

BEFORE THE BOARD OF MASSAGE THERAPY
OF THE STATE OF NEW MEXICO

IN THE MATTER OF:

Juan Zhang,
License No. 7242 (Expired),

Case No. MT 16-02-COM

Respondent.

DEFAULT ORDER

This matter came before the New Mexico Massage Therapy Board (the "Board") on May 1, 2018, for a decision pursuant to provisions of the Uniform Licensing Act, NMSA 1978, §§ 61-1-1 through 61-1-33 ("ULA"). After due deliberation, the Board finds that:

1. The Board has complied with all notice and hearing provisions of the ULA and has afforded Respondent Juan Zhang all applicable due process rights.
2. In accordance with NMSA 1978, § 61-1-4(D), the Board sent its Notice of Contemplated Action ("NCA") in the above-captioned matter to Respondent at his last known address of record on February 2, 2018, via United States Postal Service Certified Mail, Return Receipt Requested, Article No. 9171 9690 0935 0155 1578 23. *See* Exhibit 1 (Notice of Contemplated Action, Case No. MT 16-02-COM).
3. Subsequently, the Board's NCA was returned by the United States Postal Service as unclaimed.
4. The NCA would have notified Respondent that the Board had before it sufficient evidence which, if not rebutted or satisfactorily explained at a formal hearing, would justify the Board taking disciplinary action. Exhibit 1.

5. The NCA would have further notified Respondent that failure to respond and request a hearing would “result in the Board taking the contemplated action.” Exhibit 1.
6. NMSA 1978, § 61-1-4(E) authorizes the Board to take the action contemplated in the NCA if a licensee does not mail a request for a hearing within the time and in the manner prescribed by NMSA 1978, §61-1-4. It further provides that such action taken by the Board shall be final and not subject to judicial review. NMSA 1978, § 61-1-4(E).
7. Respondent did not request a hearing within the time and in the manner prescribed.
8. Respondent has not otherwise communicated with the Board or offered any evidence rebutting or explaining the violations alleged in the NCA.

Based on the above findings, the Board enters the following Default Order:

IT IS ORDERED that Respondent’s Massage Therapy License No. 7242 is hereby revoked pursuant to NMSA 1978, § 61-1-3.

This action is disciplinary action and as such is a public record subject to inspection. Pursuant to NMSA 1978, Section 61-1-4(E), this action shall be final and not subject to judicial review.

This Decision and Order shall be served upon Respondent in accordance with law.

IT IS SO ORDERED.

5/14/2018

DATE

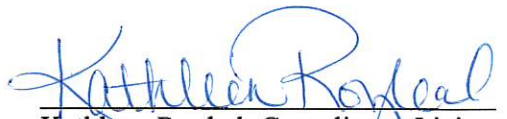
/s/ Susan Andrews

SUSAN ANDREWS, CHAIR
NEW MEXICO BOARD OF MASSAGE THERAPY

*Signature executed via e-mail
authorization dated 5/14/2018*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document and attachments were sent via certified mail, return receipt requested to Mr. Juan Zhang, at his last known address of record on May 14, 2018.


Kathleen Roybal, Compliance Liaison



Susana Martinez
GOVERNOR

Robert "Mike" Unthank
SUPERINTENDENT

David Jablonski
DEPUTY
SUPERINTENDENT

Claudia Armijo
DEPUTY GENERAL
COUNSEL

Enrique Knell
DIRECTOR

Alcohol and Gaming Division
(505) 476-4875

Boards and Commissions Division
(505) 476-4600

Construction Industries Division
(505) 476-4700

Financial Institutions Division
(505) 476-4885

Manufactured Housing Division
(505) 476-4770

Securities Division
(505) 476-4580

Administrative Services Division
(505) 476-4800

New Mexico Regulation and Licensing Department
BOARDS AND COMMISSIONS DIVISION

P.O. Box 25101 • Santa Fe, New Mexico 87504
(505) 476-4600 • Fax (505) 476-4620 • www.rld.state.nm.us

February 2, 2018

CERTIFIED MAIL #9171 9690 0935 0155 1578 23

Juan Zhang
13109 Manitoba Dr. NE
Albuquerque, NM 87111

Re: New Mexico Board of Massage Therapy
Complaint #MT-16-02-COM
Complainant – Amanda Lewis

Dear Mr. Zhang:

Enclosed please find a Notice of Contemplated Action (NCA) for the above referenced complaint, which has been drafted by the Attorney General's Office on behalf of the above referenced Board. The NCA is self-explanatory.

Please pay particular attention to the deadlines outlined in the NCA.

If you are exercising your right to a hearing please mail your request for hearing to the above address, *directing your request to my attention, including the name of the Board as referenced above*, within the timeline outlined in the NCA. Please note that your request must be sent by certified mail.

