BEFORE THE MINNESOTA

BOARD OF PHYSICAL THERAPY

In the Matter of the
Physical Therapy License
of Rong Tang, P.T.

**FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER**

The above-entitled matter came on for a prehearing conference on April 11, 2016, before Administrative Law Judge ("ALJ") Eric L. Lipman at the request of the Minnesota Board of Physical Therapy ("Board") Complaint Review Committee ("Committee"). The matter was initiated pursuant to the Notice and Order for Prehearing Conference and Hearing ("Notice of Hearing") issued by the Committee on March 8, 2016. Andrew M. Pettit, Assistant Attorney General, represented the Committee. Rong Tang, P.T. ("Licensee"), made no appearance.

On May 11, 2016, the ALJ issued Findings of Fact, Conclusions of Law, and Recommendation ("ALJ's report"), recommending the Board take disciplinary action against Licensee's physical therapy license. (A true and accurate copy of the ALJ's report is attached hereto and incorporated herein as Exhibit A.)

The Board convened to consider the matter on August 4, 2016, in Conference Room C on the third floor of University Park Plaza, 2829 University Avenue S.E., Minneapolis, Minnesota. Andrew M. Pettit, Assistant Attorney General, appeared and presented oral argument on behalf of the Board Review Panel. Licensee did not appear. Board members Linda Gustafson, Debra Sellheim, and Debra Newel did not participate in deliberations and did not vote on the matter. Marshall Shragg, Executive Director of the Board, did not participate in the deliberations. Jennifer Middleton, Assistant Attorney General, was present to provide legal advice to the Board.

FINDINGS OF FACT

The Board has reviewed the record of this proceeding and hereby accepts the May 11, 2016, ALJ's report and accordingly adopts and incorporates by reference the Findings of Fact therein. Paragraph 4 of the ALJ's Conclusions of Law states,

> Pursuant to Minn. R. 1400.6000, a contested case may be decided adversely to a party who defaults. Upon default, the allegations and claims set forth in the Committee's pleadings may be deemed proved without further evidence.

The allegations contained in the Notice of Hearing are as follows:

1. On, or about, May 16, 2013, the Board licensed Licensee to practice as a physical therapist ("P.T.") in the State of Minnesota.

2. On, or about, December 10, 2014, Plymouth Police Officers conducted an undercover operation at a hotel in Plymouth, Minnesota, related to an ad for an out-call found on www.backpage.com. The undercover operation revealed the following:

a. Officers called the phone number in the www.backpage.com ad. After ending the call, officers received a text message from "Helen" asking if the officers were looking for an out-call. The text message indicated the out-call would cost $200. "Helen" then stated she was on her way to the officers' room and texted the officers when she arrived at the hotel.

b. Shortly after they received the text from "Helen," an adult Asian female ("Victim A") arrived at the officers' room, entered the room, and hugged one of the officers. Officers determined that Victim A could not speak English. An officer pulled out cash and Victim A held up two fingers. The officer gave Victim A the cash. Victim A took the cash, put it in her pocket, and walked into the bathroom. When Victim A returned from the bathroom, she was naked from the waist down. The officer held up a condom, Victim A nodded, and removed the rest of her clothing. Victim A then motioned for the officer to remove his pants. At that

point, the officer unlocked the room and the rest of the undercover detail entered. The officers had Victim A get dressed and sat her in the corner of the hotel room.

c. Officers searched the hotel and surrounding areas for any associates of Victim A. During their search, officers observed a lone male, later identified as Licensee, sitting in his vehicle in the parking lot of the hotel. Licensee claimed he had dropped off a female friend and could not give a reason why he was parked at the hotel. Licensee refused to contact his friend so that officers could confirm that he was not associated with Victim A. Officers brought Licensee to their hotel room. While in the hotel room, officers sent a text message to the number in the www.backpage.com ad. The message immediately appeared on the screen of Licensee's phone. Officers then took Licensee into custody.

d. Officers interviewed Victim A through an interpreter. Victim A reported that Licensee picked her up and drove her to the hotel to have sex with Licensee's friend. Victim A further reported that Licensee told her that his friend would pay her and that she could keep a portion of the money. Victim A did not have any identification and indicated that she was trying to return to China.

e. Officers investigated the phone number used by "Helen" in the undercover operation. The investigation revealed that the number was associated with the www.backpage.com ad for Victim A and ads on eleven different escort and escort review websites. All of the ads use identical photographs of an Asian female, refer to the woman as "Helen", and state that she is new to the country.

f. On December 10, 2014, Licensee created the www.backpage.com ad that the officers accessed during the undercover operation that led to Victim A.

