

BEFORE THE NEVADA STATE BOARD OF
MASSAGE THERAPY

In the Matter of:

Thomas W. Maher,
Licensed Massage Therapist
Nevada License No. NVMT.1717,

Respondent.

Case No. NVMT-C-21086

AMENDED COMPLAINT AND
NOTICE OF HEARING

The Nevada State Board of Massage Therapy (Board), by and through its Executive Director, Sandra Anderson, hereby notifies Thomas W. Maher (“Respondent”) of an administrative hearing, which is to be held pursuant to Chapters 233B, 622, 622A of the Nevada Revised Statutes (NRS) and 640C of the Nevada Revised Statutes (NRS) and the Nevada Administrative Code (NAC). The purpose of the hearing is to consider the allegations stated below and to determine if the Respondent should be subject to an administrative penalty as set forth in NRS 640C.710, if the stated allegations are proven at the hearing by the evidence presented.

Respondent is currently and at all times mentioned herein, licensed as a massage therapist in the State of Nevada and is therefore, subject to the jurisdiction of the Board and the provisions of NRS Chapter 640C.

IT IS HEREBY ALLEGED AND CHARGED AS FOLLOWS:

ALLEGED FACTS

1. On or about October 8, 2021, while working at Lapis and Oak Spa and Salt Massage located at 615 S Green Valley Pkwy., suite 120, Henderson, Nevada 89052 (“Establishment”), Respondent massaged Genevieve Young and performed cervical adjustments, including one to her neck resulting in injury needing medical attention.
2. Respondent is not licensed to perform cervical adjustments.
3. Ms. Young already had a shoulder injury; Respondent did not inform Ms. Young that he was going to perform cervical adjustments, nor did he receive consent to do so.
4. Respondent performed cupping to Ms. Young; Respondent did not inform Ms. Young that he was going to perform cupping, nor did he receive consent to do so; the cupping resulted in visible bruises.

- 1 5. On or about September 15, 2022, Respondent massaged Athena Perusse, an employee
2 massage therapist, and performed an adjustment to her left elbow and ankles.
- 3 6. Respondent scraped and stripped her hamstrings causing Ms. Perusse to feel pain and
4 nauseated, and Respondent continued to do so even after Ms. Perusse told him to “back
5 off”; this resulted in injury needing medical attention.
- 6 7. As a result of her treatment with Respondent, Ms. Perusse sought medical attention from
7 chiropractic physician, Adam DiOrio D.C., on September 19, 23, and 27, 2022 and paid a
8 total of One Hundred Sixty-Five Dollars (\$165.00).
- 9 8. As a result of her treatment with Respondent, Ms. Perusse sought medical attention from
10 osteopathic physician, Eric Toder, D.O., on September 26, October 10, October 17, and
11 October 31, 2022, and paid a total of Seven Hundred and Twenty Dollars (\$720.00).
- 12 9. As a result of her treatment with Respondent, Ms. Perusse sought medical attention from
13 naprapathy physician, Sean Plake D.N., on October 12, 2022, and paid a total of One
14 Hundred and Twenty Dollars (\$120.00).
- 15 10. Respondent is not licensed to perform elbow or ankle adjustments.
- 16 11. Respondent did not inform Ms. Perusse that he was going to perform elbow or ankle
17 adjustments, nor did he receive consent to do so.
- 18 12. Respondent paid Two Hundred and Ninety-Seven Dollars (\$297.50) for the massage and
19 tipped Respondent Fifty Dollars (\$50.00).
- 20 13. Respondent is the owner of Establishment.

21 **VIOLATIONS OF LAW**

22 **COUNT ONE**

- 23 14. By performing adjustments to Ms. Young without informing her or getting consent, and/or
24 practicing outside the scope of practice for a massage therapist, Respondent violated NRS
25 640C.700(9). This is grounds for discipline pursuant to NRS 640C.700(2).

26 **COUNT TWO**

- 27 15. By performing cupping to Ms. Young without informing her or getting consent, Respondent
28 violated NRS 640C.700(9). This is grounds for discipline pursuant to NRS 640C.700(2).

COUNT THREE

1 16. By performing elbow and ankle adjustments to Ms. Perusse without informing her or getting
2 consent, and/or practicing outside the scope of practice for a massage therapist, Respondent
3 violated NRS 640C.700(9). This is grounds for discipline pursuant to NRS 640C.700(2).

