



Douglas A. Ducey,  
Governor

# Arizona State Board of Massage Therapy

“Protecting the Public’s Health”

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## OPEN SESSION MINUTES

### June 25, 2018

Members of the Arizona State Board of Massage Therapy (“Board”) held a meeting at 9:33 a.m. on Monday, June 25, 2018 at the Board’s office in Boardroom B, 1740 West Adams Street, Phoenix, Arizona 85007. Executive sessions were held from 10:17 a.m. to 10:22 a.m. and from 11:41 a.m. to 12:13 p.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
×	Absent	

#### 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
April Romero .....	Administrative Assistant II

#### GUEST(S) PRESENT AND/OR PARTICIPATING

Garnet Adair, LMT .....	American Massage Therapy Association, Arizona Chapter
Raul P. Ochoa .....	Renewal Applicant
Javier Martinez.....	Respondent – Cases 18-127 & 18-135
Complainant.....	Case 18-127
Sergio Castro.....	Respondent – Case 18-129
Complainant.....	Case 18-129
Brandon Espinoza, Esq. ....	Complainant’s Attorney, Case 18-129
Complainant.....	Case 18-133
Zhonghui Wang .....	Respondent – Case 18-104
Ron Reyna, Esq.....	Respondent’s Attorney, Case 18-104
Winston Chow .....	Respondent’s Interpreter, Case 18-104

**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.

Gailyn Allison.....Applicant  
Gabriela Bautista.....Applicant  
Jessica Biggs.....Applicant  
Armando Hernandez.....Applicant  
Sylvia Montiel.....Applicant  
Daniel James William Rivera.....Applicant

### **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**

Raul Ochoa addressed the Board regarding A.R.S. § 32-4301 in relation to his license. The Board directed Mr. Ochoa to contact Ryan P. Edmonson and discuss the necessary next steps.

### **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 May 21, 2018 board meeting

Discussion and approval of the Executive Session Minutes from the May 21, 2018 board meeting

A motion was made by Bill Beard, seconded by John Ortega and passed unanimously to approve the Open Session Minutes and the Executive Session Minutes from the May 21, 2018 board meeting.

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

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

Académie de Massage Scientifique – Quebec, Canada

Michael Raine provided an explanation that Quebec does not have a state body equivalent to the Arizona State Board for Private Postsecondary Education. As such the school does not have the ability to provide proof of accreditation as required by A.R.S. § 32-4228 and A.A.C. R4-15-204.

After discussion, a motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to deny approval of Académie de Massage Scientifique as a Board-recognized school.

Crystal Mountain Institute – Albuquerque, New Mexico

Royal Canadian College of Massage Therapy – Toronto, Canada

Having met the requirements of A.R.S. § 32-4228, a motion was made by Bill Beard, seconded by Victoria Bowmann and passed unanimously to approve the schools as Board-recognized schools.

### **FEDERATION OF ASSOCIATIONS OF REGULATORY BOARDS (“FARB”)**

Michael Raine provided a brief description of the annual seminar hosted by FARB.

A motion was made by Bill Beard, seconded by John Ortega and passed unanimously to send Assistant Attorney General, Michael Raine, to the 2018 FARB Regulatory Law Seminar in Portland, Oregon from Thursday, September 27, 2018 to Saturday, September 29, 2018.

**COUNCIL ON LICENSURE, ENFORCEMENT & REGULATION (“CLEAR”)**

Andrew White provided a brief description of the annual conference hosted by CLEAR.

A motion was made by Victoria Bowmann, seconded by John Ortega and passed unanimously to send Board Investigator, Andrew White, and Executive Director, Ryan P. Edmonson to the CLEAR Annual Educational Conference in Philadelphia, Pennsylvania from Wednesday, September 26, 2018 to Saturday, September 29, 2018.

*The Board took a break from 9:52 a.m. to 10:00 a.m.*

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

Formal Hearing(s)

File No. 17-109; Vickers, Harrison

Michael Raine explained a notice had been received, but that Mr. Vickers is deceased and summarized the State’s motion to rescind the matter from formal hearing and place the matter back into an investigative stage to be closed by administrative staff.

