



Douglas A. Ducey
Governor

Arizona State Board of Massage Therapy

*"Protecting the Public,
Serving the Industry"*

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OPEN SESSION MINUTES FOR MEETING OF THE ARIZONA STATE BOARD OF MASSAGE THERAPY

**On Monday, March 29, 2021
Held virtually online**

Board Members

Victoria Bowman, LMT, Chairwoman
Mlee Clark, LMT, Vice-Chairwoman
Nicholas L. McLain
John Ortega
Kevin Ramsey, LMT

I. CALL TO ORDER

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

II. ROLL CALL

The following Board members were present: Chairwoman Bowmann, Vice-Chairwoman Clark, Mr. McLain, Mr. Ortega, and Mr. Ramsey.

ALSO PRESENT

Present among Board staff include: Executive Director Tom Augherton, Senior Investigator Andrew White, Licensing Administrator Tony Wilcox, Licensing Administrator Kathy Rich, Minutes Administrator Andrea Cisneros, and Assistant Attorney General ("AAG") Seamus Monaghan.

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

There were no Conflicts of Interest declared by Board members at the start of the Board's meeting.

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

A. Discussion and approval of the Massage Board Open Minutes from the February 22, 2021 monthly meeting.

MOTION: Vice-Chairwoman Clark moved for the Board to approve the Open Minutes from the February 22, 2021 monthly meeting.

SECOND: Mr. McClain

VOTE: The following Board members voted in favor of the motion: Chairwoman Bowmann, Vice-Chairwoman Clark, Mr. McLain and Mr. Ramsey. The following Board member was absent: Mr. Ortega

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

V. ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

A. Formal Hearing

None.

B. Formal Interview

21-109 Martinez, Luis

Mr. Martinez and client AS participated in the virtual meeting during the Board's consideration of this matter.

MOTION: Mr. Ramsey moved for the Board to issue a non-disciplinary Advisory Letter for committing an act of malpractice, gross negligence or incompetency; for engaging in conduct that could result in harm or injury to the public; and, for potential sexual misconduct with a client.

SECOND: Mr. McClain

VOTE: The following Board members voted in favor of the motion: Chairwoman Bowmann, Vice-Chairwoman Clark, Mr. McLain, Mr. Ortega and Mr. Ramsey.

VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

21-113 Garcia, Fabian

Complainant DS participated in the virtual meeting during the Board's consideration of this matter. Mr. Garcia was not present and did not participate in this proceeding.

MOTION: Chairwoman Bowmann moved for the Board to offer the licensee a Consent Agreement for voluntary surrender of licensure based on the factual allegations as set forth in the investigation report and testimony given by DS, and to adopt the statutory violations as outlined in the investigation report as the Board's Conclusions of Law in this matter. If not signed within 20 days, the matter shall proceed to Formal Hearing for license revocation.

SECOND: Vice-Chairwoman Clark

VOTE: The following Board members voted in favor of the motion: Chairwoman Bowmann, Vice-Chairwoman Clark, Mr. Ortega and Mr. Ramsey. The following Board member was absent: Mr. McClain.

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

21-117 Wali, Ubaidullah

Complainant AL participated in the virtual meeting during the Board's consideration of this matter. Mr. Wali was not present and did not participate in this proceeding.

MOTION: Mr. Ramsey moved for the Board to offer the licensee a Consent Agreement for voluntary surrender of licensure based on the factual allegations as set forth in the investigation report and testimony given by AI, and to adopt the statutory violations as outlined in the investigation report as the Board's Conclusions of Law in this matter. If not signed within 20 days, the matter shall proceed to Formal Hearing for license revocation.

SECOND: Vice-Chairwoman Clark

VOTE: The following Board members voted in favor of the motion: Chairwoman Bowmann, Vice-Chairwoman Clark, Mr. Ortega and Mr. Ramsey. The following Board member was absent: Mr. McClain.

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

C. Investigative Review

21-121 Gillum, Destiny

Ms. Gillum and Attorney Sara Stark participated in the virtual meeting during the Board's consideration of this matter.

MOTION: Chairwoman Bowmann moved for dismissal.

SECOND: Vice-Chairwoman Clark

VOTE: The following Board members voted in favor of the motion: Chairwoman Bowmann, Vice-Chairwoman Clark, Mr. Ortega and Mr. Ramsey. The following Board member was absent: Mr. McClain.

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

21-128 Shan, Danny

Mr. Shan and Attorney Derek Zazueta participated in the virtual meeting during the Board's consideration of this matter.

MOTION: Vice-Chairwoman Clark moved for the Board to proceed to Formal Interview in this matter based on the potential violations of law and factual allegations as set forth in the investigative report.

SECOND: Mr. Ortega

VOTE: The following Board members voted in favor of the motion: Chairwoman Bowmann, Vice-Chairwoman Clark, Mr. Ortega and Mr. Ramsey. The following Board member was absent: Mr. McClain.

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

21-130 Heward, Mark

Complainant WW participated in the virtual meeting during the Board's consideration of this matter. Mr. Heward was not present and did not participate in this proceeding.

MOTION: Chairwoman Bowmann moved for the Board to continue the investigative review in this matter to the Board's next meeting, and to instruct Board staff to request clear copies of the text messages between the parties and request the licensee to appear before the Board.

SECOND: Vice-Chairwoman Clark

VOTE: The following Board members voted in favor of the motion: Chairwoman Bowmann, Vice-Chairwoman Clark, Mr. Ortega and Mr. Ramsey. The following Board member was absent: Mr. McClain.

VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

D. License Request

None.

VI. EXECUTIVE DIRECTOR REPORT

A. Introduction of the Arizona Auditor General's Office for a Board presentation by Ms. Monette M. Kiepke, Senior Performance Auditor, addressing the Arizona Massage Board's statutorily-required sunset audit in 2021.

Ms. Kiepke and Dale Chapman of the Auditor General's Office participated in the virtual meeting during the Board's consideration of this matter.

B. Request of Board for designation of the Arizona Delegate to the 2021 Federation of State Massage Boards ("FSMTB") Annual Meeting in Charlotte, NC on October 7-9.

C. Tucson City Council Workshop on amending City Ordinance on massage services, on Tuesday, April 6, 2021. Brief update from Lt. Frank Hand, Patrol Commander, Tucson Police Department.

D. Board Letter transmission requesting Executive Branch approval for state rules amending promulgation before the Governor's Regulatory Review Council ("GRRC")

VII. SUMMARY OF CURRENT EVENTS

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

The Board directed staff to agendize the following discussion topics for a future meeting:

- Proper course of action for individuals that suspect a business to be performing illicit practices.
- Arizona Massage Board COVID-19 Waiver of CE and response to possible ending of the Governor's Executive Orders relating to COVID-19.

IX. NEXT ARIZONA MASSAGE BOARD MEETING DATE

A. Monday, April 26, 2021 at 9:00 a.m. (*meeting to be held via video conferencing*)

X. CALL TO THE PUBLIC

Laura Embleton, Government Relations Director, Associated Bodywork and Massage Professionals addressed the Board during the Call to the Public.

XI. MOTION TO ADJOURN

MOTION: Vice-Chairwoman Clark moved for adjournment.

SECOND: Chairwoman Bowmann

VOTE: The following Board members voted in favor of the motion: Chairwoman Bowmann, Vice-Chairwoman Clark, Mr. McLain, Mr. Ortega and Mr. Ramsey.

VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.



The Board's meeting adjourned at 12:10 p.m. *Tom A.*

Tom Augherton, Executive Director