

NEVADA STATE BOARD OF MASSAGE THERAPY

AGENDA ACTION SHEET

TITLE: Application Review (Education and Administrative)

MEETING DATE: August 17-18, 2021

APPLICANT: Binzhi Chen

REVIEW UNDER: NRS 640C.700

BACKGROUND INFORMATION:

Ms. Chen's massage application is before you today for review that could not be approved administratively. Ms. Chen failed to disclose her current Missouri license with disciplinary action and her previous education. Ms. Chen received her education from East-West Institute of Hand Therapy in California. East-West Institute of Hand Therapy is not accepted by NSBMT, and NCBTMB revoked their assigned school code on April 25, 2011. Probation documents from Missouri are enclosed. Ms. Chen is requesting to be granted a license under NRS 640C.420 and is before you today for review under NRS 640C.700.

ACTION:

Approved

Probation - NRS 640C.700(1)(2)

Denied – NRS 640C.700(1)(2)

Tabled

PROBATION CONDITIONS: Per NRS 640C.710 Options for Respondent:

<input type="checkbox"/> A. Report all contact with law enforcement personnel within 48 hours after such contact occurs.	<input type="checkbox"/> B. Refrain from providing outcall services.
<input type="checkbox"/> C. Submit employment offers to the staff of the Board for review and approval.	<input type="checkbox"/> D. Submit to a random drug test at respondent's expense.
<input type="checkbox"/> E. Complete an ethics course of _____ CEU hours within 90 calendar days of licensure.	<input type="checkbox"/> F. Submit to the Board a complete set of Fingerprints bi-annually/annually at licensee's expense.
<input type="checkbox"/> G. Take any other action that the Board deems appropriate -	

Required for Respondent:

Cooperate fully with Board staff to administrate term of probation.	Responsible for all administrative fees incurred by the Board as a result of their probation compliance
Attend Probation Orientation	Comply with all laws governing massage therapy
Notify any change in address, phone number, establishment or employment to the Board office within 10 calendar days per NAC.640C.085(3)	Take any combination of the actions set forth in paragraphs (a) through (g), inclusive.



Nevada State Board of Massage Therapy

1755 E. Plumb Lane, Suite 252, Reno, NEVADA

Application: License Application
Application Number: OL210414092309

Fee: \$30.00

APPLICATION INSTRUCTIONS

Please read the following instructions carefully before completing the application. Incomplete applications will cause delays in processing your application. If you have any questions about completing this application, visit our website listed above and click the FAQs tab.

1. Did you complete/graduate from a program of Massage Therapy with at least 550 hours? : Yes No
2. Did you take and pass the National Exam (NESL, NCETM, NCETMB, MBLEX, IASI, ITEC, ARCB, IIR and NCBTMB-R)? : Yes No

Section 1 : Personal Information

- Include 1 current passport quality photo - No emailed photos or faxes will be accepted
- No larger than 2" x 2", front view of FACE - no profile
- Must be taken against a solid white background
- We will **NOT ACCEPT** the photo if you are wearing a hat, sunglasses, or anything obstructing any portion of your face.

Application Type : Massage Therapist Structural Integration Reflexology

Applicant Name

Last Name : CHEN
First Name : BINZHI
Middle Name :



List all legal names previously or currently being used by you :

No record found.

Mailing address :

Street :
City : **State :** **Zip :**

Residence address (if different than the mailing address) : Same as mailing address

Street :
City : **State :** **Zip :**

Social Security Number : **Date of Birth :**
Place of Birth : **Gender :** Male Female

Home/Cell Phone :

Indicate the appropriate selection; which address you would prefer to be public knowledge.

Home Mailing Business

Do you want to be excluded from the public mailing list? (Select one - You will still receive Board

notifications)

Yes No

Section 2 : Child Support Information (Pursuant to NRS 640C.430)

Mark the appropriate response (failure to mark one of the three will result in denial of your application):

- I am NOT SUBJECT to a court order for the support of a child.
- I am SUBJECT to a court order for the support of one or more children and am in compliance with the order or am in compliance with a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount pursuant to the order.
- I am SUBJECT to a court order for the support of one or more children and am NOT in compliance with the order or am NOT in compliance with a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount pursuant to the order.

Section 3 : Previous Licensure Information

Previous Licensure :

List all jurisdictions/states in which you have ever been licensed as a Massage Therapists, Reflexology or Structural Integrationist.

- Check here if you have never been licensed in any state jurisdiction.

Licensure Information is not required because you have checked "Sign off from Local jurisdiction to follow".

Section 4 : Training and Education

Training :

Contact registrar of your school/(s) and request to have official transcripts mailed directly to the Nevada State Board of Massage Therapy.

