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AUG 29 2014

VA BD OF NURSING

COMMONWEALTH of VIRGINIA

Department of Health Professions

Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia.23233-1463

www.dhp.virginia.gov
TEL (804) 367- 4400
FAX (804) 527- 4475

David E. Brown, D.C.
Director

August 29, 2014

Jing Xu
4170 Main Street, Apt. B-3135
Flushing, NY 11355

CERTIFIED MAIL

DUPLICATE COPY
VIA FIRST CLASS MAIL

RE: Certificate No.: 0019-009463

DATE 8/29/14

Dear Ms. Xu:

Pursuant to Section 54.1-2409 of the Code of Virginia (1950), as amended, ("Code"), you are hereby given notice that your certificate to practice as a certified massage therapist in the Commonwealth of Virginia has been mandatorily suspended by the enclosed Order entered August 29, 2014. You are hereby advised that, pursuant to Section 54.1-2409.1 of the Code, any person who practices a profession or occupation after having their license or certificate suspended shall be guilty of a felony. Please return your certificate to Jay P. Douglas, Executive Director of the Virginia Board of Nursing, at the above address, immediately upon receipt of this letter.

Section 54.1-2409 of the Code further provides that you may apply to the Board of Nursing ("Board") for reinstatement of your certificate, and shall be entitled to a hearing not later than the next regular meeting of the Board after the expiration of sixty days from the receipt of such reinstatement application. You have the following rights, among others: to be represented by legal counsel, to have witnesses subpoenaed on your behalf, to present documentary evidence and to cross-examine adverse witnesses. The reinstatement of your certificate shall require the affirmative vote of three-fourths of the members present of the Board of Nursing.

Should you wish to petition the Board of Nursing for reinstatement of your certificate, contact Jay P. Douglas, Executive Director, at the above address or (804) 367-4599.

Sincerely,

Jaime H. Hoyle, Esquire, Chief Deputy Director
Department of Health Professions

Enclosures
Case # 147142

VIRGINIA:

BEFORE THE DEPARTMENT OF HEALTH PROFESSIONS

IN RE: JING XU, C.M.T.
Certificate No.: 0019-009463

ORDER

In accordance with Section 54.1-2409 of the Code of Virginia (1950), as amended, ("Code"), I, Jaime H. Hoyle, Esquire, Chief Deputy Director of the Virginia Department of Health Professions, received and acted upon evidence that the license of Jing Xu, C.M.T., to practice as a massage therapist in the State of Florida was revoked by a Final Order dated June 18, 2014. A certified copy of the Final Order (with attachment) is attached to this Order and is marked as Commonwealth's Exhibit No. 1.

WHEREFORE, by the authority vested in the Director of the Department of Health Professions pursuant to Section 54.1-2409 of the Code, it is hereby ORDERED that the privilege of Jing Xu, C.M.T., to renew her certificate to practice as a certified massage therapist in the Commonwealth of Virginia be, and hereby is, SUSPENDED.

Upon entry of this Order, the certificate of Jing Xu, C.M.T., will be recorded as suspended and no longer current. Should Ms. Xu seek reinstatement of her certificate pursuant to Section 54.1-2409 of the Code, she shall be responsible for any fees that may be required for the reinstatement and renewal of her certificate prior to issuance of her certificate to resume practice.

Pursuant to Sections 2.2-4023 and 54.1-2400.2 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public inspection and copying upon request.



Jaime H. Hoyle, Esquire, Chief Deputy Director
Department of Health Professions

ENTERED: _____

8/29/2014



COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director


Department of Health Professions

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CERTIFICATION OF DUPLICATE RECORDS

I, Jaime H. Hoyle, Esquire, Chief Deputy Director of the Department of Health Professions, hereby certify that the attached Final Order dated June 18, 2014, regarding Jing Xu, C.M.T., is a true copy of the records received from the State of Florida Board of Massage Therapy.



Jaime H. Hoyle, Esquire

Date: 8/29/2014

FILED DATE - JUN 19 2014

Department of Health

By: [Signature]
Denault Agency Clerk

STATE OF FLORIDA
BOARD OF MASSAGE THERAPY

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2012-13939
License No.: MA 64256

JING XU,

Respondent.

