



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

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Douglas A. Ducey,  
Governor

OPEN SESSION MINUTES

April 29, 2019

Members of the Arizona State Board of Massage Therapy ("Board") held a meeting at 9:34 a.m. on Monday, April 29, 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, Independent Legal Advisor  
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  
Sergio Castro..... Respondent – Case 19-118  
Robert Boyle, LMT..... Respondent – Case 19-130  
Complainant..... Case 19-130  
Robert Pastor, Esq..... Complainant's Attorney – Case 19-130  
Carl Mitchel, LMT..... Respondent – Case 19-150  
Ricardo Torres ..... Applicant  
☎ Feng Wang ..... Applicant  
Amber Ferguson..... Respondent – Case 19-158  
Glenda E. Nicks, LMT..... Continuing Education Recipient  
Adriene J. Nicks, LMT ..... Continuing Education Recipient  
Erwin D. Jones ..... Guest  
Kevin Ramsey..... Guest

**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.

[Silven] Hill .....	Guest
Jeromy Hatch .....	Guest
Rosemary Angle.....	Guest
Kelli Jacobs.....	Guest
Heidi [Glesesh] .....	Guest
David Fox.....	Guest
Vince Rossi .....	Guest
Andrea [Undecipherable].....	Guest
Jonathan Hicks .....	Guest
Ramon Franco.....	Guest

 Appeared telephonically

**OPEN SESSION**

The meeting was called to order at 9:34 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**

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

Discussion and approval of the Open Session Minutes from the March 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 February 25, 2019 board meeting and the Open Session Minutes from the March 25, 2019 board meeting.

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

Formal Hearing(s)

File No. 19-138; Qu, Yong

Yong Qu was not present. Michael Raine was present and appeared on behalf of the State. Elizabeth Campbell was present to provide independent legal advice to the Board. The respondent filed a motion to continue in order to secure a translator. The State had no objections to the continuance.

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to continue the hearing to June 24, 2019.

File No. 19-147; Cherry, Caleb

Caleb Cherry was not present. Michael Raine was present and appeared on behalf of the State. Elizabeth Campbell 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, seconded by John Ortega and passed unanimously to deem the allegations in the Complaint and Notice of Hearing as admitted.

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 Victoria Bowmann and seconded by Bill Beard to revoke the respondent's massage therapy license. The motion passed 5 – 0 by the following roll call vote:

Mlee Clark – Aye

Bill Beard – Aye

Victoria Bowmann – Aye

John Ortega – Aye

Earl Duskey – Aye

Review of Board's Formal Hearing Decision

File No. 19-118; Castro, Sergio

Sergio Castro was present and represented himself. Michael Raine was present and appeared on behalf of the State. Elizabeth Campbell was present to provide independent legal advice to the Board.

Sergio Castro addressed the Board regarding his request for an appeal of the revocation of his massage therapy license. The State reviewed the sequence of events which led to the Board's original decision.

A motion was made by Bill Beard, seconded by Mlee Clark and passed unanimously to deny the request for review.

Formal Interview(s)

File No. 19-130; Boyle, Robert

Robert Boyle was present and represented himself. The complainant was present with attorney Robert Pastor, Esq.

Andrew White summarized the allegations of improper touching of genitals against a client's body and sexual assault. Mr. White also noted a police report was filed with the Chandler Police Department. Robert Boyle summarized his recollection of the massage session and answered questions from the Board.

A motion was made by Victoria Bowmann to dismiss the case. The motion was withdrawn.

The complainant came forward to summarize her experience of the massage sessions and answered further questions from the Board. Mr. Boyle admitted he had been recalling the wrong massage session and readdressed the Board to summarize the incident in question.

After deliberation, a motion was made by John Ortega and seconded by Mlee Clark to issue a Decision and Order for probation of the respondent's massage therapy license for 6 months, restitution of the massage fees to be paid to the complainant, a \$100 civil penalty and 16 hours of continuing education in the areas of ethics, communication, and business practices, which shall be in addition to the statutorily required continuing education hours. The motion passed 5 – 0 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 11:00 a.m. – 11:12 a.m.*

Investigation File(s)

File No. 19-150; Mitchel, Carl

Carl Mitchel was present. Andrew White summarized the investigative report, which included improper draping, touching without permission, and inappropriate massage. Mr. Mitchel described the massage session from beginning to end and answered further questions from the Board.

After discussion, a motion was made by Mlee Clark, seconded by Bill Beard and passed unanimously to issue a Non-Disciplinary Order for Continuing Education to include 8 hours of live continuing education in the area of communication, in addition to the statutorily required continuing education hours, to be completed within 6 months of the effective date of the order.

File No. 19-151; Argentino, Matthew

Matthew Argentino was not present. Andrew White summarized the investigative report, which included failure to notify the Board of a conviction within ten days.

After discussion, a motion was made by Victoria Bowmann and seconded by Bill Beard to offer a Consent Agreement for the probation of the respondent's massage therapy license to run congruent with the respondent's criminal probation, \$100 fine, and quarterly updates of compliance with probation 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. 19-153; Jean-Pierre, Grayson

Grayson Jean-Pierre was not present. Andre White summarized the investigative report, which included unprofessionalism, improper draping, improper touching and kissing a client.

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

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

Begay, Shindina

Shindina Begay was not present to answer any questions regarding her massage therapy license application or her background. Andrew White provided a summary of the applicant's application and background.

After discussion, a motion was made by Bill Beard, seconded by John Ortega and passed 4 – 1 to grant the applicant a massage therapy license.

*Earl Duskey voted against the motion.*

Torres, Ricardo

Ricardo Torres was present to answer any questions regarding his massage therapy license application or his background. Andrew White provided a summary of the applicant's application and background.

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

Wang, Feng

Feng Wang was present telephonically to answer any questions regarding her massage therapy license application or her background. Andrew White provided a summary of the applicant's application and background.

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

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

File No. 19-159; Hurst, Nancy – Hurst Homes

Nancy Hurst was not present. Andrew White provided an update regarding the case and the respondent's compliance with statutes and rules since the initial inquiry.

A motion was made by Earl Duskey, seconded by Victoria Bowmann and passed unanimously to take no action and close the file.

File No. 19-159; Ferguson, Amber

Amber Ferguson was present. Earl Duskey recused himself from voting on the matter. Andrew White provided an update of the complaint and investigation. Amber Ferguson summarized her practice and answered questions from the Board.

A motion was made by Bill Beard, seconded by Mlee Clark and passed unanimously to take no action and close the file.

### **PROPOSED 2020 BOARD LEGISLATIVE PACKAGE**

#### Proposed legislative package 1<sup>st</sup> draft

The Board reviewed the proposed legislative package with April Romero and requested the proposal be placed on the next Board meeting agenda.

### **EXECUTIVE DIRECTOR'S REPORT**

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

### **SUMMARY OF CURRENT EVENTS**

Bill Beard announced his resignation from the Arizona State Board of Massage Therapy effective close of business April 29, 2019.

### **DISCUSSION AND POSSIBLE ACTION ITEMS FOR FUTRUE MEETING AGENDAS**

The Board will continue discussion and review of the proposed legislative package.

### **NEXT BOARD MEETING DATE**

Monday, May 20, 2019

### **ADJOURNMENT**

A motion was made by Mlee Clark, seconded by Victoria Bowmann and passed unanimously to adjourn at 1:24 p.m.