

STATE OF ALASKA

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

MINUTES OF MEETING November 5-6, 2015

By the authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled teleconference meeting of the Board Massage Therapists was held on November 5th and 6th, 2015, at the Atwood Building, 550 W. 7th Avenue, Anchorage, Alaska.

Thursday, November 5, 2015

Agenda Item - Call to order and Roll Call - 8:31AM by Chairperson Amanda Unser.

Those present representing a quorum of the Board:

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

Traci Gilmour, Licensed Massage Therapist joined the meeting at 9:35 a.m.

In attendance from the State of Alaska were:

Karen Hudson, DCCED Licensing Supervisor
Randy Brown, DCCED Licensing Examiner
Sara Chambers, DCCED Division Supervisor, Telephonic
Janey Hovenden, DCCED Division Director, Telephonic
Martha Hewlett, DCCED Administrative Officer, Telephonic
Angela Birt, DCCED Chief Investigator
Ed Riefle, DCCED Senior Investigator
Sonia Lipker, DCCED Investigator
Jeremy Applegate, DOL Wage Hour Investigator

In attendance as members of the public:

Ed Toal, ROLFing Institue
Gail Boerwinkle, ROLFing Institute
Elizabeth Pearch VP Government Relations AMTA Alaska
Sally Hacking, Federation of State Massage Therapy Boards
Christine Issel, American Reflexology Board

Agenda Item - Review & Approve Agenda

Adjustments to the Agenda were made to the agenda to accommodate guests' schedules.

Upon a motion made by Amanda Unser and seconded by Ron Gibbs, with unanimous approval, It was RESOLVED to approve the Agenda following the amendments for this meeting. 8:38AM

Agenda Item - Review Minutes

Upon a motion made by Ron Gibbs and seconded by David Edwards-Smith, with unanimous approval,

It was RESOLVED to approve the minutes from September 11, 2015. 8:40AM

Agenda Item - Task List Review

Board members reviewed items from the previous meetings' task list. Examiner Randy Brown informed the Board of the progress being made on applications.

Agenda Item - Ethics Reports

Board members had no ethics issues to report.

8:48AM recess - back on record 8:59AM.

Agenda Item - Division Report

Martha Hewlett reviewed revenue and expenditures, explaining there being no revenue because of this being a new program, and responded to follow up questions of the Board.

Board member Traci Gilmour entered the meeting at 9:35AM -

Sara Chambers noted that the Division accurately estimated revenues and expenditures. It's likely that after the Board is up and running, expenses will shift. Less time will be spent on the program, but more will be spent on Investigations.

Agenda Item - Guest Presentation: Rolfing and Structural Integration

Guest presenters Gail Boerwinkle & Ed Toal discussed how ROLFing is different than Massage Therapy and advocated for the Board to leave exempt language as is in the Statutes. They noted that ROLFing has a different method, education, and outcome, and therefore, could not be properly regulated by this Board. Varying opinions were expressed by the Board, ranging from support to opposition with the ROLFers position.

10:30AM break - 10:45AM - back on record.

Agenda Item - FSMTB Meeting and Human Task Force Recap

Sally Hacking from the Federation of State Massage Therapy Boards discussed Apprenticeship and Shop licensure regulations, noting which states have regulations currently in place. She noted that regulations vary significantly from State to State.

Chairperson Amanda Unser gave a report on the annual FSMTB meeting, noting that the Federation is in good financial standing. She followed by noting discussion of human trafficking and stating that this Board can come up with a position statement on which action should be taken.

Agenda Item - Public Comment

Ed Toal continued to stress the importance of ROLFing exemption from this Board. Gail Boerwinkle noted that they were working with the Municipality of Anchorage to come up with an exemption for ROLFers. Ed also took issue with what constitutes "Moral Turpitude." He doesn't like the term "intent" to distribute and believes that the Board should consider only "distribution."

Elizabeth Pearch presented a series of questions and considerations: 1. How many trips for hearings in Juneau does the Board estimate with potential statute changes? 2. Realizes that the Board doesn't concern itself with billing, but setting billing across Boards. Concerned with anti-trust and billing insurance. 3. Many AMTA members have applied but still have not received licenses. Why? 4. Proposal for number of concurrent apprentices that one individual maybe at once? (On behalf of AMTA) It was her personal opinion that until ROLFers can become licensed, they should be licensed with Massage Therapists or apply for exemptions.

11:38AM Recess: Back on record 1:04PM.

