

**IN THE MATTER OF**

\*

**BEFORE THE**

**CASSIDY DIVVER**

\*

**STATE BOARD OF MASSAGE**

**APPLICANT**

\*

**THERAPY EXAMINERS**

**R01837--Expired**

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**Case No: 18-54M**

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**ORDER**

On July 26, 2019, the State Board Massage Therapy Examiners (the “Board”), notified the Applicant, **CASSIDY DIVVER**, that it was initially denying her a registration to train as a registration in Maryland as a Registered Massage Therapy Practitioner (RMP) under the Maryland Massage Therapy Act (the “Act “), Md. Code Ann., Health Occupations (“Health Occ.”) §§ 6-101, *et seq.* (2014 Repl. Vol. and 2018 Supp.). The pertinent provisions of the Act are as follows:

Health Occ. § 6–308.

- (a) 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:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or registration for the applicant or for another;
- (3) Is disciplined by a licensing, certifying, or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section;
- (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;
- (5) Willfully and knowingly:
  - (ii) gives any false or misleading information about a material matter in an employment application;
- (11) Has violated any provision of this title;
- (12) Submits a false statement to collect a fee [.]

Pursuant to Health Occ. § 6-308(a) (11), cited above, the pertinent provision of the Act is as follows:

Health Occ. § 6-302:

- (c) To qualify to be registered, an applicant shall be an individual who:

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

The Notice informed the Applicant that she had 30 days to request a hearing. On July 22, 2020, a the Board held an evidentiary hearing before a quorum of the Board, in accordance with Maryland Administrative Procedure Act, Md. Code Ann., State Gov't § 10-201 *et seq.*, and the Board's regulations, COMAR 10.38.05. The hearing was held over Google Meets. A notice of the hearing was sent to both parties. After the conclusion of the hearing, the same quorum of the Board convened to deliberate and voted to deny application for license by the Applicant for the reasons set forth in this Final Decision and Order.

### **SUMMARY OF THE EVIDENCE**

The following documents were entered into evidence.

#### A. Documents

##### State's Exhibits

1. Computer Printout of Info
2. 2013 Application with attachments
3. Complaint w/ attachments, 12/6/18
4. Application 2019
5. Criminal Cases Printout
6. Facebook Posting
7. Email Correspondence, April/May 2019
8. Ware's Investigative Report

9. Notice of Intent to Deny, 7/26/19
10. Request for Hearing, 8/26/19
11. Settlement Conference Notice, 9/30/19
12. Notice of Hearing, 12/19/19
13. Notice of Hearing, 6/22/20

B. Witnesses

State: Marc Ware, Board Investigator

Applicant: None.

The Applicant did not appear or testify. Mr. Ware testified for the State. He provided documentation that showed the Applicant had been sent notice of the hearing. Further, he identified and described the exhibits cited above. However, the Applicant did not appear.

**FINDINGS OF FACT**

The findings of fact were made by the Board:

1. The Applicant was originally issued a registration on July 8, 2013 by the Board. The registration expired on October 31, 2013, and the Applicant has failed to renew it since that time.
2. By application dated March 20, 2019, the Applicant applied to the Board for registration as a Massage Therapist Practitioner.
3. Question 3 under the “Disciplinary/Background Information” section of the application asks: “Have you ever appeared in court, been arrested, or entered a plea or any kind inclusive of guilty, no contest, *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?" The Applicant answered "yes".

4. The application also required the Applicant to provide more details regarding her "yes" answer to question 3, which she provided as follows:

- Charges for which you appeared in court(s): "CS Obtain by Fraud/MK Forged Rx."
- Court Name and Full Address in which you appeared: "Carroll Co. Circuit 101 N. Court St/ Westminster, MD 21157"
- Date(s) involved for all court appearances: "several over several years."

5. The Applicant further noted the following: "Detailed explanation letter, true test copies from circuit court, probation completion records, \$ documentation, of treatment records are being sent to this Board in a separate package due to difficulties obtaining court records because of no longer residing in Carroll County area. I greatly appreciate the Boards (*sic*) patience with my application. Thank you." As of July 2019, the Board has not received the aforesaid documentation.

