



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

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Douglas A. Ducey,
Governor

OPEN SESSION MINUTES

December 11, 2017

Members of the Arizona State Board of Massage Therapy (Board) held a meeting at 9:33 a.m. on Monday, December 11, 2017 at the Board's office in Suite B-1, 1400 West Washington Street, Phoenix, Arizona 85007. An executive session was held from 2:08 p.m. to 3:05 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
Mary DeLaat-Williams, Esq. Assistant Attorney General, Independent Legal Advisor
Andrew White Board Investigator
Tony Wilcox License Administrator

GUEST(S) PRESENT AND/OR PARTICIPATING

- Complainant Case 18-104
Zhonghui Wang, LMT Respondent - Case 18-104
Ron Reyna, Esq. Respondents' Attorney - Case 18-104
Winston Chou Licensed Interpreter
Complainant Case 18-106
Steven Hall, LMT Respondent - Case 18-106
Complainant Case 18-107
Robert Jaminson, LMT Case 18-107
Dale Beck Furnish, Esq. Respondent's Attorney - Case 18-107
Feng Qin Ye, LMT Respondent - Case 17-117
Gary L. Rohlwing, Esq. Respondent's Attorney - Case 17-117
Leon Ang Licensed Interpreter
Complainant Case 18-103
Jennifer Wells, LMT Respondent - Case 18-103
Casey Van Balen, LMT Respondent - Case 17-110

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**OPEN SESSION**

The meeting was called to order at 9:33 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 October 23, 2017 board meeting

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to approve the Open Session Minutes from the October 23, 2017 board meeting.

**CONSENT AGENDA**

A motion was made by Bill Beard, seconded by John Ortega and passed unanimously to approve of the following consent agenda items:

License Applications for an Arizona Massage Therapy License

- |      |            |                |      |            |             |
|------|------------|----------------|------|------------|-------------|
| 1 .  | Adriana    | Hernandez      | 28 . | Daniel     | Briggs      |
| 2 .  | Adrienne   | Ohearn         | 29 . | Danielle   | Kringlie    |
| 3 .  | Alexander  | Sundberg       | 30 . | David      | Sullivan    |
| 4 .  | Alexandria | Laub           | 31 . | Dawn       | Rossi       |
| 5 .  | Alison     | Larson         | 32 . | Deanna     | Schneberger |
| 6 .  | Amanda     | Lavarier       | 33 . | Desirae    | Jackson     |
| 7 .  | Amanda     | Stowe          | 34 . | Diana      | Blome       |
| 8 .  | Amanda     | Vansciver      | 35 . | Donald     | Card        |
| 9 .  | Angela     | Baum           | 36 . | Efrain     | Lopez Reyes |
| 10 . | Anita      | Hughes         | 37 . | Egla       | Gutierrez   |
| 11 . | Ashlyn     | Jammerman      | 38 . | Elisa      | Martinez    |
| 12 . | Bailee     | Heinz          | 39 . | Emilia     | Fajardo     |
| 13 . | Barbara    | Young          | 40 . | Erin       | Fisk        |
| 14 . | Braden     | Peresich       | 41 . | Grace      | Wilkins     |
| 15 . | Brigitte   | Vincent        | 42 . | Jacqueline | Begay       |
| 16 . | Brittany   | Legler         | 43 . | James      | Nowlin      |
| 17 . | Brooke     | Faulkner-Dille | 44 . | Janine     | Lehman      |
| 18 . | Brooke     | Theriahult     | 45 . | Jennifer   | Conaway     |
| 19 . | Carrie     | Bawol          | 46 . | Jerron     | Baroldy     |
| 20 . | Carroll    | Sorce          | 47 . | Jessi      | Kyte        |
| 21 . | Cassidy    | Mathurin       | 48 . | Jessica    | Soto        |
| 22 . | Cathryn    | Goldberg       | 49 . | Jessie     | Nearing     |
| 23 . | Catrenia   | Mitchell       | 50 . | Joshua     | Lakh        |
| 24 . | Ciara      | Faccenda       | 51 . | Jyntel     | Edwards     |
| 25 . | Ciara      | Warner         | 52 . | Kambrel    | Braxton     |
| 26 . | Cindy      | Devers         | 53 . | Kamery     | Gardner     |
| 27 . | Claire     | Allensworth    | 54 . | Katie      | Hughes      |

