

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

In the Matter of:	:	
	:	
	:	Case No.: C24-0150
Sun Yo Williams,	:	Massage Therapist
Respondent.	:	
	:	

DECISION

I. INTRODUCTION

This matter arose pursuant to a Summary Suspension of Massage Therapy License (“Suspension”) and Specification of Charges and Notice of Administrative Hearing (“Notice”) issued on April 8, 2024 and May 22, 2024 respectively to Sun Yo Williams (“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.*; though, that License is now summarily suspended. A hearing was held on September 5, 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. Since the Respondent was adequately noticed of hearing,¹ a hearing was held before the undersigned on September 5, 2024.² Additionally, Section 4.13.2 of the Hearing Regulation provides that a judgment may be entered

¹ The Notice was hand delivered to the Respondent’s address on record with the Department. Department’s Exhibit One (1). The Respondent appeared for the prehearing conference on June 13, 2024. After the prehearing conference, the parties were unable to resolve this matter, so a hearing date was scheduled by email. The undersigned circulated proposed hearing dates, and the Respondent indicated by email that any date in September was convenient. By email, the undersigned scheduled the hearing for September 5, 2024. Department’s Exhibits Four (4) (email chain).

² Pursuant to a delegation of authority by the Director of the Department of Health.

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

Based on the pleadings and the exhibits, the Respondent was a manager of a massage parlor. During a police investigation of said massage parlor, several females were observed or known to be giving massages and offered unprofessional and inappropriate services. A review of the complaint for search warrant and affidavits show 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). The affidavits further detailed the Respondent was on duty during those visits and greeted the affiants (the undercover officers), directed the affiants to the rooms with the massage therapists, and would check with the massage therapists after their session before allowing the affiants to exit. When the search warrant was executed, the Respondent was not on duty, but the police found numerous condom packages, lubricant, and \$780 in cash. The police observed 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. None of these women were licensed as massage therapists. Department’s Exhibits One (1) (Notice) and Three (3) (search warrant complaint and affidavits; police report regarding execution of search warrant).

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:

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.

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")³ 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:

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

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

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”)⁴ 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.

Standard IV: Business Practices

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

Standard VI: Prevention of Sexual Misconduct and Inappropriate Touch

The Certificant shall refrain from any behavior that sexualizes, or appears to sexualize, the client/therapist relationship. The Certificant recognizes the intimacy of the therapeutic relationship may activate practitioner and/or client needs and/or desires that weaken boundaries which may lead to sexualizing the therapeutic relationship. In his/her professional role, the Certificant shall:

Standard VI(c): with the exception of a pre-existing ongoing sexual relationship, as set forth in Standard VI(a), recognize that sexual activity with clients, students, employees, supervisees, mentees, trainees, or anyone else with whom a power differential exists, is prohibited even if consensual.

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

Based on the pleadings and exhibits, it is undisputed the Respondent holds the License and managed the business searched by the police. 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

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

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 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 a manager and licensee 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 manager, and a 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 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 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); Standard IV; and Standard VI because as the 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.
3. A hearing was scheduled for September 5, 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); IV, and VI. Pursuant to R.I. Gen. Laws § 23-20.8-6 and §10.10 of the Licensing Regulation, the undersigned recommends the Respondent's License be revoked.

Entered this day 19th September, 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:

ADOPT
 REJECT
 MODIFY

Dated: 9/23/24


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 23rd day of September, 2024 that a copy of the within Decision and Notice of Appellate Rights was sent by first class, postage prepaid and certified mail, return receipt requested to Ms. Sun Yo Williams to her address on record with the Department and by electronic delivery to david.williams2112@hotmail.com and by electronic delivery to David Marzilli, Esquire, and Jacqueline Kelley, Associate Director, Department of Health, Three Capitol Hill, Providence, RI 02908.

