

IN THE MATTER OF

SU B. LEBEAU

Applicant

*

BEFORE THE

*

STATE BOARD OF

*

CHIROPRACTIC EXAMINERS

* * * * *

FINAL ORDER OF DENIAL OF MASSAGE THERAPY CERTIFICATE

BACKGROUND

On March 14, 2002, the State Board of Chiropractic Examiners (the "Board") received a report from its investigator that the Applicant managed a purported massage establishment where an employee massaged a nude male customer, an undercover policeman, and grabbed his genitals. Furthermore, the Respondent was known to the Anne Arundel Police Department because they had arrested her in 1999 for giving a massage without a license. On the aforementioned date, the Board, by a majority of its full authorized membership, voted to initially deny the Applicant's application.

On , 2002 the Board notified the Applicant that it intended to issue a Final Order of Denial unless the Applicant requested a hearing in writing within 30 days. More than 30 days have passed and the Applicant has failed to request a hearing in writing. Therefore the Board takes the following action:

FINDINGS OF FACT

1. By application dated August 15, 2001, the Applicant applied for certification as a massage therapist. On page 4 thereof, beside the question "[h]ave you ever pled guilty, nolo contendor (sic), or been convicted of or received probation before judgment of any criminal act (excluding traffic violations)?," the Respondent checked "Yes," and wrote

"5/2/99 Dist. Ct. of Maryland for Anne Arundel County, Violation of AA Co. Code 10A202—
Massage w/o license-Disposition \$20 fine—probation before judgment (art.27 § 641)."

2. Upon checking the information, the Board discovered that, on 2/25/99, a detective went to 7339 Furnace Branch Road in Glen Burnie, in Anne Arundel County, and received a massage from the Applicant. At that time, the Applicant went by the name of "Penny." Right after the massage, the Police Department executed a search and seizure, which resulted in an arrest of the Applicant for providing a massage without a license. The Applicant indicated that her legal name was "Sy" Lebeau. The Applicant was later given a probation before judgment and fined for practicing without a license.

3. On October 30, 2001, an undercover officer from the Anne Arundel County Police Department, Vice Enforcement, conducted a covert operation of Champion Spa. The Applicant managed Champion and met the officer after he entered Champion. The Applicant asked the officer how long of an appointment he wanted, to which he replied "1/2 hour." The Applicant informed the officer that the appointment would be "forty dollar," and then escorted the officer to a bedroom. As the Applicant left the room, she told the officer that she would "send a nice girl in for you."

4. The officer got undressed and placed a towel over his buttocks and laid face down on the bed. A few minutes later another female entered the room, spoke and dimmed the lights. The other female pulled the towel from the officer's buttocks and tossed it on the floor. She massaged his entire back, and, after 15 minutes, asked him to roll over, whereupon she proceeded to massage his front, starting at the feet. After about five minutes, she brushed over his penis and said, "you like," to which the officer replied "what?" The other female then grabbed the officer's penis, without the officer's permission

or consent, and said, "does he need help?" She then pulled on the officer's penis and said "does he need massaggie." The officer declined, saying that he was "too nervous." She advised, "maybe next time you won't be nervous." The officer gave her a \$10 tip, and, after getting dressed, was led back to the front door by the other female, and then left.

5. Shortly thereafter, another member of the Vice Enforcement entered, identifying himself as a police officer. That officer entered Champion to conduct an inspection. He took Polaroids of the Applicant and the other female. The first officer identified the other female who had given him the massage. She was then arrested and charged with providing a massage without a license, second-degree assault, and fourth-degree sex offense.

6. On November 20, 2001, Anne Arundel County Police Department, Vice Enforcement, Department of Planning, and Code Enforcement (Zoning and Building Inspector) conducted an inspection of Champion, which disclosed several building code violations that posed safety hazards, such as exposed electrical wiring in the upstairs shower area. As a result of these violations the building inspector ordered the Applicant to cease business until the repairs were made and the location reinspected.

CONCLUSIONS

Based on the foregoing Findings of Fact, the Board concludes, as a matter of law, that, managing a purported massage establishment where a non-certified individual massages a customer while he is completely nude and grabs his genitals is evidence of lack of a good moral character. Further, providing a massage while one is not certified to do so is further evidence of a lack of good moral character. As a result, the Board

concludes that the Applicant violated the Maryland Chiropractors Act (the "Act"), Md. Health Occ. Code Ann. (H.O.) § 3-5A-09 (a) (21) (Knowingly does an act that has been determined by the Board to be a violation of the Board's regulations.) The Board further concludes, as a matter of law, that the Applicant violated H.O. § 3-5A-05 (b)(1) (To qualify for a certificate, an applicant shall be an individual who is of good moral character) of the Act. The Board also concludes, as a matter of law, that the Applicant violated Code Md. Regs. tit. 10 § 43.17.05 (4) (Provide evidence that the applicant is: a) Of good moral character.)

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 29th day of APR, 2002, hereby **ORDERED** that the application for certification of Su B. Lebeau is hereby **DENIED**.

It is further **ORDERED** that this Final Order shall be a public document, pursuant to Md. State Govt. Code Ann. § 10-617(h).

NOTICE OF RIGHT OF APPEAL

In accordance with Health Occupations Article, Md. Ann. Code, § 3-316 and the Administrative Procedure Act, Md. State Govt. Ann. Code, § 10-201, *et seq.*, 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 forecited authority.

4/29/02

Date

Jack L. Murray, D.C.

Jack Murray, D.C., President
Board of Chiropractic Examiners