



Arizona State Board of
Massage Therapy
Protecting the Public's Health

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Douglas A. Ducey,
Governor

OPEN SESSION MINUTES

October 23, 2017

Members of the Arizona State Board of Massage Therapy (Board) held a meeting at 9:32 a.m. on Monday, October 23, 2017 at the Board's office in Suite B-1, 1400 West Washington Street, Phoenix, Arizona 85007. An executive session was held from 2:33 p.m. to 2:58 p.m.

BOARD MEMBERS:

- Earl Duskey, LMT Board President and Therapist Member
Bill Beard Public Member
Victoria Bowmann, LMT Therapist 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 Harris, Esq. Assistant Attorney General, Independent Legal Advisor
Andrew White Board Investigator
Tony Wilcox License Administrator

GUEST(S) PRESENT AND/OR PARTICIPATING

- Laura B. Embleton, Government Relations Director Associated Bodywork & Massage Professionals
John Sanders, LMT, Instructor Next Level Massage Education
Randa Stanford, LMT Respondent
Jennifer Wells/Fisk, LMT Respondent - Case 18-103
Vickie Boblitt, LMT Respondent
Mary Remington-Satterthwaite Applicant
Ralph Remington Applicant's Spouse
Chad Shell, Esq. Respondent's Attorney - Cases 17-116 & 17-118
Feng Qin Ye, LMT Respondent - Case 17-117
Gary L. Rohlwing, Esq. Respondent's Attorney - Case 17-117
Adam Heisler, LMT Respondent - 17-119
Jill Arnold, LMT Respondent
Zachary S. Brannock, LMT Respondent

☎ Appeared telephonically

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OPEN SESSION

The meeting was called to order at 9:32 a.m. by Earl Duskey. The following order of business was then considered:

CALL TO THE PUBLIC

Laura B. Embleton introduced herself and stated that she is with the Associated Bodywork & Massage Professionals and availed herself to the Board and its staff.

John Sanders, LMT introduced himself as an instructor at Next Level Massage Education. Mr. Sanders stated that he has been practicing massage therapy for 26 years and questioned the Board's position regarding Qi Gong courses.

Randa Stanford, LMT introduced herself and stated that she was present to read a letter, to the Board, from Mary Ellen Brown regarding Qi Gong courses of study.

DISCUSSION, CONSIDERATION AND POSSIBLE ACTION ON REGULATORY MATTERS

Discussion, Consideration and Possible Action on Investigative Matters

18-101; Morgan, Jon

Jon Morgan was not present. Andrew White was present and provided a summary of his investigative report. Mr. White stated that the complaint dealt with sexual misconduct in the therapist's home and the complainant filed a police report with the Scottsdale Police Department.

After discussion, a motion was made by Bill Beard and seconded by Victoria Bowmann to offer a consent agreement to the therapist for a voluntary surrender of his license and if not accepted within 30 days, from the date offered, to proceed to a formal hearing to seek to revoke the therapist's massage license. The motion passed 5 – 0 by the following roll call vote:

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

18-102; Poole, Monique

Monique Poole was not present. Andrew White was present and provided a summary of his investigative report. Mr. White's investigation revealed numerous cases of extreme DUI, aggravated DUI and the NCBTMB revoking Ms. Poole's national certification. Mr. White concluded that Ms. Poole also failed to report any of the DUI convictions and the NCBTMB revocation.

After discussion, a motion was made by Victoria Bowmann and seconded by John Ortega to offer the therapist a consent agreement for a suspension of her license, continuing education following the suspension and she must appear before the Board to seek reinstatement from the suspension. The motion also included that if the therapist does not accept the offer within 30 days, from the date offered, then the Board will proceed to a formal hearing to seek to discipline against the therapist's massage license. The motion passed 5 – 0 by the following roll call vote:

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

18-103; Wells/Fisk, Jennifer

Jennifer Wells/Fisk was present. Board staff attempted to reach the complainant by telephone, at his request, but the attempt was unsuccessful due to the complainant's failure to answer his telephone. Even though there was no answer, by the complainant, the Board proceeded to hear the matter since there is no obligation that any party be present to continue. Andrew White was present and provided a summary of his investigative report. Mr. White stated that the complaint dealt with sexual misconduct at the therapist's and complainant's joint employer, Elements Massage. Mr. White stated that the complainant also filed an incident report with Elements Massage.