Diploma may be provided by school or applicant.

Name of School	City/State	Years from and to	Hours Completed
fuzuba school	las vegas	2021 - 2021	550

Transcript(s)

Document Name	User Defined Document Name	Document Link
OL210414092309-164693-Transcript.pdf	FUZUBA-TRANSCP	Document Detail

Section 5 : National Exam

Exam Taken	Where Taken	Date Taken
NCETMB	los angeles, ca	10/10/2009

National Exam Status :

Date Received :

Score Report Received

Document Name	User Defined Document Name	Document Status
210414092309-160613-ScoreReportCard.pdf	NCETMB	Pass

Section 6 : Application Screening Questions

Please review the information you provided on this page carefully before submitting. Once saved and submitted, this cannot be changed.

1. Have you ever had any disciplinary proceedings instituted against you relating to your license to practice massage, reflexology or structural integration?

Yes No

If yes, add the disciplinary actions below.

No record found.

2. Are you currently a party to any pending litigation related to the practice of massage therapy, reflexology or structural integration? If yes, please indicate whether you are a plaintiff or defendant and describe the nature of the litigation.

Yes No

3. Are you currently or have you ever been required to register as a Sex Offender? (Tier I, II or III)

Yes No

If Yes, please explain in below textbox :

4. Have you been accused of, arrested for, engaged in or solicited sexual activity during the course of practicing massage, reflexology, or structural integration on a person, with or without the consent of the person, including, without limitation, if you were an applicant or holder of a license:

- (a) Made sexual advances toward the person;
- (b) Requested sexual favors from the person; or
- (c) Massaged, touched or applied any instrument to the breasts of the person, unless the person had signed a written consent form provided by the Board;

Yes No

If yes, fill in the following with complete and accurate information for each accusation or arrest:

No record found.

Fingerprint Background Waiver

NOTICE OF NONCRIMINAL JUSTICE APPLICANT'S RIGHTS

As an applicant who is the subject of a Federal Bureau of Investigation (FBI) fingerprint-based criminal history record check for a noncriminal justice purpose you have certain rights which are discussed below.

1. You must be notified by the **Nevada State Board of Massage Therapy** that your fingerprints will be used to check the criminal history records of the FBI and the State of Nevada.
2. If you have a criminal history record, the officials making a determination of your suitability for the job, license or other benefit for which you are applying must provide you the opportunity to complete or challenge the accuracy of the information in the record. You may review and challenge the accuracy of any and all criminal history records which are returned to the submitting agency. The proper forms and procedures will be furnished to you by the Nevada Department of Public Safety, Records Bureau upon request. If you decide to challenge the accuracy or completeness of your FBI criminal history record, Title 28 of the Code of Federal Regulations Section 16.34 provides for the proper procedure to do so:

16.34 - Procedure to obtain change, correction or updating of identification records. If, after reviewing his/her identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, he/she should make application directly to the agency which contributed the questioned information. The subject of a record may also direct his/her challenge as to the accuracy or completeness of any entry on his/her record to the FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306. The FBI will then forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry. Upon the receipt of an official communication directly from the agency which contributed

the original information, the FBI CJIS Division will make any changes necessary in accordance with the information supplied by that agency.

3. Based on 28 CFR § 50.12 (b), officials making such determinations should not deny the license or employment based on information in the record until the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.
4. You have the right to expect that officials receiving the results of the fingerprint-based criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of federal or state statute, regulation or executive order, or rule, procedure or standard established by the National Crime Prevention and Privacy Compact Council.
5. I hereby authorize **Nevada State Board of Massage Therapy** to submit a set of my fingerprints to the Nevada Department Public Safety, Records Bureau for the purpose of accessing and reviewing State of Nevada and FBI criminal history records that may pertain to me.
In giving this authorization, I expressly understand that the records may include information pertaining to notations of arrest, detentions, indictments, information or other charges for which the final court disposition is pending or is unknown to the above referenced agency. For records containing final court disposition information, I understand that the release may include information pertaining to dismissals, acquittals, convictions, sentences, correctional supervision information and information concerning the status of my parole or probation when applicable.
6. I hereby release from liability and promise to hold harmless under any and all causes of legal action, the State of Nevada, its officer(s), agent(s) and/or employee(s) who conducted my criminal history records search and provided information to the submitting agency for any statement(s), omission(s), or infringement(s) upon my current legal rights. I further release and promise to hold harmless and covenant not to sue any persons, firms, institutions or agencies providing such information to the State of Nevada on the basis of their disclosures. I have signed this release voluntarily and of my own free will.

