

<p>IN THE MATTER OF</p> <p>MEGAN RENEE MITCHELL</p> <p style="text-align: center;">Applicant</p>	<p>* BEFORE THE MARYLAND</p> <p>* STATE BOARD OF</p> <p>* MESSAGE THERAPY EXAMINERS</p> <p>* Case Number: 19-11M</p>
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FINAL ORDER OF DENIAL OF APPLICATION
FOR LICENSE OR REGISTRATION IN MESSAGE THERAPY

The Maryland State Board of Massage Therapy Examiners (the “Board”) notified **MEGAN RENEE MITCHELL** (the “Applicant”) of its intent to deny her *Application for License or Registration in Massage Therapy* (the “Application”) pursuant to the Maryland Massage Therapy Act (the “Act”), Md. Code Ann., Health Occ. §§ 6-101 *et seq.* (2014 Repl. Vol. and 2018 Supp.). The Board based its action of the following provisions of the Act:

§ 6-302. Qualifications.

...

- (b) *Qualifications for license.* – To qualify for a license, an applicant shall be an individual who:
 - (1) Is of good moral character[.]
- (c) *Qualifications for registration.* – To qualify to be registered, an applicant shall be an individual who:
 - (1) Is of good moral character[.]

§ 6-308. Denials, reprimands, suspensions, and revocations.

- (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 . . . if the applicant . . . :

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or registration for the applicant or for another; [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[.]

On **June 28, 2019**, the Applicant was served with the Board's *Notice of Intent to Deny Application for License or Registration in Massage Therapy* (the "Notice"). The Board notified the Applicant in the Notice that this Final Order would be executed in thirty (30) days from service of the Notice unless the Applicant requested a hearing. The Applicant's written request was due on **July 28, 2019**. The Applicant did not request a hearing **September 20, 2019**.

FINDINGS OF FACT

The Board finds:

1. On or about February 12, 2019, the Applicant submitted to the Board her Application for initial licensure or registration to practice massage therapy in the State of Maryland. The Board received the Application on or about March 14, 2019.

2. In her Application, the Applicant answered "YES" to Question 3, which asks the following:

Have you ever appeared in court, been arrested, or entered a plea [of] any kind inclusive of guilty, no contest, *nolo contendere* or been convicted of a crime or received probation before judgement in any jurisdiction for a crime other than a minor traffic violation?

3. The Applicant submitted court records and a written explanation related to her response to Question 3 of the Application.

4. The court records show that on or about May 29, 2015, the Applicant was arrested in or around Annapolis, Maryland, and charged with Illegal Possession of a Regulated Firearm, Carrying a Handgun, and Theft from \$1,000 to under \$10,000. These records further show that on or about February 11, 2016, the Applicant pled guilty in the Circuit Court for Anne Arundel County, Maryland, to an amended count of Theft under \$1,000. The court found the Applicant guilty and sentenced her to 18 months incarceration, all suspended, two years of supervised probation, and \$500 in restitution.

5. The Applicant's written explanation included her description of the events that led to her 2015 arrest and subsequent conviction. She explained, in relevant part:

- a. At the time of her arrest, the Applicant and her father were using "very hard drugs together" and "owed money." The Applicant saw a woman she recognized from a methadone clinic and decided to rob her while she was loading her vehicle outside of a grocery store. The Applicant "grabbed [the victim's] purse from passenger side door and ran to [the Applicant's] father's car."
- b. The Applicant and her father drove to a parking lot "to inspect" what she stole. Police soon approached the vehicle. During a subsequent search, the police found the Applicant's father's handgun in the car. The Applicant was charged with possession of a handgun "because [she] was in the vehicle" with her father's handgun.
- c. The Applicant pled guilty to Theft under \$1,000. She later failed a required drug test and was admitted into a drug court program. On or about February 3, 2018, the Applicant graduated from the drug court program and was placed on one year of unsupervised probation. The court agreed to modify her conviction to probation before judgment.

6. The Applicant did not include any other documentation or explanations in her Application about other court appearances, arrests, guilty pleas, or convictions.

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- c. The Applicant pled guilty to Theft under \$1,000. She later failed a required drug test and was admitted into a drug court program. On or about February 3, 2018, the Applicant graduated from the drug court program and was placed on one year of unsupervised probation. The court agreed to modify her conviction to probation before judgment.

