

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2022-002

In the Matter of

QUNHAO ZHANG, LIC. AC.

CONSENT ORDER

Pursuant to G.L. c. 30A, § 10, Qunhao Zhang, Lic. Ac. (Respondent) and the Committee on Acupuncture of the Board of Registration in Medicine (Committee) (hereinafter referred to jointly as the "Parties") agree that the Committee may issue this Consent Order to resolve the above-captioned adjudicatory proceeding. The Parties further agree that this Consent Order will have all the force and effect of a Final Decision within the meaning of 801 CMR 1.01(11)(d). The Respondent admits to the findings of fact specified below and agrees that the Committee may make the conclusions of law and impose the sanction set forth below in resolution of investigative Docket No. AC 18-002.

Findings of Fact

1. The Respondent is a 1990 graduate of Fujian College of Traditional Chinese Medicine. He has been licensed to practice acupuncture in Massachusetts since 2000 under license number 205901.
2. The practice of acupuncture is defined in 243 CMR 5.01 as "the practice of medicine based upon traditional oriental medical theories; primarily the insertion of metal needles through the skin at certain points on the body, with or without the use of herbs, with or

without the application of electric current, and with or without the application of heat to the needles, skin, or both, in an attempt to relieve pain or improve bodily function.” “Adjunctive therapies” as defined in 243 CMR 5.01(d)(1) “shall include but not be limited to: “oriental nutritional counseling, herbology, and the recommendation of nonprescription substances which meet the Food and Drug Administration labeling requirements as dietary supplements to promote health.”

3. On December 12, 2018, Mr. Zhang signed a Voluntary Agreement not to Practice (VANP). On January 3, 2019, the Committee on Acupuncture accepted Mr. Zhang’s Voluntary Agreement not to Practice.

The Respondent’s Website

4. In 2018, the Respondent maintained a website which described his qualifications and practice.

5. In pertinent part, in 2018 the Respondent described on his website his alleged affiliation with Massachusetts General Hospital and Harvard Medical School.

6. In 2018, the Respondent’s website also stated, among other things, that the Respondent’s credentials include: “professor of Beijing University of Chinese Medicine... a research acupuncturist/fellow at Massachusetts General Hospital and Harvard Medical School, a faculty member of Medical Acupuncture for Physicians at Harvard Medical School....”

7. The Respondent was affiliated with Massachusetts General Hospital from May 1, 1999 to May 30, 2008. For part of the aforementioned time, the Respondent was a research fellow/acupuncturist at Massachusetts General Hospital. The Respondent has not had an affiliation with Massachusetts General Hospital since June 1, 2008.

8. The Respondent was affiliated with Harvard Medical School from May 1, 1999 to May 30, 2008. For part of the aforementioned time, the Respondent was a faculty member of medical acupuncture for physicians at Harvard Medical School. The Respondent has not had an affiliation with Harvard Medical School since June 1, 2008.

9. In 2018, the Respondent's website contained false information.

10. In 2018, the Respondent's website contained deceptive information.

11. In 2018, the Respondent's website contained misleading information.

Patient A

12. In or about November 2018, Patient A was experiencing lateral epicondylitis - an elbow issue.

13. In or about November 2018, Patient A viewed the Respondent's website which included false, deceptive, and/or misleading information.

14. After reviewing his website, Patient A made an appointment with the Respondent for November 23, 2018.

15. Patient A had never been treated by an acupuncturist and did not know what to expect during the visit.

16. The Respondent placed acupuncture needles in her arm and wrist.

17. After removing the needles, he had Patient A stand up.

18. The Respondent began to massage Patient A's arm, without ever describing what he planned to do next or why he was incorporating massage.

19. The touching progressed to the Respondent standing behind Patient A, he had his right arm hooked under Patient A's right under arm with his right hand over her neck and mouth, pulling her head back on his shoulder.

20. The Respondent's left hand began fondling Patient A's abdomen and breasts, underneath her clothes, touching bare skin. He was pressing his entire body against Patient A, grunting, and Patient A could feel his erect penis pushing against her.

Criminal Charges

21. On November 23, 2018, Patient A went to the Boston Police to report the Respondent.

22. On November 27, 2018, a criminal complaint issued charging the Respondent with two counts of Indecent Assault and Battery

23. On December 6, 2019, the Respondent admitted that there were sufficient facts on the two counts of Indecent Assault and Battery. The judge accepted the Respondent's tender of plea and the Respondent received a Continuance Without a Finding and was placed on probation for two years. As part of the criminal plea, the charges would be dismissed if the Respondent successfully completed the terms of his probation.

