

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
BOARD OF MASSAGE THERAPISTS

MINUTES OF MEETING
March 26-27, 2015

The staff of the Division of Corporations, Business & Professional Licensing prepared these draft minutes. They have not been reviewed or approved by the Board.

By the authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Board Massage Therapists was held on March 26-27, 2015, at the Atwood Office Building, 550 W 7th Ave., Suite 102, Anchorage, Alaska.

Thursday, March 26, 2015

Agenda Item - Call to Order/Roll Call

The meeting was called to order at 8:32 a.m. by Chairperson Amanda Unser.

Those present, constituting a quorum of the Board:

Amanda Unser, Licensed Massage Therapist
Traci Gilmour, Licensed Massage Therapist
Ron Gibbs, Licensed Massage Therapist
David Edwards-Smith, Licensed Massage Therapist
Shirley Nelson, Public Member

In attendance from the Department of Commerce, Community and Economic Development, Division of Corporations, Business and Professional Licensing, were:

Susan Johnson, Licensing Examiner
Ed Riefle, Senior Investigator
Michelle Wall-Rood, Investigator III

Karen McAfee, Public
Elizabeth Peach, Public

Agenda Item - Review/Amend Agenda

Chairperson Unser asked the Board to review the agenda. Examiner added Michelle Wall-Rood to the March 26, 2015 agenda at 3:15 P.M.

Upon a motion made by Shirley Nelson and seconded by David Edwards-Smith and approved unanimously, it was:

RESOLVED to approve the agenda as amended.

Agenda Item - Review Task List

The task list was a brief list of tasks for the examiner, which were completed at or just after the last Board Meeting.

Agenda Item - Ethics Disclosures

One Ethics Disclosure form was submitted by Amanda Unser prior to the meeting.

Agenda Item - Discussion of Ethics

The Board discussed the roles and boundaries of Massage Therapists and the requirement of continual ethics classes. Mr. Gibbs stated that he thought having an ethics requirement was a good idea since it was a continual reminder of the ethics of the profession as well as the introduction of new information to practicing therapists. The Board compared the Ethic Statements from various national groups. Ms. Nelson discussed the necessity to have ideas presented clearly in the written document that applicants and licensees will view.

Agenda Item - Standards of Practice

The Board discussed the standards of practice as outlined by AMTA (American Massage Therapy Association) and the NCBTMB (National Certification Board for Therapeutic Massage & Bodywork).

Off record for a break at 10:26 AM

On record at 10:42 AM

Agenda Item - Approval of Minutes

Upon a motion made by David Edwards-Smith and seconded by Traci Gilmour and approved unanimously, it was:

RESOLVED to approve the minutes from the February 5-6, 2015 meeting.

Agenda Item - Review of Standards of Practice

The Board discussed the need of regulation of standards of practice. Chairperson Unser pointed out that over-regulation would be extremely difficult and quite expensive due to the costs of investigations.

Agenda Item - Public Comment

Karen McAfee spoke first during public comment. Ms. McAfee is excited about the new licensing and believes that it necessary and asked how grandfathering worked for those who have not had formal training or an exam for the state of Alaska. Mr. Gibbs clarified that there will not be a state licensing exam. Ms. McAfee voiced the need for Massage Therapists to document appointments in case there are issues that ever arise from an appointment.

Chairperson Unser reviewed the transition portion of the statutes and explained that the course of study and examination are not required for a person who applies for the license within July 1, 2015 - June 30, 2017 and can meet the requirements set out in House Bill 328, Section 10.

Elizabeth Pearch spoke during public comment. She asked if someone has transitioned into a license through grandfathering, as long as a licensee completed the required continuing education and did



not allow their license to lapse, they would have no need to meet any other licensing requirements as needed for those who apply through examination/education or credentialing. Chairperson Unser confirmed this. Ms. Pearch asked that the Board clarify what happens if a license lapses. Ms. Pearch asked if there was an estimated release date for applications. Staff stated that the applications are in the process of being created and that they will be made available as soon as possible.

Ms. Pearch stated that there were duplicate statements on the Standards of Practice and the Code of Ethics discussed earlier by the Board. Ms. Pearch said that there is a need to keep things simple and precise. She also agreed that the Standards of Practice should include at least minimal record keeping in order to assist the licensees, should this information is required in the future.

