

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 18-19, 2020
9

10 By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a
11 scheduled meeting of the Board of Massage Therapists was held by video conference on
12 June 18-19, 2020.
13

14 **Agenda Item 1** **Call to Order/Roll Call:**
15

16 *On the record at 9:04 a.m.*
17

18 Board Members present, constituting a quorum:
19

20 David Edwards-Smith- Board Chair, Licensed Massage Therapist
21 Traci Gilmour- Vice Chair, Licensed Massage Therapist
22 Jill Motz, Licensed Massage Therapist
23 Kristin Tri, Licensed Massage Therapist
24 Julie Endle, Public Member
25

26 Division Staff present:
27

28 Dawn Dulebohn, Occupational Licensing Examiner
29 Melissa Dumas, Administrative Officer II
30 Cynthia Spencer, Acting Records and Licensing Supervisor
31 Sher Zinn, Regulations Specialist
32

33 Division Staff Joining Telephonically:
34

35 Carl Jacobs, Investigator III
36 Sonia Lipker, Senior Investigator III
37 Greg Francois, Chief Investigator
38 Colleen Kautz, Program Coordinator
39 Marilyn Zimmerman, Paralegal
40 Sharon Walsh, Deputy Director, Corporations, Business, and Professional Licensing
41
42

43 Public Joining Telephonically
44

45 Nanette Greer, Applicant for Massage Therapist Licensure (in at 9:14 a.m.)
46 Kathy Stubbs, Alaska Licensed Massage Therapist
47 Alyssa Reis, Alaska Licensed Massage Therapist
48 Sky Inglett, Alaska Licensed Massage Therapist (in at 1:15 p.m.)
49

50 **Agenda Item 2** **Ethics Reporting**

51

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

54

55 **Agenda Item 3** **Review/Approve Agenda**

56

57 The board reviewed the agenda and saw no changes to be made.

58

59 **In a motion made by Traci Gilmour, seconded by Julie Endle, and passed unanimously with**
60 **a roll call vote, it was RESOLVED to APPROVE the agenda as written.**

61

62 **Agenda Item 4** **Task List from Previous Meetings**

63

64 Previous Tasks

65

66 Chair Edwards-Smith asked OLE Dulebohn to present the task list assigned at the March 2, 2020
67 meeting.

68

69 The following tasks have been completed:

70

71 • Ms. Motz contacted M Power Education/ACHI for additional information and provided it

72 to OLE Dulebohn.

73

74 • OLE Dulebohn put an agenda item in the June 2020 meeting regarding an allotment of

75 inspections for compliance matters.

76

77 • Ms. Gilmour sent her notes of the board's changes to the Investigation's Inspection checklist
78 and the Self-Inspection Checklist to be included in the application form to Chair Edwards-

79 Smith. Chair Edwards-Smith crafted the documents and sent them to OLE Dulebohn for

80 distribution to Division and Investigations

81

82 • Chair Edwards-Smith rewrote position statements on HB 216, HB 169, and HB 225 as

83 amended by the board and sent them to OLE Dulebohn for distribution to Director

84 Chambers.

85

86 • Ms. Endle revamped the fingerprint information statement and resubmitted to OLE

87 Dulebohn.

88

89 • OLE Dulebohn mailed the signature page from the December 2-3, 2019 meeting minutes to

90 the Chair for signature and return.

91

92 • Chair Edwards-Smith added the fingerprint information as provided by Ms. Endle regarding

93 fingerprinting to the newsletter and sent it OLE Dulebohn to submit to the Division for

94 approval.

95

96 • OLE Dulebohn sent a mass e-mail to notify the public of the massage establishment

97 registration effective date and who the registration pertains to.

98

99 The following tasks have **not** been completed and will need follow-up in the September 2020

100 meeting:

101

102 • Board Members will come to the June 2020 meeting with prepared statements and research

103 regarding fee analysis. OLE Dulebohn will put the fee analysis item in the June 2020 agenda

104 for board discussion.

105

- 97 • OLE Dulebohn will resubmit all the supporting MTLT document as provided by FSMTB
98 to Program Coordinator Kautz.
- 99 • OLE Dulebohn will contact Publications Specialist Hamberg regarding the board
100 recommended changed to their FAQ #5, #35, and #30.
- 101 • Chair Edwards-Smith will contact FSMTB regarding their list of education hour
102 requirements for all 50 states and also ask them to update their information on Alaska. He
103 will also speak with them about the historical education requirements for all 50 states as a
104 resource.
- 105 • Chair Edwards-Smith will develop a resource list for out of state educational approvals and
106 national accreditations for the board to use as a resource by the June 18-19 meeting.
- 107 • OLE Dulebohn will create a “cheatsheet” for new regulation that were effective March 25,
108 2020 and add it to the OnBoard Resources folder for the board’s reference.
- 109 • OLE Dulebohn will research the status of AS 21.36.090 for non-discrimination of health
110 care professions from Division and past meeting minutes.