55 .	Keli	Seabase	89 .	Rebecca	Arbuckle
56 .	Kimberly	Bettincourt	90 .	Regina	Ciarfella
57 .	Kimberly	Brundage	91 .	Riley	Ward
58 .	Krista	Jones	92 .	Robert	Randall
59 .	Lauren	Dvoret	93 .	Robin	Mckelvy
60 .	Lihua	Song	94 .	Sally	Lefaiivre
61 .	Limin	Chen	95 .	Sandra	Spangler
62 .	Lindsey	Mcbreen	96 .	Shenette	Cross
63 .	Liyun	Sui	97 .	Siobhan	Keyes
64 .	Logan	Nystrom	98 .	Siriporn	Ruff
65 .	Lori	Pinard	99 .	Staci	Ryder
66 .	Luna	Morvran	100 .	Stacy	Stevens
67 .	Mariah	Martinez	101 .	Suzette	Donosky
68 .	Mariah	Moreno	102 .	Sydney	Kral
69 .	Marianne	Buckner	103 .	Tamara	Rogers
70 .	Marieta	Hoelzer	104 .	Taylor	Mount
71 .	Marissa	Andree	105 .	Teilani	Telford
72 .	Mary	Ortega	106 .	Teresa	Moro
73 .	Matthew	Stevens	107 .	Theresa	Paquette
74 .	Meishan	Cui	108 .	Thomas	Puzey
75 .	Melanie	Weiler	109 .	Tiffani	Kearns
76 .	Melissa	Gierhahn	110 .	Tiffany	Nuckles
77 .	Melissa	Ortega	111 .	Tranee	Steed
78 .	Michael	Ward	112 .	Tri	Russell
79 .	Michele	Justice	113 .	Tricia	Teas
80 .	Monica	Varah	114 .	Tyler	Clay
81 .	Myra	Rivera	115 .	Vanessa	Baca
82 .	Natalie	Anderson	116 .	Vanessa	Penuelas
83 .	Natalie	Byrd	117 .	Wenjie	Li
84 .	Natalie	Robards	118 .	Xizhong	Guo
85 .	Prapaipan	Pratoomnun	119 .	Yanjie	Zhang
86 .	Qian	Song	120 .	Yao	Wang
87 .	Qing	Xia	121 .	Yumei	Xu
88 .	Rachel	Hightower	122 .	Zachary	Lahner

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

1. The Berkana Institute of Massage Therapy

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

Investigation Files

18-104; Wang, Zhonghui

Zhonghui Wang was present along with his attorney, Ron Reyna, and licensed interpreter, Winston Chou. Andrew White was present and provided a summary of his investigative report. Mr. White's report concluded that while the respondent was providing massage services, he also conducted himself inappropriately by massaging the client's breasts without previous, informed consent. The

complainant was present with her husband and father-in-law and she described her experience during the massage and the effect it has had on her life since. Mr. Reyna detailed his client's understanding of what transpired, including testimony that the complainant signed a Breast Massage Consent Form, but not until after the massage concluded. The Board asked the complainant whether or not she signed the form, which she attested to signing, but felt as though she did so in distress for fear that Mr. Wang would not let her leave the facility until she signed the form. She concluded that the form even states that it must be signed prior to the massage. Mr. Wang did not deny that the form was signed after the massage and not before.

After discussion, a motion was made by Bill Beard and seconded by Mlee Clark to offer a consent agreement to the therapist to include a one-year suspension of his license followed by a one-year probation. During the one-year suspension, the therapist would be required to take 20 hours of continuing education ("CE") with more than half of the 20 hours to be in the areas of ethics and communication and all 20 hours to be in addition to the statutorily required CE. The therapist shall not provide any breast massages during the one-year probation and if the consent agreement is not accepted within 30 days, from the date offered, to proceed to a 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

18-105; Barney, Melissa

Melissa Barney was not present. Andrew White was present and provided a summary of his investigative report. Mr. White's investigation revealed that Ms. Barney was arrested for aggravated DUI while on a suspended/revoked driver's license and false reporting to law enforcement. Ms. Barney pled guilty to two felony counts of aggravated DUI on July 6, 2017. Mr. White concluded that Ms. Barney also failed to report the DUI conviction to the Board within 10 days as required by A.R.S. § 32-3208. The Board asked Mr. White if Ms. Barney was aware of the complaint and if she responded. Mr. White stated that Ms. Barney is aware and did respond. Ms. Barney's response included an apology for her actions and determination to hold an Arizona massage therapy license. The Board discussed that Ms. Barney's license is up for renewal, but due to her incarceration she is not likely going to renew and requested that Michael Raine help with the legal disposition of the matter. Mr. Raine described that many boards close matters similar to this and take appropriate action when or if the licensee renews in the future.

