

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE MASSAGE THERAPY AND BODYWORK THERAPY AFFILIATED  
CREDENTIALING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

SHUYING DING,  
RESPONDENT.

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FINAL DECISION AND ORDER

**0003174**

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Division of Legal Services and Compliance Case No. 13 MAB 012

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Shuying Ding  
1775 Witzel Ave  
Oshkosh, WI 54902

Wisconsin Massage Therapy and Bodywork Therapy Affiliated Credentialing Board  
P.O. Box 8935  
Madison, WI 53708-8935

Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190  
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Shuying Ding (DOB November 5, 1982) is licensed in the state of Wisconsin as a massage therapist or bodywork therapist, having license number 11868-146, first issued on July 6, 2012, and current through February 28, 2015. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1775 Witzel Ave., Oshkosh, WI 54902. However, on January 9, 2014, Respondent verbally indicated that her current address is 1718 Velp Ave., Unit 1G, Green Bay, WI 54303.

2. At all times pertinent to this matter, Respondent was the owner and operator of King Spa, a massage therapy establishment located at 1718 Velp Ave., Green Bay, WI 54303.

3. On November 4, 2013, an inspection of King Spa was conducted by a Department investigator and Brown County law enforcement personnel based upon complaints alleging inappropriate sexual activity (sex for a fee) at the business location.

4. There were no licenses or price lists posted in the establishment.

5. Respondent did not provide proof of insurance when requested.

6. In the course of that inspection, two Chinese females identified as Hu Yanjun and Xieojing Xie, were performing massage therapy services on clients. Both females were represented as employees of King Spa. Neither Ms. Yanjun nor Ms. Xie had Wisconsin licenses to practice massage therapy.

7. One of the clients being serviced was a white male, observed lying naked on the shower spa table; his body from shoulders to feet, including buttocks, was visible to the inspector from the hallway leading to the massage therapy room.

8. The reception desk had a lined notebook that contained the date, appointment time and dollar amount paid. There were two schedules listed for the day, giving the impression that there were two massage therapists providing services. Client and provider names were not listed.

9. There were no client files or client consent forms located during the inspection, and Respondent admitted that she did not obtain consent forms from clients, and neither did she maintain records of what services were provided to what client, for what reason, when and by whom. She further admitted not informing clients that they have the right to stop massage therapy services at any time.

10. The following safety/sanitations issues were found in the two rooms used to service the two male clients in the establishment at the time of the inspection:

- a. there were wadded up white tissues on the floor of each room in which the two clients had just received massage therapy services;
- b. used fitted cloth sheets were left on the mattress of each massage table;
- c. neither the massage table, table sheet nor pillows were cleaned, and upon examination, the sheets on the tables were crusted with dried material, especially around the facial areas;
- d. the shower massage room was not cleaned after being used on one of the clients;

- e. the shower massage room had an oval white bar of soap lying on the shelf, which appeared to have been recently used as it was wet and discolored with a brown substance, and
- f. dirty linens were not being laundered with bleach, or any other product labeled as a germicidal, tuberculocidal, bactericidal or fungicidal cleaner.

11. When questioned by the department investigator, Respondent provided false information as to the posting of her license to practice massage therapy; the role of the two females providing massage therapy services and whether they were paid; the manner in which the establishment is maintained to provide a sanitary environment for clients; the existence of an appointment book and other matters related to the practice of massage therapy.

12. Respondent was cited by the Brown County Sheriff's Office for violating Village of Howard Ordinance numbers 6-466, 6-490 and 6-490(11), all related to the practice of massage therapy.

13. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

#### CONCLUSIONS OF LAW

1. The Wisconsin Massage Therapy and Bodywork Therapy Affiliated Credentialing Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 460.02, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Shuying Ding engaged in unprofessional conduct pursuant to Wis. Stat. § 460.05(1)(g) and Wis. Admin. Code § MTBT 2.01(3)(i) by failing to have in effect as a policyholder and insured, malpractice liability insurance coverage in an amount that is not less than 1 million per occurrence and 1 million for all occurrences in one year.

