

IN THE MATTER OF * BEFORE THE
HYNOUN CROWLEY * MARYLAND STATE BOARD OF
RESPONDENT * 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 July 12, 2001, the Board voted to summarily suspend the massage Therapy Certificate of Hynoun Crowley, Respondent, after having received information from the Montgomery County Police Department that she had been arrested and charged with criminal violations to which she was found not guilty. Ms. Crowley 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. Crowley failed to appear at the Show Cause hearing scheduled for August 30, 2001. The Board voted to continue the summary suspension and Ms. Crowley requested a hearing on the merits, which was scheduled for February 14, 2002.

On or about October 10, 2001 the Board charged Ms. Crowley with violations of certain provisions of the Massage Therapy Practice Act, (the "Act"), H.O. § 3-5A-01, *et seq.* Specifically, Ms. Crowley 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;

Subsequently, the Board learned that Ms. Crowley falsified her application for certification. She had not graduated from the Virginia Learning Institute as claimed. On or about October 29, 2001, the charges were amended to include:

H.O. §3-5A-09:

- (1) Fraudulently or deceptively obtains or attempts to obtain a certificate or registration for the applicant or for another;
- (21) Knowingly does an act that has been determined by the board to be a violation of the Board's regulations;

H.O. §3-5A-05:

- (b) To qualify for a certificate, an applicant shall be an individual who:
 - (1) Is of good moral character;

COMAR 10.43.17

.04 Application for Certification

A. An applicant shall:

- (4) Provide evidence that the applicant is:

(a) Of good moral character;

A hearing was held on the merits on February 14, 2002. Present were the following Board members, which constituted a quorum: Dr. Jack Murray, Jr., President of the Board, who presided at the hearing; Dr. Marc Gamerman; Ivy Harris; Dr. Brian Ashton; Dr. Paul Conway. Also present were Robert Gill, Assistant Attorney General/Administrative Prosecutor; Richard Bloom, Board Counsel; William Littleton, Respondent's Counsel; Respondent, Hynoun Crowley; James J. Vallone, Board Executive Director and Gwendolyn Wheatley, Board Deputy Director.

EXHIBITS

The following exhibits were introduced at the hearing:

STATE'S EXHIBITS

No. 1	Computer Printout
2A	Letter to Ms. Crowley
2B	Order For Summary Suspension
2C	Return Receipt
3	Order For Continuation of Summary Suspension
4A	Letter to Ms. Crowley
4B	Charges
4C	Summons & Notice Of Hearing
5A	Letter to Ms. Crowley
5B	Amended Charges
6A	Investigative Report
6B	Note Form Detective Sheridan
6C	Police Incident Report
7	Application
8A	Fax cover page
8B	Documents From Virginia Learning Institute

RESPONDENT'S EXHIBIT

1	Criminal Disposition
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SYNOPSIS OF CASE

Mr. Littleton generally objected to the hearsay nature of various aspects of the testimony of the State's witnesses, to the admissibility of various documents, and to Board Counsel advising Dr. Murray as the hearing proceeded. In addition, he argues that, Ms. Crowley's massage therapy certificate should not be revoked because she was found not guilty in the criminal proceeding.

Ms. Gill called detective John Sheridan of the Montgomery County Police Department's Vice and Intelligence section of the Special Investigations division. Detective Sheridan testified that on May 17th 2001, after having conducted surveillance at Classic Therapy, he and other officers entered the establishment and executed a search warrant. After forcing open a locked door, he observed a naked male holding a pair of jeans in front of him and a naked Ms. Crowley run behind a screen in the room. (T. 24 12-23). After allowing Ms. Crowley to dress, interviews were conducted. The male told the Detective that he was there for a hand release for which he paid fifty dollars (\$50.00).¹ (T. 26 5-9). Ms. Crowley was arrested and charged with occupying a bawdyhouse for which she was found not guilty.

During cross-examination it became evident that Detective Sheridan's notes differed from the police report, which was written by one of the other officers, regarding whether or not Ms. Crowley was naked when the Detective entered the room or whether she was wearing a sheer gown. The police report indicates she was naked and the Detective's notes indicate she was wearing a sheer gown. Detective Sheridan insists she was naked when he entered the room. In her own testimony Ms. Crowley denies having

¹ A hand release is the manual stimulation of the penis.

been naked. (T. 119-6-11). On cross-examination she stated that she had been wearing a two piece short blue dress and no shoes. (T. 150 2-14)

The Board's Investigator, Paul Murphy, testified that after having received the police report, he investigated further and learned that Ms. Crowley was not a graduate of the Virginia Learning Institute ("VLI") as indicated on her application for massage therapy certification. (E. 7). Upon further investigation he found that the transcript submitted by Ms. Crowley, purportedly from VLI, was fraudulent. (T. 59-60).