Agenda Item - Disciplinary Thresholds and Guidelines

The Board discussed moving forward with attempting to clarify what type of “Yes” answers on applications should and should not be sent to Investigations for review. The Board received more information from Chief Investigator Birt of the role that Investigations plays in the application process. The Board discussed false advertisement and how to fine licensees. The Board discussed a June 30, 2016 date to begin enforcement a fine structure as follows:

“Secured” license through deceit and 1st advertisement fault, warning notice.
2nd, fined: Fine \$1,000-5,000, and 3rd: Suspension of License

Task: Information should be placed on the website clarifying this.

2:53PM -Break - 3:15PM return

Agenda Item - Disciplinary Thresholds and Guidelines, cont.

Board members returned to which “Yes” answer applications will be and will not be sent to the Investigations Unit. A fingerprinting discussion ensued: should it be redone every two years? There was some disagreement amongst Board members about having it redone.

4:15 - Meeting recess for the day

Friday, November 6, 2015

Agenda Item - Call to Order / Roll Call

At 8:33AM, all members were present.

Agenda Item - Adjustments to Day’s Agenda

No adjustments to the Agenda needed to be made.

Break - Back on Record 8:45 am

Agenda Item - Guest Presentation: Reflexology

Guest Christine Issel with the Reflexology Certification Board discussed the difference between reflexology and massage therapy, in support of the exception to licensing.

After follow up discussion, the Board feels that reflexology deserves clarification through statutory changes, however, there is agreement that reflexology differs from Massage Therapy, in that its main focus is not manipulation of the soft tissue.

Upon a motion made by Amanda Unser and seconded by Ron Gibbs to change language in 08.61.080 (13).

The motion was rescinded after discussion. (9:17AM)

Board members discussed that adding the term “reflexology” needs to include legal definition on reflexology.

Upon a motion made by David Edwards-Smith and seconded by Shirley Nelson, with unanimous approval,

It was RESOLVED that the board will work toward a change to statutory language 08.61.080 (13) to include the following: “Person practicing reflexology to manipulate soft tissues of hands, feet, or ears and not holding out to be a massage therapist. Reflexology practitioner maintains current certification with a national reflexology certification board.” (9:26AM)

Immediately following this motion, Board members began a discussion of whether or not the Board has the authority to require ROLFers or Reflexologists to apply for exemptions to licensure.

Upon a motion made by Traci Gilmour and seconded by Amanda Unser, it was RESOLVED to table discussion on application for exemptions. The motion passed. 9:39AM

The following were in favor: **Traci Gilmour, Amanda Unser, and David Edwards-Smith.**
The following were not in favor: **Ron Gibbs.**
The following abstained from voting: **Shirley Nelson**

Further discussion ensued regarding exemptions/exceptions and whether or not ROLFing or Reflexology is a brand/type of massage therapy.

Upon a motion made by Amanda Unser and seconded by Traci Gilmour, with unanimous approval, it was RESOLVED to table this discussion until more research is complete. 9:56AM

Recess until 10:15.

Upon a motion made by Traci Gilmour and seconded by Amanda Unser (10:26AM) with unanimous approval, it was:

RESOLVED to enter into executive session in accordance with AS 44.62.610(c) and Alaska Constitutional Right to Privacy Provisions, for the purpose of reviewing application applications. Staff members are to remain present.

Return from executive session: 11:09AM

Agenda Item - Application Review:

Upon a motion made by Amanda Unser and seconded by David Edwards-Smith, with unanimous approval, it was

RESOLVED to approve the following applications pending receipt of clear background check (11:11AM):

Sandra Griffin, Amy Lortie, Zhao Ling Sui, Mary Greby, Gabriela Aldebot, Li Wang, Joy Louise Van Dyke, Megan Cha, Jacqueline Hand, Cheyenna Schafer, Xiu You, Mariah Verdugo, Sara Dixon, Krystal Norberg, Karley Stubbe, Janel Vculek, Barbara Mitchell, Dolores Tuck

Upon a motion made by Amanda Unser and seconded by Traci Gilmour, with unanimous approval, it was

RESOLVED to approve the following applications pending receipt of clear background check and payment of fee (11:12AM):

Heather Bauchmann, Holly Irwin

Upon a motion made by Amanda Unser and seconded by Traci Gilmour, with unanimous approval, it was:

RESOLVED to approve the following applications (11:12AM):

