

IN THE MATTER OF * **BEFORE THE**
DANIELLE CABALLERO, RMP * **MARYLAND STATE BOARD**
Registration No. R00579 * **OF MASSAGE THERAPY EXAMINERS**
* **Case No. 22-08M**

FINAL DECISION AND ORDER OF REVOCATION

Procedural Background

On or about August 16, 2021, Danielle Caballero (the “Respondent”) submitted a “Reactivation Application” to the Maryland State Board of Massage Therapy Examiners (the “Board”). As part of that application, the Respondent submitted proof that she was certified in cardiopulmonary resuscitation (“CPR”). The Respondent was subsequently advised by Board staff that she had submitted an inappropriate application for her needs. Specifically, Board staff had advised the Respondent that Reactivation Applications were only for use by individuals who wished to be removed from inactive status, not for individuals who had failed to renew. Accordingly, on or about March 21, 2022, the Respondent submitted the appropriate “Reinstatement Application.” Along with that application, the Respondent submitted a CPR certification with a different date – in fact, the certification date post-dated the application date by approximately six months.

Based on the CPR certification discrepancies, the Board initiated an investigation. At the conclusion of that investigation, on or about April 24, 2024, the Board issued “Charges Under the Maryland Massage Therapy Act” (the “Charges”), which notified the Respondent that the Board was charging her with several violations of the Maryland Massage Therapy Act. Specifically, the Board alleged that the Respondent violated Md. Code Ann., Health Occ. (“HO”) §§ 6-308(a):

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or registration for the applicant or for another;

- (8) Does an act that is inconsistent with generally accepted professional standards in the practice of massage therapy;
- (11) Has violated any provision of this title;
- (19) Fails to cooperate with a lawful investigation conducted by the Board; and
- (21) Knowingly does an act that has been determined by the Board to be a violation of the Board's regulations.

The Charges and the accompanying cover letter setting forth the Board's hearing procedures also notified the Respondent that she faced potential sanctions and could request a hearing on the merits of the Board's charges against her. The Board's cover letter specified that the hearing request should be made within 30 days of the letter and the Charges. The Respondent did not request a hearing. Regardless, on or about November 18, 2024, the Board scheduled a hearing for January 22, 2025. The Board sent its notice of hearing via regular and certified mail to the Respondent's three (3) addresses of record with the Board. Furthermore, Md. Code Ann., State Gov't § 10-209(c) provides that a person holding a license shall be deemed to have had reasonable opportunity to know of the fact of service if: 1) the person is required by law to notify the agency of a change of address within a specified period of time; 2) the person failed to notify the agency in accordance with the law; 3) the agency mailed the notice to the address of record; and 4) the agency did not have actual notice of the change of address prior to service. All of the factors of this test have been met in this instance; therefore, the Board finds that the service of the notice of hearing was proper.

On January 22, 2025, a quorum of the Board was present, and an evidentiary hearing was held in person at the Board's offices. Kelly Cooper, Administrative Prosecutor, presented the State's case against the Respondent. The Respondent failed to appear.

Evidentiary Exhibits and Witnesses

State's Exhibits

1. Maryland State Board of Massage Therapy Examiners – License Verification Information (1 page).
2. Reactivation Application, with attachments, dated August 16, 2021 (4 pages).
3. Email from the Board's Licensing Coordinator to the Respondent, dated December 27, 2021 (1 page).
4. Reinstatement Application, with attachments, dated March 17, 2022 (10 pages).
5. Email from the Board's Licensing Coordinator to the National CPR Foundation, dated March 24-25, 2022 (4 pages).
6. Email from Board Staff to the Respondent, dated April 19, 2022 (1 page).
7. Email from the Respondent to the Board, dated April 19, 2022 (2 pages).
8. Email from Board Staff to the Respondent, dated May 17, 2022 (1 page).
9. *Subpoena Ad Testificandum*, dated October 13, 2023 (1 page)
10. Signed Certified Mail Card for *Subpoena Ad Testificandum*, dated October 13, 2023 (1 page).
11. Email from the Board's Investigator to the Respondent, attaching *Subpoena Ad Testificandum*, dated October 13, 2023 (1 page)
12. Email from the Board's Investigator to the Respondent, dated November 20, 2023 (1 page)
13. Email from the Board's Investigator to the Respondent, dated December 8, 2023 (1 page).
14. *Subpoena Ad Testificandum*, dated December 20, 2023 (1 page).
15. Email from the Board's Investigator to the Respondent, attaching *Subpoena Ad Testificandum*, dated December 20, 2023 (1 page).

