

IN THE MATTER OF * BEFORE THE STATE
HYO N. WADSWORTH, C.M.T. * BOARD OF CHIROPRACTIC
Respondent * EXAMINERS
Certificate Number: M01317 * Case Number: 03-51-M

* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Chiropractic Examiners (the "Board"), and subject to Md. Health Occ. Ann. § 3-5A-01, et seq., the "Maryland Massage Therapists Act" (the "Act"), (2000 Repl. Vol.), the Board charged Hyo Wadsworth, C.M.T., (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of the following provisions of § 3-5A-09:

(a) Subject to the hearing provisions of § 3-315 of this title, the Board may deny a certificate or registration to any applicant, reprimand any certificate holder or registration holder, place any certificate holder or registration holder on probation, or suspend or revoke the certificate of a certificate holder or the registration of a registration holder if the applicant, certificate holder, or registration holder:

- (2) Fraudulently or deceptively uses a certificate or registration;
- (8) Does an act that is inconsistent with generally accepted professional standards in the practice of massage therapy;
- (20) Engages in conduct that violates the professional code of ethics; or
- (21) Knowingly does an act that has been determined by the Board to be a violation of the Board's regulations.

The Board further charged the Respondent with a violation of its Code of Ethics Code of Md. Regs. tit. 10, § 43.18 (October 16, 2000). Specifically the Board charged the Respondent with violating the following subsections:

.05 Professional Boundaries, thereof:

A. A certificate holder or registration holder shall:

(1) Maintain professional boundaries, even when the client initiates crossing the professional boundaries of the professional relationship; and

(2) Respect and maintain professional boundaries and respect the client's reasonable expectation of professional conduct.

B. A certificate holder or registration holder may not:

(1) Exploit a relationship with a client for the certificate 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.

The Respondent was given notice of the issues by letter dated March 1, 2004. Accordingly, a Case Resolution Conference was held on April 15, 2004, and was attended by Jonathan Nu, D.C., Massage Therapy Advisory Committee member, James Vallone, Executive Director, Board of Chiropractic Examiners, and Richard Bloom, Assistant Attorney General, Board Counsel. Also in attendance were the Respondent and her

attorney, Elizabeth Case, and the Administrative Prosecutor, Roberta Gill, Assistant Attorney General.

Following the Case Resolution Conference, the parties and the Board agreed to resolve the matter by way of settlement. The parties and the Board agreed to the following:

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was certified to practice massage therapy in Maryland. The Respondent was first certified on December 21, 2000. The Respondent's certification expires on October 31, 2004.

2. At all times relevant hereto, the Respondent worked at VIP massage establishment in Rockville, Maryland in Montgomery County. VIP is well-known to the Montgomery County Police Department and to the Board because of illicit activities carried on there.¹

3. On November 5, 2003, the Montgomery County Police Department, Vice and Intelligence Section (the "Section"), were conducting an investigation of VIP, when a male was observed entering VIP. When he exited, Detective Stack of the Section interviewed him and he agreed to make a written statement, which he did subsequently.

4. The male customer stated that he went to VIP to get a massage and a "hand job" or hand release. The male customer stated that he had been there three times before

¹ The massage therapy certificate of VIP's former owner, Chong Nielsen, was revoked by the Board, in part, for illicit activities that occurred there.

and had received a massage and a hand job each time. On this occasion, the male customer knocked on the door of VIP, which was answered by a female who took him to room number 5 and asked him how long he wanted to stay. The male customer informed her that he wanted to stay an hour and paid her \$80, whereupon she left the room.

5. Thereafter, the Respondent entered the room, while the male customer took off all of his clothes, with the Respondent in the room. The male customer lay on his stomach on the massage table and the Respondent massaged his back, legs, arm and neck for approximately 35 minutes. Then the Respondent instructed the male customer to turn over, which he did, and the Respondent massaged his chest area.

6. The Respondent asked the male customer if he wanted a massage everywhere, to which the customer responded in the affirmative. Thereupon, the Respondent started to massage the customer close to his groin area. The Respondent stopped to get a bottle of oil from a cabinet and put some oil in her hand. Thereafter, the Respondent gave the customer a hand release until he ejaculated. Then, she cleaned him with a warm towel, whereupon the customer got dressed and gave the Respondent an extra \$20, and left VIP.

