

violation of the Board's regulations.

Specific to the statutory violations of HO § 6-308(a)(20) and § 6-308(a)(21), the Board alleged that the Respondent violated the following provisions of the Code of Maryland Regulations (“COMAR”):

.03 Standards of Practice.

C. A license holder or registration holder shall:

(2) Engage in professional conduct at all times, with honesty, integrity, self-respect, and fairness;

...

(5) At all times respect the client's dignity, autonomy, and privacy;

.05 Professional Boundaries.

A. A license holder or registration holder shall:

(2) Respect and maintain professional boundaries and respect the client's, staff member's, or student's reasonable expectation of professional conduct.

B. A license holder or registration holder may not:

(3) Engage in sexual misconduct that includes, but is not limited to:

(a) Therapeutic deception;

(b) Non bona fide treatment; or

(c) A sexually exploitative relationship.

The Board's notice also informed the Respondent that he faced potential licensure sanctions and that an evidentiary hearing would be held regarding the merits of the Board's charges against him. Subsequently, the Board scheduled a hearing for February 26, 2025.

On February 26, 2025, a quorum of the Board was present, and an evidentiary hearing was held at the Board's offices. Anuj Patel, the Administrative Prosecutor, was present and presented the State's case against the Respondent. The Respondent appeared, represented by Cory Silkman, Esq.

Evidentiary Exhibits and Witnesses¹

State's Exhibits

1. The Respondent's Board Licensing Data Sheet (2 pages).
2. Complaint, received by the Board on or about February 12, 2024 (4 pages).
3. Subpoena Duces Tecum to the Respondent, dated February 20, 2024 (1 page).
4. Board Investigator Memo to File, dated March 11, 2024 (1 page).
5. Board Investigator Email to Individual DP, dated March 11, 2024 (1 page).
6. Client Records for Individual A (125 pages).
7. Email from the Anne Arundel County Police to the Board Investigator (2 pages).
8. Maryland Judiciary Case Search Results for *State of Maryland v. Richard Paul Bent*, Case No. D-07-CR-24-005375 (3 pages).
9. Letter from the Board Investigator to the District Court for Anne Arundel County, dated March 25, 2024 (1 page)
10. Maryland State Board of Massage Therapy Examiners – Investigative Interview Transcript for Individual A, dated March 28, 2024 (9 pages).
11. Certified Documents from the District Court for Anne Arundel County, Case No. D-07-CR-24-006375 (16 pages).
12. Email from the Board Investigator to Individual A, dated April 10, 2024 (1 page).
13. Text Messages from Individual A and Individual DP (14 pages).
14. Certified Documents from the Circuit Court for Anne Arundel County, Case No. C-02-CR-000624 (29 pages).

¹ The parties stipulated to the admission of all evidentiary exhibits. (See Transcript, p. 7.)

15. Maryland State Board of Massage Therapy Examiners, Report of Investigation, dated April 11, 2024 (5 pages).
16. Maryland State Board of Massage Therapy Examiners – Notice of Charges and Cover Letter, dated May 23, 2024 (8 pages).

State's Witnesses

Individual A

The Respondent's Exhibits

1. Text Messages Between the Respondent and Individual DP (14 pages).
2. Online Feedback Regarding the Respondent (40 pages).
3. Letters of Support Regarding the Respondent (6 pages).

The Respondent's Witnesses

The Respondent, Richard Bent, testified on his own behalf.

FINDINGS OF FACT

Based on the totality of the record before it, the Board finds that:

1. At all times relevant to this Order, the Respondent was licensed to practice as a licensed massage therapist, license number M05484. (*See* State's Exhibit 1.)
2. On or about February 24, 2024, the Board received a complaint from Individual A regarding the Respondent. (*See* State's Exhibit 2.) In the narrative portion of the complaint, Individual A stated:

I signed up for a 2 ½ [hour] massage on October 27th from 10am-12:30pm. I had been going there for a year and a half and [the Respondent] was helping me with post breast reconstruction scars, which involved my abdomen and breasts. On this day, October 27th, I had mentioned that I thought I wanted to divorce my husband. Towards the end of the massage [the Respondent] starting [*sic*] rubbing the lips of my vagina, saying it was a nerve that would release the issue of my toe[.] I had broken my toe and was relying on my other leg to help. He rubbed the lips of my vagina for a minute and then it put his finger in my vagina. I was in shock, and wanted to leave safely – he is much bigger than me, so I didn't say anything to him. I

went home and texted the friend who originally told me to go to him, and she said he was inappropriate with her...

(*Id.* at p. 0006). Based on this complaint, the Board initiated an investigation.

3. As part of the Board's investigation, the Board obtained Individual A's clinical records from the Respondent. (*See* State's Exhibit 6.) On October 27, 2023, the date of the complained-about incident, the Respondent noted the following:

CT [Client] is back [from Europe] and said the rained ruined her ruins. CT CO scar on R breast needing to be broken up and some nasty ADH on the L ribs to break up as well limp and a broken R little toe that is taped to the PH4. CCT REQUESTED WORKS.

(*Id.* at p. 0015.) The Respondent further noted:

usual upper body TX except the ribs were more stiff then usual from stress and grief of bad travels. CT Ribs had ADH in the fascia from stresss [*sic*] that needed to be rolled and bounced back into shape. R Groin was badly banded into the adductors and iliacus causeing [*sic*] tight gracilis, pectineus, and glut max with piriformis syndrome. Hamstrings, adductors, tib P with several sacral nerves pinched up into ishial tuberosity.

(*Id.*)

4. Separately, on December 8, 2023, Individual A reported being "sexually assaulted" by the Respondent to the Anne Arundel County Police Department. (*See* State's Exhibit 11, pp. 0156-0157.) According to her report, on December 12, 2023, Individual A was interviewed by the Anne Arundel County police. (*Id.* at p. 0157.) According to the "Application for Statement of Charges" (the "Application"), Individual A advised that:

[O]n October 23, 2023, [Individual A] received massage therapy treatment from [the Respondent] at his home/business located at [. . .]. [Individual A] advised she was lying face up on a massage table, was naked but had a sheet covering her. While massaging her inner thigh and groin area, [the Respondent] rubbed the outside of her vagina, then inserted his finger into her vagina briefly without her consent.