16. USPS Tracking Website for *Subpoena Ad Testificandum*, dated December 20, 2023 (2 pages).
17. Email from the Board's Investigator to the Respondent, dated January 20, 2024 (1 page).
18. Email from the Respondent to the Board's Investigator, dated January 12, 2024 (1 page).
19. Email from the Board's Investigator to the Respondent, dated January 12, 2024 (1 page).
20. Email from the Board's Investigator to the Respondent, dated January 19, 2024 (1 page).
21. Email from the Board's Investigator to the Respondent, dated February 5, 2024 (1 page).
22. Maryland State Board of Massage Therapy Examiners Report of Investigation, dated December 14, 2023 (3 pages).
23. Notice of Agency Action – Charges Under the Maryland Massage Therapy Act, issued April 24, 2024 (13 pages).
24. Envelope Returned to Sender Unclaimed – Certified Mail – Sent to the Respondent's 3697 Jenning Chapel Road, Woodbine, Maryland Address (2 pages).
25. Signed Certified Mail Receipt – Certified Mail – Sent to the Respondent's 15431 Barnes Road, New Windsor, Maryland Address (2 pages).
26. Notice of Hearing, with attachments, dated November 18, 2024 (15 pages).
27. Notice of Hearing, with attachments, sent via email on November 18, 2024 (1 page).
28. USPS Tracking Website Printout for Certified Mail Notice of Hearing – Sent to the Respondent's 15431 Barnes Road, New Windsor, Maryland address (2 pages).

State's Witnesses

Investigator TC, the Board's former investigator.

The Respondent's Exhibits

The Respondent did not present any exhibits.

The Respondent's Witnesses

The Respondent did not testify or call any witnesses on her behalf.

FINDINGS OF FACT

Based on the totality of the record before it, the Board finds that:

1. On or about December 5, 2006, the Respondent was registered to practice as a registered massage practitioner (“RMP”). (State’s Exhibit 1.) That registration expired on or about October 31, 2020, as the Respondent did not renew. (*Id.*)

2. On or about August 16, 2021, the Respondent submitted a “Reactivation Application.” (State’s Exhibit 2.) As part of that Application, the Respondent was required¹ to attach a CPR certification completed between November 1st and October 31st “of the last two years” and to “affirm and attest” that the Respondent provided in and with the Application were “true and correct” to the best of the Respondent’s knowledge and belief. (*Id.* at p. 03.) Accordingly, the Respondent submitted a CPR card for Basic Life Support – BLS, ID No. DEC5C7, dated December 1, 2020. (*Id.* at p. 04.) The card indicated that it was valid for two years. (*Id.*)

3. On or about December 27, 2021, the Board’s Licensing Coordinator notified the Respondent that the Respondent needed to file a Reinstatement Application rather than a Reactivation Application.² (State’s Exhibit 3.)

4. On or about March 21, 2022, the Respondent submitted a “Reinstatement Application.” (State’s Exhibit 4.) Again, the Respondent was required³ to attach a CPR certification completed between November 1st and October 31st “of the last two years” and to

¹ See COMAR 10.65.01.12.C(2).

