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APR 7 2021

DIV LEGAL SERVICES & COMPLIANCE  
DEPT SAFETY & PROFESSIONAL SERVICES



**Before the  
State of Wisconsin  
Massage Therapy and Bodywork Therapy Affiliated Credentialing Board**

In the Matter of the Disciplinary Proceedings  
Against Li Wang, L.M.T., Respondent.

FINAL DECISION AND ORDER

Order No. **ORDER 0007402**

**Division of Legal Services and Compliance Case No. 19 MAB 030**

The State of Wisconsin, Massage Therapy and Bodywork Therapy Affiliated Credentialing Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

**ORDER**

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Massage Therapy and Bodywork Therapy Affiliated Credentialing Board.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin on the 1 day of June, 2021.

Member  
Massage Therapy and Bodywork Therapy Affiliated  
Credentialing Board



Before The  
State of Wisconsin  
DIVISION OF HEARINGS AND APPEALS

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In the Matter of Disciplinary Proceedings Against  
Li Wang, L.M.T., Respondent

DHA Case No. SPS-21-0005  
DLSC Case No. 19 MAB 030

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**PROPOSED DECISION AND ORDER**

The parties to this proceeding for purposes of Wis. Stat. §§ 227.47(1) and 227.53 are:

Li Wang

Stevens Point, WI 54481

Li Wang

Milwaukee, Wisconsin 53220

Wisconsin Massage Therapy and Bodywork Therapy Affiliated Credentialing Board  
P.O. Box 8366  
Madison, WI 53708-8366

Department of Safety and Professional Services,  
Division of Legal Services and Compliance, by:

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

PROCEDURAL HISTORY

On January 25, 2021, the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed a formal complaint alleging that Respondent Li Wang, L.M.T., engaged in unprofessional conduct by being convicted of a state criminal law which is substantially related to the practice of massage therapy of bodywork therapy, in violation of Wis. Admin. Code § MTBT 5.02(26), and by being convicted of an offense under Wis. Stat. § 944.30(1m), in violation of Wis. Admin. Code § MTBT 5.02(2).

On January 25, 2021, the Division served Respondent by sending a copy of the Notice of Hearing and Complaint to Respondent's last known address on file with the Department, and an alternative address listed in court records, via certified and regular first-class mail. The Division also emailed a copy of the Notice of Hearing and Complaint to Respondent's last known email address on file with the Department.

On February 8, 2021, the Notice of Hearing and Complaint sent to Respondent at her address on file with the Department via regular first-class mail were returned to the Division by the U.S. Postal Service. On February 9, 2021, the Notice of Hearing and Complaint sent to Respondent at her address on file with the Department via certified mail were returned to the Division by the U.S. Postal Service marked "Return to Sender" and "Unable to Forward." The Notice of Hearing and Complaint sent to Respondent at her alternative address listed in court records via certified and regular first-class mail were not returned to the Division.

After the expiration of the 20-day time period to file an Answer, the Administrative Law Judge (ALJ) Sally Pederson scheduled a telephone prehearing conference for February 23, 2021. The ALJ sent notice of the conference to Respondent by U.S. mail. The notice ordered Respondent to contact the ALJ no later than February 22, 2021 to provide her current telephone number. The notice also stated that if Respondent failed to appear at the scheduled conference, default judgment may be entered against her.

Respondent did not provide the ALJ with a telephone number by February 22, 2021 and failed to appear at the prehearing conference on February 23, 2021. At the prehearing conference, the Division provided the ALJ with Respondent's telephone number on file with the Department. The ALJ called Respondent twice at approximately 9:32 and 9:33 AM and again at 9:45 AM, but there was no answer and no ability to leave a voicemail message. The Division then moved for default judgment against Respondent for failing to file an Answer and failing to appear at the prehearing conference, pursuant to Wis. Admin. Code §§ SPS 2.14 and HA 1.07(3)(c).

On February 23, 2021, the ALJ granted the Division's motion and issued a Notice of Default against Respondent. The Notice of Default ordered the Division to file a recommended proposed decision and order by March 24, 2021. The Division timely filed its recommended proposed decision and order.

### FINDINGS OF FACT

#### Facts Related to the Alleged Violations

Findings of Fact 1-7 are taken from the Division's complaint in this matter.

1. Respondent Li Wang, L.M.T., is licensed in the state of Wisconsin to practice massage therapy and bodywork therapy, having license number 14033-146, first issued on October 20, 2016, and currently expired as of March 1, 2021. Pursuant to Wis. Stat. § 440.08(3), Respondent retains the right to renew her license upon payment of a fee until February 28, 2026.
2. Respondent's most recent address on file with the Department is [REDACTED], Stevens Point, Wisconsin 54481. (Complaint ¶ 2).