(*Id.*) The Application stated that Individual A “also provided text messages from a friend who also received massage therapy from [the Respondent] in the same week. The text message stated that [the Respondent] touched her vagina without her consent while massaging her, but that she did not want to report the incident.” (*Id.*)

5. On February 29, 2024, the police interviewed the Respondent. (State’s Exhibit 11, p. 0157.) According to the Application, the Respondent “stated that he did not insert his finger into [Individual A’s] vagina and stated that she may have felt a contraction due to the area he was massaging. He also stated that she may have felt the sheet that was covering her touching her vagina.” (*Id.*) The Application stated that on March 2, 2024, the Respondent texted the police officer investigating the matter, saying, “I am very sorry for what transpired with [Individual A]. It was an accident that I didn’t realize that happened.” (*Id.*) On March 7, 2024, police asked Individual A if it could have been the sheet that touched her vagina, as the Respondent suggested; Individual A “advised that it was not the sheet she felt.” (*Id.*)

6. On March 11, 2024, the Board’s investigator wrote a memorandum to file stating in relevant part:

On Monday, March 11, 2024, [the Board’s investigator] received a voicemail from [Individual DP]. [Individual DP] was named as a witness in a complaint that was filed against [the Respondent], CASE #24-17M.

[The Board’s investigator] returned [Individual DP’s] call. [Individual DP] advised that she did not want to be involved in the complaint against [the Respondent]. She advised that she knows [Individual A] as her friend, and neighbor. [Individual DP] stated that she was not happy about [Individual A] making these allegations against [the Respondent]. She stated that [Individual A] would often show up to her appointments high on drugs, and she did not know why she would be named as a witness.

[Individual DP] stated that she has been seeing [the Respondent] for quite a while and has never had any complaints about his work.

(State's Exhibit 4.)

7. On March 20, 2024, the Respondent was charged in the District Court of Maryland for Anne Arundel County, Case No. D-07-CR-24-005375, with Rape-Second Degree; Sexual Offense-4th Degree Sexual Contact; and Assault-Second Degree. (State's Exhibit 11, p. 0155.) The charges were based on the Respondent's interaction with Individual A on October 27, 2023. (*Id.*)

8. As part of its own investigation, the Board interviewed Individual A, under oath, on March 28, 2024. (*See* State's Exhibit 10.) Individual A began the interview by stating that she had seen the Respondent therapeutically for lymphatic drainage and "scar work" for "about a year and a half before" October 27, 2023. (*Id.* at p. 0141.) Individual A stated that, before October 27, 2023, the Respondent never did anything inappropriate or "sexually-related." (*Id.* at p. 0142.) During the interview, Individual A recounted the events of October 27, 2023:

[The Respondent] has a massage studio on the bottom floor of his home and I went – I had signed up for another long massage, which all these have been at the time in, but it was like a two-and-a-half hour massage that I paid for, and the massage was normal. I hurt my toe, so I had been a little lopsided, so he was – that was one of his focuses.

[. . .]

In addition to – you know, he works on my scar tissue on my breast, and on my waist, and I had some arm surgery too, and so he – that was – those were the reasons I was going.

[. . .]

And it was a normal massage up until, I guess, like, the last 20 minutes or so, 15 minutes, and he suddenly was – he said, you know, oh, he's not feeling that he's released that nerve from my toe up into – up into my, hip and all that, and so he started making his way down my bikini line, and started rubbing the – on my right side, the lips of my vagina, and which was very, very unusual, and I was – I just froze, I wasn't sure really what was happening.

[. . .]

And so he did that for a while, and then for, I don't know, maybe five minutes or something, and then – then he put his finger into my vagina very quickly.

(*Id.* at p. 0143.) Individual A confirmed again that in previous visits the Respondent had never touched her “or come close to [her] vaginal area.” (*Id.*) Individual A stated that she was “frozen” and “just focused on trying to get through that moment and get out.” (*Id.*) After the massage, Individual A stated that the Respondent “finished off with the normal stuff, and I, you know, pretended everything was okay, and got out.” (*Id.*)

9. On April 10, 2024, the Board's investigator contacted Individual A:

The massage therapy Board was able to get court documents of the case of [the Respondent]. In the police report it states that your friend sent you a text message stating that [the Respondent] touched her inappropriately also. Are you able to send me a copy of the text message between you and your friend? Please screenshot it and email it to me.

(State's Exhibit 12.) Individual A provided the Board with screenshots of her text messages with Individual DP. (*See* State's Exhibit 13.) While the text messages are not dated or timestamped, Individual A did advise Individual DP that “I just had a massage [with the Respondent] he put his fingers in my vagina. (*Id.* at p. 0166.) Individual A added, “[The Respondent] was trying to convince me it was all part of the massage/ ‘don't you feel this nerve[.]’” (*Id.* at p. 0171.)

10. On April 19, 2024, the Grand Jury for the State of Maryland, sitting in Anne Arundel County, indicted the Respondent for Rape Second Degree; Sexual Offense in the 4th Degree-Sexual Contact; and Assault-Second Degree. (*See* State's Exhibit 14, pp. 0184-0188.) The Circuit Court for Anne Arundel County assigned the matter a case number, C-02-CR-24-000624. (*Id.*)

11. On April 29, 2024, based on its investigation into Individual A's complaint, the Board issued an “Order for Summary Suspension of License to Practice Massage Therapy” to the Respondent, summarily suspending his license pending a post-deprivation hearing pursuant to Md.

Code Ann., State Gov't § 10-226(c)(2). (*See* State's Exhibit 16, p. 0213.) The Board provided the Respondent with an opportunity to be heard on May 22, 2024. (*Id.*) After the hearing, on May 23, 2024, the Board wrote to the Respondent:

You appeared at the hearing and requested that the summary suspension be lifted. The State argued for the continuation of the summary suspension. After consideration of the presentations, a quorum of the Board determined, by a preponderance of the evidence, that the health, safety, and welfare of the public imperatively required the Board to summarily suspend your license and there exists a substantial risk of serious harm to the public health, safety, and welfare in your continued practice. The Board thus will not lift the summary suspension order, and the summary suspension imposed on April 29, 2024, is **reaffirmed** and continues in effect.

