



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

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Douglas A. Ducey,
 Governor

OPEN SESSION MINUTES

November 26, 2018

Members of the Arizona State Board of Massage Therapy (“Board”) held a meeting at 9:35 a.m. on Monday, November 26, 2018 at the Board’s office in Boardroom C, 1740 West Adams Street, Phoenix, Arizona 85007. No executive sessions were held.

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
- 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
- Tiyewhonne Davis Applicant
- Christina Hernandez..... Applicant
- Brian Villesca, LMT Respondent – Case 18-131
- ☎ Complainant..... Case 18-131
- Sandra Hass..... Applicant & Continuing Education Recipient
- Richie Zipse Respondent – Case 19-116
- Matt Cates, Esq. Respondent’s Attorney – Case 19-116
- ☎ Susie Bute Applicant
- Reba Hawley, LMT Respondent – Case 19-114
- Complainant..... Case 19-114
- Kenneth Reader, LMT Respondent – Case 19-115 & Continuing Education Recipient

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.

José Ortiz, LMTRespondent – Case 18-121
Echo Thomsen, LMT Guest

 Appeared telephonically

OPEN SESSION

The meeting was called to order at 9:35 a.m. by Victoria Bowmann. 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 October 29, 2018 board meeting

A motion was made by Mlee Clark, seconded by John Ortega and passed unanimously to approve the Open Session Minutes from the October 29, 2018 board meeting.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

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

Davis, Tiyewhonne

Tiyewhonne Davis was present to answer any questions regarding his massage therapy license application or his background. Andrew White provided a summary of the applicant’s background.

After discussion, a motion was made by John Ortega, seconded by Bill Beard and passed unanimously to grant the applicant a massage therapy license.

Hernandez, Christina

Christina Hernandez was present to answer any questions regarding her massage therapy license application or her background. Andrew White provided a summary of the applicant’s background.

After discussion, a motion was made by Victoria Bowmann, seconded by John Ortega and passed unanimously to grant the applicant a massage therapy license.

Rotman, Samuel

Samuel Rotman was not present to answer any questions regarding his massage therapy license application or his background. Andrew White provided a summary of the applicant’s background.

After discussion, a motion was made by Bill Beard, seconded by Mlee Clark and passed unanimously to grant the applicant a massage therapy license.

Bute, Susie

Susie Bute was not present to answer any questions regarding her massage therapy license application or her background. Ryan P. Edmonson provided a summary of the applicant’s application and background.

The Board discussed tabling any action until the applicant could be present to answer questions either in person or telephonically.

Hass, Sandra

Sandra Hass was not present to answer any questions regarding her massage therapy license application or her background. Ryan P. Edmonson provided a summary of the applicant's application and background.

The Board discussed tabling any action until the applicant could be present to answer questions either in person or telephonically.

Formal Hearing(s)

File No. 18-130; Valverde, Alberto

Alberto Valverde was not present. Michael Raine was present and appeared on behalf of the State. Marc H. Harris was present to provide independent legal advice to the Board.

The State filed a motion to deem the allegations as admitted under A.R.S. § 32-4254(H) for failure to respond.

A motion was made by Bill Beard and seconded by Mlee Clark to deem the allegations in the Complaint and Notice of Hearing as admitted. The motion passed 4 – 0 by the following roll call vote:

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

A motion was made by Bill Beard, seconded by Mlee Clark and passed unanimously to adopt the Factual Allegations, the Allegations of Unprofessional Conduct and the Parties and Jurisdiction from the Complaint and Notice of Hearing as the Findings of Fact and Conclusions of Law.

A motion was made by Bill Beard and seconded by John Ortega to revoke the respondent's massage therapy license. The motion passed 4 – 0 by the following roll call vote:

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

File No. 18-131; Villesca, Brian

Brian Villesca was present and represented himself. Michael Raine was present and appeared on behalf of the State. Marc H. Harris was present to provide independent legal advice to the Board.

The State submitted one exhibit, which was admitted by the Board. The State presented its case in chief, including witness testimony from the complainant.

The respondent submitted one exhibit, which was admitted by the Board. The respondent presented his case in chief.

