

1 State of Alaska
2 Department of Commerce, Community and Economic Development
3 Division of Corporations, Business and Professional Licensing
4

5 BOARD OF MASSAGE THERAPISTS
6

7 MINUTES OF THE MEETING

8 June 10-11, 2019
9

10 *Written meeting minutes reflects a brief overview of the business conducted by the board during their meeting. For*
11 *a more detailed account, please request a copy of the meeting's audio recording at:*
12 *<https://www.commerce.alaska.gov/web/cbpl/PublicRecordsRequests.aspx>.*
13
14

15 By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a
16 scheduled meeting of the Board of Massage Therapists was held by video conference on
17 June 10-11, 2019.
18

19 **Agenda Item 1** **Call to Order/Roll Call:**
20

21 *On the record at 9:07 a.m.*
22

23 Board Members present, constituting a quorum:
24

25 David Edwards-Smith- Board Chair, Licensed Massage Therapist
26 Traci Gilmour, Licensed Massage Therapist
27 Ron Gibbs, Licenses Massage Therapist
28 Jill Motz, Licensed Massage Therapist
29 Julie Endle, Public Board Member
30

31 Division Staff present:
32

33 Dawn Dulebohn, Occupational Licensing Examiner
34 Carl Jacobs, Investigator III
35 Amber Whaley, Senior Investigator III
36 Billy Homestead, Investigator II/Probation Monitor
37 Melissa Dumas, Administrative Officer II
38 Sher Zinn, Regulations Specialist II
39 Sara Chambers, Director, Corporations, Business, and Professional Licensing
40

41 Joining Telephonically:
42

43 Lorena Haynes, Director of Government Relations,
44 Federation of State Massage Therapy Boards
45 Jolene Goeden, Special Agent, Federal Bureau of Investigations
46
47
48

49 **Agenda Item 2** **Ethics Reporting:**

50

51 The Board Chair opened the floor to any Board member that may have an ethics violation or
52 inquiry. None were presented.

53

54 **Agenda Item 3** **Review/Approve Agenda:**

55

56 The board reviewed the agenda and discussed any proposed changes.

57

58 **In a motion duly made by Traci Gilmour, seconded by Jill Motz, and passed unanimously, it**
59 **was RESOLVED to ACCEPT the agenda as amended.**

60

61 **Agenda Item 4** **Review/Approve Past Meeting Minutes**

62

63 Chair Edwards-Smith complimented that the 43 pages of minutes were very comprehensive, well
64 reflective, and gave very good historical reference. Public Board Member Julie Endle asks that the
65 February 28-March 1, 2019 minutes be amended for context. Ms. Endle would like line 960
66 amended to read “newly appointed public member Ms. Endle”. This change was approved by the
67 board chair and OLE Dulebohn was instructed to make the correction.

68

69 **In a motion duly made by Julie Endle, seconded by Jill Motz, and passed unanimously, it**
70 **was RESOLVED to APPROVE the meeting minutes from February 28-March 1, 2019 as**
71 **amended.**

72

73 **In a motion duly made by Ron Gibbs, seconded by Traci Gilmour, and passed**
74 **unanimously, it was RESOLVED to APPROVE the meeting minutes from April 9, 2019 as**
75 **written.**

76

77 **Agenda Item 5** **Old Business**

78

79 Investigative Tasks #5-7 from February 28- March 1, 2019 meeting:

80

81 The board reviewed the Investigative Tasks from the February 28- March 1, 2019 meeting.

82

83 Disciplinary Matrix Revision

84

85 Chair Edwards-Smith leads the discussion on the feedback received from Investigations and
86 Department of Law regarding the board’s proposed disciplinary matrix. The Chair addresses several
87 points:

88

- 89 • Unlicensed Practice- Investigations suggested that the board lower their proposed fine as to
90 barr compliance with licensure. As the board’s goal was to have a deterrent for Unlicensed
91 Practice (ULP), the Chair suggests an option of reducing or lowering the fine for ULP if and
92 when the offender becomes licensed. Board Member Jill Motz references a case where she
93 was a Reviewing Board Member (RBM) where the offender knew they needed a license but
94 practiced without one for two years anyway. This individual made a lot of money during this
95 time. Ms. Motz does not believe that suspending a ULP fine will teach offenders to not
operate without a license. Ms. Motz believes the amount of the ULP fine needs to be a

96 deterrent because the cost of investigating these offenders is significant and comes from the
97 licensees licensing fees. She goes on to say that she feels that having the fine be more than
98 the cost of licensure is reasonable.
99

100 Board Member Traci Gilmour weighs in on Ms. Motz's argument. Ms. Gilmour absolutely
101 agrees that the fine for ULP should be more than the cost of licensure. She thinks that, in
102 the big picture, the cost of licensure is \$550 and thinks, depending on the amount you
103 charge per hour and the hours you work, is a week's worth of work. Ms. Gilmour reviews
104 the proposed fines and believes they will be a great deterrent.
105

106 Board Member Ron Gibbs states that it should not be profitable to be unlicensed and
107 practice massage in Alaska.
108

109 Chair Edwards- Smith summarizes the conversation by stating that having a deterrent for
110 ULP is important to the board and massage therapists do have an opportunity to make quite
111 a bit of money in a little bit of time.
112

113 *Investigators Amber Whaley and Carl Jacobs joined the meeting telephonically at 9:19 a.m.*
114

- 115 • Code of Ethics Violation- Chair Edwards-Smith begins the conversation by directing the
116 board to 12 AAC 79.900 Code of Ethics 1, 2, 7, 8, 10 and reminding the board this could
117 include harm to a client. A therapist could harm a client by misrepresenting their
118 qualifications or improper draping. He suggests adding a Fitness to Practice (FTP) interview
119 to the Disciplinary Actions options. Ms. Gilmour joins the discussion by adding her
120 assenting opinion. Ms. Motz agrees that adding the FTP interview is a good idea. Mr.
121 Gibbs reaffirms that the FTP interview would only come after a full Investigations review.
- 122 • Fraud in Obtaining/Retaining a License- Chair Edwards- Smith directs the board to a
123 comment made by Chief Investigator Greg Francois that AS 08.61.060 has a "hearing"
124 qualifier. The board would like feedback from LAW on what qualifies as a hearing for the
125 board to be able to impose a sanction. Is it a board review or an Administrative Law
126 hearing? Investigator Jacobs also points out that this statute also states that the recipient of
127 disciplinary action must be someone "licensed".
128

129 OLE Dulebohn states for the record that her assertion is that the board's meeting on a subject is
130 considered a hearing since the board has the final say on all matters licensing according to AS
131 08.61.020(7). Mr. Gibbs states that the historical precedent with initial applications is review the
132 information and then, if disciplinary action is needed, to ask that the applicant sign a consent
133 agreement as a condition of licensure. The license is then granted and the consent agreement is
134 enforced once the applicant becomes a licensee. Chair Edwards-Smith references the feedback from
135 LAW and Investigations that the board should not be using AS 11.56.210 for enforcing discipline
136 for falsification of application so since the board would like to continue to enforce discipline for that
137 infractions, they would need to do so under AS 08.61.060. Ms. Gilmour states that any disciplinary
138 action the board has ever imposed from falsifying an application to ULPs depends on the person
139 being granted licensure. If they withdraw their application, then the board has no authority to
140 punish a member of the public.
141

142 Since there seems to be differing opinions on whether the board can use AS 11.56.210 as a statutory
143 reference to discipline licensees who falsify their application, the board asks that OLE Dulebohn
144 send Director Sara Chambers an invitation to join them to discuss this matter.
145

- 146 • False or Misleading Advertisement- Chair Edwards-Smith asks the board to review AS
147 08.61.060. He points out that any violation of False or Misleading Advertisement could be
148 enforced under this statute and 12 AAC 79.900. He muses whether the person violating this
149 article would get two different fines. Mr. Gibbs argues that the statute gives the board the
150 authority but the regulation just outlines the circumstance. The Chair speaks to Investigators
151 Jacobs and Whaley for guidance and Investigator Jacobs replies that, while it is possible for a
152 person to violate multiple statutes and regulations, the board will use this disciplinary matrix
153 as a guide for consistency and they will be able to determine which disciplinary actions are used.
- 154 • Fraud in Obtaining and Retaining a License- Chair Edwards-Smith notes that Investigations
155 wanted clarity in why the board separated these infractions and whether they could be
156 combined. OLE Dulebohn volunteer's historical knowledge that the board wanted these
157 separate because "obtaining" meant initial application and "retaining" meant renewal of
158 license. The board discusses combining the two into one category of "Fraud in Securing a
159 License" since they have the same details and AS 08.61.060 says "secured". Investigator
160 Jacobs asks the board if they plan on modifying the disciplinary action for this category. The
161 notes from Investigations and LAW remind the board that they do not have statutory
162 authority to require an applicant to wait 4 years until reapplication and case president shows
163 the board does not Deny or Revoke licensure for this infraction. Ms. Gilmour suggests
164 replacing the current language with a consent agreement and fine range. Chair Edwards-
165 Smith asks Investigator Jacobs about revocation in the event that the board finds out after a
166 license has been issued that someone lied or provided false documents in order to obtain a
167 license and Mr. Jacobs replies that with the removal of 11.56.210, Fraud in Securing a
168 License would be the board's reference for an applicant failing to disclose information on
169 their application. Should the board find someone obtained a license fraudulently by
170 submitting untrue documents, the board should open an inquiry with Investigations where
171 revocation is a possibility. Mr. Jacobs goes on to state that, based on Law and Investigations
172 feedback to not use 11.56.210, this reference on the Matrix would be used for people who
173 committed fraud in obtaining a license and were not caught initially and the most applicable
174 for people who falsified their applications.
175

176 *Director Sara Chambers joined the meeting at 9:49 a.m.*
177

- 178 • AS.11.56.210- Ms. Chambers addresses the board concerning the Unsworn Falsification
179 statute AS 11.56.210 that is on all of the Corporations, Business, and Professional Licensing
180 (CBPL) applications and which the board would like to use in disciplining applicants who
181 falsify their applications. Chair Edwards-Smith states that both Investigations and Law are
182 discouraging the board from using this statute since it is not specifically one from the Board
183 of Massage Therapy. Ms. Chambers reviews the material and states that she can see the
184 points made from the Investigations team. If the board wanted to use this statute, it would
185 not be with the usual process. It would be a criminal process that would be outside of
186 CBPL civil investigative process and could potentially be very expensive to the board. Ms.
187 Chambers goes on to state that it's not that this statute isn't applicable but that any situation
188 that would use it would need to go to Law to prosecute outside the board. Investigator

189 Jacobs concurs with Director Chambers assessment and expands that criminal prosecutions
190 have a different burden of proof, significant investigatory, and legal costs.

191
192 Board Member Jill Motz asks if the board is duplicating their work trying to use AS
193 11.56.210 when they have AS 08.61.060 for Fraud in Obtaining a License. She asks if the
194 board couldn't simply use that statute to discipline persons who lie on their application as to
195 stay within the board's purview. Chair Edwards-Smith agrees with Ms. Motz and suggests
196 that the board remove AS 11.56.210 and only utilize AS 08.61.060 as reference in Fraud in
197 Obtaining a License for persons who falsify their application. Investigatory Whaley
198 addresses the board to say that she believes the board should stay within Title 8 in general
199 but that things can be referred to Law and Title 11 when the need arises.

200
201 OLE Dulebohn asks to address Director Chambers on the definition of "hearing" in the
202 opening sentence of AS 08.61.060. Ms. Chambers asks the investigators how this has
203 historically been interpreted and Investigator Jacobs replied that he was the one who
204 brought this to the board's attention and recommended a Department of Law ruling. He
205 goes on to say that Investigations has historically interpreted this statute as the board being
206 the one's having the hearing for items such as failing to disclose or other application matters
207 but really that part of statute hasn't been addressed. Mr. Jacobs goes on to explain that this
208 and the part of statute stating that "impose a disciplinary sanction under AS 08.01.075 on a
209 person licensed under this chapter..." should have a Department of Law review for
210 interpretation as it hasn't been addressed from the Investigations side. Ms. Chambers agrees
211 that Law should weigh in on this topic. She gives some background on the introduction of
212 the Administrative Law system regarding boards and gives examples of language that is
213 sometimes cannibalized from other, older boards when writing the statutes for new boards
214 maybe aren't as applicable as they should be. She asks that when the board gets the reply
215 from Law on this matter that they include her on the reply as she feels that this is not an
216 issue unique to the massage board. Ms. Chambers leaves the meeting thanking the board for
217 being thoughtful, caring, and all of their great work.

218
219 *Sara Chambers left the meeting at 10:00 a.m.*

220 *Lorena Haynes from FSMTB joined the meeting telephonically at 10:00 a.m.*

221
222 **TASK: Consult LAW on whether "hearing" in AS 08.61.060 means the board**
223 **reviewing the file and "licensee" pertains to the fact that the board doesn't**
224 **implement disciplinary action via consent agreement until after the license**
225 **has been issued.**

226
227 • Fraud in Securing a License (formerly Fraud in Obtaining/Retaining a License)- the board
228 continues to discuss the details of this item. Board Member Julie Endle reiterates the
229 board's feeling that the penalty for this infraction include a stiff fine as to deter applicants
230 from falsely completing their applications which leads to time and money lost to the board
231 on reviews, investigations, and potential legal fees.

232
233 *While waiting for Division's representative, the board asks for a short break. Chair Edwards-Smith calls for a 5*
234 *minutes break at 10:03 a.m.*

235 *Back on the record at 10:08 with Melissa Dumas, Administrative Officer II.*

271 Agenda Item 7 Investigative Case Review and Probation Reports

272

273 Investigator Homestead begins with the Probation Report. He states there are 9 licensees on
274 probation and everyone is complying. Compliance means that all are subjected to a criminal
275 background report and self-reporting on their status quarterly. There is a notation on Arturo
276 Ramirez file that he will be presented with a License Surrender option since his license has been
277 lapsed since 9/30/2017. Investigator Homestead will update the board on the outcome Mr.
278 Ramirez's decision on the License Surrender.

279

280 Investigator Jacobs begins the Investigative Case Review with the permission of the Board Chair for
281 the period of February 22 – May 24, 2019. He states that the division opened 9 matters, closed 11,
282 and there are 16 matters that remain open. Mr. Jacobs states that are some resolutions to present
283 the board with at their next meeting. Matters opened by the Paralegal in Juneau, regarding
284 continuing education audits and license actions resulting from those matters were not covered in this
285 report.

286

287 There are three matters for the board to review today: one unlicensed practice, one conduct, and
288 one license surrender. Investigator Jacobs informs the board that he is there to answer any
289 questions the board may have and asks if the board would like to go into Executive Session to
290 discuss any case details.

291

292 Board member Ron Gibbs asks if the board is made aware of the conclusion of the 11 closed cases.
293 Investigator Jacobs replies the details listed are the violation type and the entire board would have
294 seen any of the cases that resulted in an action except for the Advisement Letters since those have
295 been determined by the Reviewing Board Member (RBM) in the last few months. Mr. Gibbs
296 clarifies that any Closure that results in a License Action was seen by the entire board.

