

IN THE MATTER OF
DEVINDER S. BABRA, RMP
Respondent

License Number: R00809

* BEFORE THE MARYLAND STATE
* BOARD OF CHIROPRACTIC AND
* MASSAGE THERAPY EXAMINERS
* Case Number: 14- 29M

* * * * *

CONSENT ORDER

On August 18, 2014, the Maryland State Board of Chiropractic and Massage Therapy Examiners (the "Board") charged **DEVINDER S. BABRA, RMP** (the "Respondent"), License Number R00809, under the Maryland Chiropractic Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 3-101 *et seq.* (2009 Repl. Vol. & 2013 Supp.).

Specifically, the Board charges the Respondent with violating the following provisions of the Act under 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:
 - (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[.]

Under § 3-5A-11(a)(20), the Board charges the Respondent with violating the following regulations and provisions of the Board's Code of Ethics, found at Md. Code 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 and fairness;

...

(5) At all times respect the client's dignity, autonomy, and privacy; [and]

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; or

(3) Engage in sexual misconduct that includes, but is not limited to:

...

(b) Non bona fide treatment[.]

On November 13, 2014, a Case Resolution Conference ("CRC") was scheduled to determine if the case could be resolved without a hearing. By letter dated November 6, 2014, the Administrative Prosecutor notified the Respondent, who was not represented by counsel, of the State's CRC recommendation that his license be revoked. The Respondent failed to appear at the CRC. By letter dated November 15, 2014, the Respondent stated that he "accepted the judgement (*sic*) of the Board regarding revoking my license."¹ This Consent Order, which contains Findings of Fact, Conclusion of Law and an Order, is consistent with the Respondent's intent as communicated to the Board.

¹ The Respondent was presumably referring to the State's CRC recommendation, not a judgment by the Board.

FINDINGS OF FACT

BACKGROUND

1. At all times relevant hereto, the Respondent was registered to practice non-therapeutic massage in the State of Maryland. The Respondent was originally registered on February 7, 2008, under License Number R00809. The Respondent's registration is scheduled to expire on October 31, 2014.

2. The Respondent was employed by a spa ("Facility A")² in Montgomery County on the date of the incident that gave rise to the Board's investigation.

3. The Board initiated an investigation of the Respondent after receiving a complaint from a client ("Client") at Facility A alleging that the Respondent had sexually assaulted her during a massage session on April 8, 2014.

4. Board investigation determined that on or about April 8, 2014, the Respondent inappropriately touched the Client while performing massage on her.

FINDINGS PERTAINING TO SEXUAL MISCONDUCT

5. On or about April 8, 2014, at approximately 5:30 p.m., the Client arrived at Facility A for a massage to be performed by the Respondent.

6. The Respondent previously had performed a massage on the Client on March 28, 2014 without incident. During the first massage, the Respondent asked the Client if she would like her abdomen and chest to be massaged. The Client replied that she would like to try it. The Respondent completed this part of the massage in a

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.

manner that the Client found professional. The Respondent did not touch either the Client's breasts or pubic area during the massage.

7. On April 8, 2014, the Client's second visit, the Respondent once again asked if the Client wanted her abdomen and chest massaged. Based on her previous positive experience with the Respondent, the Client responded that she would.

8. During the April 8, 2014 massage, the Respondent massaged the Client's entire chest area including her breasts and nipples. The Respondent then began massaging her abdomen, but unlike the first massage, he moved his hand down to below her pubic bone and began massaging the Client's breasts and pelvic area with both hands. Up to this point, the Client had been too shocked to say anything; however, the Respondent then moved his hands between her thighs and over her vagina. The Client, who was not wearing underwear, immediately insisted that the Respondent stop because he was "too close."

9. The Respondent then instructed the Client to roll over on her stomach and began massaging her upper back, shoulders and neck. As he was massaging the Client, the Respondent told her that he does as much or as little as a client wants and that women visiting from out of town call him to their hotels and pay him \$300.00 "to do whatever they want." The Respondent told the Client that he has those clients sign a consent form.

10. After her massage was over, the Client left Facility A without discussing the Respondent's conduct with a staff member because she was too shocked and embarrassed. She later spoke to her best friend, who encouraged her to report the Respondent's conduct to Facility A and to the Board.

11. Facility A terminated the Respondent.
12. When the Respondent was interviewed by Board staff, he stated that the Client had told him to massage her breasts and that she wanted him to massage her lower abdomen.
13. The Respondent stated that he does not massage the breasts of all of his female clients; that he will do this "only when they give me in writing, only then I work." (*sic*). On April 8, 2014, the Client had neither signed a "consent form" consenting to a breast massage, nor had the Respondent asked her to sign one.
14. The Respondent confirmed that he had told the Client that other clients pay him up to \$300 to provide massages to them in their hotels. The Respondent has a website, "Nightmassage," that offers these services.

CONCLUSION OF LAW

Based on the foregoing findings of fact, the Board concludes as a matter of law that the Respondent violated H.O. § 3-5A-11(a)(8) and/or (20) and further violated the following COMAR provisions: 10.43.18.03C(2) and (5); 10.43.18.05A(2); and 10.43.18.05B(2) and (3)(b).

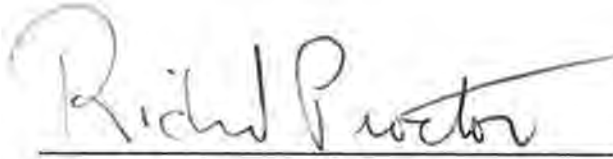
ORDER

Based on the foregoing Findings of Fact and Conclusion of Law it is, by the Maryland State Board of Chiropractic and Massage Therapy Examiners, hereby **ORDERED** that the Respondent is **REVOKED**; and it is further

ORDERED that the Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., General Provisions, §§4-101 – 4-601 (2014).

05/04/2015

Date



Richard Proctor
Interim Executive Director
Maryland State Board of Chiropractic and Massage
Therapy Examiners

CONSENT

I, Devinder S. Babra, RMP, acknowledge that I have had the opportunity to be represented by counsel before entering this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

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 provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any

adverse ruling of a disciplinary panel of the Board that I might have filed after any such hearing.

I sign this Consent Order voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of the Consent Order.

04/15/2015
Date

Devinder Singh Babra
Devinder S. Babra, RMP
Respondent

NOTARY

STATE OF MARYLAND
CITY/COUNTY OF Carroll

I HEREBY CERTIFY that on this 15 day of April 2015, before me, a Notary Public of the foregoing State and City/County, personally appeared Devinder S. Babra, RMP., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.



Notary Public
Paul D. Noel
Notary Public State of Maryland
Carroll County
My Commission Expires: 10/30/2015

My commission expires: _____