

BEFORE THE DELAWARE BOARD OF MASSAGE AND BODYWORK

IN RE: DAVID T. FOOKS) Case No.: 20-01-16
)
LICENSE NO.: MT-0003349)
)

**ORDER ACCEPTING COMPLAINT AND GRANTING
MOTION FOR EMERGENCY TEMPORARY SUSPENSION**

AND NOW, this 5th day of February, 2016,

WHEREAS, the Delaware Department of Justice through the prosecuting Deputy Attorney General has filed with the Board of Massage and Bodywork a written Complaint and Motion for Temporary Suspension; and

WHEREAS, said Complaint and Motion allege, among other things, that the Respondent David T. Fooks, a licensed massage therapist, has engaged in activities which present a clear and immediate danger to the public health: On or about January 9, 2016, Respondent unlawfully entered a residence located in Rehoboth, Delaware, and when he was discovered, attacked the homeowner and caused property damage; while Respondent was unlawfully in the residence, another adult and two children locked themselves in a different room to escape the physical altercation; and Respondent was arrested by the Delaware State Police for Burglary in the First Degree for entering a dwelling at night and causing injury to an innocent person, in violation of 11 *Del. C.* § 826, Assault in the Third Degree, in violation of 11 *Del. C.* § 611, Criminal Mischief, in violation of 11 *Del. C.* § 811, and two counts of Endangering the Welfare of a Child, in violation of 11 *Del. C.* § 1102; and

WHEREAS, the allegations if substantiated at a formal hearing constitute unprofessional

conduct pursuant 24 *Del. C.* § 5313(a)(8) and Board Regulation 11.2.2, which prohibits a licensee from engaging in behavior that is dishonest, deceitful or involving moral turpitude; and

WHEREAS, Respondent and/or his legal counsel was given at least 24 hours' written or oral notice so that he or his counsel could file a written response in opposition to entry of an Order of Temporary Suspension together with a copy of the Complaint in compliance with 24 *Del. C.* § 5315(c); and Respondent did not file an Answer to the State's Complaint; and

WHEREAS, said Complaint highlights the serious and criminal nature of Respondent's conduct; and

WHEREAS, the undersigned have an obligation to ensure that the public health is protected; and

WHEREAS, after due consideration of the Complaint and the Motion, the Secretary of State or his designee, with the concurrence of the Board President or her designee, have therefore determined that the available information is sufficient to support the entry of an Order temporarily suspending Respondent's license to practice massage and bodywork in the State of Delaware in that there is a reasonable belief that Respondent's continued practice presents a clear and immediate danger to the public health;

NOW THEREFORE, IT IS ORDERED this 5th day of February, 2016:

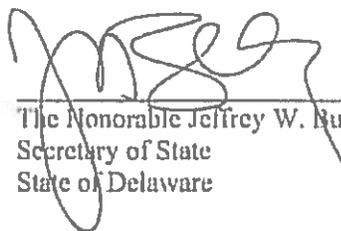
1. That the Motion for Emergency Suspension of Respondent David T. Fooks' license to practice as a massage therapist (License No.: MT-0003349) is granted;
2. That Mr. Fooks shall be served with a copy of this Order as provided in 24 *Del. C.* § 5315(c) and notice shall be provided to all other agencies listed therein;
3. That Complaint No. 20-01-16 is accepted by the Board as the Formal Complaint and shall be assigned to a hearing officer to be scheduled in accordance with 24 *Del. C.* § 5315(c)

and 29 Del. C. § 8735(v)(1)d to hear evidence related to the Formal Complaint; and

4. That pursuant to 24 Del. C. § 5315(c) Mr. Fooks may request an expedited hearing provided that the Board receives the request within 5 calendar days of the date Mr. Fooks is notified of this Order.



Sandra Jachimowski
President
Board of Massage and Bodywork



The Honorable Jeffrey W. Bullock
Secretary of State
State of Delaware

BEFORE THE DELAWARE BOARD OF MASSAGE AND BODYWORK

IN RE: DAVID T. FOOKS)
) **Case No.: 20-01-16**
LICENSE NO.: MT-0003349)

COMPLAINT AND MOTION FOR TEMPORARY SUSPENSION

1. David T. Fooks (“Respondent”) is a licensed massage therapist in the State of Delaware, license number MT-0003349. Respondent’s license was issued on October 17, 2011 and expires on August 31, 2016. His license is currently active.

2. On or about January 9, 2016, Respondent unlawfully entered a residence located at 19749 Princess Street in Rehoboth, Delaware. When he was discovered in the residence, Respondent attacked the homeowner, causing minor injuries to that person. Another adult in the residence and two children locked themselves in a different room to escape the physical altercation. Respondent also caused minor property damage while he was unlawfully in the residence.

3. The homeowner was able to restrain Respondent and keep him in the residence until the Delaware State Police arrived.

4. Respondent was arrested by the Delaware State Police on a count of Burglary in the First Degree for entering a dwelling at night and causing injury to an innocent person in violation of 11 *Del. C.* § 826; Assault in the Third Degree in violation of 11 *Del. C.* § 611; Criminal Mischief in violation of 11 *Del. C.* § 811; and two counts of Endangering the Welfare of a Child in violation of 11 *Del. C.* § 1102. These charges are currently pending.

5. Burglary First Degree is considered a crime substantially related to the practice of massage and bodywork.

6. By the afore-mentioned conduct, Respondent violated 24 *Del. C.* § 5313(a)(8) in that he violated Board Regulation 11.2.2 prohibiting a licensee from engaging in behavior that is dishonest, deceitful or involving moral turpitude.

7. Based on Respondent's conduct in breaking into an occupied residence and physically attacking the owner of that residence in the presence of minor children as well as his pending criminal charges, Respondent presents a clear and immediate danger to the public health, safety and welfare requiring emergency action such that the Board should issue an order temporarily suspending his privilege to practice in Delaware, pending a final hearing on the Complaint as provided by 24 *Del. C.* § 5315(c).

WHEREFORE, pursuant to 29 *Del. C.* § 8735 and 24 *Del. C.* Chapter 53, the State of Delaware respectfully requests that the Board:

- a. Find that Respondent is a clear and immediate danger to the public health, safety and welfare;
- b. Temporarily suspend Respondent's privilege to practice in Delaware pending a final hearing on the Complaint;
- c. Serve Respondent with a copy of the Complaint;
- d. Find Respondent guilty of the violations alleged herein; and
- e. Impose such disciplinary measures as the Board deems appropriate.

STATE OF DELAWARE
DEPARTMENT OF JUSTICE

/s/ Zoe Plerhoples
Zoe Plerhoples (I.D. # 5415)
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Date: February 3, 2016