297

298 Board Chair Edwards- Smith asks if all board members have reviewed the cases brought before
299 them they all replied that they had. Mr. Edwards-Smith goes on to ask if anyone feels the need to go
300 into Executive Session to discuss this case and they all replied that they did not. The Chair asks for
301 a motion on this case.

302

303 **In a motion duly made by Traci Gilmour, seconded by Jill Motz, and passed unanimously**
304 **with a roll call vote, it was RESOLVED to ACCEPT the Consent Agreement as written for**
305 **Jalisa Jarrett #2018-001276 with an amendment to extend the payment deadline from 120 to**
306 **180 days at the request of Ms. Jarrett.**

307

308 OLE Dulebohn asks Investigator Jacobs if the amendment of the consent agreement to extend the
309 payment deadline to 180 days would alter the consent agreement significantly enough that the Board
310 Chair should wait to sign a new draft. Investigator Jacobs replied that, although he would consult
311 Senior Investigator Lipker and Chief Investigator Francois, Investigation was mainly looking for the
312 board's consent to accept payments outside of the drafted range and he will determine the best
313 course of action. Mr. Jacobs affirms that the Board Chair should sign the Order and that
314 Investigations will work out the details with the Respondent.

315

316 **In a motion duly made by Traci Gilmour, seconded by Jill Motz, and passed unanimously**
317 **with a roll call vote, it was RESOLVED to ACCEPT the License Surrender as written for**
318 **Skyler Shary #2018-001048.**

319
320 **In a motion duly made by Jill Motz, seconded by Ron Gibbs, and passed unanimously with**
321 **a roll call vote, it was RESOLVED to ACCEPT the Consent Agreement as written for Ying**
322 **Zhao aka Jessica Toth #2018-000882.**
323

324 Before Investigator Jacobs leaves the meeting, he reiterates Investigations request to see the board's
325 updated Disciplinary Matrix prior to its implementation by the board.
326

327 Board Member Traci Gilmour asks to address Investigator Jacobs on an issue she was made aware
328 of and whether she, as a board member, could file a complaint. Investigator Jacobs replied that she
329 could make a complaint that would trigger a review to see if a violation has occurred. He goes on to
330 say that, while it is preferred that the person reporting has 1st hand knowledge of a complaint, it is
331 not required. Ms. Gilmour goes on to state that she has been made privy to the knowledge that a
332 therapist has offended multiple times but no one will report it to Investigations and she doesn't
333 know what to do with that information. Mr. Jacobs states that he wouldn't never like to discourage
334 a board member or member of the public from complaining, but it would be better for the case if
335 the complainant has 1st hand knowledge of the potential violation. Ms. Gilmour states that she will
336 follow up with Investigator Jacobs on this topic after the meeting.
337

338 OLE Dulebohn asks the Chair if, before Investigator Jacobs leaves the meeting, he would like to
339 address board members upholding the Disciplinary Matrix when they are Reviewing Board Members
340 (RBM)? Ms. Motz chimes in that she had received conflicting information when performing her
341 duties as a RBM. In the end, she took the advice from Investigations that, although the board had
342 already made their wishes known in the February 28-March 1, 2019 meeting concerning Letters of
343 Advisement, she should go against the board's decision and continue to recommend that Letters of
344 Advisement be issued and not send the file to the whole board for review. Ms. Motz urges the
345 board to adopt the amended Disciplinary Matrix during this meeting since the only changes that
346 were made were at the request of Investigations and/or Department of Law. Investigator Jacobs
347 states that while it would be ideal for Investigations to review the amended product and make final
348 recommendations, it is ultimately the board's decision. Ms. Motz worries that if the board waits for
349 both Investigation and Law to weigh in on the final version of the Matrix, the board will be going a
350 while other quarter without having a applicable Matrix implemented.
351

352 Chair Edwards-Smith asks Investigator Jacobs opinion on the board using the "working document"
353 until the final notes by Investigations and Law can be reviewed by the board in the September
354 meeting since the only changes the board is proposing to make are all recommendations by Law and
355 Investigations. Mr. Jacobs replies that without having a bigger picture of the changes the board
356 wants to make, he can't weigh in on that request. Mr. Edwards-Smith asks OLE Dulebohn to read
357 the changes the board had discussed from her notes earlier in the day.

358 Some proposed changes would be:
359

- 360 • Combine "Fraud in Obtaining a License" and "Fraud in Retaining a License" to one
361 category and renaming it "Fraud in Securing a License".
- 362 • The disciplinary action in the new "Fraud in Securing a License" will be changed to Consent
363 Agreement and Fine at Board Discretion up to \$2,500.
- 364 • Deleting AS 11.56.210- "Falsification of Application"- the board will address any applicants
365 falsifying their application under the newly created "Fraud in Securing a License."

- All Crimes of Moral Turpitude will be combined into one category. AS 08.61.040 will be added to the Statute/Regulation Reference.

Investigator Jacobs addresses the board to remind them that, if the board proposes removing AS 11.56.210 then AS 08.61.060 will be the category that board will now be handling falsification of application. As of this moment, the board is still implementing Non-Disciplinary Letter of Advisement (NDLA) and not fines or consent agreements. Board Member Julie Endle asks how RBM decide on a fine amount when the Matrix states “at board discretion”? Board Member Traci Gilmour responds that how the amount is determined is by previous case reviews and case precedent provided by Investigations to help them determine disciplinary action. OLE Dulebohn interjects that there has been some deviation from the February meeting when it comes to one RBM deciding for the entire board whether or not disciplinary action should be taken in regard to applicants falsifying their application. Chair Edwards-Smith asks the board if they would like to revisit the conversation of all disciplinary matters going before the entire board before a decision is made. Ms. Motz interjects that this Matrix mostly removed Letters of Advisements as an option. She thinks that the board is dealing with a very short-term problem and sending these to the entire board would just increase the time it takes to decide. Chair Edwards-Smith advises the board that, until the Matrix is adopted, any decision on discipline (including NDLA) should go before the entire board. Ms. Gilmour joins the conversation by stating that she feels the board should trust the RBM judgement. OLE Dulebohn reminds the board that they were very upset in previous meetings when a NDLA went out on the recommendation of one board member and when the entire board later reviewed a particular application and wanted to implement a Civil Fine for a quite extensive omission of criminal history, they couldn’t because the applicant had already been notified by Investigations that the case had been closed and no action would be taken. She goes on to inform the board that, up until a few months ago, her experience with the board since October 2017 showed no NDLA were going out on the recommendation of one board member. RBM would recommend a course of action to the entire board who would then decide on disciplinary matters as a whole. OLE Dulebohn asks that the board please make a determination on this so that she could post the Matrix on the website so that the public is fully aware what will incur a disciplinary action as both an education and a deterrent to people deceitfully filling out or omitting information on their applications, which would reduce Investigative time and cost. Ms. Motz reiterates that she believes NDLA to be a short-term problem and Chair Edwards-Smith states that he hears that the board wants to continue NDLA as they are applicable.

Investigator Jacobs chimes in to inform the board that no other board sends all disciplinary matters to the entire board. He goes on to say that, regarding the NDLA issue, the board may do what it likes but based on the removal of AS 11.56.210 the board may wish to add NDLA to AS 08.61.060 unless it recognizes that every infraction where someone fails to disclose any relevant criminal history, no matter the duration, amount of time, or offense, will require consent agreements to be entered into each and every time, which is out of precedent with what other boards are doing and may not be a good use of board resources. He also goes on to state that the fine amounts may not be clear to new board members when some have a range and some have an “up to” so that future board may recognize the flexibility in issuing those fines. OLE Dulebohn suggests that since the board is getting rid of the “Falsification of Application” category because of the statute attached to it, the board may want to utilize the disciplinary actions from that category to the new “Fraud in Securing a License”. She goes on to state that this would give a 1st Offense with a Civil Fine of \$250 and 2 or more Offenses with a Consent Agreement with Fine of \$250 per offense. OLE Dulebohn

413 continues that this would address some major issues with this category: lower the fine, make it a
414 Civil Fine so it doesn't need a Consent Agreement, and educates the applicant/licensee base. Ms.
415 Motz questions the structure suggested by OLE Dulebohn because it doesn't account for more
416 serious fraud such as falsifying documents which would need a more serious action. Ms. Motz
417 continues the discussion with Chair Edwards-Smith that the falsification of application would be
418 good for a \$250 civil fine but the board needs to leave themselves a place to address the more
419 serious issues. OLE Dulebohn reminds the board that the Examiners do not take diplomas,
420 transcripts, or exam scores directly from the applicant so they do not have an opportunity to
421 alter/falsify and submit them. OLE Dulebohn gives the board some inside information on how
422 Division checks to ensure that certain documents are coming from the appropriate
423 agency/institution.

424
425 Chair Edwards-Smith states that he feels the board has enough information to make a motion on
426 the Disciplinary Matrix later in the meeting. Board member Ron Gibbs asks OLE Dulebohn to e-
427 mail him a copy of the draft Disciplinary Matrix. OLE Dulebohn e-mailed the draft Disciplinary
428 Matrix to all board members at that time.

429
430 Investigator Jacobs adds one last thing to the discussion: last year the board sought out the ability to
431 use Civil Fines in place of consent agreements. He reminds the board that Civil Fines can be used
432 for simple application matters like failing to disclose criminal history that would simplify the process
433 and make it unnecessary for consent agreements to be used. Investigator Jacobs feels that given the
434 many uses for AS 08.61.060 the board may want to leave themselves open for a wide variety of
435 license actions based on case precedent.

436
437 *Carl Jacobs left the meeting.*

438
439 Role of Record Keeping- Board Member Traci Gilmour presents a situation to the board regarding
440 therapists roll in record keeping and chart notes. Ms. Gilmour wants to make it very clear that chart
441 notes need to stay in the studio/business. It would be a HIPAA violation to take them home. She
442 wants to ensure that therapists are not getting fined for misunderstanding Standards of Practice
443 (SOP). Ms. Gilmour wants to ensure that, as new people are hired in by the State, they understand
444 the nuances of the massage industry and she referenced when the board had to education OLE
445 Dulebohn when she first started with the board about SOP. Both Ms. Gilmour and Mr. Edwards-
446 Smith thought that adding a FAQ may be a good idea.

447
448 **TASK: Traci Gilmour will write an FAQ regarding charting/recording keeping/SOP**
449 **#2 and submit it to OLE Dulebohn to add to the board's website.**

450
451 *Regulations Specialist Zinn joins the meeting at 11:00 a.m.*

452 *Chair Edwards-Smith calls for a brief break at 11:04 a.m.*

453 *Back on the record at 11:08 a.m.*

454
455 **Agenda Item 9 Regulations**

456
457 **Continuing Education- Ethics Requirements- 12 AAC 79.210**

458
459 Board Member Ron Gibbs starts the conversation stating he believes an ethics requirement is
460 important. He initially thought that a requirement every 2 or 3 renewal cycles would be a good idea

461 until OLE Dulebohn informed him how hard it would be to track everyone’s renewal cycles since
462 they are all licensed at different times. Chair Edwards-Smith suggested having a specified renewal
463 year when ethics would be required. OLE Dulebohn suggests a minimal amount of the continuing
464 education requirement for every renewal be ethics with the specific course being left up to the
465 licensee. Mr. Gibbs wonders if any other program requires ethics as part of their continuing
466 education to which Regulations Specialist Zinn replies that there are other programs that require
467 ethics, they are required every renewal period, and are normally about 2 hours. Ms. Motz asks
468 whether compliance would be checked during the renewal audit and OLE Dulebohn answered in
469 the affirmative. Ms. Motz continues that she would like to poll the licensee base for their input and
470 was reminded by the Chair that the public and licensees will be able to voice their opinion during the
471 Public Comment period of the regulations process.

472
473 **In a motion duly made by Traci Gilmour, seconded by Ron Gibbs, and passed unanimously**
474 **with a roll call vote, it was RESOLVED to AMEND 12 AAC 79.210 to add 2 hour continuing**
475 **education ethics requirement to every renewal cycle.**

476
477 **TASK: David Edwards-Smith will complete the regulations questionnaire for the**
478 **continuing education ethics requirement regulations project and submit it to**
479 **OLE Dulebohn.**

480
481 Amend Standards of Practice #4- “Current” License- 12 AAC 79.900

482
483 Chair Edwards-Smith begins the discussion that the word “current” be added to Standards of
484 Practice #4.

485
486 **In a motion duly made by Traci Gilmour, seconded by Jill Motz, and passed unanimously**
487 **with a roll call vote, it was RESOLVED to AMEND 12 AAC 79.900 Standards of Practice #4**
488 **to add “their current” in front of “State of Alaska” and “current” in front of the word**
489 **“proof”.**

490
491 **TASK: Traci Gilmour will complete the regulations questionnaire for the amending**
492 **12 AAC 79.900, Standards of Practice #4 regulations project and submit it to**
493 **OLE Dulebohn.**

494
495 Amend Rejected Regulations Change- In class, supervised- 12 AAC 79.100(2)(A)(B)

496
497 Chair Edwards-Smith states that he received feedback from Law stating that more definition was
498 needed for what could be completed online. Regulations Specialist Zinn discusses the Law
499 recommendations and explains that the board is advised to separate what can be done online and
500 what must be done in person so that the applicants have a clear picture. Board Member Jill Motz
501 starts the conversation on “in class, supervised” since she did much of the research on this project.
502 She references the curriculum breakdown that the board had agreed upon that states that “practical
503 application may not exceed 20% of the total hours of the program.” Ms. Motz goes on to state that
504 just theory should be allowed to be completed online as this is a hands-on profession and only 500
505 hours of a 625-hour program should count as “theory”. Chair Edwards-Smith instructs the board
506 that this breakdown is consistent with Entry Level Analysis Project (ELAP).

507

508 Chair Edwards-Smith asks if the board defined what an acceptable monitoring program was in the
509 last meeting. The board discusses potential online monitoring programs for courses. Ms. Motz
510 maintains that the two programs that offer online education for massage are endorsed by the
511 Distance Education Accrediting Commission (DEAC) which is a online monitoring program. The
512 schools that Ms. Motz has researched learn in a modular style which does not allow the students to
513 advance to the next step until they have passed the one they are currently in. USCI in Colorado also
514 requires students to take an in-person test based on all the content they took online. Chair
515 Edwards-Smith asks the board if they feel that making the DEAC part of the regulation would
516 reduce the confusion on what qualifications an online school should have in addition to being
517 nationally accredited or state approved and Ms. Motz responds that she feels that a program being
518 accredited/approved should be enough. The board referenced their old meeting minutes and found
519 no definition for online monitoring program. Ms. Motz reiterates the conversation by stating that
520 this motion should not only address the theory/hands-on split but also the DEAC or other board
521 approved accrediting program.