A motion was made by Bill Beard to rescind the matter from formal hearing and place the matter into administrative hands.

Mary Williams provided legal advice regarding alternative options.

A motion was made by Bill Beard, seconded by John Ortega and passed unanimously to rescind the previous motion and dismiss the matter without prejudice.

File Nos. 18-119 & 18-120; Niles, Travis

Michael Raine explained that the original Complaint and Notice of Hearing was not issued with a 30-day notice and summarized the State’s motion to vacate the hearing and issue an amended Complaint and Notice of Hearing for the July 30, 2018 board meeting.

A motion was made by Bill Beard, seconded by Victoria Bowmann and passed unanimously to vacate the hearing and issue an amended Complaint and Notice of Hearing.

File No. 18-118; Martinez, Jaime

Michael Raine summarized the State’s concerns regarding a motion for continuance from Mr. Martinez’s attorney.

The Board discussed going into executive session to obtain legal advice.

**EXECUTIVE SESSION**

A motion was made by Victoria Bowmann, seconded by Earl Duskey and passed 3 – 1 to go into executive session at 10:17 a.m. to seek legal advice pursuant to A.R.S. § 38-431.03(A)(3) regarding A.R.S. § 32-4254 and File No. 18-118.

*John Ortega voted against the motion.*

After consideration in executive session, the Board reconvened in open session at 10:22 a.m.

**OPEN SESSION**

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

Formal Hearing(s)

File No. 18-118; Martinez, Jaime

After discussion, a motion was made by Bill Beard, seconded by John Ortega and passed unanimously to grant a continuance, of the hearing, for the August 27, 2018 board meeting.

The Board discussed the possibility of a motion for restrictions of the license. No motion was made.

Investigation File(s)

File No. 18-127; Martinez, Javier

File No. 18-135; Martinez, Javier

After a 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.

Andrew White summarized the allegations of sexual assault, inappropriate touching and in an unrelated matter, failure to report within ten days of arrest and conviction. Javier Martinez was present and expressed his apologies for not knowing he needed to report his conviction within ten days. The complainant was present to give summary of her complaint. The complainant also contacted the Pima County Sheriff's Department. Mr. Martinez answered questions from the Board regarding the complaint.

A motion was made by John Ortega, seconded by Bill Beard and passed unanimously to move both matters to a Formal Interview.

File No. 18-129; Castro, Sergio

Sergio Castro was present. The complainant was present with her attorney Brandon Espinoza, Esq. Andrew White summarized the allegations of improper draping, inappropriate touching and sexual assault. Mr. White reported that the complainant filed a report with the Tucson Police Department. The complainant summarized her complaint. Mr. Castro answered questions from the Board regarding the complaint.

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

File No. 18-130; Valverde, Alberto

Alberto Valverde was not present. The complainant was not present. Andrew White summarized the allegations of improper draping and inappropriate touching.

A motion was made by Victoria Bowmann and seconded by Bill Beard to offer 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 4 – 0 by the following roll call vote:

Bill Beard – Aye

Victoria Bowmann – Aye  
John Ortega – Aye  
Earl Duskey – Aye

File No. 18-131; Villesca, Brian

Brian Villesca was not present. The complainant was not present. Andrew White summarized the allegations of inappropriate touching, improper draping and sexual assault. Mr. White informed the Board that no police report has been filed.

A motion was made by Victoria Bowmann and seconded by Bill Beard to offer 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 4 – 0 by the following roll call vote:

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

File No. 18-132; Wyatt, Schawntavia

Schawntavia Wyatt was not present. Andrew White summarized the respondent failed to notify the Board within ten days of her arrest and conviction and is currently incarcerated until January 2021.

A motion was made by Bill Beard and seconded by John Ortega to offer 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 4 – 0 by the following roll call vote:

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

File No. 18-133; Vela, Mia

Mia Vela was not present. Andrew White summarized the complaint for failure to refund payment for massages not rendered. The complainant was present to provide summary of her complaint.