3. By the conduct described in the Findings of Fact, Shuying Ding engaged in unprofessional conduct pursuant to Wis. Admin. Code § MTBT 5.01(3) by failing to inform a client about contraindications of massage therapy or bodywork.

4. By the conduct described in the Findings of Fact, Shuying Ding engaged in unprofessional conduct pursuant to Wis. Admin. Code § MTBT 5.01(6) by practicing massage therapy or bodywork on a client without first obtaining the written informed consent of the client and informing the client in writing that he or she may withdraw consent at any time.

5. By the conduct described in the Findings of Fact, Shuying Ding engaged in unprofessional conduct pursuant to Wis. Admin. Code § MTBT 5.01(8) by failing to maintain, for a period of at least 5 years, records necessary for the continuity of the client's massage therapy or bodywork treatment.

6. By the conduct described in the Findings of Fact, Shuying Ding engaged in unprofessional conduct pursuant to Wis. Admin. Code § MTBT 5.01(12) and (26) by failing to maintain premises, including clean clothing, linens and equipment, according to standards recognized by the massage therapy or bodywork profession.

7. By the conduct described in the Findings of Fact, Shuying Ding engaged in unprofessional conduct pursuant to Wis. Admin. Code § MTBT 5.01(15) by knowingly providing false information to the department.

8. By the conduct described in the Findings of Fact, Shuying Ding engaged in unprofessional conduct pursuant to Wis. Admin. Code § MTBT 5.01(20) by aiding and abetting an uncertified person, knowingly conspiring with an uncertified person relating to the practice of massage therapy or bodywork.

9. By the conduct described in the Findings of Fact, Shuying Ding engaged in unprofessional conduct pursuant to Wis. Admin. Code § MTBT 5.01(21) by practicing in a manner which substantially departs from the standard of care ordinarily exercised by a massage therapist or bodyworker.

10. By the conduct described in the Findings of Fact, Shuying Ding engaged in unprofessional conduct pursuant to Wis. Admin. Code § MTBT 5.01(22) by engaging in conduct likely to deceive, defraud, or harm an individual or the public in the course of the practice of massage therapy or bodywork.

11. By the conduct described in the Findings of Fact, Shuying Ding engaged in unprofessional conduct pursuant to Wis. Admin. Code § MTBT 5.01(27) by failing to submit a written report to the department after having been found to have committed a violation, the circumstances of which substantially relate to the practice of massage therapy or bodywork.

12. By the conduct described in the Findings of Fact, Shuying Ding engaged in unprofessional conduct pursuant to Wis. Stat. § 460.14(2)(h) by engaging in conduct while practicing massage therapy or bodywork therapy that jeopardizes the health, safety, or welfare of a client.

13. As a result of the above violations, Shuying Ding is subject to discipline pursuant to Wis. Stat. § 460.14(2).

#### ORDER

1. The attached Stipulation is accepted.

2. The license to practice massage therapy or bodywork therapy issued to Respondent, Shuying Ding (license number 11868-146), is SUSPENDED as follows:

### SUSPENSION

- a. The license of Shuying Ding to practice as a massage therapist or bodywork therapist in the state of Wisconsin is SUSPENDED for one year, effective ten days after the date this Order is signed.
- b. Respondent shall mail or physically deliver all indicia of Wisconsin licensure to the Department Monitor within 14 days of the effective date of this order. Limited credentials can be printed from the Department of Safety and Professional Services website at <http://dsps.wi.gov/Home>.
- c. The suspension shall not be stayed for the first six (6) months, but any time thereafter, the suspension may be stayed upon Respondent providing proof, which is determined by the Board or its designee to be sufficient, that Respondent is able to practice in compliance with the applicable provisions of this Order.
- d. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in substantial or repeated violation of any provision of this Order. A substantial violation includes, but is not limited to, failing to obtain written informed consent from clients and/or failing to maintain the records necessary for the continuity of client's massage therapy. A repeated violation is defined as the multiple violation of the same provision or violation of more than one provision.
- e. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.
- f. Respondent may not practice massage therapy or bodywork therapy while this suspension is in effect.