The Board went off record at 12:02 PM for lunch.

The Board went on record at 1:14 PM.

Agenda Item - Conversation with Director Janey Hovenden & Operations Manager Sara Chambers

The Board attempted to reach Director Hovenden and Operations Manager Sara Chambers at a number that was provided by their staff. There was no answer.

Agenda Item - Discussion of Apprenticeship

Per the meeting in February, the Board was generally pleased with doubling the standards of the AMTA (American Massage Therapy Association) and the NCBTMB (National Certification Board for Therapeutic Massage & Bodywork). Chairperson Unser reminded the Board that the goal was not to make an apprenticeship program difficult but rather to determine the best education from that type of training.

Chairperson Unser received an email from a member of the public that provided feedback on the apprenticeship program. The Board reviewed the contents and worked on drafting regulations to regulate the apprenticeship programs for massage therapists.

Upon a motion made by Amanda Unser and seconded by Traci Gilmour and approved unanimously, it was:

AMEND the agenda as previously approved to include public comment on March 27th, 2015 at 11:45 AM.

The Board went off record at 3:00 PM for a break.

The Board went on record at 3:16 PM.

Michelle Wall-Rood and Ed Riefle joined the meeting to introduce themselves to the Board. Ms. Wall-Rood spoke briefly about the role of investigations as well as the process of an investigation.



Agenda Item - Define *Moral Turpitude*

The Board reviewed the Medical Board's definition of *moral turpitude* as follows:

Conviction of a felony or a crime involving moral turpitude; under this paragraph, a crime involving moral turpitude includes:

- 1) *Homicide;*
- 2) *Manslaughter;*
- 3) *Assault;*
- 4) *Stalking;*
- 5) *Kidnapping;*
- 6) *Sexual assault;*
- 7) *Sexual abuse of a minor;*
- 8) *Unlawful exploitation of a minor, including possession or distribution of child pornography*
- 9) *Indecent exposure;*
- 10) *Unlawful distribution or possession for distribution of a controlled substance*

Ms. Gilmour requested to add *prostitution* and *sex trafficking* to the list of convictions.

Agenda Item - Scope of Practice

The Board discussed the creation of a scope of practice.

Upon a motion made by Amanda Unser and seconded by David Edwards-Smith and approved unanimously, it was:

APPROVED to recess until 8:30 A.M. March 28th, 2015.

The Board went off record at 4:09 P.M.

The Board went on record at 8:29 A.M.

The examiner called roll and all Board members were present.

Chairperson Unser stated that the Board had accomplished everything on the agenda and would like to spend the day refining the discussion from the 27th and that there were several motions that needed to be created for regulations.

Discussion continued regarding Scope of Practice, Code of Ethics and Standards of Practice. The Board decided to leave Scope of Practice on the table for future refinement.

The Board went off record at 10:30 A.M. for a break.

The Board went on record at 11:00 A.M.

Ms. Unser wanted to discuss change of instruction for the Apprenticeship program so that reported hours are transferrable if the Board approves a change of instructor. Chairperson Unser asked what would happen if the apprentice did not complete their course within the time allotted by the law. The Board agreed that there could be a one-time three month extension if approved by the Board.

Upon a motion made by Traci Gilmour and seconded by Ron Gibbs and approved unanimously, it was:

RESOLVED to approve the Code of Ethics and Standards of Practice motion as follows:

CODE OF ETHICS AND STANDARDS OF PRACTICE

Introduction: As an applicant for licensure, I will adhere to the Code of Ethics, Standards of Practice, Scope of Practice, all policies, procedures, guidelines, regulations, statutes and codes are required by the Alaska Board of Massage Therapists as stated.

