



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

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Douglas A. Ducey,  
Governor

## OPEN SESSION MINUTES

### May 21, 2018

Members of the Arizona State Board of Massage Therapy (“Board”) held a meeting at 9:32 a.m. on Monday, May 21, 2018 at the Board’s office in boardroom C, 1740 West Adams Street, Phoenix, Arizona 85007. An executive session was from 9:35 a.m. to 10:14 a.m.

#### 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
- ☞ Left the meeting at 11:28 a.m.

#### STAFF AND ASSISTANT ATTORNEY(S) GENERAL PRESENT:

- Ryan P. Edmonson..... Executive Director
- Michael Raine, Esq. .... Assistant Attorney General
- 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
- Christopher Esteen ..... Applicant
- Byron Gillespie ..... Applicant
- José Ortiz, LMT ..... Respondent – Case 18-121

**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**

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 April 30, 2018 board meeting**

A motion was made by Bill Beard, seconded by Victoria Bowmann and passed unanimously to approve the Open Session Minutes from the April 30, 2018 board meeting.

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

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

The Board called this matter and discussed going into executive session to seek legal advice.

**EXECUTIVE SESSION**

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to go into executive session at 9:35 a.m. to seek legal advice pursuant to A.R.S. § 38-431.03(A)(3) regarding A.R.S. §§ 32-4222 & 32-4223 and A.A.C. R4-15-201 & R4-15-203 and the applicants.

After consideration in executive session, the Board reconvened in open session at 10:14 a.m.

**OPEN SESSION**

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

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

**Esteen, Christopher**

Christopher Esteen was present to answer any questions regarding his massage therapy license application or his background.

After discussion, a motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to grant the applicant a massage therapy license pending the receipt of a copy of the applicant's driver's license or another document proving that his driver's license is no longer suspended.

**Gillespie, Byron**

Byron Gillespie was present to answer any questions regarding his massage therapy license application or his back ground.

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

Huskon, Tamara

The applicant was not present. Michael Raine provided a summary of the applicant's legal matters and her probationary period.

After discussion, a motion was made by Victoria Bowmann and seconded by John Ortega to grant the applicant a massage therapy license upon completion of her probationary period.

During discussion, the Board recognized that the applicant's probation was not for three months, but rather for three years, and therefore, both Victoria Bowmann and John Ortega withdrew their motion and second respectively.

A motion was made by Victoria Bowmann, seconded by Mlee Clark and passed 4 – 1 to deny the applicant a massage therapy license.

*John Ortega voted against the motion.*

Rivera, Daniel

The applicant was not present. Andrew White provided a summary of the applicant's application and background.

After discussion, a motion was made by Victoria Bowmann, seconded by Mlee Clark and passed unanimously to deny the applicant a massage therapy license.

Smith, Eric

The applicant was not present. Andrew White 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 deny the applicant a massage therapy license.

Wu, Emma (aka Wu, Ting Hsuan)

The applicant was not present. 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 unanimously to table any action on the applicant's application for a massage therapy license and allow for the application to be withdrawn after 365 days from the date of receipt of her application.

Investigation Files

File No. 17-109; Vickers, Harrison

Harrison Vickers was not present. Ryan Edmonson provided a summary of the file and the Board's previous action on this matter. Mr. Edmonson also provided an update that the respondent has not been responsive to staff regarding the Board's offer for a Consent Agreement.

A motion was made by Bill Beard, seconded by Victoria Bowmann and passed unanimously to rescind the Board's previous motion to offer a Consent Agreement for continuing education.

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

File No. 18-119; Niles, Travis

File No. 18-120; Niles, Travis

After a quick statement by Michael Raine suggesting that the Board could consider consolidating the matters, a motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to consolidate the matters.

Travis Niles was not present. Andrew White was present and provided a summary of his investigative reports. Mr. White's reports included allegations of inappropriate touch, sexual assault and improper draping. Mr. White's reports conclude that both complainants made complaints with Mr. Niles' employer, Massage Envy and he was later terminated from employment.

After discussion, a motion was Bill Beard and seconded by Victoria Bowmann to offer a Consent Agreement to the respondent to surrender his Arizona massage therapy license and if not accepted within 10 days to file a Complaint and Notice of Hearing. 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

File No. 18-121; Ortiz, José

José Ortiz was present. Andrew White was present and provided a summary of his investigative report. Mr. White's report included allegations of inappropriate touch, sexual assault and improper draping. Mr. White's report also conclude that the complainant made complaint with Mr. Ortiz's employer, Elements Massage and the Phoenix Police Department. Mr. Ortiz stated that he has been falsely accused based on the intact interview and verbal consent for a full body massage. He stated that the complainant complained about low back pain and noticed that her shoulders were rolled forward and maintained proper draping even when he massaged her serratus and never massaged the complainant's breasts.

After discussion, a motion was made by Bill Beard, seconded by John Ortega and passed unanimously to move this matter to a formal interview at a future board meeting.

*The Board took a break from 11:14 a.m. to 11:20 a.m.*

File No. 18-124; Quibell, Michael

Michael Quibell was not present. Board staff provided information that there is an audio file that exists, but that they were unable to provide an efficient way for the Board to review the audio. Board staff stated that it is available should the Board believe it is relevant for them to review. The Board questioned whether or not they still had jurisdiction in this matter since the respondent's license has been expired for over three years. Michael Raine, stated that the Board still has

jurisdiction in this matter since there is no statute of limitations, but since the respondent has been expired for more than three years, he would have to apply for a new license. Mr. Raine stated that, generally, boards often close these matters without prejudice, which have similar circumstances – meaning that the respondent would have to address this matter before he was allowed to receive a new license – should he apply for one in the future.

After discussion, a motion was made by Victoria Bowmann and seconded by John Ortega to file a Complaint and Notice of Hearing. 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

*John Ortega left the meeting at 11:28 a.m.*

File No. 18-125; Schumacher, Deborah

Deborah Schumacher was not present. Andrew White was present and provided a summary of his investigative report. Mr. White's report included the respondent's felonies for dangerous drug possession, possession of drug paraphernalia and drug use.

A motion was made by Victoria Bowmann and seconded by Bill Beard to offer a Consent Agreement to include probation to run concurrent with her criminal probation and to remain compliant with the criminal probation through February 2019, 12 hours of continuing education in the areas of business practice and ethics, to be completed in a live classroom setting, pre-approved by the Board or its Executive Director and in addition to the statutorily required CE. The motion included that the respondent would have to appear before the Board to request termination of the probation and if not accepted within 30 days from the date offered to proceed to a formal interview. The motion passed 4 – 0 by the following roll call vote:

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

File No. 18-126; Simpson, Jeffrey

Jeffrey Simpson was not present. Andrew White was present and provided a summary of his investigative report. Mr. White's report included the respondent's felony for credit card theft and/or obtaining a credit card for fraudulent means. The respondent is on probation until February 2021. The Board stated that they are aware that the Physical Therapy Board also received the complaint since the respondent is also a physical therapist. The Board reviewed the respondent's response, which states that he was unaware of the requirement to report the matter to either Board within 10 days and that the incident occurred prior to him having either professional license.

After discussion, a motion was made by Victoria Bowmann, seconded by Mlee Clark and passed unanimously to move this matter to a formal interview at a future board meeting.

**EXECUTIVE DIRECTOR'S REPORT**

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

**NEXT BOARD MEETING DATE**

Monday, June 25, 2018 at 9:30 a.m.

**ADJOURNMENT**

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to adjourn at 11:47 a.m.