3. Respondent's address listed on Wisconsin Circuit Court Access, Milwaukee County Circuit Court Case No. 2019CF005672 (Milwaukee County Case) as of December 26, 2019, is [REDACTED], Milwaukee, Wisconsin 53220. (Complaint ¶ 3).
4. At all times relevant to this proceeding, Respondent was the manager of Asian Massage Therapy in West Allis, Wisconsin. (Complaint ¶ 4).
5. On December 23, 2019, after an investigation by the West Allis Police Department into alleged prostitution occurring at Asian Massage Therapy, Respondent was charged with one (1) count of Keeping a Place of Prostitution and one (1) count of Prostitution-Sexual Contact in the Milwaukee County Case. (Complaint ¶ 5).
6. On September 21, 2020, Respondent pled no contest and was convicted of Prostitution-Sexual Contact, a Class A misdemeanor, in violation of Wis. Stat. § 944.30(1m)(e), in the Milwaukee County Case. The charge of Keeping a Place of Prostitution was dismissed pursuant to a plea agreement. (Complaint ¶ 6).
7. Respondent was sentenced to serve 90 days in jail, but the sentence was stayed, and Respondent was placed on probation for one (1) year. One of the conditions of Respondent's probation was that she was not allowed to own, manage or be employed at a spa, nail salon, or any personal care business. (Complaint ¶ 7).

Facts Related to Default

8. On January 25, 2021, the Notice of Hearing and Complaint were served on Respondent at her last known address on file with the Department by both certified and regular first-class mail, pursuant to Wis. Admin. Code § SPS 2.08. (Affidavit of Service ¶¶ 3-4).
9. On January 25, 2021, the Notice of Hearing and Complaint were served on Respondent at her address listed on Wisconsin Circuit Court Access (CCAP) in the Milwaukee County Case as of December 26, 2019 by both certified and regular first-class mail. (Affidavit of Service ¶¶ 5-6).
10. On January 25, 2021, the Notice of Hearing and Complaint were emailed to Respondent at her email address on file with the Department as of that date. (Affidavit of Service ¶ 7).
11. On February 8, 2021, the Notice of Hearing and Complaint sent via regular first-class mail to Respondent at her address on file with the Department were returned to the Division by the U.S. Postal Service. (Affidavit of Service ¶ 8; Ex. 1).
12. On February 9, 2021, the Notice of Hearing and Complaint sent via certified mail to Respondent at her address on file with the Department were returned to the Division by the U.S. Postal Service marked "Return to Sender" and "Unable to Forward." (Affidavit of Service ¶ 9; Ex. 2).

13. The Notice of Hearing and Complaint sent to Respondent via certified and regular first-class mail at her address listed on CCAP were not returned to the Division by the U.S. Postal Service. (Affidavit of Service ¶ 10).
14. Respondent failed to file an Answer to the Complaint.
15. After the expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for February 23, 2021. The ALJ sent notice of the conference by U.S. mail to Respondent. The notice ordered Respondent to contact the ALJ no later than February 22, 2021 to provide a telephone number at which she could be reached for the prehearing conference. The notice also stated that if Respondent failed to appear at the scheduled conference, default judgment may be entered against her. Respondent did not provide the ALJ with a telephone number.
16. Respondent failed to appear at the prehearing conference on February 23, 2021. The Division provided the ALJ with Respondent's telephone number on file with the Department. The ALJ called Respondent twice at approximately 9:32 and 9:33 AM and again at 9:45 AM, but there was no answer and no ability to leave a voicemail message.
17. On February 23, 2021, the Division moved for default judgment, pursuant to Wis. Admin. Code §§ SPS 2.14 and HA 1.07(3)(c). ALJ granted the Division's motion and issued a Notice of Default, which ordered that the Division file and serve a recommended proposed decision and order by March 24, 2021.
18. The Division timely filed its recommended proposed decision and order.

### DISCUSSION

#### Jurisdictional Authority

Pursuant to Wis. Admin. Code § SPS 2.10(2), the undersigned ALJ has authority to preside over this disciplinary proceeding in accordance with Wis. Stat. § 227.46(1).

#### Default

The Division properly served the Notice and Complaint upon Respondent by mailing copies to her at her last known address, in accordance with Wis. Admin. Code § SPS 2.08(1). Pursuant to Wis. Admin. Code § SPS 2.14, if a respondent "fails to answer as required by s. SPS 2.09 or fails to appear at the hearing at the time fixed therefor, the respondent is in default and the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence." *See also* Wis. Admin. Code § HA 1.07(3)(c).

Respondent violated Wis. Admin. Code § SPS 2.09(4) by failing to file an Answer to the Complaint within 20 days from the date of service. Respondent also failed to appear at the prehearing telephone conference on February 23, 2021 and failed to provide a current telephone number as ordered by the ALJ. Therefore, Respondent is in default, and findings may be made and an order may be entered on the basis of the Complaint.

### Violations

The Board has the authority to impose discipline against the Respondent pursuant to Wis. Stat. § 460.14. Under Wis. Stat. § 460.14(2m)(a), and subject to the rules promulgated under Wis. Stat. § 440.03(1), the Board is required to revoke a massage therapy and bodywork therapy license if the license holder is convicted of an offense under Wis. Stat. § 944.30(1m). In addition, under Wis. Stat. § 460.14(2)(g), the board has authority to discipline a licensee for engaging in unprofessional conduct, which includes being convicted of Wis. Stat. § 944.30(1m) or any other federal or state law that is substantially related to the practice of massage therapy or bodywork therapy. *See* Wis. Admin. Code § MTBT 5.02 (2) and (26).

