

## 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	:	
	:	FINAL DECISION AND ORDER
ERLING GAO, L.M.T.,	:	
RESPONDENT.	:	<b>ORDER 0008732</b>

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Division of Legal Services and Compliance Case No. 23 MAB 006

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

Erling Gao, L.M.T.  
Madison, WI 53719

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

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

PROCEDURAL HISTORY

On May 17, 2023, the Division of Legal Services and Compliance (Division) filed a Notice of Hearing and Complaint with the Department of Administration, Division of Hearings and Appeals (DHA), which alleged that Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code §§ MTBT 5.02(8), (9)(a), and (19). Prior to the hearing on the Complaint, the parties in this matter agreed to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Massage Therapy and Bodywork Therapy Affiliated Credentialing (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

I. Erling Gao, L.M.T., (Respondent), (Year of Birth 1964) is licensed in the state of Wisconsin to practice massage therapy or bodywork therapy, having license number 15095-146, first issued on October 7, 2019, and current through February 28, 2025. Respondent's most recent

address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Madison, Wisconsin 53719.

2. At all times relevant to this proceeding, Respondent owned and operated a massage therapy business in Madison, Wisconsin (Business).

#### Case No. 22 UNL 030

3. On May 10, 2022, the Department opened Division Case No. 22 UNL 030 to investigate allegations involving unlicensed practice.

4. Following the opening of Division Case No. 22 UNL 030, Division investigators made four attempts to contact Respondent and request information concerning the case utilizing Respondent's email address of record with the Department, and mailing a subpoena to Respondent's address of record with the Department. Respondent did not respond to any of the contact attempts.

#### Current Case

5. On March 10, 2023, Division Case No. 23 MAB 006 was opened to investigate Respondent's failure to respond in Case No. 22 UNL 030, and to determine if Respondent violated any other laws related to her credential to practice massage therapy.

6. On April 6, 2023, Division personnel conducted an unannounced site visit to the Business, spoke with a female licensed massage therapist who was present at the Business (Therapist X) who advised that she worked at the Business performing massages to paying customers for Respondent, and visually inspected the interior and exterior of the Business.

7. Therapist X told Division personnel that Respondent's Business does not maintain any records of the massage therapy or bodywork therapy treatment provided to clients who received massages at the Business. Therapist X advised Division personnel that she did not have, and could not produce, any documentation from, to, or concerning any clients that received massages from Therapist X while she was working for Respondent at the Business.

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

#### CONCLUSIONS OF LAW

1. The Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 460.14, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. Based upon the Findings of Fact, Respondent committed unprofessional conduct by failing to maintain accurate and timely records necessary for the continuity of a client's massage therapy or bodywork therapy treatment, pursuant to Wis. Admin. Code § MTBT 5.02(8).

3. Based upon the Findings of Fact, Respondent committed unprofessional conduct by failing to document informed consent, pursuant to Wis. Admin. Code § MTBT 5.02(9)(a).

4. Based upon the Findings of Fact, Respondent committed unprofessional conduct by, after a request by the Board, failing to cooperate in a timely manner with the Board's investigation of complaints filed against the licensee, pursuant to Wis. Admin. Code § MTBT 5.02(19).

5. As a result of the above conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 460.14(2)(g) and (j) and Wis. Admin Code Ch. MTBT 5.

#### ORDER

1. The attached Stipulation is accepted.

2. Respondent is REPRIMANDED.

3. Respondent's license to practice massage therapy and bodywork therapy in the state of Wisconsin (license number 15095-146), is LIMITED as follows:

- a. Within ninety (90) days of the date of this Order, Respondent shall at her own expense, successfully complete three (3) hours of education on the topic of ethics, and three (3) hours of education on the topic of documentation. Each course attended in satisfaction of this Order must be pre-approved by the Board or its designee. Respondent shall be responsible for locating course(s) satisfactory to the Board and for obtaining the required approval of the course(s) from the Board or its designee. Respondent must take and pass any exam offered for the course(s).
- b. Respondent shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor at the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.
- c. The Board or its designee may change the number of credit hours and/or education topics in response to a request from Respondent. The Board or its designee may consider the topic availability and/or hours of education when determining if a change to the ordered education should occur.
- d. This limitation shall be removed from Respondent's license after satisfying the Board or its designee that Respondent has successfully completed all the ordered education.

4. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1367.00.

5. Any requests, petitions, payments of costs (made payable to Department of Safety and Professional Services), and other information required by this Order shall be submitted to:

Department Monitor

Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone (608) 266-2112; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dspsmmonitoring.wi.gov>.

6. In the event Respondent violates any term of this Order, Respondent's license (number 15095-146), or Respondent's right to renew her license, may, in the discretion of the Board or its designee, be **SUSPENDED**, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

8/29/2023

\_\_\_\_\_  
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

ERLING GAO, L.M.T.,  
RESPONDENT.

STIPULATION

ORDER 0008732

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Division of Legal Services and Compliance Case No. 23 MAB 006

Erling Gao, L.M.T. (Respondent), 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 proceeding by the Division of Legal Services and Compliance. Respondent consents to the resolution of this proceeding 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. Respondent is represented by Attorney Nikki Yang.

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 as attached.

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 or Respondent's attorney, 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. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order will be reported as required by the National Practitioner Databank (NPDB) Guidebook and as otherwise required by any licensure compact or any other state or federal law.

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

Erling Gao

Erling Gao (Aug 17, 2023 17:54 CDT)

Erling Gao, L.M.T., Respondent  
Madison, WI 53719  
License No. 15095-146

08/17/2023

Date

Nikki Yang

Nikki Yang, Attorney for Respondent  
Levine Eisberner, LLC  
2802 Coho St., Ste 201  
Madison, WI 53713

8/18/2023

Date

Gretchen Mrozinski

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

8/21/2023

Date