

IN THE MATTER OF * BEFORE THE STATE
DEWAYNE TYRONE HALL, R.M.P. * BOARD OF
Respondent * MASSAGE THERAPY EXAMINERS
Registration Number: R-01678 * Case Number: 17-23M

* * * * *
FINAL ORDER OF REVOCATION OF MASSAGE THERAPY REGISTRATION

On March 28, 2018, the Maryland State Board of Massage Therapy Examiners (the "Board") summarily suspended the registration to practice massage therapy issued to **DEWAYNE TYRONE HALL, R.M.P.**, (the "Respondent"), **Registration Number R-01678**, pursuant to the Administrative Procedure Act (the "APA"), Md. Code Ann., State Gov't §§ 10-201, *et seq.* (2014 Repl. Vol. & 2016 Supp.) and the Maryland Massage Therapy Act (the "Act"), codified at Md. Code Ann., Health Occ. § 6-101 *et seq.* (2017), based on the Board's investigative findings that he engaged in the inappropriate touching of a sexual nature (non bona fide treatment) to a female client during a massage.

On or about November 9, 2017 the Board notified the Respondent of its Intent to Revoke his registration to practice massage therapy. The Notice specified that unless the Respondent requested a hearing in writing within 30 days of receipt of the Notice, the Board intended to sign the Final Order herein, which was enclosed. More than 30 days have elapsed and the Respondent has failed to request a hearing. Therefore, the revocation of the Respondent's registration to practice massage therapy is final.

The basis for the Board's action was pursuant to the Maryland Administrative Procedure Act (the "APA"), Md. Code Ann., State Gov't ("State Gov't") § 10-226(c)(1)

(2014 Repl. Vol. & 2016 Supp.) and the Maryland Massage Therapy Act, codified at Md. Code Ann., Health Occ. § 6-101 *et seq.* (the “Act”) (2017 Supp.).

The pertinent provisions of the APA state:

§ 10-226. Licenses – Special Provisions.

...

(c) *Revocation or suspension.* -- (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.

Specifically, the Board revokes the Respondent’s registration to practice as a massage therapist, based upon the following provisions under Md. Code Ann., Health Occ. § 6-308:

(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 disciplined by a...court of any state or country for an act that would be grounds for disciplinary action under this section;

...
(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[.]

(b) *Penalty.* – If, after a hearing under § 6-309 of this subtitle, the Board finds that there are grounds under subsection (a) of this section to suspend or revoke a license or registration to practice massage therapy, to reprimand a licensee or registration holder, or to place a licensee or registration holder on probation, the Board may impose a penalty not exceeding \$5,000 in lieu of or in addition to suspending or revoking the license or registration, reprimanding the licensee or registration holder, or placing the licensee or registration holder on probation.

The pertinent regulations provide:

Md. Code Regs. 10.65.03:

.02 Definitions.

...

B. Terms defined.

...

(2) "Non bona fide treatment" means when a license 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.

...

(4) "Sexually exploitative relationship" means when sexual contact occurs in an existing therapeutic relationship between the massage therapist and the client ...[.]

.03 Standards of Practice.

...

C. A license holder or registration holder shall:

...

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

.05 Professional Boundaries.

...

B. A license holder or registration holder may not:

(1) Exploit a relationship with a client...for the license 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;

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

...

- (b) Non bona fide treatment; or
- (c) A sexually exploitative relationship.

FINDINGS OF FACT

The Board finds:

BACKGROUND

1. At all times relevant, the Respondent was registered to practice massage therapy in the State of Maryland. The Respondent was initially registered in Maryland on November 12, 2012.

2. The Board summarily suspended the Respondent's license to practice massage therapy on or about March 28, 2018 based on investigative findings as set forth in pertinent part below.¹

3. During all times relevant to these charges, the Respondent was employed as a massage therapist at Facility A, located in Rockville, Maryland.

4. On or about January 2, 2018, Board staff was notified through a news report that the Respondent had pleaded guilty to a fourth-degree sexual offense in Montgomery County, Maryland.²

5. Based on the notification of the Respondent's guilty plea, the Board initiated an investigation, as set forth in pertinent part below.

DISCIPLINARY HISTORY

6. In May 2012, the Respondent notified the Board through his initial application for licensure that he had two prior convictions in the District of Columbia: in

¹ The Board held a pre-deprivation hearing on March 28, 2018, for the purpose of providing the Respondent with an opportunity to show cause why the Board should not summarily suspend his license. After providing the Respondent with notice of the pre-deprivation hearing, he failed to appear.

² The news report alleged the Respondent had massaged a female client's groin while making moaning noises during the unwanted touching.

2000 for carrying a pistol without a license (sentenced to one-year incarceration and two years of probation); and in 2009 for unlawful entry (sentenced to two years of probation, with one year supervised).

PRESENT CONVICTION

7. On or about April 3, 2017, the Respondent was criminally charged in the District Court of Maryland for Montgomery County pursuant to Md. Code Ann., Crim. Law § 3308(b)(1)³ with two counts -- both, fourth-degree sexual offenses that allegedly took place on or about February 19, 2017.

8. On or about June 26, 2017, the Respondent had pleaded guilty to one of the counts referenced in ¶ 7, was sentenced to probation before judgment and placed on 24 months of probation, scheduled to terminate on or about June 26, 2019.⁴

CONCLUSIONS OF LAW

Based on the Findings of Fact, the Board concludes that the Respondent violated Md. Code Ann., Health Occ. § 6-308 (4), (8) and (20) and in whole or in part to Md. Code Regs. 10.65.03.03C(5) and 10.65.03.05B(1), (2) and (3).

ORDER

It is hereby:


ORDERED that the massage therapy registration of **Dewayne Tyrone Hall, R.M.P.**, is **REVOKED**; and it is further

ORDERED that this is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014 & 2016 Supp.).

³ Md. Code Ann., Crim. Law § 3308(b)(1) provides: "A person may not engage in sexual contact with another without the consent of the other[.]"

⁴ The Court *not* *prossed* the second count.

4-12-18
Date


Laurie Sheffield-James, Executive Director
Maryland State Board of Massage Therapy Examiners

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Pursuant to Md. Code Ann., Health Occ. § 6-310 (2017) the Respondent has the right to seek judicial review of this Final Decision and Order. Any petition for judicial review shall be filed within thirty (30) days from the date of mailing of this Final Decision and Order. The cover letter accompanying this final decision and order indicates the date the decision is mailed. Any petition for judicial review shall be made as provided for in the Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Respondent files a petition for judicial review, the Board is a party and should be served with the court's process at the following address:

Maryland State Board of Physicians
Laurie Sheffield-James, Executive Director
4201 Patterson Avenue, 3rd Floor
Baltimore, Maryland 21215

Notice of any petition should also be sent to the Board's counsel at the following address:

Grant Gerber, Assistant Attorney General
Maryland Office of the Attorney General
Maryland Department of Health
300 West Preston Street, Suite 302
Baltimore, Maryland 21201