

IN THE MATTER OF
MEGAN HART WATERS
APPLICANT

* BEFORE THE MARYLAND
* STATE BOARD OF
* CHIROPRACTIC AND
* MASSAGE THERAPY EXAMINERS
* CASE NUMBER: 10-19M

* * * * *

FINAL CONSENT ORDER

The State Board of Chiropractic and Massage Therapy Examiners (the "Board") notified Megan Hart Waters ("the Applicant"), d.o.b. 04/23/1964, of the Board's intent to deny her Application for Licensure or Registration in Massage Therapy, under the Maryland Chiropractic Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 3-101 *et seq.* (2009 Repl. Vol.). The pertinent provisions state:

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

(b) To qualify for registration, an applicant shall be an individual who:

- (1) Is of good moral character;
- (2) Is at least 18 years old;

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

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

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or registration for the applicant or for another;

(4) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(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.

H.O. § 3-501 Practicing without license.

(b) Except as otherwise provided in this title, an individual may not practice, attempt to practice, or offer to practice massage therapy, massage, myotherapy, or any synonym or derivation of these terms in this State unless licensed or registered by the Board.

FINDINGS OF FACT

The Board finds that:

1. On or about April 5, 2010, the Board received the Applicant's Application for Licensure or Registration in Massage Therapy ("Application for Registration").

2. On her Application for Registration, the Applicant answered "no" to the following question:

D. 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?

3. By the signing the Application for Registration, the Applicant attested that the information that she provided in her application was "truthful and correct."

4. A few day days after receiving the Applicant's Application for Registration, the Board conducted a routine criminal background check on the Applicant.

5. The criminal background check revealed that the Applicant had been involved in criminal activity. More specifically, the Board's criminal background check revealed that the Applicant had been arrested, entered a plea of guilty, and received probation before judgment, for crimes that she committed in Maryland.

6. On or about April 12, 2010, Board staff contacted the Applicant by telephone, after discovering that the Applicant did not fully disclose her criminal history on her Application for Registration.

7. During the April 12, 2010 telephone conversation, the Applicant disclosed only that she had criminal matter that had been Nolle Prossed.

8. During her conversation with Board staff, the Applicant admitted that she performed massage therapy, without a license or registration.

9. The Applicant indicated that she had performed massage therapy without a license or registration for approximately six to eight months.

10. The Board's investigation revealed that the Applicant had been employed as a massage therapist from January 2009 until March 2010.

Fact Pertaining to the Applicant's Criminal History

11. On or about May 28, 2006, the Applicant was charged with two (2) counts of Uttering a Bad Check over \$500, in violation of Md. Crim. L. Code Ann. § 3-103 (a copy of the Application for Statement of Charge, Statement of Charges, and Criminal Summons on Charging Document, in *State of Maryland vs. Megan Hart Waters*, case number: 0800045934, are attached hereto and incorporated herein as **Exhibit A**).

12. On or about July 9, 2009, the Applicant pled guilty to one (1) count of Uttering a Bad Check over \$500, in violation of Md. Crim. L. Code Ann. § 3-103 (a copy of the

Defendant Trial Summary and Trial Docket in *State of Maryland vs. Megan Hart Waters*, case number: 0800045934, are attached hereto and incorporated herein, as **Exhibit B**).

13. On or about July 9, 2009, the District Court for Carroll County, Maryland granted the Applicant probation before judgment. The Applicant was placed on supervised probation for a period of twelve (12) months.

14. The Court also ordered the Applicant to pay court costs and fines (a copy of the Defendant Probation Summary and the Probation/Supervision Order are attached hereto and incorporated herein, as **Exhibit C**).

15. On or about July 16, 1994, the Applicant was charged in the District Court for Howard County, Maryland with one (1) count of Disorderly Conduct, in violation of Md. Ann Code Art. 27 § 121.¹

16. The District Court for Howard County, Maryland found the Applicant guilty of Disorderly Conduct, in violation of Md. Ann Code Art. 27 § 121. The Court granted the Applicant probation before judgment.

17. Uttering a Bad Check over \$500 is a felony and a crime involving moral turpitude.

18. The Applicant's felony conviction constitutes a ground for denial of the Applicant's Application for Registration under H.O. § 3-5A-06 (b) (2).

19. The allegations as set forth above are grounds for discipline in Maryland and constitute grounds for denial of the Applicant's application for registration under H.O. §3-5A-11 (a) (1), (4), (20), and (21), and H.O. § 3-501 (b).

