

**STATE OF RHODE ISLAND  
DEPARTMENT OF HEALTH  
THREE CAPITOL HILL  
PROVIDENCE, RHODE ISLAND 02908**

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<b>In the Matter of:</b>	:	
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	:	<b>Case No.: C24-0150B</b>
<b>Hye Park,</b>	:	<b>Massage Therapist</b>
<b>Respondent.</b>	:	
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**DECISION**

**I. INTRODUCTION**

This matter arose pursuant to a Summary Suspension of Massage Therapist License (“Suspension”) and Specification of Charges and Notice of Administrative Hearing (“Notice”) issued on April 8, 2024 and May 22, 2024 respectively to Hye Park (“Respondent”) by the Department of Health (“Department”). The Respondent holds a license (“License”) as a massage therapist pursuant to R.I. Gen. Laws § 23-20.8-1 *et seq.* A hearing was held on July 16, 2024, at which time the Respondent did not appear. Pursuant to Section 4.6.1 of 216-RICR-10-05-4 *Practices and Procedures Before the Rhode Island Department of Health* Regulation (“Hearing Regulation”), service may be made by hand delivery or first class mail and service is complete upon mailing, even if unclaimed or returned, when sent to the last known address of the party. In this matter, the Respondent was sent the Notice by hand delivery.<sup>1</sup> Since the Respondent was adequately noticed of hearing, a hearing was held before the undersigned on July 16, 2024.<sup>2</sup>

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<sup>1</sup> The Notice was hand delivered to the Respondent’s address on record with the Department. Department’s Exhibit Four (4). The Notice scheduled the hearing for a date in June. The Respondent emailed the Department requesting the June hearing be rescheduled as she would be out of the country on the June date. Department’s Exhibits One (1) (copy of email chain showing Respondent emailing requesting a new date and the Department’s email response dated June 5, 2024 with the new July 16, 2024 hearing date); Two (2) (July 10, 2024 email to Respondent reminding her of the July date for hearing and forwarding her the Department’s proposed exhibits at hearing); and Three (3) (Department email dated July 10, 2024 to undersigned and Respondent with new July date of hearing).

<sup>2</sup> Pursuant to a delegation of authority by the Director of the Department of Health.

Additionally, Section 4.13.2 of the Hearing Regulation provides that a judgment may be entered based on pleadings and/or evidence submitted at hearing by a non-defaulting party. The Department was represented by counsel who rested on the record.

## **II. JURISDICTION**

The administrative hearing was held pursuant to R.I. Gen. Laws § 42-18-1 *et seq.*, R.I. Gen. Laws § 23-20.8-1 *et seq.*, R.I. Gen. Laws § 42-35-1 *et seq.*, and the Hearing Regulation.

## **III. ISSUE**

Whether the Respondent violated R.I. Gen. Laws § 23-20.8-6 and 216-RICR-40-05-10 *Massage Therapists* (“Licensing Regulation”) and if so, what is the appropriate sanction.

## **IV. MATERIAL FACTS**

Laura Serapiglia (“Serapiglia”) testified on behalf of the Department. She testified the Department received information about the Respondent from the Providence police after the police executed a search warrant at the Respondent’s business which is a massage parlor. She testified she received copies of the search warrant and police reports. She testified the Respondent is listed on the business’ corporate documents as the business owner, and the dates of the corporate documents overlap with the police investigation. She testified that during the police investigation, several females were observed or known to be giving massages and offered unprofessional and inappropriate services. She testified the police detained several women, and she checked their names as listed on the police report on the Department licensing database. She testified she checked the database by name, variations of names, and dates of birth and none of the women held licenses as massage therapists. Department’s Exhibits Seven (7) (initial police report dated February 1, 2024) and Nine (9) (secretary of state’s business record showing the Respondent as owner of the massage parlor located at the address where the police executed the search warrant).