CODE OF ETHICS

- 1) I will represent my qualifications honestly including education, certifications and professional affiliations and accurately inform clients, health care professionals and the public of the scope and limitations of my discipline. I will provide only those services I am qualified to perform.
- 2) I will provide treatment only where there is a reasonable expectation that it will be advantageous to the client and will acknowledge the limitations of and contradictions for massage therapy and refer clients to appropriate health care professionals when indicated.
- 3) I will not discriminate against clients and/or healthcare professionals.
- 4) I will abide by the Federal guidelines of the Health Insurance Privacy and Portability Act (HIPPA).
- 5) I will respect the client's right to refuse, modify or terminate treatment at will regardless of prior consent given.
- 6) I will exercise my right to refuse to treat any person or part of the body for just and reasonable cause.
- 7) I will respect the client's autonomy by providing draping and treatment in a way that ensures the safety, comfort and privacy of the client.
- 8) I will not, in any circumstance, initiate or engage in sexual conduct, activities, or sexualizing behavior involving a client, even if the client attempts to sexualize the relationship.
- 9) I will refuse any gifts or benefits that are intended to influence a referral, decision or treatment or those that are purely for personal gain and I will avoid any interest, activity or influence which may conflict with my obligation as a massage therapist to act in the best interest of my client or the profession.
- 10) I will refrain from practicing under the influence of alcohol, drugs or any illegal substances, with the exception of a prescribed dosage of prescription medication which does not impair my ability to practice safely.
- 11) I will report in accordance to AS 41.17.070 (a)(1) any suspected child abuse or neglect.

STANDARDS OF PRACTICE

- 1) Obey all applicable local, state and federal laws when pertaining to massage therapy.
- 2) Maintain a record of daily clientele including name and date of service and adequate progress notes when applicable.
- 3) Provide a setting that is safe and meets all applicable legal requirements for health, safety, sanitation, hygiene and universal precautions in accordance with local, state and federal regulatory bodies including guidelines set by the Centers for Disease Control and Prevention (CDC) and the National Institute of Health (NIH) and The Occupational Safety and Health Administration (OSHA).

- 4) Therapists shall prominently display state of Alaska massage license in his or her place of business. Therapists will make available proof of licensure while practicing off site. Therapists must display State of Alaska Massage License number on all promotional materials.
- 5) Therapists shall display or discuss a schedule of fees in advance of the session that is clearly understood by the client.

Upon a motion made by David Edwards-Smith and seconded by Ron Gibbs and approved unanimously, it was:

RESOLVED to accept the position of the current National Certification Board of Therapeutic Massage and Bodyworks contact directory of Certified Members in the state of Alaska.

Upon a motion made by Ron Gibbs and seconded by Amanda Unser and approved unanimously, it was:

APPROVED that the definition of Moral Turpitude is as follows:

Moral turpitude is the conviction of a felony or crime involving:

- 1) Homicide;
- 2) Manslaughter;
- 3) Assault;
- 4) Stalking;
- 5) Kidnapping;
- 6) Sexual assault;
- 7) Sexual abuse of a minor;
- 8) Unlawful exploitation of a minor, including possession or distribution of child pornography;
- 9) Indecent exposure;
- 10) Unlawful distribution or possession for distribution of a controlled substance;
- 11) Prostitution;
- 12) Sex trafficking;

Upon a motion made by Amanda Unser and seconded by Ron Gibbs and approved unanimously, it was:

APPROVED that the Board accept an Apprenticeship Program as follows:

Instructor qualifications:

- 1) Instructor must hold a current State of Alaska Massage Therapy license;
- 2) Instructor must be actively practicing massage therapy in the state of Alaska;
- 3) Has received 1,250 hours of massage therapy education which may be a combination of formal massage training by an accredited massage program including The American Massage Therapy Association (AMTA), Associated Bodywork and Massage Practitioners (ABMP), National Certification Board of Therapeutic Massage and Bodywork (NCBTMB) and the Commission On Massage Therapy Accreditation (COMTA) and continuing education credits by continuing education providers of which 30 hours must be courses taken in Instructor Development and/or Adult Learner Education;
- 4) Instructor must show proof of a current minimum one-million dollar insurance policy;
- 5) Instructor may only enter into an apprenticeship with one student at a time;
- 6) Instructor must hold a current state of Alaska business license.

