

BEFORE THE BOARD OF MASSAGE THERAPY
OF THE STATE OF IOWA

IN THE MATTER OF)	CASE NO. 11-018
)	
Jingyin Bai)	NOTICE OF HEARING AND
License No. 005524)	STATEMENT OF CHARGES
RESPONDENT.)	
)	

COMES NOW the Iowa Board of Massage Therapy (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2) and 17A.18(3) and 645 Administrative Code rule 11.6. Respondent was issued Iowa license 005524 on October 21, 2009. Respondent's license is currently active and will next expire on October 15, 2013.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on **September 25, 2012**, before the Board. The hearing shall begin at **2:00 p.m.** and shall begin at 2:00 p.m., located in the Lucas State Office Building, Fifth Floor Board Conference Room No. 526, Des Moines, Iowa 50319.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 Iowa Administrative Code rule 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Massage Therapy, 5th Floor, Lucas State Office Building, Des Moines 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found in 645 Iowa Administrative Code chapter 11. At hearing, you may appear personally or be represented by counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements in 645 Iowa Administrative Code rule 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained in 645 Iowa Administrative Code rule 11.17.

Prosecution. The Office of Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address:

Meghan Gavin
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319

Ms. Gavin can also be reached by phone at (515)281-6736 or e-mail at Meghan.Gavin@iowa.gov.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board Members may only receive information about the case when all parties have notice and opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 152C, and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 147, 152C, and 272C and under 645 Iowa Administrative Code rule 11.21.

Default. If you fail to appear at hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 645 Iowa Administrative Code rule 11.21.

C. STATUTES AND RULES INVOLVED

Count I

Respondent is charged with failure to report another licensee to the board for violations listed in these rules pursuant to Iowa Code section 272C.9 and 645 Administrative Code rule 134.2(22).

Count II

Respondent is charged with knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as a massage therapist in violation of Iowa Code section 147.55(9) and 645 Administrative Code rule 134.2(23).

Count III

Respondent is charged with permitting another person to use the licensee's license for any purpose in violation of Iowa Code section 147.55(9) and 645 Administrative Code rule 134.2(26).

Count IV

Respondent is charged with permitting an unlicensed employee or person under the license's control to perform activities requiring a license in violation of Iowa Code section 147.55(9) and 645 Administrative Code rule 134.2(27).

Count V

Respondent is charged with committing unethical conduct in violation of Iowa Code section 147.55(9) and 645 Administrative Code rule 134.2(28).

D. FACTUAL CIRCUMSTANCES

1. Respondent is part owner of Hong Chinese Massage in Sioux City, Iowa.
2. On September 6, 2011, the Iowa Department of Inspections & Appeals opened an investigation concerning Hong Chinese Massage after the Board received several complaints. The complaints alleged that massage therapists working at Hong Chinese were unlicensed and gave erotic massages.
3. Upon several unannounced visits by the Iowa Department of Inspections & Appeals and the Sioux City Police Department, employees at the parlor offering to perform massage services were not unlicensed.
4. The only massage therapy licenses displayed at Hong Chinese Massage were the Respondent's and another part owner.
5. An employee of the parlor was arrested for prostitution following an undercover operation by the Sioux City Police Department.
6. The parlor is advertized on several "adult" and "exotic" websites.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 Iowa Administrative Code chapter 12. If you are interested in pursuing settlement in this matter please contact Assistant Attorney General Meghan Gavin at (515)281-6736.

F. FINDING OF PROBABLE CAUSE

On June 5, 2012, the Iowa Board of Massage Therapy found probable cause to file this Statement of Charges and to order a hearing set in this case.

Mary Belieu

Mary Belieu, Chairperson
Iowa Board of Massage Therapy
Lucas State Office Bldg., 5th Floor
321 East 12th Street
Des Moines, Iowa 50319-0075

Jingyin Bai
2121 Hamilton Blvd
Suite B
Sioux City, IA 51104

Jingyin Bai
PO Box 937
Ranchester, WY 82839