A reproduction of this authorization for release of information by photocopy, facsimile or similar process, shall for all purposes be as valid as the original.

In consideration for processing my application I, the undersigned, whose name and signature voluntarily appears below; do hereby and irrevocably agree to the above.

Last Name : CHEN

First Name : BINZHI

Middle Name :

Street :

City :

State :

Zip :

Date : 5/21/2021

Submitting Agency : Nevada State Board of Massage
Therapy

Address : 1755 E. Plumb Ln. Suite 252,
Reno, NV 89502

VETERAN

The Nevada State Board of Massage Therapy is required by State Law to report veteran information annually. If this section applies to you, please complete the following information.

Have you ever served in the military: Yes No

Branch(es) of Service: (Check all that apply)

- Army/Army Reserve
- Marine Corps/Marine Corps Reserve
- Navy/Navy Reserve
- Air Force/Air Force Reserve
- Coast Guard/Coast Guard Reserve
- National Guard

Military Occupation Speciality/Specialities:

Date(s) of Service: From To

As by Executive Order 2014-20 all professional licensing board organized pursuant to the NRS shall collect the above data and provide the information to the Nevada Department of Veterans Services.

Affidavit of Applicant / Authorization of Release

I, **BINZHI CHEN** certify that I am the person described and identified in this application;

I have answered all the questions truthfully and completely, and any documents that I have provided in support of my application are, to the best of my knowledge, accurate.

I certify that I have not had any undisclosed disciplinary proceedings instituted against me relating to my license to practice massage, reflexology or structural integration and I have disclosed or have not been arrested or convicted, for any crime involving violence, prostitution or any other sexual offense.

I authorize all institutions or organizations, including educational institutions and organizations, employers (past and present), business and professional associations (past and present) and all governmental agencies and municipalities (local, state, federal and foreign) to release to the Nevada State Board of Massage Therapy any information, files or records required by the Nevada State Board of Massage Therapy in connection with processing this application.

I understand that furnishing false or misleading information or failing to furnish required information on this application may be cause for the denial, suspension or revocation of my license to practice massage therapy, structural integration or reflexology in the State of Nevada.

Name : BINZHI CHEN

Date : 5/23/2021

Upload

Have you uploaded a current passport quality photo?

Has our office received your Official School Transcripts, Certificate of Completion (diploma), National Exam Official Score Report and, if applicable, Certified Statement from other jurisdictions/states?

Yes No

Have you uploaded a current copy of driver's license or identification card and social security card. Names must match on driver's license and social security card. If your license has expired since you submitted your application you must include a current legible copy?

Yes No

Have you uploaded a current massage therapy license, reflexology license/certificate or structural integration license. If your current massage therapist license, reflexology license/certificate or structural integration license has expired since you submitted your application you must include a current legible copy?

Yes No

- Please allow up to 4 weeks for processing your live scan fingerprints
- Please allow up to 6-8 weeks for processing fingerprint cards
- **Once you have submitted your completed application, please allow up to 15 business days for processing before inquiring about the status of your application.**

Document Type	Document Name	User	Defined Document Name
Transcript	OL210414092309-164693-Transcript.pdf	FUZUBA-TRANSCP	
Certificate of Completion	OL210414092309-164686-Certificate-of-Completion.pdf	FUZUBA-DIPL	
Photo	13500-164158-CHEN, BINZHI.jpg		
Score Report Card	210414092309-160613-ScoreReportCard.pdf	NCETMB	
Social Security Card	OL210414091308-159715-Social-Security-Card.jpg		
Government Issued ID Card	OL210414091308-159714-Government-Issued-ID-Card.jpg		

Application Fees

All fees are non-refundable.

Fee Detail(s)

Payment Detail(s)

Payment Method:
Amount Paid:

NSBMT

MAY 24 2021



RECEIVED



Certificate of Graduation

I certify that that Ms. Binzhi Chen, having successfully completed the 550 hour Professional Practice of Therapeutic Massage training program, is hereby awarded the Certificate of Graduation this tenth day of May, 2021 with all the rights and responsibilities thereto pertaining.



