

890IN THE MATTER OF

* **BEFORE THE STATE**

CARRIE FULLER, LMT

* **BOARD OF CHIROPRACTIC**

LICENSE NO. M04163

* **AND MASSAGE THERAPY**

Respondent

* **EXAMINERS**

* **Case No. 09-68M**

* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Chiropractic and Massage Therapy Examiners (the "Board"), and subject to Md. Health Occ. Ann. § 3-101, et seq., (2009 Repl. Vol.) (the "Act"), the Board charged Carrie Fuller, L.M.T., (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of the following provisions of § 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:

- (8) Does an act that is inconsistent with generally accepted professional standards in the practice of massage therapy;
- (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 charged the Respondent with a violation of its Code of Ethics, Code of Md. Regs. tit. 10, § 43.18 (October 16, 2000):

.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

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- (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.

The Respondent was given notice of the issues underlying the Board's charges by a letter dated March 4, 2010. Accordingly, a Case Resolution Conference was held on March 25, 2010, and was attended by Daniel Kraus, D.C., and Karen Biagiotti, LMT, Board members, Adrienne Congo, Deputy Director of the Board, and Grant Gerber, Counsel to the Board. Also in attendance were the Respondent, who knowingly and voluntarily waived her right to an attorney, and the Administrative Prosecutor, Roberta Gill.

Following the Case Resolution Conference, the parties and the Board agreed to resolve the matter by way of settlement. The parties and the Board agreed to the following:

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was issued a license to practice massage therapy. The Respondent was first issued a license on June 4, 2009. The Respondent's license expires on October 31, 2010.
2. At all times relevant hereto, the Respondent worked for a massage establishment on Old Court Road in Baltimore County Maryland. Owner A owns and manages said establishment.
3. By a form dated October 21, 2009, Client A¹ (Complainant) filed a complaint with the Board indicating that, on October 6, 2009, while receiving a massage from the Respondent, the following occurred:
 - A. The Complainant went to the establishment for pain in his right shoulder;
 - B. According to the Complainant, the Respondent told the Complainant that: he smelled good; she started smelling him; she told him that he was "cute and sexy"; and, other inappropriate statements and actions.
4. Later, the Owner reported that the Respondent left to go to dinner afterwards and never came back to work, although she was informed that another client was waiting on her. The Respondent called the establishment to say that she was lost and received explicit instructions from the receptionist as to how to get back, but never returned.
5. When confronted by the Owner on the next day about her behavior the evening before with the Complainant, the Respondent did not appear to remember and had no

¹The client's name is confidential.

response.²

6. As a result of the complaint, the Owner terminated the Respondent's employment that next day.

7. As set forth above, by her unprofessional conduct, the Respondent violated the Act and regulations thereunder.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated § 3-5A-11 (a), (8), (20), (21) and Title 10, § 43.18.05 A (1) and (2); B (1), (2) and (3).

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 1st day of July, 2010, by a majority of a quorum of the Board,

ORDERED that the Respondent's license to practice massage therapy is hereby **REVOKE**D FOR TWO YEARS, subject to the following condition:

1. The Respondent shall submit to an evaluation and professional counseling by a Board-approved professional counselor, the frequency and length to be determined by the counselor;
2. All costs of complying with this Order shall be borne by the Respondent.

ORDERED that, at the end of the two year period, before the Respondent

²Despite her claim of not remembering the incident, the Respondent denied the events described herein

may petition to have her license reinstated, she must first submit a certification of competency from her provider. The Respondent must further meet all other requirement for reinstatement, e.g., the requisite amount of CEUs and pay the fees.

ORDERED that the Consent Order is effective as of the date of its signing by the Board; and be it

ORDERED that, should the Board receive a report that the Respondent has violated this Order, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including permanent revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order shall be on the Respondent to demonstrate compliance with the Order or conditions; and be it further

ORDERED that for purposes of public disclosure, as permitted by Md. State Gov't. Code Ann. §10-617(h) (Repl. Vol. 2009), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order, and that the Board may also disclose same to any national reporting data bank that it is mandated to report to.

Approved for (by directory)

Kay O'Hara, D.C., President
State Board of Chiropractic and
Massage Therapy Examiners

when she was interviewed by the Board's Investigator.

CONSENT OF CARRIE FULLER, LMT

I, Carrie Fuller, by affixing my signature hereto, acknowledge that:

1. I am not represented by an attorney and have knowingly and voluntarily agreed to proceed without one;
2. I am aware that, without my consent, my license to practice massage therapy in this State cannot be limited except pursuant to the provisions of § 3-5A-11 of the Act and the Administrative Procedure Act (APA) Md. State Govt. Code Ann. §10-201, et seq., (2009 Repl. Vol.).
3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Consent Order, I hereby consent and admit to the foregoing Findings of Fact, Conclusions of Law and Order, provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in § 3-315 of the Act and §10-201, et seq., of the APA, and any right to appeal as set forth in § 3-316 of the Act and §10-201, et seq., of the APA. I acknowledge that my failure to abide by the conditions set forth in this Order and, following proper procedures, I may suffer disciplinary action, possibly including revocation, against my license to practice massage therapy in the State of Maryland.

7/1/2010
Date

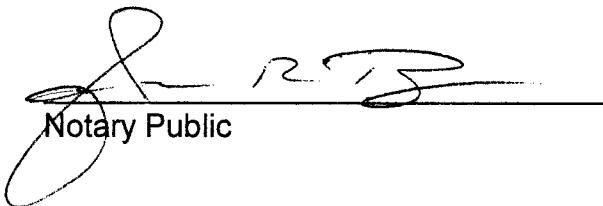
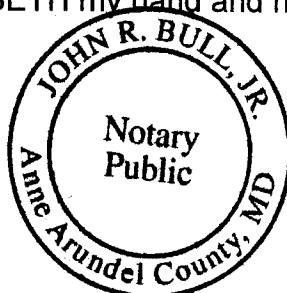
Carrie Fuller
Carrie Fuller

STATE OF Maryland:

CITY/COUNTY OF Anne Arundel:

I HEREBY CERTIFY that on this 1st day of July, 2010, before me, Carrie Fuller, a Notary Public of the foregoing State and (City/County), (Print Name) personally appeared Carrie Fuller, LMT, and License No. M04163, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.



A handwritten signature of "John R. Bull, Jr." followed by the title "Notary Public".

My Commission Expires: 5-24-14