



IN THE MATTER OF

* BEFORE THE

JAE H. SHIM, CMT

* STATE BOARD OF

Certificate No. 01660

* CHIROPRACTIC EXAMINERS

RESPONDENT

* CASE NUMBER: 05-26-M

* * * * *

FINAL ORDER TO REVOKE RESPONDENT'S MASSAGE THERAPY CERTIFICATE

Pursuant to Md. State Govt. Code Ann. ("S.G.") § 10-226(c)(1) (2004 Repl. Vol.) and the Maryland Massage Therapists Act, codified at Md. Health Occ. Code Ann. § 3-5A-01, et seq., ("the Act") (2000 Repl. Vol. and 2004 Supp.), the State Board of Chiropractic Examiners ("the Board") sent an Initial Notice of Intent to Revoke massage therapy certificate of Jae H. Shim, CMT, ("the Respondent"), Certificate No. M01660 on 19th June, 2006.

The Notice instructed the Respondent to request a hearing in writing within thirty (30) days of the Notice. More than 30 days has passed and the Respondent has failed to request a hearing. Therefore, the State Board of Chiropractic Examiners hereby **REVOKES** the massage therapy certificate of Jae H. Shim, C.M.T.

FACTS THAT WARRANT THE REVOCATION OF THE RESPONDENT'S CERTIFICATE

1. At all times relevant, the Respondent was certified by the Board to practice massage therapy in the State of Maryland. The Respondent was initially certified on November 14, 2001. The Respondent's certificate expires on October 31, 2006.

2. At all times relevant hereto, the Respondent was employed by Rainbow Spa in Howard County, Maryland.¹

3. In March 2005, the Howard County Police Department, Vice and Narcotics Division (the "Police") received information from Customer A that he had gone to Rainbow on 3/12/05 for a massage and was taken to a massage room, after paying \$60. He was instructed to disrobe and he did so, placing his wallet, keys and \$20 on the table, after which a female entered the room and had Customer A turn over on his back.

4. The female then placed some type of lubricant on her hand and began to masturbate Customer A. According to Customer A, she then removed her clothes and again masturbated him and tried to perform fellatio on him, which he told her to stop, whereupon she called him a "fag" and took his \$20 from the table. After he got dressed and was ready to leave, he was told not to come back and his tag number was allegedly recorded.

5. The Police showed Customer A photos of women working in the area, and he identified another certified massage therapist as the one who had given him the "massage" at Rainbow.

6. Based upon this, the Police contacted the Board's investigator, who informed them about other reliable reports of prostitution taking place at Rainbow. Consequently, the Police obtained a search and seizure warrant which was executed on April 7, 2005. As a result, the following occurred:

¹ Rainbow has been the action of several prior police/Board actions, as have individuals who practiced there. On April 1, 2003, Son Ok was placed on probation for three months. On April 1, 2003, Yumi Kim was placed on three months' probation. On May 15, 2003, Ho Sil Yang was placed on three months' probation.

- A. One Police Officer posed as a customer and rang the front doorbell, which was opened by a female, who acted as a manager, and who was later identified to be Myong Rader, a non-licensee, who management license was later revoked by the Howard County Department of Permits, as a result of this incident;
 - B. The rest of the police, as well as the Board's investigator, followed the officer into the building. Detective Williams went to room #0 where he found the Respondent nude with a nude male customer, whom the Respondent was straddling so that her vaginal area was directly over the customer's face and her face was above his erect penis, which she had in her hand, with some type of lubricant in her hand as well.
 - C. The massage therapist that had provided the massage to Customer A was found in the table shower with Customer B, who was lying face down and the table, nude, with soap foam on his buttocks.
 - D. In Room #6 was Customer C who was sitting on a chair, completely nude, with an erect penis. Another massage therapist was found hiding in a corner, wearing a green see-through dress that exposed her breast area and she had on no underwear. A finger condom was found on the floor near where the customer was seated. That therapist was found to have a black hair band, which later was found to have condoms secreted in the lining.
7. On April 29, 2005, the permit to operate Rainbow was revoked by the Howard County Department of Permits, as was the manager's license of Ms. Rader.