7. After interviewing the customer and getting a description of the Respondent, the Section entered VIP to identify the female who gave the customer the massage and the hand release. Five females were located in VIP, including the Respondent, and their pictures were taken using a Polaroid camera. Detective Stack showed the pictures to the customer who positively identified the photo of the Respondent as the female who gave him the massage and the hand release.

8. The Respondent was arrested and charged with one count of prostitution. As set forth above, staying in the room while a customer completely undresses, giving him a massage while he is completely naked and undraped, and giving the customer a hand release are violations of the Act and regulations thereunder.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated Md. Health Occ. Code Ann. § 3-5A-09 (a) (2), (8), (20) and (21). The Board also finds that the Respondent violated Code of Md. Regs. tit. 10, § 43.18.05 A and B.

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 20 day of June, 2004, by a majority of a quorum of the Board,

ORDERED that the Respondent's license to practice massage therapy is hereby suspended for six months; and be it further

ORDERED that, prior to being allowed to resume practice, the Respondent shall:

1. Take and pass with the requisite score the jurisprudence examination administered by the Board;
2. Take and pass with the requisite score the proficiency examination administered by the Board;

3. Take and pass a record-keeping course approved by the Board and document that completion to the Board.

ORDERED that, following the suspension, if the Respondent can document that she has taken and passed the above examinations/courses, the Respondent shall be placed on **PROBATION** for one year.

ORDERED that the Consent Order is effective as of the date of its signing by the Board; and be it

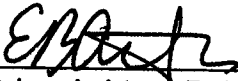
ORDERED that should the Board receive a report that the Respondent's practice is a threat to the public health, welfare and safety, the Board may take immediate action against the Respondent, including suspension or revocation, providing notice and an opportunity to be heard are provided to the Respondent in a reasonable time thereafter. Should the Board receive in good faith information that the Respondent has substantially violated the Act or if the Respondent violates any conditions of this Order or of Probation, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including suspension or revocation.

The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order or of Probation/Suspension shall be on the Respondent to demonstrate compliance with the Order or conditions; and be it

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice of massage therapy in Maryland; and be it further

ORDERED that, at the end of the Probationary period, the Respondent may petition the Board to be reinstated without any conditions or restrictions on her license, provided that she can demonstrate compliance with the conditions of this Order. Should the Respondent fail to demonstrate compliance, the Board may impose additional terms and conditions of Probation, as it deems necessary;

ORDERED that for purposes of public disclosure, as permitted by Md. State Govt. Code Ann. §10-617(h) (Repl. Vol. 1999), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order and that the Board may also disclose same to any national reporting data bank that it is mandated to report to.



E. Brian Ashton, D.C., P.T., President
State Board of Chiropractic Examiners

CONSENT OF HYO N. WADSWORTH, C.M.T.

I, Hyo N. Wadsworth, C.M.T., by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, and have been advised by her of the legal implication of signing this Consent Order;
2. I am aware that without my consent, my certificate to practice massage therapy in this State cannot be limited except pursuant to the provisions of § 3-5A-09 of the Act and the Administrative Procedure Act (APA) Md. State Govt. Code Ann. §10-201, et seq., (1999 Repl. Vol. and 2003 Repl. Vol.);
3. I am aware that I am entitled to a formal evidentiary hearing before the Board. While not agreeing with all of the Board's Findings, I am, nonetheless, entering into this Consent Order in order to settle the matter without the expense of a hearing. However if I opted for a hearing, I would contest each and every allegation and demand strict proof thereof, as well as mount a vigorous defense on my own behalf. With that *proviso*, by this Consent Order, I hereby consent to the foregoing Findings of Fact, Conclusions of Law and Order, provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in § 3-315 of the Act and §10-201, et seq., of the APA, and any right to appeal as set forth in § 3-316 of the Act and §10-201, et seq., of the APA. I acknowledge that my failure to abide by the conditions set forth in this Order and following proper procedures, I may suffer disciplinary action, possibly including revocation, against my certificate to practice massage therapy in the State of Maryland.

10/12/04
Date

Hyo N. Wadsworth
Hyo N. Wadsworth, C.M.T.

STATE OF

CITY/COUNTY OF Marion, SC:

I HEREBY CERTIFY that on this 12th day of October, 2004, before me, Hyo N. Wadsworth a Notary Public of the foregoing State and (City/County),
(Print Name) personally appeared Hyo N. Wadsworth, Certificate No. M01317, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Byron Buck
Notary Public

My Commission Expires: June 6, 2013