

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JIA HONG YAO,  
Appellant,  
vs.  
NEVADA STATE BOARD OF  
MASSAGE THERAPY,  
Respondent.

No. 81508-COA

**FILED**

**MAY 27 2021**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Y. Y. Y.  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Jia Hong Yao appeals from a district court order denying her petition for judicial review. Eighth Judicial District Court, Clark County; Kenneth C. Cory, Judge.

Yao applied to the Nevada State Board of Massage Therapy (Board) for a reflexologist license.<sup>1</sup> The Board sent Yao a letter notifying her that the Board was going to consider her character and alleged misconduct at a public meeting. The letter stated the time and place of the meeting and said Yao could bring counsel and present evidence on her own behalf. The letter also stated it acted as notice and that it was provided under NRS 241.033.<sup>2</sup> Yao attended the meeting with her counsel. The Board held an open hearing regarding Yao's application at Yao's request and because the Board discussed alleged misconduct. After the hearing, the Board denied Yao's application. Yao then petitioned the district court for judicial review and the Board opposed.

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<sup>1</sup>We do not recount the facts except as necessary to our disposition.

<sup>2</sup>The Board's notice given pursuant to NRS 241.033 was necessary to comply with Nevada's open meeting laws.

The district court denied Yao's petition for judicial review for two reasons. First, it found that pursuant to *Private Investigator's Licensing Bd. v. Atherley*, 98 Nev. 514, 654 P.2d 1019 (1982), that denial of an occupational license is not a contested case which would otherwise require a hearing. It stated that while the Board may have a policy to review some applications at a Board meeting prior to making a decision regarding whether to grant or deny a license, many applications are administratively decided by the Board without reviewing the applications at a meeting. Second, it found that because "Yao's attendance at the meeting to determine whether to issue an occupational license was not 'required by law,' [it was] not a 'contested case.'" See NRS 233B.127 (an agency's determination to grant, deny, or review a license is not a "contested case" unless notice and opportunity for a hearing are *required by law*). It therefore dismissed the petition as unreviewable without addressing its merits.

On appeal, Yao argues that the district court erred because she and her counsel participated in a contested hearing, and therefore, even though the Board had discretion in deciding whether to issue her a license, she should still be entitled to judicial review of the Board's decision. We disagree.

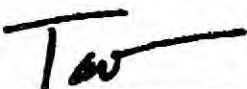
We review this matter de novo because it involves statutory interpretation. *UMC Physicians' Bargaining Unit of Nev. Serv. Emps. Union v. Nev. Serv. Emps. Union/SEIU Local 1107, AFL-CIO*, 124 Nev. 84, 88, 178 P.3d 709, 712 (2008). The Administrative Procedures Act (APA) governs this matter because the proceeding involved a petition for judicial review of an administrative decision. *Washoe Cty. v. Otto*, 128 Nev. 424, 430, 282 P.3d 719, 724 (2012). However, not every administrative decision

is reviewable. *Atherley*, 98 Nev. at 515, 654 P.2d at 1019. Only decisions that are in “strict compliance with the statutory requirements” are reviewable by the district court. *Kame v. Emp’t Sec. Dep’t*, 105 Nev. 22, 25, 769 P.2d 66, 68 (1989). The statutory requirements governing the Board’s proceedings involving Yao are contained in NRS Chapter 640C.

NRS 640C.600 sets forth the requirements to obtain a license as a reflexologist in Nevada, but does not specifically provide that notice and an opportunity for a hearing are required before approving or denying a license. Additionally, NRS 622A.020(2) provides that “[a] final decision of a regulatory body approving or denying an application for issuance or renewal of a license is not a contested case for the purposes of this chapter.” While we recognize that NRS 640C.710 could be interpreted as requiring notice and an opportunity for a hearing before the Board can deny the issuance of a license in a disciplinary action, NRS 622A.130(2) provides that if there are conflicts with the statutory provisions governing occupational licensing pursuant to NRS Chapter 640C and those of NRS Chapter 622A, NRS Chapter 622A controls. Therefore, the provisions of NRS 622A.020(2) govern, and the Board’s final decision denying Yao’s application for a license, following a hearing Yao and her counsel were invited to, but not required to attend, does not rise to the level of a contested case. Thus, Yao is not entitled to judicial review. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Kenneth C. Cory, District Judge  
Kirk T. Kennedy  
Attorney General/Carson City  
Attorney General/Las Vegas  
Eighth District Court Clerk