

IN THE MATTER OF

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BEFORE THE

MI PARK

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MARYLAND STATE BOARD OF

RESPONDENT

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CHIROPRACTIC EXAMINERS

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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 February 14, 2002 the Board voted to summarily suspend the Massage Therapy Certificate of Mi Park, Respondent, after having received information from the Montgomery County Police Department that she had been charged with prostitution.

Ms. Park was served with an Order For Summary Suspension and was notified of her right to appear before the Board to Show Cause why the Board should not continue the summary suspension. Ms. park failed to appear for a Show Cause hearing on march 4, 2002, at which time the Board voted to continue the Summary Suspension.

On or about March 19, 2002 and as amended on or about May 7, 2002, the Board charged Ms. Park with violations of certain provisions of the Massage Therapy Practice Act, (the "Act"), H.O. § 3-5A-01, *et seq.* Specifically, Ms. Park was charged with violations of the following provisions of § 3-5A-09 of the Act:

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- (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;
- (11) Has violated any provisions of this subtitle;
- (20) Engages in conduct that violates the professional code of ethics [;].

§ 3-5A-09 (c) (1) states that: An individual whose certificate or registration has been suspended or revoked by the Board shall return the certificate or registration to the Board.

The Board further charged Ms. Park with violating its Code of Ethics, Code of Maryland Regulations (COMAR) 10.43.18.05 as follows:

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:

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- (a) Therapeutic deception,
 - (b) Non bona fide treatment, or
 - (c) A sexually exploitative relationship.

A hearing on the merits was held on June 20, 2002. Present were the following Board members, which constituted a quorum: Dr. Jack Murray, Jr., President of the Board, who presided at the hearing, Issie Jenkins, Esquire, Dr. Paula Lawrence, and Ivy Harris. Also present were Roberta Gill, Assistant Attorney General/Administrative Prosecutor, Sheryl McDonald, Ms. Gill's assistant, and Richard Bloom, Board Counsel. Ms. Park did not appear for the hearing, which had been scheduled for 11:00 a.m. At 4:40 p.m. Dr. Murray convened the hearing without Ms. Park.

EXHIBITS

The following exhibits were introduced at the hearing:

STATE'S EXHIBITS

No. 1A	Letter of Summary Suspension
1B	Summary Suspension Order
2A	Letter of Procedure
2B	Charges
2C	Summons
2D	Return Receipt
3	Order For Continuation of Summary Suspension
4A	Letter of Procedure
4B	Supplemental and Amended Charges
5	Computer Printout
6	Letter from Stack to Murphy
7	Murphy's Investigative Report
8	Montgomery County Police Report
9	Criminal Court Report

SYNOPSIS OF CASE

Ms. Gill summarized the evidence as introduced by way of the State's exhibits.

On December 19, 2001 Detective Stack, of the Montgomery County Police Department, interviewed a gentleman as that individual exited Ultima Therapy. The gentleman

indicated that he paid for and received a hand release from Ms. Park.¹ Later on Ms. Park was arrested and charged with prostitution.

FINDINGS OF FACT

The Board makes the following Findings of Fact:

1. That Mi Park is a certified as a massage therapist in Maryland.
2. That on December 19, 2001 Ms. Park gave a hand release to a male customer while employed at Ultima Therapy.
3. That Ms. Park was arrested and charged with 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 Ultima 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 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. Park’s illicit sexual conduct under the guise of massage therapy on December 19, 2001 is sufficient for the board to conclude that she violated the Massage Therapy Practice Act (the “Act”). Further that failure to return a certificate to the Board

¹ A hand release is the 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.”

after having been notified that she had been summarily suspended is also a violation of the Act.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact and Opinion, the Board concludes, as a matter of law, that Ms. Park 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; (11) has violated any provisions of this subtitle; (20) engages in conduct that violates the professional code of ethics; The Board further concludes, as a matter of law, that Ms. Park violated its Code of Ethics, Code of Maryland Regulations (COMAR) 10.43.18.05 A. 1. 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 or certificate holder's or registration holder's personal advantage, including, but not limited to, 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.

ORDER

Based on the foregoing Findings of Fact, Opinion and Conclusions of Law, it is, this 3rd day of Sept, 2002, by the Maryland State Board of Chiropractic Examiners hereby

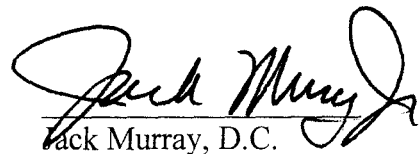
ORDERED that, pursuant to the authority vested in the Board of Chiropractic Examiners by Md. Code Ann., Health Occ. Article, § 3-5A-09, the Respondent's massage therapy certification is hereby **REVOKED**; and be it further

ORDERED that Respondent must immediately return to the Board both the wall and wallet size certificate numbered M01663; 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).

9/3/02
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.