The Board heard telephonic testimony from Susan Bowen, Director of the Massage Therapy Program at VLI who confirmed that Ms. Crowley had not been enrolled at the school. She described an incident involving a break in at the school in which the computer hard drive, containing, among other things, transcripts and certificates had been stolen. (T. 86 4-12).

Ms. Crowley insists that she was a student at VLI. She made weekly cash payments totaling four thousand eight hundred dollars (\$4800.00) to her teacher Jeff Lee for which she has no receipts.² He took her application from her and was her only teacher. According to Ms. Bowen, VLI's former Director, Katherine Cheri, signed up new students, collected money from all students for which receipts were provided, and was responsible for bookkeeping. (T. 90-93). The investigation of the theft of the hard drive centers around the schools teachers. (T. 94 19-21).

Ms. Crowley denies having provided her male customer a hand release and she denies knowing that the VLI transcript was fraudulent. (T. 119-120). She was only able to stay at the VLI graduation ceremony a short period of time as she had an immigration problem to deal with. Jeff Lee gave her a graduation certificate subsequent to VLI's

graduation ceremony. (T. 128-129). In the course of cross-examination by Board members, Ms. Crowley displayed little knowledge of the practice of massage therapy. (T. 144 18-25; 145 1-5; 148 4-21).

Tuan La, Ms. Crowley's witness, himself a student at VLI at the time Ms. Crowley is alleged to have been enrolled there, testified that he is not aware of any one, including himself, making tuition payments to Jeff Lee. He stated that Payments were made to a person by the name of Kathy.³ (T. 168 4-25).

FINDINGS OF FACT

The Board makes the following Findings of Fact:

1. That Hynoun Crowley is a certified as a massage therapist in Maryland.
2. That on May 17, 2001, Ms. Crowley was arrested at an establishment called Classic Therapy when she was found nude in a room with a customer.
3. That Ms. Crowley is not a graduate of Virginia Learning Institute and a document purporting to be her transcript is fraudulent.
4. That a computer hard drive containing student transcripts was stolen from Virginia Learning Institute.

OPINION

Ms. Crowley's acquittal in the criminal matter is not dispositive in the administrative proceeding. This is essentially so because of the differing elements and standards of proof. *One Lot Emerald Cut Stones and One Ring v. United States*, 409 U.S. 232 (1972).

² Jeff Lee is also known as Jeff Siebold.

³ Presumably Mr. La is referring to Katherine Cheri

Md. Code Ann., State Gov't, § 10-208(c) provides for the admission of hearsay evidence in administrative hearings. The Court in *Cade v. Charles H. Hickey School*, 80 Md. app. 721 (1989) noted that in an administrative hearing hearsay evidence that is credible and probative is admissible. The Board views the testimony offered by the State's witnesses as having met this standard. Further, pursuant to the Board's Regulations, it is appropriate for Board Counsel to advise the Board during the course of a hearing.⁴

Although Ms. Crowley may have paid four thousand eight hundred dollars (\$4800.00) to Jeff Lee, the Board believes that she is not a graduate of VLI and that documentation to the contrary is fraudulent. Her behavior, while in the employ of Classic Therapy, confirms her lack of good moral character.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact and Opinion, the Board concludes, as a matter of law, that Ms. Crowley violated H.O. § 3-5A-09(a)(1) fraudulently or deceptively obtains or attempts to obtain a certificate or registration for the applicant or for another; (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; (21) knowingly does an act that has been determined by the Board to be a violation of the Board's regulations. The Board further concludes, as a matter of law, that Ms. Crowley violated H.O. § 3-5A-05(b)(1) to qualify for a certificate, an applicant shall be an individual who is of good moral character. The Board also concludes, as a matter of law that Ms. Crowley violated Code of Maryland Regulations (COMAR)

⁴ COMAR 10.43.02.05B(2) "The presiding officer may also request a representative of the Office of the Attorney General to act as legal advisor to the Board as to questions of evidence and law."

10.43.17.04A(4)(a) an applicant shall provide evidence that the applicant is of good moral character.

ORDER

Based on the foregoing Findings of Fact, Opinion and Conclusions of Law, it is, this 2nd day of July, 2002, by the Maryland State Board of Chiropractic Examiners hereby

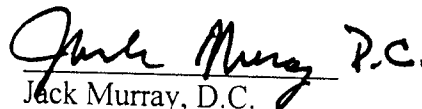
ORDERED that, pursuant to the authority vested in the Board of Chiropractic Examiners by Md. Code Ann., Health Occ. Article, § 3-5A-09, Ms. Crowley's ability to practice massage therapy in Maryland is hereby **REVOKED**; and be it further

ORDERED that Ms. Crowley immediately return to the Board both the wall and wallet size certificate numbered M01252; and be it further

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

JUL 02 2002

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, Conclusions 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.