Apprentice Qualifications

- 1) Must be 18 years of age or older;
- 2) Must have a high school diploma or a GED equivalent;
- 3) Has been fingerprinted and has provided the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check. The fingerprints and fees will be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a National Criminal history record check under AS 12.62.400;
- 4) Has not been convicted of or pled *guilty* or *no contest* to a crime involving moral turpitude or who has been convicted of or pled *guilty* or *no contest* to a crime involving moral turpitude if the Board finds that the conviction does not affect the apprentice's ability to practice competently and safely.

Program Policies

- 1) Apprenticeships are approved by the Board of Massage Therapists on a case by case basis;
- 2) Instructor and student must apply on a form provided by the Department of Commerce, Community and Economic Development;
- 3) Apprentice and instructor must disclose location where the apprenticeship will occur and will be subject to inspection by a Board appointed healthcare professional;
- 4) Program may allow for a change of instructor. Reported hours are transferrable to new course instructor and will allow for no more than 6 months hold of apprenticeship while changing instructors;
- 5) The program will consist of 1,250 hours of combined instruction and clinical work to be broken down as follows:
 - a) 300 hours of anatomy and physiology and kinesiology;
 - b) 350 hours in hands on assessment and application;
 - c) 120 hours in pathology;
 - d) 12 hours in business courses provided by the Alaska Small Business Development Center (SBDA) or other Board approved agency and completion of a written business plan;
 - e) 10 hours in ethics;
 - f) 180 hours of techniques and modalities;
 - g) 8 hours in CPR and blood borne pathogens;
 - h) 250 clinical hours of which no more than 10 consecutive hours may be performed on the same individual and the instructor must be on premise during clinical hours;
- 6) Student may not receive compensation for services performed while completing the apprenticeship program;
- 7) Instructor will provide a progress report on a form provided by the Department of Commerce, Community and Economic Development every 8 weeks which documents hours of instruction and clinical hours completed;
- 8) The program will allow for a one-time Board approved extension of apprenticeship up to 3 months;
- 9) If the apprentice fails to complete their program within the allotted time (2 years + any allowed extensions) the individual must complete qualifications for licensure as stated in HB 328, Sec 08.61.030 (a).

Agenda Item - Public Comment

Chairperson Unser opened the floor for Public Comment. Elizabeth Pearch was present to speak as a member of the public. Ms. Pearch suggested that the Board accept teacher training from other entities other than institutions approved by an accredited continuing education provider. Chairperson Unser clarified that this was not how the motion was written.



Ms. Pearch then asked if there was a minimum amount of time that someone could complete the apprenticeship program. There is not an established minimum.

Ms. Pearch asked if the student apprentice would pay the instructor. Ms. Unser replied that fees would be up to the instructor.

Ms. Pearch referenced Standards of Practice #3 mentioning HIPPA and OSHA. Ms. Pearch stated that HIPPA has nothing to do with health and hygiene and suggested that the Board strike that from the motion and instead include the CDC, Center of Disease Control.

Ms. Pearch asked if the Board would consider putting other language in the regulation to address alternative business training in addition to the business training as presented by the Alaska Small Business Development Center. She stated her point that if the Board narrows regulations too tightly, it might negate people from petitioning the Board. Examiner explained that anyone can petition the Board at any time.

Ms. Pearch asked if an apprentice could change instructors because they wanted to change instructors. Chairperson Unser stated that apprentices could change instructors because they wanted to do so.

Ms. Pearch asked if the Board knew the amount of the licensing fees. At the time of the meeting, the Board did not have the amount of the licensing fees.

Upon a motion made by Amanda Unser and seconded by Ron Gibbs and approved unanimously, it was:

AMENDED that the apprenticeship program not be completed in less than 6 months and no more than 2 years.

Upon a motion made by Ron Gibbs and seconded by Amanda Unser and approved unanimously, it was:

AMENDED that the Standards of Practice, section 3 to replace the reference to HIPPA to the CDC (Centers of Disease Control) and the National Institute of Health.

Upon a motion made by Amanda Unser and seconded by David Edwards-Smith and approved unanimously, it was:

AMENDED the apprenticeship program under program policies number 5, section D to read *12 hours in business provided by the Alaska Small Business Development Center or other Board approved agency.*

The Board postponed setting a date for the next meeting.

Upon a motion made by Amanda Unser and seconded by Ron Gibbs and approved unanimously, the Board adjourned at 1:15 PM.