6. The Applicant's criminal history is as follows:

- A. On January 1, 2012 in the District Court for Carroll County, the Applicant pled guilty to and was found guilty of theft less than \$100 and was given two years Probation;
- B. On January 10, 2012, in the District Court for Carroll County, the

Applicant pled guilty to prescription obtained by fraud; was given a one year probation with a substance abuse program;

- C. On May 3, 2013, in the District Court for Howard County, the Applicant pled guilty to and was found guilty of forgery—prescription, and was sentenced to a two year jail term, which was suspended; ordered to serve a 1 year and 13 days probation; and, pay a fine and court costs, which were suspended;
- D. In the Circuit Court of Carroll County, the Applicant pled not guilty with an agreed statement of facts on December 19, 2013, but on January 28, 2014, the Court found her guilty and determined that she had violated her Probation. The Court sentenced her to two years in jail; which it suspended 1 year, 11 months and 29 days. The Judge then placed the Applicant on Probation for three years;
- E. On November 21, 2014, in the District Court for Carroll County, the Applicant pled not guilty to theft less than \$100, but was found guilty and sentenced to 90 days in jail, all suspended, and fined;
- F. On June 22, 2015, the Applicant pled not guilty to an agreed statement of facts to theft less than \$100 in the Circuit Court for Carroll County but was found guilty. She was sentenced to 90 days in jail, all suspended, and placed on two years supervised probation.

7. On or about December 2018, the Board received a complaint that the Applicant was using a fraudulent registration, resum  and business cards, which all stated

that she was practicing massage therapy and representing herself as a registered massage therapist, even though her registration had expired in 2013. The Applicant's registration card had been altered to reflect that the expiration date was 2018, rather than 2013. Her resumé indicates work experience through 2016. In addition, her business card lists her as a "Licensed" Massage Therapist.<sup>1</sup> In addition, the Applicant advertised that she provided "licensed massage therapy" services on her Facebook page and listed several locations where she provided same.

8. As a result of the above information, the Board's Investigator made an appointment with the Applicant for a massage, using the same number that she provided on her application. The appointment was confirmed, but the Investigator did not keep the appointment.

### **BASIS OF DENIAL**

9. As set forth above, by pleading guilty to or being found guilty of theft or making false prescriptions and being disciplined for same by a court, the Applicant is in violation of § 6-308 (3) (Is disciplined ... by a court of any state or country for an act that would be grounds for disciplinary action under this section) and (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),

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<sup>1</sup> §6-101. (h) "Registered massage practitioner" means an individual who is registered by the Board to practice massage therapy in a setting that is not a health care setting. (e) "Licensed massage therapist" means an individual who is licensed by the Board to practice massage therapy—in a health care setting.

10. As set forth above, by advertising herself as a Licensed Massage Therapist, fraudulently altering her registration and practicing as a massage therapist while her registration was expired, the Applicant is in violation of § 6–308 (1) (Fraudulently or deceptively obtains or attempts to obtain a license or registration for the applicant or for another) and (5) (Willfully and knowingly: (ii) gives any false or misleading information about a material matter in an employment application).

11. As set forth above, by practicing massage therapy without a registration, and/or altering her registration and/or, being convicted of, and/or pleading guilty to, and/or being found guilty of, and/or being disciplined for crimes of moral turpitude, the Applicant lacks the good moral character to become a registered massage therapy practitioner, in violation of § 6-302(c) (1) of the Act, and her application should be DENIED.

### **CONCLUSIONS OF LAW**

Based upon the above, the Board concludes, as a matter of law, that the Applicant violated Health Occ. § 6–308 (1), (3) (4), (5), (11), (13) and § 6-302 (c) (1). The evidence in the record supports this conclusion. Further, the Applicant did not appear to deny any of the violations.

### **ORDER**


As set forth above, the Board hereby Orders that the application to practice as a Registered Massage Therapy Practitioner in Maryland filed by **CASSIDY DIVVER**, the

Applicant, be and is **DENIED**, and that this Order is public, pursuant to Md. Code Ann., General Provisions §§4-101 et seq. (2014 Vol. and 2018 Supp.) .

**NOTICE OF RIGHT OF APPEAL**

In accordance with § 6-310 of the Act and the Administrative Procedure Act, Md. Code Ann., State Government §§ 10-201, et seq. (2014 Repl. Vol and 2018 Supp.), you have a right to a direct judicial appeal of this decision. A petition for appeal of the Final Board Order shall be filed within thirty days from your receipt of this Final Order and shall be made in accordance with the above cited authority.

10/28/2020  
Date

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