111
112 Approval for U.S. Career Institute

113
114 Chair Edwards-Smith asked the board if they had a motion regarding U.S. Career Institute (USCI) as
115 an approved online qualifying education provider.

116
117 Ms. Endle brought up concerns regarding the ethics portion of the curriculum as a matter of clarity.
118 Ms. Gilmour directed the board to page 36 of their board book where the educational breakdown
119 sent by USCI was located.

120
121 **In a motion made by Jill Motz, seconded by Julie Endle, and passed unanimously with a roll**
122 **call vote, it was RESOLVED to ACCEPT U.S. Career Institute as an approved, online**
123 **massage therapy program for qualifying education.**

124
125 Rescind Allied Health Career Institute Motion from March 2, 2020 Meeting

126
127 Chair Edwards-Smith stated the motion to accept Allied Health Career Institute (AHCI) as an online
128 remedial education provider in the March 2020 meeting was premature since the regulation was not
129 in place at that time and the board had not yet approved AHCI as an approved qualifying education
130 provider.

131
132 **In a motion made by Jill Motz, seconded by Julie Endle, and passed unanimously with a roll**
133 **call vote, it was RESOLVED to RESCIND the motion made in the March 2, 2020 meeting**
134 **to accept Allied Health Career Institute’s massage therapy program as an approved massage**
135 **therapy school offering remedial qualifying education.**

136
137 Approval for Allied Health Career Institute

138
139 The board reviewed the information provided by Allied Health Career Institute (AHCI). Ms. Endle
140 brought up concerns regarding the ethics portion of the curriculum as a matter of clarity. Chair
141 Edwards-Smith stated that AHCI has shown Ethics and Law requirements and that there is no
142 stipulation in Alaska’s breakdown that requires how many hours of each a school must have. Ms.
143 Motz replied that she feels AHCI goes above and beyond the board’s requirements, they are fully
144 COMTA endorsed, and have created a federal apprenticeship program. Ms. Motz continued that

145 the board will find that AHCI meets all the requirements of Alaska as it would be required for their
146 COMTA and ELAP certification.

147
148 **In a motion made by Jill Motz, seconded by Julie Endle, and passed unanimously with a roll**
149 **call vote, it was RESOLVED to ACCEPT Allied Health Career Institute as an approved,**
150 **online massage therapy program for qualifying and remedial education.**

151
152 *Chair Edwards-Smith called for a short break at 9:26 a.m.*

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

154 *All board members present. Melissa Dumas and Sonia Lipker joined the meeting*
155 *Members of the public present were: Kathy Stubbs, Nanette Greer, and Alyssa Reis*

156
157 **Agenda Item 5** **Division/Financial Update**

158
159 Chair Edwards-Smith welcomed Melissa Dumas to present the Division/Financial Update to the
160 board. The Chair stated that the board was increasingly interested in the numbers presented by
161 Division since a fee analysis was coming up soon.

162
163 *Carl Jacobs joined the meeting at 9:35 a.m.*

164
165 Ms. Dumas reviewed the 3rd Quarter finances of FY2020 which ran from January 8 until April 17,
166 2020.

167
168 **FY 2020 3rd Quarter- Schedule of Revenues and Expenditures**

169

MAS	2020
Licensing Revenue	\$339,225
Direct Expenditures	127,911
Indirect Expense	69,004
TOTAL EXPENSES	\$196,915
Annual Surplus (Deficit)	142,310
Beginning Cumulative Surplus	\$8,652
Ending Cumulative Surplus	\$150,962

170
171 Ms. Dumas stated that, for the board's last non-renewal year in FY18, they had a surplus of
172 \$231,000 which was the reason Division was very concerned about the board's finances. Ms.
173 Dumas reminded the board that they would be re-visiting the fee analysis and proposed increases in
174 the September 2020 meeting.

175
176 The Division website has Quarterly Reports for all boards.

177
178 *Melissa Dumas left the board meeting at 9:38 a.m.*

179
180 **Agenda Item 6** **Investigative Case Review and Probation Reports**

182 Senior Investigator Lipker began with the Probation Report. Ms. Lipker stated there are 7 active
183 licensees on probation and they are in compliance; 2 are on hold due to lapsed licenses. There are
184 currently no requests to the board.

185
186 *Colleen Kautz joined the meeting at 9:39 a.m.*

187
188 Investigator Jacobs began the Investigative Case Review with the permission of the Board Chair for
189 the period of February 15, 2020 through June 12, 2020. Inv. Jacobs stated that Division currently
190 has 25 cases open and closed 5. Inv. Jacobs disclosed that no unannounced inspections were done
191 since the last board meeting. Inv. Jacobs has 2 enforcement actions for the board's review and
192 suggested the board enter into Executive Session if they would like to review the case files.