The Board took a break from 10:25 a.m. to 10:33 a.m.

Discussion, Consideration and Possible Action on Application for License

Vickie Boblitt

Vickie Boblitt was present, telephonically, and described her medical condition and discussed her inability to take continuing education in person.

After discussion, the Board did not take any action and encouraged her to contact board staff for assistance.

Mary Remington-Satterthwaite

Mary Remington-Satterthwaite was present along with her spouse, Ralph Remington. Ms. Remington-Satterthwaite summarized her education, work experience as a massage therapist and her difficulty in obtaining an Arizona massage therapy license. Michael Raine provided the Board with some legal perspectives regarding how an applicant may be licensed in Arizona. The Board concluded that Ms. Remington-Satterthwaite does not meet the Arizona requirements to become licensed, but chose not to deny a license due to the implications that could have on the applicant.

The Board did not take any action.

James Carey

James Carey was not present. Andrew White was present and provided a summary of Mr. Carey's application and its subsequent deficiencies. Mr. White stated that the State of Missouri could not verify that Mr. Carey completed a course of in massage therapy. Michael Raine stated that Mr. Carey does not have an active pending application, and therefore, the Board should not take any action in this matter.

The Board did not take any action.

Discussion, Consideration and Possible Action on Cases Voted to Formal Hearings – Motions to Deem

17-116; Dai, Hui Qin

Hui Qin Dai was not present. Chad Shell, Esq. was present on behalf of his client, Ms. Dai. Marc Harris, AAG, was present to provide independent legal advice to the Board. Michael Raine summarized a motion to accept a consent agreement for the surrender of Ms. Dai's massage therapy license.

After discussion, a motion was made by Victoria Bowmann and seconded by Bill Beard to accept the motion and issue consent agreement to the massage therapist for a voluntary surrender of her license and to vacate the formal hearing. The motion passed 5 – 0 by the following roll call vote:

Mlee Clark – Aye

Bill Beard – Aye

John Ortega – Aye

Victoria Bowmann – Aye

Earl Duskey – Aye

17-118; Song, Kyoung

Kyoung Song was not present. Chad Shell, Esq. was present on behalf of his client, Ms. Song. Marc Harris, AAG, was present to provide independent legal advice to the Board. Michael Raine summarized the matter and stated that Ms. Song may not have received any material(s) related to this matter due to an address issue. Mr. Raine stated that the Board should be make certain that Ms. Song has received due process before moving forward and requested that the Board vote to continue the hearing to a future meeting.

A motion was made by Bill Beard, seconded by John Ortega and passed unanimously to continue this matter to a future board meeting to allow proper due process to Ms. Song.

17-109; Vickers, Harrison

Harrison Vickers not present. Marc Harris, AAG, was present to provide independent legal advice to the Board. Board staff provided an update regarding Mr. Vickers medical condition and requested that the Board continue the matter for a future board meeting.

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to continue this matter to a future board meeting.

17-120; Farvardin, Shahab

Shahab Farvardin was not present, nor was his legal counsel. Marc Harris, AAG, was present to provide independent legal advice to the Board. Michael Raine stated that he and Mr. Farvardin's counsel agreed that Mr. Raine would present the Board with a joint-motion to accept an interim consent agreement for suspension pending the outcome of a formal hearing.

A motion was made by Bill Beard and seconded by Mlee Clark to accept the interim consent agreement for suspension of the massage therapist's license and continue the hearing to a future board meeting. The motion passed 5 – 0 by the following roll call vote:

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

17-117; Ye, Feng Qin

Feng Qin Ye was present along with her legal counsel, Gary L. Rohlwing, Esq. Marc Harris, AAG, was present to provide independent legal advice to the Board. Michael Raine was present on behalf of the state. Mr. Rohlwing requested that the Board continue the matter and grant limited authority to the state to settle the matter versus proceeding to a hearing. Mr. Raine stated that he objects to a continuance, on behalf of the state due to a continuance that has already been granted. The Board asked Mr. Harris whether they had to act on the motion to continue today. Mr. Harris stated that the Board should act on the motion to continue prior to proceeding to a formal hearing.