522
523 Regulations Specialist Zinn went on to inform the board that the reason they need to define what
524 can be done online is that one of the AG's told her that they know of a program where clinical work
525 can be done online. Ms. Motz responds that allowing clinical work online is not the board's
526 intention. Massage therapy is a hands-on profession and they want clinical work to be done in
527 person. Ms. Zinn recommends that the board spell out what may and may not be done online, such
528 as 500 hours of a 625-hour program will be theoretical and can be done online and more than 125
529 hours of clinical work will not be accepted by the board. She goes on to state that the board spelling
530 out the hours instead of doing a percentage would be easier for applicants to understand. Ms. Zinn
531 asks the board for clarification on how many hours will be allowed to be taken online. Ms. Motz
532 responds that the board has developed a breakdown for curriculum that will be accepted by the
533 board. In that breakdown it specifies that 20% should be (hands-on) practical application (clinical)
534 hours. Ms. Motz goes on to state that the board feels that all theoretical learning (500 hours of a
535 625-hour program) should be allowed to be done online and that only the 20 % (125 hours of a 625-
536 hour program) will be needed to be completed in person for applicants that want to take their
537 massage education online. The board feels that this option to do the bulk of education online will
538 greatly benefit people in Alaska, as people are often in isolated areas and not easily able to attend the
539 3 state approved massage schools located in Anchorage and Juneau.

540
541 Chair Edwards- Smith speaks with Ms. Motz about ensuring that the in-person clinical hours are
542 supervised and that the motion reflect that. Ms. Motz agrees that adding the word "supervised" for
543 the clinical hours (practical hours) is good quality control.

544
545 **In a motion duly made by Traci Gilmour, seconded by Jill Motz, and passed unanimously**
546 **with a roll call vote, it was RESOLVED to AMEND 12 AAC 79.100 to read "in class**
547 **supervised" means education received either in a physical classroom or through online**
548 **distance education. Online courses must meet the requirements of (b)(2)(A) or (B) of this**
549 **section and may not include more than 125 hours of a 625-hour program (20%) for clinical,**
550 **supervised portion. Online portion must include a board approved distance online**
551 **monitoring program.**

552
553 **TASK: Jill Motz will complete the regulations questionnaire for in class**
554 **supervised/online education requirement regulations project and submit it to**
555 **OLE Dulebohn.**

556
557 The board discusses that the time is 12:00 p.m. and although they still have 3 regulations projects to
558 go over, they should break for lunch. Ms. Zinn affirms that she will be available to attend the board
559 meeting after lunch and public comment at 1:15 p.m.

560
561 **Agenda Item 10** **Lunch**

562
563 *Chair Edwards-Smith calls a lunch break at 12:01 p.m.*
564 *Back from lunch at 1:15 p.m. with the entire board present*

565
566 **Agenda Item 11** **Public Comment**

567
568 The board prepares to hear public comment. Tarika Lea joins the meeting telephonically and
569 expresses a wish to be heard during Public Comment. Chair Edwards-Smith invites Ms. Lea to
570 speak. Ms. Lea's comment is as follows: "Presently there is an option that continuing education,
571 which is required for the needed credit for licensure in the State of Alaska, can be completed
572 through a board approved, massage therapy or bodywork therapy school or training program. So,
573 one of my 1st questions is: why is this not sufficient and, as Dawn brought up during the last
574 meeting, you may need to change your present regulations if you do not want to approve of the CE
575 courses. So, in my weaving of my career and contribution to the field, I also wish to ask about
576 accepted ACPE exempt status and/or review of credentials. For example, my experience of 50
577 years of both private and teaching nationally and internationally, plus having a post-secondary
578 authorized school in Fairbanks since 1992, I feel that I qualify to be able to teach continuing ed
579 classes. So, I don't know where I fit in because of my participation as a post-secondary school and
580 now exempt, I am now wanting the board to take a look at my bio. This is my comment. I don't
581 know if a suggestion might be considered which is to create, from the field, a review committee
582 comprised of those in the field that report to the board acceptable education classes and their
583 recommendation after they review and interview those teaching. That's my nugget; as tight as I
584 could make it. Dawn mentioned that you were just listening to comments so let it just go on record
585 that I got the information of the task suggested to me this last week. I will be sending that
586 information on in case I can have the board to accept so I can do classes this summer. That would
587 just be my highest potential contribution that I would love to do since I am going to be focused on
588 Alaska this summer. Thank you very much for listening to me."

589
590 Chair Edwards-Smith announced that Public Comment is now closed.

591
592 **Agenda Item 9** **Regulations (continued)**

593
594 *Regulations Specialist Sher Zinn rejoined the meeting at 1:20 p.m.*

595
596 Chair Edwards-Smith directs the board to go back to Agenda Item 9.

597
598 **Review & Amend Renewal & Reinstatement Regulations- 12 AAC 79.200**

599
600 Chair Edwards-Smith thanks Regulation Specialist Zinn for compiling the language for this project.
601 He asks that Ms. Zinn walk the board through the situation that determined that this change would
602 be recommended to the board. Ms. Zinn and OLE Dulebohn rehashed the process that they
603 realized that the language change was needed during a conversation about renewal applications and

604 supporting documentation. Ms. Zinn demonstrates to the board that their current regulation
605 requires “a massage therapist applying for license renewal must submit (4) a current certification in
606 cardiopulmonary...” whereas (5) says “documentation that the massage therapist satisfied the
607 continuing education requirement...”. This is being interpreted by Division to mean that the actual
608 certificate for CPR must be submitted but the licensees need only indicate on their application that
609 their continuing education has been completed to comply with regulation. She states that if the
610 board’s intention is that the licensee only attest on the renewal application that they have completed
611 the requirements for renewals then they need to use the same verbiage in their regulations.

612
613 Ms. Zinn goes on to inform the board if they would like to have someone with a lapsed license have
614 different requirements for renewal, they need to use different words to indicate that in regulation.
615 She also goes on to explain to the board why adding “concluded during the concluding licensing
616 period” is essential so there is no room for interpretation outside of the board’s intent. Chair
617 Edwards-Smith expresses gratitude that someone hasn’t tried to take advantage of this lack of
618 clarification. Ms. Zinn goes on to share how some other professional board’s handle date ranges for
619 reinstatement requirements and late renewal fees.

620
621 The board talks about standards for reinstatement to possible amend 12 AAC 79.200. At the
622 board’s request, OLE Dulebohn ran down their current standards for reinstatement. The board
623 discusses how they are not in favor of giving licensees a buffer after licenses expire on September 30
624 since they are given 90 days of notice from Division. The board also talks about how expirations are
625 not a moving deadline and all therapists are notified when they receive their license when it will
626 expire.

627
628 The board discusses different license status such as active, lapsed, and expired. Ms. Motz brings the
629 subject of person’s licensed by Transition having to reapply by a current method if they let their
630 license lapse to which OLE Dulebohn replies that this subject has come up before in meeting and
631 although the 1st board intended that stipulation to be in statute, it never made it into law and is not
632 enforceable. The board goes on to discuss the centralized statute giving licensees 5 years to renew
633 their lapsed license before it expires and the licensee has to reapply. Upon hearing board discussion
634 on 5 years being too long to allow massage therapists to lapse, Ms. Zinn contributes that the board
635 can make a regulation modifying the time a massage therapist can be lapsed before their license
636 expires. Ms. Zinn informs the board that it is their decision to decide if they want lapsed licensees
637 to have to complete continuing education (CE) for all the periods they have been lapsed for or just
638 the last licensing period. Ms. Gilmour and Mr. Gibbs are in favor of a lapsed licensee making up the
639 CE for the previous licensing period. Ms. Motz is in favor of the licensee making up any and all CE
640 that they have missed while their license has been lapsed.

641
642 **In a motion duly made by Traci Gilmour, seconded by Rob Gibbs, and passed unanimously**
643 **with a roll call vote, it was RESOLVED to AMEND 12 AAC 79.200(4) to change “a current**
644 **certification” to “documentation of” and (5) add “completed during the concluding license**
645 **period”.**

646
647 The board continues discussions on adding Reinstatements to 12 AAC 79.200. The board discusses
648 reducing the amount of years a license can be lapsed before it expires. Ms. Motz brings up that she
649 believes that if massage therapists do not use their skills that they will fall below the level that the
650 public expects from them as professionals. OLE Dulebohn informs the board that many people
651 that let their license lapse if because they have moved out of state with no intention to return. They

652 are frequently still practicing in another state which means they are probably completing continuing
653 education mandated by the new jurisdiction, they just didn't keep their license up in Alaska. Ms.
654 Endle contributes that she agrees with Ms. Motz in the fact that if you aren't currently practicing
655 your craft, you may lose some of your skills. Ms. Endle continues by stating that she believes it isn't
656 fair to all the other licensees who kept their license current and had to pay all the fees and do all the
657 continuing education, that someone who has been lapsed many years be able to come in and do
658 significantly less and be given back their license. Ms. Gilmour believes that people that lapse might
659 have reasons such as personal, medical, or geographic location and it's not because they are just
660 trying to get out of continuing education. She goes on to state that taking time off should not be a
661 barrier to getting re-licensed. Ms. Motz states that in order for her to get on board with this new
662 regulation, she would either like to see a shorter lapse period or requirements for lapsed licensees to
663 have to make up all the continuing education that they have missed. Both Mr. Gibbs and Mr.
664 Edwards-Smith are in favor of lapsed status being reduced from 5 to 3 years and the licensee
665 completes the previous cycle of continuing education.

666
667 Chair Edwards-Smith hears a draft motion language from OLE Dulebohn. He asks if a person
668 lapses would it be automatically required that the person submit a fingerprint card with
669 reinstatement paperwork? OLE Dulebohn responds that fingerprints would be required in
670 accordance with statute and board mandate. For example, if fingerprints are not required for the
671 2019 renewals, someone renewing for that period will not be required to submit fingerprints. But if
672 there was a period that the licensee lapsed that had a fingerprint requirement, they too would have
673 to submit fingerprints with their reinstatement.

674
675 **In a motion duly made by Traci Gilmour, seconded by Jill Motz, and passed unanimously**
676 **with a roll call vote, it was RESOLVED to ADD Reinstatements to 12 AAC 79.200. To**
677 **renew a license lapsed up to 3 years, the licensee must submit a completed application, pay**
678 **applicable fees, provide proof of documentation of continuing education completed during**
679 **the concluding licensing period, proof of documentation of CPR in accordance with AS**
680 **08.61.030(6), and submit fingerprint card & processing fees required by Department of**
681 **Public Safety in accordance with AS 08.61.030(5).**

682
683 **TASK: Traci Gilmour will complete the regulations questionnaire for Renewal/**
684 **Reinstatement regulations project and submit it to OLE Dulebohn.**

685
686 Medical/Military Service Exception for Continuing Education
687

688 Chair Edwards-Smith directs the board to address the next regulations topic of a Medical/Military
689 exception concerning continuing education for licensees. Ms. Motz begins the discussion by asking
690 if it would be relieving them of all their continuing education requirements and how the board
691 would qualify that decision. Mr. Gibbs contributes to the conversation by asking why there would
692 be an exception for military personnel. Chair Edwards-Smith replies that military personnel could
693 be called into active duty that could preclude them from being able to complete their CE
694 requirement. Mr. Gibbs states that he doesn't think that would be very applicable to Alaska's
695 licensee base since there are not many, if any, active military also working as massage therapists. Ms.
696 Motz joins the conversation asking why anyone would be exempt from CE as it can be done
697 completely online. OLE Dulebohn directs the board's attention to a regulation she has pulled from
698 the Board of Veterinary Examiners stating some reasons that a person could not obtain CE hours
699 for renewal or reinstatement may be due to a reasonable cause or excusable neglect like chronic

700 illness, retirement, personal or family hardship, or similar circumstances as determined by the board.
701 She reminds the board that these are current questions that have come in from the licensing base as
702 well as one of the items in today's Correspondence.

703
704 Mr. Gibbs states that he would worry about a potential lawsuit if the board makes an exception for
705 some but not all. Chair Edwards-Smith feels like this topic may need more research on how other
706 massage boards handled them and does not feel like it will be able to be voted on during this
707 meeting.

708
709 **TASK: Research Medical/Military Exemptions for continuing Education in other**
710 **states. Jill Motz will research Medical (acute and chronic illness) and Ron**
711 **Gibbs will research Military.**

712
713 Amend Credentialing Entity 12 AAC 79.110(2)(B)

714
715 Chair David Edwards-Smith was tasked with completing the Regulations Questionnaire for the
716 amendment for 12 AAC 79.110(2)(B) in the February 28- March 1, 2019 meeting. The
717 questionnaire was never received by OLE Dulebohn. Chair Edwards-Smith submitted the form by
718 e-mail during the June 10-11, 2019 meeting.

719
720 *Sher Zinn left the meeting.*
721 *Lorena Haynes, Director of Government Relations, Federation of State Massage Therapy Boards joins the meeting*
722 *telephonically.*

723
724 Ms. Haynes addresses the board offering her services assist the board in their tasks for the recently
725 discussed regulations projects. She states that she has access to nationwide databases and gave OLE
726 Dulebohn permission to distribute her contact information to the board. OLE Dulebohn informs
727 the board that Ms. Haynes was the one who compiled the current state licensing requirements that
728 the board uses as reference material. Mr. Gibbs thanks Ms. Haynes and says that he will be
729 contacting her about her assistance.

730
731 **TASK: OLE Dulebohn will send Lorena Haynes contact information to the board.**

732
733 Agenda Item 12 Administrative Business

734
735 Administrative Statistics

736
737 Chair Edwards-Smith states that he likes the Administrative Statistics information that OLE
738 Dulebohn started including in the board packets to be a matter of public record.

739 03/02- 06/10/2019

ITEM	AMOUNT	COST/ REVENUE
Applications Received	56	
Applications Reviewed by the board	37	

Rolfers Issued Massage License using the Board's Curriculum Breakdown (not Grandfathered)	1	
Licenses Issued	36	36 X \$550.00= \$19,800
Applications Denied	0	
Applications in Process	86	
Phone Calls Received	353	
E-mails Sent	1191	
Returned Letters	11	11 x .55 = \$6.05
Returned Certified Mail	3	3 X \$7.45= \$ 22.35

740

741 Mr. Edwards-Smith points out that the board received \$19,800 for issued licenses in the non-
742 renewal year of 2018.

743

744 Board member Jill Motz comments, for the record, that she appreciates having the Rolfer column
745 and (although she can't mention his name on the record) that he deserves "kudos" for going
746 through the pathway to licensure that the board created with Rolfers in mind. OLE Dulebohn lets
747 the board know that she felt this was important information to share with the public. She goes on
748 to state that she still gets phone calls from Rolfers wanting to know if the board has a pathway to
749 licensure for them and it was her way of getting that information out on a different platform.

750

751 Meeting Calendar 2019

752

753 The board reviews the meeting calendar dates for the in-person meeting on September 19-20 and
754 the video conference on December 2-3, 2019.

755

756 OLE Dulebohn informs the board that there are Fitness to Practice Interviews scheduled for the
757 September meeting. Ms. Motz informs the board that she will not be in attendance of the 2nd day of
758 the September meeting. Board member Traci Gilmour acknowledges the current mandate from the
759 Governor that board's only meet in person once a year, however she requests from the Chair that
760 should there be a reason for the board to meet with the legislature in the spring, that that meeting
761 date be requested and justified by the board.