After discussion, a motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to close the matter without prejudice and review the matter should Ms. Barney seek renewal or licensure in the future.

18-106; Hall, Steven

Steven Hall was present. Andrew White was present and provided a summary of his investigative report, including the allegations of sexual misconduct by Mr. Hall. The complainant was present and described that she had received massages from Mr. Hall for over two years and was referred to Mr. Hall by a friend. The complainant stated that she needed massages due her SI joint pain.

The complainant stated that Mr. Hall gives massages at his own home or the client's home and she opted to go to his home because his rate is lower if the client goes to his home. She described the last massage as uncomfortable because she was in Mr. Hall's home and he was massaging her breasts, butt cheeks and vagina and asked the complainant if that was what she wanted. She stated that Mr. Hall made comments to her saying that she was beautiful and sexy and she did not know how to respond because she was alone with him in his home. At the conclusion of the massage, she ran out of his home, called her boyfriend and filed a police report with the Mesa Police Department. She called the massage board the following day to file this complaint.

Mr. Hall described his practice and his relationship with the complainant and that he massage her in the same manner that he always has and did not doing anything any differently than massages before. He stated he used hot stones and never undraped her inappropriately.

After discussion, a motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to proceed to a formal hearing.

*The Board took a break from 10:57 a.m. to 11:04 a.m.*

18-107; Jamison, Robert

Robert Jamison was present along with his attorney Dale Beck Furnish. Andrew White was present and provided a summary of his investigative report, including the allegation that Mr. Jamison massaged her breasts, without her consent, causing severe pain and damage to her breast implants. The complainant was present and described her experience with Mr. Jamison. She stated she was approached by Mr. Jamison, multiple times, for a free consultation and massage treatment. She stated that she only knew of Mr. Jamison and his profession because her children attend his wife's music classes.

Mr. Furnish spoke on behalf of his client. Mr. Furnish, again, stated how the complainant and Mr. Jamison knew of one another and stated that this was a one-time free session and the complainant did not state that anything was amiss when she picked her children up from Mrs. Jamison's music class. Mr. Furnish stated that the Gilbert Police Department investigation reads that, "the investigation will be concluding and as of now the status will be inactive and no criminal charges will be filed". Mr. Jamison stated there is discrepancies in the stories and that it was the complainant who sought him out regarding what he might be able to do to help her. He described his previous profession and why he chose to eventually become a massage therapist.

After discussion, a motion was made by Bill Beard, seconded by John Ortega and passed unanimously to proceed to a formal hearing.

*The Board took a break from 11:44 a.m. to 11:48 a.m.*

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

17-117; Ye, Feng Qin

Feng Qin Ye was present along with her attorney, Gary L. Rohlwing and licensed interpreter, Leon Ang. Mary DeLaat Williams was present to provide independent legal advice to the Board. Michael Raine was present on behalf of the State and provided an update regarding the State and the Respondent's settlement discussions. Mr. Rohlwing described the court proceedings and that

the respondent originally pled to an undesignated felony, but the judge has now designated matter as a misdemeanor.

A motion was made by Bill Beard and seconded by Mlee Clark to offer a consent agreement for a one-year suspension, followed by a two-year probation. During the one-year suspension, the therapist would be required to take 20 hours of continuing education (“CE”) in the areas of ethics, business practices and communication and all 20 hours to be in addition to the statutorily required CE. The consent agreement was verbally accepted by Ms. Ye and her attorney, Mr. Rohlwing. 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

*The Board took a break from 12:16 p.m. to 12:19 p.m.*

17-118; Song, Kyong Mi

Kyong Mi Song was not present. Mary DeLaat Williams was present to provide independent legal advice to the Board. Michael Raine was present on behalf of the State and provided the Board with a motion to accept a signed consent agreement for surrender of Ms. Song’s massage therapy license. Mr. Raine stated that if the Board does not wish to accept the consent agreement that he would request that the Board continue the hearing to a future meeting.

