

IN THE MATTER OF
FRITZ FOXWELL, RMT
Registration No.: R00843
Respondent

*** BEFORE THE**
*** STATE BOARD**
*** OF**
*** CHIROPRACTIC AND MASSAGE**
*** THERAPY EXAMINERS**

Case No. 10-15M

* * * * *

FINAL ORDER OF REVOCATION
OF THE RESPONDENT'S MASSAGE THERAPY REGISTRATION

On June 28, 2010, the Board of Chiropractic and Massage Therapy Examiners (the "Board) summarily suspended the registration to practice Massage Therapy issued to Fritz Foxwell, RMT, because he inappropriately massaged the breasts/gluteus maximus of female clients.

On 11 / 17 / 2010, the Board notified the Respondent, of its Intent to Revoke his Massage Therapist registration. The Notice also informed the Respondent that, unless he requested a hearing in writing within 30 days of receipt of said Notice, the Board would sign the Final Order herein, which was enclosed. More than 30 days has elapsed and the Respondent failed to timely request a hearing. Therefore, this revocation is final.

The basis for the Board's action was pursuant to the Administrative Procedure Act (the "APA"), Md. State Govt. Code Ann. § 10-226(c) (1) (2009 Repl. Vol.) and the Maryland Pharmacy Act, codified at Md. Health Occ. Code Ann. § 12-101, et seq., ("the Act") (2009 Repl. Vol.).

The pertinent provision of § 10-226(c)(1) of the APA states:

Revocation of suspension. (sic)—(1) Except as provided in paragraph (2) of this subsection, a unit may not revoke or suspend a license unless the unit first gives the licensee:

- (i) written notice of the facts that warrant suspension or revocation; and,
- (ii) an opportunity to be heard.

The pertinent provisions of § 3-313 provide:

Subject to the hearing provisions of 12-313 of the Act:

- (b) Subject to the hearing provisions of

§ 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

- (2) Fraudulently or deceptively uses a license or registration;
- (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 charges that the Respondent violated its Code of Ethics, Code of Md. Regs. tit. 10, § 43.18 (October 16, 2000). Specifically the Board charges the Respondent with violating the following subsections:

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(2) "Non bona fide treatment" means when a certificate holder or registration holder treats or examines a client in a way that involves sexual contact, but there is no therapeutic reason for the procedure, or the procedure falls outside of reasonable massage therapy or non-therapeutic massage practices.

.05 Professional Boundaries, thereof:

A. A certificate holder or registration holder shall:

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:

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

(a) Therapeutic deception,

(b) Non bona fide treatment [.]

(5) "Therapeutic deception" means when a certificate holder or registration holder misrepresents sexual conduct as a legitimate form of treatment.

**FACTS THAT WARRANT
THE REVOCATION OF THE RESPONDENT'S REGISTRATION**

1. At all times relevant hereto, the Respondent was registered to practice massage therapy in Maryland. The Respondent was first registered on April 18, 2008.

The Respondent's registration expired on October 31, 2010.

2. At all times relevant hereto, the Respondent was employed at the Massage Envy located in Bethesda, Maryland.

3. On March 8, 2010, Client A¹ complained that, during the course of her massage, the Respondent undraped her breasts, and massaged them, including her nipples.

4. Afterwards, Client A reported the incident to the owner of the business, who suspended the Respondent without pay. Client A also reported the incident to the Board and to the Montgomery County Police Department.

5. When interviewed by the Board investigator, the Respondent acknowledged that he was not taught to massage the breasts at the school from which he graduated and that he may have massaged the client's breasts and nipples.

6. The investigation further disclosed that the Respondent had been terminated from the Massage Envy in Rockville for massaging the breasts and gluteus maximus of another client.

7. On June 28, 2010, the Board summarily suspended the Respondent's registration to practice massage therapy. The Respondent failed to request a Show Cause hearing.

8. As set forth above, the Respondent violated the Act and regulations thereunder and his license should be revoked.

CONCLUSIONS OF LAW

Based upon the foregoing Facts, the Board concludes that the Respondent violated its Act and that the revocation is warranted, pursuant to § 3-315 and § 10-226 (c) (1) of the APA.

¹Clients' names are confidential.