¹ This section is now under Md. Crim. L. Code Ann. § 10-201.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Applicant's conduct as set forth in the findings of fact, is a violation of H.O. § 3-5A-11 (a) (1), (4), (20), (21), and § 3-501 (b).

ORDER

Based on the foregoing findings of fact and conclusions of law, it is this 27th day of October 2010, the Board, by a majority of the full authorized membership of the Board, hereby:

ORDERED that the Applicant's Application for Registration shall be granted provided the Applicant has taken and passed the Board's jurisprudence examination, and it is further

ORDERED that the Applicant's registration shall be **immediately SUSPENDED** for a period of eight (8) months with all but four (4) months stayed; and it is further

ORDERED that the Applicant's active suspension shall not begin, until the Applicant's Application for Registration has been granted by the Board; and it is further

ORDERED that the following the period of her suspension, the Applicant shall be placed on **PROBATION** for a period of one (1) year subject to the following conditions:

1. The Applicant shall pay a fine, in the amount of, five hundred dollars (\$500).
2. The Applicant shall take and pass a Board pre-approved ethics course.

AND BE IT FURTHER ORDERED if the Applicant violates the Act or if the Applicant violates any conditions of this Order or of probation, the Board may take further disciplinary action against the Applicant's registration, including suspension or revocation.

The burden of proof for any action brought against the Applicant as a result of a breach of the conditions of this Order or of probation shall be on the Applicant to demonstrate compliance with this Order or conditions; and it is further

ORDERED that the Applicant shall practice in accordance with the laws and regulations governing the practice massage therapy in Maryland; and it is further

ORDERED that, at the end of the probationary period, the Applicant may file a written petition with the Board to be reinstated without any conditions or restrictions on her certification, provided that she can demonstrate compliance with the conditions of this Order. Should the Applicant fail to demonstrate compliance, the Board may impose additional terms and conditions of probation, as it deems necessary; and it is further

ORDERED that the Applicant shall be responsible for all costs incurred under this Order; and it is further

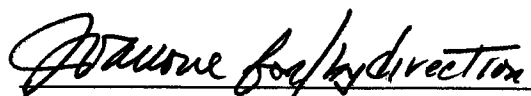
ORDERED that the effective date of this order is the date that it is signed by the Board; and it is further

ORDERED that for purposes of public disclosure and as permitted by Md. State Govt. Code Ann. § 10-617(h) (2009 Repl. Vol.), this document consists of the contents of the foregoing findings of fact, conclusions of law, and order, and is reportable to any entity to whom the Board is obligated to report; and it is further

ORDERED that this order is a public document pursuant to Md. State Govt. Code Ann. §§ 10-601 et seq. (2009 Repl. Vol.).

OCT 27 2010

Date



Dr. Kay B. O'Hara, D.C., President
State Board of Chiropractic and Massage
Therapy Examiners

CONSENT OF MEGAN HART WATERS

I, Megan Hart Waters, by affixing my signature hereto, acknowledge that:

1. I am not represented by an attorney
2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 3-315 (2009 Repl. Vol.) and Md. State Govt. Code Ann. §§ 10-201 *et seq.* (2009 Repl. Vol.).
3. I acknowledge the validity and enforceability of this Consent Order as if entered after a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law. I am waiving those procedural and substantive protections.
4. I voluntarily enter into and consent to the foregoing findings of fact, conclusions of law, and order and agree to abide by the terms and conditions set forth herein as a resolution of the Board's case based on the findings set forth herein.
5. I waive my right to contest the findings of fact and conclusions of law, and I waive my right to a full evidentiary hearing, and any right to appeal this consent order as set forth in Md. Health Occ. Code Ann. § 3-315 (2009 Rep. Vol.) and Md. State Govt. Code Ann. §§ 10-201 *et seq.* (2009 Rep. Vol.).
6. I acknowledge that by failing to abide by the terms and conditions set forth in this Consent Order, and, following proper procedures, I may be subject to disciplinary action, which may include revocation of my registration to practice massage therapy in the State of Maryland.

7. I sign this consent order, without reservation, as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this order.

10/25/10
Date

Megan Hart Waters
Megan Hart Waters

NOTARY

STATE OF MD

CITY/COUNTY OF Columbia, Howard

I hereby certify that on this 25th day of October, 2010, before me, a Notary Public for the State of Maryland and the City/County aforesaid, personally appeared Megan Hart Waters and made oath in due form of law that the foregoing Final Consent Order was her voluntary act and deed.

AS WITNESS my hand and Notary Seal.

Stephano T. Nam
Notary Public

My Commission Expires: STEPHANO T. NAM
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires November 26, 2011