Order to all employers or entities with which she contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or appointments.

For massage therapists, the term “healthcare services” includes massage-therapy services, and the term “healthcare center” includes but is not limited to entities that may be referred to as a wellness center, exercise center, health club, spa, salon, or gymnasium.

Further, within 30 days of the date of each such notification, Ms. Dayton-Scherl shall provide documentation acceptable to the Secretary and Supervising Member of the Board demonstrating that the required notification has occurred.

2. **Required Reporting to Other Licensing Authorities:** Within 30 days of the effective date of this Order, Ms. Dayton-Scherl shall provide a copy of this Order by certified mail to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Administration, through which she currently holds any professional license or certificate. Also, Ms. Dayton-Scherl shall provide a copy of this Order by certified mail at the time of application to the proper licensing authority of any state or jurisdiction in which she applies for any professional license or reinstatement/restoration of any professional license.

Further, within 30 days of the date of each such notification, Ms. Dayton-Scherl shall provide documentation acceptable to the Secretary and Supervising Member of the Board demonstrating that the required notification has occurred.

This Order shall become effective immediately upon the date of service of the notification of approval by the Board.



Kim G. Rothermel M.D. / KGR  
Kim G. Rothermel, M.D.  
Secretary  
per authorization

January 8, 2025  
Date

RECEIVED:  
December 3, 2024

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

**In the Matter of**

\*

**Case No. 24-CRF-0048**

**Wendy Dayton-Scherl, L.M.T.,**

\*

**Respondent.**

\*

**Hearing Examiner Wakley**

**PROPOSED FINDINGS AND PROPOSED ORDER**

Basis for Action:

*Notice of Opportunity for Hearing:* In a Notice of Opportunity for Hearing dated March 13, 2024 (“Notice”), the State Medical Board of Ohio (“Board”) notified Wendy Dayton-Scherl, L.M.T., that it proposed to take disciplinary action against her license to practice massage therapy in Ohio. The Board based its proposed action on an allegation that she failed to appear for a scheduled deposition at the Board’s offices on January 18, 2024.

The Board alleged that Ms. Dayton-Scherl’s failure to appear constituted the “[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board in an investigative interview, an investigative office conference, at a deposition, or in written interrogatories...,” as that phrase is used in Ohio Revised Code Section (“R.C.”) 4731.22(B)(34). (Exs. 1, 1.A).

*No Request for Hearing:* On March 14, 2024, the Notice was sent, via registered email, to Ms. Dayton-Scherl’s last known email address of record: xintaotherapy@gmail.com. Ms. Dayton-Scherl opened that email on March 14, 2024. (Ex. 1, 1.A, 1.B).

The Board’s Chief Legal Counsel attested, in a sworn affidavit dated July 19, 2024, that the Notice was deemed served on March 14, 2024, that the final day Ms. Dayton-Scherl could submit a written request for a hearing was April 15, 2024, and that, as of the date of her affidavit, no written hearing request had been received. (Exs. 1, 1.A, 1.B).

*Request for Proposed Findings and Proposed Order:* In a memorandum dated November 7, 2024, the Assistant Legal Counsel requested that a hearing examiner review the evidence as provided and prepare a report of Proposed Findings and Proposed Order. (Ex. 4).

Evidence Examined:

Exhibit 1: July 19, 2024 Affidavit of Kimberly C. Anderson, Chief Legal Counsel, regarding service of the Notice on Ms. Dayton-Scherl and attesting that the final day to request a hearing was April 15, 2024 and that no request for hearing had been received. Ms. Anderson further authenticated the following documents:

Exhibit 1.A: Copy of the Notice emailed March 14, 2024 by registered email, to Ms. Dayton-Scherl at her last known email address of record: xintaotherapy@gmail.com.

Exhibit 1.B: Copy of the RMail Acknowledgment demonstrating that the Notice was opened by Ms. Dayton-Scherl on March 14, 2024.

Exhibit 2: July 17, 2024 Affidavit of Brandon Morant, Chief of Licensure, attesting to Ms. Dayton-Scherl's physical and email addresses of record as well as to Ms. Dayton-Scherl's Ohio massage therapy license.