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

Formal Hearing(s)

18-103; Wells, Jennifer

Jennifer Wells was present and appeared on her own behalf. Michael Raine was present and appeared on behalf of the State. Mary DeLaat Williams 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 Board’s standard is preponderance of evidence and that the Board now must decide on the credibility of the witnesses and to decide whether or not there was sexual misconduct and if so, what should the discipline be. The massage therapist presented her case and concluded that she did not do anything wrong, nor did she conduct herself inappropriately or with any sexual misconduct.

After discussion, a motion was made by Victoria Bowmann and seconded by Mlee Clark to dismiss the case due to no violations of Board Statutes and Rules. The motion passed 4 – 1 by the following roll call vote:

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

18-101; Morgan, Jon

Jon Morgan was not present. Michael Raine was present and appeared on behalf of the State. Mary DeLaat Williams was present to provide independent legal advice to the Board. Andrew White was present and confirmed that Mr. Morgan was served with the Complaint and Notice of Hearing and has not responded.

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

After discussion, a motion was made by Mlee Clark and seconded by Victoria Bowmann 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  
John Ortega – Aye  
Victoria Bowmann – Aye  
Earl Duskey – Aye

17-118; Song, Kyong Mi

After discussion and based on the signed consent agreement, a motion was made Bill Beard, seconded by Victoria Bowmann and passed unanimously to vacate the formal hearing.

17-117; Ye Feng Qin

After discussion and based on the verbal agreement, a motion was made by Bill Beard, seconded by Mlee Clark and passed unanimously to vacate the formal hearing upon receipt of a signed consent agreement.

Termination of Board Order

17-110; Van Balen, Casey

Casey Van Balen was present to answer the Board’s questions and to formally request release from her probation.

A motion was made by Victoria Bowmann, seconded by Mlee Clark and passed unanimously to terminate the order.

## **ASSISTANT ATTORNEY'S GENERAL REPORT**

Michael Raine requested that the Board go into executive session to seek legal counsel.

### **EXECUTIVE SESSION**

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to go into executive session at 2:08 p.m. to seek legal advice pursuant to A.R.S. § 38-431.03(A)(3) regarding A.R.S. § 32-4225(E), A.A.C. R4-15-101(7) and A.A.C. R4-15-302.

After consideration in executive session, the Board reconvened in open session at 3:05 p.m.

### **OPEN SESSION**

*The Board took a break from 12:16 p.m. to 12:19 p.m.*

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

### **Renewal Applications for Arizona Massage Therapy License**

#### **Davies, Kimberly**

Board staff provided an update regarding the respondent's deficiency in her continuing education.

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to open an investigation file and offer a non-discipline consent agreement to include the completion of the statutorily required continuing education.

#### **Whitmer, Jennifer**

After board staff provided an update, a motion was made by Victoria Bowmann, seconded by Mlee Clark and passed unanimously to approve of the respondent's renewal application for an Arizona massage therapy license.

## **EXECUTIVE DIRECTOR'S REPORT**

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

## **RECOGNITION OF BOARD SERVICE**

### **Diane Pruetz**

The Board acknowledged Diane Pruetz's service to the Board from January 2011 – May 2017. Victoria Bowmann stated that she was an excellent board member, is missed and offered plenty of expertise.

## **COUNCIL ON LICENSURE, ENFORCEMENT & REGULATION ("CLEAR")**

After Ryan P. Edmonson provided an overview of the CLEAR conference, a motion was made by Victoria Bowmann, seconded by Earl Duskey and passed unanimously to approve Mlee Clark's and Bill Beard's attendance at the CLEAR conference for Regulatory Governance held in Scottsdale, Arizona from January 8, 2018 – January 9, 2018.

## **FEDERATION OF ASSOCIATIONS OF REGULATORY BOARDS ("FARB")**

After Ryan P. Edmonson provided an overview of the FARB conference, a motion was made by Bill Beard, seconded by Earl Duskey and passed unanimously to approve the Executive Director's

attendance at the 2018 FARB Forum held in Coronado, California from Thursday, January 25, 2018 – Sunday, January 28, 2018.

**SUMMARY OF CURRENT EVENTS**

None were discussed.

**SUMMARY OF CURRENT EVENTS**

The Board requested that staff place monthly board meetings as a discussion item on its next agenda.

**NEXT BOARD MEETING DATE**

Monday, February 26, 2018 at 9:30 a.m.

**ADJOURNMENT**

A motion was made by Victoria Bowmann, seconded by Mlee Clark and passed unanimously to adjourn at 4:06 p.m.