

FILED DATE - AUG 22 2013  
Department of Health

By Angel Saucedo  
Deputy Agency Clerk

STATE OF FLORIDA  
BOARD OF MASSAGE THERAPY

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2012-11912,  
DOAH CASE NO.: 12-3611P  
LICENSE NO.: MA61844

JUN PING HAO,

Respondent.

FILED  
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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. 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 of the Recommended Order (hereinafter "RO"). The facts in paragraph 4 of the RO are supported by competent substantial evidence. The exception is rejected.

2. Petitioner's second exception to the Findings of Fact addresses paragraphs 10, 11 and 12 of the RO. The facts in paragraphs 10, 11 and 12 are reasonable inferences that could be drawn from the evidence in the record. The exception is rejected.

3. Petitioner's third exception to the Findings of Fact addresses paragraph 13 of the RO. The facts in paragraph 13 of the RO are reasonable inferences that could be drawn from the evidence in the record. The exception is rejected.

4. Petitioner's first exception to Conclusions of Law addresses paragraph 26 of the RO. The Administrative Law Judge concluded that a culpable act by Respondent was required to establish a violation, and no such act was established. The exception is rejected.

5. Petitioner's second exception to Conclusions of Law addresses paragraph 27 of the RO. The Administrative Law Judge concluded that Sections 456.072(1)(h) and (w) require Petitioner to establish fraud committed by Respondent. The Administrative Law Judge made a reasonable interpretation of the statutes. The exception is rejected.

6. Petitioner's third exception to Conclusions of Law addresses paragraph 28 of the RO. The Administrative Law Judge's conclusion is a reasonable interpretation of the 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 **JUN PING HAO**, P.O. Box 551, Tallahassee FL 32303; to **J. Lawrence Johnston**, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by interoffice delivery to **Candace Rochester**, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3265 this 22<sup>nd</sup> day of August, 2013.

Brygel Sanders

**Deputy Agency Clerk**