After discussion, a motion was made by Bill Beard and seconded by John Ortega to find that the State failed to prove by a preponderance of the evidence the factual allegations in paragraphs 1 – 7 in the Complaint and Notice of Hearing and dismiss the allegations. The motion passed 4 – 0 with the following roll call vote:

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

A motion was made by Mlee Clark, seconded by Bill Beard and passed unanimously to issue an Advisory Letter to advise the respondent to exercise better professional judgment, engage in better communications with his clients and remain cognizant of the Board's statute that prohibits a massage therapist from massaging or touching the breasts of a female client unless the client requests a breast massage and signs a written consent form prior to the massage session.

The Board took a break from 12:02 p.m. – 12:14 p.m.

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

Hass, Sandra

Sandra Hass was present to answer any questions regarding her massage therapy license application or her background. Ryan P. Edmonson provided a summary of the applicant's application and background.

After discussion, a motion was made by Victoria Bowmann, seconded by John Ortega and passed unanimously to grant the applicant a massage therapy license.

Investigation File(s)

File No. 19-116; Zipse, Richie

Richie Zipse was present and represented by attorney Matt Cates. Andrew White provided a summary of the investigation, which included allegations of providing physical therapy treatments without a physical therapy license.

A motion was made by John Ortega, seconded by Bill Beard and passed unanimously to dismiss the case due to no violations of the Board's Statutes and Rules.

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

Bute, Susie

Susie Bute was present telephonically to answer any questions regarding her massage therapy license application or her background. Ryan P. Edmonson provided a summary of the applicant's application and background.

After discussion, a motion was made by Bill Beard, seconded by Mlee Clark and passed unanimously to grant the applicant a massage therapy license pending the receipt of sworn affidavits from both the applicant and the school official substantiating the completion of 750 hours of massage education.

Investigation File(s)

File No. 19-114; Hawley, Reba

Reba Hawley was present and represented herself. Andrew White provided a summary of the investigation, which included the allegation of practicing massage therapy with an expired license. The complainant was present and provided a summary of the complaint. Tony Wilcox provided a summary of the status for Ms. Hawley's massage therapy license renewal.

A motion was made by Bill Beard, seconded by Mlee Clark and passed unanimously to offer a Non-Disciplinary Order for Continuing Education, which shall include 8 hours of live continuing education in the area of business practices to be completed within four months from the effective date of the order and shall be in addition to the statutorily required continuing education hours and if not accepted within 10 days to proceed to Formal Interview.

File No. 19-115; Reader, Kenneth

Kenneth Reader was present and represented himself. Andrew White provided a summary of the investigation, which included the allegations of improper draping, improper touching and sexual assault. Mr. Reader addressed the Board regarding the allegations and answered further questions.

A motion was made by John Ortega, seconded by Mlee Clark and passed unanimously to file a Complaint and Notice of Hearing.

Rehearing or Review of Board's Formal Interview Decision

File No. 18-121; Ortiz, José

José Ortiz was present to discuss his request for review or rehearing. Mr. Ortiz explained why he believes the complainant perjured herself under oath.

A motion was made by Bill Beard, seconded by John Ortega and passed 3 – 1 to grant a rehearing of the Formal Interview.

Victoria Bowmann voted against the motion.

EXECUTIVE DIRECTOR'S REPORT

The Board reviewed the budget and agency operations with Ryan P. Edmonson, including the consideration of the Board's report to the Arizona State Legislature in response to House Bill 2411.

A motion was made by Bill Beard, seconded by Mlee Clark and passed unanimously to approve the report as the Board's official response to House Bill 2411.

SUMMARY OF CURRENT EVENTS

Ryan P. Edmonson discussed the delivery method of the board packet to the members. Victoria Bowmann expressed the need for a different delivery method other than Google Drive. Other than Ms. Bowmann, no other board member expressed a desire for another delivery option.

DISCUSSION AND POSSIBLE ACTION ITEMS FOR FUTRUE MEETING AGENDAS

None were discussed

NEXT BOARD MEETING DATE

Monday, December 17, 2018

ADJOURNMENT

A motion was made by Bill Beard, seconded by Victoria Bowmann and passed unanimously to adjourn at 2:04 p.m.