3. On, or about, August 3, 2015, the Hennepin County Attorney's Office charged Licensee with one count of violating Minn. Stat. § 609.322, subd. 1a(1), Solicit/Induce Individual to Practice Prostitution, a felony, and one count of violating Minn. Stat. § 609.322, subd. 1a(2), Promotes Prostitution of an Individual, a felony.

CONCLUSIONS OF LAW

The Board accepts the May 11, 2016, ALJ's report and accordingly adopts and incorporates the Conclusions of Law therein with the following exceptions:[1]

> ~~3.~~6. Mr. Tang engaged in conduct which has the potential for causing harm to the public, in violation of Minn. Stat. § 148.75(a)(6).[2]
>
> ~~4.~~7. The imposition of a disciplinary sanction against Mr. Tang's ~~practical nursing~~ physical therapy license is in the public interest.[3]

ORDER

Based on the foregoing Findings of Fact and Conclusions and upon the recommendation of the ALJ, the Board issues the following Order:

4. NOW, THEREFORE, IT IS HEREBY ORDERED that Licensee's license as a physical therapist in the State of Minnesota is **REVOKED** immediately for an indefinite period of time.

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[1] To comply with the holding in *Doe v. State Board of Medical Examiners,* 435 N.W.2d 45, 50-51 (Minn. 1989), the Board has excluded substantive findings and conclusions that bear solely on allegations that were not substantiated. The omission of any finding of fact or conclusion recommended by the ALJ, which is not otherwise explained herein, is explained by the reasoning in *Doe*. Where language has been added to the ALJ's Report or where the ALJ's Report's language has been modified, the new language will be underlined and the reason for the change will be explained, typically by footnote. See Minn. Stat. § 14.62, subd. 1 (2015) (requiring an order that rejects or modifies an ALJ Finding of Fact, Conclusion of Law, or Recommendation to include the reasons for such modification or rejection).

[2] This citation was modified to correct a typographical error in the ALJ's Report.

[3] This citation was modified to correct a typographical error in the ALJ's Report.

5. IT IS FURTHER ORDERED that Licensee shall not engage in any conduct which constitutes the practice of physical therapy as defined in Minnesota Statutes section 148.65, and shall not imply or suggest to any persons by words or conduct that Licensee is authorized to practice physical therapy in the State of Minnesota.

6. IT IS FURTHER ORDERED that Licensee may reapply for licensure at such time as he is willing to respond to the Findings of Fact set forth above and following 120 months from the date of this Order. His application may be granted, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof shall be upon Licensee to demonstrate by a preponderance of the evidence that he is capable of conducting himself in a fit and competent manner in the practice of physical therapy.

7. IT IS FURTHER ORDERED that Licensee shall meet all licensing requirements in effect at the time of his application, including but not limited to completing the appropriate application, paying the requisite fees, and completing any necessary continuing education requirements.

8. IT IS FURTHER ORDERED that Licensee's violation of this Order shall constitute the violation of a Board order for purposes of Minnesota Statutes section 148.75, subdivision 1, and provide grounds for further disciplinary action.

9. IT IS FURTHER ORDERED that the Board may, at any regularly scheduled meeting following Licensee's application pursuant to paragraph 6 above, take any of the following actions:

a. Grant Licensee a physical therapy license;

b. Grant Licensee a physical therapy license with limitations upon the scope of Licensee's practice and/or with conditions for Licensee's practice; or

c. Deny Licensee's license application upon his failure to meet the burden of proof.