762

763 Meeting Calendar 2020

764

765 OLE Dulebohn request the board discuss possible options for meeting dates for 2020. She requests
766 (per Division mandate) that the board choose the month with a few options for dates so that she
767 may choose which works best with other programs scheduled meeting dates.

768

769 *Investigator Jacobs joins the meeting telephonically at 2:30 p.m.*

770

771 The board discusses dates for 2020 and came up with the following:

772

773 March 2-3, 2020- Video conference originating in Juneau with a room reserved in Anchorage for
774 board member use.

775

776 June 18-19, 2020- Video conference originating in Juneau with a room reserved in Anchorage for
777 board member use.

778
779 September 10-11, 2020- In Person meeting in Anchorage

780
781 December 7-8, 2020- Video conference originating in Juneau with a room reserved in Anchorage for
782 board member use.

783
784 **Agenda Item 13** **Relationship with Law Enforcement/ Human Trafficking**

785
786 *Special Agent Jolene Goeden joins the meeting telephonically at 2:36 p.m.*

787
788 Special Agent (SA) Jolene Goeden joins the meeting to make a presentation to the board on Human
789 Trafficking in Alaska and asks OLE Dulebohn to facilitate her PowerPoint presentation.

790
791 Ms. Goeden has worked trafficking cases in Alaska since 2004. The FBI's collaboration with Alaska
792 started with the Anchorage Vice Unit and then with the State Troopers (ASTI). Now the task force
793 is one member of the FBI that works with the Anchorage Police Department (APD). Ms. Goeden
794 is now a supervisor for a task force that handles both adults and children. She states that there are 4
795 people on her team and their assignments are very involved and busy. Ms. Goeden's team fields
796 referrals from Anchorage Police Department and Alaska State Troopers and has recently received
797 some from the Alaska Board of Massage Therapist via the board's investigator, Carl Jacobs.

798
799 SA Goeden's presentation will be an overview of the statutory definition of trafficking (which is
800 different that the social services definition of trafficking).

- 801
- 802 • There are two types of human trafficking: forced labor and sex trafficking. Most trafficking
803 that happens in the massage industry is sex trafficking.
 - 804 • A Commercial Sex Act means that there would be prostitution (by someone over 18)
805 achieved by force, fraud, or coercion. One of the biggest hurdles for law enforcement is
806 proving the force, fraud, or coercion.
 - 807 • Sex trafficking is forced prostitution. The definition of prostitution is the giving or receiving
808 of sex or a sex act in exchange for compensation (compensation can be anything of value- it
809 does not have to be money).
 - 810 • Alaska State Statute- Sex Trafficking in the 3rd Degree- AS 11.66.130
811 (a) A person commits the crime of sex trafficking in the 3rd degree if, with intent to promote
812 prostitution, the person
813 1. Manages, supervises, controls, or owns, either alone or in association with others, a
814 place of prostitution;
815 2. is other than a patron of a prostitute, induces or causes a person 20 years of age or
816 older to engage in prostitution;
817 3. is other than a prostitute receiving compensation for personally rendered
818 prostitution services, receives or agrees to receive money or other property under an
819 agreement or understanding that the money or other property is derived from
820 prostitution; or
821 4. Engages in conduct that institutes, aids, or facilitates a prostitution enterprise.
(b) Sex trafficking in the 3rd degree is a class C felony

822 This statute allows the state to charge owners or managers with wrong doing and not just the
823 person performing the sex acts.

- 824 • Some common barriers for victims seeking help:
 - 825 1. Fear of retaliation, incarceration, deportation, the unknown, withdrawal (drugs)
 - 826 2. Lack of trust, knowledge, support, communication abilities, transportation, awareness of
827 the situation.
 - 828 3. Inability to break away from cultural/religious beliefs, escape due to captivity/isolation,
829 believe that the future can be different.

830 In order for a case to be made, the victim needs to cooperate with law enforcement. Victims
831 are not prosecuted in human trafficking cases.

- 832 • Common tactics to keep control of the workers in Alaska are:
 - 833 1. Isolation- women live in the massage parlours, work in the massage parlours, and are
834 rarely allowed to leave without an escort.
 - 835 2. Exhaustion- parlours are often open 14 hours a day and 365 days a year. There is very
836 little time off.
 - 837 3. Injuries- massage parlour trafficking doesn't see as much violence as you would see in
838 other trafficking. The tactics used are more manipulative and coercive. SA Goeden
839 states that most women that she has spoken to in Anchorage are older women and the
840 story might have been different in their younger years.

- 841 • SA Goeden reports that there is prostitution going on in massage parlours in Anchorage.
842 The issue is to determine if it's prostitution or trafficking.

- 843 • The difference between prostitution and trafficking:
844 Prostitution happens between two people: person performing sex act and person receiving s
845 ex act

- 846 Trafficking happens with at least between three people: person performing sex act, person
847 receiving sex act, person benefiting from sex act.

- 848 • Recruiting Methods: newspaper, radio, internet, malls, schools, neighborhoods, social
849 media, recruiters. Recruitment can be partially deceptive (money they will make, not charged
850 for room and board), fully deceptive, or physical force. Most recruiters come from the
851 victim's home country.

- 852 • Traffickers are looking for vulnerability such as low self-esteem, family issues, financial
853 hardship, mental health issues, and prior victimization.

- 854 • What is known about massage parlours in Alaska is they tend to be Asian based, the women
855 work on a circuit and move frequently to other states/locations, there is a language barrier,
856 they are working off a debt, they only earn tips (or a small portion of the fee), they live and
857 work out of the massage parlour, and they tend to be isolated.

- 858 • Indicators of Trafficking in Massage Parlours: Controlled movement (owner or madam
859 transports them), owner paid for travel, owner holds their documents, owner speaking for
860 working, coached or rehearsed backstory, license/deedee appears fraudulent, items on
861 application do not make sense (same person pays fees, teaches CPR, notary, etc.), they are
862 moved around between massage parlours, and living conditions (locks on doors, etc.).

- 863 • Some factors that contribute to victim's situation: poverty stricken, war, repression,
864 economy, natural disasters, lack of opportunities in home countries, limited educational
865 background, single parents, desperate time, history or child maltreatment, homeless,
866 runaway, or throwaway youth.

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- 880
- Some challenges in prosecuting are that a victim needs to tell story, documents, locating victims, determining true identity of victim, language barriers, trust of law enforcement.
 - Some forced labor industries in Alaska: Fishing industry, massage parlours, domestic servitude, restaurant work, nail salons, seasonal workers.
 - How to Engage a Victim: avoid communicating disgust or disdain, avoid being judgmental and biased, avoid switching intermittently between treading the reporter as a offender and then a victim, avoid disputing facts or comment on the victims motivation, recognize various symptoms of trauma and coping mechanisms, build rapport with the victim; learn about the person, actively listen in a comfortable, non-threatening environment, prepare yourself for an unaware victim, and collaborate with other professionals.
 - If you suspect trafficking or want to talk through a scenario, contact FBI Special Agent Jolene. Goeden directly at 907-265-8119 or jagoeden@fbi.gov or 24 hours a day at 907-276-4441.

881 SA Goeden concludes her presentation and asks if there are any questions from the board. Chair

882 Edwards-Smith starts off by stating the board is currently working on regulating massage

883 establishments and wants to know if he can send the current language to her department for

884 feedback. SA Goeden states that she would be willing to read through the language and work with

885 the board to increase visibility by reaching out to victims that are not from Alaska and the inspectors

886 that go in to check licenses and conditions.

887

888 **TASK: Chair Edwards-Smith will send draft regulations for massage establishments**

889 **to SA Goeden for feedback.**

890

891 The Chair goes on to address what SA Goeden said about getting referrals from the board. OLE

892 Dulebohn is asked what the procedure is when making referrals to the FBI. OLE Dulebohn

893 responds that she first will identify red flags from training she has received from the Federation of

894 State Massage Therapy Boards Executive Summit, then she sends them to her Supervisor for review,

895 the Supervisor then makes a determination on whether they should be sent to Corporations,

896 Business, and Professional Licensing’s Investigative Department, who will then review the file and

897 determine if it should be sent on to the FBI.

898

899 OLE Dulebohn states that two FBI referrals have been made in the last few months because the

900 applicant’s fees, notary, and CPR were all linked to one person who didn’t even live in the same state

901 as the applicants.

902

903 Hearing no more questions from the board, Chair Edwards-Smith thanks Ms. Goeden for her time

904 and valuable information.

905

906 *SA Goeden and Inv. Jacobs leave the meeting.*

907 *Chair Edwards-Smith calls a short break at 3:27 p.m.*

908 *Back on the record at 3:32 p.m.*

909

910 **Agenda Item 12 Administrative Business(continued)**

911

912 Annual Report

913

914 Chair Edwards-Smith directs the board to the 2019 Annual Report. The report is meant to be a
915 brief overview of 2019 and a calendar of events for 2020. The board commends Chair Edwards-
916 Smith on his completion of the Narrative Statement and Potential Regulations & Legislation.

917
918 FARB Member Board Invitation

919
920 The board reviews the invitation they were sent to join the Federation of Associations of Regulatory
921 Boards(FARB). FARB is a not for profit corporation formed in 1974 to promote public protection
922 and provide a forum for information exchange for associations of regulatory boards and their
923 affiliates with interests in professional regulation.

924
925 FARB's objectives are to exchange information and engage in programs and joint activities with
926 member boards and associations, to provide a forum for cooperation in solving the mutual
927 problems of participating associations across jurisdictions and professions, to engage in activities to
928 improve the standards of professions, the delivery of services, and the services of regulatory
929 licensing agencies, to provide educational opportunities and legal updates for lawyers who represent
930 regulatory boards, to share information of the education of professionals, including accreditation of
931 schools, colleges, and continuing education programs, and to foster communication and discussion
932 about the latest assessment techniques for association of regulatory board and their members.

933
934 Chair Edwards-Smith goes on to inform the board that dues are \$175 a year for a regulatory
935 membership. Some benefits of membership are: discounted registration to FARB conferences, free
936 access to FARB model documents, discounted subscription to FARB's Top Regulatory Cases, and
937 access to the FARB community for information exchange.

938
939 Ms. Gilmour asks if the board pays for this membership, if they would be paying for anyone other
940 than their staff or board members to go. OLE Dulebohn replies that that would be the board's
941 decision. OLE Dulebohn has been previously informed by her superiors that normally only senior
942 level staff are allowed to go to conferences like FARB but because the board chose to send her to
943 this in lieu of going to FSMTB's Annual Meeting, she was allowed. Coming back from the
944 conference she brought valuable ideas such as the criminal history prescreening that Louisiana is
945 doing and the information for the Administrative Statistics report that is now a staple in board
946 meeting packets. OLE Dulebohn states that the board would still have to go through the process of
947 administrative approval for the funding of this membership.

948
949 Ms. Gilmour states that she doesn't think it's fair for the board to have to fight for any travel they
950 deem is important for board members but not for the licensing examiner. OLE Dulebohn reminds
951 the board that all travel has to be justified and that, under the current administrations travel policy
952 changes, even travel that is 100% 3rd party booked/reimbursed is getting denied. OLE Dulebohn
953 reminds the board that her travel for this years' FSMTB Executive Summit was denied and OLE
954 Dulebohn paid to go out of her own pocket and took her own personal days to attend. She was
955 eventually reimbursed by FSMTB for her expenses but not her time off work.

956
957 Ms. Gilmour asks, if the board does vote to approve the membership and attend the FARB Forum,
958 if it will be justified to the licensees that this travel was a good use of time and resources. OLE
959 Dulebohn replied that all travel that goes through the state (whether funded by the board or not), is
960 required to have the traveler complete a Travel Action Summary upon their return itemizing the cost
961 saving measures that were used and the information that was gained by the travel. Those forms are

962 part of the public board packet for the next board meeting. OLE Dulebohn believes that if you
963 justify, on the record, what you did, what you learned, and how the public benefits from it, there is a
964 better public understanding of the need for the travel.

965
966 **TASK: Board will research the benefits of joining FARB in order to make an**
967 **informed decision on membership during the September 2019 meeting.**
968

969 Correspondence

970
971 Betz

972
973 The board reviews correspondence from Joelyn Betz on May 1, 2019. Ms. Betz asks the board
974 about deferring the renewal of her license due to debilitating vertigo that has prevented her from
975 working or spending any significant time on a computer. These reasons have kept Ms. Betz from
976 renewing her CPR or continuing education which are requirements for renewal.

977
978 OLE Dulebohn replied to Ms. Betz email on May 9, 2019 letting her know that there is no
979 stipulation in Statutes and Regulations to allow for an exception for someone with a medical reason.
980 She lets Ms. Betz know about lapsed licenses, expired licenses, and the regulations process.

981
982 The board discusses Ms. Betz' situation and ask OLE Dulebohn to reply that they are currently
983 researching a regulation to address exemption for medical conditions but at this time the only
984 options available are the one's OLE Dulebohn outlined in her May 9, 2019 e-mail.

985
986 **TASK: OLE Dulebohn to respond to Ms. Betz' correspondence to the board.**
987

988 Brown

989
990 The board reviews correspondence from Katherine Brown from May 2019. The board remarks that
991 OLE Dulebohn handled this situation quite well. Ms. Gilmour states for the record that, even
992 though Ms. Brown references her, that she does not recall any professional relationship with Ms.
993 Brown. The board reviews statute on the question of completion of the national massage
994 competency exam and reiterate that it is a requirement of AS 08.61.030 and AS 08.61.040. Ms. Motz
995 comments that Ms. Brown makes a great argument for herself but agrees that all applicants must
996 take and pass the MBLEx or NCBTMB (prior to January 31, 2015) as these are the only two
997 national massage competency exams that the board recognizes at this time. Ms. Motz goes on to
998 state that this requirement is clear on both the application and statutes and regulations.

999
1000 The board goes on to deny an exception to regulation to allow Ms. Brown to apply by Transition
1001 (Grandfathered) after the July 1, 2017 deadline.

1002
1003 The board asks OLE Dulebohn why this correspondence was brought to the board when she has
1004 addressed all of Ms. Brown's questions and concerns intelligently and thoroughly. OLE Dulebohn
1005 replies that anytime someone asks for their correspondence to be reviewed by the board, it goes on
1006 the agenda whether she feels she has addressed their concerns completely or not.

1007
1008 Mr. Gibbs asked if Hawaii's licensing standard includes a completion of a national exam and
1009 whether the board has licensed applicants from Hawaii before. OLE Dulebohn replies that Hawaii

1010 does not require passage of a national exam but some applicants from there have opted to complete
1011 the MBLEx anyway since it is the only national exam at this time. OLE Dulebohn goes on to state
1012 that the board has reviewed applications before and have approved a license pending the successful
1013 completion of the MBLEx. With the recent passage of 12 AAC 79.130 in April 2019, the board
1014 now can only review completed applications.

1015
1016 **TASK: OLE Dulebohn should reply to Ms. Brown’s correspondence by referencing**
1017 **this portion of the minutes and the board’s discussion.**

1018
1019 Review/Update “No Investigations Needed List from November 2015

1020
1021 OLE Dulebohn directs the board to the list they drafted in November 2015 of criminal offenses
1022 they believe are not worthy of an investigative review. Ms. Gilmour states that she does not believe
1023 the board should review and revamp something they have already decided upon. Chair Edwards-
1024 Smith reviewed the list and saw no changes were needed at this time.

