

IN THE MATTER OF

*

BEFORE THE

CHONG MOLAND, M.T.

*

STATE BOARD

CERTIFICATE NO. M01593

*

OF CHIROPRACTIC EXAMINERS

Respondent

*

* * * * *

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 "Act") (2000 Repl. Vol.), the Board charged Chong Moland, 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 Respondent, 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 Respondent, certificate holder, or registration holder:

- (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 a renewal of her massage therapy certificate on the basis that the Respondent with a violation of § 3-5A-05 of the Act:

(b) To qualify for a certificate, an Respondent shall be an individual who:

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

The Board further charged the Respondent with a violation of the following regulation, Code Md. Regs. tit. 10 § 43.17 (1999):

.05 Application of Certification.

- (3) Provide evidence that the Respondent is:

- (a) Of good moral character [;].

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 subsection:

.05, Professional Boundaries.

- 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 sent the Notice on December 16, 2002. Accordingly, a Case Resolution Conference was held on March 6, 2003, and was attended by Issie Jenkins, Consumer Board Member, James Vallone, Executive Director of the Board, and Richard Bloom, Counsel to the Board. Also in attendance were the Respondent and her attorney, Vincent Guida, and the Administrative Prosecutor, Roberta Gill.

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 employed at the Frederick Health Spa in Frederick, Maryland.
2. On March 20, 2002, the Frederick City Police Department conducted an investigation of the Frederick Health Spa. Lieutenant Ledwell of the Department observed a male enter the spa. Approximately one half hour after he entered the spa, the male exited and was stopped by Corporal Stocksdales, who interviewed him.
3. The male customer advised that he paid \$40.00 to a female who took him to a private massage room, where he removed his clothes and laid on a massage table, covering himself with a towel. Later, the Respondent entered the room and began to

perform a massage, rubbing the customer's back and legs. The Respondent then reached under the towel and brushed her hands against his genitals.

4. The Respondent then instructed the customer to roll over on his back, whereupon she began to massage his front, rubbing against his penis with her open hand. The Respondent began to question the customer as to whether he was a police informant or police officer. The Respondent told the customer that he may be stopped by the police when he left the spa. The customer advised that he began to get nervous about the situation and left the spa without receiving a hand-release.¹

5. After the interview, the customer returned to the spa with Corporal Stocksdale and positively identified the Respondent as the person who touched his penis during the massage. The Respondent was then arrested and charged with prostitution, which charges were later expunged, as well as the police report, arrest record and fingerprints.²

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that the Respondent violated Md. Health Occ. Code Ann. § 3-5A-09 (8), and (20) (2000 Repl. Vol.). The Board further finds that the Respondent violated § 3-5A-05 (c) (2) of the Act. The Board also finds that the Respondent violated Code Md. Regs. tit. 10, § 43.17.05 (4) (a) and its Code of

1 On a previous occasion, the customer had received hand-releases at that spa from someone other than the Respondent.

2 The Board conducted an independent investigation and received from the arresting officer the same information that was in the expunged police report.

Ethics, Code of Md. Regs. tit. 10, § 43.18.05 A. (1) and (2), and B. (1), (2) and (3) (a), (b), and (c).

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 10th day of April, 2003, by a majority of a quorum of the Board,

ORDERED that the Respondent's certificate to practice massage therapy is hereby Suspended for One (1) Month; and be it further

ORDERED that before the Respondent may be reinstated to practice, she must take and pass the jurisprudence examination given by the Board;³ and be it further

ORDERED that upon reinstatement, the Respondent shall be placed on Three (3) Months' Probation; and be it further

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

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

³ While taking the examination, the Respondent may have the assistance of an interpreter from the American Interpreter's Guild.

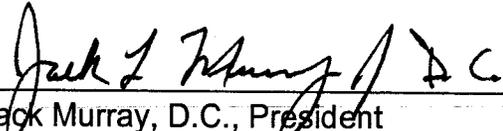
violated the Act or if the Respondent violates any conditions of this Order or of Probation, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including suspension or revocation.

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 further

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 certificate, 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; and

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.



Jack Murray, D.C., President
State Board of Chiropractic Examiners

CONSENT OF CHONG MOLAND, M.T.

I, Chong Moland, by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, Vincent Guida, and have been advised by him 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.)

3. I am aware that I am entitled to a formal evidentiary hearing before the Board

Although I disagree with some of the Findings of Fact and Conclusions reached by the Board, in order to settle this manner and avoid litigation, 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, at which I would demand strict proof of every allegation and present witnesses in my own defense, 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.

4 April 03
Date

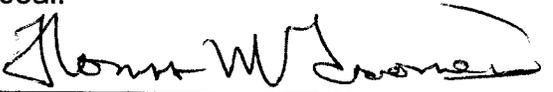
Chong Moland
Chong Moland, M.T.

STATE OF MARYLAND :

~~CITY~~/COUNTY OF HOWARD :

I HEREBY CERTIFY that on this 4th day of April, 2003, before me, Thomas M. Groome, III a Notary Public of the foregoing State and (City/County),
(Print Name)
personally appeared Chong Moland, Certificate No.01593, 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.



Notary Public

My Commission Expires: _____



THOMAS M. GROOME, III
NOTARY PUBLIC
HOWARD CO., MD
MY COMM. EXPR. SEPT. 01, 2003