



State of Arizona
Janet Napolitano – Governor

Arizona State Board of Massage Therapy

"Protecting the Public's Health"

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De Mario Vaughn, LMT; Nancy Gath, Public Member; Daniel Pozefsky, Public Member
Dennis Beye, LMT, Susan Pomfret, LMT, Craig Runbeck, NMD, Executive Director

Minutes BOARD MEETING

August 25, 2008 10:00 a.m.
1400 West Washington St, B1
Phoenix, AZ 85007

1. Call to Order by Presiding Officer

Mr. Beye, Chair, called the meeting to order at 10:10 am.

- A. Roll call of Board members was done to establish a quorum to conduct the meeting.

Board Members present: Dennis Beye, Chair, LMT
Daniel Pozefsky, Public Member
Nancy Gath, Public Member

Board Members absent: De Mario R. Vaughn, LMT
Susan Pomfret, Vice Chair, LMT

- B. Acknowledgement of presence of Board staff and legal counsel.

Assistant Attorney General: Elizabeth Campbell

Board Staff: Dr. Craig Runbeck, Executive Director
Robert Wilson, Deputy Director
Stan Conger, Investigations
Ellen Boyd, Licensing Administrator

2. Discussion, Consideration and Possible Action of Consent Agenda *(Any item under consent may be removed for independent discussion and action by a Board Member.)*

- A. Approval of Minutes: June 23, 2008 Board Meeting
B. Approval of Massage Therapy Application(s) April, May and June

MOTION: Mr. Pozefsky moved to approve the minutes and consent agenda as listed above, Ms. Gath seconded the motion.

VOTE: The Motion Passed 3 ayes, 0 no

3. Discussion, Consideration and Possible Action of Regulatory Matters

- A. Board Review – Investigations

1. Edward Gomillion – Initial Review (MT-04378P)

Rob Wilson summarized the case. Mr. Gomillion is accused of two complaints of sexual activity with clients and one complaint of operating beyond the scope of a massage therapist.

Ms. Gath moved to go to Executive Session for legal advice.
Mr. Pozefsky seconded the motion.

Vote: Ayes – 3
Nays – 0

Executive Session began at 10:15
Open Session reconvened at 10:30

Mr. Gomillion addressed the Board and denied all allegations.
Mr. Pozefsky made a motion to move the case to a formal interview.
Ms. Gath seconded the motion.

Vote: Ayes – 3
Nays – 0

2. Oriental Chi

Tabled until next board meeting – board lacked a quorum because Mr. Beye recused.

3. Marshall Mark

Mr. Wilson summarized the case. A client felt very uncomfortable during a massage given by Mr. Mark.

Mr. Mark addressed the Board. He denied any wrong doing.
Complainant addressed the Board. She stated that she would be happy with an apology and a refund of the monies paid to Mr. Mark for the massage.

Mr. Pozefsky moved to go to executive session for legal advice.
Ms. Gath seconded the motion.

Vote: Ayes – 3
Nays – 0

Executive session began at 11:05
Open session reconvened 11:13

Mr. Mark publicly apologized to the complainant and offered to reimburse complainant \$45.

Mr. Pozefsky motioned to issue a Letter of Concern.
Ms. Gath seconded the motion.

Vote: Ayes – 3
Nays – 0

4. Eugene Kauppila MT—07497

Respondent is not present.

Mr. Conger stated that efforts to contact Mr. Kauppila failed.

Witnesses are not present.

Mr. Conger stated that efforts to contact witnesses also failed.

Mr. Wilson summarized the case.

Mr. Wilson stated that he and Mr. Conger think that the parties involved resolved the issues amongst themselves.

Ms. Gath motioned to dismiss the case without prejudice.

Mr. Pozefsky seconded the motion.

Vote: Ayes – 3
Nays – 0

5. Misty Smith MT-04907

Mr. Conger addressed the board. The parties involved have reached a resolution themselves.
Mr. Pozefsky made a motion to dismiss the case.
Ms. Gath seconded the motion.

Vote: Ayes – 3
Nays – 0

6. Gary Branson MT-MT – 10333

Mr. Wilson summarized the case. He stated that Mr. Branson answered the question concerning the money order very vaguely.
Ms. Gath moved to dismiss the case.
Mr. Pozefsky seconded the motion.

Vote: Ayes – 3
Nays – 0

7. Sarah Kukes MT- 08562

Mr. Conger summarized the case.
Ms. Kukes addressed the Board. She denied the allegations of releasing information about the complainant.
Mr. Pozefsky moved to dismiss the case.
Ms. Gath seconded the motion.