(*Id.*) (Emphasis in original.) The Board's May 23, 2024 correspondence to the Respondent also notified him that the Board was charging him with several violations of the Maryland Massage Therapy Act. (*See generally* State's Exhibit 16.) The correspondence also advised the Respondent of his right to an evidentiary hearing. (*Id.* at p. 0214.)

12. On August 2, 2024, in Case No. C-02-CR-24-000624, the Circuit Court for Anne Arundel County issued a "stet" to the Respondent. (*See* State's Exhibit 14, p. 0182.) As described in the "Notice of Stet," the charges against the Respondent would be indefinitely postponed, conditioned on the Respondent obeying all laws and refraining from any contact with Individual A. (*Id.*)

13. On February 26, 2025, the Board held the evidentiary hearing in this matter. (*See generally* Transcript ("Tr.")). An administrative prosecutor represented the State, and the Respondent was represented by counsel. (*See* Tr., p. 2.)

14. At the evidentiary hearing, Individual A testified under oath. (*See* Tr., pp. 10-28.) Individual A testified that she had seen the Respondent for "[a]bout a year and a half prior to" October 27, 2023. (Tr., p. 11.) She testified that she typically received full body massages with each

appointment lasting “from a little over an hour to a little over two hours, two and a half [hours].” (*Id.*) Individual A testified that, on October 27, 2023, her appointment with the Respondent was at 10:00 a.m. at the Respondent’s home and that she was “sure” she mentioned that she was having issues with her toe and the pain it was causing in her leg. (Tr., p. 12.) Individual A indicated that, during the massage, her orientation was mainly on her back, but on her stomach “for a little bit.” (Tr., p. 13.) Individual A described her massage:

The Respondent was rubbing down by my toe and also up at my hip area, saying he was working on, you know, the nerve that connected and trying to release it, and then slowly put his hand down closer to my vagina, and was rubbing alongside on sort of the lips of my vagina. And then he stuck his finger inside and then just continued – it was toward the end of massage, and there was just a little bit of time left and just finished up, and then left so I could get dressed.

(Tr., p. 14.) Individual A stated that the Respondent did not say anything to her before touching her vagina other than “initially mention[ing] that [he] was, you know, trying to release this caught-up muscle.” (*Id.*) Individual A also acknowledged that she did not say anything to the Respondent after touching her vagina. (*Id.*) Upon leaving, Individual A stated that she texted Individual DP, stating that the Respondent “had assaulted [her] and put his finger in [her] vagina.” (Tr., p. 16.) Individual A testified that she had reported the incident online to the police department “[a] couple of days later on Monday” and that the police contacted her about a month later. (*Id.*) After Individual A’s direct testimony, the administrative prosecutor questioned Individual A regarding her drug use:

[Administrative Prosecutor:] Okay. I want to rewind back to that specific date of October 27th, 2023. You had mentioned just now that you had used some substances, including potentially smoking or consuming mushrooms. On the day of October 27th, 2023, do you recall if you had smoked or taken any mushrooms prior to the appointment?

[Individual A:] I’m sure I had smoked prior to the appointment.

Q. Okay. And do you recall whether you were impaired at the time of the massage?

A. No, I was not impaired.

Q. And had you ever smoked or taken mushrooms to the point of impairment prior to appearing to any of the massages with the Respondent?

A. No.

Q. Okay. And were you taking any other medications that could impair your ability to remember any of the events of the massages?

A. No.

(Tr., p. 18.)

15. On cross-examination, Individual A confirmed that the Respondent had never put his hands near her labia or vagina prior to October 27, 2023. (Tr., p. 20). Further, Individual A confirmed that she did not say anything when the Respondent inserted his finger into her vagina and that she did not call the police on the date of the incident or the next day. (*Id.*) Individual A also clarified that when she stated in her direct testimony that she had smoked before her appointment, she was referring to marijuana and that her references to mushrooms were regarding psychedelic mushrooms. (Tr., p. 21.) Specifically, Individual A stated that the psychedelic mushrooms were purchased “over-the-counter” at “smoke shops” and that their effect on her was to “just make colors a little brighter” and that they did not make her hallucinate. (Tr., pp. 21-22.) Individual A stated that she bought the marijuana from a “dispensary.” (Tr., p. 23.) Individual A denied telling the Respondent that she had taken mushrooms before the appointment, and she also denied taking any other drugs in 2023. (Tr., p. 22.)

16. On redirect examination, Individual A clarified that the reason why she did not say anything when the Respondent put his hands in and around her vagina was that she was in “shock” and that she “froze.” (Tr., p. 23.) She further clarified that the incident took place on a Friday and that she reported the matter to the police on the next business day, Monday. (*Id.*)

17. On Board examination, Individual A repeated that she did not ingest mushrooms on October 27, 2023 and that while she had smoked marijuana prior to the appointment, she was not impaired. (Tr., p. 24.)

18. The Respondent also testified on his own behalf at the evidentiary hearing. (*See* Tr., pp. 28-84.) The Respondent began his testimony by describing “lymphatic drainage,” one of the modalities that the Respondent regularly conducted with Individual A. He stated:

Lymphatic drainage is basically just a manual manipulation of the superficial layers of the skin where the lymph travels most freely. After surgeries, people will get stitches and things in the way, and you do have to do a little bit of scar breaking on people, which is just a gentle way to get rid of blockages in the lymphatic system, which is basically the immune system.

(Tr., p. 29.)

19. Specific to the Respondent’s treatment of Individual A on October 27, 2023, the Respondent testified:

[Individual A] would text me from her car that she arrived, and I went outside and I greeted her, and I watched her walking in. And she was walking with a limp because she had a broken toe. I don’t remember if she used the bathroom or not when she came in, but, you know, came in and did a little bit of an intake in the massage studio, whether she used the bathroom – I know some days she had used the bathroom several times during the sessions because I’m moving so much lymph. That’s very common as well with lymph, to have people have to go pee. That’s a sign that you’re doing a good job.

But, anyways, when she came in, she said that she was on a cruise. She – at some point, she broke a toe. I don’t really remember how she said she broke her toe on the cruise. It was rainy cruise through Greece, and it was an all-you-can – it was a booze cruise, basically. And she – you know, very expensive cruise, and it rained the whole time. So she was just going on and on and on about how horrible this, you know, \$100,000 cruise was, and that everyone was drinking and she’s not allowed to drink.

