

IN THE MATTER OF	*	BEFORE THE STATE
MARC A. MELCHER, LMT	*	BOARD OF MASSAGE
RESPONDENT	*	THERAPY EXAMINERS
LICENSE NUMBER: M03522	*	CASE NUMBER: 22-10M

* * * * *

FINAL ORDER OF REVOCATION OF MASSAGE THERAPY LICENSE

The Maryland State Board of Massage Therapy Examiners (“the Board”) charged Marc A. Melcher, LMT (“Respondent”), License Number: M03522, under the Maryland Massage Therapy Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 6-101 *et seq.* (2021 Repl. Vol. and 2023 Supp.). Specifically, the Board charged the Respondent with violating the following:

Health. Occ. § 6-308. Denials, reprimands, suspensions, and revocations.

- (a) *In General; grounds* Subject to the hearing provisions of § 6–309 of this subtitle, the Board may deny a license or registration to an applicant, reprimand a licensee or registration holder, place any licensee or registration holder on probation, or suspend or revoke the license of a licensee or the registration of a registration holder if the applicant, licensee, or registration holder:
- (8) Does an act that is inconsistent with generally accepted professional standards in the practice of massage therapy;
 - (10) Is professionally incompetent;
 - (11) Has violated any provision of this title;
 - (20) Engages in conduct that violates the professional code of ethics;

- (21) Knowingly does an act that has been determined by the Board to be a violation of the Board's regulations [.]

The Board also charged the Respondent with violating the following:

COMAR 10.65.03.03 Standards of Practice.

D. A license holder or registration holder may not:

- (2) Knowingly engage in or condone behavior that:
 - (a) Is fraudulent;
 - (b) Is dishonest;
 - (c) Is deceitful; or
 - (d) Involves moral turpitude[.]

COMAR 10.65.03.05 Professional Boundaries.

A. A license holder or registration holder shall:

- (1) Maintain professional boundaries, even when the client, staff member, or student initiates crossing the professional boundaries of the professional relationship; and
- (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:

- (1) Exploit a relationship with a client, staff member, or student for the license holder's or registration holder's personal advantage, including, but not limited to, a personal, sexual, romantic, or financial relationship;
- (2) Engage in a sexually intimate act with a client; or
- (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.

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was registered to practice massage therapy in the State of Maryland.

2. The Respondent was originally issued a license to practice licensed massage therapy (“LMT”) in Maryland on or about January 29, 2007.

3. The Respondent’s LMT license expires on October 31, 2024.

4. At all times relevant hereto, the Respondent owned and operated a business (“Facility A”) that provides massage therapy and other services. Facility A is located in Maryland.¹

5. On or about June 7, 2022, the Board received an anonymous complaint regarding the Respondent’s conduct at the Facility. The Complainant alleged in the complaint to witnessing the Respondent under the influence of alcohol and marijuana while working at the Facility.

6. A subsequent investigation by Board staff revealed the following:

¹ The name of Facility and Employee A, B, and C have not been disclosed to in order protect privacy. The names will be provided to the Respondent upon request to the Administrative Prosecutor.

7. Employee A worked as a receptionist at the Facility from December 2021 until April 2022. Employee A was twenty-one (21) years old and pregnant during the time that she worked at the Facility.

8. During the period that Employee A worked at the Facility she was often alone with the Respondent. The Respondent wanted Employee A be at the Facility when he opened it in the morning.

9. During her employment at the Facility, Employee A heard the Respondent make inappropriate comments about clients' body parts. She also observed the Respondent yelling at other employees.

10. On multiple occasions while she worked at the Facility, the Respondent touched Employee A, making her feel uncomfortable. During these occasions, Employee A would slap the Respondent's hand away and/or inform him that she did not wish to be touched.

11. On one occasion, the Respondent touched and rubbed Employee A's pregnant belly. On another occasion, he approached Employee A from behind and began rubbing her back and shoulders and asked for a hug.

12. On about April 3, 2022, Employee A e-mailed the Respondent informing him that she was resigning from the Facility. Employee A informed the Respondent that she was resigning because he inappropriately touched her throughout her employment without her consent. Employee A also informed the Respondent that she was resigning

because the Respondent had inappropriately rubbed her legs and thighs, while they were alone at the Facility the day before.

13. In or around 2019, Employee B began working at the Facility. Employee B remained employee at the Facility after becoming a licensed massage therapist.

14. On at least one occasion in the spring of 2022, Employee B smelled alcohol on the Respondent.

15. On another occasion, Employee B observed the Respondent drinking alcohol, playing card games, and socializing with clients at the Facility.

16. In or around the summer of 2021, Employee C was employed and worked at the Facility for approximately one year.

17. During the period that Employee C was employed at the Facility, Employee C observed the Respondent drinking alcohol at the Facility. Employee C also observed the Respondent smoke marijuana from a pipe.

18. On or about April 25, 2023, the Respondent was interviewed under oath by the Board investigator. The Respondent informed the Board investigator that his actions with Employee A on April 2, 2022, occurred while he was experiencing a sleepwalking event. The Respondent stated that he had sat next to Employee A and patted her knee.

19. The Respondent also admitted during the interview that he drank alcohol and smoked marijuana with clients at the Facility.

20. The Respondent also indicated during the interview that he did have an alcohol problem but was more concerned about his cannabis intake.

21. The Respondent's conduct as set forth above is a violation of Health Occ. § 6-308 (a) (8), (10), (11), (20), and (21) and COMAR 10.65.03.03D (2)(a)-(d), COMAR 10.65.03.05 A (1) and (2), and B (1) - (3)(a)-(c).

CONCLUSIONS OF LAW

The Board finds that the Respondent violated Health Occ. § 6-308 (a) (8), (10), (11), (20), and (21) and COMAR 10.65.03.03D (2)(a)-(d), COMAR 10.65.03.05 A (1) and (2), and B (1) - (3)(a)-(c).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 24th day of July, 2024, by a majority of the Board hereby:

ORDERED that the Respondent's license to practice massage therapy is hereby **REVOKED**; and it is further

ORDERED that the Respondent shall return to the Board all professional massage therapy licenses within ten (10) days of the effective date of this Order; and it is further

ORDERED that the effective date of this Order is the date that it is signed by the Board; and it is further

ORDERED that this Order is reportable to the National Practitioners' Data Bank; and it further

ORDERED that this document constitutes a formal disciplinary action of the Board, and this Order is final and is a public document for purposes of public disclosure, pursuant to Md. Code Ann., General Provisions § 4-333 (2019 Repl. Vol. & 2023 Supp.).

07/24/2024
Date

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

NOTICE OF RIGHT OF APPEAL

In accordance with § 6-310 of the Act and Md. Code Ann., State Government §§ 10-201, *et seq.* (2021 Repl. Vol. & 2023 Supp.) you have a right to a direct judicial appeal of this decision. A petition for appeal of this Order shall be filed within thirty days of your receipt of this Order and shall be made in accordance with the aforementioned authority.