

IN THE MATTER OF
STACY HORN,
APPLICANT

* BEFORE THE BOARD OF
* CHIROPRACTIC & MASSAGE
* THERAPY EXAMINERS
* CASE NO.: 09-58M

* * * * *

CONSENT ORDER

On January 28, 2010, the State Board of Chiropractic & Massage Therapy Examiners ("the Board") notified **STACY HORN, ("the Applicant") (DOB: 07/24/1985)**, of the Board's intent to deny her application for registration to practice massage therapy under the Maryland Chiropractic Act ("the Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 3-5A-01 *et seq.* (2009 Repl. Vol.).

Specifically, the Board charged the Applicant with the following provisions:

H.O. § 3-5A-06

(a) *Qualifications for certification.* - To qualify for a license, an applicant shall be an individual who:

- (1) Is of good moral character[.]

H.O. § 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:

- (1) Fraudulently or deceptively obtains or attempts to obtain license or registration for the applicant or for another;
- (11) Has violated any provision of this subtitle, to wit:

§ 3-5A-04 License and registration required.
Except as otherwise provided in this subtitle, an individual shall be:

(1) Licensed by the Board before the individual may practice massage therapy in this state[.]

On May 11, 2010, a Case Resolution Conference was convened in this matter. Based on negotiations between the State, represented by Tracee Orlove Fruman, Assistant Attorney General and the Applicant, by and through her attorney Craig Gendler, Esq. the Applicant agreed to enter into this Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board finds the following:

1. On or about July 21, 2009, the Board received the Applicant's application for licensure to practice massage therapy.
2. On her application, the Applicant answered, "no" to the question, "Have you ever been arrested, or entered a plea of guilty, no contest or 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. The Applicant also signed her name to the attestation statement at the conclusion of the application, attesting that the "information provided in this application is truthful and correct to the best of my knowledge and belief. I understand that providing false information of any kind or omitting information known to me may result in the voiding of this application."

4. During a routine criminal background check conducted by the Board as part of the application approval process, it was discovered that the Applicant had been arrested on July 14, 2006 for CDS Possession-Marijuana and CDS Possession-Paraphernalia.

5. At this time, the Board initiated an investigation.

6. At the request of the Board's investigator, the Applicant provided the relevant court documents pertaining to her arrest and conviction, as well as a written statement.

7. According to the documentation she provided, the Applicant was stopped for speeding on July 14, 2006. A certified drug detection canine scanned the exterior of the vehicle, which resulted in a positive alert. A search of the center console of the vehicle revealed a pill bottle containing ten (10) suspected marijuana cigarettes. A small plastic bag containing marijuana residue was also found. The Applicant admitted that the items belonged to her and she was subsequently arrested.

8. On or about November 22, 2006, in the District Court for Garrett County, the Applicant pleaded guilty to CDS Possession-Marijuana and received probation before judgment, unsupervised, and a \$250 fine. A *nolle prosequi* was entered on the second charge, CDS Possession-Paraphernalia.

9. In her explanation to the Board, the Applicant stated that she did not disclose her criminal history on her application because she believed that it had been expunged.

10. During the course of the Board's investigation, it was also discovered that the Applicant was falsely represented as a licensed massage therapist on a website for The Spinal Correction and Wellness Center (www.wellness-doc.com), a chiropractic practice located in Rockville, Maryland. Ms. Horn did not correct the false representation.

11. The website featured the Applicant's name and photograph, along with a biographical sketch that stated the following, in pertinent part: "I'm Stacy Horn and I've been a therapist at the office starting in 2009 . . . I perform Swedish Deep Tissue, Trigger Point, Myofascial Release, Sports, and post-op therapy and hope to learn Thai Yoga Massage in the future."

12. On October 6, 2009 and October 28, 2009, the Board's investigator contacted The Spinal Correction and Wellness Center in an undercover capacity and requested a massage therapy appointment with the Applicant. On both occasions, the receptionist advised that the Applicant was accepting clients and scheduling her own appointments. The receptionist also provided the Applicant's cellular telephone number.

13. On November 10, 2009, a female Board staff member contacted the Applicant at the number provided by the receptionist at The Spinal Correction and Wellness Center. Initially, the Applicant stated that she was not taking appointments at that time. Later, the Applicant stated that she works out of her home in Germantown, Maryland, however, she would be willing to travel for an additional fee. The Applicant explained that she meets with clients for a

consultation to fill out paperwork, and that after the consultation, a massage therapy appointment could be scheduled.