1025
1026 OLE Dulebohn suggests one amendment to the board. On the list the board currently has
1027 “underage drinking”. She would like the board to expand on that to add “minor consuming” and
1028 “minor possession”.

1029
1030 **In a motion duly made by Julie Endle, seconded by Ron Gibbs, and passed unanimously**
1031 **with a roll call vote, it was RESOLVED to AMEND the board’s “No Investigations Needed**
1032 **List” to ADD “including, but not limited to minor consuming” as a facet of “underage**
1033 **drinking” and keep the rest of the list as written.**

1034
1035 **No Investigations Needed List**

1036
1037 The Board of Massage Therapists has determined at its November 5-6, 2015 and June 10-11, 2019
1038 meetings that the disclosure of one (or more) of the following convictions on an application (or in a
1039 criminal background check) will not result in a referral to Investigations unless the Division, in its
1040 discretion, reasonably believes that an attempt to secure a license through fraud, deceit, or
1041 misrepresentation has occurred.

- 1042
1043 1. Traffic Violations (minor), including, but not limited to:
- 1044 • Reckless driving
 - 1045 • Driving without a license/suspended license
 - 1046 • Speeding tickets, other minor moving violations
 - 1047 • Driving without insurance
 - 1048 • Jaywalking
- 1049
- 1050 2. Fish and Game Violations
- 1051
- 1052 3. Animal Offenses (excluding animal cruelty or abuse)- Convictions older than 10 years from
1053 application.
- 1054
- 1055 4. Petty Crimes (misdemeanors)- Convictions older than 5 years from application, including,
1056 but not limited to:

- 1057 • Shoplifting
1058 • Bounced/Bad checks
1059 • Minor theft charges
1060 • Littering
1061
1062 5. Theft- Conviction older than 5 years from date of application
1063
1064 6. Burglary- Conviction more than 10 years from date of application
1065
1066 7. Underage Drinking- including, but not limited to:
1067 • Minor Consuming
1068
1069 8. Possession or Use of Marijuana- Single offense
1070
1071 9. Driving Under the Influence/Driving While Intoxicated- No more than 2 conviction in a
1072 10-year period.
1073
1074 10. Disorderly Conduct
1075
1076 11. Public Inebriation- Single offense
1077
1078 12. Harassment- Conviction more than 5 years from the date of application
1079
1080 13. Assault- Conviction more than 5 years from the date of application

1081
1082 Election of Vice Chair

1083
1084 Chair Edwards-Smith is open to the election of Traci Gilmour as Vice Chair of the Board of
1085 Massage Therapists.

1086
1087 The duties of Vice Chair would be to stand in for the Chair should he/she be unable to attend the
1088 board meeting or be unavailable for consultation in matters of board business. This position would
1089 stand until their term as a board member ends or they are replaced by a vote of the board.

1090
1091 **In a motion duly made by Ron Gibbs, seconded by Julie Endle, and passed unanimously**
1092 **with a roll call vote, it was RESOLVED to ELECT Traci Gilmour as Vice Chair of the**
1093 **Board of Massage Therapists.**

1094
1095 Document Signing

1096
1097 **TASK: OLE Dulebohn will send original signature pages with a prepaid envelope to**
1098 **Chair Edwards-Smith for signature and return.**

1099
1100 **TASK: Chair David Edwards-Smith will send digital copies of signature pages via e-**
1101 **mail and signed originals via postal mail to OLE Dulebohn.**
1102

1103 FSMTB Annual Meeting and Board Delegates

1104

1105 Chair Edwards-Smith suggests to the board that the newly elected Vice Chair, Traci Gilmour, attend
1106 the FSMTB Annual Meeting on October 3-5, 2019.

1107

1108 Ms. Gilmour states that she would really like to experience FSMTB and provide the board with her
1109 feedback.

1110

1111 **In a motion duly made by Jill Motz, seconded by Rob Gibbs, and passed unanimously with**
1112 **a roll call vote, it was RESOLVED that Traci Gilmour (Delegate) and David Edwards-Smith**
1113 **(2nd Attendee) will attend the Federation of Massage Therapists Annual Meeting in October**
1114 **2019.**

1115

1116 Agenda Item 9 Regulations (continued)

1117

1118 500 Hours vs. 625 Hours- Criteria for Applicants

1119

1120 OLE Dulebohn walks the board through the ways they may be asked to review an application based
1121 on a 500-hour requirement after the minimum educational hours raise on July 1, 2019. After
1122 consulting Harriet Milks from the Department of Law and directly referencing correspondence from
1123 Ms. Milks on 11/28/2018 and 5/8/2019, the following criteria was established:

1124

1125 • Be currently (actively) enrolled in a massage school or program in accordance
1126 with AS 08.61.030.

1127 • Submit the “Application by Examination” application. Completed
1128 application must be received on or before June 30, 2019.

1129 • Submit any documentation that is not required to be submitted by a 3rd
1130 party (everything but transcripts, exam scores, and background reports).
1131 Valid documentation must be received on or before June 30, 2019.

1132 • All application and fingerprint fees must be paid on or before June 30, 2019.

1133

1134 • Complete all facets of the application process prior to application becoming
1135 “stale” (no later than December 30, 2019 depending on submission date).

1136

1137 OLE Dulebohn continues by stating that it is the hope that, by allowing this concession to the new
1138 statute, it will give people that are currently in the process of completing a 500-hour program time to
1139 finish it and pass the national exam without burdening them with an increased hour requirement.

1140 Mr. Gibbs asked how this information will get out to the public and OLE Dulebohn replied that she
1141 sent this guideline out to all the approved schools in Alaska, the Alaska Commission on Post-
1142 Secondary Education (ACPE), and posted it on the board’s website on June 4, 2019.

1143

1144 New Statutes & Regulations- May 2019

1145

1146 OLE Dulebohn reminded the board that there is a new copy of Statutes and Regulations. It is
1147 available in this board packet, on the board’s website, and in their OnBoard under “Resources”.

1148

1149

1150 Agenda Item 5 Old Business (continued)

1151

1152 Letter of Intent from Alaska Career College

1153

1154 On May 9, 2019, the board received a letter of intent from Alaska Career College to be a provider of
1155 remedial education for those seeking Alaska licensure but need additional hours to meet Alaska’s
1156 requirements.

1157

1158 Exempt Status from ACPE

1159

1160 The board received an Exempted Status letter for Tarika Lea’s School of Integrating Shiatsu. ACPE
1161 defines Exemptions from 20 AAC 17.015(4) as a short course of study that is not more than 120
1162 hours or 15 days in duration, including all required class, laboratory, externship, and independent
1163 study hours. Board Chair Edwards-Smith muses how Exempt Status, in any way, accredits your
1164 program. Ms. Motz and Mr. Edwards-Smith both agree that an Exempt Letter is not an
1165 accreditation of a program.

1166

1167 Louisiana’s Potential Applicant Criminal Pre-Review

1168

1169 In the February/March 2019 meeting, OLE Dulebohn brought an idea to the board that had been
1170 discussed at the FARB Forum she attended in January 2019. In Louisiana, the board allows people
1171 to request a pre-review of their criminal history. The board reviews the history and makes a
1172 standing decision on whether a person’s past criminal history will be a barrier to licensure when that
1173 individual applies in Louisiana. This process allows the future applicant the peace of mind of
1174 knowing that if they spend money on education, invest time in the process of becoming a massage
1175 therapist, and meet all the requirements of the state, they will be granted a license when the process
1176 has been completed.

1177

1178 Board Member Traci Gilmour and OLE Dulebohn submitted their research on how Louisiana does
1179 their pre-screening process for applicants with a criminal history to see if it’s something the board
1180 would like to initiate here in Alaska.

1181

1182 OLE Dulebohn submitted a copy of Louisiana House Bill 748 and Ms. Gilmour submitted research
1183 from the LA website. OLE Dulebohn also shares some feedback that she was asked to relay by
1184 Supervisor Hannasch including taking into consideration:

1185

- 1186 • 12 AAC 79.130- “board will only review completed applications...”
- 1187 • Who will fund the time it takes to process and review the criminal background reports since
1188 they have not submitted an application with the \$200 processing fee?
- 1189 • If the board sets a precedent that they will review background reports prior to the
1190 application process, where will the line be drawn for other requests to review documents
1191 prior to applications and fees being submitted?

1192

1193 Chair Edwards-Smith states that the information on what defines a crime of moral turpitude is
1194 available online. OLE Dulebohn interjects that transparency is also one of the reasons she asked to
1195 review and revamp the “No Investigations Needed” statement so that she can post it on the website
1196 for future applicant’s to be able to reference prior to applying for schools or applying for licensure.

1197 Mr. Edwards-Smith states that based on all the information that will be available, applicants can
1198 obtain their own copy of their background report and reference the list of moral turpitude available
1199 in statutes and regulations and the “No Investigations Needed” list to see if their specific criminal
1200 history will be a barrier to licensure. OLE Dulebohn comments that between those two documents
1201 and the Disciplinary Matrix that the board is currently working on, applicant’s will be able to
1202 determine whether they will be denied licensure.
1203

1204 Ms. Motz would like to address the concerns brought to the board from Alaska Career College
1205 (ACC) concerning student/applicant criminal history. She suggests that ACC perform a background
1206 report on students who have concerns about their history so that it can be ascertained ahead of time
1207 if there will be anything that will hold up or block licensure. Ms Gilmour joins the conversation by
1208 stating that between all the information the board has/will make available, future applicants will be
1209 able to determine on their own if they have a criminal history that would preclude them from
1210 licensure in Alaska. Ms. Gilmour goes on to state that it is the applicant’s responsibility to do their
1211 research to see whether they have anything detrimental in their past to hinder the licensing process
1212 and that it’s not ACC’s job to do that research before they will enroll students but it’s their choice.
1213

1214 The board discusses the subject further and decides that, with all the information available to the
1215 public, they will not move forward with an initiative to implement a pre-review of criminal history
1216 for potential applicants.
1217

1218 **TASK: OLE Dulebohn will post list of crimes of moral turpitude, “No Investigations**
1219 **Needed”, and completed Disciplinary Matrix to the board’s website.**
1220

1221 Board Chair Edwards-Smith ask the board to ensure they have read the information he had OLE
1222 Dulebohn disseminate regarding massage establishment regulations prior to tomorrow’s meeting.
1223 OLE Dulebohn reminds the board that she has also included in the board packet all the meeting
1224 minutes relating to the discussion on massage establishment licensing/regulation. She goes on to
1225 state that they are highlighted and ready for review to use as reference on the subject matter from
1226 the last year.
1227

1228 **Agenda Item 15** **Adjourn or Recess**
1229

1230 Chair Edwards-Smith recesses the meeting until June 11, 2019 at 9:00 a.m.
1231

1232 *Off the record at 4:34 p.m.*
1233

1234 **Tuesday, June 11, 2019**
1235

1236 **Agenda Item 16** **Call to Order/Roll Call**
1237

1238 *On the record at 9:03a.m.*
1239

1240 Board Members present, constituting a quorum:
1241

1242 David Edwards-Smith, Board Chair-Licensed Massage Therapist
1243 Traci Gilmour, Licensed Massage Therapist
1244 Ron Gibbs, Licenses Massage Therapist

1245 Jill Motz, Licensed Massage Therapist
1246 Julie Endle, Public Board Member

1247
1248 Division Staff present:

1249
1250 Dawn Dulebohn, Occupational Licensing Examiner
1251 Carl Jacobs, Investigator III
1252 Sonia Lipker, Senior Investigator III
1253 Sher Zinn, Regulations Specialist
1254 Greg Francois, Chief Investigator
1255 Sara Chambers, Director of the Division of Corporations, Business, and Professional
1256 Licensing

1257
1258 Agenda Item 17 Review Agenda

1259
1260 Chair Edwards-Smith starts the day thanking the board for the great meeting on the previous day
1261 despite the frantic pace.

1262
1263 The board reviews the 2nd day agenda. Chair Edwards-Smith wants to amend the day's agenda to
1264 add the finalization of the Disciplinary Matrix. Board member Julie Endle asks when the board will
1265 be addressing the Board Curriculum Breakdown and OLE Dulebohn responds that that discussion
1266 is slated for Agenda Item 19 at 10:45 a.m.

1267
1268 **In a motion duly made by Traci Gilmour, seconded by Rob Gibbs, and passed**
1269 **unanimously, it was RESOLVED to APPROVE the agenda as amended.**

1270
1271 Agenda Item 18 New Business

1272
1273 Order of Remand for X.L.

1274
1275 The board is presented with an Order of Remand by Administrative Law Judge Christopher
1276 Kennedy in the matter of Xia Liu. Ms. Liu application was initially reviewed and denied by the
1277 board referencing AS 08.61.040(6). ALJ Kennedy would like the board to re-evaluate the case by
1278 using the correct set of standards.

1279
1280 **In a motion duly made by Traci Gilmour, seconded by Julie Endle, it was RESOLVED to**
1281 **ENTER into Executive Session in accordance with AS 44.62.310(c), and Alaska**
1282 **Constitutional Right to Privacy Provisions, for the purpose of discussing “subjects that tend**
1283 **to prejudice the reputation and character of any person, provided the person may request a**
1284 **public discussion”. OLE Dulebohn to remain during Executive Session.**

1285
1286 *Off the record at 9:08 a.m.*

1287 *Back on the record at 9:31 a.m.*

1288
1289 After lengthy discussion taking into consideration that Ms. Liu has a history of securing licensure
1290 through deceit, fraud, and misrepresentation the board came to a decision on this matter.

1291

1292 **In a motion duly made by Traci Gilmour, seconded by Julie Endle, and passed unanimously**
1293 **with a roll call vote, it was RESOLVED to DENY the application for licensure for Xia Liu**
1294 **Case #2018-00166 citing AS 08.61.060(1) “After a hearing, the board may impose a**
1295 **disciplinary sanction under AS 08.01.075 on a person licensed under this chapter if the board**
1296 **finds that the person secured a license through deceit, fraud, or intentional**
1297 **misrepresentation.**

1298
1299 Rescind Denials for H.K, C.S., and Y.Y.

1300
1301 OLE Dulebohn addresses the board in the matter of Fitness to Practice reviews. The board has
1302 previously asked OLE Dulebohn to go through previous denials to see if any of those individuals
1303 qualify for a Fitness to Practice review under the board’s new standards for reviewing criminal
1304 history. After some research, OLE Dulebohn found six people that met the board’s criteria and
1305 would benefit from a re-evaluation of their application. OLE Dulebohn sent them letters asking if
1306 they would like the board to reconsider them for licensure. To document their willingness to have
1307 the board re-open their files, OLE Dulebohn asked them to sign and return an Intent to Participate
1308 form which outlined several requirements they would need to fulfill to be eligible for this option
1309 such as submitting fingerprints, fingerprint processing fees, a detailed work history, letters of
1310 explanation for criminal convictions, letters of recommendation, and participation in a 30-minute
1311 interview. Of the six, three people returned the Intent to Participate forms. Two out of three
1312 applicants met the first deadline and are still eligible to participate and OLE Dulebohn is asking the
1313 board to rescind their previous denials so their files can go back into a “in-process” status so that
1314 they can make a decision on licensure for these applications after the individuals complete their
1315 interviews with the board.