Nathan O'Hara
Nathan O'Hara, Ph.D.
Director





Transcript
 3884 Schiff Dr.
 Las Vegas, NV 89103

Student: Binzhi Chen SSN: Gender: Female Birth Date: Start Date: 02/02/2021 Graduation Date: 05/10/2021	Grade: 2.84 Total Earned Hours: 550
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Message 01/2021 Class		NV Massage Training Program 550-Hr		GPA: 2.84	
Course	Marks	Grade	Credits	Earned	
0121 Unit A: Anatomy, Physiology, & Kinesiology	82	B-	125	125	
0121 Unit B: Theory and Practice of Massage	84	B	220	220	
0121 Unit C: Other Modalities of Massage Therapy	80	B-	125	125	
0121 Unit D: Pathology for Massage Therapists	85	B	40	40	
0121 Unit E: Standards of Professional Practice	81	B-	40	40	
Total Credits				550	

Grading Scale				
97 - 100 = A+	93 - 96 = A	90 - 92 = A-	87 - 89 = B+	83 - 86 = B
80 - 82 = B-	77 - 79 = C+	73 - 76 = C	70 - 72 = C-	60 - 69 = F



 Notes Points are for purposes are reported	Signature of the Registrar  Not official without school seal
	IN ACCORDANCE WITH THE FAMILY EDUCATIONAL ACT OF 1974, THIS RECORD CANNOT BE RELEASED TO A THIRD PARTY WITHOUT THE CONSENT OF THE STUDENT

Date: ___/___/___

Official NCBTMB Score Report

Binzhi Chen

UNITED STATES

DOB:

Exam Name: NCETMB

Exam Date: 10/10/2009

Exam Result: PASS

Candidate ID:



Please accept this as the Official Score Report for the candidate listed above for the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB).

If you have any questions, please contact scores@ncbtmb.org or call 800-296-0664.



Nevada State Board of Massage Therapy

1755 E. Plumb Lane Suite 252

Reno, NV 89502

Phone (775) 687-9955

Fax (775) 786-4264

Email: nvmassagebd@lmt.nv.gov

Website: <http://massagetherapy.nv.gov>

July 19, 2021

Binzhi Chen

Re: Notice of meeting of the Nevada State Board of Massage Therapy to consider your character, alleged misconduct, competence, or physical or mental health.

Dear Ms. Chen:

In connection with your Application Review, the Nevada State Board of Massage Therapy (Board) may consider your character, alleged misconduct, competence or physical or mental health at its meeting(s) on August 17 and August 18, 2021. There will be no physical location for this meeting. Participants can join the meeting via Zoom. The meeting will begin at 9:00 a.m:

Zoom sign-in available at 8:30 a.m.
Register in advance for both meetings:

August 17, 2021	August 18, 2021
https://us06web.zoom.us/j/96813878335?pwd=cHAXM3NkY2gvWTVZaWpTRE5BNnIOUT09	https://us06web.zoom.us/j/93172894264?pwd=bVc3ZGtoZXBjWVJOU0hTamVWbDFHdz09
Meeting ID: 968 1387 8335	Meeting ID: 931 7289 4264
Password: 819714	Password: 833291

The meeting is a public meeting. You are not required to attend; however, attendance is recommended. Pursuant to NAC 640C.070 your completed investigation results may be discussed. You may choose to have an attorney or other representative of your choosing present during the meeting, present written evidence, provide testimony, present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health. Please be aware you are one of many agenda items, and the Board may take items out of order. The meeting may last until 4:30 p.m.

If the Board determines it necessary, after considering your character, alleged misconduct, professional competence, or physical or mental health whether in a closed meeting or open meeting, it may take administrative action against you at this meeting. This informational statement is in lieu of any notice that may be required pursuant to NRS 241.034. This notice is provided to you under NRS 241.033.

In the event you need an interpreter, please provide one at your own expense.

COPY

If you have any questions, please feel free to contact the office at (775) 687-9955.

Sincerely,



Sandra J. Anderson
Executive Director

9489 0090 0027 6351 4467 08

COPY

Tereza Van Horn

From: Anne Anthony <aanthony@ncbtmb.org>
Sent: Wednesday, August 4, 2021 2:05 PM
To: Tereza Van Horn
Cc: Sandy J. Anderson
Subject: RE: School/Applicant

Hi Tereza,

I apologize for the delay in responding. Here is what I find.

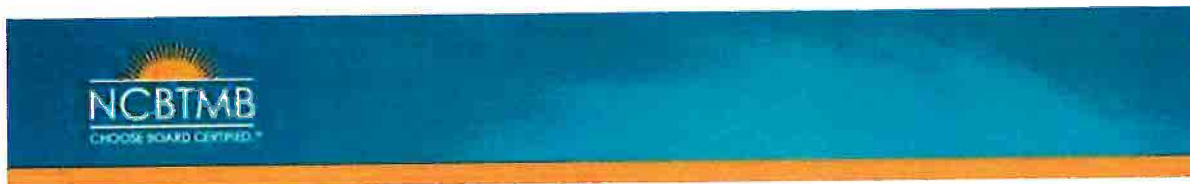
- 1) Ms. Chen first applied to NCBTMB on August 7, 2009 under the same name, Binzhi Chen
- 2) She listed The East-West Institute of Hand Therapy (TEWIHT) as the school she attended
- 3) She resided in Missouri at the time of her application. Missouri lists an active license under her name
- 4) Ms. Chen sat for the NCETMB under the National Examination for State Licensure (NESL) option.