Whitney Gomez, Lyn Plomaritis, Karen McAfee, Brendan VanValkenburgh, Elizabeth Lawton, Cherri Bell

Upon a motion made by Shirley Nelson and seconded by Traci Gilmour, with unanimous approval, it was:

RESOLVED to approve the following applications pending receipt of clear background check (11:13AM):

Ann Vandernaald, Lingbin Zhu, Frank Rodgers, Onthana Rodgers, Xiuli Li, Jane Gnass, Melissa McGillis, Alexis Althens, Alison Heavirland, Kimberly Glasow, Jasmine Nickell, Meda Warrior, Jessica Campbell, Debra Dailey, Stephanie Ehlenfeldt, Sandra Galbraith, Deborah Graham, Natasha Harris, Hannah Jones, Tammy Le, Sharon Luedtke, Adam Schiesl, Peggy Webb, Melina Shields, Deborah Even, Teresa Lawvor-Miller, Lauri Bourdo-Winter, Joanne Gates, Michael Meyer, Victoria Acree, Nun Newton, Judith Bott, Leslie Campbell, Kelsey Enochs, Charlie Swanson, Paul Van Alstine, Lukas Tucker, Brandee Beers

Upon a motion made by Shirley Nelson and seconded by Traci Gilmour, with unanimous approval, it was:

RESOLVED to approve the following applications pending receipt of clear background check and payment of fee (11:14AM):

Christin Martin, Rodelmiro Valdez, Loretta Swanson, Laresa Syverson, Mandi Conkey, Sarah McConahay, Bonnie Paddock, Peggy Sweet

Upon a motion by Traci Gilmour and seconded by David Edwards-Smith, with unanimous approval, it was:

RESOLVED to direct CBPL to request Thanya Bradley to provide more information for his/her application (11:16AM).

Agenda Item - Discussion on Apprenticeship Program

Board members discussed the status of the apprenticeship program regulations, and noted that changes still needed to be made to the current draft regulations.

Upon a motion made by Traci Gilmour and seconded by Amanda Unser to adopt and send the May 20, 2015 proposed apprenticeship program regulations forward for review
The Board entered into further discussion and the motion died.

12:03PM Lunch Break; Back on Record at 1:05 pm

Agenda Item - Shop Licensing and Human Trafficking Discussion

Board member Traci Gilmour gave feedback from one legislative staff member she had spoken with, noting that they felt it unlikely to get shop licenses through the legislature during the upcoming session. Board members discussed how other jurisdictions have been tackling human trafficking through establishment (or shop) licenses.

Department of Labor attendee Jeremy Applegate provided input that the Board needs to craft "teeth" for investigations. Some skepticism was expressed about the efficacy of shop licenses, though it was noted that the FSMTB feels that this has been useful. Wording used the by city of Boise, Idaho was reviewed as guidance. As there is no provision in the current statutes for shop licensure, board members discussed a change to statutes before shop licensing can occur.

Board members determined further research and is needed and Amanda Unser and Shirley Nelson will form a Massage Establishment Subcommittee to study the issue and report back to the board.

Upon a motion made by Amanda Unser and seconded by Ron Gibbs, with unanimous approval, it was:

RESOLVED to table discussion pending result from subcommittee (2:25PM).

Upon a motion made by Amanda Unser and seconded by Ron Gibbs, with unanimous approval, it was:

RESOLVED to create a subcommittee with Shirley Nelson to work on shop or establishment licenses (2:26PM).

2:27PM - Break; Back on Record 2:44PM.

Agenda Item - Disciplinary Thresholds and Guidelines-

Board members created a list of minor convictions that they do not want to have forwarded to investigations as long as the convictions are disclosed on an the applications, in order to streamline application processing.

Upon a motion made by Amanda Unser and seconded by David Edwards-Smith, with unanimous approval, it was:

RESOLVED that the Board of Massage Therapists has determined at its November 5-6, 2015 meeting that the disclosure of one or more of the following convictions on an application or in a criminal background check will not result in a referral to investigations unless the division in its discretion reasonably believes that an attempt to secure a license through fraud, deceit or misrepresentation has occurred, or investigation is necessary:

