



DHMH Board of Chiropractic & Massage Therapy Examiners

Maryland Department of Health and Mental Hygiene

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Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

**SENT VIA
CERTIFIED & REGULAR MAIL
Item No: 70093400001448362736**

NOV 08 2010


Danielle Chen
6519 Loch Hill Court
Baltimore, Maryland 21239

Re: Final Order of Denial

Dear Ms. Chen:

On OCT 4, 2010 2010, the Board notified you of its intent to deny your application for reinstatement as a licensed Massage Therapist and informed you that you had 30 days from the date of receipt of the Notice to request a hearing in writing. More than 30 days has elapsed, and no request has been received. Therefore, the enclosed Final Order of Denial is issued.

Sincerely,


J. J. Vallone, J.D., Executive Director
For/by dir. of Kay B. O'Hara, D.C., President
Board of Chiropractic and Massage Therapy
Examiners

Enclosure (copy to all ccs)

cc: John Nugent, Principal Counsel
Grant Gerber, Assistant Attorney General
Board Counsel
Roberta Gill, Assistant Attorney General
Administrative Prosecutor
Gloria Toney Brown, Administrative Officer
Adrienne Congo, Deputy Director

IN THE MATTER OF
DANIELLE CHEN
APPLICANT

* BEFORE THE
* STATE BOARD OF
* CHIROPRACTIC AND
* MASSAGE THERAPY EXAMINERS
* Case No. 09-51C

* * * * *

**FINAL ORDER OF DENIAL OF
REINSTATEMENT OF MASSAGE THERAPY LICENSE**

BACKGROUND

By document dated August 10, 2009, the Applicant, Danielle Chen, submitted an application for reinstatement as a licensed massage therapist to the Board of Chiropractic and Massage Therapy Examiners (the "Board"). . On that application she answered "yes" to Question 3, under Section C, Professional Competency and Background, which asks: "Within the past two years, have there been any outstanding complaints, investigations, charges, or allegations pending against you by any of the aforementioned bodies?" The Respondent also answered "yes" to Question 5 in that same section which asked: "Within the past two years, have you been arrested or pled guilty, *nolo contendere*, no contest, or been convicted or received probation before judgment of any criminal act, including DWI or DUI of alcohol or controlled substances?"

As a result of the Applicant's positive responses and failure to provide detailed answers to those responses, as required, as well as the result of the Board's investigation into the Respondent's conduct while practicing without a license, the Board

voted to initially deny the Respondent's application of reinstatement to practice massage therapy.

On OCT 4, 2010 2010, the Board issued the Applicant a Notice of Initial Denial and informed her that she had 30 days to request a hearing in writing. More than 30 days has elapsed and the Applicant has failed to make a request for a hearing in writing. Therefore, this Order of Denial is final.

**BASIS FOR DENIAL OF
REINSTATEMENT OF MASSAGE THERAPY LICENSE**

The Board, pursuant to the Maryland Chiropractic and Massage Therapy Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") § 3-101 (2009 Repl. Vol.), et seq., hereby notifies the Applicant of the Board's intent to initially deny the Applicant's application for reinstatement as a licensed Massage Therapist for violation of the following provisions of the Act:

§ 3-5A-11:

(a) Subject to the hearing provisions of § 3-315 of this title, the Board may deny a certificate or registration to any applicant, reprimand any certificate holder or 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:

(11) Has violated any provision of this subtitle;

(19) Fails to cooperate with a lawful investigation conducted by the Board;

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 bases the Denial of the Reinstatement of the license on the following violation of its Act:

§ 3-5A-04. License and registration required

Except as otherwise provided in this subtitle, an individual shall be:

- (1) Licensed by the Board before the individual may practice massage therapy in this State;

The Board further charges the Applicant with a violation of its Code of Ethics, Code Md. Regs. tit. 10 §.43.18 (October 16, 2000)

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(2) "Non bona fide treatment" means when a certificate holder or registration holder treats or examines a client in a way that involves sexual contact, but there is no therapeutic reason for the procedure, or the procedure falls outside of reasonable massage therapy or non-therapeutic massage practices.

(4) "Sexually exploitative relationship" means when sexual contact occurs in an existing therapeutic relationship, or within a period of time after formal termination of the therapeutic relationship where the client may still be vulnerable to the power imbalance that exists in the relationship between the certificate holder or the registration holder and the client, even if the relationship may appear to be mutually consensual.

(5) "Therapeutic deception" means when a certificate holder or registration holder misrepresents sexual conduct as a legitimate form of treatment.