1316
1317 **In a motion duly made by Traci Gilmour, seconded by Ron Gibbs, and passed unanimously**
1318 **with a roll call vote, it was RESOLVED to RESCIND the DENIALS for Han Mee Kim and**
1319 **Yong Ki Yi to allow for participation in a Fitness to Practice procedures and interviews.**

1320
1321 Fitness to Practice interviews for Ms. Kim and Ms. Yi are scheduled for the board’s September 10-
1322 11, 2019 meeting.

1323
1324 **TASK: OLE Dulebohn will update the board’s denial list and post the updated list on**
1325 **the board’s website.**

1326
1327 Review Tabled Applications

1328
1329 Chair Edwards-Smith directs the board to review tabled applications for J.E., E.P., and M.W.

1330
1331 **In a motion duly made by Julie Endle, seconded by Jill Motz, it was RESOLVED to**
1332 **ENTER into Executive Session in accordance with AS 44.62.310(c), and Alaska**
1333 **Constitutional Right to Privacy Provisions, for the purpose of discussing “matters which by**
1334 **law, municipal charter, or ordinance are required to be confidential”. OLE Dulebohn to**
1335 **remain during Executive Session.**

1336
1337 *Off the record at 9:42 a.m.*

1338 *Back on the record at 10:26 a.m.*

1339

1340 After a detailed discussion of J.E.'s application, the board made a decision on this matter.

1341

1342 **In a motion duly made by Jill Motz, seconded by Ron Gibbs, and passed unanimously with**
1343 **a roll call vote, it was RESOLVED to APPROVE the application for Joseph Etcheverry.**

1344

1345 After discussing the application for E.P. in length during executive session, Chair Edwards-Smith
1346 states that the board's wish is to determine that the schools that E.P. attended are approved and
1347 accredited according to Alaska statute.

1348

1349 **In a motion duly made by Traci Gilmour, seconded by Ron Gibbs, and passed unanimously**
1350 **with a roll call vote, it was RESOLVED to APPROVE the application of Eun Young Park**
1351 **PENDING board review and verification of official transcripts from Body Concept Wellness**
1352 **and Wall Street Institute.**

1353

1354 The board discussed this application thoroughly. Ms. Gilmour starts off referencing AS
1355 08.61.030(8) which outlines qualifications for licensure and states an applicant must have
1356 successfully passed a national competency exam and AS 08.61.040(9) which says that applicants
1357 applying by their credentials must have credentials from a state with equal to or greater standards
1358 than Alaska; she does not believe this is the case. Mr. Edwards-Smith expands that the state
1359 through M.W. was licensed does not require completion of the MBLEx or any other national
1360 competency exam which is an Alaska requirement. OLE Dulebohn interjects that the board's
1361 reference material on this matter was from the Federation for State Massage Therapy Boards State
1362 Massage Licensure & Renewal Requirements list.

1363

1364 **In a motion duly made by Traci Gilmour, seconded by Jill Motz, and passed unanimously**
1365 **with a roll call vote, it was RESOLVED to DENY the application for licensure for Min**
1366 **Wang according to AS 08.61.030(8) "The board shall issue a license to practice massage**
1367 **therapy to a person who has successfully completed a nationally recognized competency**
1368 **exam approved by the board" and AS 08.61.040(9) "The board shall issue a license to**
1369 **practice massage therapy to a person who is currently licensed to practice massage therapy**
1370 **in another state or country that has licensing requirements that are substantially equal to or**
1371 **greater than the requirements of this state."**

1372 Board Approved Credentialing Agencies by State

1373

1374 Chair Edwards-Smith starts off the conversation on Board Approved Credentialing Agencies by
1375 State that is part of AS 08.61.020 as a duty of the board to determine which states have education
1376 and licensing requirements equivalent to the requirements of this state. He agrees it would be a
1377 great comprehensive tool to have a list of credentialing entities for each state (such as the California
1378 Massage Therapy Council (CAMTC) in California). Chair Edwards-Smith goes on to state that it is
1379 fortunate that the board has a membership with the Federation of State Massage Therapy Boards
1380 (FSMTB) which would gladly help the board in their research on this subject.

1381

1382 **TASK: Chair Edwards-Smith will contact FSMTB to help the board with research**
1383 **regarding state approved credentialing agencies.**

1384

1385 Chair Edwards-Smith continues by stating, for the record, that this is one of the many benefits of
1386 having the FSMTB membership is their research and historical documents. Without the aid of the

1387 FSMTB, this task would require hours of research which would cost the department and time for
1388 board members.

1389
1390 Board member Traci Gilmour feels like she may have touched on this subject when she was
1391 researching a project for the legislature. She will send that information to the board for review.

1392
1393 **TASK: Traci Gilmour will send her research on school hour requirements by state to**
1394 **OLE Dulebohn to distribute to the board.**

1395
1396 Board Member Ron Gibbs asks OLE Dulebohn if this research will yield a data base for future
1397 board use. Ms. Dulebohn responds that her intention is to, in fact, start a spreadsheet on board
1398 approved credentialing agencies for use by the board and as reference material for the public.

1399
1400 Board Approved National Accreditation Agencies for Schools

1401
1402 Chair Edwards-Smith directs the board to the information provided in the board packet on the
1403 Accrediting Commission of Career Schools and Colleges (ACCSC). Mr. Edwards-Smith read a press
1404 release stating that Commission on Massage Therapy Associations (COMTA) and ACCSC “have
1405 entered into a management agreement to strengthen forces and the opportunity to join a joint
1406 institutional and programmatic accreditation process.”

1407
1408 **In a motion duly made by Traci Gilmour, seconded by Julie Endle, and passed unanimously**
1409 **with a roll call vote, it was RESOLVED to ACCEPT the Accrediting Commission of Career**
1410 **Schools and Colleges (ACCSC) as a national accrediting body.**

1411
1412 **TASK: OLE Dulebohn to create a list of the state authorizing and national**
1413 **accrediting entities approved by the board and post them to the board’s**
1414 **website.**

1415
1416 Board Member Ron Gibbs points out that there is a list of regional and national accreditors that the
1417 board could research and possible add to their accepted list. Chair Edwards-Smith thinks that by
1418 doing their own research on accrediting bodies and combining it with the research that will be
1419 contributed by FSMTB, the board could possibly expand their approval entities list at the next
1420 meeting.

1421
1422 **TASK: Ron Gibbs and Julie Endle will research the Distance Education and Training**
1423 **Council (DETC), Accrediting Council for Independent Colleges and Schools**
1424 **(ACICS), and Accrediting Council for Continuing Education and Training**
1425 **(ACCET) and relay that information to OLE Dulebohn to include in the**
1426 **September meeting packet.**

1427
1428 Board Approved State Authorizing Agency for Schools

1429
1430 Chair Dave Edwards-Smith will also work with FSMTB to establish the Alaska Commission on
1431 Post-Secondary Education (ACPE) equivalency of state authorizing agencies for schools in every
1432 state. Both the Chair and the Vice-Chair agree that tapping into FSMTB’s resources would be a
1433 good use of the board’s membership to the organization. OLE Dulebohn agrees with the board
1434 members as she recently had to justify to Division why the board should have this membership.

1435 Vice-Chair Traci Gilmour states that this membership will save hours of research by OLE Dulebohn
1436 and Board Members when FSMTB already has the resources to complete the project.

1437

1438 **TASK: Chair Edwards-Smith will consult FSMTB to establish a list of ACPE**
1439 **equivalents in every state.**

1440

1441 Insurance Billing Statute

1442

1443 Board Member Jill Motz was invited to present her research on this matter. Ms. Motz found that,
1444 according to the Director of the Department of Insurance for Alaska, that once the massage board
1445 was formed it would fall under AS 21. 36.090, a statute regarding Unfair Discrimination.

1446 AS 21.36.090 Unfair Discrimination states: (a) A person may not make or permit unfair
1447 discrimination between individuals of the same class and equal expectation of life in the rates
1448 charged for a contract of life insurance or of life annuity or in the dividends or other benefits
1449 payable thereon, or in any other of the terms and conditions of the contract.

1450 (b) A person may not make or permit unfair discrimination between individuals of the same class
1451 and of essentially the same hazard in the amount of premium, policy fees, or rates charged for a
1452 policy or contract of health insurance or in the benefits payable, or in any of the terms or conditions
1453 of the contract, or in any other manner whatever.

1454 (c) A person may not make or permit arbitrary or unfair discrimination between insureds or property
1455 having like insuring or risk characteristics, in the premium or rates charged for a policy or contract
1456 of property, casualty, surety, marine, wet marine or transportation insurance, or in the dividends or
1457 other benefits payable on the insurance, or in the selection of it, or in any other of the terms and
1458 conditions of the insurance.

1459 (d) Except to the extent necessary to comply with [AS 21.42.365](#) and [AS 21.56](#), a person may not
1460 practice or permit unfair discrimination against a person who provides a service covered under a
1461 group health insurance policy that extends coverage on an expense incurred basis, or under a group
1462 service or indemnity type contract issued by a health maintenance organization or a nonprofit
1463 corporation, if the service is within the scope of the provider's occupational license. In this
1464 subsection, "provider" means a state licensed physician, physician assistant, dentist, osteopath,
1465 optometrist, chiropractor, advanced practice registered nurse, naturopath, physical therapist,
1466 occupational therapist, marital and family therapist, psychologist, psychological associate, licensed
1467 clinical social worker, licensed professional counselor, or certified direct-entry midwife.

1468 Ms. Motz shares a few points:

- 1469 • Ms. Motz recently looked up that statute with a representative from the Department of
1470 Insurance and, although it mentions 15 types of providers, that statute does not list massage
1471 therapy and 7 other boards.
- 1472 • AS 21.36.090 was created in 1993 and there are many boards that are not on the list.
- 1473 • Insurance companies may reference this law and use it as a reason to not pay massage
1474 therapists for coverage and billing.

- 1475 • When Ms. Motz asked Division about this issue, she was advised to take it to legislation by
1476 Supervisor Hannasch.
- 1477 • Is this a housekeeping issue for Division given that there are multiple boards that are not
1478 mentioned?
- 1479 • Is this something the board’s need to address directly, either singularly or as a group? Since
1480 she believes that this project is reasonable and important, it may be the business of the board
1481 directly.

1482

1483 Ms. Gilmour contributes to the conversation by divulging that she cannot work on AlaskaCare
1484 retirees and bill their insurance because she does not work in a clinic supervised by a doctor. Ms.
1485 Motz interjects that AlaskaCare retirees state plan specifically states that massage therapy will not be
1486 covered for retirees but Ms. Gilmour counters that retirees can get a massage from a licensed
1487 massage therapist working for a chiropractor and the billing is covered. Ms. Gilmour continues that
1488 since the massage board is one of many professional license programs/health care providers that are
1489 excluded, she suggests first going to other health care providers to band together to take on a project
1490 of this magnitude.

1491

1492 **TASK: Ms. Gilmour will contact the Department of Insurance regarding AS**
1493 **21.36.090.**

1494

1495 Chair Edwards-Smith muses on whether it is the board’s purview to take on this project and Ms.
1496 Motz replies that it is an issue of access to care. Chair Edwards-Smith poses the following
1497 questions: Is this project:

- 1498 1. Under the scope of the board?
- 1499 2. Is this a Division issue? Would it be necessary for Division to pursue this topic?
1500 Should Director Chambers be consulted?
- 1501 3. Should the board consult other professional license boards/health care
1502 professionals to garner their take on the subject and then present this case to the
1503 legislature?

1504

1505 Ms. Motz agrees with Mr. Edwards-Smith. She goes on to state that she thinks it should be brought
1506 to Division again before the board takes any more steps. Ms. Motz continues that she would be
1507 very interested to see what Ms. Gilmour finds out from the Department of Insurance under
1508 providers need licenses to bill insurance.

1509

1510 Ms. Endle joins the conversation by stating that she has firsthand knowledge of insurance providers
1511 denying covering massage sessions and would like to see that changed as she sees massage as an
1512 important tool to healing.

1513

1514 Mr. Gibbs states that massage therapists not being mentioned in AS 21.36.090 could be a potential
1515 loophole that insurance companies will use to deny coverage. In his mind, the first step is
1516 consulting the other professions/health care providers that are not mentioned in statute considering
1517 it’s a statute on equality. Ms. Motz continues by saying that if the board goes to the legislature about
1518 this, they should ask for an “adoption by reference” so that way boards would not have to bring this
1519 back to the legislators every time a new board is created.

1520

1521 Ms. Motz polls the board and Mr. Gibbs, Ms. Gilmour agree that this project is within the board's
1522 scope.

1523
1524 **TASK: OLE Dulebohn will send request for Division Deputy Director Sharon Walsh**
1525 **and the Department of Law, on the subject of Division taking on the task of**
1526 **updating AS 21.36.090 to include all professionally licensed health care**
1527 **boards.**

1528
1529 **TASK: Ms. Motz will research what other boards have been left off of AS 21.36.090.**
1530 **She will draft a letter for OLE Dulebohn to send out to other health care**
1531 **related professional licensing boards to see if they have interest in joining a**
1532 **coalition and taking this topic before the legislature in 2020. The letter will be**
1533 **reviewed and approved by the board before being sent out.**

1534
1535 **Agenda Item 19 Application of Curriculum Breakdown**

1536
1537 On April 17, 2019 the board-added regulation, 12 AAC 79.140, went into effect giving a minimum
1538 guideline to what massage education should contain.

