

IN THE MATTER OF	*	BEFORE THE MARYLAND
ANDREY GAYEVSKIY	*	STATE BOARD OF MASSAGE
RESPONDENT	*	THERAPY EXAMINERS
REGISTRATION NO.: R00470	*	CASE NO: 21-23M

* * * * *

ORDER OF REVOCATION OF REGISTRATION

The Maryland State Board of Massage Therapy Examiners (the “Board”) notified **ANDREY GAYEVSKIY** (the “Respondent”), Registration Number **R00470**, of the Board’s intent to revoke his registration to practice massage therapy under the Maryland Massage Therapy Act (“Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 6-101 et seq. (2021 Repl. Vol. & 2022 Supp.). The pertinent provisions of the Act and COMAR state:

§ 6- 308. Denials, reprimands, suspensions, and revocations.

- (a) *In General; grounds* -- Subject to the hearing provisions of § 6–309 of this subtitle, the Board may deny a license or registration to an applicant, reprimand a 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;
 - (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;

- (21) Knowingly does an act that has been determined by the Board to be a violation of the Board's regulations[.]

COMAR 10.65.03.03 Standards of Practice.

- A. The license holder or registration holder shall be concerned primarily with the welfare of the client.
- C. A license holder or registration holder shall:
 - (1) Use professional discretion and integrity in relationships with members of the public and health care community;
 - (2) Engage in professional conduct at all times, with honesty, integrity, self-respect, and fairness;
 - (5) At all times respect the client's dignity, autonomy, and privacy;
 - (6) Practice massage therapy only as defined in the scope of practice set out in Health Occupations Article, §6-101, Annotated Code of Maryland[.]
- D. A license holder or registration holder may not:
 - (2) Knowingly engage in or condone behavior that:
 - (d) Involves moral turpitude[.]

COMAR 10.65.03.05 Professional Boundaries.

- A. A license holder or registration holder shall:
 - (1) Maintain professional boundaries, even when the client, staff member, or student initiates crossing the professional boundaries of the professional relationship; and
 - (2) Respect and maintain professional boundaries and respect the client's, staff member[']s, or student[']s reasonable expectation of professional conduct.
- B. A license holder or registration holder may not:
 - (1) Exploit a relationship with a client, staff member, or student for the license 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.

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was registered to practice massage therapy in the State of Maryland.

2. The Respondent was originally issued a registration to practice massage therapy in Maryland on or about March 14, 2006. The Respondent's registration expires on or about October 31, 2022. On or about March 3, 2022, the Board summarily suspended the Respondent's registration.

3. At all times relevant hereto, the Respondent was employed at an establishment (the "Establishment") that provided massage therapy and other spa services. The Establishment is located in Baltimore County, Maryland.¹

4. On or about October 29, 2021, the Board received a complaint from the owner of the Establishment regarding the Respondent's conduct during a massage therapy session with a client ("Client A").

¹ The Establishment, the Complainant, and Client A are not identified in this document for privacy reasons. This information will be provided to the Respondent upon request to the Administrative Prosecutor.

5. An investigation conducted by Board staff revealed the following:

6. On or about May 22, 2021, Client A went to the Establishment for a massage. The Respondent was assigned as Client A's massage therapist.

7. During the massage therapy session, the Respondent began massaging Client A's shoulder and then proceeded to place his hand between Client A's breasts. The Respondent proceeded to tell Client A that she had a "beautiful body" and asked Client A if she like the way his hands felt. The Respondent told Client A that she looked sad and asked her if there was anyone in her life that was jealous of her. When Client A moved to her side, the Respondent placed Client A leg on his shoulder/neck area. The Respondent then ran his finger down the front of Client A's vaginal area.

8. At the end of the therapy session while she was still lying on the massage therapy table, the Respondent sat on the table next to Client A and told her that he was her "friend". Before leaving the room, the Respondent kissed Client A on the top of her head.

9. On or about May 30, 2021, Client A reported the Respondent's conduct to the Baltimore County Police Department ("BCP"). The Respondent was subsequently charged by the BCP with Sex Offense in the Fourth Degree-Sex Contact and Second-Degree Assault.

10. On or about October 4, 2021, the Respondent was found guilty following a bench trial, in the District Court for Baltimore County, Maryland ("District Court") to Sex Offense in the Fourth Degree-Sex Contact and Second-Degree Assault.

11. The Respondent was sentenced to thirty (30) days in jail for Sex Offense in the Fourth Degree-Sex Contact. He received a six (6) month suspended for Second-Degree Assault. The Respondent was also placed on supervised probation for a period of One (1) year.

12. On or about November 21, 2021, the Respondent filed an appeal of the District Court's decision to the Circuit Court for Baltimore County, Maryland ("Circuit Court"). The Respondent's appeal of the District Court's decision is currently scheduled to be heard in the Circuit Court on or about March 17, 2023.

13. The Respondent's conduct as set forth above is in violation of Health Occ. §6-308 (a) (4), (8), (20), and (21); COMAR 10.65.03.03 A, C(1), (2), (5) and (6), and D(2)(d); and COMAR 10.65.03.05 A(1) and (2) and B(1), (2), and (3).

CONCLUSIONS OF LAW

The Board concluded that the Respondent violated Health Occ. §6-308 (a) (4), (8), (20), and (21); COMAR 10.65.03.03 A, C(1), (2), (5) and (6), and D(2)(d); and COMAR 10.65.03.05 A(1) and (2) and B(1), (2), and (3).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this **26th** day of **April**, 2023, by a majority of the full authorized membership of the Board hereby:

ORDERED that the Respondent's registration to massage therapy is hereby **REVOKED**; and it is further

ORDERED that the Respondent shall return to the Board all massage therapy

registrations within ten (10) days of the effective date of 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 this Order is reportable to the National Practitioner Data Bank; and it further

ORDERED that this document constitutes a formal disciplinary action of the Board, and this Order is final and is a public document for purposes of public disclosure, pursuant to Md. Code Ann., General Provisions § 4-101 & § 4-333 (2021 Repl. Vol. & 2022 Supp.).

April 26, 2023



Date

Sharon J. Oliver, MBA, Executive Director
for
Kirsten Bodnarchuk, LMT - Board
Board President
Maryland State Board Massage Therapy
Examiners

NOTICE OF RIGHT OF APPEAL

In accordance with § 6-310 of the Act and Md. Code Ann., State Government §§ 10-201, *et seq.* (2021 Repl. Vol. & 2022 Supp.) you have a right to a direct judicial appeal of this decision. A petition for appeal of this Order shall be filed with the Board within thirty days from your receipt of this Order and shall be made in accordance with the aforementioned authority.