

IN THE MATTER OF	*	BEFORE THE MARYLAND STATE
DHANUSHKA R. GAMAGE, R.M.P.	*	BOARD OF CHIROPRACTIC AND
Respondent	*	MASSAGE THERAPY EXAMINERS
Registration Number: R01648	*	Case Number: 13-38M
* * * * *	*	* * * * *

**ORDER FOR SUMMARY SUSPENSION
OF REGISTRATION TO PRACTICE NON-THERPEUTIC MASSAGE**

The Maryland State Board of Chiropractic and Massage Therapy Examiners (the "Board") hereby **SUMMARILY SUSPENDS** the registration of **DHANUSHKA R. GAMAGE, R.M.P.** (the "Respondent"), Registration Number R01648, to practice non-therapeutic massage in the State of Maryland. The Board takes such action pursuant to its authority under Md. Code Ann., State Gov't Code ("State Gov't") § 10-226(c)(2009 Repl. Vol.), concluding that the public health, safety or welfare imperatively requires emergency action.

INVESTIGATIVE FINDINGS

Based on information received by, and made known to the Board, and the investigatory information obtained by, received by and made known to and available to the Board, including the instances described below, the Board has reason to believe that the following facts are true:¹

GENERAL FINDINGS

1. At all times relevant hereto, the Respondent was registered to practice non-therapeutic massage in the State of Maryland. The Respondent was originally

¹ The statements regarding the Board's investigative findings are intended to provide the Respondent with notice of the basis of the summary suspension. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

registered to practice non-therapeutic massage in the State of Maryland on September 10, 2012, under Registration Number R01648. The Respondent's registration is current until October 31, 2014.

2. At all times relevant hereto, the Respondent was the owner of and the sole practitioner at a non-health-care facility called Holistic Therapeutic Massage, LLC ("Holistic Massage") located in Columbia, Maryland.

3. The Board initiated an investigation of the Respondent after receiving information that a client (the "Client")² at Holistic Massage alleged that on or about May 12, 2013, the Respondent sexually assaulted her during a massage session. The Client subsequently met with a Howard County police officer at a nearby mall and reported the incident.

4. Board investigation determined that on or about May 12, 2013, the Respondent inappropriately touched the Client's private areas while performing massage on her.

5. Based on its investigative findings, the Board determined that public health, safety, or welfare imperatively required that the Respondent's registration to practice massage therapy be summarily suspended.

SPECIFIC FINDINGS

6. On or about May 12, 2013, the Client arrived at Holistic Massage for a full body massage scheduled for 12:15 p.m.

² To ensure confidentiality, the names of individuals and facilities involved in this case, other than the Respondent's, are not disclosed in this document. The Respondent may obtain the names of all individuals and facilities referenced in this document by contacting the administrative prosecutor.

7. Prior to the massage, the Client was ushered into a room where she undressed and was provided with a bed sheet to cover herself.

8. The Respondent was the massage practitioner. The Client lay on her stomach and the Respondent began performing massage, including using both his hands to massage her buttocks.

9. During the massage, the Respondent instructed the Client to lie on her back. The Client complied using the bed sheet to cover herself. The Respondent then removed the bed sheet and began massaging her breasts and inner thigh area. The Respondent asked the Client "if the act was okay with her," at which time the Client responded that it was not okay. The Respondent then advised that fifty percent of his clients received such act.

10. The Client ended the massage, got dressed and left Holistic Massage. She contacted the Howard County Police Department and met with a police officer at a nearby mall at which time she reported the incident.

11. On or about July 2, 2013, during a Board interview, the Respondent stated that he may have inadvertently touched the outer portion of the Client's breasts and brushed her vagina with his hands during the massage. He further stated that he did not maintain written records of the massage.

BASIS FOR DISCIPLINARY CHARGES

12. Based on the above investigative findings, the Board has a basis to charge the Respondent under the Maryland Chiropractic Act, Md. Code Ann., Health ("Health Occ.") §§ 3-101 *et seq.* Specifically, the Board has a basis to charge the Respondent with violating the following provisions of Health Occ. § 3-5A-11:

§ 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:
- (2) Fraudulently or deceptively uses a license 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; [and]
 - (21) Knowingly does an act that has been determined by the Board to be a violation of the Board's regulations.