193
194 Chair Edwards-Smith noted there seems to be an increase in complaint driven inspections and
195 would like further insight from Investigations on this observation. Investigator Jacobs replied that
196 they get quite a few referrals from the public and the Licensing Examiner, but he is unable to speak
197 to whether there is a trend in either direction.

198
199 **TASK: Investigator Jacobs will gather information on public complaint driven**
200 **inspections for a 6-12-month period and report to the board in the September 2020 meeting.**

201
202 **In a motion duly made by Traci Gilmour, seconded by Julie Endle, it was RESOLVED to**
203 **ENTER into Executive Session in accordance with AS 44.62.310(c), and Alaska**
204 **Constitutional Right to Privacy Provisions, for the purpose of discussing "subjects that tend**
205 **to prejudice the reputation and character of any person, provided the person may request a**
206 **public discussion". All Division staff to remain during Executive Session.**

207
208 *Entered into Executive Session at 9:48 a.m.*

209 *Back from Executive Session at 10:26 a.m.*

210 *All board members present. Colleen Kautz, Carl Jacobs, Sonia Lipker, and Greg Francois were present.*
211 *Members of the public present were: Kathy Stubbs, Nanette Greer, and Alyssa Reis*

212
213 Surrender of Licenses

214
215 N.D.

216
217 The board reviewed the case file presented by Investigations and Chair Edwards-Smith asked if
218 there was a motion for the license surrender of N.D.

219
220 **In a motion made by Traci Gilmour, seconded by Julie Endle, and passed unanimously with**
221 **a roll call vote with the exception of Jill Motz who abstained, it was RESOLVED to**
222 **ACCEPT the SURRENDER of license for Nancy Dinius, Case # 2019-001262**

223
224 O.S.

225
226 The board reviewed the case file presented by Investigations and Chair Edwards-Smith asked if
227 there was a motion for the license surrender of O.S.

228

229 **In a motion made by Traci Gilmour, seconded by Jill Motz, and passed unanimously with a**
230 **roll call vote, it was RESOLVED to ACCEPT the SURRENDER of license for Opal Sidon,**
231 **Case # 2019-001410.**

232
233 Inspection Allotment for Compliance Inspections

234
235 Chair Edwards-Smith stated this subject was on this meeting's agenda as a follow-up to the last
236 meeting where it was determined that only complaint driven inspections would be completed by
237 Investigations. The Chair continued that the board should revisit this subject and possibly give an
238 allotment of inspections to ensure the board is fiscally responsible; also, not superseding
239 Investigations ability to determine what therapist or establishment should be inspected to best
240 ensure the safety of the public. Vice Chair Gilmour recommended a combination of complaint
241 driven and randomly inspected premises. Ms. Motz stated, in the last meeting, the board
242 contemplated setting a budget for inspections so they were not interfering with Investigations
243 determining what or who they should be inspecting, but would have a say in the cost factor. Ms.
244 Motz reminded the board that illegitimate establishments will not have customers lodge a complaint
245 against their services. Ms. Motz stated if the board requires inspections are purely complaint driven,
246 it ties the hands of the investigative staff and does not give them the freedom to inspect random or
247 suspected therapists or establishments. Ms. Motz reminded the board that when Inv. Jacobs did a
248 random inspection in Fairbanks, his travel expenses were less than \$1,000 and he inspected more
249 than 10 massage businesses. Kristin Tri asked Investigations if complaints have to come from a
250 patron of the business or if they could come from any member of the public? Inv. Jacobs replied
251 that complaints can come from anyone as long as there is an adequate basis to open up an inquiry
252 such as firsthand knowledge of illegal activity.

253
254 Chair Edwards-Smith stated that there are different costs associated with an inspection: cost of the
255 actual inspection and cost of opening the cases for violations. Ms. Motz asked investigative staff if,
256 at some point, criminal inspections were turned over to local law enforcement. Inv. Jacobs replied
257 that Investigations does not pursue criminal charges and does make applicable referrals to local,
258 state, or federal law enforcement as necessary. Chair Edwards-Smith stated that setting a monetary
259 budget for inspections may not be possible due to all the unknown variables but instead, setting a
260 budget in terms of how many inspections should be performed in a time period would be a better
261 course of action. Ms. Motz stated she is indifferent to the preferred method adopted by the board
262 as long as they can show that the board is making an effort to combat human trafficking by illicit
263 businesses.

264
265 Ms. Motz asked Inv. Jacobs for an average number of inspections that are done for programs in a
266 year. Inv. Jacobs replied that he has not worked on a program that had a quota or cap on
267 inspections but he could do some research and report back to the board by the 2nd day of this
268 meeting.

269
270 **TASK: Investigator Jacobs will research the number of inspections done by other**
271 **boards and will have it to the board for review by close of business on June 18, 2020.**

272
273 Chair Edwards-Smith stated the board should review this information on inspections when it
274 becomes available and continue discussion on the subject tomorrow.