BASES OF DENIAL

The Board bases its decision to initially deny the reinstatement of the Applicant's massage therapy license on the foregoing reasons which the Board has reason to believe are true:

1. The Applicant was originally licensed on March 22, 2006. Her license expired on October 31, 2008.

2. On August 20, 2009, the Board received information from Detective Montgomery of the Baltimore County Police Department's Vice Unit advising that the Applicant had been arrested for prostitution. She was charged with one count of prostitution-general; one count of prostitution-business; and, one count of practicing massage therapy without a license.

3. During July 2008, the Vice Unit received a complaint regarding prostitution and unlicensed massage therapists operating at Massage Universe located in Timonium Maryland. The investigation concluded with a search warrant being executed and the Applicant and two others were arrested and charged with illegal massage and prostitution.

4. During January 2009, the Vice Unit received a second complaint regarding illegal massage and prostitution occurring at the same location, which the detectives confirmed. On June 8 and 10, 2009, two separate males were stopped and questioned by the Vice Unit during a surveillance operation and both identified the Applicant, from a recent arrest photo as the female who provided them with a massage as well as manipulated their penises to the point of ejaculation.

5. The Maryland Department of Assessments and Taxation revealed that the Applicant is the resident agent for the business entity located at that address.

6. On July 21, 2009, Detective Hannon of the Vice Unit, in an undercover capacity, approached the locked front door of the Massage Universe. After knocking on the door several times, the Applicant unlocked and opened the door, after which

Detective Hannon asked, "are you open", to which she replied, "yes, we are". After the detective undressed down to his underwear and put a towel on covering his underpants, another person entered the room and eventually placed her hand on the detective's penis and asked if he "wanted". When he replied "yes", she indicated "ninety", and the detective removed \$90 from his wallet. The individual again placed her hand on the detective's penis and the detective gave a predetermined signal, after which members of the Vice Unit entered the building to execute the search warrant, where the Applicant was located in a right rear room with her client.

7. The client voluntarily agreed to answer questions and advised that he initially became aware of Massage Universe on the internet and that he visited the establishment for the first time at 1:00 PM but was told to return at 1:30. After entering the establishment, he was led to a room by someone who introduced herself as "Kelly", who turned out to be the Applicant. The Applicant told the client to remove his clothing and to lay face down on the massage table, but while she was massaging his neck and back, the police entered the establishment to execute the search and seizure warrant. The client was in possession of a condom in case sexual favors were being provided during the massage.

8. While at the establishment, another male approached in anticipation of receiving a massage and sexual stimulation. When the detectives invited him in and questioned him, he advised them that he had visited Massage Universe four times and, on three of those occasions, he received a genital massage which culminated with him ejaculating. On those occasions he paid \$70 for an hour massage and an additional \$30-40 for the genital massage.

9. The Board's Investigator attempted to reach the Applicant to get a detailed response to her "yes" responses, as required on the application: He tried on the following dates: 10/29, 11/3 and 11/12/09; 5/14, 6/1, 6/8 6/14 and 6/15/10. The Applicant failed to return any of the Investigator's calls. On 6/1/10, the Investigator mailed a letter via certified mail to the Applicant's address as per her application, requesting that she provide a detailed explanation of the events that occurred on July 21, 2009 which resulted in her arrest. The United States Postal Service's on-line track and confirm site revealed that the certified mail was delivered on 6/9/10. On 6/14/10, the Board received a signed, return receipt, which confirmed that the letter addressed to the Applicant was delivered.

10. As set forth above, by failing to complete the application, the Applicant lacks the moral character to qualify for reinstatement as a Massage Therapist in Maryland.

11. As set forth above, the Applicant failed to meet the qualifications to become reinstated as a Massage Therapy.

12. As set forth above, the Applicant violated the Act and her application for reinstatement as a Massage Therapist should be Denied for licensure.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 8th day of November, 2010, hereby ORDERED that the application for reinstatement as a licensed massage therapist of Danielle Chen is hereby **DENIED**.


It is further ORDERED that this Final Order shall be a public document, pursuant to Md. State Govt. Code Ann. § 10-617(h) (2009 Repl. Vol.).

NOTICE OF RIGHT OF APPEAL

In accordance with Md. Health Occ. Code Ann. § 3-316 (2009 Repl. Vol.) and the Administrative Procedure Act, Md. State Govt. Code Ann. § 10-201, et seq., (2009 Repl. Vol.) you have a right to a direct judicial appeal of this decision. A petition for appeal of the Final Board Order shall be filed within thirty days from your receipt of this Final Order and shall be made in accordance with the forecited authority.

NOV 08 2013

Date


J. J. Vallone, J.D., Exec. Dir., for/by dir.
of Kay O'Hara, D.C., President
Board of Chiropractic and Massage
Therapy Examiners