

STATE OF FLORIDA
BOARD OF MASSAGE THERAPY

Final Order No. DOH-14-0421- S - MQA
FILED DATE **MAR 06 2014**
Department of Health
By: *[Signature]*
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2012-13944
License No.: MA 54053

YU YAO XU,

Respondent.

ORDER ADOPTING SETTLEMENT AGREEMENT

THIS CAUSE came before the BOARD OF MASSAGE THERAPY (Board) on February 27, 2014, in Tallahassee, Florida, for the purpose of considering a settlement agreement (attached hereto as Exhibit A) entered into between the parties. Upon consideration of the settlement agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises, it is hereby

ORDERED AND ADJUDGED that the settlement agreement as submitted is hereby approved.

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

DONE AND ORDERED this 6 day of March,
2014.

BOARD OF MASSAGE THERAPY



Anthony Jusevitch
Executive Director for
Bridget Burke-Wommack, Chair

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 June Zhou, Esquire 21346 St. Andrews Blvd, Suite 209, Boca Raton FL 33433; and by interoffice delivery to Lee Ann Gustafson, Senior Assistant Attorney General, Department of Legal Affairs, PL-01 The Capitol, Tallahassee FL 32399-1050, Department of Health-PSU, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265 this 6th day of March, 2014.



Deputy Agency Clerk

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**STATE OF FLORIDA
BOARD OF MASSAGE THERAPY**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2012-13944

YU YAO XU, L.M.T.,

Respondent,

_____ /

SETTLEMENT AGREEMENT

Yu Yao Xu, L.M.T., referred to as the "Respondent," and the Department of Health, referred to as "Department" stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Massage Therapy, referred to as "Board," incorporating the Stipulated Facts and Stipulated Disposition in this matter.

Petitioner is state agency charged with regulating the practice of Massage Therapy pursuant to Section 20.43, Florida Statutes, Chapter 456, Florida Statutes, and Chapter 480, Florida Statutes.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed massage therapist in the State of Florida having been Issued license number MA 54053.
2. In an Administrative Complaint that was properly filed and served upon Respondent, the Department charged Respondent with violations of Chapter

480, Florida Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint for purposes of these proceedings only.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in her capacity as a licensed massage therapist, she is subject to the provisions of Chapters 456 and 480, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of Chapter 480, Florida Statutes, as alleged in the Administrative Complaint.

3. Respondent agrees that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

1. **Suspension Language:** Respondent's license shall be suspended until Respondent provides proof of the following to the Board:

- a. Completion of a Florida Laws and Rules course;
- b. Completion of a HIV/AIDS course;
- c. Completion of a Prevention of Medical Errors course.
- d. If Respondent's out-of-state massage therapy coursework would not have been accepted for transfer credit by the Board at the time of application, Respondent

shall provide proof of completion of out-of-state coursework that would have been acceptable to the Board at the time of application.

2. **No Discipline:** The parties agree that this settlement shall not constitute discipline against Respondent's license.

STANDARD PROVISIONS

1. **Appearance:** Respondent is not required to appear before the Board at the meeting of the Board where this Agreement is considered.

2. **No force or effect until final order** - It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.

3. **Addresses** - Respondent must keep current residence and practice addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any changes of said addresses.

4. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 480 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice Massage Therapy. Prior to signing this agreement, the Respondent shall read Chapters 456, 480 and 893 and the Rules of the Board of Massage Therapy, at Chapter 64B7, Florida Administrative Code.

5. **Violation of terms considered** - It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 480, Florida Statutes.

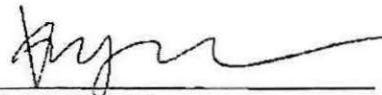
6. **Purpose of Agreement** - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Agreement. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Respondent agrees to support this Agreement at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

7. **No preclusion of additional proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

8. **Waiver of attorney's fees and costs** - Upon the Board's adoption of this Agreement, the parties hereby agree that the parties will bear their own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department and the Board in connection with this matter.

9. **Waiver of further procedural steps** - Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

SIGNED this 8th day of November, 2013.

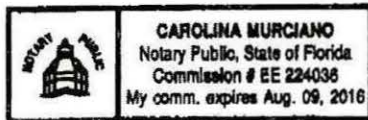


 Yu Yao Xu, L.M.T.

STATE OF FLORIDA
 COUNTY OF Broward

Before me, personally appeared XU, YUYAO, whose identity is known to me or by Florida Driver License (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 8 day of November 2013, 2013.





 NOTARY PUBLIC

Yu Yao Xu, LMT, 2012-13944

My Commission Expires:

APPROVED this 3rd day of December, 2013.

John H. Armstrong, M.D., FACS
State Surgeon General and
Secretary of Health



By: Lealand Lane McCharen
Assistant General Counsel
Department of Health