



Douglas A. Ducey,  
Governor

# Arizona State Board of Massage Therapy

“Protecting the Public’s Health”

1740 West Adams, Suite 3401  
Phoenix, Arizona 85007  
P: (602)542-8604  
E: [info@massageboard.az.gov](mailto:info@massageboard.az.gov)  
W: <https://massagetherapy.az.gov>

## OPEN SESSION MINUTES

### April 30, 2018

Members of the Arizona State Board of Massage Therapy (“Board”) held a meeting at 9:40 a.m. on Monday, April 30, 2018 at the Board’s office in boardroom C, 1740 West Adams Street, Phoenix, Arizona 85007. No executive session was held.

#### BOARD MEMBERS:

Earl Duskey, LMT ..... Board Chairperson and Therapist Member  
Victoria Bowmann, LMT..... Board Vice-Chairperson and Therapist Member  
Bill Beard ..... Public Member  
Mlee Clark, LMT ..... Therapist Member  
John Ortega. .... Public Member

#### STAFF AND ASSISTANT ATTORNEY(S) GENERAL PRESENT:

Ryan P. Edmonson..... Executive Director  
Michael Raine, Esq. .... Assistant Attorney General  
Marc H. Harris, Esq. .... Assistant Attorney General, Independent Legal Advisor  
Andrew White..... Board Investigator  
Tony Wilcox ..... License Administrator  
April Romero ..... Administrative Assistant II

#### GUEST(S) PRESENT AND/OR PARTICIPATING

Garnet Adair, LMT ..... American Massage Therapy Association, Arizona Chapter  
Kathleen “Kate” M. Turpin, LMT ..... Professor/Coordinator, Arizona Western College  
Jaime Martinez, LMT ..... Respondent – Case 18-118  
Richard Gaxiola, Esq. .... Respondent’s Attorney – Case 18-118  
Complainant..... Case 18-112  
☎ Complainant..... Case 18-123  
Leslie Tolton, LMT..... Respondent – Cases 18-112 & 18-123  
Complainant..... Case 18-114

☎ Appeared telephonically

## **OPEN SESSION**

The meeting was called to order at 9:40 a.m. by Earl Duskey. The following order of business was then considered:

### **CALL TO THE PUBLIC**

No one from the public wished to address the Board.

### **DECLARATION OF CONFLICTS OF INTEREST**

No new conflicts were declared.

### **REVIEW, DISCUSSION AND POSSIBLE ACTION ON BOARD MEETING MINUTES**

Discussion and approval of the Open Session Minutes from the February 26, 2018 board meeting

A motion was made by Bill Beard, seconded by Mlee Clark and passed unanimously to approve the Open Session Minutes from the February 26, 2018 board meeting.

### **ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION**

#### Investigation Files

#### File No. 18-118; Martinez, Jaime

Jaime Martinez was present and appeared along with his attorney, Richard Gaxiola. Andrew White was present and provided a summary of his investigative report. Mr. White's report included that the respondent sexually assaulted the complainant during her 90-minute massage. Mr. White's report also included that the complainant filed a formal complaint with Massage Envy, the respondent's employer and she filed a report with the Phoenix Police Department. Mr. Gaxiola summarized his client's position, including his timely response to the complaint and cooperation with the Phoenix Police Department. Mr. Gaxiola stated that the respondent believes the complaint has no basis.

After discussion regarding the consideration of the respondent's attorney's calendar, a motion was made by Mlee Clark, seconded by Bill Beard and passed unanimously to file a Complaint and Notice of Hearing.

#### File No. 18-112; Tolton, Leslie

#### File No. 18-123; Tolton, Leslie

Michael Raine summarized his motion to consolidate the Board's investigation files and stated that the motion has been uncontested.

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to consolidate the Board's two investigation files.

#### Formal Hearing(s)

#### File No. 18-112; Tolton, Leslie

#### File No. 18-123; Tolton, Leslie

Leslie Tolton was present and appeared on his own behalf. Michael Raine was present and appeared on behalf of the State. The complainants were both present. However, the complainant for file no. 18-123 participated telephonically due to logistical matters surrounding the Capitol. Marc H. Harris was present to provide independent legal advice to the Board.

*The Board took a break from 10:42 a.m. to 10:52 a.m.*

Both parties presented their cases in chief. The state presented its case and concluded that the Board must decide if it is more likely than not to believe the testimony provided by the complainants. He also stated that in the case of this hearing that the Board doesn't have one only complaint, but that it has two complaints that are similar in nature, which state that the respondent massaged their breasts without consent. The massage therapist presented his case and concluded that he is sorry for the way his clients felt treated, but he believes he did not commit any acts outside of his job description and values his job and career. He also stated that he could have been more clear in his communication to the clients because he is/was not out to cause harm; only to help them relieve pain.

A motion was made by Bill Beard, seconded by Victoria Bowmann and passed unanimously to adopt the Factual Allegations as Findings of Fact and as written in the Complaints and Notices of Hearing for both cases.

A motion was made by Bill Beard, seconded by Victoria Bowmann and passed unanimously to adopt the Alleged Violations as Conclusions of Law and as written in the Complaints and Notices of Hearing for both cases.