A review of the complaint for search warrant and affidavit and police reports show that the police sent undercover officers three (3) times to the spa and for each time, the massage therapist offered to perform various sex acts for different prices for cash (which the officers declined). When the search warrant was executed, the police found numerous condom packages, lubricant, and \$780 in cash. The police also observed a naked man and woman in a room and a man having sex with one of the workers at the location. A total of eight (8) women from the spa were detained by the police. Department's Exhibit Six (6) (complaint for search warrant and affidavit); Seven (7) (police report); and Eight (8) (supplemental police report dated March 1, 2024).

The Notice indicated that in February, 2024, the Respondent was observed to be acting as the manager for the massage parlor in question and greeted a customer and took the customer into a room with an unlicensed massage therapist, and that the Respondent reviewed the business CCTV and acted as manager while the regular manager was on vacation.

## V. DISCUSSION

### A. **Legislative Intent**

The Rhode Island Supreme Court has consistently held that it effectuates legislative intent by examining a statute in its entirety and giving words their plain and ordinary meaning. *In re Falstaff Brewing Corp.*, 637 A.2d 1047 (R.I. 1994). If a statute is clear and unambiguous, “the Court must interpret the statute and must give the words of the statute their plain and ordinary meanings.” *Oliveira v. Lombardi*, 794 A.2s 453, 457 (R.I. 2002) (citation omitted). The Supreme Court has also established that it will not interpret legislative enactments in a manner that renders them nugatory or that would produce an unreasonable result. See *Defenders of Animals v. DEM*, 553 A.2s 541 (R.I. 1989) (citation omitted).

## **B. Standard of Review for an Administrative Hearing**

It is well settled that in formal or informal adjudications modeled on the Federal Administrative Procedures Act, the initial burdens of production and persuasion rest with the moving party. 2 Richard J. Pierce, *Administrative Law Treatise* § 10.7 (2002). Unless otherwise specified, a preponderance of the evidence is generally required in order to prevail. *Id.* See *Lyons v. Rhode Island Pub. Employees Council 94*, 559 A.2d 130m 34 (R.I. 1989) (preponderance standard is the “normal” standard in civil cases). This means that for each element to be proven, the fact-finder must believe that the facts asserted by the proponent are more probably true than false. *Id.* When there is no direct evidence on a particular issue, a fair preponderance of the evidence may be supported by circumstantial evidence. *Narragansett Electric Co. v. Carbone*, 898 A.2d 87 (R.I. 2006).

## **C. Relevant Statutes and Regulations**

R.I. Gen. Laws § 23-20.8-3 provides in part as follows:

Practice of massage therapy — License required — Use of title limited — Qualifications for licenses continuing education — Fees. (a) A person shall not practice, or hold himself or herself out to others as practicing massage therapy, or as a massage therapist, without first receiving from the board a license to engage in that practice.

R.I. Gen Laws § 23-20.8-6 provides as follows:

Whenever the board, or board designee, or any city or town licensing authority, shall have reason to believe or that any person licensed under this chapter to practice massage therapy has been convicted of any sexual offense, or that any person is practicing massage in violation of this chapter or regulations promulgated under this chapter, the board, or board designee, or any city or town licensing authority, may, pending an investigation and hearing, suspend, for a period not exceeding ninety (90) days, any license issued under authority of this chapter and may, after due notice and hearing, revoke the license if he or she finds that the person practicing massage is in violation of those rules and regulations or any provision of this chapter. The holder of a license shall, upon its revocation promptly surrender it to the board, or board designee, or any city or town licensing authority.

R.I. Gen. Laws § 23-20.8-11 provides as follows:

Penalties. (a) Any person who practices massage therapy or acts in any capacity where a license is required by this chapter, without a license provided for in this chapter, shall be guilty of a misdemeanor.

(b) Any owner, operator, manager, or licensee in charge of or in control of a massage therapy practice who knowingly employs a person who is not licensed as a massage therapist, or who allows an unlicensed person to perform, operate, or practice massage therapy is guilty of a misdemeanor.

(c) The practice of massage therapy by a person without a license issued under this chapter is declared to be a danger to the public health and welfare. In addition to any other civil, criminal, or disciplinary remedy, the attorney general or prosecuting attorney of any municipality where the person is practicing, or purporting to practice, may maintain an action to enjoin that person from practicing massage therapy until this person secures a valid license.