275
276 Inspections in Relation to FBI and Department of Labor

277

278 At the request of OLE Dulebohn, in relation to the board’s conversation on inspection allotments,
279 Inv. Jacobs made a brief statement regarding the benefits of having non-compliance driven
280 inspections. Previously, Inv. Jacobs had discussed with the Department of Labor and Special Agent
281 Goeden of the FBI, a joint inspection of massage businesses. Inv. Jacobs stated that often times in
282 instances of human trafficking, employers are retaining identification documents to hinder escape in
283 addition to not adequately paying their employees. Inv. Jacobs stated that it would be a good
284 utilization of resources to have multiple jurisdictions visit an establishment at the same time.

285

286 Chair Edwards-Smith stated that the collaboration between jurisdictions is something the board
287 would be very interested in pursuing with for establishments.

288

289 *Chief Francois left the meeting at 10:50 a.m.*

290

291 “No Investigations Needed” Document Feedback

292

293 Ms. Endle stated that she had some concerns about the board’s “No Investigations Needed”
294 document specifically #5 and #6. Ms. Gilmour clarified the intent behind those offenses being
295 included on the list for Ms. Endle.

296

297 OLE Dulebohn reminded the board that, at this time, Investigations would like to provide feedback
298 on the “No Investigations Needed” document. Inv. Jacobs stated that he only recently became
299 aware that the board had adopted the “No Investigations Needed” document and he would like to
300 provide feedback with the assistance of Senior Investigator Lipker and Chief Francois, who are
301 currently present at the meeting. Inv. Jacobs expressed concern that this document may be going
302 against Policy and Procedures (P&P) #28. Inv. Jacobs reviewed the document and stated the most
303 concern with items #5 and #6 as theft and burglary may be both a misdemeanor or a felony and
304 could be in excess of \$25,000. Inv. Jacobs continued that having this document in place is different
305 than other boards and differing from how this board has operated in the past. Inv. Jacobs
306 acknowledged the financial impact Investigations has on the Board of Massage Therapists and
307 suggested the board consider carefully if they want to proceed in this manner as it puts pressure on
308 the licensing team and supervisors to make complicated determinations.

309

310 OLE Dulebohn stated the “No Investigations Needed” list was originally formulated for person’s
311 who properly disclosed criminal convictions on their application. OLE Dulebohn continued that,
312 should the applicant fully disclose their criminal conviction, the OLE would refer the file to a
313 Records and Licensing Supervisor to determine whether the disclosed conviction would affect that
314 person’s ability to practice competently and safely and if it should be sent to Investigations for
315 further review. If the Supervisor determined the file did not need to go to Investigations for further
316 review, it would be cleared to go to the board for review per P&P 28(D)(1). OLE Dulebohn stated
317 the board, in the interest of fiscal responsibility and not holding up application processing time,
318 discussed the option of amending the purpose of the “No Investigations Needed” document in their
319 January 2020 meeting to also alleviate the cost associated with applicants that failed to disclose aged
320 convictions that were noted on the list and were sent to Investigations. OLE Dulebohn continued
321 that the board identified most applicants that do not disclose aged convictions state that they did so
322 because they believed them to have “aged off” their record or they forgot about the conviction; this
323 new policy would eliminate the cost and time to the board and the future licensee of sending it to
324 Investigations and instead allow the supervisor to clear the file to go to the board for review. Upon
325 review the board, should they believe they need more information, can request the file be sent to
326 Investigations.

327
328 Chair Edwards-Smith asked Investigations to clarify why they believe there is a downside to the
329 board providing this guidance other than a perceived liability. Inv. Jacobs responded that the way
330 the document is written implied that the responsibilities and duties of the board are being passed on
331 to licensing staff to make a determination whether a license is attempting to be secured through
332 deceit or fraud. Inv. Jacobs continued, should the board appoint this duty to the licensing staff and
333 they later disagree with staff decision after the license has been issued, they would have to go
334 through the process of attempting to revoke the license later. Inv. Jacobs suggested the board vet
335 this policy through the Department of Law. OLE Dulebohn stated that licensing staff and
336 supervisors are not interpreting background reports to determine guilt or convictions, what is being
337 utilized is the board guidance on criminal history and applicant's files to not be held up in
338 Investigations. OLE Dulebohn continued that the board only reviews completed applications and
339 therefore, should they see a background report with a conviction and only a supervisor memo
340 clearing the file to go to the board for review and not an investigative memo with more information
341 regarding the conviction, the board can make the determination to send that file to Investigations
342 for further review.