NCBTMB suspended TEWIHT's Assigned School Code on 6/29/2009 and revoked their Assigned School Code on April 25, 2011.

I hope this information helps. Please let me know if you have any additional questions.

Anne

.....
Anne Anthony
Ethics & Standards Manager
direct 630-652-0469
fax 866-402-1890
www.ncbtmb.org



The information contained in this message and/or any attachments may be confidential and is intended for a specific recipient and purpose. If the reader of this message including any attachments is not the intended recipient or entity or you have received this communication in error, please contact the sender and permanently delete the information from any computer. This is a notification to you that any review, distribution, dissemination, or copying of this communication in whole or part is strictly prohibited if you are not the intended recipient.

From: Tereza Van Horn <tvanhorn@lmt.nv.gov>
Sent: Monday, August 2, 2021 4:11 PM
To: Anne Anthony <aanthony@ncbtmb.org>
Cc: Sandy Anderson <sjanderson@lmt.nv.gov>
Subject: School/Applicant

Anne,

We have an applicant (Binzhi Chen) whom took the NCETMB exam on 10/10/2009, candidate ID 580992-09. I would like to know the name of the school she listed in order to take the exam? I would also like to know the name she used on her application?

Any information is helpful.

Tereza Van Horn
Executive Assistant/Management Analyst II
Nevada State Board of Massage Therapy
1755 E. Plumb Lane Suite 252
Reno, NV 89502
(775) 687-9953
tvanhorn@lmt.nv.gov

The Division of Professional Registration and its boards are open during the regular business hours of 8:00a.m. to 5:00p.m. Monday through Friday, excluding state holidays.

Did you know that there is a drop box located in the front of the Professional Registration building? Individuals may leave items for the division and its boards any time. We do ask that all items be placed in a sealed envelope labeled with the board name or name of the individual if not located in a board.

GENERAL INFORMATION ON COVID-19 ([/general-covid-19.asp](#))

Missouri Division of Professional Registration

PR Home (<https://pr.mo.gov/>)

Detail

Primary Source Verification

The licensee search function of this website provides data extracted from our database and constitutes a Primary Source Verification.

Licensee Name:	Chen, Binzhi
Profession Name:	Massage Therapist
Licensee Number:	2010007548
Expiration Date:	1/31/2023
Original Issue Date:	3/5/2010
Address:	
Address Con't:	
City, State Zip:	Springfield, MO 65809
County:	Greene
Practitioner DBA Name:	
Certification Type:	
Classification:	

Discipline information is not being listed for this profession. You may contact the board directly to obtain discipline information.

000687 JL-12

SETTLEMENT AGREEMENT BETWEEN THE
MISSOURI BOARD OF THERAPEUTIC MASSAGE
AND BINZHI CHEN

BINZHI CHEN ("Licensee" or "Chen") and the Missouri Board of Therapeutic Massage ("Board") enter into this Settlement Agreement for the purpose of resolving the question of whether Chen's license as a massage therapist, No. 2010007548, is subject to discipline for violations as set forth below. Pursuant to § 536.060, RSMo. 2000,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the Board under § 621.110, RSMo. Cum. Supp. The Board and Chen jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo., Cum. Supp.

Chen acknowledges that she understands the various rights and privileges afforded her by law, including the right to a hearing of the charges against her; the right to appear and be represented by legal counsel; the right to have all charges proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing against her at the hearing; the right to present evidence on her behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the charges pending against her; the right to a ruling on questions of law by the Administrative Hearing Commission; the right to a disciplinary hearing before the Board at which time Chen may present evidence in mitigation of discipline; the right to a claim for attorney fees and expenses; and the right to obtain judicial review of the decisions of the Administrative Hearing Commission and the Board.

¹ All statutory citations are to the 2000 Revised Statutes of Missouri unless otherwise noted.

Being aware of these rights provided to her by law, Chen knowingly and voluntarily waives each and every one of these rights and freely enters into this Settlement Agreement and agrees to abide by the terms of this document as they pertain to her.

Chen acknowledges that she has received a copy of the investigative reports and other documents relied upon by the Board in determining there was cause for discipline, along with citations to law and/or regulations the Board believes were violated. Chen stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the Board that Chen's license as a massage therapist, License No. 2010007548, is subject to disciplinary action by the Board in accord with the relevant provisions of Chapter 621, RSMo., Cum. Supp., and §§ 324.240–324.275, RSMo., as amended.