Under § 3-5A-11(a)(20) & (21), shown above, the Board has a basis to charge the Respondent with violating the following regulations and provisions of the Board's Code of Ethics, found at Code Md. Regs. ("COMAR"):

10.43.18.03 Standards of Practice.

C. A license holder or registration holder shall:

- (2) Engage in professional conduct at all times, with honesty, integrity, self-respect, and fairness;
- (3) Remain free from conflict of interest while fulfilling the objectives and maintaining the integrity of the massage therapy profession;
- (5) At all times respect the client's dignity, autonomy, and privacy; [and]
- (6) Practice massage therapy or non-therapeutic massage only as defined in the scope of practice set out in *Health Occupations Article, § 3-5A-01, Annotated Code of Maryland.*

D. A license holder or registration holder may not:

- (2) Knowingly engage in or condone behavior that:

- (a) Is Fraudulent;
- (b) Is dishonest;
- (c) Is deceitful; [and]
- (d) Involves moral turpitude.

10.43.18.04 Relationship with Client.

- A. A license holder or registration holder shall:
 - (4) Maintain legible, organized written records of treatment of any client under the care of the license holder or registration holder for at least 5 years after termination of treatment and as provided by applicable provisions of Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland;

10.43.18.05 Professional Boundaries.

- A. A license holder or registration holder shall:
 - (2) Respect and maintain professional boundaries and respect the client's reasonable expectation of professional conduct.
- B. A license holder or registration holder may not:
 - (2) Engage in a sexually intimate act with a client; [and]
 - (3) Engage in sexual misconduct that includes, but is not limited to:
 - (a) Non bona fide treatment; [and]
 - (b) A sexually exploitative relationship.

CONCLUSIONS OF LAW

Based upon the foregoing Investigative Findings, the Board concludes as a matter of law that the public health, safety, or welfare imperatively requires emergency action, pursuant to Md. Code Ann., State Gov't, § 10-226(c)(2)(2009 Repl. Vol.).

ORDER

It is this _____ day of _____, 2013, by a majority of the

Board considering this case:

ORDERED that pursuant to the authority vested in the Board by Md. Code Ann., State Gov't., § 10-226(c)(2), the Respondent's registration to practice non-therapeutic massage in the State of Maryland is hereby **SUMMARILY SUSPENDED**; and it is further

ORDERED that the Respondent has the opportunity to appear before the Board for a post-deprivation show cause hearing. A request for a post-deprivation show cause hearing must be in writing and be made **WITHIN THIRTY (30) DAYS** of service of this Order. The written request should be made to: James J. Vallone, Executive Director, Maryland State Board of Chiropractic and Massage Therapy Examiners, 4201 Patterson Avenue, Baltimore, Maryland 21215, with copies mailed to: K. F. Michael Kao, Assistant Attorney General, Health Occupations Prosecution and Litigation Division, Office of the Attorney General, 300 West Preston Street, Suite 201, Baltimore, Maryland 21201, and Grant Gerber, Assistant Attorney General, Office of the Attorney General, 300 West Preston Street, Suite 302, Baltimore, Maryland 21201, and it is further

ORDERED that if the Respondent fails to request a post-deprivation show cause hearing in writing, or if the Respondent requests a post-deprivation show cause hearing but fails to appear when scheduled, the Respondent's registration will remain **SUSPENDED**; and it is further

ORDERED that on presentation of this Order, the Respondent **SHALL SURRENDER** to the Board his original massage practitioner registration R01648, and any wallet card and wall certificate; and it is further

ORDERED that this is an Order of the Board, and as such, is a **PUBLIC**

DOCUMENT pursuant to Md. Code Ann., State Gov't § 10-611 *et seq.* (2009 Repl. Vol.).

9/9/2013
Date



J. J. Vallone, JD, CFE
Executive Director
For Michael Fedorczyk, D.C.
President, by direction of the
Maryland State Board of Chiropractic
and Massage Therapy Examiners