### CONDITIONS AND LIMITATIONS

3. The license to practice massage therapy or bodywork therapy issued to Respondent, Shuying Ding (license number 11868-146), is LIMITED in the following respects:

#### Education

- a. Within ninety days (90) days of the date of this Order, Respondent shall successfully complete six (6) hours of education on the topic of informed consent/ risk management; three (3) hours of education on the topic of ethics and six (6) hours of education on the topic of sanitation (including taking and passing any exam offered for the courses). All courses taken in satisfaction of this limitation must be pre-approved by the Board's monitoring liaison.
- b. Respondent shall be responsible for obtaining the course(s) required under this Order, for providing adequate course(s) descriptions to the Department Monitor, and for

obtaining pre-approval of the course(s) from the Board, or its designee, prior to commencement of the course(s).

- c. The Board or its designee may reject any course(s) and may accept a course(s) for less than the number of hours for which Respondent seeks approval.
- d. Within thirty (30) days of completion of each educational component, Respondent shall file an affidavit with the Department Monitor stating under oath that she has attended, in its entirety, the course(s) approved for satisfaction of this requirement along with supporting documentation of attendance from the sponsoring organizations.
- e. This limitation shall be removed from Respondent's license after satisfying the Board or its designee that Respondent has successfully completed all of the ordered education.
- f. Respondent is responsible for all costs associated with compliance with this educational requirement.
- g. None of the education completed pursuant to this requirement may be used to satisfy any other continuing education requirements that have been or may be instituted by the Board or Department.

Practice Limitations.

- h. Respondent may not employ or contract with any non-WI licensed massage or bodywork therapists to engage in the practice of massage or bodywork therapy on her behalf or in her stead.
- i. Respondent shall not aid or abet the unauthorized or unlicensed practice of massage therapy or bodywork therapy in any business she owns or has a pecuniary interest in, including, but not limited to, King Spa.
- j. At all times practicing pursuant to this Order, Respondent shall maintain a work log in a format approved by the Department Monitor, which chronicles the dates and times worked by Respondent and anyone in her employ.
- k. At all times practicing pursuant to this Order, Respondent shall maintain a daily appointment book with the date, name and contact information of each client serviced, and including the type of service performed and the name of the persons performing the service.
- l. At all times practicing pursuant to a license issued by the Board, Respondent shall maintain compliance with all state and local laws, rules and regulations pertaining to the practice of massage therapy or bodywork therapy.

Work Reports

- m. At all times practicing pursuant to this Order, Respondent shall provide monthly reports to the Department Monitor at the address listed below in Paragraph 5. The

first report will be due no later than thirty (35) days following the date Respondent resumes practicing or employing others to practice massage therapy, and shall continue monthly, thereafter.

g. Each report shall include the following:

- a copy of the work log for each day Respondent practiced or employed others to provide massage therapy services;
- a copy of the appointment book required by paragraph 3j, above.
- a list of any new employees, independent contractors or volunteers performing massage therapy services in an establishment owned or managed by Respondent. Said list shall include the employee's name, current address, telephone number and credential number.
- a copy of any advertisement used to solicit business, whether paid for by Respondent or another, for Respondent's benefit.
- a list of any and all massage therapy or related businesses that Respondent has an ownership or other pecuniary interest in.

Professional Mentor

- h. Upon a lifting or termination of any stay of the suspension, for a period of one (1) year, Respondent shall practice massage therapy or bodywork therapy only under the oversight of a Professional Mentor approved by the Board or its designee.
- i. Respondent is responsible for obtaining a Professional Mentor acceptable to the Board. A Professional Mentor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the Professional Mentor to render fair and unbiased reports to the Department (including but not limited to any bartering relationship, mutual referral of clients, etc.). A Professional Mentor shall be actively practicing as a qualified massage therapist or bodywork therapist, hold a current and unlimited Wisconsin license, and shall have read this Final Decision & Order and agree to be Respondent's Professional Mentor.
- j. Oversight by the Professional Mentor shall include weekly meetings at Respondent's place of business and include an inspection of the establishment; review of: appointment books, employee timesheets, client informed consent forms, medical history questionnaires, and any other actions deemed appropriate by the Professional Mentor to determine whether Respondent is practicing in a professional, competent, and ethical manner. After three months, said meetings may be conducted monthly, at the discretion of the Professional Mentor, as long as Respondent is in compliance with the terms and conditions of this Order.
- k. Respondent shall arrange for her Professional Mentor to provide formal written reports to the Department Monitor on a monthly basis, or as otherwise directed by the Department Monitor. These reports shall assess Respondent's work performance, including compliance with this Order. Respondent's Professional Mentor shall