The parties stipulate and agree that the disciplinary order agreed to by the Board and Chen in Part II herein is based only on the stipulated facts as set forth in Part I herein. Chen understands that the Board may take further disciplinary action against her based on facts or conduct not specifically mentioned in this document that are either now known to the Board or which may be discovered.

I.

Joint Stipulation of Facts

Based upon the foregoing, the Board and Chen herein jointly stipulate to the following:

1. At all relevant times herein, Chen has held a license to practice as a massage therapist in the State of Missouri, as issued by the Board pursuant to Chapter 324, RSMo. Chen was initially issued a license by the Board on or about March 5, 2010.

2. At all times relevant hereto, Chen practiced as a massage therapist, and has owned and managed massage businesses known as "Relax Magic", with kiosks located in shopping malls in

Independence, Missouri, Springfield, Missouri, and Joplin, Missouri.

3. Based upon the findings of numerous investigations conducted by the Board's investigative agents, Licensee's "Relax Magic" businesses have exhibited a pattern of violations with respect to hygiene, licensing, and administrative requirements. True and accurate copies of the investigation reports prepared by the Board's investigative agents, based upon their first-hand observations of the business practices being conducted at Licensee's "Relax Magic" businesses, are included herewith as Attachments A, B, and C.

4. Despite not holding a license to operate a massage business at the Independence location, Licensee has, since at least September 10, 2010, operated a "Relax Magic" kiosk within the Independence Center Shopping Mall, 18813 E. 39th Street, Independence, Missouri, 64057 ("Independence location").

5. In addition to operating the Independence location without the required licensure, the following violations have also been noted at that location, on numerous occasions:

A) Unsanitary conditions: repeated failure to provide or supply clean linens and sheets for massage tables; failure to replace used linens and/or sheets with clean linens and/or sheets between each client usage; failure to disinfect, with an antibacterial product, surfaces in contact with human skin between each client usage; failure to properly store dirty linens and/or sheets on premises; failure to replace face-pad covers on massage chairs between each client usage; failure to properly cover/secure trash receptacles; failure to provide an antibacterial sanitizer for use by massage therapists between each client usage and when leaving and reentering the massage area of the client ; failure to cover/store dispensed massage therapy products in a sanitary manner;

B) Recordkeeping violations: repeated failure to prepare or maintain minimum records for clients of the business, including failure to record/maintain client intake forms or assessment

notes

following client massage;

C) Administrative violations: proof of liability insurance not available for each massage therapist employed by the business, including massage therapists Haichao Mao (January 2, 2012) and Chen (December 5, 2012 and April 12, 2013); and failure to post current licenses and photographs of massage therapists employed at the Independence location.

6. All or most of the violations noted in paragraph (5) hereof resulted in the Board's denial of Licensee's first application for a "massage business" license for the Independence location, which application was filed September of 2010, and ultimately denied by the Board on May 16, 2012. Licensee did not file a Complaint with the Missouri Administrative Hearing Commission, or otherwise attempt to appeal the Board's denial of the business application for the Independence location.

7. Following numerous discussions with Board staff and subsequent follow-up investigations, Licensee has filed a second application for licensure of the Independence location as a "massage business", which will be addressed as a separate matter.

8. All or most of the violations noted in paragraph (5) hereof have also been found to be present, in varying degree, at the other locations of the "Relax Magic" businesses owned and managed by Licensee in Springfield and Joplin Missouri (see Attachments B and C respectively).

Joint Conclusions of Law

1. The Missouri Board of Therapeutic Massage is an agency of the State of Missouri created and established pursuant to § 324.243, RSMo 2000 et seq., for the purpose of executing and enforcing the provisions of §§ 324.240 to 324.275, RSMo.

2. Binzhi Chen was at all times relevant herein licensed to practice as a massage therapist pursuant to Chapter 324, RSMo., holding license No. 2010007548.

3. Section 324.262.2, RSMo. Supp., states in pertinent part that the Board may cause a complaint to be filed with the Administrative Hearing Commission for discipline of a massage therapy licensee when the following circumstances are alleged:

(4) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by sections 324.240 to 324.275;

(5) Violation of . . . any provision of sections 324.240 to 324.275, or of any awful rule or regulation adopted pursuant to sections 324.240 to 324.275, including providing massage therapy . . . at a massage business . . . that is not licensed under this chapter[.]

4. Section 324.247, RSMo. Cum. Supp., requires persons wishing to operate a "massage business" to apply for and obtain licensure for such business, and provides that "failure to comply with the provisions of this section shall be cause to discipline the licensee."