² As noted on the Reactivation Application itself, the Application is only intended “for licensees/registrants who completed an inactive status application – less than 5 years.” (State’s Exhibit 2, p. 02.) The Respondent was never on inactive status; thus, the Reactivation Application was inappropriate for intended purposes.

³ COMAR 10.65.01.11.A(3) requires reinstatement applications to “[s]atisfactorily complete[] the minimum education requirements set forth under COMAR 10.65.05.” COMAR 10.65.05.01.B requires that a licensee or registrant “shall possess documentation of current certification of qualification in CPR at, a minimum, the Basic Life Support (BLS) level.

“affirm and attest” that the information provided in and with the Application were “true and correct” to the best of the Respondent’s knowledge and belief. (*Id.*) In this instance, the Respondent provided the Board with a CPR card for Basic Life Support – BLS, dated December 1, 2022 – approximately nine months later. (*Id.* at p. 16.)

5. Noting that the Respondent’s CPR card had a certified issued date in the future, the Board staff contacted the National CPR Foundation, the issuer of the certificate, regarding the Respondent. (State’s Exhibit 5.) The National CPR Foundation confirmed that the Respondent had “taken a Healthcare BLS course” and that the certificate was issued on “1st December 2020” with an expiration date of “1st December 2022.” (*Id.*) (Emphasis added.)

6. On April 19, 2022, Board staff contacted the Respondent about the discrepancy and asked her to re-submit her certificate. (State’s Exhibit 6.) The Respondent subsequently responded and provided an additional copy of her CPR certificate. (State’s Exhibit 7.) In this instance, the Respondent submitted a certificate indicating completion of the CPR course on December 1, 2020. (*Id.*)

7. According to the Board’s Report of Investigation, Board staff attempted to contact the Respondent by telephone regarding the discrepancies on May 16, 2022, May 17, 2022, and May 18, 2022. (State’s Exhibit 22, p. 40.) In each instance, the Respondent did not answer, and in each instance, Board staff left a voicemail asking her to respond. (*Id.*) According to the Report of Investigation, the Respondent did not respond to those voicemails. (*Id.*)

8. On May 17, 2022, the Board Investigator MW emailed the Respondent regarding her Reinstatement Application. (State’s Exhibit 8.) Similar to the voicemail messages left for the Respondent, the Board’s Investigator asked the Respondent to contact him. (*Id.*)

9. On or about October 13, 2023, the Board issued a subpoena to the Respondent commanding her to participate in an investigative telephonic interview on October 24, 2023 at 1:00 pm. (State's Exhibit 9.) The subpoena stated that "FOR FAILURE TO OBEY THIS SUMMONS, YOU MAY BE SUBJECT TO FURTHER JUDICIAL ENFORCEMENT AND SANCTIONS pursuant to the provisions of the Health Occupations Article, Annotated Code of Maryland, §6-309(e)." (*Id.*) (Emphasis in original.) The subpoena was sent to the Respondent via certified mail and email. (*Id.*; State's Exhibit 11.) The Board subsequently received a U.S. Postal Service Return Receipt indicating that the subpoena was delivered on October 18, 2023 and signed for by the Respondent. (State's Exhibit 10.)

10. According to the Board's Report of Investigation, on October 24, 2023, at approximately 1:00 pm (i.e., the time reflected on the October 13, 2023 subpoena as the time for the telephonic interview), a Board Investigator contacted the Respondent by telephone. (State's Exhibit 22, p. 40.) The Respondent indicated that "she was sick and could barely talk." (*Id.*) The Board Investigator advised the Respondent that she could contact the Board when she felt better to reschedule the interview. (*Id.*)

11. On November 20, 2023, Board Investigator TC contacted the Respondent by email, stating:

I hope that you are feeling better and that we can reschedule our previously scheduled interview. I am available next week if you provide me with a date and time that are convenient for you. This is in reference to the Board's request for documentation of the CPR card and missing documents that are required to reinstatement [*sic*] your massage therapy license. I look forward to hearing from you soon.