immediately report to the Department Monitor any conduct or condition of the Respondent, or those acting in Respondent's employ, which may constitute unprofessional conduct, a violation of this Order, or a danger to the public or client. If a report indicates poor performance, the Board may, in its discretion, institute appropriate corrective limitations.

- l. The Professional Mentor may designate another qualified massage therapist or bodywork therapist acceptable to the Board to exercise the duties and responsibilities of the Professional Mentor in an absence of more than two (2) weeks. Respondent shall notify the Board of any absences exceeding two days and less than two weeks.
- m. In the event that the Professional Mentor is unable or unwilling to continue to serve as Respondent's Professional Mentor, Respondent is responsible for obtaining a new mentor who is acceptable to the Board. Respondent may not practice as a massage therapist or bodywork therapist until the new mentor has been approved, and may not otherwise engage non-WI licensed massage therapists in her employ.
- n. The Professional Mentor shall have no duty or liability to any client or third party with respect to the duties performed as Professional Mentor. The Mentor's sole duty in this capacity is to the Board.
- o. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

Petitions for Modifications

- p. Respondent may petition the Board for a modification of the terms of this Order after one year of continual practice in full compliance with all the conditions and limitations outlined herein. The Board will not consider any such petition filed prior to that time. Any such request for modification shall be in writing, accompanied by an attestation from Respondent that she has complied with the terms and conditions set forth herein. Denial of a petition, in whole or in part, shall not be considered a denial of a license under s. 227.01(3)(a), Wis. Stats., and Respondent shall not have a right to any further hearings or proceedings on the denial until such time that she has successfully completed the limitations, terms and conditions of this Order,
4. Within 90 days from the date of this Order, Shuying Ding shall pay COSTS of this matter in the amount of five hundred (\$500) dollars.
  5. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent by Respondent to the Department Monitor at the address below:

Department Monitor  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190

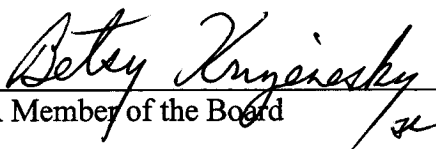
Telephone (608) 267-3817; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

6. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit payment of costs as ordered, Respondent's license (no. 11868-146) may, in the discretion of the Board or its design nee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of costs.

7. This Order is effective on the date of its signing.

WISCONSIN MASSAGE THERAPY AND BODYWORK THERAPY AFFILIATED  
CREDENTIALING BOARD

by:

  
A Member of the Board

4-21-14  
Date

STATE OF WISCONSIN  
BEFORE THE MASSAGE THERAPY AND BODYWORK THERAPY AFFILIATED  
CREDENTIALING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

SHUYING DING,  
RESPONDENT.

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STIPULATION

**0003174**

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Division of Legal Services and Compliance Case No. 13 MAB 012

Respondent Shuying Ding, and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Massage Therapy and Bodywork Therapy Affiliated Credentialing Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order if adopted in the form attached.

Stipulation  
In the matter of disciplinary proceedings against  
Shuying Ding, 13 MAB 012

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

*Shuying Ding*

Shuying Ding, Respondent  
1775 Witzel Ave.,  
Oshkosh, WI 54902  
License No. 11868-146

*01-26-14*

Date

*Yolanda Y. McGowan*

Yolanda Y. McGowan, Attorney  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

*1/30/14*

Date