Dated: 8/19/16

STATE OF MINNESOTA
BOARD OF PHYSICAL THERAPY

CHRISTOPHER ADAMS, PTA
Board Member

THIS DOCUMENT CONTAINS
NOT PUBLIC DATA

OAH 8-0915-33306

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE BOARD OF PHYSICAL THERAPY

In the Matter of Rong Tang, P.T.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION

This matter came before Administrative Law Judge Eric L. Lipman for a prehearing conference on April 11, 2016.

Andrew M. Pettit, Assistant Attorney General, appeared on behalf of the Complaint Review Committee of the Minnesota Board of Physical Therapy (Committee). No one appeared on behalf of the Licensee, Rong Tang, P.T. (Licensee or Mr. Tang).

At the prehearing conference the Committee requested a default judgment under Minn. R. 1400.6000 (2015). In support of its motion, the Committee detailed the serial efforts it made, by telephone and mail, to contact Mr. Tang at his last known address.

STATEMENT OF THE ISSUES

1. Whether the Licensee engaged in conduct reflecting adversely on the licensee's ability or fitness to engage in the practice of physical therapy, in violation of Minn. Stat. § 148.75 (a)(3) (2014)?

2. Whether the Licensee engaged in unprofessional conduct, or any other conduct, which has the potential for causing harm to the public, in violation of Minn. Stat. § 148.75 (a)(6) (2014)?

Based upon the evidence in the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On March 8, 2016, a Notice and Order for Prehearing Conference and Hearing was mailed to Mr. Tang's home address in Woodbury, Minnesota.[1]

2. The Notice and Order for Prehearing Conference and Hearing includes the following statements:

[1] *See* Affidavit of Tammie L. Reeves (March 8, 2016).

Licensee's failure to appear at the prehearing conference, settlement conference, or hearing may result in a finding that Licensee is in default, that the allegations contained in this Notice and Order for Prehearing Conference and Hearing may be accepted as true, and its proposed action may be upheld.[2]

3. Mr. Tang, the Licensee, did not appear at the prehearing conference on April 27, 2016.

4. No request was made for a continuance, nor was any communication received by the Administrative Law Judge from Mr. Tang prior to April 27, 2016.

5. The Notice and Order for Prehearing Conference and Hearing alleges that:

(a) On, or about, May 16, 2013, the Board licensed Licensee to practice as a physical therapist (P.T.) in the State of Minnesota.

(b) On, or about, December 10, 2014, Plymouth Police Officers conducted an undercover operation at a hotel in Plymouth, Minnesota, related to an [advertisement] for an out-call found on www.backpage.com. The undercover operation revealed the following:

i. Officers called the phone number in the www.backpage.com [advertisement]. After ending the call, officers received a text message from "Helen" asking if the officers were looking for an out-call. The text message indicated the out-call would cost $200. "Helen" then stated she was on her way to the officers' room and texted the officers when she arrived at the hotel.

ii. Shortly after they received the text from "Helen," an adult Asian female (Victim A) arrived at the officers' room, entered the room, and hugged one of the officers. Officers determined that Victim A could not speak English. An officer pulled out cash and Victim A held up two fingers. The officer gave Victim A the cash. Victim A took the cash, put it in her pocket, and walked into the bathroom. When Victim A returned from the bathroom, she was naked from the waist down. The officer held up a condom, Victim A nodded, and removed the rest of her clothing. Victim A then motioned for the officer to remove his pants. At that point, the officer unlocked the room and the rest of the undercover detail entered. The officers had Victim A get dressed and sat her in the corner of the hotel room.

iii. Officers searched the hotel and surrounding areas for any associates of Victim A. During their search, officers observed a

[2] NOTICE AND ORDER FOR PREHEARING CONFERENCE AND HEARING, at 3, Additional Notice ¶ 1.

lone male, later identified as Licensee, sitting in his vehicle in the parking lot of the hotel. Licensee claimed he had dropped off a female friend and could not give a reason why he was parked at the hotel. Licensee refused to contact his friend so that officers could confirm that he was not associated with Victim A. Officers brought Licensee to their hotel room. While in the hotel room, officers sent a text message to the number in the www.backpage.com [advertisement]. The message immediately appeared on the screen of Licensee's phone. Officers then took Licensee into custody.

