



State of Arizona
Janet Napolitano – Governor

Arizona State Board of Massage Therapy

"Protecting the Public's Health"

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De Mario Vaughn, LMT; Nancy Gath, Public Member; Daniel Pozefsky, Public Member
Dennis Beye, LMT, Susan Pomfret, LMT, Craig Runbeck, NMD, Executive Director

Minutes BOARD MEETING

March 24, 2008 10:00 a.m.
1400 West Washington St, B1
Phoenix, AZ 85007

1. **Call to Order by Presiding Officer**

Mr. Beye, Chair called the meeting to order at 10:05am.

- A. Roll call of Board members was done to establish a quorum to conduct the meeting.

Board Members present: Dennis Beye, Chair, LMT
Susan Pomfret, Vice Chair, LMT
Daniel Pozefsky, Public Member
Nancy Gath, Public Member

Board Members absent: De Mario R. Vaughn, LMT

- C. Acknowledgement of presence of Board staff and legal counsel.

Assistant Attorney General: Michelle Wood

Board Staff: Dr. Craig Runbeck, Executive Director
Robert Wilson, Deputy Director
Stan Conger, Investigations
Leah Doyle, Licensing Administrator

2. **Call to the Public**

Mr. Beye, gave a call to the public at 10:07 am

Dr. Runbeck was present to address the Board regarding Capitol Reserve and Legislature updates.

3. **Discussion, Consideration and Possible Action of Consent Agenda** (*Any item under consent may be removed for independent discussion and action by a Board Member.*)

- A. Approval of Minutes: January 28, 2008 Board Meeting
B. Approval of Executive Session Minutes: January 28, 2008 Board Meeting
C. Approval of Massage Therapy Application(s) February and March

MOTION: Ms. Pomfret moved to approve the minutes and consent agenda as listed above, Ms. Gath seconded the motion.

VOTE: The Motion Passed 4 ayes, 0 no

4. Discussion, Consideration and Possible Action of Regulatory Matters

A. Board Review – Investigations

1. Isabel Salinas – Initial Review (case #07-107)

Ms. Salinas was not present at the board meeting.

Mr. Wilson summarized the investigative report on Ms. Salinas for the Board. Ms. Salinas advertised on the website Craigslist.com, to which the Phoenix Police Dept. conducted an investigation. Ms. Salinas was cited for the following violations: Prostitution; Massage with the intent to arouse; touching private anatomical areas of client; Practitioner not fully clothed. All violations are a Class 1 Misdemeanor. Ms. Salinas' license expired on February 22, 2008, but per **ARS 32-3202** the Board continues to have jurisdiction until the case is cleared. Mr. Wilson made all the proper attempts to notify Ms. Salinas to attend this board meeting

MOTION: Ms. Pomfret moved to go into executive session to obtain legal advice. Mr. Pozefsky seconded the motion.

VOTE: The motion passed 4 ayes, 0 no

The Board convened Executive Session to obtain legal advice at 10:12 am
The Board returned to Regular Session at 10:15 am

Detective Gilbreth of the Phoenix Police Dept. was present to discuss and answers questions from the Board regarding Ms. Salinas' case.

Michelle Wood advised the Board of their legal options. **ARS 32-4254B** The Board discussed moving this matter to a formal hearing.

Motion: Mr. Pozefsky moved to hold a formal hearing regarding Ms. Salinas' case at the next scheduled board meeting. Ms. Pomfret seconded the motion.

Vote: The motion passed 4 yes, 0 no

2. Jason Brusca – Initial Review (case #06-137)

Mr. Brusca was present to answer questions from the Board.

Mr. Wilson summarized the investigative report on Mr. Brusca for the Board. There are two complaints from separate individuals who received a massage from Mr. Brusca while he was employed with Southwest Institute of Healing Arts. (SWIHA) Both complaints are in regards to draping positions leading to exposure; inappropriate touching and comments. SWIHA terminated the employment of Mr. Brusca after these complaints. Also, Mr. Brusca failed to notify the Board within 10 days of a change of address. **ARS 32-4225C**

Mr. Brusca discussed these complaints and answered questions from the Board. Mr. Brusca denied these allegations.

