

IN THE MATTER OF

*

BEFORE THE

JONG HONG

*

MARYLAND STATE BOARD OF

RESPONDENT

*

CHIROPRACTIC EXAMINERS

* * * * *

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Pursuant to Md. Code Ann., Health Occ. ("H.O.") § 3-315(a), and Maryland Code of Regulations (COMAR) 10.43.02.07, The Maryland State Board of Chiropractic Examiners (the "Board") hereby renders the following final decision and order:

BACKGROUND

On or about June 26, 2002 Board charged Jong Hong ("Respondent") with violations of certain provisions of the Massage Therapy Practice Act, (the "Act"), H.O. § 3-5A-01, *et seq.* Specifically, Ms. Hong was charged with violations of the following provisions of § 3-5A-09 of the Act:

- (a) Subject to the hearing provisions of H.O. § 3-315 of this title, the Board may deny a certificate or registration to any applicant, reprimand and certificate holder or registration holder, place any certificate holder or registration holder on probation, or suspend or revoke the certificate holder or the registration holder if the applicant, certificate holder, or registration holder:
 - (2) Fraudulently or deceptively uses a certificate or registration;
 - (8) Does an act that is inconsistent with generally accepted professional standards in the practice of massage therapy;

A hearing on the merits was held on October 10, 2002. Present were the following Board members, which constituted a quorum: Dr. Jack Murray, Jr., President of the Board, who presided at the hearing, Dr. Paula Lawrence, Dr. Marc Gamerman and Ivy Harris. Also present were Roberta Gill, Assistant Attorney General/Administrative Prosecutor, James J. Vallone, Executive Director, Gwen Wheatley, Deputy Director and

Richard Bloom, Assistant Attorney General/Board Counsel. Ms. Hong did not appear for the hearing, which had been scheduled for 9:30 a.m. She had been apprised of the charges against her and of the date and time of the hearing. (See State's Exhibits 2A,B, C & D). The hearing commenced at 9:38 a.m. and concluded at 9:47 a.m.

EXHIBITS

The following exhibits were introduced at the hearing:

STATE'S EXHIBITS

No. 1	Computer Printout
2A	Letter of Procedure
2B	Charges
2C	Summons
2D	Return Receipt
3	Event Report
4	Letter from Colferai Paul Murphy
5	Criminal Court Report

SYNOPSIS OF CASE

Ms. Gill presented the State's case through her witness, Paul Murphy, Board Investigator. On March 27, 2002 Mr. Murphy received a report from detective Steven Colferai of the Montgomery County Police Department advising that Ms. Hong, a certified massage therapist, had been arrested and charged with prostitution for which she was later convicted. On February 13, 2002 while conducting surveillance and investigation at Sky Therapy, Detective Colferai interviewed a male customer who stated that he had paid for and received a hand job¹ from the Respondent, during an earlier visit to that establishment.

FINDINGS OF FACT

The Board makes the following Findings of Fact:

1. That Jong Hong is a certified massage therapist in Maryland.
2. That Ms. Hong gave male customer a hand job customer while working at Sky Therapy.
3. That Ms. Hong was arrested and charged with and convicted of prostitution.

OPINION

An impetus for the enactment of Md. Code Ann., Health Occ. ("H.O.") § 3-5A-01 *et seq* was to protect the citizens of Maryland from the kinds of sexual activities that take place in places like Sky Therapy. The legislature did not contemplate massage therapists providing hand jobs as being within the scope of practice of massage therapy.² Further, the Board may use its "experience, technical competence, and specialized knowledge in the evaluation of evidence" in determining whether or not the standards of a profession have been breached. Md. Code Ann., State Gov't § 10-213(i).

Ms. Hong's illicit sexual conduct under the guise of massage therapy is sufficient for the board to conclude that she violated the Act.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact and Opinion, the Board concludes, as a matter of law, that Jong Hong violated H.O. § 3-5A-09(a)(2) fraudulently or deceptively uses a certificate or registration; (8) does an act that is inconsistent with generally accepted professional standards in her practice of massage therapy.

¹ Manual stimulation of the penis.

² H.O. § 3-5A-01(g) "Massage Therapy means the use of manual techniques on soft tissues of the human body including effleurage (stroking), petrissage (kneading), tapotement (tapping), stretching, compression, vibration, friction, with or without the aid of heat limited to hot packs and heating pads, cold water, or nonlegend topical applications, for the purpose of improving circulation, enhancing muscle relaxation, relieving muscular pain, reducing stress, or promoting health and well-being."

ORDER

Based on the foregoing Findings of Fact, Opinion and Conclusions of Law, it is, this 14th day of Nov., 2002, by the Maryland State Board of Chiropractic Examiners hereby

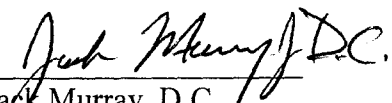
ORDERED that, pursuant to the authority vested in the Board of Chiropractic Examiners by Md. Code Ann., Health Occ. Article, § 3-5A-09, the Respondant's massage therapy certification is hereby **REVOKED**; and be it further

ORDERED that Respondent must immediately return to the Board both the wall and wallet size certificate numbered M01674; and be it further

ORDERED that the Respondent reimburse the Board its hearing costs; and be it further

ORDERED that this document is a public record, pursuant to Md. Code Ann., State Gov't Article, § 10-617(h).

11/14/02
Date



Jack Murray, D.C.
Board President

NOTICE OF RIGHT OF APPEAL

In accordance with Md. Code Ann., Health Occ. Article, § 3-316, you have a right to take a direct judicial appeal. A petition for appeal shall be filed within thirty days of your receipt of this Findings of Fact, Conclusion s of Law and Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't Article, §§ 10-201 *et seq.*, and Title 7 Chapter 200 of the Maryland Rules.