

IN THE MATTER OF

MICHELLE Y. ARONHALT

Applicant

*

BEFORE THE MARYLAND STATE

*

BOARD OF CHIROPRACTIC AND

*

MASSAGE THERAPY EXAMINERS

*

Case Number: 13-40M

* * * * *

FINAL ORDER

On or about August 22, 2013, Michelle Y. Aronhalt (the "Applicant") submitted an Application for Licensure or Registration in Massage Therapy (the "Application") to the Maryland State Board of Chiropractic and Massage Therapy Examiners (the "Board"). The Board notified the Applicant of its intent to deny her Application pursuant to the Maryland Chiropractic Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 3-101 *et seq.* (2009 Repl. Vol. and 2013 Supp.) and Md. Regs. Code ("COMAR") tit. 10, § 43.17 *et seq.*

The Board based its action of the following provisions of the Act:

H.O. § 3-5A-11. Denials; suspensions; revocations.

(a) *Denial of license or registration.* – Subject to the hearing provisions of § 3-315 of this title, the Board may deny a . . . registration to any applicant . . . if the applicant . . . :

- (11) Has violated any provision of this subtitle;
- (20) engages in conduct that violates the professional code of ethics; [and]
- (21) Knowingly does an act that has been determined by the Board to be a violation of the Board's regulations.

H.O. § 3-5A-04. License and registration required.

Except as otherwise provided in this subtitle, an individual shall be:

- (2) Registered by the Board before the individual may practice non-therapeutic massage in this State.

H.O. § 3-5A-06. Qualifications for license and registration.

- (b) *Qualification for registration.* --To qualify for registration, an applicant shall be an individual who:

- (1) Is of good moral character.

The Board based its action on the following COMAR provisions:

10.43.17. Massage Therapy--General Provisions.

- .03 Licensure or Registration Required; Exceptions.

An individual shall be . . . registered by the Board in order to practice non-therapeutic massage

10.43.18. Massage Therapy--Code of Ethics.

- .03 Standards of Practice.

- A. A license holder or registration holder shall be concerned primarily with the welfare of the client.
- C. A license holder or registration holder shall:
 - (1) Use professional discretion and integrity in relationships with members of the public and health care community.
 - (2) Engage in professional conduct at all times, with honesty, integrity, self-respect, and fairness;
- D. A license holder or registration holder may not:
 - (1) Misrepresent professional credentials, qualifications, education, or affiliations;
 - (2) Knowingly engage in or condone behavior that:
 - (a) is fraudulent;
 - (b) is dishonest;

(c) is deceitful; or

(d) involves moral turpitude.

.04 Relationship with Client.

A. A license holder or registration holder shall:

- (4) Maintain legible, organized written records of treatment of any client under the care of the license holder or registration holder for at least five years after termination of treatment and as provided by applicable provisions of Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland.

On 12-5-13, 2013, the Applicant received the Board's Notice of Intent to Deny Application for Registration in Massage Therapy (the "Notice."). The Board notified the Applicant in that Notice that this Final Order would be executed thirty (30) days from the Applicant's receipt of the Notice unless the Applicant requested a hearing. The Applicant's written request was due on 1-4-14, 2014. The Applicant did not request a hearing by 1-4-14, 2014.

FINDINGS OF FACT

The Board makes the following Findings of Fact:

Licensure information

1. On or about January 31, 2007, the Applicant applied to the Board for a registration to practice as a registered massage practitioner ("RMP").
2. On or about April 23, 2007, the Board issued the Applicant an RMP registration under Registration Number R00668.

3. The Applicant maintained her RMP registration until 2010, when she failed to apply for renewal of her registration during the 2010 renewal period. As a result, the Applicant's RMP registration expired, effective October 31, 2010.

4. On or about June 5, 2013, the Board received an application from the Applicant to reactivate her RMP registration.

6. On or about June 5, 2013, a Board representative telephoned the Applicant to inform her that since she failed to renew her registration within two years of the date of the expiration of her registration, she would have to submit an application for initial registration to practice as a massage practitioner. See COMAR 10.43.17B and C. When attempting to telephone the Applicant, the Board representative used a telephone number the Applicant provided on her application. The Board representative reached a business known as "A Kneaded Spa (the "Spa")," and received information that the Applicant may be providing massages there.

8. The Board subsequently returned the application and registration fee to the Applicant.

9. The Board then investigated this matter to determine if the Applicant was practicing without a valid RMP registration. As part of its investigation, Board staff contacted the Spa and set up an appointment for a Board investigator to receive a massage from the Applicant on July 25, 2013. On that date, the Applicant contacted the investigator and canceled the appointment, purportedly for personal reasons.

10. On or about August 22, 2013, the Applicant submitted her Application to the Board for RMP registration.

11. On or about September 20, 2013, a Board investigator interviewed the Applicant, who admitted that she had been providing non-therapeutic massages to clients after her RMP registration expired in 2010.