Exhibit 3: November 5, 2024 Affidavit of Timothy C. Norris, Enforcement Attorney, regarding his role in the investigation into Ms. Dayton-Scherl. Mr. Norris further authenticated the following documents:

Exhibit 3.A: Copy of email communications between Wendy Dayton-Scherl, Timothy Norris, Esq., Jerica Stewart, Communications Officer, and Annette Jones, Enforcement Investigator; copy of a December 20, 2023 letter sent to Ms. Dayton-Scherl by Dr. Kim Rothermel, M.D with a copy of a December 20, 2023 investigative subpoena directing Ms. Dayton-Scherl to appear at the Board's offices on January 18, 2024 at 10:00AM.

Exhibit 4: November 7, 2024 Memorandum from Colin G. De Pew, Assistant Legal Counsel, attaching the above-referenced exhibits and requesting a report of Proposed Findings and Proposed Order.

**PROPOSED FINDINGS**

1. Wendy Dayton-Scherl, L.M.T., was first licensed to practice massage therapy in Ohio in January 2002. Her license is currently active.

*This proposed finding is supported by the following evidence:* Ex. 2; Ohio eLicense Center, <<https://elicense.ohio.gov/>>, search terms "Wendy" and "Dayton-Scherl," accessed December 2, 2024.

2. On December 20, 2023, the Board ordered Ms. Dayton-Scherl to appear on January 18, 2024 for a deposition at the offices of the Board in Columbus, Ohio. On January 16, 2024, Timothy Norris, Esq., emailed Ms. Dayton-Scherl regarding the "subject matter of the Board's deposition subpoena." Ms. Dayton-Scherl did not appear for the scheduled



deposition. At 6:16PM on January 18, 2024, Ms. Dayton-Scherl replied to Mr. Norris's email and informed him that she "cannot be in attendance" for the deposition.

*This proposed finding is supported by the following evidence: Ex. 3A.*

3. The facts as set forth in paragraph 2 above constitute a "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board in an investigative interview, an investigative office conference, at a deposition, or in written interrogatories....," as set forth in R.C. 4731.22(B)(34).

Pursuant to R.C. 4731.225, the Board is authorized to impose a civil penalty for this violation. The Board's fining guidelines provide as follows:

Maximum Fine: \$ 5,000  
Minimum Fine: \$ 3,000

### **RATIONALE FOR THE PROPOSED ORDER**

Ms. Dayton-Scherl was ordered to appear at the Board offices to sit for a deposition. Despite knowing of, and communicating with Board staff about, that deposition, she failed to appear. Instead, she replied that she could not be in attendance at the deposition more than eight hours after her scheduled appointment. She did not offer any reason why she could not appear. Instead, she suggested that she would be willing to participate in a phone interview.

The Board's order to appear was not a suggestion, it was a command from her licensing agency to appear and give sworn testimony. By not appearing as ordered, Ms. Dayton-Scherl failed to cooperate in a Board investigation. Her license to practice massage therapy should be suspended until she cooperates and a fine imposed.

### **PROPOSED ORDER**

It is hereby ORDERED that:

- A. SUSPENSION OF LICENSE:** The license of Wendy Dayton-Scherl, L.M.T., to practice massage therapy in the State of Ohio shall be **SUSPENDED** for an indefinite period of time.
- B. FINE:** Within thirty days of the effective date of this Order, Ms. Dayton-Scherl shall remit payment in full of a fine of three thousand dollars (\$3,000.00). Such payment shall be made via credit card in the manner specified by the Board through its online portal, or by other manner as specified by the Board.



**C. CONDITIONS FOR REINSTATEMENT:** The Board shall not consider reinstatement or restoration of Ms. Dayton-Scherl's license to practice massage therapy until all of the following conditions have been met.

1. **Application for Termination of Suspension:** Ms. Dayton-Scherl shall submit a written request for termination of the suspension of his license. In the event Ms. Dayton-Scherl's license expired while her license was suspended, the termination of suspension shall not reinstate the license to active status and Ms. Dayton-Scherl shall not be authorized to practice. In order to reinstate her license to active status, Ms. Dayton-Scherl must file a renewal or restoration application. An application for termination of suspension will not be accepted unless either (i) Ms. Dayton-Scherl's license did not expire either before or during the suspension; or (ii) the application for termination of suspension is accompanied by an application for renewal or restoration and any necessary fees. An application for renewal is required if Ms. Dayton-Scherl's license has been expired for less than two years, and an application for restoration is required if Ms. Dayton-Scherl's license has been expired in excess of two years.
2. **Payment of Fine:** Ms. Dayton-Scherl shall have fully paid the fine as set forth in Paragraph B of this order.
3. **Certification of Cooperation with Board Investigation:** Ms. Dayton-Scherl shall submit a written statement from the Board's Enforcement Division that she has fully complied with all subpoenas and interrogatories issued to her by the Board.
4. **Additional Evidence of Fitness To Resume Practice:** In the event that Ms. Dayton-Scherl has not been engaged in the active practice of massage therapy for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of her fitness to resume practice.

