



Arizona State Board of
Massage Therapy
“Protecting the Public’s Health”

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Douglas A. Ducey,
Governor

OPEN SESSION MINUTES

January 28, 2019

Members of the Arizona State Board of Massage Therapy (“Board”) held a meeting at 9:36 a.m. on Monday, January 28, 2019 at the Board’s office in Boardroom C, 1740 West Adams Street, Phoenix, Arizona 85007. Executive sessions were held from 10:22 a.m. to 10:48 a.m. and from 12:19 p.m. to 12:37 p.m.

BOARD MEMBERS:

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

STAFF AND ASSISTANT ATTORNEY(S) GENERAL PRESENT:

- Ryan P. Edmonson..... Executive Director
- Michael Raine, Esq. Assistant Attorney General
- Mary DeLaat-Williams, 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:

- Tom Aughterton..... Executive Director Candidate
- Luis Bustamante..... ADOA, Human Resources
- ☎ Ruth Stevens, LMT Guest
- Scott Price Guest
- Kathryn Perlman Guest
- Judy Zimet, Esq Complainant’s Attorney – Case 19-135
- Terra Shaad Guest
- Ashton Wolfswinkel Guest
- Stephanie Goodman Guest
- Tawny Calvet Guest
- José Ortiz, LMT Respondent – Case 18-121

The Americans with Disabilities Act: Persons with disabilities may request reasonable accommodations, such as sign language interpreters. Requests should be made as early as possible to allow time to arrange the accommodation. This document is available in alternative format upon request.

The State submitted two exhibits, which were admitted by the Board. The State presented its case in chief, including witness testimony from Board Investigator, Andrew White.

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to adopt the Factual Allegations as the Findings of Fact.

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to adopt the Alleged Violations as the Conclusions of Law.

After discussion, a motion was made by Bill Beard and seconded by Victoria Bowmann to revoke the respondent's massage therapy license. The motion passed 3 – 1 by the following roll call vote:

Bill Beard – Aye

Victoria Bowmann – Aye

John Ortega – Nay

Earl Duskey – Aye

Executive Director

Conduct Interview for Executive Director Position

Candidate, Tom Augherton

Michael Raine presented the possible reasons the Board may want to go into executive session.

EXECUTIVE SESSION

A motion was made by Bill Beard, seconded by John Ortega and passed unanimously to go into executive session at 10:22 a.m. to conduct an interview of Executive Director Candidate, Tom Augherton pursuant to A.R.S. 38-431.03(A)(1).

After consideration in executive session, the Board reconvened in open session at 10:48 a.m.

OPEN SESSION

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Executive Director

Executive Director Selection

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to offer the Executive Director position to Tom Augherton effective immediately.

REVIEW, DISCUSSION AND POSSIBLE ACTION ON BOARD MEETING MINUTES

Discussion and approval of the Open Session Minutes from the December 17, 2018 board meeting.

Discussion and approval of the Open Session Minutes from the December 20, 2018 board meeting.

A motion was made by Bill Beard, seconded by Victoria Bowmann and passed unanimously to approve the Open Session Minutes from the December 17, 2018 and December 20, 2018 board meetings.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Rehearing of Board's Formal Interview Decision

File No. 18-121; Ortiz, José

José Ortiz was present and represented himself. The complainant was not present.

Andrew White summarized the allegations of inappropriate touching, sexual assault and improper draping. José Ortiz summarized his experience of the massage session. Mr. Ortiz submitted twenty-three exhibits, which were admitted by the Board. Mr. Ortiz answered further questions from the Board.

After discussion, a motion was made by Earl Duskey, seconded by John Ortega and passed unanimously to issue a Non-Disciplinary Order for Continuing Education to include 16 hours of live continuing education consisting of 8 hours in the area of ethics and 8 hours in the area of communication, which shall be in addition to the statutorily required continuing education hours to be completed within twelve months of the effective date of the order.

The Board took a break from 11:31 a.m. – 11:40 a.m.

Investigation File(s)

File No. 19-120; Thomas, Michelle

Michelle Thomas was present. Andrew White summarized the allegation of failure to notify the Board of a conviction within ten days. Ms. Thomas summarized the events leading to her conviction and the terms of her probation.

A motion was made by John Ortega, seconded by Victoria Bowmann and passed unanimously to issue a Non-Disciplinary Order for Continuing Education to include 12 hours of live continuing education consisting of 6 hours in the area of ethics and 6 hours in the area of business practices, which shall be in addition to the statutorily required continuing education hours to be completed within twelve months of the effective date of the order.

File No. 19-130; Boyle, Robert

Robert Boyle was present. Andrew White summarized the allegation of sexual assault. Mr. Boyle summarized the inconsistencies documented by the complainant and presented an overview of relevant aspects of his medical history. Mr. Boyle requested sufficient time to find an attorney to represent him.

A motion was made by John Ortega, seconded by Bill Beard and passed unanimously to move the matter to a Formal Interview.

Mr. Boyle shared potential scheduling conflicts in the month of March. The Board directed staff to subpoena the booking records of the client from Massage Envy.

File No. 19-135; VanTilborg, Dusti

Dusti VanTilborg was present and represented by attorney Bryan S. Bailey, Esq. Andrew White summarized the allegations of sexual assault and having sexual relations with a client. Ms. VanTilborg gave a statement describing the relationship. Attorney for complainant, Judy Zimet, Esq., was present to request a Formal Hearing.