FINAL ORDER

This matter appeared before the Board of Massage Therapy at a duly-noticed public meeting on May 1, 2014 in Orlando, Florida, for a hearing not involving disputed issues of material fact pursuant to Sections 120.569 and 120.57(2), Florida Statutes. Petitioner has filed an Administrative Complaint seeking disciplinary action against the license. A copy of the Administrative Complaint is attached to and made a part of this Final Order. Service of the Administrative Complaint was made upon Respondent by certified mail, return receipt requested. Respondent has not filed an Election of Rights. Petitioner has filed a Motion for Determination of Waiver and Entry of Final Order. Petitioner was represented by Oaj Galina, Assistant General Counsel, Florida Department of Health. Respondent was not present.

FINDINGS OF FACT

Since the licensee has not replied to the Administrative Complaint nor contested the factual allegations, the prosecuting



attorney offered the investigative file to prove the facts as alleged. The investigative file was received into evidence and the Board finds the uncontested facts adequately support the allegations. Therefore, the Board adopts as its finding of facts the facts set forth in the Administrative Complaint.

CONCLUSIONS OF LAW

Based upon the Findings of Fact, the Board concludes the licensee has violated Sections, Florida Statutes.

The Board is empowered by Sections 480.046(2) and 456.072(2), Florida Statutes, to impose a penalty against the licensee. Therefore it is ORDERED that:

The license of JING XU is hereby REVOKED.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 18 day of June, 2014.

BOARD OF MASSAGE THERAPY



Christy Robinson
Acting Executive Director for
Bridget Burke-Wammack, CHAIR

NOTICE OF APPEAL RIGHTS

Pursuant to Section 120.569, Florida Statutes, the parties are hereby notified that they may appeal this Final Order by filing one

copy of a notice of appeal with the clerk of the department and by filing a filing fee and one copy of a notice of appeal with the District Court of Appeal within thirty days of the date this Final Order is filed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by certified U.S. Mail to **JING XU**, 41-70 Main Street, B3-135, Flushing NY 11355; by interoffice mail to **Lee Ann Gustafson**, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; and Department of Health-PSU, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265 on this ^{19th} day of June, 2014.

Amal Saides

Deputy Agency Clerk

7013 1710 0002 1580 3175

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO.: 2012-13939

JING XU, L.M.T.

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health ("Petitioner" or "Department"), files this Administrative Complaint against the Respondent, JING XU, L.M.T. ("Respondent"), and states:

1. Petitioner is the state agency charged with regulating the practice of massage therapy, pursuant to Chapters 20, 456 and 480, Florida Statutes (2012).
2. At all times material to this Complaint, Respondent was licensed as a massage therapist in the State of Florida, having been issued license number MA 64256.
3. Respondent's address of record is 41-70 Main Street, B3-135, Flushing, New York 11355.



4. On or about June 6, 2011, Respondent submitted a State of Florida Application for Licensure as a massage therapist ("Application") to the Florida Department of Health Board of Massage Therapy ("Florida Board").

5. On her Application, Respondent indicated that she attended Hands Institute for Massage Therapy.

6. Respondent did not indicate on her Application that Hands Institute for Massage Therapy is a Florida Board Approved School.

7. Respondent did not indicate that she attended an apprenticeship program.

8. Pursuant to Section 480.041(1)(b), Florida Statutes (2010-2011), in order to qualify for licensure as a massage therapist in the State of Florida pursuant to Chapter 480, Florida Statutes, a person must complete a course of study at a board-approved massage school or complete an apprenticeship program that meets the standards adopted by the board.

9. Submitted to the Florida Board with Respondent's Application was a transcript from Florida College of Natural Health ("FCNH").

10. The FCNH transcript represents that Respondent earned five hundred credit hours in the FCNH Therapeutic Massage Training Program (Transfer of Licensure).

11. The FCNH transcript indicates that Respondent started the FCNH Therapeutic Massage Training Program (Transfer of Licensure) on June 30, 2011, and completed the program on July 1, 2011.

12. Respondent also submitted, with her Application, a FCNH Certificate of Completion of twelve hours of Therapeutic Massage Training Program (Transfer of Licensure) dated July 1, 2011.

13. Also submitted with Respondent's Application was a FCNH Certificate of Completion of two hours of Prevention of Medical Errors dated July 1, 2011.