8. On April 11, 2005, the Board summonsed the Respondent to answer questions as a result of the above activities. The Respondent, under advice of her lawyer, refused to cooperate and was, consequently, sent a letter indicating that she could be charged with failure to do so.

9. Based on the above, on September 8, 2005 the Respondent pled guilty to and was convicted by the Howard County District Court of prostitution, was fined \$500 and had to pay court cost.

10. On February 22, 2006, the Respondent finally appeared at the Board for an interview, at which time she acknowledged that: she was no longer living in Maryland; she still had not surrendered her certificate; she performed sexual acts while at Rainbow from 2000-2005.

11. A massage therapist who uses her certification to perform illegal sexual activities under the guise of providing a massage, who knows that this activity is occurring in her workplace, yet does not notify the Board or other authorities in is violation of the Act and regulations thereunder.

CONCLUSION OF LAW

The Board finds that the Respondent violated § 3-5A-09:

(a) Subject to the hearing provisions of § 3-315² of this title, the Board may deny a certificate or registration to any applicant, reprimand any certificate holder or

² (b) If, after a hearing under § 3-315 of this title, the Board finds that there are grounds under subsection (a) of this section to suspend or revoke a certificate to practice massage therapy or registration to practice non-therapeutic massage, to reprimand a certificate holder or registration holder, or place a certificate holder 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 certificate or registration, reprimanding the certificate holder or registration holder, or placing the certificate holder or registration holder on probation.

registration holder, place any certificate holder or registration holder on probation, or suspend or revoke the certificate of a certificate holder or the registration of a registration holder if the applicant, certificate holder, or registration holder:

- (2) Fraudulently or deceptively uses a certificate or registration;
- (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;
- (8) Does an act that is inconsistent with generally accepted professional standards in the practice of massage therapy;
- (19) Fails to cooperate with a lawful investigation conducted by the Board;
- (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 orders the Respondent's certificate to be revoked due to violations of the following regulation, its Code of Ethics, Code of Md. Regs. tit. 10, § 43.18 (October 16, 2000). Specifically the Board charged the Applicant with violating the following subsections:

.05 Professional Boundaries, thereof:

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.

.03 Standards of Practice.

C. A certificate holder or registration holder shall:

- (8) Report to the Board of Chiropractic Examiners, or other appropriate authority, conduct in the practice of massage therapy that indicates a violation of:
 - (a) This chapter,
 - (b) Health Occupations Article, Title 3, Subtitle 5A, Annotated Code of Maryland, or
 - (c) Any other law, including but not limited to aiding or abetting the unauthorized practice of massage therapy or non-therapeutic massage; and

ORDER

Based on the foregoing Facts that Warrant Revocation of the Respondent's Certification and Conclusion of Law, by a majority vote of a quorum of the Board present, it is hereby

ORDERED on this 14th day of AUGUST 2006, that the Respondent's certificate as a Certified Massage Therapist in the State of Maryland be and is hereby **REVOKED**; and be it further

ORDERED that this is a final Order of the Maryland Board, and as such is a public document pursuant to the Maryland Public Information Act, codified at State Govt. Code Ann. § 10-611, *et seq.*, (2004 Repl. Vol.).

6/8/2006
Date

Marc M. Gamerman, D.C.
Marc M. Gamerman, D.C., President
State Board of Chiropractic Examiners

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Health Occ. Code Ann. § 3-316, you have a right to take a direct judicial appeal. A Petition for Judicial Review must be filed within thirty days of your receipt of this executed Order, and shall be made as provided for judicial review of a final decision in the APA, codified at State Govt. Code Ann. § 10-201, *et seq.*, (2004 Repl. Vol.).