

FILED DATE AUG 21 2013

Department of Health

By *Candace Rochester*  
Deputy Agency Clerk

STATE OF FLORIDA  
BOARD OF MASSAGE THERAPY

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2012-12154

DOAH CASE NO.: 12-3610PL

YUPING JIANG, LMT,

Respondent.

FILED  
2013 AUG 22 PM 12:33  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

FINAL ORDER

THIS CAUSE came before the BOARD OF MASSAGE THERAPY (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on July 26, 2013, in Orlando, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order (a copy of which is attached hereto as Exhibit A) in the above-styled cause. Petitioner was represented by Candace Rochester, Assistant General Counsel, Assistant General Counsel. Respondent was present and was represented by Martin P. McDonnell, Esquire.

Upon review of the Recommended Order, the argument of the parties, and after a review of the complete record in this case, the Board makes the following findings and conclusions.

RULINGS ON EXCEPTIONS

1. Petitioner's first exception to the Findings of Fact addresses paragraph 4 in the Recommended Order (hereinafter "RO"). The facts in paragraph 4 are supported by competent substantial evidence. The exception is rejected.

2. Petitioner's second exception to the Findings of Fact addresses paragraph 10 in the RO. The findings in paragraph 10 are inferences drawn by the Administrative Law Judge based on the evidence in the record. The exception is rejected.

3. Petitioner's third exception to the Findings of Fact addresses paragraphs 11 and 12 of the RO. The findings in paragraphs 11 and 12 are inferences drawn by the Administrative Law Judge based on the evidence in the record. The exception is rejected.

4. Petitioner's fourth exception to the Findings of Fact addresses paragraph 14 of the RO. The findings in paragraph 14 are inferences drawn by the Administrative Law Judge based on the evidence in the record. The exception is rejected.

5. Petitioner's first exception to Conclusions of Law addresses paragraphs 27 of the RO. The legal conclusion of the Administrative Law Judge is a reasonable interpretation of statute. The exception is rejected.

6. Petitioner's second exception to Conclusions of Law addresses paragraph 28 of the RO. The legal conclusions of the Administrative Law Judge are a reasonable interpretation of statute. The exception is rejected.

7. Petitioner's third exception to Conclusions of Law addresses paragraph 29 of the RO. The legal conclusions of the Administrative Law Judge are a reasonable interpretation of statute. The exception is rejected.

FINDINGS OF FACT

1. The findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein by reference.
2. There is competent substantial evidence to support the findings of fact.

CONCLUSIONS OF LAW

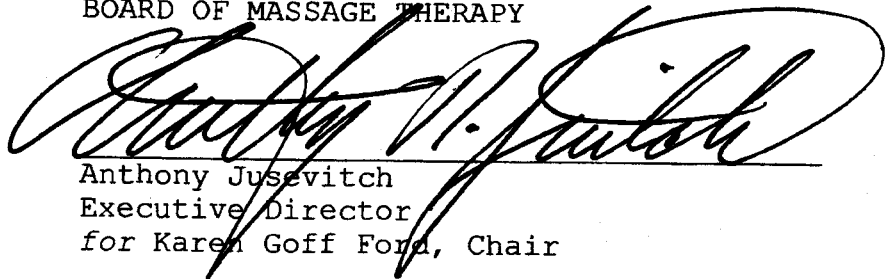
1. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 464, Florida Statutes.
2. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein by reference.

WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED that the Administrative Complaint is dismissed.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 21 day of August,  
2013.

BOARD OF MASSAGE THERAPY



Anthony Jusevitch  
Executive Director  
for Karen Goff Ford, Chair

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to, **Martin P. McDonnell**, Esquire, P. O. Box 551, Tallahassee, FL 32303-0551; to **John G. Van Laningham**, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by interoffice delivery to **Candace Rochester**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3265 this 21<sup>st</sup> day of August, 2013.

Brygel Saucedo

**Deputy Agency Clerk**