343
344 Ms. Motz stated that the "No Investigations Needed" guideline was created originally because most
345 of applications with any criminal history were being held up by Investigations and preventing
346 qualified therapists, who did not have a conviction that would impact their ability to practice
347 completely and safely, from working. Ms. Motz stated she does not believe the board has abdicated
348 their responsibilities in the creation of this document but to allow for an expedient process for
349 applications. Ms. Motz agreed with OLE Dulebohn that the board has access to all the background
350 report and clearance memos and can use those to make an informed decision on licensure.

351
352 Chair Edwards-Smith agreed that having this document is a good system to have in place despite it
353 being seen as being "outside the box" as it allows the board to expedite the application process. Inv.
354 Jacobs thanked the board for engaging in this discussion and stated that he will follow their direction
355 on this matter. OLE Dulebohn asked if the board would like a task to be assigned to send the "No
356 Investigations Needed" list to the Department of Law for review and Chair Edwards-Smith replied
357 that the board is happy with the implementation of this document and further review by the
358 Department of Law is not needed. Ms. Gilmour replied that she believed this document was already
359 reviewed by the Department of Law when it was originally created; the board has done their due
360 diligence and the matter should be put to rest.

361
362 Inv. Lipker stated another concern of Investigation is that if the board does not discipline an
363 applicant that was not truthful on their application it sets a bad precedent. Ms. Gilmour stated that
364 the board's intent is not to tell people that it is okay to not disclose; what they are trying to do is
365 streamline the process as Investigations seems to have a large back log. Ms. Gilmour asked how the
366 board can streamline the process for items they do not feel impact an applicant's ability to practice
367 competently and safely if not for this document. The Chair stated that with the hundreds of
368 applications the board has reviewed, the board has come to understand, in the event of aged
369 convictions on this list, it is not the applicant's intent not to disclose or be fraudulent, which is how
370 the board arrived on this policy to expediate the application process. Ms. Gilmour suggested the
371 board recognize a point of order as they are well past the allotted time given on the agenda on this
372 topic and discuss the amendment of this document at a later time.

373
374 *Chair Edwards-Smith called for a short break at 11:13 a.m.*
375 *Back on the record at 11:18 a.m.*

376 *All board members present. Investigator Jacobs in attendance.*
377 *Members of the public present were: Kathy Stubbs, Nanette Greer, and Alyssa Reis*

378
379 **Agenda Item 7** **Board Training/Refresher**

380
381 Chair Edwards-Smith asked Investigator Jacobs to begin board training with his PowerPoint
382 presentation regarding reviewing board members and investigative cases.

383
384 **Roles and Responsibilities of Reviewing Board Members**

385
386 Inv. Jacobs stated with all other boards this training is done in Executive Session so that board
387 members can ask pointed questions and get examples in terms of cases. Inv. Jacobs continued that
388 he would appreciate the board going into Executive Session at this time so they may discuss the
389 investigative process.

390
391 **In a motion duly made by Traci Gilmour, seconded by Julie Endle, it was RESOLVED to**
392 **ENTER into Executive Session in accordance with AS 44.62.310(c), and Alaska**
393 **Constitutional Right to Privacy Provisions, for the purpose of discussing “matters involving**
394 **consideration of government records that by law are not subject to public disclosure.” All**
395 **Division staff to remain during Executive Session.**

396
397 *Entered into Executive Session at 11:23 a.m.*
398 *Back from Executive Session at 12:01 p.m.*

399
400 **Agenda Item 8** **Lunch**

401
402 *Chair Edwards-Smith called a lunch break at 12:02 p.m.*
403 *Back from lunch at 1:15 p.m.*
404 *All board members present. Carl Jacobs was present.*
405 *Members of the public present were: Kathy Stubbs, Nanette Greer, Sky Inglett, and Alyssa Reis*

406
407 **Agenda Item 9** **Public Comment**

408
409 Kathy Stubbs asked permission to speak during Public Comment. Chair Edwards-Smith allotted 3
410 minutes for her statement. Ms. Stubbs statement was as follows:

411 “I saw a comment about using Zoom for doing treatments and I was just curious as what is the
412 oversight when people are doing treatments? Part of the reason for using a platform is because of
413 COVID. I have a business out of my home and my husband has Parkinson’s so I am not wanting
414 people to come in because of his medical condition but I still want to retain my license because I
415 don’t know when things are going to change. The other question is, with me going to a different
416 platform, the most appropriate NAICS code I can find is the same one I would be using for client,
417 putting my hands-on clients. So, I would like to know, if I still use that code, am I going to be
418 getting in trouble because I am not going to be advertising that I am doing massage. That is my
419 question as the NAICS codes are limited. That’s all.”

420
421 Chair Edwards-Smith thanked Kathy for her participation and bringing her concerns and questions
422 to the board.