**D. VIOLATION OF THE TERMS OF THIS ORDER:** If Ms. Dayton-Scherl violates the terms of this Order in any respect, the Board, after giving her notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of her license.

**E. REQUIRED REPORTING TO THIRD PARTIES; VERIFICATION:**

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Ms. Dayton-Scherl shall provide a copy of this Order to all employers or entities with which she is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training, and the Chief of Staff at each hospital or healthcare center where she has privileges or appointments. Further, Ms. Dayton-Scherl shall promptly provide a copy of this Order to all employers or entities with which she contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff

at each hospital or healthcare center where he applies for or obtains privileges or appointments.

For massage therapists, the term “healthcare services” includes massage-therapy services, and the term “healthcare center” includes but is not limited to entities that may be referred to as a wellness center, exercise center, health club, spa, salon, or gymnasium.

Further, within 30 days of the date of each such notification, Ms. Dayton-Scherl shall provide documentation acceptable to the Secretary and Supervising Member of the Board demonstrating that the required notification has occurred.

2. **Required Reporting to Other Licensing Authorities:** Within 30 days of the effective date of this Order, Ms. Dayton-Scherl shall provide a copy of this Order by certified mail to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Administration, through which she currently holds any professional license or certificate. Also, Ms. Dayton-Scherl shall provide a copy of this Order by certified mail at the time of application to the proper licensing authority of any state or jurisdiction in which she applies for any professional license or reinstatement/restoration of any professional license.

Further, within 30 days of the date of each such notification, Ms. Dayton-Scherl shall provide documentation acceptable to the Secretary and Supervising Member of the Board demonstrating that the required notification has occurred.

This Order shall become effective immediately upon the date of service of the notification of approval by the Board.

/s/ James T. Wakley

James T. Wakley  
Hearing Examiner



March 13, 2024

Case number: 24-CRF-0048

Wendy Dayton-Scherl, L.M.T.  
P.O. Box 20743  
Columbus, Ohio 43220  
[xintaotherapy@gmail.com](mailto:xintaotherapy@gmail.com)

Dear Ms. Dayton-Scherl:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke or suspend your license or certificate, or refuse to grant or register or issue the license or certificate for which you have a pending application in accordance with Section 9.79 of the Ohio Revised Code, or refuse to renew or reinstate your license or certificate to practice medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about January 18, 2024, you were scheduled to appear for a deposition at the Board's office in Columbus, Ohio. Although you knew of the date and were in communication with the Board prior to the deposition, you failed to appear.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) through (2) above, individually and/or collectively, constitute "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board in an investigative interview, an investigative office conference, at a deposition, or in written interrogatories . . ." as that clause is used in Section 4731.22(B)(34), Ohio Revised Code.

Furthermore, for any violations that occurred on or after September 29, 2015, the Board may impose a civil penalty in an amount that shall not exceed twenty thousand dollars, pursuant to Section 4731.225, Ohio Revised Code. The civil penalty may be in addition to any other action the Board may take under section 4731.22, Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of service of this notice.

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You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty days of the time of service of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke or suspend your license or certificate, or refuse to grant or register or issue the license or certificate for which you have a pending application in accordance with Section 9.79 of the Ohio Revised Code, or refuse to renew or reinstate your license or certificate to practice medicine and surgery, or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that "[w]hen the board refuses to grant or issue a license or certificate to practice to an applicant, revokes an individual's license or certificate to practice, refuses to renew an individual's license or certificate to practice, or refuses to reinstate an individual's license or certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license or certificate to practice and the board shall not accept an application for reinstatement of the license or certificate or for issuance of a new license or certificate."

Copies of the applicable sections are enclosed for your information.

THE STATE MEDICAL BOARD OF OHIO



Kim G. Rothermel, M.D.  
Secretary

KGR/TCN/lv  
Enclosures

Via email: [xintaotherapy@gmail.com](mailto:xintaotherapy@gmail.com)