A motion was made by Victoria Bowmann and seconded by Bill Beard to offer a Consent Agreement to include probation of the respondent's massage therapy license for six months or until all terms of the agreement are met. The motion included restitution of \$270.00 to the client to be paid within 30 days from the effective date of the order and 8 hours of in class continuing education in the areas of Ethics and Business Practices to be completed within 6 months from the effective date of the order, which shall be in addition to the statutorily required continuing education hours and if not accepted within 10 days from the date offered to proceed with a Formal Interview. The motion passed 4 – 0 by the following roll call vote:

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

Review Compliance/Non-Compliance with Consent Agreement

File No. 18-104; Wang, Zhonghui

Andrew White read the summary of his investigation. Zhonghui Wang was present with his attorney Ron Reyna, Esq. and interpreter Winston Chow. Mr. Reyna outlined the steps taken by Mr. Wang to comply with his suspension order.

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to issue a Letter of Concern.

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 Bill Beard, seconded by Earl Duskey and passed 3 – 1 to go into executive session at 11:41 a.m. to seek legal advice pursuant to A.R.S. § 38-431.03(A)(3) regarding A.R.S. § 32-4222 and the applicants under board agenda item V.B.

*John Ortega voted against the motion.*

After consideration in executive session, the Board reconvened in open session at 12:13 p.m.

**OPEN SESSION**

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

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

Allison, Gailyn

Gailyn Allison was present to explain her situation and difficulty in providing specific documentation requested for licensure.

After discussion, a motion was made by Bill Beard, seconded by Victoria Bowmann and passed unanimously to table action on the applicant's application pending further investigation of qualifying materials.

Bautista, Gabriela

Gabriela Bautista was not present to answer any questions regarding her massage therapy license application or her background.

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

Biggs, Jessica

Jessica Biggs was present to answer any questions regarding her massage therapy license application or her 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.

Hernandez, Armando

Armando Hernandez 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.

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

Huskon, Tamara

The applicant was not present.

A motion was made by Bill Beard, seconded by John Ortega and passed unanimously to rescind the denial of a massage therapy license from its May 21, 2018 board meeting.

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

May, Fengyun

The applicant was not present. Andrew White provided a summary of the applicant's arrest.

A motion was made by Victoria Bowmann to deny the applicant a massage therapy license pursuant to A.R.S. § 32-4222(A)(4). After discussion, the motion was seconded by Bill Beard and passed unanimously.

Montiel, Sylvia

Sylvia Montiel 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.

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

Rivera, Daniel James William

Daniel Rivera was present to answer any questions regarding his massage therapy license application or his background.

A motion was made by Bill Beard, seconded by John Ortega and passed unanimously to rescind the denial of a massage therapy license from its May 21, 2018 board meeting.

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

Smith, Eric

The applicant was not present.

A motion was made by Bill Beard, seconded by Victoria Bowmann and passed unanimously to rescind the denial of a massage therapy license from its May 21, 2018 board meeting.

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

Turner, Jacqueline

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

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

Vergauwen, Paula

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 Bill Beard and passed unanimously to deny the applicant a massage therapy license pursuant to A.R.S. § 32-4222(A)(9).

Wu, Emma

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 Bill Beard and passed unanimously to deny the applicant a massage therapy license pursuant to A.R.S. § 32-4222(A)(4).

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

File No. 18-116; Moore, Yong

Michael Raine represented the State and asked the Board to accept the respondent's signed Consent Agreement for Surrender.

A motion was made by Bill Beard, seconded by Victoria Bowmann and passed unanimously to accept the signed Consent Agreement for Surrender.

**EXECUTIVE DIRECTOR'S REPORT**

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

**SUMMARY OF CURRENT EVENTS**

None were discussed.

**NEXT BOARD MEETING DATE**

Monday, July 30, 2018 at 9:30 a.m.

**ADJOURNMENT**

A motion was made by Victoria Bowmann, seconded by Bill Beard and passed unanimously to adjourn at 1:07 p.m.