iv. Officers interviewed Victim A through an interpreter. Victim A reported that Licensee picked her up and drove her to the hotel to have sex with Licensee's friend. Victim A further reported that Licensee told her that his friend would pay her and that she could keep a portion of the money. Victim A did not have any identification and indicated that she was trying to return to China.

v. Officers investigated the phone number used by "Helen" in the undercover operation. The investigation revealed that the number was associated with www.backpage.com [advertisement] for Victim A and [advertisements] on eleven different escort and escort review websites. All of the [advertisements] use identical photographs of an Asian female, refer to the woman as "Helen," and state that she is new to the country.

vi. On December 10, 2014, Licensee created the www.backpage.com [advertisement] that the officers accessed during the undercover operation that led to Victim A.

(c) On, or about, August 3, 2015, the Hennepin County Attorney's Office charged Licensee with one count of violating Minn. Stat. § 609.322, subd. 1a(1), Solicit/Induce Individual to Practice Prostitution, a felony, and one count of violating Minn. Stat. § 609.322, subd. 1a(2), Promotes Prostitution of an Individual, a felony.[3]

6. The allegations contained in the Notice and Order for Prehearing Conference and Hearing are deemed proven.

Based upon these Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The Administrative Law Judge and the Board of Physical Therapy have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 148.75 and 214.10 (2014).

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[3] *Id.*, at 2-3.

2. Mr. Tang received notice of the allegations and of the time and place of the hearing on the Committee's motion. This matter is, therefore, properly before the Board and the Administrative Law Judge.

3. Mr. Tang is in default as a result of his failure, without the Administrative Law Judge's prior consent, to appear at the prehearing conference.

4. Pursuant to Minn. R. 1400.6000, a contested case may be decided adversely to a party who defaults. Upon default, the allegations and claims set forth in the Committee's pleadings may be deemed proved without further evidence.

5. Mr. Tang engaged in conduct that reflects adversely on the licensee's ability or fitness to engage in the practice of physical therapy, in violation of Minn. Stat. § 148.75 (a)(3).

3. Mr. Tang engaged in conduct which has the potential for causing harm to the public, in violation of Minn. Stat. § 148.75 (a)(6).

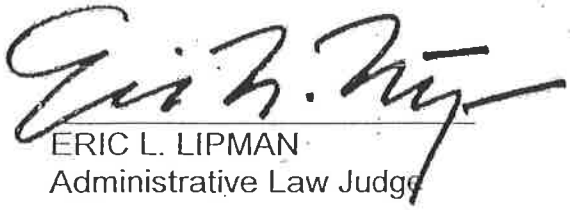
4. The imposition of a disciplinary sanction against Mr. Tang's practical nursing license is in the public interest.

Based upon the foregoing Conclusions of Law, the Administrative Law Judge makes the following:

RECOMMENDATION

The Administrative Law Judge recommends that disciplinary action be taken against the physical therapy license of Rong Tang, P.T.

Dated: May 11, 2016



ERIC L. LIPMAN
Administrative Law Judge

NOTICE

This Report is a recommendation, not a final decision. The Board of Physical Therapy (the Board) will make the final decision after a review of the record. Under Minn. Stat. § 14.61 (2014), the Board shall not make a final decision until this Report has been made available to the parties for at least ten calendar days. The parties may file exceptions to this Report and the Board must consider the exceptions in making a final decision. Parties should contact the Minnesota Board of Physical Therapy, Suite 420, 2829 University Avenue, S.E., Minneapolis, Minnesota 55414 (telephone: 612-627-5406), to learn the procedure for filing exceptions or presenting argument.

The record closes upon the filing of exceptions to the Report and the presentation of argument to the Board, or upon the expiration of the deadline for doing so. The Board must notify the parties and Administrative Law Judge of the date the record closes. If the Board fails to issue a final decision within 90 days of the close of the record, this Report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a (2014). In order to comply with this statute, the Board must then return the record to the Administrative Law Judge within ten working days to allow the Judge to determine the discipline imposed.

Under Minn. Stat. § 14.62, subd. 1 (2014), the Board is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.