

FILED DATE - **OCT 15 2019**

Department of Health

By: [Signature]
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MASSAGE THERAPY

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2010-23066

DOAH CASE NO.: 16-5478PL

LICENSE NO.: MA 56426

RANJIE XU,

Respondent.

_____ /

FINAL ORDER

THIS CAUSE came before the BOARD OF MASSAGE (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, at the properly noticed meeting on October 19, 2017, in Tampa, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order (RO), (Attached hereto as Exhibit A), Respondent's Exceptions to Recommended Order (Attached as Exhibit B) and Petitioner's Response to Exceptions to Recommended Order (Attached as Exhibit C). In addition, Petitioner's Motion for Final Order After Recommended Order and Petitioner's Motion to Assess costs were considered by the Board. Petitioner was represented by Carrie McNamara, Assistant General Counsel. Neither Respondent, nor Counsel for Respondent June Zhou, were present at the meeting.

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DIVISION OF
ADMINISTRATIVE HEARINGS

FILED

PROCEDURAL HISTORY

1. On or about January 12, 2012, the Department of Health (DOH) filed an Administrative Complaint (Attached as exhibit D) against Respondent, Ranjie Xu.

2. Respondent filed an Election of Rights form.

3. The case was referred to the Division of Administrative Hearing (DOAH) and a hearing on was held on February 20, 2017.

4. Administrative Law Judge, F. Scott Boyd (ALJ) issued a Recommended Order (RO) on April 4, 2017.

5. Respondent filed Exceptions to the Recommended Order on April 19, 2017.

6. Petitioner's Response to Respondent's Exceptions to the Recommended Order were filed May 1, 2017.

EXCEPTIONS TO FINDINGS OF FACT

7. Respondent's first exception to finding of fact, found at paragraph 4 of Respondent's Exceptions to Recommended Order, is to finding of fact number 4 of the RO.

Respondent's exception improperly asks the Board to re-weigh the credibility of witness testimony. It is the role of the ALJ to weigh the credibility of the witnesses. Heifez v. Dep't of Bus. Reg., 475 So. 2d 1277, at 1281 (Fla 1st DCA 1985).

The Board REJECTS Respondent's first exception to finding of fact number 4 of the RO.

8. Respondent's second exception to finding of fact, found at paragraph 5 of Respondent's Exceptions to Recommended Order, is to finding of fact number 6 of the RO.

Respondent's exception improperly asks the Board to re-weigh the credibility of witness testimony. It is the role of the ALJ to weigh the credibility of the witnesses. Heifez, Id.

The Board REJECTS Respondent's second exception to finding of fact number 6 of the RO.

9. Respondent's third exception to finding of fact, found at paragraph 6 of Respondent's Exceptions to Recommended Order, is to finding of fact number 7 of the RO.

Respondent's exception improperly asks the Board to re-weigh the credibility of witness testimony. It is the role of the ALJ to weigh the credibility of the witnesses. Heifez, Id.

The Board REJECTS Respondent's third exception to finding of fact number 7 of the RO.

10. Respondent's fourth exception to finding of fact, found at paragraph 7 of Respondent's Exceptions to Recommended Order, is to finding of fact number 8 of the RO.

Respondent's exception improperly asks the Board to re-weigh the credibility of witness testimony. It is the role of the ALJ to weigh the credibility of the witnesses. Heifez, Id.

The Board REJECTS Respondent's fourth exception to finding of fact number 8 of the RO.

11. Respondent's fifth exception to finding of fact, found at paragraph 8 of Respondent's Exceptions to Recommended Order, is to finding of fact 9 of the RO.

Respondent's exception improperly asks the Board to re-weigh the credibility of witness testimony. It is the role of the ALJ to weigh the credibility of the witnesses. Heifez, Id.

The Board REJECTS Respondent's fifth exception to finding of fact number 9 of the RO.

12. Respondent's sixth exception to finding of fact, found at paragraph 9 of Respondent's Exceptions to Recommended Order, is to finding of fact number 10 of the RO.

Respondent's exception improperly asks the Board to re-weigh the credibility of witness testimony. It is the role of the ALJ to weigh the credibility of the witnesses. Heifez, Id.

The Board REJECTS Respondent's sixth exception to finding of fact number 10 of the RO.

13. Respondent's seventh exception to finding of fact, found at paragraph 10 of Respondent's Exceptions to Recommended Order, is to finding of fact number 11 of the RO.

Respondent's exception improperly asks the Board to re-weigh the credibility of witness testimony. It is the role of the ALJ to weigh the credibility of the witnesses. Heifez, Id.

The Board REJECTS Respondent's seventh exception to finding of fact number 11 of the RO.

14. Respondent's eighth exception to finding of fact, found at paragraph 11 of Respondent's Exceptions to Recommended Order is to finding of fact number 12 of the RO.

Respondent's exception improperly asks the Board to re-weigh the credibility of witness testimony. It is the role of the ALJ to weigh the credibility of the witnesses. Heifez, Id.

The Board REJECTS Respondent's eighth exception to finding of fact number 12 of the RO.

15. Respondent's ninth exception to finding of fact, found at paragraph 12 of Respondent's Exceptions to Recommended Order is to finding of fact number 13 of the RO.