424 Seeing no one else joined the meeting for public comment, Chair Edwards-Smith asked OLE
425 Dulebohn to reply to Ms. Stubbs’ question about telehealth and business licensing. OLE Dulebohn
426 stated, at this time, there is no pathway for massage therapists to perform telehealth as they are not
427 under Alaska’s telehealth statute and massage therapy is defined as a manual manipulation so the
428 scope of practice does not cover telework. OLE Dulebohn stated, should a massage therapist
429 choose to engage any kind of tele-massage therapy via Zoom or any other platform, they should
430 know it is outside their Scope of Practice and that anyone could do it since it is not under the
431 jurisdiction of the board or the massage therapist license at this time.

432
433 *Colleen Kautz and Sharon Walsh joined the meeting at 1:20 p.m.*

434
435 OLE Dulebohn continued, in terms of a business license code to perform telehealth, the NAICS
436 code has no bearing since any telework that a massage therapist may be doing would not be under
437 the scope of their professional license. OLE Dulebohn encouraged Ms. Stubbs to follow-up with
438 Business Licensing directly for advice related to her business license.

439
440 Ms. Stubbs asked permission of the Chair to ask one last questions and he acquiesced. Ms. Stubbs
441 asked the board if she set up a business license in another name if she would still have issues with
442 telework. With permission of the Chair, OLE Dulebohn replied that anything relating to a business
443 license would have to be asked of Business Licensing as the Board of Massage Therapists only has
444 jurisdiction over her professional massage therapist license. OLE Dulebohn continued that any
445 questions for business licensing or business licensing codes should be directed to Business
446 Licensing.

447
448 At this time, Chair Edwards-Smith closed public comment

449
450 *Chair Edwards-Smith called for a short break at 1:25 p.m.*

451 *Back on the record at 1:30 p.m.*

452 *All board members present. Investigator Jacobs, Colleen Kautz, Sharon Walsh, and Marilyn Zimmerman in*
453 *attendance.*

454 *Members of the public present were: Kathy Stubbs, Nanette Greer, Sky Inglett, and Abyssa Reis*

455
456 **Agenda Item 10** **Investigative Training for Continuing Education Audits**

457
458 Chair Edwards-Smith opened the meeting to the presentation scheduled by Paralegal Marilyn
459 Zimmerman regarding license audits and continuing education. Ms. Zimmerman stated that the
460 board needed to go into Executive Session for the training. OLE Dulebohn asked Ms. Zimmerman
461 to identify which of the 4 subjects listed under AS 44.62.310(c) was the reason she advised the board
462 to go under Executive Session. Ms. Zimmerman replied that this presentation was investigative
463 training which is required to be in Executive Session but could not tell the board the specific subject.

464
465 **In a motion duly made by Traci Gilmour, seconded by Jill Motz, it was RESOLVED to**
466 **ENTER into Executive Session in accordance with AS 44.62.310(c), and Alaska**
467 **Constitutional Right to Privacy Provisions, for the purpose of discussing “matters which by**
468 **law, municipal charter, or ordinance are required to be confidential.” All Division staff to**
469 **remain during Executive Session.**

470
471 *Entered into Executive Session at 1:33 p.m.*

472 *Back from Executive Session at 2:23 p.m.*

473 *All board members present. Cynthia Spencer and Sber Zinn in attendance.*
474 *Members of the public present were: Kathy Stubbs, Nanette Greer, Sky Inglett, and Ahysa Reis*

475
476 **Agenda Item 11** **Application by Credentials**

477
478 Chair Edwards-Smith directed the board to AS 08.61.040(9) which states applicants must have
479 education standards that are substantially equal to or greater than the requirements of this state. The
480 Chair stated that his interpretation is the education obtained by the applicant is at least 625 hours.

481
482 Ms. Gilmour stated her correspondence was the reason this item was on the agenda today. Ms.
483 Gilmour stated that for the applicant in question the facts are that the applicant is currently licensed
484 in Montana which only requires 500 hours of education which is not equal to or greater than the
485 State of Alaska. Ms. Gilmour continued that the applicant was previously licensed in Idaho which
486 requires more than 625 hours, however the Idaho license has since expired. Ms. Gilmour asked the
487 board why they have set a precedent of licensing individuals that are coming from a state that
488 requires less than 625 hours? Ms. Gilmour referenced a previous application where the transcripts
489 had been cobbled together to meet requirements; she does not agree with licensing someone that
490 does not come from at least a 625 hour state.

491
492 OLE Dulebohn stated this applicant comes from a 500-hour state, however her transcript shows
493 qualifying education of 625 hours. Ms. Gilmour stated she wants evaluate the transcript for content
494 in accordance with 12 AAC 79.140 which the board has historically been utilizing when someone
495 has less than 625 hours of education when applying by Credentials or anytime they apply by
496 Examination. Ms. Gilmour agreed with this assessment by OLE Dulebohn. Ms. Gilmour expressed
497 concern with not being allowed to evaluate this applicant's curriculum based on 12 AAC 79.140
498 minimum requirements. Ms. Gilmour stated she does feel right approving this application as she is
499 interpreting AS 08.61.040 differently than the rest of the board on this matter.