Michelle Wood advised the Board of their legal options. The Board discussed moving this matter to a formal hearing.

Mr. Earl Duskey was present from SWIHA. He was not aware of this investigative report against Mr. Brusca. Therefore, he was not prepared to answer any questions from the Board regarding this case.

MOTION: Ms. Pomfret moved to go into executive session to obtain legal advice. Ms. Gath seconded the motion.

VOTE: The motion passed 4 ayes, 0 no

The Board convened Executive Session to obtain legal advice at 10:49 am
The Board returned to Regular Session at 11:00 am

Motion: Mr. Pozefsky moved to hold a formal hearing at the next scheduled board meeting. Ms. Pomfret seconded the motion.

Vote: The motion passed 4 yes, 0 no

Mr. Pozefsky advised Mr. Brusca to hire an attorney due to the nature of the complaints.

Mr. Brusca submitted his change of address in writing to the Board.

The Board recessed at 11:02 am
The Board returned to regular session at 11:10 am

3. Paul Hykes – Update on Initial Review (case #06-139)

Mr. Hykes was not present at the board meeting. Ms. Pomfret recused herself from board agenda items referring to Paul Hykes.

MOTION: Mr. Pozefsky moved to go into executive session to obtain legal advice. Ms. Gath seconded the motion.

VOTE: The motion passed 3 ayes, 0 no

Mr. Wilson summarized this case for the Board. Mr. Wilson explained that he has written Mr. Hykes letters and left phone messages regarding the polygraph test he agreed to take at his own expense at the September 24, 2007 board meeting. Mr. Hykes is claiming he had not originally been advised the test was to be at his own expense and told Mr. Wilson he was not taking the polygraph test. Mr. Wilson advised the Board that Mr. Hykes is in potential violation of interfering with an investigation. **ARS 32-4253.A-20** Mr. Hykes license expired on January 25, 2008, but per **ARS 32-3202** the Board continues to have jurisdiction until the case is cleared.

Motion: Mr. Pozefsky moved to hold a formal hearing regarding Mr. Hykes case at the next scheduled board meeting. Ms. Gath seconded the motion.

Vote: The motion passed 3 yes, 0 no

5. Discussion and Consideration and Possible Action on Administrative Matters

A. Massage license status report

Dr. Runbeck updated the board on the license status to date.

Active licensee's	8,797	Closed withdrawn and Failed to Qualify	111	
Revoked	4	Denied	19	
Voluntarily Surrendered	4	Closed – Expired	1,853	
			Pending	190

Total applications received 10,987

Renewed 06/01/06-03/13/08 4,334

Non-Renewed 06/01/06-03/13/08 1,825

B. Cease and Desist

Mr. Stan Conger updated the Board on Cease and Desist cases.

Mr. Conger and Mr. Wilson explained that a Chiropractors Assistant is able to do therapy in conjunction with an adjustment from the Chiropractor under a Chiropractor's license and supervision, as long as the Chiropractor is certified in Physiotherapy. These therapists must be a certified Chiropractors Assistant and they are regulated by the Chiropractic Board.

6. Discussion, Consideration and Possible Action on Correspondence

A. Correspondence received from NCBTMB News Release– “Re: NCBTMB Launches Online Career Center

This correspondence was only to inform the Board of updates with the NCBTMB. No discussion was made on the matter.

B. Correspondence received from AZ Dept. of Economic Security – “Re: Request for Assistance to Collect Child Support”

Michelle Wood updated the Board on a recent change to Arizona law granting DCSE the administrative authority to suspend or revoke the occupational or professional licenses of the obligors for willful non-payment of support where the areas exceed six months of support.

Mr. Wilson has a meeting with DCSE on March 25, 2008 to discuss this matter further.

2. Call to the public

Dr. Runbeck made his call to the public regarding updating the Board on Legislation. The Governor's office is discussing the consolidating of administrative functions. The consolidation consists of eleven regulatory boards which includes the Massage and Naturopathic Boards. Dr. Runbeck is attending another meeting on this topic Thursday, March 27, 2008. Dr. Runbeck will keep the Board updated regarding this matter.

The next scheduled meeting is May 19, 2008

The meeting was adjourned at 11:48 pm

ADJOURNMENT