

IN THE MATTER OF
PAUL A. MULLIGAN,
APPLICANT

* BEFORE THE BOARD OF
* CHIROPRACTIC & MASSAGE
* THERAPY EXAMINERS
* CASE NUMBER: 10-23M

* * * * *

**FINAL ORDER OF DENIAL OF APPLICATION FOR LICENSURE OR
REGISTRATION TO PRACTICE MASSAGE THERAPY**

The State Board of Chiropractic & Massage Therapy Examiners ("the Board") notified **Paul A. Mulligan, ("the Applicant")**, DOB: **04/16/1983**, of the Board's Initial Denial of his Application for Licensure or Registration to Practice Massage Therapy under the Maryland Chiropractic Act ("the Act"), Md. Health Occ. Code Ann. ("Health Occ.") §§ 3-5A-01 *et seq.* (2009 Repl. Vol.). The pertinent provisions state:

Health Occ. §3-5A-06 Qualification for Licensure or Registration

(a) *Qualifications for certification.* - To qualify for a license, an applicant shall be an individual who:

- (1) Is of good moral character[;].

Health Occ. § 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:

- (1) Fraudulently or deceptively obtains or attempts to obtain license or registration for the applicant or for another;
- (4) Is convicted of or pleads guilt 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[;].

The Board notified the Applicant that this Final Order would be executed thirty (30) days from the Applicant's receipt of the Board's notification, unless the Applicant requested a hearing.

On August 17, 2010 and on September 16, 2010, the Applicant was served with the Board's Notice of Initial Denial of his Application for Licensure or Registration to practice massage therapy (the "Notice"). The Applicant requested a hearing by his letter dated October 6, 2010. The Board by letter dated October 27, 2010, advised Applicant that the hearing was scheduled for December 9, 2010 at 1:30 p.m. at Board Offices, 4201 Patterson Ave., Baltimore, MD 21215. By an email transmission to Prosecutor, Ms. Janet Brown, Esq. of December 1, 2010 (9:59 p.m.) Applicant submitted his withdrawal from the scheduled hearing.

FINDINGS OF FACT

1. On or about March 5, 2010, the Applicant submitted an Application for Licensure or Registration in Massage Therapy (the "Application") in order to be a licensed or registered massage therapist in the State of Maryland in accordance with Health Occ. § 3-5A-04 (License and Registration Required). On the Application, the Applicant answered "NO" to question D, which states:

Have you ever been arrested, or entered a plea of guilty, no contest, *nolo contendere* or been convicted of a crime or received probation before judgment in any jurisdiction for a crime other than a minor traffic violation?

2. The Applicant signed the Application, stating that the information provided in the Application was true and correct.

3. On or about May 5, 2010, the Board conducted a Maryland Judiciary Case Search of the Applicant's name and date of birth as part of the application processing procedure. The search noted a match for a closed case in the District Court for

Montgomery County – Criminal System, Case Number 1D00140680, Tracking Number 992001207820, related to an incident involving the Applicant occurring on or about November 8, 2003 involving possession of Controlled Substance (CDS) paraphernalia.

4. The case search also noted a match for a closed case in the District Court for Anne Arundel County – Criminal System, Case Number 3A00198110, Tracking Number 020004968771, related to an incident involving the Applicant occurring on or about September 21, 2008 involving possession of CDS paraphernalia and possession of marijuana.

5. On June 4, 2010, the Board sent a Subpoena *Duces Tecum* to the District Court for Anne Arundel County and the District Court for Montgomery County requesting copies of the Applicant's cases.

6. On June 14, 2010, the Board received the Applicant's case information from both District Courts.

7. Based on the information received, the Board learned that on March 11, 2004, the Applicant appeared in the District Court for Montgomery County in Case Number 1D00140680, regarding a charge of possession of CDS paraphernalia. This charge against the Applicant was disposed by *Nolle Prosequi*.

8. Additionally, the Board learned that on June 10, 2009, the Applicant appeared in the District Court for Anne Arundel County in Case Number 3A00198110, regarding a charge of possession of marijuana and a charge of possession of CDS paraphernalia.

9. The charge of possession of CDS paraphernalia against the Applicant was disposed by *Nolle Prosequi*.

10. The Applicant entered a plea of guilty to the charge of possession of marijuana. The Applicant was sentenced to supervised probation before judgment through December 10, 2010 and ordered to pay fines and costs totaling \$250.00.

11. The Applicant was also ordered to attend one narcotics anonymous meeting per week for 14 weeks. It was also ordered that after completing the meetings and paying the fines and costs, the Applicant would be moved from supervised probation to unsupervised probation.

12. The Board may deny a license or registration to any applicant who engages in any of the prohibited acts under the Act, or to any applicant who is not judged to be of good moral character.

13. The Applicant's plea of guilty to possession of marijuana and sentence of supervised probation before judgment on June 10, 2009, less than one year prior to submitting the Application, constitutes a violation of Health Occ. §3-5A-11(a)(4), pleading guilty to a crime of moral turpitude.

14. The Applicant's failure to disclose the plea of guilty to possession of marijuana and sentence of supervised probation before judgment on June 10, 2009 on his Application constitutes a fraudulent or deceptive attempt to obtain a license or registration in violation of Health Occ. §3-5A-11(a)(1).

15. The Applicant's plea of guilty to possession of marijuana and sentence of supervised probation before judgment on June 10, 2009, less than a year prior to submitting the Application, constitutes, in whole or in part, a failure to meet the prerequisite of good moral character to practice in the State of Maryland under Health Occ. §3-5A-06(a)(1).

16. The Applicant's failure to disclose the plea of guilty and sentence of supervised probation before judgment on June 10, 2009 on the Application constitutes, in whole or in part, a failure to meet the prerequisite of good moral character to practice in the State of Maryland under Health Occ. § 3-5A-06(a)(1).

CONCLUSION

Based upon the foregoing Findings of Fact, the Board concludes that the Applicant fails to meet the prerequisite of good moral character and, therefore, fails to meet the qualifications for licensure or registration under Health Occ. § 3-5A-06(a)(1). The Board further concludes that the Applicant violated Health Occ. §§ 3-5A-11(a)(1) and (a)(4) of the Act, which is an additional basis for denial of the Application for licensure or certification.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 9th day of December 2010 by the majority of the Board, hereby:

ORDERED that the Application for Licensure or Registration of **Paul A. Mulligan**, to Practice Massage Therapy is hereby **DENIED**; 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 final and a public document pursuant to Md. State
Govt. Code Ann. §§ 10-601 *et seq.* (2009 Repl. Vol.).

12-9-2010
Date

Kay B O'Hara
Kay B. O'Hara D.C., President
Board of Chiropractic & Massage
Therapy Examiners
By direction of the Board