



Effective February 22, 2005
mailed
regular &
certified
2/16/05

Protecting, maintaining and improving the health of all Minnesotans

February 16, 2005

Mr. Machaga Nathaniel Johns



Re: MDH File Number: OCAP-200426

Dear Mr. Johns:

Based on my review of facts and law in this matter, I have determined to revoke your right to provide Unlicensed Complementary and Alternative Health Care services, which includes massage therapy, as you have engaged in prohibited conduct as defined in Minnesota Statutes, section 146A.08, subd. 1 (d) engaging in sexual contact with a client or former client or engaging in contact that may be reasonably interpreted by a client as sexual; (f) conduct likely to deceive, defraud, or harm the public or demonstrating a willful or careless disregard for the health, welfare, or safety of a client; (g) adjudication as mentally incompetent or as a person who is dangerous to self or adjudication pursuant to chapter 253B as mentally ill; and (c) failure to self-report. This action is authorized pursuant to Minnesota Statutes, section 146A.09, subd. 1.

You have the right to challenge this decision in a contested-case hearing as provided under Minnesota Statutes, chapter 14. Requests for a hearing should be made in writing and include specific grounds for challenging the Department's decision. If you wish to request a hearing, please send, deliver, or fax a written request, within 30 days of your receipt of this letter, to:

Susan Winkelmann, Investigations and Enforcement Manager
Minnesota Department of Health
85 East Seventh Place, Suite 300, P.O. Box 64882
Saint Paul, MN 55164-0882 (Fax: 651/282-3839)

If you have any questions about this matter, please contact Susan Winkelmann at 651/282-5623.

Sincerely,

David J. Giese, Director
Health Policy, Information and Compliance Monitoring Division
Minnesota Department of Health
85 East Seventh Place, Suite 300, P.O. Box 64882
Saint Paul, MN 55164-0882

cc: Susan Winkelmann, Manager of the Investigations and Enforcement Unit

**OFFICE OF UNLICENSED COMPLEMENTARY AND ALTERNATIVE HEALTH
CARE PRACTICE - HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

Re: in the matter of Machaga Nathaniel Johns

AUTHORITY AND LEGAL REQUIREMENTS

1. The Office of Unlicensed Complementary and Alternative Health Care Practice (hereinafter "OCAP") in the Minnesota Department of Health (hereinafter "Department") has statutory authority to revoke, suspend, censure, reprimand or impose limitations or conditions on an unlicensed complementary and alternative health care practitioner's right to provide unlicensed complementary an alternative health care, and impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the practitioner of any economic advantage gained by the reason of the violation charged or to reimburse the Office of Unlicensed Complementary and Alternative Health Care Practice for all costs of the investigation and proceeding, including the amount paid for services from the Office of Administrative Hearings and any reviewing court, attorneys fees, court reports, witnesses, reproduction of records and staff time, for violations of law under Minnesota Statutes, section 146A.09.
2. Minnesota Statutes, section 146A.08, subd. 1(d), prohibits unlicensed complementary and alternative health care practitioners from engaging in sexual contact with a client or former client, engaging in contact that may be reasonably interpreted by a client as sexual, engaging in any verbal behavior that is seductive or sexually demeaning to the patient, or engaging in sexual exploitation of a client or former client.
3. Minnesota Statutes, section 146A.08, subd. 1(f), prohibits conduct likely to deceive, defraud, or harm the public or demonstrating a willful or careless disregard for the health, welfare, or safety of a complementary an alternative health-care client, or any other practice that may create danger to any clients life, health, or safety, in any of which cases, proof of actual injury need not be established.
4. Minnesota Statutes, section 146A.08, subd. 1(g), prohibits practice as an unlicensed complementary and alternative health care practitioner if adjudicated as mentally incompetent or as a person who is dangerous to self or adjudicated pursuant to chapter 253B as chemically dependent, mentally ill, mentally retarded, mentally ill and dangerous to the public, or as a sexual psychopathic personality or sexually dangerous person.
5. Minnesota Statutes, section 146A.08, subd 1(c), requires an OCAP practitioner to comply with the self-reporting requirements of section 146A.03, subdivision 7.

FACTS

1. During all times herein, Practitioner has been and is subject to the jurisdiction of the Commissioner of Health and the OCAP as Practitioner engaged in activities specified in Minnesota Statutes, section 148A.01, subd. 4, (a)(17), specifically, bodywork, massage, and massage therapy.
2. On August 30, 2003, Client 1 received a massage from Practitioner, and following the massage, contacted the St. Paul Police Department and reported that after rubbing her leg, Practitioner moved his hand inside Client 1's thigh and touched her in the vaginal area. Client 1 flinched and practitioner moved his hand back to her leg. Practitioner continued to rub Client 1's leg, then began moving toward the inside of her thigh again and massaged her vaginal area. Client 1 pushed Practitioner's arm away and told him not to do that. Client 1 asked Practitioner what he was thinking by touching her so intimately. Client 1 stated that Practitioner responded that God was acting through him and that God had directed him to touch her. Practitioner stated that he could "read" people through vibes and that he could read her thoughts. He stated that she was "asking for it," implying that she wanted him to touch her. Client 1 told Practitioner that he had broken a boundary. Practitioner responded, "yeah, I may have crossed a boundary."
3. Following the report, the St. Paul Police Department went to Practitioner's home and explained that they had received a complaint about him. When asked if anything unusual had occurred at work today, practitioner responded, "yeah." Practitioner told the Police that when he was massaging Client 1, she told him that she wanted him to do more. When asked specifically what Client 1 said, Practitioner responded, "she didn't say it verbally, she was thinking it." Practitioner explained to the Police that he is very "sensitive" to women and that he can tell what they are thinking. Practitioner told the Police that when a woman feels "sensual" he can feel a "vibe" from them. Practitioner stated that most of the women that come in have a vibe that he feels that tells him they want more from him than just a massage. When the Police asked the Practitioner how often he feels the vibe from women, Practitioner responded, "all the time, most women." Practitioner was asked "how many women in a month have you felt that vibe from when you did touch them?" Practitioner responded, "two, and three with today." The Practitioner explained to the Police that when he was rubbing Client 1 he got the vibe and moved his hands way up to "you know where." The Police asked the Practitioner, "did you touch her in the vaginal area?" Practitioner responded, "yeah."
4. Practitioner was the subject of a psychiatric evaluation conducted by Thomas G. Gratzer, M.D. on January 28, 2004. Within the evaluation it is indicated that Practitioner was admitted to Regions Hospital on December 19, 2003 as Practitioner was "acutely psychotic" and "had suicidal ideation." Practitioner's medical records referred to a suicide attempt prior to the hospital admission. According to the evaluation, Practitioner was "provisionally" discharged from the hospital to jail on January 21, 2004. Practitioner's psychiatric evaluation was conducted in jail. At time of the evaluation on January 28, 2004, practitioner was "currently under a mental illness commitment".

On March 1, 2004, Practitioner was found not guilty of criminal sexual conduct 5th degree by reason of mental illness.

VIOLATIONS

1. Practitioner violated Minnesota Statutes, section 148B.68, subd. 1(d), sexual contact; (f) client harm; (g) adjudication as mentally incompetent or as a person who is dangerous to self or adjudicated pursuant to chapter 253B, and (c) failure to self report.

DETERMINATION

1. Practitioner's right to provide Complementary and Alternative Health Care should be revoked.