After discussion, a motion was made by Victoria Bowmann and seconded by Mlee Clark to accept the motion to continue and continue the hearing to a future board meeting. The motion passed 4 – 1 by the following roll call vote:

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

The Board took a break from 11:35 a.m. to 11:40 a.m.

17-119; Heisler, Adam

Adam Heisler was present and appeared on his own behalf. Michael Raine was present and appeared on behalf of the state. Marc Harris, AAG, was present to provide independent legal advice to the Board.

Both parties presented their cases in chief. The state presented its case and concluded that the massage therapist violated statutes by practicing without an active license, engaging in conduct that could result in harm or injury to the public and failing to adhere to the recognized standards and ethics of the massage therapy profession. The massage therapist presented his case and concluded that he did slap the co-worker with a towel, but not his hand, on her buttocks as a way to get her engaged to perform a couples' massage for two clients. He also concluded that he did not renew his license timely and practiced without a license because he was not aware of his continuing education ("CE") requirements, in Arizona, coming from Ohio, which allows therapists to complete more CE online than Arizona.

After discussion, a motion was made by Victoria Bowmann, seconded by Mlee Clark and passed unanimously to amend Findings of Fact number 1 to add "with a towel" to prevent readers from the misconception that he slapped the co-worker on her buttocks with his hand. The motion included that the Board adopt the remaining Findings of Fact as written in the Complaint and Notice of Hearing.

After discussion, a motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to adopt the Conclusions of Law as written in the Complaint and Notice of Hearing.

After discussion, a motion was made by Victoria Bowmann and seconded by Bill Beard to issue a Decision and Order (“Order”) to include that the respondent complete 15 hours of in person CE and that the CE be in the areas of communication and professional business practices and that at least one course shall be in the specific area of ethics. The motion included that all 15 hours of CE shall be pre-approved by Board staff, completed within six months from the effective date of the Order and respondent must appear before the Board at the completion of the continuing education in order to seek termination of the Order. The motion passed 5 – 0 by the following roll call vote:

Mlee Clark – Aye

Bill Beard – Aye

John Ortega – Aye

Victoria Bowmann – Aye

Earl Duskey – Aye

Mr. Harris requested that exhibits 1 and 4 be redacted of any confidential information.

Discussion, Consideration and Possible Action on Cease and Desist

McKissisick, Pamela

Pamela McKissisick was not present. Andrew White was present and provided an update to the Board, including Mr. White’s inability to continue reviewing this matter because the respondent moved to an unknown location. The Board did not take any action.

Hood, Suzanne

Suzanne Hood was not present. Andrew White was present and provided an update to the Board, including a statement from the respondent who denied the allegation and will not practice massage therapy without a license. The Board did not take any action.

VanDo, Sen

Sen VanDo was not present. Andrew White was present and provided an update to the Board, including documentation that the respondent was arrested by Scottsdale Police Department for sexual assault. The Board did not take any action.

Green, Jill

Jill Green was not present. Andrew White was present and provided an update to the Board, including a signed statement, by the respondent, that she will not continue to practice without a license. The Board did not take any action.

ADMINISTRATIVE MATTERS

Massage License Status Report

Tony Wilcox provided an update regarding the total number of active licensees, total denials, total pending applications, total voluntary surrenders of licenses, total revoked licenses and total closed applications since the inception of the Board.

Discussion, Consideration and Possible Action on Questions Received From Next Level Massage Education

John Sanders was present to discuss continuing education courses that the Board does or does not accept. Mr. Sanders described his current role at Next Level Massage Education and his history and education. Mr. Sanders stated that his mission is to determine what he is allowed versus not allowed to teach his students. Michael Raine recommended that the Board not engage in a conversation that could result in a legal interpretation. Mr. Raine also stated, to Mr. Sanders, that the Board cannot provide legal advice to him and that he should review the statutes and rules to understand better what is allowable. The Board shared a few statutes and rules with Mr. Sanders and requested that he reread the statutes and rules to better familiarize himself with the regulations of the Board. Mr. Sanders thanked the Board for the open dialogue and left the meeting.