Section 10.2 of the Licensing Regulation provides as follows:

#### 10.2 Incorporated Materials

A. These regulations hereby adopt and incorporate the National Certification Board for Therapeutic Massage & Bodywork (NCBTMB) Standards of Practice (September 2017) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these Regulations.

B. These regulations hereby adopt and incorporate the National Certification Board for Therapeutic Massage & Bodywork (NCBTMB) "Code of Ethics" (September 2017) by reference, not including any further editions or amendments thereof and only to the extent the provisions therein are not inconsistent with these Regulations.

Section 10.10 of the Licensing Regulation provides as follows:

#### Denial, Suspension or Revocation of License

A. The denial, suspension or revocation of a license is in accordance with the provisions of R.I. Gen. Laws § 23-20.8-6. In addition, the Director may deny issuance of a license or renewal of license to any individual, or pending an investigation and hearing, suspend for a period not exceeding ninety (90) days any license issued under this Part, and/or after due notice and hearing, revoke the license of any massage therapist who:

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3. Fails to comply with the statutory and regulatory provisions herein.

Section 10.9 of the Licensing Regulation provides in part as follows:

10.9 The Practice of Massage

A .The license to practice massage authorizes the holder to engage in applying a scientific system of activity as defined herein and in accordance with the provisions of R.I. Gen. Laws Chapter 23-20.8.

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C. Licensed practitioners shall maintain and be governed by acceptable sanitary, safe and scientific standards of practice in accordance with National Certification Board for Therapeutic Massage and Bodywork (NCBTMB), Standards of Practice incorporated above by reference at § 10.2(A) of this Part.

D. Licensed practitioners shall conduct his or her professional activities in accordance with the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB), Code of Ethics incorporated above by reference at § 10.2(B) of this Part.

The National Certification Board for Therapeutic Massage & Bodywork Code of Ethics

(2017) (“Code of Ethics”)<sup>3</sup> provides in part as follows:

NCBTMB Certificants shall act in a manner that justifies public trust and confidence, enhances the reputation of the profession, and safeguards the interest of individual clients. Certificants will:

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VII. Conduct their business and professional activities with honesty and integrity, and respect the inherent worth of all persons;

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XVIII. Follow the NCBTMB Standards of Practice, this Code of Ethics, and all policies, procedures, guidelines, regulations, codes, and requirements promulgated by the National Certification Board for Therapeutic Massage & Bodywork, Inc.

The National Certification Board for Therapeutic Massage & Bodywork Standards of

Practice (2017) (“Standards of Practice” or “Standard”)<sup>4</sup> provide in part as follows:

Standard II: Legal and Ethical Requirements

The Certificant must comply with all the legal requirements in applicable jurisdictions regulating the profession of therapeutic massage and bodywork. In his/her professional role, the Certificant shall:

Standard II(a): obey all local, state, and federal laws;

Standard II(b): refrain from any behavior that results in illegal, discriminatory, or unethical actions.

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<sup>3</sup> <https://ncbtmb.org/code-of-ethics>.

<sup>4</sup> <https://ncbtmb.org/standards-of-practice>.

Standard IV: Business Practices

The Certificant shall practice with honesty, integrity, and lawfulness in the business of therapeutic massage and bodywork.

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**D. Whether Respondent Violated R.I. Gen. Laws § 23-20.8-6 and/or Licensing Regulation**

Based on the pleadings, exhibits, and testimony, it is undisputed the Respondent holds the License and owns the business searched by the police and acted as manager of said business. It was undisputed the business employed eight (8) unlicensed massage therapists and that some or all of them were engaging in sex acts for money with customers. It was undisputed the Respondent was aware of the activities of her business' unlicensed massage therapists.

The Department argued the Respondent would be guilty of a misdemeanor as provided for in R.I. Gen. Laws § 23-20.8-11(b) which provides that an owner or manager, or licensee in charge of or in control of a massage therapy practice who knowingly employs an unlicensed person as a massage therapist, or who allows an unlicensed person to perform massage therapy is guilty of a misdemeanor. The Respondent has not been convicted of or pled to any criminal charge relating to these facts. However, as provided for in R.I. Gen. Laws § 23-20.8-11(c), the practice of massage therapy by an unlicensed person is declared to be a danger to the public health and welfare. The Respondent is the owner and manager of a business where eight (8) unlicensed massage therapists were employed which is a danger to public health and welfare.

