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Governor



Arizona State Board of Massage Therapy

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Open Session Minutes Meeting of the Arizona State Board of Massage Therapy

Monday, January 24, 2022
Held via videoconferencing

Board Members

Angela M. Reiter, LMT, BC – Chair
Myriah Mhoon – Vice-Chair
Bailey S. DeRoest
Michael K. Tapscott, LMT
Vacant, Public Member

I. CALL TO ORDER

Chairwoman Reiter called the Board's meeting to order at 9:00 a.m.

II. ROLL CALL

The following Board members participated in the virtual meeting: Chairwoman Reiter, Vice-Chairwoman Mhoon, Ms. DeRoest and Mr. Tapscott

ALSO PRESENT

The following Board staff and Assistant Attorney(s) General participated in the virtual meeting: Executive Director Tom Aughterton, Investigator David Elson, Licensing Specialist Paul Schuldt, Licensing Administrator Tony Wilcox and Minutes Administrator Andrea Cisneros. Assistant Attorney General ("AAG") Seamus Monaghan also participated in the virtual meeting. AAG Monique Coady participated in the virtual meeting to provide the Board with independent legal advice on the hearing matter(s) as stated herein.

III. CALL TO THE PUBLIC

Michelle Cordero and Jennifer Clayton addressed the Board during the Call to the Public and stated their concerns relating to the Board's current license application process and timeframes.

IV. DECLARATION OF CONFLICTS OF INTEREST – A.R.S. § 38-503

None.

V. REVIEW, DISCUSSION AND POSSIBLE ACTION ON BOARD MEETING MINUTES

- A. Discussion and approval of the Massage Board Open Minutes from the December 20, 2021 monthly meeting.

MOTION: Chairwoman Reiter moved for the Board to approve Open Minutes from the Board's December 20, 2021 monthly meeting.

SECOND: Ms. DeRoest

VOTE: The following Board members voted in favor of the motion: Chairwoman Reiter, Vice-Chairwoman Mhoon, Ms. DeRoest and Mr. Tapscott.

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

VI. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING ANNUAL ELECTION OF BOARD OFFICERS PURSUANT TO A.R.S. § 32-4203(9)

- A. Nomination and Election of Board Chair

MOTION: Ms. DeRoest moved to nominate Ms. Reiter for Board Chair.

SECOND: Ms. Mhoon

VOTE: The following Board members voted in favor of the motion: Chairwoman Reiter, Vice-Chairwoman Mhoon, Ms. DeRoest and Mr. Tapscott.

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

- B. Nomination and Election of Board Vice Chair

MOTION: Ms. DeRoest moved to nominate Ms. Mhoon for Board Vice Chair.

SECOND: Ms. Reiter

VOTE: The following Board members voted in favor of the motion: Chairwoman Reiter, Vice-Chairwoman Mhoon, Ms. DeRoest and Mr. Tapscott.

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

VII. ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

- A. Formal Hearing(s)

1. Case No. 22-123: Timothy Williams, MT Lic. #15826

AAG Monaghan participated on behalf of the State. AAG Coady participated to provide the Board with independent legal advice. Mr. Williams also participated in the virtual meeting during the Board's consideration of this matter.

MOTION: Chairwoman Reiter moved for the Board to enter the State's Exhibits 1-10 into the record.

SECOND: Vice-Chairwoman Mhoon

VOTE: The following Board members voted in favor of the motion: Chairwoman Reiter, Vice-Chairwoman Mhoon, Ms. DeRoest and Mr. Tapscott.

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

MOTION: Chairwoman Reiter moved for the Board to adopt the factual allegations and alleged violations of law as contained in the Complaint and Notice of Hearing as the Findings of Fact and Conclusions of Law in this matter.

SECOND: Mr. Tapscott

VOTE: The following Board members voted in favor of the motion: Chairwoman Reiter, Vice-Chairwoman Mhoon, Ms. DeRoest and Mr. Tapscott.

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

MOTION: Mr. Tapscott moved for the Board to revoke Mr. Williams' Arizona massage therapy license.

SECOND: Chairwoman Reiter

VOTE: The following Board members voted in favor of the motion: Chairwoman Reiter, Vice-Chairwoman Mhoon, Ms. DeRoest and Mr. Tapscott.

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

2. Case No. 22-120: Charles Peck, MT Lic. #07703

AAG Monaghan participated in the virtual meeting on behalf of the State. AAG Coady participated to provide the Board with independent legal advice. Mr. Peck and Attorney James Buesing also participated in the virtual meeting during the Board's consideration of this matter, as well as Claimant VH.

MOTION: Chairwoman Reiter moved for the Board to adopt the factual findings as contained in the Complaint and Notice of Hearing with revision to Finding of Fact #4 to replace "1-3 minutes" with "30-45 seconds", as the Findings of Fact in this matter.

SECOND: Mr. Tapscott

VOTE: The following Board members voted in favor of the motion: Chairwoman Reiter, Vice-Chairwoman Mhoon, Ms. DeRoest and Mr. Tapscott.

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

MOTION: Chairwoman Reiter moved for the Board to adopt the alleged violations of law as contained in the Complaint and Notice of Hearing as the Conclusions of Law in this matter.

SECOND: Mr. Tapscott

VOTE: The following Board members voted in favor of the motion: Chairwoman Reiter, Vice-Chairwoman Mhoon, Ms. DeRoest and Mr. Tapscott.