(State's Exhibit 12.) According to the Report of Investigation, Board Investigator TC did not receive a response to this email. (State's Exhibit 22, p. 41.)

12. On December 8, 2023, Investigator TC again emailed the Respondent. (State's Exhibit 13.) The email stated:

I hope that you have been feeling better since we last spoke. I would like to reschedule our previously scheduled telephone interview. Previously there was a discrepancy with the CPR cards that you submitted with your Reinstatement application. Please let me know a date and time that are convenient for us to speak via telephone. Thank you in advance for your cooperation. Please feel free to reach me via telephone or email, with any questions that you may have.

(*Id.*) Once again, the Respondent did not respond to Investigator TC's email, according to the Board's Report of Investigation. (State's Exhibit 22, p. 41.)

13. On or about December 20, 2023, a second subpoena was sent to the Respondent via certified mail and email. (State's Exhibit 14; State's Exhibit 15.) That subpoena commanded the Respondent to participate in an investigative telephonic interview on January 10, 2024 at 11:00 am. (*Id.*) The subpoena again advised the Respondent that failure to obey the subpoena could be grounds for Board sanctions. (*Id.*) According to online U.S. Postal Service tracking records, the Board's subpoena was "Delivered, Left with Individual" on January 3, 2024. (State's Exhibit 16.)

14. On January 10, 2024, Investigator TC emailed the Respondent, stating, "I tried calling you this morning to conduct the recorded telephone interview with you. I left you a voice message to call me back...to reschedule the interview." (State's Exhibit 17.)

15. On January 12, 2024, at 2:33 am, the Respondent emailed Investigator TC stating:

I had received your message and I just got the letter in the mail the day that you left the message. My apologies for missing your call. I have been tending to my father who had major surgery and is recovering now. Been with him at sisters [*sic*] it's around the clock care so my phone has been and mail wasn't my priority the past 2weeks [*sic*]. Thank you for leaving a message and let's reschedule as soon as possible.

(State's Exhibit 18.)

16. On January 12, 2024, at 8:40 am, Investigator TC responded to the Respondent's overnight email, "Are you free Wednesday, January 17, 2024 @ 11:00 a.m. I want to ensure that we wrap this up as quickly as we can." (State's Exhibit 19.) The Respondent did not reply to Investigator TC's email. (Transcript, p. 21.)

17. On January 19, 2024, Investigator TC once again emailed the Respondent and stated, "Please let me know what day next week, other than Wednesday, January 24, 2024 you are available to speak with me. I would like to get this case resolved as soon as possible." (State's Exhibit 20.) The Respondent did not reply to Investigator TC's email. (Transcript, p. 21.)

18. On February 5, 2024, Investigator TC emailed the Respondent and asked, "Are you available this week to complete the recorded telephone interview with me? The Board wishes to complete this as soon as possible. If you are available this week, please provide a day and time that works for you." (State's Exhibit 21.) The Respondent did not reply to Investigator TC's email. (Transcript, p. 21.)

Discussion

The Board may reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee for any violation of HO § 6-308. HO §6-308(a). This provision, along with the Administrative Procedure Act, provides the underlying authority for, and the necessary legal elements of, the issuance of the Board's "Charges Under the Maryland Massage Therapy Act" on April 24, 2024. Indeed, while the Respondent in this case was charged with separate violations of the Maryland Massage Therapy Act, the Board only needs to find that the Respondent violated one of those provisions in order to sanction her registration. HO § 6-308 provides the authority for this Order.