If you want to discuss the charges enumerated in the NCA please contact the Litigation Assistant Attorney General named in the NCA.

Sincerely,

Kathleen Roybal

Kathleen Roybal
Compliance Liaison
New Mexico Board of Massage Therapy
(505) 476-4622

Enclosure: Notice of Contemplated Action



**BEFORE THE BOARD OF MASSAGE THERAPY PRACTICE
OF THE STATE OF NEW MEXICO**

IN THE MATTER OF

Case No. MT 16-02-COM

JUAN ZHANG (Lic. No. 7242 Expired),
RESPONDENT.

NOTICE OF CONTEMPLATED ACTION

1. JUAN ZHANG (Respondent) was previously licensed to perform massage therapy services in the State of New Mexico, pursuant to the Massage Therapy Practice Act (MTPA), NMSA 1978, Sections 61-12C-1 through -28, and Uniform Licensing Act, NMSA (ULA), Sections 61-1-1 through -31. That license is expired.
2. NMAC 16.7.4.17(B)&(C) provide as follows:

SPECIFIC PROVISION FOR PERMANENT LICENSURE: The applicant must meet all the requirements set forth in Sections 16.7.4.10 through 16.7.4.15 NMAC, in addition to the following requirements:

B. National certification examination: The applicant must successfully pass the national certification examination for therapeutic massage and bodywork (NCETMB), or the national examination for therapeutic massage (NCETM) as provided in 16.7.10.9 NMAC, and must make arrangements for the national examining agency to send official examination results, as defined in 16.7.4.7 NMAC, directly to the board.

C. MBLEx: The applicant must successfully pass the massage and bodywork licensing examination, and must make arrangements for the examining agency to send official examination results directly to the board.

4. The Board has before it sufficient evidence, which if not rebutted or satisfactorily explained, will justify the Board in taking action against Respondent pursuant to NMSA 1978, Section 61-12C-8(C) and NMSA 1978 Section 61-1-3.
5. This action is based on the following allegations:

It is alleged that on or about February 5, 2016, the Board became aware that Respondent's MBLEx score had been invalidated by the Federation of State Massage Therapy Boards. Therefore, Respondent was not qualified to be licensed by the New Mexico Board of Massage Therapy, per NMAC 16.7.4.17(B) and (C).

6. RIGHTS OF THE RESPONDENT

You have a right to request a formal hearing in this matter. In order to exercise that right, you must respond to this Notice of Contemplated Action with a request for a hearing within twenty (20) days of the service of this Notice, pursuant to the ULA, NMSA 1978, Section 61-1-4, which governs the formal hearing proceeding. See NMSA 1978, § 61-12C-24. The hearing request must be made in writing, sent to the Board by certified receipt requested letter to the address provided below. Failure to respond in this prescribed manner (requesting a hearing) will result in the Board taking the contemplated action; and, such action shall be final, without any opportunity to appeal for judicial review. Please send any request for a formal hearing to:

Kathleen Roybal, Compliance Liaison
New Mexico Massage Therapy Board
Toney Anaya Building
2550 Cerrillos Road
Santa Fe, NM 87505
(505) 476-4622

If that hearing is requested, it will be conducted in accordance with the ULA. With respect to any formal hearing, as the respondent you have the following rights under NMSA 1978, Section 61-1-8:

- A. A person entitled to be heard under the Uniform Licensing shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefor to the board or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the board or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these rights.
- B. Upon written request to another party, any party is entitled to:
 - (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and
 - (2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing. The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.

- C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.

7. If Respondent requires the services of an interpreter at the hearing, the request for an interpreter must be made along with the request for hearing, and mailed to the address in Paragraph six.

Dated on this 2nd day of February, 2018.

STATE OF NEW MEXICO BOARD OF MASSAGE THERAPY

By: /s/ Susan Andrews
Massage Therapy Board Chairperson

/s/Julia White
Julia White
Assistant Attorney General
Office of the New Mexico Attorney General
P.O. Drawer 1508
Santa Fe, NM 87504-1508
(505) 490-4060
jwhite@nmag.gov

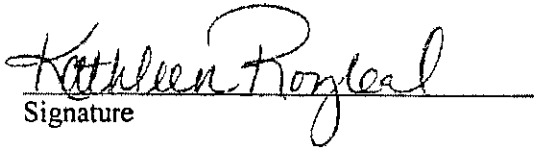
CERTIFICATION OF SERVICE

I, Kathleen Roybal , do hereby certify that a true and correct copy of the this Notice of Contemplated Action was mailed to Respondent, Oriental Health Spa, at its last known address as shown by the records of the New Mexico Massage Therapy Board on this 2nd day of February, 2018.

Return Receipt Request No.: 9171 9690 0935 0155 1578 23

Kathleen Roybal
Print the Name of Individual Certifying Service

Compliance Liaison / RLD
Title/Organization


Signature