And at that time, she was apparently about two months after her last surgery, so we were still working. She had skin on the back of her arms removed at that point. And at that point, she was on some painkillers, and she had recently been coming off of painkillers.

(Tr., pp. 30-31.) Contrary to Individual A's testimony that the massage that day was "mostly" on her back, but on her stomach "for a little bit," (Tr., p. 13), the Respondent testified that the "whole session was face up." (Tr., p. 32.) The Respondent testified that Individual A was draped with a sheet "with a nice, heavy blanket on, and I would go between undraping one leg at a time. You know, when I'm working on the legs, I'll put the blanket up, but I'll undrape one leg at a time." (Tr., pp. 32-33.) Regarding his areas of focus during the October 27, 2023 massage with Individual A, the Respondent testified:

Well, a good part of it was just breaking up some of the scars on her arms from the skin removal. She had recently had a new three-dimensional nipple put in. So there was some scar tissue still on the side of the breast where I had to go back through and try to break up the scar a little bit just to improve the lymph as it would – so it wouldn't get swollen in there anymore, to reduce pain and to reduce pressure.

But after that, you know, I would work my way down. So I'd open up the lymph in her abdomen. With the craniosacral work, I would open up the meridians as well through doing the transverse process holds.

If anyone needs me to explain that, I mean, there's a process of craniosacral which kind of works really nicely with lymphatic drainage, and it involves just getting the body going, extension and flexion equally on both sides of the body so that you're not resisting yourself on the inside, which is what accrues lymph. And it helps to promote good health of the drainage of the lymph when you get those two working together.

So she had a lot of balancing to go through. She had a lot of anger in her body. She had a lot of issue on her liver meridian, if anyone's familiar with that one, that comes out of up in jaw off the hyoid bone, after it comes out of the sphenoid bone.

But, anyways, it ends up down into the feet, into, you know, what in reflexology we would call the liver point. And those were the areas I was kind of working on, because the liver point is a little bit towards the outside; it affects the motion in the little toe. And there's a bunch of nerves that attach down there. All nerves end in your hands and feet, and that's how reflexology works.

So I was working on her toe that had inflammation. She had been limping. She had inflammation in her legs. She had inflammation a lot – mostly all of it was on the – on the right side of her body.

(Tr., pp. 33-34.) The Respondent testified that, while massaging Individual A's toe, his hands began on the "reflexology point in the foot." (Tr., p. 34.) The Respondent testified that, after giving a little shake:

I'm feeling what feels like a little fishing string inside the leg somewhere, and I follow along the path. You know, with me, I have eye issues and it's a skill that, you know – you know, I don't want to wish upon anyone. But when you are able to find the nerve path by closing your eyes, you can really feel it. And then at that point, you start ushering it apart, and that opens up the lymph. It gets everything to start going straight again, especially when it's that pathway that's upset.

(Tr., p. 35.)

20. The Respondent acknowledged that he was "working on [Individual A's] adductor muscles."² (Tr., p. 35) Referencing Individual A's testimony that he touched her labia and inserted his finger into her vagina, the Respondent testified "[t]hat never happened." (*Id.*) The Respondent posited the feeling that Individual A was feeling:

was the perception of probably the lymph mixed with me tugging on the nerve path that was blocked up by all the excessive lymph, and just a mixture of her inner anger because she was very upset with – you know, with her body going through a detox, and her husband was drinking, and her cruise, which was supposed to be, like, her little detox session, ending up being very rainy, and she did not enjoy the time with her husband at all. And she was very upset with me. Because at some point she talked about how she was taking these Stargazer mushroom caps.

(*Id.*)

21. According to the Respondent, Individual A told him that she "found a new drug" in "Stargazer mushroom caps." (Tr., p. 35) The Respondent testified that Individual A told him that "she would take 13 caps as her dose." (Tr., p. 37.) According to the Respondent, he advised Individual A that she should not take mushrooms before she has a massage "because, you know – for

² Adductor muscles are a group of muscles in the inner thigh.

a couple days before a massage, just because it's still – its still in the system. When it gets released, I mean, people's eyes start going weird. Like, people just start bugging out. And that's what I was experiencing with her when she was talking about it.” (*Id.*)

22. On cross-examination, the Respondent conceded that, while Individual A told him that her “new favorite drug is taking 13 Stargazer mushroom caps,” Individual A “didn’t tell [him] that she had” taken the mushroom caps. (Tr., p. 49.)

Discussion

A. THE SUMMARY SUSPENSION

As a preliminary matter, the Board will address the Respondent’s summary suspension, which was issued on April 29, 2024. The summary suspension was imposed because the Board made a preliminary finding that, pursuant to Md. Code Ann., State Gov’t § 10-226(c)(2), the public health, safety, or welfare imperatively required emergency action. The summary suspension was based on the allegations set forth in Individual A’s complaint to the Board; the averments made by Individual A, under oath, during her March 28, 2024 investigative interview; as well as the nature of the Respondent’s criminal charges in Anne Arundel County and the fact that the District Court for Anne Arundel County limited his massage therapy practice in its bail determination. (*See State’s Exhibit 11*, p. 0159.) All of these factors were coupled with the fact that the Respondent practiced out of his home with little to no supervision.

On May 22, 2024, the Board provided the Respondent with a hearing for him to argue why the summary suspension should not be continued pending a full evidentiary hearing. On May 23, 2024, the Board notified the Respondent that it continued to find that the public health, safety, or welfare imperatively required emergency action and that it was continuing the suspension of his license pending the evidentiary hearing. After reviewing the evidence from the February 26, 2025

evidentiary hearing, the Board continues to believe that the summary suspension of the Respondent's license was reasonable and appropriate based on the information before it at that time. Thus, the Board affirms its April 29, 2024 summary suspension of his license.

B. THE DISCIPLINARY CHARGES

Turning to the disciplinary charges against the Respondent, the Board may reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee for any violation of HO § 6-308. *See* HO § 6-308(a). This provision provided the underlying authority for, and the necessary legal elements of, the issuance of the Board's "Charges under the Maryland Massage Therapy Act" on May 23, 2024. Indeed, while the Respondent in this case was charged with three separate statutory violations, the Board only needs to find that the Respondent violated one of those provisions to sanction his license. HO § 6-308 provides the authority for this Order.