5. Licensee's conduct, in knowingly allowing the massage businesses to operate as described above, is in violation of Sections 324.240 to 324.275, RSMo., and in particular Section 324.262.2(4) and (5), RSMo., and constitutes cause for discipline of her massage therapy license, pursuant to Section 324.262.4, RSMo. Specifically, the business violations described in paragraph (5) of the Joint Stipulations of Fact constitute violation of one or more of the following Board rules:

20 CSR 2197-3.010 Standards of Practice . . . (6) [A massage therapist and massage business shall]: (G) Maintain all equipment used to perform massage therapy services in a safe and sanitary condition, which shall include but not be limited to:

1. Covering any massage or steam equipment with a single service material that does not have an impervious barrier;

2. Repairing all cuts and nicks in upholstery;

3. Cleansing all equipment coming in contact with a client with an antibacterial agent between each client usage. Such equipment shall include hydrotherapy equipment, combs, brushes, shower caps, showers, tubs, combs, brushes, shower caps, showers, tubs, combs, brushes, shower caps, showers, tubs;

4. Checking all equipment for the presence of any liquid, oil and/or body fluid and clean with an antibacterial agent prior to and between each client usage;
5. Cleaning all face cradles, arm rests on all massage chairs and tables with an antibacterial agent between each client regardless of whether or not a single service material was used;
8. Storing and dispensing massage therapy lubricants from suitable containers that are sanitized to preserve the integrity of the lubricant and to prevent contamination. Lubricants or products used during a massage shall be stored separately from cleaning supplies and include but not be limited to oils, soaps, alcohol, powders, lotions, shampoos and salts;
9. Keeping multiple use containers such as pump bottles and tubes free of debris, cleaning with an antibacterial agent between each client use, and refill containers in a sanitary manner;
10. Storing all single service materials and linens in closed or covered shelves, containers, cabinets or closets;
11. Using clean single service materials such as sheets, towels, gowns, and pillowcases for each client;
12. Professionally laundering or washing all soiled, single service materials and drapes on a hot water setting with detergent and at least one (1) cup of bleach or an antibacterial agent used in accordance with product label instructions in a clothes washing machine and dried on a high heat setting in a dryer; and
13. Storing all dirty or soiled, single service materials, trash, or refuse in a closed container, closed shelves, cabinets, or closets and separate from clean, single service materials.

20 CSR 2197-5.010 Massage Therapy Business – Survey Inspections . . . [A massage therapy business shall:]

(C) Maintain a copy of the professional liability insurance as required in 20 CSR 2197-3.020(4)(A);

(E) Display in a conspicuous place the [massage therapy business license and] massage therapist license with a photograph of the massage therapist taken within the last two (2) years;

(G) Be responsible for maintaining client records for at least three (3) years. This includes safeguarding verbal and written confidential information of the client, unless disclosure is required by law, court order, or authorized by the client. Client records for massage therapy services not provided at a licensed massage therapy business shall be maintained by the licensed massage therapist; and,

(J) Maintain all equipment used to perform massage therapy services on the premises in a safe and sanitary condition; and, M) Provide for the removal of garbage and refuse in a sanitary manner.

(6) [Businesses shall be equipped with and maintain a sink for hand cleansing within a reasonable distance of the treatment room. Such sink must be kept clean and in good working condition.] Massage therapists must utilize universal precautions at all times, however, a massage therapist may utilize an antibacterial waterless hand cleanser while in the confines of the massage therapy area and if leaving the area must use universal precautions before performing massage therapy on the next client.

20 CSR 2197-5.020 Issuance of an Original Business License . . . (9) The business license shall be displayed in a conspicuous place on the premises of the licensed massage therapy business[.]

6.Cbcn's Missouri license to practice as a massage therapist is therefore subject to discipline on the terms as specified below, based upon her violations of Section 324.262.2 (4) and (5), RSMo. Cum. Supp., Section 324.247, RSMo. Cum. Supp., and upon her violations of the Board rules cited above in paragraph (5) of these Joint Conclusions of Law.

II.

Joint Agreed Disciplinary Order

1. Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of section 324.262.4, RSMo. Supp., Section 536.060, RSMo. 2000, and Sections 621.045.3, and 621.110, RSMo.: Licensee's license to practice as a "massage therapist" in the State of Missouri, License No. 20100007548, is hereby placed on **PROBATION** for a period of two (2) years ("disciplinary period"). The disciplinary period shall commence as set forth below. During the disciplinary period, Licensee shall comply with each of the following terms and conditions:

A. During the disciplinary period, Licensee shall be entitled to engage in the practice of massage therapy pursuant to § 324.240 to § 324.275, RSMo. Supp., provided she adheres to all of the terms and conditions of this Order.