A motion was made by Victoria Bowmann and seconded by Earl Duskey to issue a Decision and Order ("Order") revoking the respondent's massage therapy license. The motion passed 5 – 0 by the following roll call vote:

Mlee Clark – Aye  
Bill Beard – Aye  
Victoria Bowmann – Aye  
John Ortega – Aye  
Earl Duskey – Aye

*The Board took a break from 12:40 p.m. to 12:53 p.m.*

#### Investigation Files

##### File No. 18-114; Salas-Felix, Michael

Michael Salas-Felix was not present. Andrew White was present and provided a summary of his investigative report. Mr. White's report included that the respondent sexually assaulted the complainant during her massage. Mr. White's report also included that the complainant filed a report with the Glendale Police Department. The complainant was present and concurred with Investigator White's findings in his report agreeing that it was essentially what she already put in writing.

A motion was made by Victoria Bowmann and seconded by Bill Beard to offer a Consent Agreement for the surrender of the respondent's massage therapy license and if not accepted within 30 days from the date offered to proceed to file a Complaint and Notice of Hearing to revoke the respondent's massage therapy license. The motion passed 5 – 0 by the following roll call vote:

Mlee Clark – Aye

Bill Beard – Aye  
Victoria Bowmann – Aye  
John Ortega – Aye  
Earl Duskey – Aye

Application(s) for Massage Therapy School(s) Recognition  
Académie de Massage Scientifique – Quebec, Canada

Michael Raine provided an update regarding his research as it pertains to the school's submission for the Board's approval.

After discussion, the Board agreed to table the matter so that Mr. Raine can contact the school again to gain a better understanding about the school's curriculum, hours required to graduate from the school's massage program, how many students attend and its association standards.

Rolf Institute of Structural Integration – Boulder, Colorado

Having met the requirements of A.R.S. § 32-4228(B), a motion was made by Bill Beard, seconded by John Ortega and passed unanimously to approve the school as a Board-recognized school.

Investigation Files

File No. 18-115; Cisneros, Mario

Mario Cisneros was not present. Andrew White was present and provided a summary of his investigative report. Mr. White's report included that the respondent sexually assaulted the complainant during his massage. Mr. White's report also included that the complainant filed a report with the Chandler Police Department. The complainant was not present.

A motion was made by Victoria Bowmann and seconded by Bill Beard to offer a Consent Agreement for the surrender of the respondent's massage therapy license and if not accepted within 30 days from the date offered to proceed to file a formal interview. The motion passed 5 – 0 by the following roll call vote:

Mlee Clark – Aye  
Bill Beard – Aye  
Victoria Bowmann – Aye  
John Ortega – Aye  
Earl Duskey – Aye

Investigation Files

File No. 18-116; Moore (Van Winkle), Yong

Yong Moore was not present. Michael Raine was present to provide an update regarding his conversation with Ms. Moore's attorney. Per Ms. Moore's attorney, and as stated through Mr. Raine, Ms. Moore intends on surrendering her license, but is involved in a criminal matter and does not want a surrender to give any negative inference to the criminal matter. Mr. Raine suggested that the Board could offer an interim suspension order while waiting for the conclusion of the criminal trial.

A motion was made by Victoria Bowmann and seconded by Bill Beard to offer a Consent Agreement to include a suspension of the respondent's massage therapy license and until the

conclusion of the respondent's criminal trial. The motion included offering the option for the respondent to surrender now. The motion passed 5 – 0 by the following roll call vote:

Mlee Clark – Aye  
Bill Beard – Aye  
Victoria Bowmann – Aye  
John Ortega – Aye  
Earl Duskey – Aye

File No. 18-128; Tolton, Leslie

Leslie Tolton was no longer present. Michael Raine suggested that the Board table the matter pending the outcome of the Board's previous decision from Mr. Tolton's other files. The Board agreed to table the matter.

Review Investigation File(s) and Proposed Settlement Offer(s)

File No. 17-120; Farvardin, Shahab

Board staff and Michael Raine provided a summary of the matter and an update regarding the respondent's criminal trial. Mr. Raine stated he spoke with the respondent's attorney prior to drafting the Consent Agreement for the respondent to surrender his massage therapy license and that the attorney was in favor of the same.

A motion was made by Bill Beard and seconded Victoria Bowmann to accept the draft Consent Agreement for the surrender of the respondent's massage therapy license. The motion passed 5 – 0 by the following roll call vote:

Mlee Clark – Aye  
Bill Beard – Aye  
Victoria Bowmann – Aye  
John Ortega – Aye  
Earl Duskey – Aye

**EXECUTIVE DIRECTOR'S REPORT**

The Board reviewed the budget and agency operations with Ryan P. Edmonson.

**REVIEW, DISCUSSION AND POSSIBLE ACTION ON FORMING AN INFORMAL LEGISLATIVE COMMITTEE**

Michael Raine provided a summary of what the Board can and cannot do as it relates to open meeting laws. The Board agreed that one member from its current roster could volunteer to sit on the informal legislative committee, but a member could not be nominated by the Board itself. Ryan Edmonson stated that the Board needs to take an honest look at its statutes to find ways of reforming them while still regulating the profession, but eliminating barriers to entry or needless statutes.

**SUMMARY OF CURRENT EVENTS**

None were discussed.

**DISCUSSION AND POSSIBLE ACTION ITEMS FOR FUTURE MEETING AGENDAS**

None were discussed.

**NEXT BOARD MEETING DATE**

Monday, May 21, 2018 at 9:30 a.m.

**ADJOURNMENT**

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to adjourn at 2:17 p.m.