- Minor traffic violations including, but not limited to: reckless driving, driving without license or suspended license, speeding tickets, other minor moving violations, driving without insurance, jaywalking.
- Fish and Game violations
- Animal offenses, excluding animal cruelty or abuse (convictions older than 10 years)
- Petty Crimes/Misdemeanors (convictions older than 5 years), including but not limited to:
 - Shoplifting
 - Bounced checks
 - Minor theft
 - Littering
- Burglary (conviction older than 10 years)
- Underage drinking
- Possession or Use of Marijuana (single offense)
- Driving Under the Influence or Driving While Intoxicated - no more than 2 in a 10-year period
- Disorderly conduct
- Public inebriation (no more than a single offense)
- Harassment (conviction more than 5 years from date of application)
- Assault (conviction more than 5 years from date of application)

2:54PM:

Break at 3PM - Back on at 3:04PM

Agenda Item - Administrative Business:

Schedule of Meetings:

December: no meeting

January 14 meeting: 8:30-10:30AM Alaska Time Teleconference

February 22 and 23 - Board meeting Juneau -

June - 2 & 3 - Kenai or Soldotna -

September - 15 & 16 - Fairbanks

December - 1 & 2 - Anchorage -

Agenda Item - General Correspondence

Upon a motion made by David Edwards-Smith and seconded by Amanda Unser, with unanimous approval, it was:

RESOLVED that in the event, that a fingerprint card received from an applicant has two instances of being unreadable, that this board is willing to accept name based results. 3:28PM

Board members reviewed correspondence from a member of the public who wrote a thoughtful email regarding his/her concerns with the Apprenticeship program. The Board noted they were in agreement with that person, and asked for CBPL to follow up and thank them for contacting us.

3:46PM on break - back on record at 3:58PM.

Agenda Item - Discussion/Motion Work on Apprenticeship Program

Upon a motion made by Amanda Unser and seconded by Ron Gibbs, with unanimous approval, it was:

RESOLVED to amend the language of 12 AAC 79.220 (a)(5)(A) to read as follows: continuing education credits with at least 30 hours completed in instructor development and/or adult learner education as described in 12 AAC 79.210(d) and 12 AAC 79.210(e). (4:14PM)

Upon a motion made by Amanda Unser and seconded by Traci Gilmour, with unanimous approval, it was:

RESOLVED to amend the language of 12 AAC 79.220(a)(5)(b) to read as follows: formal massage training by one of the following accredited massage programs: National Certification Board of Therapeutic Massage and Bodywork (NCBTMB) and Commission on Massage Therapy Accreditation (COMTA). (4:15 PM)

Upon a motion made by Amanda Unser and seconded by Traci Gilmour, with unanimous approval, it was:

RESOLVED to amend the language in 12AAC 79.220(a)(9)(d) to remove the following language: “the apprentice’s fingerprint information as described in 12 AAC 79.120.” (4:16PM)

Upon a motion made by Amanda Unser and seconded by David Edwards-Smith, with unanimous approval, it was:

RESOLVED to amend the language in 12AAC 79.220(b) to read: In order to be approved by the Board, under AS 08.61.030, the Apprenticeship program must provide 1,230 hours of combined instruction and clinical work to the apprentice as follows. ... (4:17PM)

Upon a motion made by David Edwards-Smith and seconded by Ron Gibbs, with unanimous approval, it was:

RESOLVED to amend the language in 12AAC 79.220(b)(7) to read - 8 hrs in universal and standard precautions. (4:17PM)

Upon a motion made by Shirley Nelson and seconded by Ron Gibbs, with unanimous approval, it was:

RESOLVED to amend the language in 12AAC 79.220(b)(8) to include and read: 250 clinical hours of which no more than ten (10) consecutive hours may be performed on the same individual and during which the instructor must be on the premise, and advise patient that apprentice is practicing (4:19PM)

Upon a motion made by Amanda Unser and seconded by Traci Gilmour, with unanimous approval, it was:

RESOLVED to amend the language in 12AAC 79.220(i) to read: The apprentice program instructor shall maintain records of daily activities, including hours of instruction and clinical hours completed, which will be made available on request (4:21PM)

The Board requests that the regulations be sent to the Regulations Specialist for review.

Agenda Item - Task list for December

- Massage Establishment Subcommittee, Amanda Unser and Shirley Nelson - will meet and come up with draft language for shop licenses.
- DIVISION will provide access to secure website - applications to be provided and reviewed weekly. Note, this will take at least a week or two upon return from board meeting.

Upon a motion made by Traci Gilmour and seconded by Ron Gibbs, with unanimous approval, it was:

RESOLVED to adjourn this meeting (4:25PM).

Respectfully submitted:

Randy Brown, Licensing Examiner

Date

Amanda Unser, Chairperson

Date

DRAFT