After discussion, a motion was made by Bill Beard, seconded by John Ortega and passed unanimously to offer a Consent Agreement for probation of the respondent's massage therapy license for twelve months and 24 hours of live continuing education consisting of 12 hours in the

area of ethics and 12 hours in the area of business practices, which shall be in addition to the statutorily required continuing education hours to be completed within twelve months of the effective date of the order. If not accepted within 30 days from the date offered, the Board will proceed to a Formal Hearing. The motion passed 4 – 0 by the following roll call vote:

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

License Application(s) for Arizona Massage Therapy License(s)

The Board called this matter and discussed going into executive session to seek legal advice.

EXECUTIVE SESSION

A motion was made by Victoria Bowmann, seconded by Earl Duskey and passed unanimously to go into executive session at 12:19 p.m. to seek legal advice pursuant to A.R.S. § 38-431.03(A)(3) regarding A.R.S. § 32-4222 and the applicants under board agenda item V.D.

After consideration in executive session, the Board reconvened in open session at 12:37 p.m.

OPEN SESSION

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

License Application(s) for Arizona Massage Therapy License(s)

Branigan, Taylor

Taylor Branigan was not present to answer any questions regarding his massage therapy license application or his background.

A motion was made by Victoria Bowmann, seconded by John Ortega and passed unanimously to table the application pending the receipt of more documentation from Nebraska.

Greene, Molly

Molly Greene was not present to answer any questions regarding her massage therapy license application or her background.

A motion was made by Victoria Bowmann, seconded by John Ortega and passed unanimously to table the application pending the receipt of documentation pertaining to the criminal conviction.

Hsu, Ying Feng

Ying Feng Hsu was not present to answer any questions regarding her massage therapy license application or her background.

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to table the application pending the receipt of the police report and the presence of the applicant before the Board.

Rudd, Cean

Cean Rudd was present to answer any questions regarding his massage therapy license application or his background.

A motion was made by Bill Beard, seconded by Victoria Bowmann and passed unanimously to grant the applicant a massage therapy license.

Salazar, Carlie

Carlie Salazar was not present to answer any questions regarding her massage therapy license application or her background.

A motion was made by Bill Beard, seconded by John Ortega and passed unanimously to table the application pending the presence of the applicant before the Board.

Unlawful Use of the Massage Therapy Designation and/or Unlawful Practice

File No. 19-134; Lyman, Rod

Rod Lyman was not present. Andrew White summarized the investigation. The State recommended the Board consider filing an injunction.

A motion was made by Bill Beard, seconded by John Ortega and passed unanimously to direct the Assistant Attorney General to file an injunction in superior court against the respondent for practicing massage therapy and advertising as a massage therapist without an active Arizona license.

File No. 19-136; Magic Feet Reflexology

File No. 19-137; Magic Feet Rejuvenation

The respondents were not present. Andrew White summarized the investigation. The State outlined the Board's options.

A motion was made by Earl Duskey, seconded by Victoria Bowmann and passed unanimously to dismiss the complaints against the respondents.

Review Compliance/Non-compliance with Board Order

File Nos. 18-127 & 18-135; Martinez, Javier

Javier Martinez was present to answer any questions from the Board. Ryan P. Edmonson provided an update regarding the evaluation required in Mr. Martinez's Decision and Order. No further action was required on the part of the Board.

File No. 18-139; Grandy, Roderick

Roderick Grandy was not present. Ryan P. Edmonson provided an update of Mr. Grandy's request regarding the continuing education requirement in his Decision and Order.

After discussion, a motion was made by Bill Beard, seconded by Victoria Bowmann and passed unanimously to grant a waiver of the live course requirement in the Decision and Order and approve the proposed online course.

Application(s) for Massage Therapy School(s) Recognition

ATI College – Los Angeles, CA

A motion was made by Bill Beard, seconded by John Ortega and passed unanimously to approve ATI College as a Board-recognized school.

Board Elections

Nomination of Election of Board Officers

A motion was made by Bill Beard, seconded by Victoria Bowmann and passed unanimously to elect Earl Duskey as Chair of the Board and Victoria Bowmann as Vice-chair of the Board.

FEDERATION OF STATE MASSAGE THERAPY BOARDS (“FSMTB”)

Ryan P. Edmonson provided a brief description of the executive summit hosted by FSMTB.

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to send Executive Director, Tom Aughterton, to the FSMTB Member Board Executive Summit held in Cleveland, Ohio from April 18, 2019 to April 19, 2019.

EXECUTIVE DIRECTOR’S REPORT

The Board reviewed the budget and agency operations with Ryan P. Edmonson, including potential board meeting dates for the 2019 calendar year.

SUMMARY OF CURRENT EVENTS

The Board expressed its appreciation to Ryan P. Edmonson in recognition of his service as the Executive Director of the Board of Massage Therapy.

DISCUSSION AND POSSIBLE ACTION ITEMS FOR FUTRUE MEETING AGENDAS

None were discussed.

NEXT BOARD MEETING DATE

Monday, February 25, 2019

ADJOURNMENT

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to adjourn at 1:31 p.m.