14. On or about July 19, 2012, the Vice President of Compliance and Institutional Effectiveness for FCNH ("V.P.") certified that the FCNH transcript Respondent submitted with her Application is fraudulent.

15. On or about July 19, 2012, the V.P. also certified that Respondent did not complete the courses identified in the certificates Respondent submitted with her Application.

16. Having not completed courses at, or obtained certificates of completion from, a Florida Board approved school, as required by Section 480.041(1)(b), Florida Statutes (2010-2011), Respondent is not qualified to be licensed, or to practice, as a massage therapist in the State of Florida.

COUNT ONE

17. Petitioner realleges paragraphs 1 through 16, as if fully set forth herein.

18. Section 480.046(1)(o), Florida Statutes (2010-2011), subjects a massage therapist to discipline for violating any provision of Chapter 480 or 456, Florida Statutes, or any rules adopted pursuant thereto.

19. Section 456.072(1)(h), Florida Statutes (2010-2011), subjects a massage therapist to discipline for attempting to obtain, obtaining, or renewing a license to practice a profession by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

20. Respondent violated Section 456.072(1)(h), Florida Statutes (2010-2011), by obtaining her license to practice massage therapy in the State of Florida through error of the Department of Health or by fraudulent misrepresentation by submitting a fraudulent transcript and fraudulent Certificates of Completion with her Application.

21. Based on the foregoing, Respondent has violated Section 480.046(1)(o), Florida Statutes (2010-2011), by violating Section 456.072(1)(h), Florida Statutes (2010-2011), by obtaining her license to practice massage therapy in the State of Florida through error of the Department of Health or through fraudulent misrepresentation.

COUNT TWO

22. Petitioner realleges paragraphs 1 through 16, as if fully set forth herein.

23. Section 480.046(1)(o), Florida Statutes (2010-2011), subjects a massage therapist to discipline for violating any provision of Chapter 480 or 456, Florida Statutes, or any rules adopted pursuant thereto.

24. Section 456.072(1)(w), Florida Statutes (2010-2011), subjects a massage therapist to discipline for failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.

25. Respondent violated Section 456.072(1)(w), Florida Statutes (2010-2011), by submitting a fraudulent transcript and fraudulent Certificates of Completion with her Application.

26. Based on the foregoing, Respondent has violated Section 480.046(1)(o), Florida Statutes (2010-2011), by violating Section 456.072(1)(w), Florida Statutes (2010-2011), by for failing to comply with the requirements for profiling and credentialing.

COUNT THREE

27. Petitioner realleges and incorporates by reference the allegations in paragraphs 1 through 16 as if fully set forth herein.

28. Section 480.046(1)(o), Florida Statutes (2010-2011), subjects a licensee to discipline for violating any provision of Chapter 480 or Chapter 456, or any rules adopted pursuant thereto.

29. Pursuant to Section 480.041(1)(b), Florida Statutes (2010-2011), in order to qualify for licensure as a massage therapist in the State of Florida, a person must complete a course of study at a Florida Board-approved massage school or complete an apprenticeship program that meets the standards adopted by the Florida Board.

30. Respondent is not qualified to hold a license as a massage therapist because she failed to complete a course of study at a Florida Board-approved massage school and failed to complete an apprenticeship program that meets the standards adopted by the Florida Board.

31. Based on the foregoing, Respondent violated Section 480.046(1)(o), Florida Statutes (2010-2011), by obtaining a license as a massage therapist without completing a course of study at a Florida Board-approved massage school or an apprenticeship program that meets the standards adopted by the Florida Board, in violation of Section 480.041(1)(b), Florida Statutes (2010-2011).

WHEREFORE, Petitioner respectfully requests that the Board of Massage Therapy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, and/or any other relief that the Board of Massage Therapy deems appropriate.

SIGNED this 15th day of October, 2012.

John H. Armstrong, MD
State Surgeon General and Secretary of Health



Candace A. Rochester
Assistant General Counsel
Florida Bar No. 0078393
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4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
(p) 850-245-4640
(f) 850-245-4662
CandaceRochester@doh.state.fl.us

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Angela Barton
DATE 10/17/2012

PCP Date: October 15, 2012
PCP Members: Karen Harrison, Lydia Nixon

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses, and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on Respondent in addition to any other discipline imposed.