

IN THE MATTER OF
DEBORAH S. SMITH, LMT

RESPONDENT

LICENSE NUMBER: M00649

* BEFORE THE MARYLAND
* BOARD OF CHIROPRACTIC
* AND MASSAGE THERAPY
* EXAMINERS
* CASE NUMBER: 10-28M

* * * * *

FINAL CONSENT ORDER

The Maryland State Board of Chiropractic and Massage Therapy Examiners (the "Board") charged Deborah S. Smith, LMT (the "Respondent") (D.O.B. 01/27/1958), License Number M00649, with violating the Maryland Chiropractic Act (the "Act"), Md. Health Occ. Code Ann. ("H. O.") §3-101 *et seq.* (2009 Repl. Vol.). The pertinent provisions state:

H.O. §3-5A-11 Denials; Suspensions; Revocations

(a) *Denial of license or registration-* Subject to the hearing provisions of § 3-315 of this title, the Board may deny a license or registration to any applicant, reprimand any licensee or registration holder, place any licensee or registration holder on probation, or suspend or revoke the license of a licensee or the registration of a registration holder if the applicant, licensee, or registration holder:

(8) Does an act that is inconsistent with generally accepted professional standards in the practice of massage therapy;

(9) Is negligent 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.

Code Md. Regs. tit. 10, § 43.17

.06 Certification.

C. Display of Certificate. A certificate holder shall display the certificate and any current renewal certificate conspicuously in the space where the certificate holder is engaged in practice, including in any temporary space or in any exhibit location.

Code Md. Regs. tit. 10, § 43.18

.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 [.]

D. A certificate holder or registration holder may not:

(1) Misrepresent professional credentials; qualifications, education, or affiliations;

(2) Knowingly engage in or condone behavior that:

(a) Is fraudulent,

(b) Is dishonest,

(c) Is deceitful, or

(d) Involves moral turpitude [.]

FINDINGS OF FACT

The Board finds that:

1. At all times relevant hereto, Respondent was and is licensed to practice massage therapy in Maryland. Respondent first obtained her massage therapy license on or about March 10, 2000. Her current license is set to expire on October 30, 2010.
2. At all times relevant to the Charges, Respondent owned Royal Treatment, Inc. ("Royal Treatment"), a massage therapy establishment, located at 81 East Main Street, Westminster, MD.
3. In May 2010, the Board discovered that the Respondent allowed an unlicensed individual, to practice massage therapy at Royal Treatment.
4. The Board further discovered that the Respondent allowed employee MW¹ to perform massage therapy without a license, from approximately January 2009 through March 2010.
5. On or about July 1, 2010, the Respondent was interviewed, under oath, by the Board Investigator.
6. During that interview the Respondent admitted that she never verified whether or not MW possessed a massage therapy license/registration.
7. During the interview, the Respondent told the Board Investigator that her license was not displayed inside Royal Treatment. The Respondent also told the Board investigator that she could not find her license.
8. Respondent's conduct as set forth above is a violation of H. O. § 3-5A-11(a) (8), (9), (20), (21) and Code Md. Regs. tit. 10, § 43.18.

¹ MW's initials are being used to protect her identity. Respondent knows the identity of MW.

ORDER

Based on the foregoing findings of fact and conclusions of law, it is this 14th day of October 2010, the Board, by a majority of the full authorized membership of the Board, hereby:

ORDERED that the Respondent is hereby **SUSPENDED** for a period of sixty (60) days and said suspension is immediately stayed; and it is further

ORDERED that the Respondent shall be placed on **PROBATION** for a period of one (1) year subject to the following conditions:

1. The Respondent shall pay a fine, in the amount of, one thousand dollars (\$1000).
2. The Respondent shall take and pass a Board approved ethics course.
3. The Respondent shall take and pass the Board jurisprudence examination.

ORDERED if the Respondent has violates the Act or if the Respondent violates any conditions of this Order or of probation, the Board may take further disciplinary action against the Respondent's license, including suspension or revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of this Order or of probation shall be on the Respondent to demonstrate compliance with this Order or conditions; and it is further

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice massage therapy in Maryland; and be it further

ORDERED that, at the end of the probationary period, the Respondent may file a written petition with the Board to be reinstated without any conditions or restrictions on

her license, provided that she can demonstrate compliance with the conditions of this Order. Should the Respondent fail to demonstrate compliance, the Board may impose additional terms and conditions of probation, as it deems necessary;

ORDERED that the Respondent shall be responsible for all costs incurred under this order; and it is further

ORDERED that the effective date of this order is the date that it is signed by the Board; and it is further

ORDERED that for purposes of public disclosure and as permitted by Md. State Govt. Code Ann. § 10-617(h) (2009 Repl. Vol.), this document consists of the contents of the foregoing findings of fact, conclusions of law, and order, and is reportable to any entity to whom the Board is obligated to report; and it is further

ORDERED that this order is a public document pursuant to Md. State Govt. Code Ann. §§ 10-601 et seq. (2009 Repl. Vol.).

10-14-10
Date

Dr. Stephanie Chaney, V. Pres.



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

CONSENT OF DEBORAH S. SMITH, LMT

I, Deborah S. Smith, LMT, by affixing my signature hereto, acknowledge that:

1. I am represented by Louise J. Glick, Esquire.
2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 3-315 (2009 Repl. Vol.) and Md. State Govt. Code Ann. §§ 10-201 *et seq.* (2009 Repl. Vol.).
3. I acknowledge the validity and enforceability of this Consent Order as if entered after a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law. I am waiving those procedural and substantive protections.
4. I voluntarily enter into and consent to the foregoing findings of fact, conclusions of law, and order and agree to abide by the terms and conditions set forth herein as a resolution of the Board's case based on the findings set forth herein.
5. I waive my right to contest the findings of fact and conclusions of law, and I waive my right to a full evidentiary hearing, and any right to appeal this consent order as set forth in Md. Health Occ. Code Ann. § 3-315 (2009 Rep. Vol.) and Md. State Govt. Code Ann. §§ 10-201 *et seq.* (2009 Rep. Vol.).
6. I acknowledge that by failing to abide by the terms and conditions set forth in this Consent Order, and, following proper procedures, I may be subject to disciplinary action, which may include revocation of my license to practice massage therapy in the State of Maryland.

7. I sign this consent order, without reservation, as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this order.

9/29/2010
Date

Deborah S. Smith
Deborah S. Smith

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF HOWARD

I hereby certify that on this 29th day of September, 2010, before me, a Notary Public for the State of Maryland and the City/County aforesaid, personally appeared Deborah S. Smith and made oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

AS WITNESS my hand and Notarial Seal.

Nicole L. Minor
Notary Public

NICOLE L. MINOR
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires March 21, 2014

My Commission Expires: 3/21/2014