500
501 *Carl Jacobs joined the meeting at 2:28 p.m.*

502
503 Chair Edwards-Smith stated that he believed if the board requested and received transcripts from an
504 applicant's school showing proof that they have completed at least 625 hours of qualifying
505 education, it would prove they have a license in another state that is substantially equal to or greater
506 than the requirements of Alaska. Chair Edwards-Smith does not believe the board is supported by
507 statute to evaluate transcripts for content when they apply by Credentials. Ms. Gilmour reiterated
508 that she is hearing that the board can and should approve an application for someone applying by
509 Credentials from a state that requires less than 625 hours if the applicant provides proof that they
510 have at least 625 hours of qualifying massage education. Ms. Motz agreed with Ms. Gilmour that if
511 an applicant is applying by Credentials from a state that requires 625 hours or more, she has no issue
512 approving the application. Ms. Motz continued that she does not understand if an applicant comes
513 from a state that requires less than 625 hours why the board cannot evaluate the provided transcript
514 for content.

515
516 Supervisor Spencer stated, with her work with the Board of Barbers and Hairdressers, her board has
517 applicants coming in from states that require less hours than Alaska and the board asks to see
518 transcripts that prove the minimum hours of education but does not evaluate the content of that
519 transcript as the applicant has been licensed in another state and has passed their exams which
520 proves they have met or exceeded Alaska's requirements. Ms. Spencer continued that if the board
521 wants to be able to evaluate transcripts from someone coming from a lower hour requirement state,

522 they must put something in their regulations to that effect. OLE Dulebohn stated, should an
523 applicant come from a lower hour requirement state, she is asking applicants to provide transcript
524 proving their educational hours and the board is receiving that transcript when they review the
525 application to verify hours.

526
527 OLE Dulebohn stated the board currently has two pathways to licensure: Credentials and
528 Examination. Currently there is nothing in AS 08.61.040 or 12 AAC 79.110 that states if an
529 individual applies by Credentials with at least 625 hours of education that the board will evaluate
530 their transcripts for content. OLE Dulebohn continued that when the board drafted 12 AAC
531 79.140 it was done with individuals applying by Examination in mind. OLE Dulebohn stated
532 applicants applying by Credentials from a state that requires less than 625 hours for their license but
533 they are providing transcripts that prove that they have completed 625 or more hours of education,
534 they are meeting the threshold of AS 08.61.040 as she understands it. Supervisor Spencer stated she
535 agreed with OLE Dulebohn's assessment.

536
537 Ms. Gilmour stated the applications in question have enough education hours but are not meeting
538 the curriculum breakdown according to 12 AAC 79.140, however she is willing to look into a
539 regulations project to clarify the process. Ms. Gilmour stated the board can have more discussion
540 when they reach the tabled application agenda topic. Ms. Tri asked the board, if the applicant had
541 previously been licensed in another state that did require 625 hours or more, why that information
542 was not relevant in this discussion. OLE Dulebohn responded that AS 08.61.040(9) states the
543 applicant must be "currently licensed to practice massage therapy in another state..." which is why
544 the Idaho expired license does not fulfill the requirements. OLE Dulebohn stated the board could
545 also decide not to accept applicants that have been licensed in a state that is less than 625 hours and
546 that would also be a solution to this topic but most states do not require more than 500 hours.

547

548 Agenda Item 12 Regulations Projects

549

550 Chair Edwards-Smith directed the board to the list of suggested and drafted regulations projects for
551 the board's consideration. OLE Dulebohn clarified that all listed items with asterisk are there for
552 the board's consideration and all the items sans asterisk are items that the board has already made a
553 motion on and Regulations Specialist Zinn had drafted language to go out for public comment.

554

555 Therapist in Charge

556

557 Chair Edwards-Smith stated he reviewed the establishment registry application and is not sure the
558 place for all employed massage therapists is needed. OLE Dulebohn clarified that having a space to
559 list all the therapists is something the board had asked to be included in the application so when
560 Investigations comes in to inspect, they will be able to use that list as a tool to compare to the
561 licenses displayed. Ms. Gilmour recalled that conversation about listing the therapists and agreed it
562 should be listed on the application.

563

564 Inv. Jacobs stated he is the investigator for both the Board of Massage Therapists and the Board of
565 Pharmacy and having a main point of contact in the form of a Therapist in Charge is an ideal and
566 interesting idea but may not be as feasible for massage therapists as it is for pharmacies for
567 geographical reasons. Inv. Jacobs continued that it is a requirement that pharmacies have a specific
568 amount of time to inform the board when the Pharmacist in Charge changes that would result in
569 violations and Investigative costs; the Board of Massage Therapists does not have such a regulation.