1539
1540 12 AAC 79.140. MASSAGE SCHOOL EDUCATION REQUIREMENTS. (a) For applications
1541 submitted on or before June 30, 2019, applicants must show successful completion of at least 500
1542 hours of education or instruction in massage therapy that includes the following subjects for the
1543 minimum number of hours specified:

- 1544 (1) anatomy, physiology, pathology, and kinesiology: 130 hours, including instruction in
1545 (A) at least 40 hours in pathology, including indications and contraindications;
1546 (B) the muscular system;
1547 (C) the nervous system;
1548 (D) osteology;
1549 (E) the circulatory system; and
1550 (F) kinesiology;
- 1551 (2) massage theory and practical application: 220 hours, including instruction in
1552 (A) basic massage therapy techniques dedicated to the study of massage therapy and
1553 various clinically related modalities; and
1554 (B) assessment;
- 1555 (3) clinical practice: 110 hours, including instruction in
1556 (A) universal and standard precautions;
1557 (B) self-care;
1558 (C) body mechanics;
1559 (D) draping;
1560 (E) record keeping;
1561 (F) business practice and professional development; and
1562 (G) medical terminology;
- 1563 (4) ethics and laws: 40 hours, including instruction in
1564 (A) professional boundaries;
1565 (B) therapeutic relationships; and
1566 (C) local and state laws;
- 1567 (5) not more than 50 hours in techniques that are exempt from license requirements;
1568 (6) practical application, not to exceed 20 percent of the total hours of the massage program.
- 1569 (b) For applications submitted on or after July 1, 2019, applicants must show successful
1570 completion of at least 625 hours of education or instruction in massage therapy that includes the
1571 following subjects for the minimum number of hours specified:
- 1572 (1) anatomy, physiology, pathology, and kinesiology: 162 hours, including instruction in
1573 (A) at least 40 hours in pathology, including indications and contraindications;

- 1574 (B) the muscular system;
- 1575 (C) the nervous system;
- 1576 (D) osteology;
- 1577 (E) the circulatory system; and
- 1578 (F) kinesiology;
- 1579 (2) massage theory and practical application: 275 hours, including instruction in
- 1580 (A) basic massage therapy techniques dedicated to the study of massage therapy and
- 1581 various clinically related modalities; and
- 1582 (B) assessment;
- 1583 (3) clinical practice: 138 hours, including instruction in
- 1584 (A) universal and standard precautions;
- 1585 (B) self-care;
- 1586 (C) body mechanics;
- 1587 (D) draping;
- 1588 (E) record keeping;
- 1589 (F) business practice and professional development; and
- 1590 (G) medical terminology;
- 1591 (4) ethics and laws: 50 hours, including instruction in
- 1592 (A) professional boundaries;
- 1593 (B) therapeutic relationships; and
- 1594 (5) not more than 50 hours in techniques that are exempt from license requirements;
- 1595 (6) practical application, not to exceed 20 percent of the total hours of the massage program.
- 1596

1597 Chair Edwards-Smith starts the conversation by referencing information he has gathered from the
 1598 state of Massachusetts. Included in the application is a section that requires the applicant to break
 1599 down their transcripts to match the state’s education requirements. This form would put the
 1600 responsibility on the applicant to show where on their transcript they have completing the Alaska
 1601 board’s required content. This method would also aid in the applicants understanding if and when
 1602 the board determines there is an educational deficit that needs to be completed.

1603
 1604 Mr. Gibbs asks the board if there is any flexibility when they are comparing transcripts to the
 1605 board’s Curriculum Breakdown. OLE Dulebohn answers that while there is flexibility in the board’s
 1606 interpretation of what counts under each category, there is no flexibility in the number of hours that
 1607 is required for each topic as the board has added it to Regulation.

1608
 1609 Board member Julie Endle contributes to the conversation stating that she has spent hours
 1610 interpreting transcripts to the board’s Curriculum Breakdown and think that having the applicants
 1611 interpret their transcripts would be more accurate and time saving.

1612
 1613 Ms. Gilmour states that including the Curriculum Breakdown as a form in the application will give
 1614 the applicant the ability to evaluate any educational deficits themselves so they can complete those
 1615 classes prior to the board reviewing their application. The more information that can be given will
 1616 empower the applicant and the board.

1617
 1618 **TASK: Ron Gibbs and Dave Edwards-Smith will work together to compile a rough**
 1619 **draft Transcript Analysis Form based of Massachusetts and submit it to OLE**
 1620 **Dulebohn for possible revision and to be included in the board packet for the**
 1621 **September meeting.**

1622
 1623 OLE Dulebohn states that with Division approval, the Transcript Analysis Form would be included
 1624 in and a requirement in the Application by Examination.

1627
 1628 Disciplinary Matrix Revision (continued)

1629
 1630 The board continued their amendment of the new Disciplinary Matrix. The board discussed
 1631 amendments to Code of Ethics Violation, combine Fraud in Obtaining a License and Fraud in
 1632 Retaining a License into a new heading of Fraud in Securing a License, and combining all the Moral
 1633 Turpitude offenses.

1634
 1635 The board amended matrix is as follows:

1636 **MAS Disciplinary Matrix/Fine Schedule**

1637 Updated June 10-11, 2019 board meeting

<u>Statute/ Regulation</u>	<u>Violation</u>	<u>Time Frame</u>	<u>Disciplinary Action</u>	<u>Fine</u>
AS 08.61.070	Unlicensed Practice *	< 90 days	Fine	\$500
		91 days-1 year	Fine	\$1000
		> 1 year	Fine	\$2500
12 AAC 79.900	Code of Ethics Violation	1 st Offense	Letter of Advisement and/or Fitness to Practice Interview	n/a
		2 or more Offenses	Fine and/or Fitness to Practice Interview	\$250 per offense
AS 08.61.060	Fraud in Securing a License	1 st Offense	Consent Agreement w/ fine	\$250
		2 or more offenses	Consent Agreement with fine	\$250 per item
12 AAC 79.900	Standard of Practice Violation (refer to SOP)	1 st Offense	Letter of Advisement	n/a
		2 or more Offenses	Fine	\$250 per offense
AS 11.56.210	Falsification of Application	1 st Offense	Civil Fine	\$250 Civil Fine
		2 or more Offenses	Consent Agreement w/ fine,	\$250 per item
AS 08.61.060	Engaged in Deceit, Fraud, or Intentional Misrepresentation in the Course of Providing Massage Services	1 st Offense	Letter of Advisement, Fine	\$250-\$2500
		2 or more Offenses	Consent Agreement, Fine, Ethics Course, Suspension, Revocation	\$1000-\$2500

<u>Statute/ Regulation</u>	<u>Violation</u>	<u>Time Frame</u>	<u>Disciplinary Action</u>	<u>Fine</u>
AS 08.61.060	False or Misleading Massage Advertisement	1 st Offense	Letter of Advisement	n/a
		2 or more Offenses	Consent Agreement, Fine, Ethics Course, Suspension, Revocation	\$250-\$1000
AS 08.61.060	Convicted of Felony or Crime that Affects Ability to Practice Competently and Safely	Initial Application	Fitness to Practice Interview which could result in: Denial or Consent Agreement, Ethics Course, Probation	n/a
		2 or more Offenses	Consent Agreement with 4 years of Suspension or Revocation	n/a
AS 08.61.060	Intentionally or Negligently Engaged (or allowed another under your supervision to engage) in Client Care that Did Not Meet Minimum SOP (injury or not)	1 st Offense	Consent Agreement, Probation, Ethics Course	n/a
		2 or more Offenses	Consent Agreement, Fine, Suspension, Revocation	\$100- \$2500
AS 08.61.060	Failure to Comply with a Provision of this Chapter, Regulation, or Order of the Board	1 st Offense	Letter of Advisement OR Consent Agreement w/ Probation	n/a
		2 or more Offenses	Consent Agreement, Fine, Suspension, Probation	\$100-\$2500
AS 08.61.060	Continued to Practice After Becoming Unfit (professional/addiction)	n/a	Consent Agreement w/ 5-year probation, mandatory treatment	n/a
AS 08.61.060	Engaged in Un-Ethical or Sexual Misconduct in Connection with the Delivery of Massage to a Client	n/a	Fine, Ethics Course, Probation, Suspension, Revocation	\$500-\$5000

CRIMES OF MORAL TURPITUDE				
<u>Statute/ Regulation</u>	<u>Violation</u>	<u>Time Frame</u>	<u>Disciplinary Action</u>	<u>Fine</u>
AS 08.61.030, AS 08.61.040 12 AAC 79.910	Crimes of Moral Turpitude as defined by 12 AAC 79.910-May 2019	Initial Application	Fitness to Practice Interview which could result in: Denial or Consent Agreement, Ethics Course, Probation	n/a
		Renewal Application	Fitness to Practice Interview which could result in: Consent Agreement w/ Ethics Course & Probation, Fine, OR Suspension, OR Revocation	\$500-\$2500

1639

1640 *Board Chair Edwards-Smith called for lunch at 12:07 p.m. until 1:00 p.m.*

1641

1642 **In a motion duly made by Traci Gilmour, seconded by Jill Motz, and passed unanimously**
 1643 **with a roll call vote, it was RESOLVED to APPROVE and ADOPT the Disciplinary Matrix**
 1644 **and Fine Schedule as amended pending any changes recommended by Investigations and**
 1645 **the Department of Law.**

1646

1647 **TASK: OLE Dulebohn will send the revised Disciplinary Matrix and Fine Schedule**
 1648 **to Investigations and the Department of Law**

1649

1650 **Agenda Item 14 Administrative Business (continued)**

1651

1652 Annual Report

1653

1654 **In a motion duly made by Traci Gilmour, seconded by Ron Gibbs, and passed unanimously**
 1655 **with a roll call vote, the Board of Massage Therapists APPROVED the 2019 Annual Report**
 1656 **as written.**

1657

1658 **Agenda Item 21 Lunch**

1659

1660 *Chair Edwards-Smith calls a lunch break at 11:22 a.m.*

1661 *Back from lunch at 1:31 p.m. due to technical difficulties with the entire board present.*

1662 *Also present was Regulations Specialist Sher Zinn and Chief Investigator Greg Francois*

1663

1664 **Agenda Item 22 Draft Massage Establishment Regulations**

1665

1666 Chair Edwards-Smith begins the meeting by directing the board to the outline for Massage
 1667 Establishment Regulations (MER) that he has drafted from the board's previous meetings on the
 1668 subject.

1669

1670 The Chair revisits the idea that licensed massage therapists (LMTs) do not need to be registered for
 1671 establishments since they are already regulated under their professional license. Asking LMTs to

1672 register for establishments will be a duplication of work for division since they have already been
1673 vetted. The board is interested in asking non-LMT owned businesses to register since they have not
1674 been vetted, regulated, or registered by the state. The Chair also brings up a point made by Sara
1675 Chambers that the board should not ask for different sets of standards between LMTs and MER.
1676 He goes on to state that the way the board can rectify that situation is to add another section to
1677 LMT Standards of Practice (SOP) and Code of Ethics (COE). His outline is the minimum
1678 standards that the board has agreed should be part of the MER. Mr. Edwards-Smith explains to the
1679 board that the only thing he had not included in his outline is language regarding inspections and
1680 that is why he asked OLE Dulebohn to distribute an additional document to the board for review
1681 prior to the beginning of today’s meeting. At this time, the Chair would like to open the floor for
1682 discussion on MER.

1683
1684 *Chief Francois left the meeting at 1:41 p.m.*

1685
1686 Board member Traci Gilmour begins the conversation and the board discussed Self Inspection
1687 Requirements. Board member Julie Endle brings up the licensing of non-massage owned
1688 establishments and the Chair expands that it would not be a license but a registration of massage
1689 establishments that would come with a fee. The registration would require compliance with MER
1690 Standards of Practice and Code of Ethics that is identical to the SOP and COE required by LMTs.
1691 The board goes over the drafted COE that the Chair has drafted. Ms. Gilmour and Ms. Endle have
1692 a discussion about whether the SOP and COE would pertain to any other profession being housed
1693 in the establishment. Ms. Gilmour clarifies that the SOP and COE would only pertain to any
1694 massage operations in the establishment as that is what the Board of Massage Therapists has
1695 jurisdiction over. Any other profession that is operating in the establishment would be required to
1696 abide by their own profession’s statutes and regulations.

1697
1698 Chair Edwards-Smith asks Regulations Specialist Zinn for any input on the section in his outline on
1699 Massage Establishments Standards of Operation. Ms. Zinn clarifies that the board would ask that
1700 establishments attest on their application that they will adhere to the Standards of Operation. Ms.
1701 Zinn continues that the board needs to have everything that they want the establishment to adhere
1702 to in the Standards of Operation.

1703
1704 Ms. Endle broaches the question of a mobile massage therapist going to a hotel to perform a
1705 massage and whether that would make the hotel owner a massage establishment and whether they
1706 would have to register as such. The Chair states that under the definition of establishment that he
1707 has drafted, that would not be an issue since that massage would be an “outcall”.

1708
1709 The Chair requests that Regulations Specialist Zinn review Registration of Massage Therapy
1710 Establishments regarding *(a) an establishment that is not majority owned by massage therapist licensed in the*
1711 *State of Alaska or a licensed provider of medical services in the State of Alaska.* Ms. Zinn replies that the
1712 board can state the language in that way but they would want to make a space for exceptions to
1713 registration that lists the professions that would be exempt.

1714
1715 Chair Edwards-Smith goes on to the transfer of ownership section. He expands by stating that the
1716 board should disregard that section as they have discussed there is no “transfer of ownership” and if
1717 a business has a change of ownership, the new owner will need to register with Alaska within 10
1718 business days of them acquiring the business.

1719

1720 Board member Jill Motz revisits the option of any medical professional can own a massage
1721 establishment without registration. She points out that, because of their previous discussions on
1722 what is a medical provider in Alaska, the board is aware of who that regulation would be exempting.
1723 Ms. Motz brings to the boards attention the list of licensed medical providers in Alaska and whether
1724 all of those operate under the same standards that would allow them to have a massage therapist
1725 under their employ and not have to register with the Board of Massage Therapists. Chair Edwards-
1726 Smith reiterates that the MER mission statement is: “Massage establishment regulations will serve
1727 the purpose of safeguarding legitimate massage establishments, therapists, and the public from illicit
1728 massage establishments and human trafficking activity.” Ms. Motz goes on to give the example that
1729 a esthetician is a licensed provider of medical services but should they be exempt from registration
1730 of an establishment that houses a massage therapist. Ms. Gilmour contributes to the conversation
1731 by stating that defining the exemptions is a good thing for the board to do at this state in the
1732 regulations. Ms. Zinn informs the board that if they make a list of exemptions, she can add their
1733 statutory reference when she is writing the MERs. Board member Ron Gibbs agrees that the board
1734 should narrow the list of appropriate medical providers for exemption. The board decided to
1735 exempt acupuncturists (Jill-yes, Traci- yes, Ron-no, David-yes, Julie-yes), chiropractic examiners
1736 (unanimous yes), midwives (David-yes, Traci-yes, Jill- no, Julie-yes, Ron-yes), massage therapists
1737 (unanimous yes), medical which encompasses physicians, physician’s assistants, and paramedics
1738 (unanimous yes), naturopathy (unanimous yes), physical therapist (unanimous yes), occupational
1739 therapist (unanimous yes), osteopath (unanimous yes), and nurse practioners (unanimous yes).

1740
1741 The Chair brings the board to discuss the 11 items that would be required for registration of
1742 massage establishments. The board discusses how it would be a double standard to require massage
1743 establishments have liability insurance when it is not required for LMTs. When the Chair gets to
1744 number 11 he references the section where he defines what Self-Inspection entails. The Self
1745 Inspection checklist will be what the board determines is the standard and included in the COE and
1746 SOP.

1747
1748 The Chair directs the board to proposed SOP number 4 concerning the fact that establishments will
1749 require that therapists prominently display a current Alaska massage license and make available
1750 proof of identification and licensure while practicing off site to aid in public protection and help
1751 inspectors. Ms. Endle asks if the identification would also be up on the wall at the massage
1752 establishments to which the Chair replies that the license will be displayed but the identification
1753 would be made available by the therapist on request. He continues that this version of the SOP
1754 would be required of all therapists and would replace the current SOP in 12 AAC 79.900.

