

**FILED**

NOV 15 2012

**Division of Consumer Affairs**

*15 Bd. of Massage & Bodywork Therapy*

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF MASSAGE AND BODYWORK  
THERAPY

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IN THE MATTER OF THE  
APPLICATION FOR CERTIFICATION  
CERTIFICATION OF

MING Y. LI

AS A MASSAGE, BODYWORK AND  
SOMATIC THERAPIST

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FINAL ORDER OF  
DENIAL OF CERTIFICATION

This matter was opened to the Massage, Bodywork and Somatic  
Therapy Examining Committee (the Committee) upon receipt of  
information which the Board has reviewed and the following  
findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Ming Y. Li submitted an application for certification  
dated February 9, 2012.
2. On the application, Ms. Li checked "no" in response to  
the question as to whether she had been arrested or charged with  
any violation of law, or convicted of any crime or offense.
3. Ms. Li underwent a criminal history background check  
which indicated that she had been arrested on August 8, 2008 in  
Ohio and charged with having engaged in a pattern of corrupt  
activity. The charges were dismissed on October 29, 2008.

4. The background check also revealed that Ms. Li had been arrested on December 10, 2008 in Florida and charged with prostitution and with frequenting a house of illegal fame. Ms. Li was convicted of prostitution in July of 2009, nunc pro tunc, June 9, 2009.

5. The applicant indicated that the reason that she checked "no" on the application was because she had asked a friend to help her fill out the form, since her English level was "very low," and he did not ask her how to respond to the questions.

#### CONCLUSIONS OF LAW

1. The applicant's failure to disclose on her application that she had been arrested twice, including once on prostitution charges, and her failure to disclose that she had been convicted of prostitution, constitutes a violation of N.J.S.A. 45:1-21(b).

2. The conduct underlying respondent's conviction relates adversely to the field of massage, bodywork and somatic therapy within the intendment of N.J.S.A. 45:1-21(f).

#### DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Denial of Certification was entered on June 20, 2012, provisionally denying Ms. Li's application for certification. A copy of the Order was forwarded to Ms. Li by certified and regular mail at her address of record. The

Provisional Order was subject to finalization at 5:00 p.m. on the 30<sup>th</sup> business day following entry unless Ms. Li requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Ms. Kim's request for consideration and reasons therefor.

Ms. Li replied to the Provisional Order. She maintained that because of her "low" level of understanding of English, she had a friend fill out the application, and the friend was unaware of her criminal history. In addition, she argued that a hearing was warranted to clarify the circumstances that caused her to plead guilty to prostitution; she also maintained that the definition of prostitution differs from jurisdiction to jurisdiction, and that the conduct dates back to 2008. The Board of Massage and Bodywork Therapy ("the Board") has replaced the Committee as of September 4, 2012 pursuant to P.L.2007, c.377, the "Massage and Bodywork Therapist Licensing Act." The Board considered this matter, and determined that Ms. Li was accountable for the information that was provided on her application. Moreover, it is not the role of the Board to relitigate matters that resulted in convictions in the criminal justice system; convictions, unless

appealed and overturned, or expunged, are accepted as factually based. Moreover, misrepresentation in connection with prostitution, an offense that relates adversely to the practice of massage therapy in a particularly strong manner, must be taken into account. The Board therefore determined that further proceedings were not necessary, and that the Provisional Order should be made final.

ACCORDINGLY,

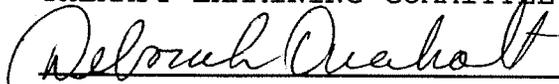
IT IS on this 15<sup>th</sup> DAY of November, 2012,

ORDERED that:

1. Ms. Li's application for certification as a Massage, Bodywork and Somatic Therapist in New Jersey, deemed as of September 4, 2012 to constitute an application for licensure as a massage and bodywork therapist, is hereby denied. The Board shall not entertain any application for certification or licensure from Ms. Li for a minimum period of two years, dating from the filing of any Final Order of Denial of Certification in this matter.

MASSAGE, BODYWORK AND SOMATIC  
THERAPY EXAMINING COMMITTEE

By:



Deborah Overholt  
Chairperson