

# FILED

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New Jersey State Board of  
Massage and Bodywork  
Therapy Examiners

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 OF

GWENDOLYN CALDWELL

FINAL ORDER OF  
DENIAL OF LICENSURE

TO PRACTICE MASSAGE ANDD  
BODYWORK THERAPY IN THE  
STATE OF NEW JERSEY

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

#### FINDINGS OF FACT

1. Gwendolyn Caldwell ("Respondent") submitted an online application for licensure by the Board on or about September of 2012.
2. On Ms. Caldwell's application, she indicated "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. Caldwell underwent a criminal history background check which indicated that Ms. Caldwell had been arrested seventeen (17) times from 1973 through 1999.

4. Ms. Caldwell indicated that when asked the question relating to arrests and convictions, she believed that the question was whether she had been arrested for or convicted of a felony, and she did not believe that prostitution, which was the charge in many of the arrests, was a felony.

#### CONCLUSIONS OF LAW

1. Ms. Caldwell's failure to disclose on her application that she had been arrested numerous times, particularly charges of prostitution which relate adversely to massage and bodywork therapy as a profession, constitutes a violation of N.J.S.A. 45:1-21(b).

#### DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline denying Respondent's application to practice as a massage therapist was entered

on June 26, 2013. In response to the Provisional Order of Discipline, Legal Services of New Jersey submitted a brief on Respondent's behalf stating that, among other things, her failure to disclose her previous arrests was not willful, intentional or malicious; that her criminal record should not prevent her from licensure because it does not reflect her character today, and that providing employment to individuals with past criminal records is sound public policy. The brief also asserted the position that the offense of prostitution is not adverse to the profession of massage therapist.

Respondent also submitted a hand written response on her own behalf, describing her continuous work history, and explaining that she in no way intended to defraud the Board by omitting information of her previous convictions, but honestly believed that she was only required to report felony convictions. Also included were letters of recommendation from instructors in her training programs, employers and supervisors under whom she worked. All of the letters attested to her strength of character and trustworthy personality.

Despite arguments to the contrary, this Board has consistently found that the offense of prostitution is directly adverse to the practice of massage therapy,

precisely because of the intimate nature of the job duties, as well as the circumstances under which the job is performed.

Based on the mitigating evidence presented and the length of time since the last arrest (nearly fifteen years ago), the Board has determined that Respondent's submission does warrant the reduction in the length of stay on the application from two years to one year. Accordingly, the Board, having considered the matter, determined that further proceedings are not necessary at this time, and the Provisional Order should be made final, with the above mentioned modification.

However, Applicant is reminded that becoming a licensed professional in the State of New Jersey requires a strict adherence to the practice of honesty before the Board. Each individual is accountable for representations made to the Board, even when accepting help in reading or responding to questions regarding their professional license.

ACCORDINGLY,

IT IS on this 4<sup>th</sup> DAY of October, 2013,

ORDERED that:

1. Ms. Caldwell's application for licensure as a massage and bodywork therapist in New Jersey is hereby denied. No subsequent application for licensure shall be entertained by the Board for a period of one year from the issuance of a Final Order in this matter.

NEW JERSEY STATE BOARD OF  
MASSAGE AND BODYWORK THERAPY

By:



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Deborah Overholt  
Chairperson