The facts in this matter are undisputed. In 2019, the West Allis Police Department conducted an investigation regarding alleged prostitution occurring at Asian Massage Therapy, a business located in West Allis, Wisconsin. On December 23, 2019, as manager of Asian Massage Therapy, Respondent was charged in Milwaukee County Circuit Court with one count of keeping a place of prostitution and one count of prostitution-sexual contact. On September 21, 2020, Respondent pled no contest and was convicted of prostitution-sexual contact, a class A misdemeanor, in violation of Wis. Stat. § 944.30(1m)(e), for providing sexual services to customers at Asian Massage Therapy. The crime was carried out under the veneer of legitimacy provided by Respondent's Board-issued license to practice massage therapy. Therefore, Respondent's conviction is substantially related to the practice of massage therapy.

By the conduct described above, Respondent is subject to revocation pursuant to Wis. Stat. § 460.14(2m)(a). Respondent also engaged in unprofessional conduct, as defined by Wis. Admin. Code §§ MTBT 5.02 (2) and (26), and is subject to discipline pursuant to Wis. Stat. § 460.14(2)(g).

### Discipline

The Division has recommended that Respondent's license be revoked. As described above, the Board is statutorily required to revoke a license when the license holder is convicted of a crime of prostitution under Wis. Stat. § 944.30(1m). *See* Wis. Stat. § 460.14(2m)(a). The Board is additionally authorized to discipline Respondent for unprofessional conduct on the basis of her prostitution conviction pursuant to Wis. Stat. § 460.14(2)(g) and Wis. Admin. Code § MTBT 5.02(2). In this case, the matter of discipline is mandated by law. The Board is required to revoke Respondent's license due to her prostitution conviction. Therefore, I find that the Division's requested revocation of Respondent's license to practice massage therapy or bodywork therapy in Wisconsin, pursuant to the terms and conditions of the Order below, is warranted.

### Costs

The Board is vested with discretion concerning whether to assess all or part of the costs of this proceeding against Respondent. *See* Wis. Stat. § 440.22(2). In exercising such discretion, the Board must look at aggravating and mitigating facts of the case; it may not assess costs against a licensee based solely on a "rigid rule or invocation of an omnipresent policy," such as preventing those costs from being passed on to others. *Noesen v. State Department of Regulation & Licensing, Pharmacy Examining Board*, 2008 WI App 52, ¶¶ 30-32, 311 Wis. 2d 237, 751 N.W.2d 385. In previous orders, Boards have considered the following factors when determining if all or part of the costs should be assessed against the Respondent: (1) the number of counts charged, contested and proven; (2) the nature and seriousness of the misconduct; (3) the level of discipline sought by the prosecutor; (4) the respondent's cooperation with the disciplinary process; (5) prior discipline, if any; (6) the fact that the Department is a program revenue agency, funded by other licensees; and (7) any other relevant circumstances. *See In the Matter of Disciplinary Proceedings Against Elizabeth Buenzli-Fritz*, LS0802183CHI (Aug. 14, 2008). It is within the Board's discretion as to which of these factors to consider, whether other factors should be considered, and how much weight to give any factors considered.

Considering the above factors, it is appropriate for Respondent to pay the full costs of the investigation and of these proceedings. Respondent defaulted, and the factual allegations identified in this decision were deemed admitted. Respondent committed a level of unprofessional conduct such that the statutes require license revocation. Finally, Respondent failed to provide current contact information to the ALJ, failed to appear at the prehearing conference, and failed to file an Answer to the Complaint or otherwise participate in these proceedings.

The Department is a program revenue agency whose operating costs are funded by the revenue received from credential holders. It would be unfair to impose the costs of pursuing discipline in this matter on those licensees who have not engaged in misconduct. Consequently, it is appropriate for Respondent to pay the full costs of the investigation and this proceeding, as determined pursuant to Wis. Admin. Code § SPS 2.18.

### ORDER

For the reasons set forth above, IT IS ORDERED that the license of Respondent Li Wang, L.M.T., to practice massage therapy or bodywork therapy in the state of Wisconsin (license number 14033-146), and the right to renew said license, is hereby REVOKED.

IT IS FURTHER ORDERED that Respondent shall pay all recoverable costs in this matter in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18. After the amount is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional Services and sent to:

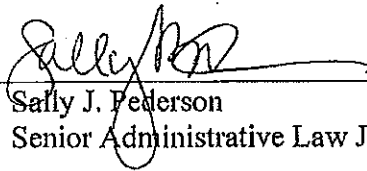
Department Monitor  
Department of Safety and Professional Services  
Division of Legal Services and Compliance  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

IT IS FURTHER ORDERED that the terms of this Order are effective the date the Final Decision and Order in this matter is signed by the Board.

Dated at Madison, Wisconsin, on April 6, 2021.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
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Madison, Wisconsin 53705-5400  
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Email: Sally.Pederson@wisconsin.gov

By: \_\_\_\_\_

  
Sally J. Pederson  
Senior Administrative Law Judge

cc: Bryant Sui, Respondent's interpreter (via email only)