Respondent's exception improperly asks the Board to re-weigh the credibility of witness testimony. It is the role of the ALJ to weigh the credibility of the witnesses. Heifez, Id.

The Board REJECTS Respondent's ninth exception to finding of fact number 13 of the RO.

EXCEPTIONS TO CONCLUSIONS OF LAW

16. Respondent's first exception to conclusion of law, as presented in paragraph 13 of the Respondent's Exceptions to Recommended Order, is directed to conclusions of law found at paragraphs number 17, 18, 19, 20-23 of the RO.

Paragraphs 17, 18, 19, 20, 21 and 22 simply state the standard of proof for a licensure discipline case, and Respondent does not state a basis to the exception.

The ALJ relied on competent, substantial evidence found throughout the record to support the conclusion of law in paragraph number 23, that the Respondent engaged in sexual misconduct.

The Board REJECTS Respondent's exception to findings of law numbers 17, 18, 19, 20-23.

EXCEPTIONS TO PENALTY

17. Respondent's exception to the penalty references paragraph 27 of the RO. Paragraph 27 of the RO merely sets out the penalty guidelines for the violation.

The Board REJECTS Respondent's exception to the penalty as stated in paragraph 27 of the RO.

FINDINGS OF FACT RELATED TO THE RECOMMENDED ORDER

18. There is competent substantial evidence to support the findings of fact.

19. The findings of fact set forth in the Recommended Order are approved, adopted and incorporated herein by reference.

CONCLUSIONS OF LAW RELATED TO THE RECOMMENDED ORDER

20. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 464, Florida Statutes.

21. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein by reference.

PENALTY

WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

22. The license of RANJIE XU is REVOKED.

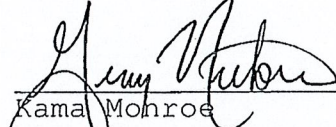
23. The licensee must pay an administrative fine of \$1,000 due 1 year from the date of filing of this Final Order. Payment shall be made to the Board of Massage Therapy and mailed to, DOH-Compliance Management Unit, 4052 Bald Cypress Way, Tallahassee, Florida 32399, Attention: Massage Therapy Compliance Officer. Payment must be made by cashier's check or money order ONLY. Personal checks will not be accepted.

24. IN ADDITION, Petitioner's Motion to Assess Costs (Attached as Exhibit E), is GRANTED. Costs of \$21,639.34 are assessed and due 2 years from the date of the filing of this Order.

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

DONE AND ORDERED this 14th day of October, 2019.

BOARD OF MASSAGE THERAPY

 for _____
Kama Monroe
Executive Director for
Christopher Brooks, 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 Certified Mail to: **Ranjie Xu**, 605 East Atlantic Boulevard, Pompano Beach, FL 33060; 7027 West Broward Boulevard, P.O. Box 278, Plantation, FL 33317; and 121 South Street Road 7, Plantation, FL 33347 and **C/O June Zhou**, Law office of June Zhou, 21346 Saint Andrews Blvd., #209, Boca Raton, FL 33433; by U.S. Mail to: **F. Scott Boyd**, Administrative Law Judge, Division of Administrative Hearings, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060, and by e-mail to: **Chad Dunn**, Assistant General Counsel, at chad.dunn@flhealth.gov; and **Diane L. Guillemette**, Assistant Attorney General, at diane.guillemette@myfloridalegal.com,

this 15th day of October, 2019.

Ranjie Xu
7027 West Broward Blvd.
P.O. Box 278
Plantation, FL 33317

Cert. of R

Angel Saucedo

Deputy Agency Clerk

Certified Article Number

9414 7266 9904 2129 5045 87

SENDER'S RECORD

Next Page →

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CAR

Certified Article Number
9414 7266 9904 2129 5045 94
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Ranjie Xu
121 South Street Road 7
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CAR

Certified Article Number
9414 7266 9904 2140 1015 29
SENDER'S RECORD

Ranjie Xu
c/o June Zhou, Esq.
Law Office of June Zhou
201346 Saint Andrews Blvd.
#209
Boca Raton, FL 33433

Mail

|||||
F. Scott Boyd, Admin Law Judge
Division of Administrative Hearings
1230 Apalachee Pkwy.
Tallahassee, FL 32399-3060

Mail

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Vision: To be the Healthiest State in the Nation

Ron DeSantis
Governor

Scott A. Rivkees, MD
State Surgeon General

**INTEROFFICE
MEMORANDUM**

DATE: Monday, October 14, 2019

TO: Mark Whitten
HCPR Bureau Chief

FROM: Kama Monroe, J.D., Executive Director
Boards of Acupuncture, Massage Therapy, Osteopathic
Medicine, Speech- Language Pathology & Audiology and the
Council of Licensed Midwifery

SUBJECT: Delegation of Authority

This is to advise that while I am out of the office, Monday, October 14, Gerry Nielson has delegated authority to serve as Acting Executive Director for the Boards of Acupuncture, Massage Therapy, Osteopathic Medicine, Speech-Language Pathology & Audiology and the Council of Licensed Midwifery. Mr. Nielson can be reached at 850.245.4586

KM/cdp