14. On November 24, 2009, the Applicant was interviewed under oath by the Board's investigator.

15. Initially, the Applicant denied that she represented herself as a licensed massage therapist and that she had ever had any conversation with a potential client regarding her availability to provide massage therapy services. However, when presented with a print-out of her online biographical sketch, the Applicant stated that the information was partially correct because she passed her national exam and is therefore nationally certified in massage therapy. In addition, the Applicant stated that she didn't view the biographical sketch as an advertisement of her services.

16. The Applicant admitted that she is not a licensed massage therapist in the State of Maryland.

17. The Applicant was unable to provide an explanation for why the receptionist at The Spine Correction and Wellness Center provided the Applicant's telephone number to potential massage therapy clients.

18. Initially, the Applicant denied having received telephone inquiries from prospective massage therapy clients. However, the Applicant later admitted to having a conversation with an unknown female to meet for an initial consultation and to fill out patient history paperwork. The Applicant stated, "I didn't see anything wrong with asking questions . . . [o]r consulting with them . . . it's okay to ask questions and it's okay to be interested in people's health."

19. The Applicant denied performing massage therapy on any individuals in the State of Maryland, and there is no evidence to indicate the Applicant performed massage therapy on any individuals in the State of Maryland.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Applicant violated § 3-5A-11(a)(1) and (11). The Board dismisses the charge under H.O. § 3-5A-06 relating to good moral character.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 4th day of June, 2010, by a majority of a quorum of the Board considering this case:

ORDERED that the Applicant shall be granted a license to practice massage therapy in the State of Maryland, and it is further

ORDERED that the Applicant's license shall not be issued unless/until the Applicant pays in full a civil fine in the amount of **five hundred (\$500) dollars** payable within thirty (30) days of the date of this Consent Order to the State Board of Chiropractic & Massage Therapy Examiners; and it is further

ORDERED that the Applicant shall be placed on probation for a minimum of **EIGHTEEN (18) MONTHS**; and it is further

ORDERED that the Applicant shall successfully complete a Board-approved ethics course within **six (6) months** of the effective date of this Consent Order. The Applicant shall be responsible for all costs associated with

this course. The selection of the course shall be made by the Board; and it is further

ORDERED that after eighteen (18) months from the date of this Consent Order, the Applicant may submit a written petition to the Board requesting termination of probation. After consideration of the petition, the probation may be terminated, through an order of the Board, or a designated Board committee. The Board, or designated Board committee, will grant the termination if the Applicant has fully and satisfactorily complied with all of the probationary terms and conditions and there are no pending complaints related to the charges; and it is further

ORDERED that if the Applicant violates any of the terms and conditions of Probation and this Consent Order, the Board, in its discretion, after notice and an opportunity for a show cause hearing before the Board, may impose any sanction which the Board may have imposed in this case, including a probationary term and conditions of probation, reprimand, suspension, revocation and/or a monetary penalty, said allegations of violation of the terms and condition of this Consent Order shall be proven by a preponderance of the evidence; and it is further

ORDERED that the Applicant shall practice according to the Maryland Chiropractic Act and in accordance with all applicable laws, statutes and regulations; and it is further

ORDERED that the Applicant shall be responsible for all costs incurred in fulfilling the terms and conditions of the Consent Order; and it is further

ORDERED that this Consent Order is considered a **PUBLIC DOCUMENT**
pursuant to Md. State Gov't Code Ann. § 10-611 *et seq.* (2009 Repl. Vol.)

6/4/2010
Date

J. Williams, Exec. Dir. for / by direction
of Kay B. O'Hara, D.C., Board President

CONSENT

I, Stacy Horn, acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of 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 as provided by law. I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order after having had an opportunity to consult with counsel, without reservation, and I fully understand and comprehend the

language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

6/3/10
Date

[Signature]
Stacy Horn, Applicant

Approved by:

[Signature]
Craig Gendler, Esq.

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF Carroll :

I HEREBY CERTIFY that on this 3rd day of June, 2010, before me, a Notary Public of the foregoing State personally appeared Stacy Horn (Applicant), and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

[Signature]
Notary Public

MICHELLE L. RHOTEN
Notary Public, State of Maryland
Carroll County
Commission Expires: 7/1/2010

My Commission Expires: 7/1/2010