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

MOTION: Mr. Tapscott moved for the Board to suspend the license for one year and place Mr. Peck on Probation for a period of two years, to run concurrently with the license suspension. Within 12 months, the licensee shall complete no less than 3 hours of Board staff pre-approved CE in each of the following categories: ethics, communication and draping; totaling 9 CE hours in addition to the hours required for license renewal.

SECOND: Chairwoman Reiter

VOTE: The following Board members voted in favor of the motion: Chairwoman Reiter, Vice-Chairwoman Mhoon, Ms. DeRoest and Mr. Tapscott.

**VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.**

3. Case No. 22-133: Adrian Hernandez, MT Lic. #24483

AAG Monaghan participated in the virtual meeting on behalf of the State during the Board's consideration of this matter. AAG Coady participated to provide the Board with independent legal advice.

MOTION: Chairwoman Reiter moved for the Board to continue this matter to its February 28, 2022 meeting.

SECOND: Mr. Tapscott

VOTE: The following Board members voted in favor of the motion: Chairwoman Reiter, Vice-Chairwoman Mhoon, Ms. DeRoest and Mr. Tapscott.

**VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.**

4. Case No. 21-163: James Sailer, MT Lic. #16208
The Board took no action on this item.

5. Case No. 21-106: Alphonso Rodgers, MT Lic. #07324
The Board took no action on this item.

B. Formal Interview

1. Case No. 21-110: Stephen Faulstich, MT Lic. #22301

Mr. Faulstich and Claimant HP participated in the virtual meeting during the Board's consideration of this matter. ASL Interpreter Jennifer Key also participated in the virtual meeting.

MOTION: Vice-Chairwoman Mhoon moved for the Board to proceed to Formal Hearing in this matter based on the alleged violations of A.R.S. § 32-4253(A)(10), (15) and (16).

SECOND: Chairwoman Reiter

VOTE: The following Board members voted in favor of the motion: Chairwoman Reiter, Vice-Chairwoman Mhoon, Ms. DeRoest and Mr. Tapscott.

**VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.**

MOTION: Chairwoman Reiter moved for the Board to adopt the Findings of Fact relating to the alleged inappropriate touching of a client.

SECOND: Vice-Chairwoman Mhoon

VOTE: The following Board members voted in favor of the motion: Chairwoman Reiter, Vice-Chairwoman Mhoon, Ms. DeRoest and Mr. Tapscott.

**VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.**

C. Investigative Review File(s)

1. Case No. 22-154: Timothy Williams, MT Lic. #15826

Claimant KD participated in the virtual meeting during the Board's consideration of this matter.

MOTION: Mr. Tapscott moved for the Board to proceed to Formal Hearing in this matter based on the potential allegations and alleged violations of law as contained in the investigative report.

SECOND: Chairwoman Reiter

VOTE: The following Board members voted in favor of the motion: Chairwoman Reiter, Vice-Chairwoman Mhoon, Ms. DeRoest and Mr. Tapscott.

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

2. Case No. 22-168: Stephen Faulstich, MT Lic. #22301

Mr. Faulstich and Claimant KH participated in the virtual meeting during the Board's consideration of this matter.

MOTION: Mr. Tapscott moved for the Board to consolidate Case Nos. 22-168 and 21-110 and proceed to Formal Hearing for the purposes of possible license revocation based on the potential allegations and alleged violations of law as contained in the investigative report.

SECOND: Chairwoman Reiter

VOTE: The following Board members voted in favor of the motion: Chairwoman Reiter, Vice-Chairwoman Mhoon, Ms. DeRoest and Mr. Tapscott.

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

3. Case No. 22-132: Gary Kahl, MT Lic. #01363

Mr. Kahl and Claimant TH participated in the virtual meeting during the Board's consideration of this matter.

MOTION: Chairwoman Reiter moved for the Board to summarily suspend the license and proceed to Formal Hearing based on the potential violations of law as contained in the investigative report.

SECOND: Mr. Tapscott

VOTE: The following Board members voted in favor of the motion: Chairwoman Reiter, Vice-Chairwoman Mhoon, Ms. DeRoest and Mr. Tapscott.

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

4. Case No. 22-121: Jamar Hammond, MT Lic. #N/A

Mr. Hammond participated in the virtual meeting during the Board's consideration of this matter.

MOTION: Mr. Tapscott moved for the Board to grant licensure.

SECOND: Chairwoman Reiter

VOTE: The following Board members voted in favor of the motion: Chairwoman Reiter, Vice-Chairwoman Mhoon, Ms. DeRoest and Mr. Tapscott.

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

- D. License Application(s) Requiring Board Review
Vacant.

VIII. REVIEW, DISCUSSION AND POSSIBLE ACTION RELATING TO PROPOSED STATE LEGISLATION, SPONSORED BY REP. JENNIFER LONGDON (D-24-PHX)

IX. REVIEW AND DISCUSSION REGARDING REPORT BY BOARD CHAIR

- A. Preview of February presentation by Laura Allen Massage Therapist, Author, Educator.
- B. Update on Arizona human trafficking.
- C. Presentation on restoration of massage license photographs.

X. DISCUSSION AND POSSIBLE ACTION ITEMS FOR FUTURE MASSAGE BOARD AGENDAS

- Update on adding photos to licenses.
- Update on fingerprint clearance cards.
- Board's interpretation of A.R.S. § 32-4222(E).
- Licensing processes, including timeframes, staffing needs and funding.

The next Board meeting date:

Monday, February 28, 2022 at 9:00 a.m.; to be held via videoconference

X. ADJOURNMENT

The Board's meeting adjourned at 2:08 p.m.