Pursuant to §10.9 of the Licensing Regulation, the Respondent is required to comply with the Code of Ethics and Standards of Practice.

The Respondent violated § VII of the Code of Ethics as the owner, manager, and licensee of the business since she failed to conduct her professional activities with honesty and integrity since she employed unlicensed massage therapists. The Respondent violated Standard II(a)

because as the owner, manager, and licensee she failed to obey local and state laws by employing unlicensed massage therapists. She violated Standard II(b) by engaging in unethical actions by employing unlicensed massage therapists. The Respondent violated Standard IV as she was not practicing her business with honesty, integrity, and lawfulness as the owner, manager, and licensee since she employed unlicensed massage therapists. The Respondent violated § XVIII of the Code of Ethics since she violated the Code of Ethics and Standards of Practice.

Additionally, the Respondent violated § VII of the Code of Ethics as the owner, manager, and licensee of the business since she failed to conduct her professional activities with honesty and integrity since she employed unlicensed massage therapists some or all of whom were engaging in sex acts for money. Additionally, the Respondent violated Standard II(a), Standard II(b), and Standard IV because as the owner, manager, and licensee she employed unlicensed massage therapists some or all of them who were engaging in sex acts for money.

The Respondent's License was suspended by a Summary Suspension order pursuant to R.I. Gen. Laws § 23-20.8-6. The Notice was then issued for a hearing on the Department's request for the License to be revoked, and the hearing was held. Said statute provides that a massage therapist license may be revoked after a finding that the licensee is in violation of the statute or regulations. As detailed above, pursuant to R.I. Gen Laws § 23-20.8-6 and §10.10 of the Licensing Regulation, the Respondent's statutory and regulatory violations are grounds to revoke the License.

## **VI. FINDINGS OF FACT**

1. The Respondent is registered as a massage therapist pursuant to R.I. Gen. Laws § 23-20.8-1 *et seq.*
2. The Respondent's License was suspended by the Suspension on April 8, 2024.
2. A hearing was scheduled for July 16, 2024, at which time the Respondent did not




appear. As the Respondent had adequate notice of hearing, the undersigned held the hearing that day.

4. The facts contained in Section IV and V are reincorporated by reference herein.

### **VII. CONCLUSIONS OF LAW**

Based on the foregoing, the Respondent violated R.I. Gen. Laws § 23-20.8-6 and violated §10.9 of the Licensing Regulation by violating §§ VII and XVIII of the Code of Ethics and violating Standards II(a), II(b), and IV. Pursuant to R.I. Gen. Laws § 23-20.8-6 and §10.10 of the Licensing Regulation, the undersigned recommends that the Respondent's License be revoked.

Entered this day 7<sup>th</sup> August, 2024.

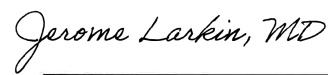
  
Catherine R. Warren, Esquire  
Hearing Officer

### **ORDER**

I have read the Hearing Officer's Decision and Recommendation in this matter, and I hereby take the following action with regard to the Decision and Recommendation:

  X   ADOPT  
       REJECT  
       MODIFY

Dated: August 7, 2024

 SF  
Jerome Larkin, MD  
Director

### **NOTICE OF APPELLATE RIGHTS**

**THIS DECISION CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF HEALTH PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS §42-15-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.**

**CERTIFICATION**

I hereby certify on this 7th day of August, 2024 that a copy of the within Decision and Notice of Appellate Rights was sent by first class mail and certified mail, return receipt requested to Ms. Hye Park to her address on record with the Department and by electronic delivery to [hye6205@yahoo.com](mailto:hye6205@yahoo.com) and by electronic delivery to David Marzilli, Esquire, and Jennifer Sternick, Associate Director, Department of Health, Three Capitol Hill, Providence, RI 02908.

*Pamela Lopes*  
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