

IN THE MATTER OF * BEFORE THE MARYLAND
 MARK DAWSON * STATE BOARD OF
 Applicant * CHIROPRACTIC AND MASSAGE THERAPY
 * EXAMINERS
 LICENSE NUMBER: * Case Number: 13-34M
 M02536 (expired)

**FINAL ORDER OF DENIAL OF APPLICATION FOR LICENSURE OR
 REGISTRATION TO PRACTICE MASSAGE THERAPY**

The Maryland State Board of Chiropractic and Massage Therapy Examiners (the "Board") notified Mark Dawson (the "Applicant"), of the Board's intent to deny his Application for Licensure or Registration to practice Massage Therapy pursuant to the Maryland Chiropractic Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 3-5A-01 *et seq.* (2009 Repl. Vol. & 2013 Supp.). The pertinent provisions state:

Health Occ. § 3-5A-06 Qualification for Licensure or Registration

(a) *Qualification for license.* – To qualify for a license, an individual shall be an individual who:

- (1) Is of good moral character.

Health Occ. § 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 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:

- (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 [.]

The Board notified the Applicant that this Final Order would be executed thirty (30) days from the Applicant's receipt of the Board's notification, unless the Applicant requested a hearing.

On January 31, 2014, the Applicant was served with the Board's Notice of Intent to Deny Application for Licensure or Registration to Practice Massage Therapy (the "Notice"). The Board notified the Applicant in the Notice that this Final Order would be executed thirty (30) days from service of the Notice unless the Applicant requested a hearing.

On or about February 13, 2014, the Applicant requested a hearing on the Board's Notice. On March 13, 2014, the Board held a Case Resolution Conference in the matter, and the Applicant was present with his attorney. On July 15, 2014, the Applicant withdrew his request for an evidentiary hearing.

I. FINDINGS OF FACT

The Board finds the following:

BACKGROUND

1. The Applicant has a history of criminal convictions including:
 - a. a July 13, 1992 closed case in the District Court for Montgomery County – Criminal System, Case Number 00071438D3, in which the Applicant was convicted of obtaining CDS by fraud, fined \$1,000, with \$900 suspended;
 - b. a January 20, 1993 closed case in the District Court for Frederick County – Criminal System, Case Number 00620966U3, in which the Applicant pled guilty and was convicted of forging a prescription. The Court imposed a one year and three month sentence, with all but three months suspended, and placed him on three years of probation;
 - c. a February 12, 1993 closed case in the District Court for Montgomery County – Criminal System, Case Number 00646921Z2, in which the Applicant pled guilty and was convicted of one count of obtaining controlled dangerous substances ("CDS") by concealing false identification, and was fined \$1,000;
 - d. a July 13, 1993 closed case in the Circuit Court for Prince George's County – Criminal System, Case Number CT921770X, in which the Applicant was found guilty of robbery;

- e. a July 14, 1993 closed case in the Circuit Court for Prince George's County – Criminal System, Case Number CT921926X, in which the Applicant was found guilty of counterfeiting prescriptions. The Court imposed a three year sentence, with all but one year suspended, and placed him on three years of probation;
- f. a February 23, 1994 closed case in the District Court for Howard County – Criminal System, Case Number 00018911T4, in which the Applicant had pled guilty, and was convicted of obtaining a drug by fraud; and
- g. a September 22, 1994 closed case in the Circuit Court for Prince George's County – Criminal System, Case Number CT932257X, in which the Applicant was found guilty of robbery with a deadly weapon. The Court imposed a 14 year sentence, and the Applicant served seven years, before being placed on probation.

2. On or about April 29, 2003, the Applicant was licensed by the Board as a Massage Therapist.¹ He allowed his license to expire on October 31, 2008.

3. On or about May 6, 2013, the Applicant submitted to the Board a second Application for Licensure or Registration in Massage Therapy (the "Application") in order to again be a licensed or registered massage therapist in the State of Maryland. On the Application, the Applicant answered "yes" to question D, which states:

Have you ever been ARRESTED, APPEARED BEFORE CRIMINAL OR TRAFFIC COURT OR ENTERED A PLEA OF GUILTY, NO CONTEST, NOLO CONTENDERE, OR BEEN CONVICTED OF A CRIME, OR RECEIVED PROBATION BEFORE JUDGMENT, OR HAD A STET ENTERED in any jurisdiction for a crime other than a minor traffic violation which did not have to appear?

