

BEFORE THE IOWA MASSAGE THERAPY BOARD

IN THE MATTER OF:

CASE No. 23-0123
DIAL No. 24DBMT0005

JING XIE,

Respondent.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION, AND ORDER**

On April 23, 2024, the Iowa Massage Therapy Board (Board) issued a Notice of Hearing and Statement of Charges to Respondent Jing Xie. On July 18, 2024, the Board issued an amended notice alleging Respondent Jing Xie:

(1) Fraudulently procured a license, in violation of Iowa Code § 147.55(1) and 272C.10(1).

The hearing was conducted virtually on September 10, 2024, before the following members of the Board: LeAnn Stevens, Massage Therapist; Amy Heinz, Massage Therapist; Jacob Schrader, Public Member; Matt Sillanpaa, Public Member; and Doug Dollison, Massage Therapist.

Assistant Attorney General Samantha Wagner represented the state of Iowa. The Respondent failed to appear for the hearing. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1). Administrative Law Judge Kathleen M. O'Neill assisted the Board in conducting the hearing and was instructed to prepare the Board's decision in accordance with their deliberations.

THE RECORD

The record includes notice of appeal and state exhibits 1-9 (see exhibit index for description).

FINDINGS OF FACT

1. On April 18, 2022, Respondent Jing Xie applied for a license to practice massage therapy. (Ex. 9).

2. As a part of the application, the Respondent was asked to complete certain judgment questions:

Been investigated by a licensing, registration, or certification authority or organization; or had a licensing, registration, or certification authority or organization institute disciplinary action against you related to your professional practice? (If the investigation or action was instituted by this licensing board you may answer "NO" to this question).

Been disciplined or sanctioned by any licensing, registration, or certification authority or organization related to your professional practice? (If this licensing board took the disciplinary action, you may answer "NO" to this question).

The Respondent answered "no" to both questions, and certified that she had carefully read the questions on the application and answered them completely and truthfully. (Ex. 9).

3. The Respondent received an Iowa license on May 18, 2022, license number 114137. The Respondent's license expired on May 15, 2024. (Ex. 5, 9).

4. On April 4, 2023, the Board obtained information from the National Practitioner Data Bank indicating that the Respondent failed to report a criminal conviction and a voluntary surrender of her license in the state of Nevada. (Ex. 3).

5. The Board opened an investigation and found that on September 11, 2013, the Respondent entered a Voluntary Surrender of License in Lieu of Other Disciplinary Action before the Nevada State Board of Massage Therapists. The Respondent had been convicted of attempted conspiracy solicitation relating to her practice as a massage therapist in the state of Kansas, and submitted a fraudulent renewal application to the Nevada Board of Massage Therapists. This voluntary surrender agreement was considered a disciplinary action and became a part of her permanent record. (Ex. 3).

CONCLUSIONS OF LAW

I. Failure to Appear

481 Iowa Administrative Code 506.21 provides that if party fails to appear after proper service, the presiding officer may proceed with hearing and render a decision in

absence of the party or may enter a default decision. The Respondent was properly served with the notice of hearing and statement of charges but failed to appear for hearing. The Board was authorized to proceed in her absence.

2. *Fraud in Procuring a License*

A licensee's license to practice a profession shall be revoked or suspended, or the licensee otherwise disciplined by the board for that profession, when the licensee is guilty of fraud in procuring a license.¹

On September 11, 2013, the Respondent signed a Voluntary Surrender of License in Lieu of Other Disciplinary Action before the Nevada State Board of Massage Therapists. The voluntary surrender related to a criminal conviction for attempted conspiracy solicitation relating to her practice as a massage therapist in the state of Kansas and was considered a disciplinary action. In her April 18, 2022 application for a license to practice massage therapy in Iowa, the Respondent failed to disclose this criminal conviction and voluntary surrender of her license in another state. The Board thus granted the Respondent an Iowa license on May 18, 2022, without knowledge of this conviction or sanction.

The preponderance of the evidence in this record established that the Respondent fraudulently procured a license in Iowa, which is a violation of Iowa Code sections 147.55(1) and 272C.10(1).

DECISION AND ORDER

IT IS THEREFORE ORDERED that license number 114137, issued to Respondent Jing Xie, is hereby REVOKED.

IT IS FURTHER ORDERED that the Respondent's massage therapy license may not be reinstated unless she fully complies with the requirements of 481 Iowa Administrative Code 506.31 and establishes that the reason for the revocation of her license no longer exists and that it is in the public interest for her license to be reinstated. Prior to filing the application for reinstatement, the Respondent must provide verification that she is eligible for licensure under Iowa Code sections 272C.12 and 272C.15, as well as verification that she meets all the requirements to have her license reinstated.

¹ Iowa Code (ICA) § 147.55(1); ICA § 272C.10.

Dated this 22nd day of October, 2024.

 /s/ LeAnn Stevens _____
LeAnn Stevens, LMT, Chairperson
Iowa Board of Massage Therapy

cc: Assistant Attorney General Samantha Wagner

Appeal Rights/Motion to Vacate

In accordance with 481 Iowa Administrative Code 506.21(3), this decision becomes final agency action, unless, within 15 days after the date of notification or mailing of this decision, a motion to vacate is filed and served on all parties or an appeal of the decision on the merits is timely initiated. A motion to vacate shall state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit or a person with personal knowledge of each such fact attached to the motion.

Appeal on the Merits

In accordance with the provisions of Iowa Code section 17A.16 a party may file an application for rehearing within twenty (20) days after the issuance of this decision. In accordance with Iowa Code section 17A.19(3) any petition for judicial review must be filed within thirty (30) days after an application for rehearing has been denied or deemed denied. If a party does not file an application for rehearing any petition for judicial review must be filed within thirty (30) days after the issuance of this decision.