The case before the Board presents a classic "he said, she said" situation in which the Board's determination of the credibility of the witnesses is critical to resolving the central question in this case, which is whether the Respondent inappropriately touched Individual A on October 27, 2023 during the massage he provided to her. Only two witnesses were called at the hearing: Individual A for the State and the Respondent on his own behalf.

1. The Credibility of Individual A

Individual A has consistently maintained that the Respondent inappropriately touched her by touching her labia and digitally penetrating her vagina. First, Individual A contacted Individual DP immediately after the October 27, 2023 appointment telling her, "I just had a massage he just put his fingers in my vagina." (State's Exhibit 13, p. 0166; Tr., p. 16.) According to the Application for Statement of Charges filed by the Anne Arundel Police Department, on December 12, 2023, Individual A told police during an interview that the Respondent "rubbed the outside of her vagina,

then inserted his finger into her vagina without her consent.” (State’s Exhibit 11, p. 0157.) On March 28, 2024, in an interview under oath with a Board investigator, Individual A stated that the Respondent rubbed the lips of her vagina and then put his finger into her vagina very quickly. (*See* State’s Exhibit 10, p. 143.) Finally, during the February 26, 2025 hearing before the Board, Individual A testified, again under oath, that the Respondent rubbed the lips of her vagina and stuck his finger inside. (*See* Tr., p. 14.) Thus, in four separate instances made over approximately a year and four months, Individual A’s statements were consistent. Of these statements, the Board places significant weight on the text to Individual DP.³ This was an unsolicited and somewhat vulnerable statement made to a friend proximate to the massage appointment in question that preceded any formal criminal or administrative proceedings. Further, the Board places weight on Individual A’s filing of a police report as, if it was found without merit, Individual A could have been exposing herself to criminal liability for making a false statement to a law enforcement officer with the intent to deceive and to cause an investigation or other action to be taken as a result of that statement. *See* Md. Code Ann., Criminal Law § 9-501.

Despite questions during cross-examination designed to suggest that she had ingested psychedelic mushrooms prior to the October 27, 2023 appointment, (Tr., pp. 21-23), Individual A maintained only that she had smoked marijuana before the October 27, 2023 massage appointment with the Respondent. (Tr., p. 18, 21.) The Board does not find that this admission undermines Individual A’s credibility. First, Individual A stated twice in her testimony that she was not

³ It should be noted that, while the Board places significant weight on the near-contemporaneous text message *to* Individual DP, it places no weight on any of the texts *from* Individual DP as she lacks credibility. First, she refused to participate in the Board’s investigation. More importantly, however, while she was very supportive and seemingly corroborated Individual A’s account, Individual DP was also texting the Respondent with very supportive messages. (*See* Respondent’s Exhibit 1.) At least from the window of text messages in the record before the Board, it appears that Individual DP was playing both sides.

impaired. (Tr., p. 18, 24.) Second, Individual A testified that she had cancer three times in her lifetime and that her latest bout with cancer, specifically breast cancer, formed part of the reason why she sought massage therapy from the Respondent in the first place. (Tr., p. 11.) Individual A also testified that she obtained the marijuana from a dispensary. (Tr., at p. 23.) Thus, the Board reasonably infers from these disparate pieces of testimony that Individual A was smoking marijuana to aid in her cancer treatment or recovery. There is no testimony or evidence to suggest that she was smoking recreationally or for the sole purpose of impairment. Finally, if the Respondent's cross-examination was meant to suggest that Individual A was so high on marijuana that she imagined the Respondent touching her vagina, the Board, in its expertise, does not find that to be reasonable or plausible. While psychoactive, marijuana is not a hallucinogen and would not give rise to imagining that someone is putting their finger in your vagina. Moreover, impairment would be a contraindication to massage, and if the Respondent believed that Individual A was impaired, he should have massaged her that day. Alternatively, if the goal was to suggest that Individual A's marijuana use made her a less credible witness generally, the Board also finds that unreasonable given that marijuana no longer carries with it the stigma that it may have had even as recently as several years ago. The Board has no reason to conclude that a person is less likely to tell the truth solely by the fact that they regularly smoke marijuana, particularly given the societal and legal acceptance of marijuana in the State of Maryland. Ultimately, the Board finds that cross-examination did little to undermine or discredit Individual A's testimony.

Individual A's demeanor in delivering her testimony before the Board gave the Board no reason to believe that she was fabricating her story or that her testimony was not credible. The Board has no doubt that testifying regarding this subject matter was uncomfortable and difficult for her, yet she responded to each question, particularly during cross- and Board examination, calmly and

directly without obfuscation. Accordingly, based on the consistency of her accounts and her demeanor, the Board finds that Individual A was credible and puts a great deal of weight on her testimony.

2. The Credibility of the Respondent

For his part, the Respondent, in his initial interview with the police on February 29, 2024, denied digitally penetrating Individual A's vagina. (*See* State's Exhibit 11, p. 0157.) Then, on March 2, 2024, several days after he denied any inappropriate conduct, the Respondent texted the police stating, "I am very sorry for what transpired with [Individual A]. It was an accident that I didn't mean to happen." (*Id.*) This is a completely different statement than the one he made to the police only days prior, as it acknowledged a level of culpability. Then, in his testimony before the Board, the Respondent returned to outright denying that digital penetration occurred. (Tr., p. 36.) In his testimony, the Respondent offered several other possibilities for how Individual A may have come to think he had touched her labia or digitally penetrated her. Based on the Board's expertise in the field of massage therapy and based on the record itself, the Respondent's defenses strained credulity as fully set forth below.

First, the Respondent posited that it was "probably the lymph opening up mixed with me tugging on the nerve path that was blocked up by all the excessive lymph" causing Individual A to experience the "perception" of vaginal penetration. (Tr., p. 36.) As a preliminary matter, in the Board's experience and expertise, released lymph is liquid, and its release is typically felt as a bubbling sensation and would not present itself in any way that would resemble a digit being inserted into an orifice. In fact, there are few massage techniques, if any, that could replicate that sensation without it actually occurring. Moreover, in the Board's experience and expertise, even taking into account the bubbling sensation, it is atypical for lymphatic drainage to cause a person to

sense things in parts of the body that are not being directly treated. Here, the Respondent testified that he was providing therapy to Individual A's toe, (Tr., p. 34), and her adductor muscles, (Tr., p. 35), but not her groin. (Tr., pp. 72-73.) Thus, even if the Board viewed the testimony in the light most favorable to the Respondent, the lymphatic drainage therapy that the Respondent was performing on Individual A's inner thigh may have radiated to Individual A's pelvic bone, but if the Respondent was not directly addressing muscles in the pelvic floor or the vagina itself, it is unlikely that released lymph would present itself as intra-vaginal digital penetration.