4. The Applicant documented on his Application that his "yes" response noted in ¶ 3 was based on a June 4, 2009 robbery conviction in Montgomery County Circuit Court, Maryland. He received a five year sentence with five years of probation.

5. Based on the Applicant's positive response, the Board opened an investigation.

2009 CRIMINAL CONVICTION

¹ On December 27, 2001, when the Applicant applied for initial licensure as a Massage Therapist, he provided the Board with information on his criminal convictions.

6. On or about June 4, 2009, the Respondent was convicted of robbery by the Montgomery County Circuit Court and sentenced to fifteen years of incarceration, ten years suspended. In April 2012, the Applicant was released from prison, and placed on five years of supervised probation. During his incarceration, beginning in March 2009, the Applicant was provided with addictions services through the correctional facility, including a pre-release program starting in July 2010.

7. Robbery, a felony involving larceny, is considered by the Maryland courts, to be a crime involving moral turpitude. *Att’y Grievance Comm’n v. Andresen*, 281 Md. 152 (1977); *Att’y Grievance Comm’n v. Klauber*, 289 Md. 446 (1981) (offenses involving intentional dishonesty for purposes of personal gain are crimes involving moral turpitude); *See also Garitee v. Bond*, 102 Md. 379 (1905) (common law crimes regarded as infamous because of their moral turpitude included a conviction of larceny); *Beales v. State*, 329 Md. 263 (1993) (theft is the embodiment of deceitfulness, is a *crimen falsi* and constitutes an infamous crime).

8. The Maryland Court of Appeals has consistently held that crimes involving deceit constitute crimes involving moral turpitude. In *Bar Ass’n of Baltimore City v. Seigel*, 275 Md. 521 (1975), the Court of Appeals defined a crime of moral turpitude as one involving, “fraud, deceit and dishonesty.” *See also Maryland State Board of Physician Quality Assurance v. Felsenberg*, 351 Md. 288, 295 (1988) (crimes involving deceit are crimes involving moral turpitude).

9. The Respondent’s robbery conviction in ¶ 6 constitutes a felony conviction and a crime involving moral turpitude.

BASIS FOR THE BOARD’S DENIAL

10. The Applicant's actions as outlined in whole or in part above constitute a lack of good moral character as required for licensure under Health Occ. § 3-5A-06(a)(1), and a violation of Health Occ. § 3-5A-11(a) (4) (pleads guilty or is convicted of a felony or a crime involving moral turpitude).

II. CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board concludes that the Applicant fails to meet the prerequisite of good moral character and, therefore, fails to meet the qualifications for licensure or registration under Health Occ. § 3-5A-06(a)(1). The Board further concludes that the Applicant violated Health Occ. § 3-5A-11(a)(4) of the Act, which is an additional basis for denial of the Application for licensure or certification.

III. ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 17th day of July 2014 by the majority of the Board, hereby:

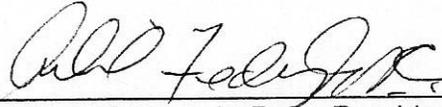
ORDERED that the Application for Licensure or Registration of **Mark Dawson**, to Practice Massage Therapy is hereby **DENIED**; and it is further

ORDERED that for purposes of public disclosure and as permitted by Md. Code Ann., State Govt. ("State Gov't") § 10-617(h) (2009 Repl. Vol. & 2013 Supp.), 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 final and a public document pursuant to State Gov't §§ 10-601 *et seq.* (2009 Repl. Vol. & 2013 Supp.).

JUL 17 2014

Date



Michael Fedorzyk, D.C., President
Board of Chiropractic & Massage
Therapy Examiners

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 3-316(b), the Applicant has the right to take a direct judicial appeal. Any appeal shall be filed within 30 days from the receipt of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, State Gov't Article § 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. In addition, the Respondent should send a copy to the Board's counsel, Grant Gerber, Assistant Attorney General, at the Office of the Attorney General, 300 West Preston Street, Suite 302, Baltimore, Maryland 21201. The Administrative Prosecutor is not involved in the circuit court process and need not be served or copied on pleadings filed in that court.