



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
W: <https://massagetherapy.az.gov>

OPEN SESSION MINUTES

March 25, 2019

Members of the Arizona State Board of Massage Therapy (“Board”) held a meeting at 9:31 a.m. on Monday, March 25, 2019 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
William “Bill” Beard Public Member
Mlee Clark, LMT Therapist Member
John Ortega. Public Member

STAFF AND ASSISTANT ATTORNEY(S) GENERAL PRESENT:

Tom Aughterton..... Executive Director
Michael Raine, Esq. Assistant Attorney General
Elizabeth Campbell, Esq..... Assistant Attorney General
Andrew White..... Senior Board Investigator
Tony Wilcox Licensing & Operations Specialist
April Romero Licensing & Program Specialist
Kathy Rich Intake Specialist

GUEST(S) PRESENT AND/OR PARTICIPATING:

Garnet Adair, LMT	American Massage Therapy Association, Arizona Chapter
Susan Johnston, LMT	Respondent – Case 19-149 & Continuing Education Recipient
Joseph Esposito, LMT	Respondent – Case 19-148
Flynn Carey, Esq.....	Respondent’s Attorney – Case 19-148
☎ Complainant.....	Case 19-148
☎ Complainant.....	Case 19-149
April Fox.....	Applicant & Continuing Education Recipient
Tiara Rodgers.....	Applicant & Continuing Education Recipient
Karl Fox	Guest
Judy Chu	Guest
Carolyn Leeson, LMT.....	Continuing Education Recipient
Kevin Ramsey, LMT	Continuing Education Recipient
Elizabeth Christiansen	Guest
Alicia Funkhouser.....	Guest

☎ Appeared telephonically

OPEN SESSION

The meeting was called to order at 9:31 a.m. by Earl Duskey. The following order of business was then considered:

ROLL CALL

Roll call of the Board members was taken and a quorum was established.

CALL TO THE PUBLIC

Susan Johnston addressed the Board regarding the lack of public record for massage business licenses in the City of Scottsdale.

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 25, 2019 board meeting.
Discussion and approval of the Executive Session Minutes form the February 25, 2019 board meeting.

A motion was made by Bill Beard, seconded by Mlee Clark and passed unanimously to approve the Open Session Minutes and Executive Session Minutes from the January 28, 2019 board meeting.

PRESENTATION TO BOARD

Andrew White, Senior Board Investigator

Andrew White gave a brief presentation to the Board on the complaint process and the types of complaints received.

Michael Raine, A.A.G.

Michael Raine gave a brief presentation to the Board proposing changes in adjudication procedures.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Investigation File(s) Recommended for Summary Suspension

File No. 19-147; Cherry, Caleb

Caleb Cherry was not present. The complainant was not present. Andrew White summarized the investigative report, which included three separate allegations of sexual assault. Michael Raine submitted an order of summary suspension and provided a brief explanation of the order.

A motion was made by John Ortega, seconded by Bill Beard and passed unanimously to adopt the interim Findings of Fact.

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

A motion was made by John Ortega and seconded by Bill Beard to summarily suspend the respondent's massage therapy license pending the acceptance of a Consent Agreement for the surrender of the respondent's massage therapy license and if not accepted within 10 days from the date offered to proceed to file a Complaint and Notice of Hearing. The motion passed by the following roll call vote:

Mlee Clark – Aye

Bill Beard – Aye

Victoria Bowmann – Aye

John Ortega – Aye

Earl Duskey – Aye

Investigation File(s)

File No. 19-145; Kamae, Christopher

Christopher Kamae was not present. The complainant was not present. Andrew White summarized the investigative report, which included failure to notify the Board of arrest and conviction of aggravated assault and domestic violence.

After discussion, a motion was made by John Ortega and seconded by Victoria Bowmann to offer a Consent Agreement for the probation of the respondent's massage therapy license to run congruent with the respondent's criminal probation, a \$100 fine, and 12 hours of continuing education in the areas of business practices and ethics to be completed within 6 months and if not accepted within 10 days from the date offered to proceed to a Formal Interview. The motion passed by the following roll call vote:

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

File No. 19-148; Esposito, Joseph

Joseph Esposito was present with attorney Flynn Carey. Andrew White summarized the investigative report, which included allegations of improper touching and unprofessionalism. The respondent gave a brief statement to the Board followed by a brief statement from attorney Flynn Carey. The complainant was present telephonically to summarize her experience of the massage session. The respondent added further information regarding the massage session.

After discussion, a motion was made by Bill Beard and seconded by Victoria Bowmann to offer a Consent Agreement for the 6-month probation of the respondent's massage therapy license and 16 hours of continuing education in the areas of draping and communication and if not accepted within 10 days from the date offered to proceed to a Formal Interview. The motion passed 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 11:21 a.m. to 11:29 a.m. Elizabeth Campbell served as the Board's legal advisor in Mr. Raine's absence from 11:29 a.m. to 11:57 a.m.

Investigation File(s)

File No. 19-149; Johnston, Susan

Susan Johnston was present. Andrew White summarized the investigative report, which included allegations of injury caused by a massage. The respondent gave a quick synopsis of the massage session, answered questions from the Board and submitted a character reference for the Board's consideration. The complainant was present telephonically to summarize her experience of the massage session.

After discussion, a motion was made by Mlee Clark and seconded by Bill Beard to offer a Consent Agreement for the 1-year probation of the respondent's massage therapy license, restitution of fees payed by the massage therapy client and 12 hours of continuing education in the area of communication and if not accepted within 10 days from the date offered to proceed to a Formal Interview. The motion passed by the following roll call vote:

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

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

Fox, April

April Fox was present to answer any questions regarding her massage therapy license application or her background.

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

Rodgers, Tiara

Tiara Rodgers was present to answer any questions regarding her massage therapy license application or her background.

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

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

File No. 19-131; Cole, Terra

File No. 19-132; Batista, Mark

File No. 19-140; Berenholtz, Jim

File No. 19-144; Noelle, Nicole

None of the respondents were present. Andrew White summarized all respondents' failure to respond.

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

EXECUTIVE DIRECTOR'S REPORT

The Board reviewed the budget and agency operations with Tom Augheron.

SUMMARY OF CURRENT EVENTS

None were discussed.

DISCUSSION AND POSSIBLE ACTION ITEMS FOR FUTRUE MEETING AGENDAS

Board investigations update on case cooperation with Phoenix PD.

NEXT BOARD MEETING DATE

Monday, April 29, 2019

ADJOURNMENT

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to adjourn at 12:33 p.m.