

IN THE MATTER OF

YAN ZHU JIN, APPLICANT

*

BEFORE THE

*

STATE BOARD OF

*

CHIROPRACTIC & MASSAGE

*

THERAPY EXAMINERS

*

Case Number: 11-23m

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FINAL ORDER OF DENIAL OF MASSAGE THERAPIST REGISTRATION

On 10/11, 2011 the State Board of Chiropractic and Massage Therapy Examiners (the "Board"), notified Jin Yan, the Applicant, of its Intent to initially deny her massage therapy registration. The Notice also informed the Applicant that, unless she requested a hearing in writing within 30 days of receipt of said Notice, the Board would sign the Final Order herein, which was enclosed. More than 30 days has elapsed and the Applicant failed to timely request a hearing. Therefore, this Denial is final.

The basis for the Board's action was pursuant to the Administrative Procedure Act (the "APA"), Md. State Govt. Code Ann. § 10-226(c) (1) (2009 Repl. Vol. and 2010 Supp.) and the Board of Chiropractic and Massage Therapy Examiners Act, codified at Md. Health Occ. Code Ann. § 3-101, et seq., ("the Act") (2009 Repl. Vol. and 2010 Supp.).

The pertinent provision of § 10-226(c) (1) of the APA states:

Revocation of suspension. (sic)— (1) Except as provided in paragraph (2) of this subsection, a unit may not revoke or suspend a license unless the unit first gives the licensee:

- (i) written notice of the facts that warrant suspension or revocation; and,
- (ii) an opportunity to be heard.

The pertinent provisions of the Act states:

§ 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.

The Board also bases its initial denial on Md. Health Occ. Code Ann.

§ 3-5A-06. Requirements and qualifications for licensure and registration.

(a) To qualify for a license, an applicant shall be an individual who:

- (1) Is of good moral character;

FACTS THAT WARRANT THE DENIAL OF THE APPLICANT'S REGISTRATION

1. By a document dated May 2, 2011, the Applicant filed an application for registration as a massage therapist with the Board. The Applicant answered "No" to "Question 5" of the application, which asks: "Have you ever been arrested, or entered a plea of guilty, no contest, *nolo contendere* or been convicted of a crime or received probation before judgment in any jurisdiction for a crime other than a minor traffic violation?"

2. However, the Board had already been notified that the Applicant had been arrested at the massage establishment where she worked, because the police had complaints about illegal massage and prostitution occurring.

3. Specifically, on December 16, 2009, the Baltimore County Police Department Vice Detectives conducted surveillance at BACO Therapy located on York Road in Timonium, Maryland in reference to an ongoing prostitution complaint. While conducting surveillance, the Detectives observed a male exit the establishment. The male, who was approached by the Detectives, provided the following statement. He stated that after entering BACO, he was led to a massage room by an Asian female who did not speak

English. Once inside the room, he gave her \$70, after which he disrobed. Initially, the Asian female massaged his back and then she turned him over, lowered her blouse, exposed her breasts, and massaged his penis until he ejaculated. At the conclusion of the "massage", he gave the Asian female an additional \$40 tip. After exiting BACO, the male patron identified the Applicant as the one who provided him with the back and penis "massage", after which the Applicant was arrested and charged with prostitution and practicing massage therapy without a license.

4. On May 10, 2010, in the District Court for Baltimore County, the charges were placed on the Stet docket.

5. As set forth above, the Applicant provided a false response on her application and lacks the requisite good moral character for registration as a massage therapist.

6. As set forth above, the Applicant violated the Act.

CONCLUSIONS OF LAW

Based upon the foregoing Facts, the Board concludes that the Respondent violated its Act and that the revocation is warranted, pursuant to § 3-5A-11 (a) (10, (11); § 3-5A-04 (2); § 3-5A-06 (a) (1); and § 10-226 (c) (1) of the APA.

NOTICE OF RIGHT OF APPEAL

In accordance with Md. Health Occ. Code Ann. § 3-316 (2009 Repl. Vol. and 2010 Supp.) and the Administrative Procedure Act, Md. State Govt. Code Ann. § 10-201, *et seq.*, (2009 Repl. Vol. ND 2010 Supp.) you have a right to a direct judicial appeal of this decision. A petition for appeal of the Final Board Order shall be filed within thirty days from your receipt of this Final Order and shall be made in accordance with the aforesaid authority.

11-29-2011
Date



J. J. Vallone, JD, CFE, Exec. Dir. For
Stephanie J. Chaney, D.C., President
Board of Chiropractic & Massage
Therapy Examiners