4 **COUNT FOUR**

5 17. By scraping and stripping Ms. Perusse's hamstrings causing Ms. Perusse to feel pain and
6 nauseated and continuing to do so even after Ms. Perusse told him to "back off", Respondent
7 violated NRS 640C.700(9). This is grounds for discipline pursuant to NRS 640C.700(2).

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Executive Director, Sandra Anderson, prays as follows:

10 18. That the Board conduct a hearing on this complaint as provided by statute, and after such
11 hearing, that the Board impose upon Respondent the discipline permitted by NRS 640C.710,
12 which may include the following, (a) the imposition of an administrative fine of not more than
13 \$5,000.00 per violation, (b) recovery of reasonable investigative fees and costs incurred, (c)
14 recovery of attorney fees pursuant to NRS 622.400, (d) licensee be publicly reprimanded, (e)
15 suspend, revoke or place conditions on the licensee's license, (f) place the licensee on
16 probation, and/or (g) such other impositions as may be permitted by Nevada law.

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18 PLEASE TAKE NOTICE that a disciplinary hearing has been set to consider this
19 Administrative Complaint against the above-named Respondent in accordance with Chapters 233B,
20 622, 622A and 640C of the Nevada Revised Statutes.

21 THE HEARING WILL TAKE PLACE on **Wednesday, March 22, 2023, commencing at 9:00**
22 **a.m.** or as soon thereafter as the Board is able to hear the matter with video conferencing by Zoom.

23 Zoom sign-in available at 8:30 a.m.

24 Register in advance:

25 <https://us06web.zoom.us/j/85370113332?pwd=UnV1bFcvUWgxTElZYzJVbjdiQkMrZz09>

26 Meeting ID: 853 7011 3332

27 Password: 244142

28 Dial by your location

+1 253 215 8782 US (Tacoma)

1 +1 346 248 7799 US (Houston)
2 +1 669 900 6833 US (San Jose)
3 +1 301 715 8592 US (Washington DC)
4 +1 312 626 6799 US (Chicago)
5 +1 929 205 6099 US (New York)

6 PURSUANT TO NRS 622A.320, Respondent may, but is not required to, file an answer to this
7 Complaint with the Board.

8 PURSUANT TO NRS 622A.330, Respondent may seek limited discovery from the Board.

9 As the Respondents, you are specifically informed that you have the right to appear and be
10 heard in your defense, either personally or through counsel of your choice. You have the right to
11 respond and to present relevant evidence and argument on all issues involved. You have the right to
12 call and examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter
13 relevant to the issues involved.

14 You have the right to request that the Board issue subpoenas to compel witnesses to testify
15 and/or evidence to be offered on your behalf. In making this request, you may be required to
16 demonstrate the relevancy of the witnesses' testimony and/or evidence.

17 The purpose of the hearing is to determine if the Respondent has violated the provisions of
18 Chapter 640C of NRS and if the allegations contained herein are substantially proven by the evidence
19 presented to further determine what administrative penalty is to be assessed against the Respondent, if
20 any, pursuant to NRS 640C.710.

21 Should the Respondent fail to appear at the hearing, a decision may still be reached by the
22 Board. As the Respondent, you are further advised that you may be charged with the attorney's fees
23 and/or costs associated with the hearing pursuant to NRS 622.400.

24 Pursuant to NRS 233B.121(5), informal disposition of this case may be made by stipulation,
25 agreed settlement, consent order, or default. Any attempt to negotiate this case should be made by
26 contacting Sandra Anderson, (775) 687-9951 or sjanderson@lmt.nv.gov.

27 Pursuant to NRS 241.033(2)(b), the Nevada State Board of Massage Therapy may, without
28 further notice, take administrative action against your license and/or certificate to practice within the
State of Nevada if the Board determines that such administrative action is warranted after considering
your character, alleged misconduct, professional competence, or physical or mental health.

Dated this 9th day of February, 2023.

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NEVADA STATE BOARD OF MASSAGE THERAPY


SANDRA ANDERSON, Executive Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 9, 2023, I deposited for mailing at Reno, Nevada, via Certified U.S. Mail, with return receipt and postage prepaid, a true and correct copy of the foregoing **COMPLAINT AND NOTICE OF HEARING**, properly addressed as follows:

Thomas W. Maher
381 Desert Cove Road
Henderson, NV 89012

James E. Shapiro, Esq.
Smith & Shapiro Attorneys at Law
3333 E. Serene Ave. Unit 130
Henderson, NV 89074

NEVADA STATE BOARD OF MASSAGE THERAPY


Employee

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