The same can be said for the Respondent's suggestion that "tugging on the nerve path" would cause a sensation similar to vaginal penetration. Utilizing the Board's expertise in the field of massage therapy, while the pelvic nerve does innervate the uterus and other organs in the pelvic region, it is not something that can be easily manipulated or stimulated in a way that would induce uterine spasms through external massage techniques. To be sure, unlike some nerves in the neck, it is not possible to manipulate nerves in the leg, as the Respondent suggested in his testimony. It is likely that the Respondent was following nerve paths that he learned about academically rather than actually pinpointing a particular nerve. The Board also notes that the Respondent indicated that he was tugging on the nerve path "that was blocked up by all the excessive lymph." (Tr., p. 36.) The Respondent was in no position to state conclusively and without evidence that a nerve path was blocked. The determination of any nerve blockages would be a medical diagnosis, which is, as a matter of law, outside the scope of practice for a licensed massage therapist in the State of Maryland. *See* HO § 6-101(f)(3)(i) ("Practice massage therapy' does not include...[t]he diagnosis of illness, disease, or injury...") The Respondent offered no expert testimony to support these patently self-serving theories with any verifiable scientific knowledge. As such, for the reasons set forth above, it

is implausible that his lymphatic drainage therapy or “nerve-tugging” caused vaginal sensations in Individual A, and the Board assigns minimal weight to this portion of his testimony.

Next, throughout his testimony, it was clear to the Board that the Respondent was implying that Individual A was under the influence of psychedelic mushrooms. The Respondent testified that Individual A told him that “she found a new drug,” specifically, Stargazer mushroom caps. (Tr., p. 36.) According to the Respondent, on October 27, 2023, Individual A told him that “she uses the Stargazer mushroom caps, and she would take 13 caps as her dose.” (Tr., p. 37.) The Respondent stated that “when [the mushrooms] get released, I mean, people’s eyes start going weird. Like, people just start bugging out. And that’s what I was experiencing with her when she was talking about it.” (Tr., p. 37-38.) The Board does not find this theory to be credible. First, the Respondent acknowledged that Individual A did not tell him that she had taken any psychedelic mushrooms. (Tr., p. 49.) To be sure, according to the Respondent, Individual A only stated that “her new favorite drug is taking 13 Stargazer mushroom caps.” (*Id.*) Individual A, in her testimony, testified that she did not recall saying this to the Respondent. (Tr., p. 21). Second, the Respondent’s clinical notes for that day make no mention of her discussion about psychedelic mushrooms or her appearing to be intoxicated. (*See* State’s Exhibit 6, p. 0015.) This was the subject of the State’s cross-examination of the Respondent:

[Administrative Prosecutor:] Before each session, would you do an intake?

[The Respondent:] Verbal intake, yes.

Q. Okay. And as part of that intake, would you review any medications or substances that she was taking?

A. Well, when people take marijuana, they normally don’t tell you that you take it. And when people – when people take, you know, drugs, they normally don’t tell you what they took that day. You can ask them any changes in your medical, and they’ll tell you no. And, you know, sometimes they slip and say something, you know, two

hours and into a two-and-a-half-hour massage or whatever, you know, but it was a – she just complained about not drinking on a cruise. And I have to speculate that her last surgery was two months prior and that she's no longer on opiates. I didn't think about that at the time, but she didn't tell me she had stopped taking her pain meds from her skin removal surgery. But, you know, an hour and a half or so into the massage, she did tell me that she start – that she really likes the Stargazer mushrooms.

Q. So then before the massages begin, you don't necessarily know or confirm whether or not [Individual A] or any client is taking any type of substances. Correct?
A. Normally they won't tell you if they're taking something that they shouldn't take. They're there for their massage that they booked, and they've been waiting for it, and they come for relaxation. And sometimes smoking helps them relax; sometimes they are going through a cancer thing, and, you know, as long as they don't come in stinking like they just smoked in my – in my driveway, you know, the massage was, you know, to reduce inflammation.

And – and clearly the way she was walking with her broken toe, it was – you know, I wasn't thinking like, you're walking drunk. I'm thinking you're walking like you have pain in your body. And with the way my eye was working, you know, everything was just looking blurry. Like, I could – you can really see the way someone moves when you don't really look hard at them. You just kind of squint and you can really see the way somebody is moving inside. And her limp was really bad when she came to me.

Q. So outside of a – it sounds like what you are admitting to is a blurred visual and a – and a smell. Was there any other way or confirmation that you would verify if anybody was impaired before you begin a massage?

A. She wasn't just – she's not a lightweight. So I don't know – I didn't know of her drinking problems. I didn't know, you know, other than her marijuana use. And at that point, I didn't know that she was taking the mushrooms. Like, that was the first time she had told me that she was taking Stargazer mushroom caps, and she was kind of looking swirly-eyed when she told me that. And this was before I started working on her leg, and I was working on her abdomen.

But most of the time in the professional world, it's really hard. People will sneak in that they're – that they're – you know, using you to escape to la-la land. You know, they might not come – some people are really good at covering up their alcoholism. And I had to block people from coming to me that had problems because, you know, 20 minutes into the session, their breath no longer smells like Lunchables, and now you can start smelling that they're, you know, at risk of throwing up on my table, which I don't want.