1755
1756 The board moves on to the proposed Massage Establishments Standards of Operation. The Chair
1757 agrees that number 4 can be removed but the rest he believes are applicable. Ms. Gilmour suggests
1758 how, even though it is not required for LMTs, that the application should have a place where
1759 obtaining general liability insurance is strongly recommended to establishment owners.

1760
1761 **TASK: OLE Dulebohn will add the board’s suggestion that LMT’s carry general**
1762 **liability insurance to the FAQ’s.**

1763
1764 The board makes some other minor changes to the Standards of Operation, changes number 3 from
1765 3 to 5 years (knowing that patient records should be kept for 10 years), and adds a section about
1766 photography taken directly from the February 2019 minutes: “No owner, operator, or employee
1767 shall allow television, video or recording equipment in any room where massage services are being

1768 provided. A security surveillance monitor that can only receive images of the inside of the common
1769 areas of the establishment is allowed. With written client consent, a massage therapist may use video
1770 and photography equipment for therapeutic purposes.” The board does discuss adding a section for
1771 restroom facilities but the board feels that it is common sense and it may be problematic for mobile
1772 massage and the fact that it is not specifically in regulation for LMTs. Additionally, SOP number 3
1773 requires that massage therapists provide a safe and sanitary environment.

1774
1775 Chair Edwards-Smith asks Ms. Zinn if the board has achieved their goal of creating regulations for
1776 massage establishments but not creating a double standard for those the board has exempted? Ms.
1777 Zinn replies that she does not believe the board has created a double standard but she will write up
1778 the proposed regulations and forward it to Harriet Milks in the Department of Law for review. Ms.
1779 Zinn expands that if the board’s intention is to clarify the standards that LMTs are required to
1780 follow to individuals or professionals that may not have the same the same standard of care, that is
1781 not treating those individuals differently. Ms. Zinn states that at looking at the boards exempt list,
1782 she is sure that those professions have standards that are equal to or greater than the Board of
1783 Massage Therapists. Ms. Motz brings up the idea of requiring venues and teachers to register as a
1784 massage establishment.

1785
1786 The proposed regulations for massage establishments are as follows:

1787 Massage Establishment Regulations

1788 Mission Statement

1789
1790
1791
1792 Massage establishment regulations will serve the purpose of safeguarding legitimate massage
1793 establishments, therapists, and the public from illicit massage establishments and human trafficking
1794 activity

1795 Establishments

1796
1797
1798 Establishments majority owned by licensed massage therapists are on record of practicing in Alaska
1799 and have paid licensing fees and are therefore registered. Establishments that are not majority
1800 owned by Alaska LMTs are not on record will register with the department and provide fees to
1801 cover the administrative costs.

1802
1803 Establishment is defined as:

- 1804 1. a fixed or mobile place of business of two or more individuals or of a partnership, firm,
1805 association, corporation, or business entity or any other combination of individuals.
 - 1806 a. Business that uses the word massage in any solicitation or advertisement
 - 1807 b. Engages in, conducts, carries on or permits massage or massage therapy to be conducted
1808 or carried on for any form of compensation.

1809 Compensation is defined as anything of value.

- 1810 2. Anyone who houses a massage therapist (who is not a massage therapist), whether the
1811 spaces are loaned, leased, or rented.

1812 1813 12 AAC 79.XXX Registration of Massage Therapy Establishments

- 1814 a. An establishment that is not majority owned by massage therapists licensed in the state of
1815 Alaska or a licensed provider of medical services exempted by the board. Persons that

- 1816 provide massage therapy practices as defined in AS 08.61.100 who is not on the board's
1817 exempt list must register with the board. Registration required under this section must be
1818 received prior to transacting massage business
- 1819 b. The owner or operator of a massage therapy establishment shall register on a form provided
1820 by the department. A completed application must include:
- 1821 1. Payment of registration fee
 - 1822 2. Name of the owner(s)
 - 1823 3. Name of the operator(s), if not the owner
 - 1824 4. Business license number of the massage therapy establishment
 - 1825 5. Corporate entity number if the owner is not a natural (actual) person
 - 1826 6. Mailing and street address of the massage therapy establishment
 - 1827 7. Name and license number of each licensed massage therapist who is employed in the
1828 establishment
 - 1829 8. Listing of all other massage therapy establishments the applicant operates, including the
1830 business name, mailing address, and street address of each establishment
 - 1831 9. An affidavit stating whether the operation has ever been found in violation of a
1832 provision of AS 08.61.060 in any jurisdiction
 - 1833 10. A completed self-inspection of the premises on a form provided by the department on
1834 which the establishment owner inspects and attests compliance with the establishment
1835 Standards of Operations.

1836
1837 Exemption to Massage Establishment Registration

1838
1839 The Board of Massage Therapists exempt the following medical professions from registering their
1840 massage establishment

- 1841 1. Acupuncturists,
- 1842 2. Chiropractic Examiners
- 1843 3. Midwives
- 1844 4. Massage Therapists
- 1845 5. Medical which encompasses physicians, physician's assistants, and paramedics
- 1846 6. Naturopathy
- 1847 7. Physical Therapist
- 1848 8. Occupational Therapist
- 1849 9. Osteopath
- 1850 10. Nurse Practitioners

1851
1852 Transfer of Ownership

1853
1854 Transfer of ownership is not allowed. If a business has a change in ownership, the new owner will
1855 need to register with the State of Alaska within 10 business days of acquiring the business.

1856
1857 Fine and Disciplinary Matrix

1858
1859 The board may issue a cease and desist order and impose a civil fine not to exceed \$5,000 for each
1860 individual violation of this section by a massage establishment.

1861
1862
1863

1864 Self-Inspection Requirements

1865

1866 On a form provided by the department, the establishment owner inspects and attest compliance
1867 with establishment Standards of Operation as per Code of Ethics and Standards of Practice.

1868

1869 Code of Ethics

1870

1871

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.

1872

1873

1874

1875

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 contraindications for massage therapy and refer clients to appropriate health care professionals when indicated.

1876

1877

1878

3. I will not discriminate against clients and/or healthcare professionals.

1879

1880

4. I will abide by the Federal guidelines of the Health Insurance Privacy and Portability Act (HIPPA).

1881

1882

5. I will respect the client's right to refuse, modify or terminate treatment at will regardless of prior consent given.

1883

1884

6. I will exercise my right to refuse to treat any person or part of the body for just and reasonable cause.

1885

1886

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.

1887

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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.

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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.

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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.

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11. I will report in accordance to AS 41.17.070 (a)(1) any suspected child abuse or neglect.

1897

1898

1899 Standards of Practice

1900

1901

1. Obey all applicable local, state and federal laws when pertaining to massage therapy.

1902

2. Maintain a record of daily clientele including name and date of service and adequate progress notes when applicable.

1903

1904

3. Provide a setting that is safe and meets all applicable legal requirements for health, safety, sanitation, hygiene, universal and standard precautions, in accordance with local, state and federal regulatory bodies including guidelines set by the Centers for Disease Control and Prevention (CDC), the National Institute of Health (NIH), and the Occupational Safety and Health Administration (OSHA).

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4. Therapists shall prominently display a current State of Alaska massage license in his or her place of business. Therapists will make available proof of licensure and legal identification while practicing off site.

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1912 5. Therapists shall display or discuss a schedule of fees in advance of the session that is clearly
 1913 understood by the client.

1914
 1915 Establishment Standards of Operation

- 1916
 1917 1. Standards of Practice and Code of Ethics must be on premises and made available to the
 1918 public on request.
 1919 2. Display within full public view, a current massage license of all employed massage therapists.
 1920 3. A written and or digital system of maintaining client records for at least five (5) years. This
 1921 includes safeguarding verbal and written confidential information of the client, unless
 1922 disclosure is required by law, court order, or authorized by the client.
 1923 4. Maintain all equipment used to perform massage therapy services on the premises in a safe
 1924 and sanitary condition.
 1925 5. Maintain compliance with all applicable state and local building and fire codes.
 1926 6. Provide for the removal of garbage and refuse in a sanitary manner.
 1927 7. Provide for safe storage, cleaning, and/or removal of soiled linens.
 1928 8. Rooms or any cubicle for massage or massage therapy practices may not be equipped with
 1929 an externally locking door.
 1930 9. Establishment shall not operate or be open for business between the hours of 12:00 am and
 1931 5:00 am.
 1932 10. No owner, operator, or employee shall allow television, video or recording equipment in any
 1933 room where massage services are being provided. A security surveillance monitor that can
 1934 only receive images of the inside of the common areas of the establishment is allowed. With
 1935 written client consent, a massage therapist may use video and photography equipment for
 1936 therapeutic purposes.

1937
 1938 **In a motion duly made by Traci Gilmour, seconded by Jill Motz, and passed unanimously**
 1939 **with a roll call vote, it was RESOLVED to send the draft language for Massage**
 1940 **Establishment Regulation from the June 10-11, 2019 meeting to Regulations Specialist Zinn**
 1941 **for drafting.**

1942
 1943 **TASK: Dave Edwards-Smith will complete the regulations questionnaire for the**
 1944 **massage establishment regulations and submit it to OLE Dulebohn.**

1945
 1946 *Sher Zinn left the meeting at 2:50 p.m.*

1947
 1948 Agenda Item 14 (continued) Administrative Business

1949
 1950 New Task List:

TASK LIST
June 10-11, 2019

#	Task	Who to complete?	When is the deadline?	Distribute to the Board?	Completed
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1	Whether “hearing” in AS 08.61.060 means the board reviewing the file and “licensee” pertains to the fact that the board doesn’t implement disciplinary action via consent agreement until after the license has been issued.	Dulebohn/Department of LAW	8/21/2019	In board packet	
2	Traci Gilmour will write an FAQ regarding charting/recording keeping/SOP #2 and submit it to OLE Dulebohn to add to the board’s website.	Gilmour/Dulebohn	ASAP	In board packet	
3	Complete the regulations questionnaire for the continuing education ethics requirement regulations project and submit it to OLE Dulebohn.	Edwards-Smith	ASAP	No	
4	Complete the regulations questionnaire for the continuing education ethics requirement regulations project and submit it to OLE Dulebohn.	Gilmour	ASAP	No	
5	Complete the regulations questionnaire for in class supervised/online education requirement regulations project and submit it to OLE Dulebohn.	Motz	ASAP	No	
6	Complete the regulations questionnaire for Renewal/ Reinstatement regulations project and submit it to OLE Dulebohn.	Gilmour	ASAP	No	
7	Research Medical/Military Exemptions for continuing Education in other states.	Motz-Medical Gibbs- Military	8/21/2019	In board packet	
8	Send Lorena Haynes from FSMTB contact information to the board.	Dulebohn	ASAP	Via e-mail	
9	Send draft regulations for massage establishments to SA Goeden for feedback.	Edwards-Smith	ASAP	If reply from Ms. Goeden is rec’d: In board packet.	
10	Research the benefits of joining FARB in order to make an informed decision on membership during the September 2019 meeting.	Board	8/21/2019	In board packet	
11	Respond to Ms. Betz’ correspondence to the board	Dulebohn	ASAP	No	
12	Reply to Ms. Brown’s correspondence by referencing this portion of the minutes and the board’s discussion.	Dulebohn	ASAP	No	

13	Send original signature pages with a prepaid envelope to Chair Edwards-Smith for signature and return.	Dulebohn	ASAP	No	
14	Send digital copies of signature pages via e-mail and signed originals via postal mail to OLE Dulebohn.	Edwards-Smith	ASAP	No	
15	Post list of crimes of moral turpitude, “No Investigations Needed”, and completed Disciplinary Matrix to the board’s website after they have been reviewed and approved.	Dulebohn	9/19/2019	No	
16	Update the board’s denial list and post the updated list on the board’s website.	Dulebohn	9/19/2019	No	
17	Contact FSMTB to help the board with research regarding state approved credentialing agencies.	Edwards-Smith	8/21/2019	In board packet	
18	Send legislative research on school requirements in different states to OLE Dulebohn to distribute to the board.	Gilmour	8/21/2019	Via e-mail and in board packet	
19	Create a list of the state authorizing and national accrediting entities approved by the board and post them to the board’s website.	Dulebohn/pending research from Endle and Gibbs	09/19/2019	In board packet	
20	Research the Distance Education and Training Council (DETC), Accrediting Council for Independent Colleges and Schools (ACICS), and Accrediting Council for Continuing Education and Training (ACCET) and relay that information to OLE Dulebohn to include in the September meeting packet.	Gibbs/Endle	08/21/2019	In board packet	
21	Consult FSMTB to establish a list of ACPE equivalents in every state	Edwards-Smith	8/21/2019	In board packet	
22.	Contact the Department of Insurance regarding AS 21.36.090.	Gilmour	8/21/2019	In board packet	
23	Send request for Division Deputy Director Sharon Walsh and the Department of Law, on the subject of Division taking on the task of updating AS 21.36.090 to include all professionally licensed health care boards.	Dulebohn	8/21/2019	In Board packet	
24	Research what other boards have been left off of AS 21.36.090. Draft letter to send out to other health care related	Motz/Dulebohn	ASAP	Via e-mail/In board packet	

	professional licensing boards to see if they have interest in joining a coalition and taking this topic before the legislature in 2020. The letter will be reviewed and approved by the board before being sent out.				
25	Compile a rough draft Transcript Analysis Form based of Massachusetts and submit it to OLE Dulebohn for possible revision and to be included in the board packet for the September meeting.	Gibbs/Edwards-Smith/Dulebohn	ASAP	In board packet	
26	Send the revised Disciplinary Matrix and Fine Schedule to Investigations and the Department of Law	Dulebohn	ASAP	In Board packet	
27	Add the board's suggestion that LMT's carry general liability insurance to the FAQ's.	Dulebohn	9/19/2019	No	
28	Complete the regulations questionnaire for the massage establishment regulations and submit it to OLE Dulebohn.	Edwards-Smith	ASAP	No	
29	Add FAQ. 12 AAC 79.210(e)(1) means the board can decide if a continuing education course relates to the profession of massage therapy. Course must still be approved by an institute of higher learning or a local, state, or national organization that serves the profession of massage therapy Consult Regulations Specialist Zinn before posting	Dulebohn/Zinn	9/19/2019	No	
30	Send OLE Dulebohn unavailable dates (such as travel or other commitment) so she can update her calendar.	Board	ASAP	No	

1951

1952 **Agenda Item 23** **Adjourn**

1953

1954 At this time, the board concluded all scheduled Board Business.

1955

1956 **In a motion made by Julie Endle, seconded by Traci Gilmour, and passed unanimously, it was RESOLVED to ADJOURN.**

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1965 Hearing nothing further, Chair David Edwards-Smith adjourned the meeting and the record ended
1966 at 2:57 p.m.

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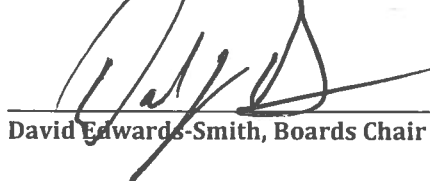
Respectfully Submitted,



Dawn Dulebohn, Licensing Examiner

9/12/19

Date



David Edwards-Smith, Boards Chair

9-19-19

Date