

IN THE MATTER OF
CHUNG A. JEON (JUNG)
RESPONDENT

* BEFORE THE
* MARYLAND STATE BOARD OF
* 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 February 20, 2003 and as amended on April 7, 2003, the Board charged Chung Jeon ("Respondent") with violations of certain provisions of the Massage Therapy Practice Act, (the "Act"), H.O. § 3-5A-01, *et seq.* Specifically, Ms. Jeon 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;
 - (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 charged the Respondent with violations of its Code of Ethics, Code of Md. Regs. Tit. 10§ 43.18 (COMAR). Specifically:

.05 Professional Boundaries

- A. A Certificate holder or registration holder shall:
- (1) Maintain professional boundaries, even when the client initiates crossing the professional boundaries of the professional relationship; 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:
- (1) Exploit a relationship with a client for the certificate holder's or registration 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; or
 - (3) Engage in sexual misconduct that includes, but is not limited to:
 - (a) Therapeutic deception,
 - (b) Non bona fide treatment, or
 - (c) A sexually exploitative relationship.

A hearing on the merits was held on June 12, 2003. Present were the following Board members, which constituted a quorum: Dr. Brian Ashton, who presided at the hearing, Dr. Margaret Renzetti, Issie Jenkins, 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, Richard Bloom, Assistant Attorney General/Board Counsel

and Sheryl McDonald. William C. Littleton, Jr. appeared on behalf of the Respondent, who did not appear for the hearing.

EXHIBITS

The following exhibits were introduced at the hearing:

STATE'S EXHIBITS

No. 1	Computer Printout
2A	Letter of Procedure-2/13/03
2B	Charges
2C	Summons
3A	Letter of Procedure-4/8/03
3B	Amended Charges
4	Letter from Stack to Murphy
5	Police Event Report-11/8/02
6	Written Statement by Rosen
7	Uniform Civil Citation
8	Murphy Investigative Report
9	District Court Event History
10	Police event report-1/7/03
11	Uniform Civil Citation
12	Citation History

SYNOPSIS OF CASE

Detective Stack of the Montgomery County Police Department's Vice and Intelligence Section, testified that on or about November 5, 2002, he and other members of the vice and intelligence unit were conducting surveillance at Canpai Massage Parlor where it was suspected illicit sexual activity was taking place. A gentleman was interviewed as he exited the establishment. He identified the Respondent as the woman to whom he paid sixty dollars (\$60.00). She had him undress whereupon she gave him a massage and a hand release,¹ at the conclusion of which he gave her an additional twenty

¹ Manual stimulation of the penis.

dollars (\$20.00). (T. 14 13). (State's Exhibit 6). The Respondent was arrested and charged with prostitution.

Or about March 5, 2003, Detective Stack, once again, arrested the Respondent at Classic Therapy where men were paying for sexual services. He along with other members of the Vice and Intelligence Section had been conducting surveillance and interviews at that location.

FINDINGS OF FACT

The Board makes the following Findings of Fact:

1. That Chung Jeon is a certified massage therapist in Maryland.
2. That Ms. Jeon gave a hand release to a male customer at Canpai Massage Parlor.
3. That on November 5, 2002 Ms. Jeon was arrested and charged with prostitution.
4. That on March 5, 2003 the Respondent was arrested at Classic Therapy.
5. That Classic Therapy is well known to the Board as a place where illicit sexual activity takes place.

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 Canpai Massage Parlor and Classic Therapy. The legislature did not contemplate massage therapists providing hand releases as being within the scope of practice of massage therapy.² Further, the Board may use its "experience, technical

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,

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. Jeon'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 Chung Jeon violated H.O. § 3-5A-09(a)(2), (8), (20), (21) and COMAR 10.43.18.05A(1),(2) and B(1),(2),(3).

ORDER

Based on the foregoing Findings of Fact, Opinion and Conclusions of Law, it is, this 22nd day of July, 2003, 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 Respondent's massage therapy certification is hereby **REVOKED** for a period of **SIX (6) MONTHS** and that said **REVOCATION** is **IMMEDIATELY STAYED**; and be it further

ORDERED that during the period of the stay, Respondent's massage therapy certification shall be **SUSPENDED**, and be it further

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.”

ORDERED that prior to the expiration of the period of suspension the Respondent must apply for, in writing, and take and pass a written jurisprudence examination to be administered by the Board, no more than twice, at a cost of \$100.00 for each administration; and be it further

ORDERED that prior to the expiration of the period of suspension the Respondent must apply for, in writing, and take and pass a written practical examination to be administered by the Board, no more than twice, at a cost of \$100.00 for each administration; and be it further

ORDERED that prior to the expiration of the period of suspension, the Respondent must reimburse the Board its hearing costs totaling \$330.00; and be it further

ORDERED that at the successful completion of the terms of this Order, Respondent's suspension will be terminated and revocation lifted, and be it further

ORDERED that Respondent must apply for reinstatement in writing, and be it further

ORDERED that upon reinstatement the Respondent must serve **SIX (6)** MONTHS probation; and be it further

ORDERED that Respondent must **immediately** return to the Board both the wall and wallet size certificate number R00011; and be it further

ORDERED that following reinstatement, and during the probationary period, should the Respondent violate the Massage Therapy Practice Act or any conditions of this Order or of Probation, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent,

including suspension or revocation. The burden of proof for any action brought against the Respondent shall be on the Respondent to demonstrate compliance; and be it further

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

7/22/07
Date

E. Brian Ashton
Brian Ashton, 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.