(Tr., pp. 45-47.) During this examination, the Respondent evaded answering a simple question of whether he asked about Individual A's drug and medication use prior to the massage. This evasiveness to what should have been a basic question damaged the Respondent's credibility before the Board, as it is standard practice for any healthcare professional to ask for updated health histories at the beginning of any medical intervention, including massage. Moreover, the Respondent's position that patients or clients are not going to be truthful in their responses also does not ring true for the Board, particularly in light of the Board's regulations. The Board's regulations require massage therapists to maintain clinical records that include a "[m]assage session summary *in standard SOAP format, or its equivalent*, which includes, at a minimum: (a) Initial client assessment, including contraindications noted; (b) Summarized therapy plan; and (c) Progress notes, reflecting: summary of techniques used and response to techniques." COMAR 10.65.06.01.B(5) (Emphasis added). The SOAP format is a standard clinical recordkeeping format that exists across all health professions and is an acronym for "Subjective" observations, that is what the patient told their provider themselves orally or through a written health history form; "Objective" observations, that is what the provider observed themselves or the data that was collected by the provider; the provider's "Assessment," and the "Plan." If a patient presents as intoxicated or discusses a new medication or drug with that provider, it should have been recorded in either the "Subjective" observation portion of the note or the "Objective" observation portion, depending on how the provider receives that information. Because drug or medication use could present a contraindication to treatment, collection of this data is clinically necessary. In this case, the Respondent's October 27, 2023 notes regarding Individual A are detailed. (State's Exhibit 6, p. 0015.) In fact, those notes are so detailed that they mention Individual A's trip to Europe and how "the rain ruined her ruins." (*Id.*) Yet, in their detail, the notes fail to mention anything about Individual A taking a psychedelic drug or

appearing intoxicated. Thus, to an outside reviewer of the Respondent's notes, it would be reasonable to conclude that either the Respondent did not observe what he now claims to have observed regarding Individual A; the conversation regarding the mushrooms did not happen; or the Respondent did not maintain his clinical notes as the Board's regulations require. Regardless, there are enough questions regarding the Respondent's testimony regarding Individual A's alleged drug use that the Board is skeptical of the Respondent's suggestions. In addition, in the absence of evidence indicating that Individual A was actually impaired or documentation indicating a reasonable likelihood that Individual A was impaired, such as a clinical note stating that her eyes were glassy, the Board finds that the Respondent's defense is pure conjecture, and the Board assigns it little weight.

Altogether, the Board did not find the Respondent's presentations of alternative theories plausible based on the evidence and the Board's expertise in the field of massage therapy. Further, the varying statements the Respondent gave to the police diminished his credibility before the Board. Based on the foregoing, the Board finds that Individual A's testimony was more credible than the Respondent's testimony.

C. RECONCILIATION OF THE EVIDENCE

Under the Administrative Procedure Act, the standard of proof for administrative cases is the preponderance of evidence; that is, the Board must, based on the administrative record, find it more likely than not that a particular violation occurred. *See* Md. Code Ann., State Gov't § 10-217. Here, because the Board found Individual A to be more credible than the Respondent for the reasons fully stated above, the Board finds that, more likely than not, the Respondent inappropriately touched her labia and vagina. The Board finds that touching a client's genitals during a massage constitutes sexual misconduct in that it is a non-bona fide treatment. As such, the Board finds that the

Respondent violated Md. Code Ann., Health Occ. 6-308(a)(20) (“Engages in conduct that violates the professional code of ethics), specifically COMAR 10.65.03.05.B(3)(b) (“A licensee or registrant may not...[e]ngage in sexual misconduct that includes, but is not limited to...[n]on bona fide treatment”). In its discretion, the Board will dismiss the remaining as duplicative.

D. SANCTION

Turning to the appropriate sanction, it is well-established that the health occupation boards, including the State Board of Massage Therapy Examiners, exist in order to protect the public. *See Unnamed Physician v. Commission on Medical Discipline*, 285 Md. 1, 8-9 (1979). Furthermore, the right of a healthcare professional to practice is conditional, subject to the Board’s objective to protect and preserve the public health. *Board of Physicians v. Felsenberg*, 351 Md. 288, 305-06 (1998). The Board finds that the Respondent’s misconduct falls within category H.(3) of the Board’s sanctioning guidelines. *See* COMAR 10.65.09.06.H.(3). The range of potential sanctions under category H.(3) goes from a minimum sanction of suspension for 2 years, without stay for at least 90 days, and probation for 2 years, and conditions to a maximum sanction of revocation. *Id.*

In the instant case, the Board believes it appropriate to go below the minimum sanction as several mitigating factors are present. First and foremost, the Board notes that the Respondent has been suspended for nearly one year as the result of the Board’s summary suspension, and the Board is taking due consideration of that length of time in determining the instant sanction. Second, the Respondent has no disciplinary history with the Board and was cooperative throughout the Board’s disciplinary processes. Third, the Board finds that the Respondent has rehabilitative potential. The Board considered the positive reviews and letters of support that the Respondent submitted as evidence that, on the whole, the Respondent is a massage therapist who is capable of practicing in a safe, decent, and quality manner. (*See generally* Respondent’s Exhibits 2 and 3.)

In sum, the Board finds that, with adequate monitoring and safeguards, the Respondent should be able to practice in a manner that adequately protects the public. Accordingly, rather than suspending his license as the minimum sanctioning guideline suggests, the Board believes that the Respondent will benefit from a period of probationary practice, subject to terms and conditions as set forth in the Order section of this Order.

CONCLUSIONS OF LAW

In this case, based on the foregoing Findings of Fact, the Board concludes that the Respondent violated Md. Code Ann., Health Occ. § 6-308(a) as follows:

- (20) Engages in conduct that violates the professional code of ethics, specifically COMAR 10.65.03.05.B.(3)(b) (“A license holder or registration holder may not . . . [e]ngage in sexual misconduct that includes . . . [n]on bona fide treatment[.]”)