As a preliminary matter, the Respondent failed to appear for the evidentiary hearing in this case. As mentioned in the introduction to this Order, the Board sent its notice of hearing via regular and certified mail to the Respondent's address of record, which she previously provided to the Board, as well as two other addresses that the Board had on file for the Respondent and her electronic mail address. The Administrative Procedure Act, specifically Md. Code Ann., State Gov't § 10-209(c), provides that a person holding a license shall be deemed to have had reasonable opportunity to know of the fact of service if: 1) the person is required by law to notify the agency of a change of address within a specified period of time; 2) the person failed to notify the agency in accordance with the law; 3) the agency mailed the notice to the address of record; and 4) the agency did not have actual notice of the change of address prior to service. Licensees are required to notify the Board of a change of address within 60 days of the change. *See* HO § 6-305(d)(1). To the extent that the Respondent is no longer using the addresses to which the Board sent the notice of hearing, she never provided the Board with an updated address; therefore, the Board finds that the service of the notice of hearing was proper. Moreover, the Maryland Massage Therapy Act states, "If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, the Board nevertheless may hear and determine the matter." HO 6-309(f).

Turning to the substantive issues before the Board, the preliminary reason this case is before the Board is that the Respondent submitted two applications to the Board, albeit one was incorrectly submitted, with two different CPR registrations. The second CPR registration that the Respondent submitted to the Board on **March 21, 2022** indicated that she had taken the course on **December 1, 2022**, nearly six months after submitting it to the Board. This discrepancy led the Board to confirm the Respondent's registration with the National CPR Foundation, which trains and certifies individuals in CPR nationwide. The National CPR Foundation confirmed that the

Respondent took only one CPR course with that entity and that her certificate was issued on December 1, 2020, not December 1, 2022. It is clear to the Board, based on the discrepancy and the subsequent confirmation by the National CPR Foundation, that the second registration indicating an issue date of December 1, 2022 was false and an attempt to deceive the Board. The Respondent attempted to clean that deception up by complying with a Board request that she re-submit her CPR information to the Board. The re-submitted card indicated the Foundation-confirmed certification date of December 1, 2020. (*See State's Exhibit 7.*) However, for the purposes of Board discipline, it was too little, too late; the Respondent had already submitted an apparently altered certification. As the falsified documentation could have served no other purpose than to assist her to re-obtain her RMP registration, the Board finds that the Respondent violated Md. Code Ann., Health Occ. § 6-308(a)(1).

Turning next to the Respondent's conduct during the Board's investigation, the record indicates that the Board subpoenaed the Respondent twice, commanding her to participate in a Board interview regarding the CPR discrepancy. (*See State's Exhibits 9 and 14.*) In addition to those subpoenas, the record is replete with attempts by the Board's investigative unit to work with the Respondent in order to schedule an interview that was convenient to her. There is no indication from the record that the Respondent did not receive or know about any of the subpoenas. Again, Board staff did more than what was necessary by sending the subpoenas not only to her address of record with the Board but also to known addresses and electronic mail addresses. Despite the efforts by the investigative unit to obtain an investigative interview with the Respondent, the Respondent never made herself available, essentially cutting off communication with the Board on or about January 12, 2024. Accordingly, the Board finds that the Respondent failed to cooperate

with the Board's investigation into her CPR certification in violation of Md. Code Ann., Health Occ. § 6-308(a)(19).

In its discretion, the Board shall dismiss the charge alleging that the Respondent violated HO § 6-308(a)(8) ("Does an act that is inconsistent with generally accepted professional standards in the practice of massage therapy"); (11) ("Has violated any provision of this title"); (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").