24. On June 8, 2021, upon the Respondent's successful completion of the terms of his probation both charges against the Respondent were dismissed.

Conclusion of Law

A. The Respondent violated G.L. c. 112, sec. 158(b) and 243 CMR 4.03(5)(a)(2), by violating provision of the laws of the Commonwealth related to the practice of medicine or acupuncture or any rule of regulation thereunder.

- i. Specifically, the Respondent lacks good moral character and has engaged in conduct that undermines the public confidence in the integrity of the medical profession. *See Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982).

- ii. Specifically, the Respondent has violated 243 CMR 1.03(5)(a)10 by practicing deceitfully, or engaging in conduct that has the capacity to deceive or defraud.

B. The Respondent violated G.L. c. 158(c) and 243 CMR 4.03(5)(a)(3) by engaging in conduct which, places into question the acupuncturist's competence to practice acupuncture, including, but not limited to gross misconduct in the practice of acupuncture and practicing acupuncture fraudulently.

C. The Respondent violated G.L. c. 112, sec. 158(h) and 243 CMR 4.03(5)(a)(10), by violating rules and regulations of the Board or Committee.

- i. Specifically, the Respondent violated 243 CMR 5.09(1) which states that a licensee shall not advertise that is not in the public interest including issuing advertising that that is false, deceptive, or misleading.

D. The Respondent violated 243 CMR 5.09(1)(16) by engaging in misconduct in the practice of acupuncture.

E. The Respondent violated G.L. c. 112, sec. 158(j) and 243 CMR 4.03(5)(a)(9) by practicing acupuncture in a manner that is professionally unethical according to the ethical standards of the profession.

F. The Respondent violated 243 CMR 4.03(5)(a)(17) by engaging in misconduct in the practice of acupuncture.

Sanction and Order

The Respondent's license to practice acupuncture is hereby Revoked retroactively from the day that he entered into the VANP on December 12, 2018. The Revocation of the Respondent's acupuncture license prohibits him from holding himself out in any manner as

someone practicing acupuncture. The Revocation of the Respondent's license prohibits him from practicing acupuncture as defined in 243 CMR 5.01. The prohibition against practicing acupuncture includes the prohibition of administering adjunctive therapies of acupuncture as defined by 243 CMR 5.01(d)(1), including but not limited to, "oriental nutritional counseling, herbology, and the recommendation of nonprescription substances which meet the Food and Drug Administration labeling requirements as dietary supplements to promote health," but does not prohibit Respondent from offering said therapies outside of and independent from the practice of acupuncture. This sanction is imposed for each violation of law listed in the Conclusion section and not a combination of any or all of them.

Execution of this Consent Order

Complaint Counsel and the Respondent agree that the approval of this Consent Order is left to the discretion of the Committee. The signature of Complaint Counsel, the Respondent, and the Respondent's counsel are expressly conditioned on the Committee accepting this Consent Order. If the Committee rejects this Consent Order in whole or in part, then the entire document shall be null and void; thereafter, neither of the parties nor anyone else may rely on these stipulations in this proceeding.


As to any matter in this Consent Order left to the discretion of the Committee, neither the Respondent, nor anyone acting on his behalf, has received any promises or representations regarding the same.

The Respondent waives any right of appeal that he may have resulting from the Committee's acceptance of this Consent Order.

The Respondent shall provide a complete copy of this Consent Order with all exhibits and attachments within ten (10) days by certified mail, return receipt requested, or by hand

delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which s/he practices medicine; any in- or out-of-state health maintenance organization with whom the Respondent has privileges or any other kind of association; any state agency, in- or out-of-state, with which the Respondent has a provider contract; any in- or out-of-state medical employer, whether or not the Respondent practices medicine there; the state licensing boards of all states in which the Respondent has any kind of license to practice medicine. The Respondent shall also provide this notification to any such designated entities with which the Respondent becomes associated for the duration of this revocation. The Respondent is further directed to certify to the Committee within ten (10) days that the Respondent has complied with this directive.


The Committee expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.



Qunhao Zhang, Lic. Ac.
Licensee

7/6/22

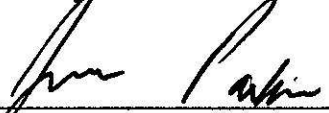
Date



Richard Haley
Attorney for the Licensee

7/14/2022

Date



James Paikos
Complaint Counsel

7/19/2022

Date

So ORDERED by the Committee of Acupuncture of the Board of Registration in Medicine this 29th day of September, 2022.



Weidong Lu, Lic. Ac.
Committee Chair