Discussion, Consideration and Possible Action For Approval of Renewal Licenses Based on Completion of Qi Revolution for CE Requirement

Ann Marie Price
Beverly George
Tiffany Rosales
Jerry Sanstead, Jr.
Lisa Hawkins
Rebecca Hayes
Robert Kane
Jill Arnold
Hollie Gross
Zachary Brannock
Sue M. Tarr
Lynda Aschauer

Jill Arnold and Zachary Brannock were present for the discussion and to offer to participate in the discussion should the Board allow.

Victoria Bowmann apprised the Board of the correspondence she had received from Qi Revolution and the erroneous marketing used by Qi Revolution to state that a staff member was a board member approving of the Qi Revolution course. Tony Wilcox provided an update regarding his name being printed on the Qi Revolution materials and his interactions with trying to remove of the same. To his frustration, Qi Revolution failed to contact Mr. Wilcox and would not remove their erroneous marketing from any social media or advertising.

The Board discussed the requirements for continuing education to be accepted. Ms. Arnold presented her opinion of the course she took and to provide a favorable opinion of Qi Revolution. Mr. Brannock also presented his opinion of the course and how he believes it benefits the massage therapist in their practice.

After discussion, a motion was made by Bill Beard, seconded by Mlee Clark and failed 2 – 3 to accept the Qi Revolution course taken by the respondents and approve them for license renewal.

Victoria Bowmann, Earl Duskey and John Ortega voted against the motion.

A motion was Victoria Bowmann to not accept the Qi Revolution course taken by the respondents and disapprove of their license renewals.

The motion failed for lack of a second and vote and the Board wished to hold more discussion before the motion.

After further discussion regarding what constitutes massage therapy, a motion was made by Earl Duskey, seconded by Victoria Bowmann and passed 3 – 2 to not accept the Qi Revolution course taken by the respondents and disapprove of their license renewals.

Bill Beard and Mlee Clark voted against the motion.

The Board took a break from 1:49 p.m. to 1:59 p.m.

Discussion, Consideration and Possible Action on Letters Received from Licensees Concerning CE

Shannon Crane

Carol Daniel

Jimmy Gialelis

Michelle Couture

Mary Ellen Brown

Shannon Ellis

Maria Canale

Teresa Bushey

Jan Jakubowski

Betty Piotrowski

Mary Wilber

Sara Lucas

Shirley Steiger

Karen Langran

Debe Johnson

Tony Wilcox provided an update regarding the letters received and that they relate to continuing education and the authors' desires for the Board to approve of energy work as an acceptable course(s) when renewing their massage therapy licenses. Michael Raine questioned the agenda item and how the matter was placed on the agenda and cautioned how the Board should proceed.

Randa Stanford was present for the discussion and requested to read a letter on behalf of Mary Ellen Brown. The Board granted Ms. Stanford the opportunity to summarize the letter. Through Ms. Stanford, Ms. Brown requested that the Board define the rules it uses to accept or deny courses for continuing education since it appears to constantly be changing. Mr. Raine continued to caution the Board about proceeding since the agenda item is not clear as to what action the Board should be taking.

The Board tabled the matter for potential future action.

Federation Update

Earl Duskey provided an update of his attendance at the Federation of State Massage Therapy Boards' Annual Meeting.

Board's Current Hearing Process

The Board discussed going into executive session to obtain legal advice.

EXECUTIVE SESSION

A motion was made by Victoria Bowmann, seconded by Mlee Clark and passed unanimously to go into executive session at 2:33 p.m. to seek legal advice pursuant to A.R.S. § 38-431.03(A)(3) regarding the Board's current hearing process.

After consideration in executive session, the Board reconvened in open session at 2:58 p.m.

OPEN SESSION

ADMINISTRATIVE MATTERS

Board's Current Hearing Process

The Board did not take any action.

ADJOURNMENT

A motion was made by Bill Beard, seconded by Earl Duskey and passed unanimously to adjourn at 2:59 p.m.