Turning to the appropriate sanction, it is well-established that the health occupation boards, including the State Board of Massage Therapy Examiners, exist in order to protect the public. *See Unnamed Physician v. Commission on Medical Discipline*, 285 Md. 1, 8-9 (1979). Furthermore, the right of a healthcare professional to practice is conditional, subject to the Board's objective to protect and preserve the public health. *See Board of Physicians v. Felsenberg*, 351 Md. 288, 305-06 (1998). In this case, the Board finds that the Respondent's misconduct falls either within category K(4), for individuals who "[u]nethically, and without legal justification, fail[] to cooperate with a lawful investigation conducted by the Board" or category K(5), for individuals who the Board finds committed "[u]nethical conduct resulting from misrepresentation or fraud." COMAR 10.65.09.05.K(4)-(5). In this case, the distinction is irrelevant as both guidelines set a maximum sanction of revocation, which the Board believes is the appropriate sanction for the Respondent. Here, the Respondent submitted a false CPR certification to support her reinstatement application. If the Respondent is willing to falsify something as minute as her CPR registration, what else would she feel comfortable falsifying? Simply put, the Respondent has lost the Board's trust to practice massage therapy in an honest manner. Moreover, after the Board initiated an investigation into that false CPR certification, the Respondent failed to cooperate with the Board's

investigation. It is clear to the Board that the Respondent simply does not care about her registration or the authority of the Board over her registration and practice. Accordingly, the Board finds revocation to be the appropriate sanction.

CONCLUSIONS OF LAW

In this case, based on the foregoing Findings of Fact, the Board concludes that the Respondent violated Md. Code Ann., Health Occ. § 6-308(a) as follows:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or registration for the applicant or for another; and
- (19) Fails to cooperate with a lawful investigation conducted by the Board.

In its discretion, the Board shall dismiss the charge alleging that the Respondent violated HO § 6-308(a)(8) (“Does an act that is inconsistent with generally accepted professional standards in the practice of massage therapy”); (11) (“Has violated any provision of this title”); (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”).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED that the charges set forth in the “Charges under the Maryland Massage Therapy Practice Act,” issued on April 24, 2024, alleging a violation of Md. Code Ann., Health Occ. § 6-308(a)(8); (11); (20); and (21) are hereby **DISMISSED**; and it is further

ORDERED that the Respondent’s registration to practice as a Registered Massage Practitioner in the State of Maryland, registration number R00579, is hereby **REVOKED**; and it is further

ORDERED that, pursuant to Md. Code Ann., Health Occ. § 6-309(g) and its implementing regulation at COMAR 10.65.02.06.B, the Respondent shall, within **THIRTY (30) DAYS** from the

effective date of this Order, pay to the Board **THREE-HUNDRED AND NINETY-SIX DOLLARS AND NINETY-THREE CENTS (\$396.93)** in investigative and hearing costs. As itemized, the Respondent is responsible for: \$9.68 (certified mailing on April 25, 2024); \$11.26 (certified mailing on November 14, 2024); \$10.99 (certified mailing on November 18, 2024); and \$365.00 (court reporter and transcription service for January 22, 2025 hearing). The Respondent shall pay \$396.93, by certified check or money order, payable to the Maryland State Board of Massage Therapy Examiners, 4201 Patterson Avenue, Suite 301, Baltimore, Maryland 21215. Failure to pay \$396.93 in hearing costs as specified in this Order shall result in the Board referring the above charge to the State Central Collections Unit for collection; and it is further

ORDERED that for purposes of public disclosure and as permitted by Md. Code Ann., Gen. Prov. § 4-333(b)(6), this document consists of the foregoing Findings of Fact, Conclusions of Law, and is reportable to any entity to whom the Board is obligated to report; and it is further

ORDERED that this Order is a Final Order and, as such, is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. § 4-333(b)(6) and Md. Code Ann., Health Occ. § 1-607.

02/26/2025
Date

Sharon Oliver
Sharon J. Oliver, MBA
Executive Director
Maryland State Board of Massage Therapy Examiners

NOTICE OF APPEAL RIGHTS

Any person aggrieved by a final decision of the Board under Md. Code Ann., Health Occ. § 6-308(a) may take a direct judicial appeal within thirty (30) days as provided by Md. Code Ann., Health Occ. § 6-310; Maryland Code Ann., State Gov't § 10-222; and Title 7, Chapter 200 of the Maryland Rules, including Md. Rule 7-203 ("Time for Filing Action").