B. During the disciplinary period, Licensee shall comply with all applicable provisions of § 324.240 to § 324.275, RSMo. Supp., as they pertain to the practice of massage therapy, all applicable board regulations, all applicable federal and state drug laws, rules and regulations and all federal and state criminal laws. "State" includes the state of Missouri, all other states and territories of the United States, and the ordinances of their political subdivisions.

C. Licensee shall meet with the Board or its representative at any such time and place as required by the Board or its designee upon notification from the Board or its designee. Said meetings will be at the Board's discretion and may occur periodically during the disciplinary period.

D. During the disciplinary period, Licensee shall accept and comply with unannounced visits from the Board's representative to monitor her compliance with the terms and conditions of this Order.

E. Licensee shall immediately submit documents showing compliance with the requirements of this Order to the Board when requested by the Board or its designee.

F. Licensee shall obtain, within one (1) year of the effective date of this agreement, at least fifty program hours in business practices/ethics/massage law from a Missouri massage therapy school or program approved by the Board. This educational requirement shall be in addition to, and separate from, any continuing education requirements for licensure renewal as otherwise are applicable to Licensee. The costs incurred for enrolling and completing the course(s) pursuant to this term (F) shall be Licensee's sole responsibility. Within ten (10) days of her completion of the requirements set forth in this term (F), Licensee shall cause to be mailed or otherwise delivered to the Board's offices an official transcript from the massage therapy school or program which verifies Licensee's compliance with this requirement. "Distance education", such as a correspondence course, Internet study (such as a chat room or discussion group), electronic mail (email), or other delivery method or system, or whether by audio or video tape, or any other form of communication that does not allow the licensee to interact verbally and visually with the course instructor, shall not be acceptable for purposes of compliance with this term (F).

G. Within the first thirty (30) days of the disciplinary period, Licensee shall submit for Board review copies of the client intake and assessment forms that she is currently utilizing.

H. If Licensee fails to comply with the terms of this order, in any respect, the Board may impose such additional discipline or other discipline that it deems appropriate, including revocation of her license to practice as a massage therapist.

I. Licensee shall keep the Board apprised of her current home and work addresses and telephone numbers. Licensee shall inform the Board within ten (10) days of any change of home or work addresses or telephone numbers.

J. During the disciplinary period, Licensee shall timely renew her license, timely pay all fees required for licensure and comply with all other Board requirements necessary to maintain her license in a current and active status.

K. This Order does not bind the Board or restrict the remedies available to the Board for any violation of § 324.240 to § 324.275, RSMo. Supp., not specifically mentioned in this document.

L. In the event the Board determines that Licensee has violated any term or condition of this Order, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the probation imposed herein and may impose any other lawful discipline against Licensee, including revocation of Licensee's massage therapy license. No order shall be entered by the Board pursuant to this paragraph without any required notice and opportunity for a hearing before the Board in accordance with Chapter 536, RSMo.

M. If the Board determines that Licensee has violated a term or condition of this Order, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the Board may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Order in its determination of appropriate legal actions concerning such violation.

N. Any failure by Licensee to comply with any condition of discipline set forth herein constitutes a violation of this Order.

O. Unless otherwise specified by the Board, all reports, documentation, evaluations, notices, or other materials required to be submitted to the Board shall be forwarded to: Missouri Board of Therapeutic Massage, 3605 Missouri Boulevard, P.O. Box 1335, Jefferson City, Missouri 65102.

2. Chen, together with her partners, shareholders, officers, directors, heirs, assigns,

agents, employees, representatives and attorneys, does hereby waive, release, acquit and forever discharge the Board, its respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from any liability, claim, actions, causes of action, fees, costs, expenses and compensation, including, but not limited to, any claim for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to § 536.087, RSMo. (as amended), or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the Settlement Agreement in that it survives in perpetuity even in the event that any court or administrative tribunal deems this agreement or any portion thereof void or unenforceable.

3. Chen understands that she may, either at the time the Settlement Agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Chen's license. If Chen desires the Administrative Hearing Commission to review this Settlement Agreement, he may submit his request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.

4. If Chen requests review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement sets forth cause for disciplining Chen's license. If Chen does not request review by the Administrative Hearing Commission, the Settlement Agreement shall become effective 15 days after the document is signed by the Executive Director of the Board.

Binzhi Chen

Binzhi Chen

BINZHI CHEN

6-27-13

Date

David S. Kittle

Attorney

Missouri Board of Therapeutic Massage

Loree Kessler

Loree Kessler, Executive Director

7/1/13

Date

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