6. The Applicant did not include any other documentation or explanations in her Application about other court appearances, arrests, guilty pleas, or convictions.

7. The Applicant signed and dated the Application under the following attestation statement:

The information provided in this application is truthful and correct to the best of my knowledge and belief. I understand that providing false information of any kind or omitting information known to me may result in the voiding of this application. I agree that all documents and fees submitted with this application are the property of the Board and are non-refundable.

8. During its investigation into the Applicant's disclosures on her Application, the Board discovered that the Applicant had been arrested in West Virginia on or around January 13, 2013.

9. In an email to a Board investigator dated March 28, 2019, the Applicant explained that she had been arrested in Lewis County, West Virginia, and charged with "Conspiracy to Commit a Felony Against the State of West Virginia." The Applicant also explained this charge, stating that she "was aware of a clandestine drug laboratory, was a participant in consuming the product, and failed to notify the proper authority."

10. Court records obtained by the Board show that on or about March 4, 2013, a grand jury sitting in the Circuit Court of Lewis County, West Virginia, indicted the Applicant on two felony counts: Operating a Clandestine Drug Laboratory, and Conspiracy to Operate a Clandestine Drug Laboratory. On or about January 28, 2014, the Applicant was convicted of Conspiracy to Operate Clandestine Drug Laboratory. She was sentenced to one to five years in prison, all suspended, and two years of probation.

11. In an email to a Board investigator dated March 28, 2019, the Applicant explained that she did not include information about her 2013 felony conviction on her Application to the Board because she "was unable to obtain [her] official West Virginia

Court records for the pertaining charges before the application deadline for the March test,” and that she was “unsure if just a written statement would suffice.”

12. The Applicant’s conduct, as described in Paragraphs 1-11 above, shows that she fails to meet the qualifications for licensure or registration under:

- a. Health Occ. § 6-302(b)-(c), for lacking good moral character based on her guilty plea and conviction of theft and conspiracy to operate a clandestine drug laboratory, which are crimes involving moral turpitude, as well as her failure to disclose her 2013 felony conviction in West Virginia on her Application to the Board;
- b. Health Occ. § 6-308(a)(1), for failing to disclose her 2013 felony conviction in West Virginia on her Application to the Board; and
- c. Health Occ § 6-308(a)(4), for having pled guilty to, and being convicted of, a felony and crimes involving moral turpitude.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board concludes that the Applicant fails to meet the prerequisite of good moral character and, therefore, fails to meet the qualifications for licensure or registration under Health Occ. § 6-302(b)-(c). The Board also concludes that the Applicant violated Health Occ. § 6-308(a)(1) and (a)(4) of the Act, which is an additional basis for denial of the Application for licensure or registration.

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ORDER


Based on the foregoing Findings of Fact and Conclusions of Law, it is this 25th day of September, 2019, by the majority of the Board, hereby:

ORDERED that the *Application for License or Registration in Massage Therapy* of **MEGAN RENEE MITCHELL**, dated February 12, 2019, is hereby **DENIED**; and it is further

ORDERED that for purposes of public disclosure and as permitted by Md. Code Ann., Gen. Prov. § 4-333(b)(6) (2014), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law, and Order, and is reportable to any entity to whom the Board is obligated to report; and it is further

ORDERED that this Final Order is a public document pursuant to Health Occ. § 1-607 and Gen. Prov. §§ 4-101 *et seq.* (2014).

09/25/2019
Date



Sharon J. Oliver, MBA, Executive Director
For Paula Jilanis, LMT, Chair
by the direction of the Maryland State Board
of Massage Therapy Examiners

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 6-310, the Applicant has the right to take a direct judicial appeal. Any appeal shall be filed within 30 days from service of this Final 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 § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Applicant files an appeal, the Board is a party and should be served with the court's process. In addition, the Applicant should send a copy to the Board's counsel, Grant Gerber, Assistant Attorney General, Office of the Attorney General, 300 West Preston Street, Suite 302, Baltimore, Maryland 21201. The Administrative Prosecutor is not included in the circuit court process and need not be served or copied on pleadings filed in that court.