In its discretion, the Board shall dismiss the charges alleging violations of Md. Code Ann., Health Occ. § 6-308(a) (11) and (21) as duplicative.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED that the “Order for Summary Suspension of Massage Therapy License” issued by the Board on April 29, 2024 is hereby **AFFIRMED**; and it is further

ORDERED that the suspension imposed by the “Order for Summary Suspension of Massage Therapy License” issued by the Board on April 29, 2024 is hereby **LIFTED** and **TERMINATED**; and it is further

ORDERED that the charges set forth in the “Charges Under the Maryland Massage Therapy Act,” issued on May 23, 2024, alleging violations of Md. Code Ann., Health Occ. § 6-308(a)(11) and (21) are hereby **DISMISSED**; and it is further

ORDERED that the Respondent's license to practice massage therapy, license number M05484, shall be placed on **PROBATION** for a minimum of **THREE (3) YEARS**, subject to the following terms and conditions:

1. Within **SIX (6) MONTHS** of this Order being executed, the Respondent shall successfully complete **one (1) Board-approved course on PROFESSIONAL ETHICS** and **one (1) Board-approved course on PROFESSIONAL BOUNDARIES** offered by Ethics and Boundaries Assessment Services, LLC ("EBAS"). The Respondent understands and agrees that he may not use this coursework required under this Order to fulfill any requirements mandated for licensure renewal. The Respondent shall be solely responsible for ensuring that EBAS furnishes the Board with timely and adequate primary-source written verification that he has completed the courses according to the terms set forth herein. In the event that EBAS is uncooperative with the Respondent, the Respondent may petition the Board along with supporting documentation, at least 15 days prior to the date that the required courses are due under this Order, to submit course verification directly to the Board.
2. The Respondent must report to the Board any employment, including self-employment, where he is practicing massage therapy as defined in HO § 6-101(f), the location where he is working, and the name of his supervisor, if applicable. The report is due to the Board within five (5) business days of commencing employment.
3. In the event that Respondent practices as a solo practitioner, in his home or otherwise, the Respondent may not "practice massage therapy" as defined in HO § 6-101, without the presence of a Board-approved chaperone or chaperones, who must

be present during all interactions with patients or clients in the State of Maryland. Any chaperone must be pre-approved by the Board in writing. The Respondent shall be subject to random inspections and/or audits by the Board to determine compliance with this Order. The Respondent shall arrange for the chaperone(s) to submit written quarterly reports to the Board detailing the Respondent's compliance with this Order. It is the Respondent's responsibility to ensure that such reports are submitted to the Board and to notify the Respondent's chaperone(s) when these reports are due. An unsatisfactory report will be considered a violation of probation and this Order.

4. If the Respondent works at a facility with one or more individuals licensed or registered with this Board, the Respondent may practice without a chaperone as described in Paragraph 3 of this Order, however the Respondent shall provide a copy of this Order to his massage employer(s) at the time of hire and arrange for those employer(s) to submit, in writing, confirmation to the Board that they have reviewed this Order. The Respondent shall arrange for the Respondent's supervisor at any massage facility to submit written quarterly work-site reports to the Board evaluating the Respondent's massage therapy practice. If the Respondent's employment terminates at any of the Respondent's place(s) of employment prior to the due date of a quarterly report, then a final work-site report is due on the last day of employment. It is the Respondent's responsibility to ensure that such reports are submitted to the board and to notify the Respondent's supervisor when these reports are due. An unsatisfactory report will be considered a violation of probation and this Order.

5. The Respondent shall submit to the Board written quarterly self-reports describing the Respondent's progress. Failure to provide written quarterly self-

reports shall constitute a violation of probation and this Order.

6. The Respondent shall at all times cooperate with the Board, any of its agents or employees, and with the Board-assigned investigator, in the monitoring, supervision, and investigation of the Respondent's compliance with the terms and conditions of this Order.

7. The Respondent shall comply with the Maryland Massage Therapy Act, Md. Code Ann., Health Occ. §§ 6-101 – 6-602, and all laws and regulations governing the practice of massage therapy in Maryland; and it is further

ORDERED that the Respondent may file a petition for the early termination of the probation imposed by this Order after two (2) years from the effective date of this Order. After consideration of the petition, the probation may be terminated through an order of the Board. The Board, at its discretion, may grant early termination if the Respondent has fully and satisfactorily complied with all the terms and conditions of the Order, and there are no pending investigations or complaints against the Respondent, and the Board deems termination of probation appropriate; and it is further

ORDERED that, unless the probation imposed by this Order was terminated early by the Board under the previous paragraph, after the conclusion of the **THREE (3) YEAR** probationary period imposed by this Order, the Respondent may submit a written petition to the Board requesting termination of probation. After consideration of the petition, the probation may be terminated through an order of the Board. The Board, at its discretion, may grant termination if the Respondent has fully and satisfactorily complied with all the terms and conditions of the Order, and there are no pending investigations or complaints against the Respondent, and the Board deems termination of probation appropriate. If the Respondent fails to make any such petition, then the probationary

period status may continue indefinitely, subject to the conditions set forth in this Order; and it is further

ORDERED that if the Respondent allegedly fails to comply with any of the terms and conditions of this Order, the Respondent shall be given notice and an opportunity for a hearing. If, in its sole discretion, the Board determines that there is a genuine dispute as to a material fact, the hearing shall be an evidentiary hearing before the Board. If there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before the Board; and it is further

ORDERED that, after the appropriate hearing, if the Board determines that the Respondent has failed to comply with any term or condition of probation or this Order, the Board may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's license to practice massage therapy in Maryland. The Board may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon the Respondent; and it is further

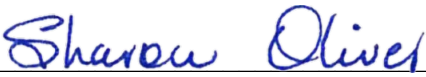
ORDERED that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Order; and it is further

ORDERED that, unless stated otherwise in the order, any time prescribed in this order begins when the Order goes into effect. The Order goes into effect upon the signature of the Board's Executive Director, who signs on behalf of the Board; and it is further

ORDERED that for purposes of public disclosure and as permitted by Md. Code Ann., Gen. Prov. § 4-333(b)(6), this document consists of the foregoing Findings of Fact, Conclusions of Law, and Order, and is reportable to any entity to whom the Board is obligated to report; and it is further

ORDERED that this Order is a Final Order and as such is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. § 4-333(b)(6) and Md. Code Ann., Health Occ. § 1-607.

04/23/2025
Date



Sharon J. Oliver, MBA
Executive Director
Maryland State Board of Massage Therapy Examiners

NOTICE OF APPEAL RIGHTS

Any person aggrieved by a final decision of the Board under Md. Code Ann., Health Occ. § 6-308(a) may take a direct judicial appeal within thirty (30) days as provided by Md. Code Ann., Health Occ. § 6-310; Maryland Code Ann., State Gov't § 10-222; and Title 7, Chapter 200 of the Maryland Rules, including Md. Rule 7-203 ("Time for Filing Action").

NOTICE OF ASSESSMENT OF COSTS

Pursuant to Md. Code Ann., Health Occ. § 6-309(g) and its implementing regulation at COMAR 10.65.02.06.B, the Respondent shall be responsible for costs as specified in a separately-issued verified invoice.