

Before the  
Administrative Hearing Commission  
State of Missouri



VICTOR LOGAN,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 13-0689 TM
	)	
BOARD OF THERAPEUTIC MASSAGE,	)	
	)	
Respondent.	)	

**DECISION**

We dismiss Petitioner Victor Logan’s complaint because this case is moot.

**Procedure**

Petitioner Victor Logan filed a complaint on April 26, 2013, appealing the decision of Respondent Board of Therapeutic Massage to deny him a student massage therapy license. The Board answered on May 30, 2013.

The Board filed a motion for involuntary dismissal on September 4, 2013. On September 5, 2013, we ordered Mr. Logan to file his response to the motion, if any, by September 19, 2013. He filed nothing.

We may grant a motion for involuntary dismissal based on a preponderance of admissible evidence, including “an allegation in the complaint, stipulation, discovery response of the

petitioner, affidavit, or other evidence admissible under the law.” 1 CSR 15-3.436(3).<sup>1</sup> When a motion for involuntary dismissal relies on matters outside the allegations in the complaint and stipulations, we are directed by 1 CSR 15-3.436(4) to treat the motion as one for summary decision under 1 CSR 15-3.446(6), or to convene an evidentiary hearing on the motion.

Here, the Board’s motion to dismiss relies on allegations in the complaint, as well as matters outside of it. Specifically, the Board relies on the affidavit of a representative of the massage therapy school Mr. Logan attended. We therefore treat the Board’s motion as one for summary decision. An evidentiary hearing is not necessary.

### **Findings of Fact**

1. Victor Logan applied on March 7, 2013 to the Board of Therapeutic Massage for a student license.
2. At the time, he was enrolled in the Massage Therapy program at Vatterott College in St. Joseph, Missouri, studying to become a massage therapist.
3. On April 3, 2013, the Board notified Mr. Logan that, upon review of his criminal background check, it had denied him a student license.
4. On April 26, 2013, Mr. Logan appealed to this Commission for review of the denial.
5. Mr. Logan graduated from the Massage Therapy program at Vatterott College on July 18, 2013, and is no longer a massage therapy student.

### **Discussion**

The Board is responsible for issuing licenses to practice massage therapy. §§ 324.243, and 324.265, RSMo.<sup>2</sup> We have jurisdiction of appeals from the Board’s decisions to deny

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<sup>1</sup> References to “CSR” are to the Missouri State Code of Regulations, as current with amendments included in the Missouri Register through the most recent update.

<sup>2</sup> References to “RSMo” are to the Revised Statutes of Missouri (Supp. 2012).

licensure. § 324.262.1.

But “[w]hen an event occurs that makes a [tribunal’s] decision unnecessary or makes granting effectual relief by the [tribunal] impossible, the case is moot and generally should be dismissed.” *Hihn v. Hihn*, 235 S.W.3d 64, 68 (Mo. App. E.D. 2007). *See also* 1 CSR 15-3.436(1)(A) (grounds for involuntary dismissal by the Commission include mootness). The instant case is moot and should be dismissed.

Section 324.265.5 authorizes the Board to issue a “student license” when a “student[ is] “making substantial progress toward completion of [his or her] training in an approved [massage therapy] curriculum[,] for the purpose of practicing massage therapy on the public while under the supervision of a massage therapy instructor.” Once issued, a student license may only “be renewed until the student completes [his or her] training.” § 324.265.6.

Subsections 5 and 6 of § 324.265 are, by their plain language, based upon an applicant’s status as a student, which Mr. Logan no longer is. Even if we concluded that the Board had no grounds for its decision to deny Mr. Logan a student license when he was a student, an issue we do not decide here, no statute authorizes him to be issued a student license now.

Under the circumstances, a decision by this Commission concerning the Board’s denial of Mr. Logan’s application for a student license is unnecessary. We can grant him no effectual relief. We therefore grant the Board’s motion to dismiss.

### **Summary**

We dismiss Mr. Logan’s complaint.

SO ORDERED on September 23, 2013.

*\s\ Alana M. Barragán-Scott*  
ALANA M. BARRAGÁN-SCOTT  
Commissioner