12. In her Board interview, the Applicant admitted that:

(a) she owned and operates the Spa, which is located at 317 Main Street, Hancock, Maryland 17201;

(b) she operates a tanning business out of the Spa, works as a nail technician and is the sole massage practitioner there;

(c) she had been providing non-therapeutic massages at the Spa since 2010;

(d) she was the sole massage practitioner at the Spa on June 5, 2013, when the Board representative attempted to contact her and that she gave massages to clients there on that date;

(e) she was scheduled to give a massage to a Board investigator on July 25, 2013, but canceled the appointment due to personal reasons;

(f) she had been providing at least four (4) massages per week at the Spa since June 2013;

(g) she failed to maintain client treatment records when providing massages;
and

(g) she did not have a valid RMP registration but provided massages to clients without such registration.

13. During her interview, the Applicant claimed that she had contracted with an individual who had a valid massage therapy license to provide massages at the Spa.

Board investigation, however, could not verify the identity of this individual or that he/she possessed a valid Maryland massage therapy license.

14. By letter dated September 20, 2013, the Board ordered the Applicant to cease and desist from practicing massage therapy without a license or registration.

GROUND FOR DENIAL OF RMP REGISTRATION

15. The Board may deny an RMP application if an applicant: violates any provision of the subtitle of the Act pertaining to registered massage practitioners; engages in conduct that violates the professional code of ethics; or knowingly does an act that has been determined by the Board to be a violation of the Board's regulations.

16. In this case, the Applicant gave non-therapeutic massages to clients at the Spa without a valid RMP registration. The Applicant's actions demonstrate that she does not possess good moral character for RMP registration. In addition, the Applicant violated applicable Board regulations by: not acting with discretion and integrity; misrepresenting her professional credentials; engaging in conduct that was fraudulent, dishonest, deceitful and involved moral turpitude; and failing to maintain legible, organized client treatment records.

17. Based on the above, the Board denies the Applicant's Application for the following reasons:

(a) the Applicant violated provisions of the subtitle of the Act pertaining to RMPs, in violation of H.O. § 3-5A-11(a)(11), by:

(1) practicing without a valid RMP registration, in violation of H.O. § 3-5A-04(2); and

(2) not possessing good moral character, a qualification necessary for RMP registration, in violation of H.O. § 3-5A-06(b)(1);

(b) the Applicant engaged in conduct that violates the professional code of ethics under COMAR 10.43.18, in violation of H.O. § 3-5A-11(a)(20); and

(c) the Applicant knowingly did an act that has been determined by the Board to be a violation of the Board's regulations under COMAR 10.43.17 and 10.43.18, in violation of H.O. § 3-5A-11(a)(21).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that there are reasons to deny the Applicant's Application for Registered Massage Practitioner based on the following grounds under H.O. § 3-5A-11:

(1) the Applicant violated provisions of the subtitle of the Act pertaining to registered massage practitioners, in violation of H.O. § 3-5A-11(a)(11), by: (a) practicing without a valid RMP registration, in violation of H.O. § 3-5A-04(2); and (b) not possessing good moral character, a qualification necessary for RMP registration, in violation of H.O. § 3-5A-06(b)(1);

(2) the Applicant engaged in conduct that violates the professional code of ethics under COMAR 10.43.18, in violation of H.O. § 3-5A-11(a)(20); and

(3) the Applicant knowingly did an act that has been determined by the Board to be a violation of the Board's regulations under COMAR 10.43.17 and 10.43.18, in violation of H.O. § 3-5A-11(a)(21).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 13th day of JAN 2014, by an affirmative vote of a majority of the Board considering this case:

ORDERED that the Applicant's Application for Registered Massage Practitioner in the State of Maryland is hereby **DENIED**; and it is further

ORDERED that this is a Final Order of the Board and as such, is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2009 Repl. Vol. and 2013 Supp.).

1/13/2014
Date

J.J. VALLONE, J.D.
Executive Director
J.J. Vallone for/by direction of
Michael Fedorczyk, D.C.
President
Maryland State Board of Chiropractic and
Massage Therapy Examiners

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Health Occ. Code Ann. § 3-316(a), any person aggrieved by a final decision of the Board in a contested case other than a case decided pursuant to Md. Health Occ. Code Ann. § 3-313 or 3-5A-11 may (1) appeal that decision to the Board of Review; and (2) then take any further appeal allowed by the Administrative Procedure Act.

Pursuant to Md. Health Occ. Code Ann. § 3-316(b), any person aggrieved by a final decision of the Board in a contested case in an action under Md. Health Occ. Code Ann. § 3-313 or 3-5A-11 may not appeal to the Secretary of the Board of Review but may take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from

the date of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Applicant files an appeal, the Board is a party and should be served with the court's process at the following address:

**State Board of Chiropractic
and Massage Therapy Examiners
c/o
James J. Vallone, J.D., CFE
Executive Director
4201 Patterson Avenue
Baltimore, Maryland 21215**

The Administrative Prosecutor is no longer a party to this case and need not be served or copied.