Vote: Ayes – 3
Nays – 0

8. Tracy Austin MT-07891 Expired 6/18/2008

Mr. Conger summarized the case. Ms. Austin is accused of attempting to take clients with her when she switched professions from being a medical assistant to a massage therapist.
Ms Gath moved to dismiss the case.
Mr. Pozefsky seconded the motion.

Vote: Ayes – 3
Nays – 0

9. Justin Ingram

Mr. Conger summarized the case. Mr. Ingram is accused of having an employee, a cosmetologist, who was also doing massage without a massage license. The cosmetology Board fined Mr. Ingram and the employee. The employee quit and the business is no longer open. It was thought that Mr. Ingram was doing massage without a current massage license, but no evidence has been found that supports this.
Ms. Gath moved to dismiss the case.
Mr. Pozefsky seconded the motion.

Vote: Ayes – 3
Nays – 0

Break at 11:25

Reconvene 11:37

4. Call to the public

Two members of the public addressed the Board in regards to CE requirements.

5. Discussion and Consideration and Possible Action on Administrative Matters

A. Massage License Status Report

Mr. Wilson updated the board on the license status to date.

Active: 9001

Denied: 19

Pending: 209

Voluntarily Surrendered: 6

Revoked: 7

Closed – App withdrawn and failed to qualify: 120

Closed – Expired (non-renewal): 2283

B. Cease and Desist

1. Yoshi Nakano

Cease and Desist Letter sent to him and complainant is requesting a copy of the letter.

6. Discussion Consideration and Possible Action on Correspondence.

A. Federation of State Massage Therapy Boards – information only

B. Draping Clarification – Mr. Duskey of SWIHA requested direction from the Board. Board members suggested that in regards to draping and breast massage on female clients, a best practice would be that any work on the front of the body should require a signed consent form.

5C. Administrative and Legislative updates

1. Board Consolidation and Potential Legislation

Dr. Runbeck stated that the Governor's office is continuing to discuss the idea of consolidation of administrative functions. The current consolidation proposal consists of eleven regulatory boards which includes the Massage and Naturopathic Boards. Most of these boards have gone on record, or will soon go on record, as opposing consolidation. The Chair asked Dr. Runbeck if there was anything the Board could do to help convey the message to the governor. Dr. Runbeck said he had asked Tracy Hannah in person, and twice by e-mail, to attend the meeting today. She would not commit to attend and obviously was not in attendance today. Dr. Runbeck suggested that a vote opposing the 5/23/08 proposal by Ms. Hannah might help alleviate any confusion as to the Board's position. Mr. Pozefsky made a motion to oppose the 5/23/08 proposal with the caveat that if a representative of the governor's office wished to address the Board in the future on the subject, they would be welcome. Ms. Gath seconded the motion. Dr. Runbeck will keep the Board updated regarding this matter.

On Mr. Pozefsky's motion in opposition to the consolidation proposal of May 23, 2008

Vote:	Mr. Pozefsky	Aye
	Ms. Gath	Aye
	Mr. Beye	Aye

2. Emergency fee increases

The Legislature has swept \$1,000,000 of the licensed massage therapist's money to help cover legislative budgetary shortfalls for FY 08 and is planning to sweep an additional \$618,000 from FY 09. This will put the Board in a deficit of \$66,027. Without immediate fee increases, it is likely that layoffs will have to occur before the end of FY 09. The Board is already laboring under inadequate staffing because of the hiring freeze imposed upon

it by the Governor's Office. Any further loss of staffing will paralyze the Board. Dr. Runbeck is proposing an immediate increase in renewal fees of \$25 and initial licensing fees of \$75.

\$240 for initial licenses
\$100 for renewal licenses

Mr. Pozefsky moves to accept
Ms. Gath seconds the motion

Vote:	Mr. Pozefsky	Aye
	Ms. Gath	Aye
	Mr. Beye	Aye

3. Potential Legislation

Dr. Runbeck updated the Board on potential legislation. The Naturopathic Board would like to see the Massage Board become independent of the Naturopathic Board. This is in keeping with the original legislative intent to help the massage profession get started as an independent profession. This will require legislation and Dr. Runbeck will be exploring possibilities on this issue.

The next scheduled meeting is October 27, 2008

The meeting was adjourned at 12:27pm

ADJOURNMENT