

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

IN THE MATTER OF

Case No. 2014-13

ABATON CENTER FOR HEALING ARTS,  
RESPONDENT.

**NOTICE OF CONTEMPLATED ACTION**

1. Abaton Center of Healing Arts (Respondent) was registered to operate as a massage therapy school in the State of New Mexico, as required, 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. A massage therapy school is required to annually renew its license. Rule 16.7.12.12(A) NMRA. Further, Rule 16.7.12.15 NMRA provides that “[i]f a massage therapy school has not renewed its registration by the end of the sixty-day (60) grace period, the registration will automatically expire without notice from the board and will become null and void.”
2. Rule 16.7.12.15(E) NMRA provides that “[a] former licensee or registrant with an expired license or registration may not provide or offer to provide massage therapy services, instruction, education or training in massage therapy as defined in Section 61-12C-3[(E)] of the Massage Therapy Practice Act or in Part 1 and Part 4 of the board’s rules and regulations. Practicing or providing the services formerly authorized by the expired license or registration is a violation of the law and is subject to disciplinary action by the board.” As such, Respondent is subject to the jurisdiction of the New Mexico Board of Massage Therapy Practice (Board).
3. 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 61-1-3.2, which provides that “[a] board may impose a civil penalty in an amount not to exceed one thousand dollars (\$1,000) against a person who, without a license, engages in a profession or occupation regulated by the board. In addition, the board may assess the person for administrative costs, including investigative costs and the cost of conducting a hearing.” Also, NMSA 1978, Section 61-12C-27(A), provides that it is a misdemeanor act to violate a provision of the MTPA or the rules adopted pursuant to the MTPA.
4. This action is based on the following allegations:

ACHA operated as a massage therapy school during 2014, after the school’s license expired at the end of 2013. And, ACHA continued to operate as a massage therapy school after disciplinary proceedings had commenced in an earlier case, No 2014-09, flagrantly, and with knowledge, disregarding the law that requires

current licensure and registration for all operating massage therapy schools within the state.

5. The allegations contained in paragraph number four, above, would constitute a violation of NMSA 1978, Section 61-12C-5(D) (“A person shall not maintain, manage or operate a massage therapy school offering education, instruction or training in massage therapy unless the school is a registered massage therapy school.”).

### **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:

Vanessa Montoya, Compliance Liaison  
New Mexico Massage Therapy Board  
Toney Anaya Building  
2550 Cerrillos Road  
Santa Fe, NM 87505  
(505) 476-4643

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.

Dated on this 3rd day of April, 2015.

**STATE OF NEW MEXICO BOARD OF MASSAGE THERAPY**

By: Elizabeth A Harris  
Message Therapy Board Member

Administrative Prosecutor  
Brian Parrish,  
Assistant Attorney General  
Office of the New Mexico Attorney General  
P.O. Drawer 1508  
Santa Fe, NM 87504-1508  
(505) 827-6624  
bparrish@nmag.gov

**CERTIFICATION OF SERVICE**

I, Vanessa Montoya, do hereby certify that a true and correct copy of the this Notice of Contemplated Action was mailed to Respondent, Abaton Center for Healing, at its last known address as shown by the records of the New Mexico Massage Therapy Board on this 6 day of April, 2015.

Return Receipt Request No.: 7005 1820 0003 3153 7067

Vanessa Montoya  
Print the Name of Individual Certifying Service

Compliance Liaison  
Boards & Comissions  
Title/Organization

Vanessa Montoya  
Signature

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

**IN THE MATTER OF:**

**ABATON CENTER FOR  
THE HEALING ARTS,  
License no. 039,  
Respondent.**

**Case No. 2014-13**

**DEFAULT ORDER**

**THIS MATTER** came before a quorum of the New Mexico Board of Massage Therapy Practice (hereafter “the Board”), and with a quorum present and a majority voting in the affirmative, the Board finds as follows:

1. A Notice of Contemplated Action (“NCA”) was served upon Respondent on April 3, 2015 in accordance with the Uniform Licensing Act, NMSA 1978, §§ 61-1-1 to -34 (1957, as amended through 2016).
2. The Board mailed Respondent the NCA in case number 2014-13 via certified mail, return receipt requested, to Respondent’s address located at 4328 Mesa Grande SE, Albuquerque, NM 87108.
3. The NCA stated that the Board has sufficient evidence that Respondent, Abaton Center for Healing Arts, License no. 039, was operating a school without a valid license, as license no. 039 was expired, in violation of NMSA 1978 § 61-12C-3(E). The Board is therefore entitled to take disciplinary action against Respondent, including a fine or taking action against Respondent’s license.
4. Section 61-1-5 of the ULA provides that, where notice is served via certified mail, “it shall be deemed to have been served on the date borne by the return receipt showing

delivery or the last attempted delivery of the notice or decision to the addressee or refusal of the addressee to accept delivery of the notice or decision.” § 61-1-5.

5. Respondent failed to request a hearing within twenty (20) days of receipt of the NCA as required under Section 61-1-4 of the ULA.
6. Pursuant to the provisions of the ULA, specifically Section 61-1-4(E), if Respondent does not request a hearing, the Board may proceed to take the action contemplated in the notice and such action shall not be subject to judicial review.
7. It is therefore ordered and adjudged that Respondent did fail to respond to a properly served NCA in case number 2014-13 and is therefore found to be in default.
8. It is hereby **ORDERED** that the license of Respondent **ABATON CENTER FOR THE HEALING ARTS**, is hereby **REVOKED**. This action is final and is not subject to judicial review.

**IT IS SO ORDERED.**

Sept 6, 2016  
Date

**FOR THE NEW MEXICO BOARD OF  
MASSAGE THERAPY**

  
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**ELIZABETH HARRIS, Board Chair**