570

571 Chair Edwards-Smith stated he believed the role of the Therapist in Charge is defined as an
572 educational reference and point of contact so he believes the term may need to be renamed to
573 reflect the position more accurately. The Chair stated that the board has only expressed interest in
574 the Therapist in Charge being identified in the initial and renewal applications. Inv. Jacobs
575 speculated that owners of massage establishments would have knowledge of the industry and would
576 be licensed massage therapists. Inv. Jacobs stated if the Therapist in Charge position would only be
577 reported with initial and renewal applications, he feels there would be validity to having that position
578 but it would be burdensome to the establishments to update that information on a semi-regular basis
579 which would increase investigative costs if the board sees a failure to update that information as a
580 violation. Ms. Gilmour agreed with Inv. Jacobs' assessment and suggested the board should
581 consider changing that designated point of contact to a manager or someone with a less frequent
582 turnover rate.

583
584 OLE Dulebohn stated historical information that, originally, when the massage establishment
585 licensing was being considered, the Therapist in Charge would be responsible in part for an
586 establishment and the employees but once it was revealed that establishments would be registered
587 and not licensed, the Therapist in Charge moved from incurring responsibility to more of a resource.
588 OLE Dulebohn continued that the only people who will be registering their establishment will not
589 be licensed massage therapists and therefore will need a resource in the form of a designated
590 licensed massage therapist who would be knowledgeable in statutes and regulations. OLE
591 Dulebohn informed the board that whoever an owner lists as an employed massage therapist will be
592 accepted on the application as the OLE does not have a resource to verify the employees unless an
593 inspection occurs. Ms. Endle expressed concern that there would be legal ramifications for a
594 Therapist in Charge unless the position is renamed and she does not believe that person should be
595 responsible for the other therapists. OLE Dulebohn clarified that there is no legal ramification for
596 the Therapist in Charge by the board's design to hold the owners of the establishment accountable;
597 currently there is nothing in regulation that states any different. Ms. Zinn stated that there is
598 nothing currently in regulation that requires a Therapist in Charge role to be identified and cannot
599 be enforced. Ms. Zinn suggested the board change the title to "Point of Contact" and define that it
600 is utilized for investigative and board staff and should be well versed in in therapy matters and
601 statutes and regulations. Ms. Zinn stated that Therapist in Charge sounds like a requirement and
602 there is no regulation to enforce it. Chair Edwards-Smith expressed that he would like a regulation
603 requiring at least one massage therapist is listed as an employee on the application. Ms. Motz asked
604 the board how often they are proposing owners update the employed therapists and OLE Dulebohn
605 responded that currently the notification of employees is just at initial and renewal applications.
606

607 Chair Edwards-Smith asked if a regulation was needed to change the application to which OLE
608 Dulebohn reminded the board that a change of application was up to Division and does not require
609 a motion unless the board wanted to do a regulations project. Ms. Gilmour reminded OLE
610 Dulebohn that in the board's recommendation to change "Therapist in Charge" to "Point of
611 Contact" that there are other places in the application where the verbiage would need to be updated.
612 Ms. Gilmour also asked that the word "please" be removed from the sentence "Please identify the
613 therapist in charge as well as other massage therapist working in the establishment".
614

615 **TASK: In the establishment registration application, the board requests "Therapist**
616 **in Charge" to be replaced by "Point of Contact" from Division.**

617
618 Procedure and Fees for Change of Location
619

620 OLE Dulebohn stated that, through a conversation with Ms. Zinn, it was discovered that the way
621 regulations for massage establishment registration was written, an owner who would like to notify
622 the Division of a change in physical location would have to resubmit the entire establishment
623 registration form and pay the \$300 registration fee which she recalls was not the intention of the
624 board as they did not want to discourage owners from notifying the board due to a burdensome fee.
625 Ms. Gilmour asked Division if there couldn't be a simple online solution to change of location
626 instead of requiring a new form and fee. Ms. Zinn stated that other programs charge an application
627 fee which is why they can charge a lesser fee for a change such as location. Ms. Zinn continued that
628 the Board of Massage Therapist has no application fee for establishment registration so if they do
629 not want a fee to be incurred and just to be notified within a required amount of days they can do
630 that through a regulations project. Ms. Zinn stated that the board went with the \$300 fee and new
631 form because the board wanted a new self-inspection report with any change of location or for a
632 new owner. Ms. Zinn reiterated that this suggestion for a regulations change is at the board's
633 discretion and was only included in this board packet for discussion. Ms. Gilmour thanked staff for
634 pointing this item out for possible correction and making clear it is completely up to the board to
635 make this decision.

636

637 **TASK: Ms. Gilmour will write up a motion to submit to the board during tomorrow's**
638 **meeting.**

639

640 Proof of Business License Requirements

641

642 Chair Edwards-Smith stated that business licenses are required by the state but are not required by
643 regulation 12 AAC 79.930 or the application. OLE Dulebohn stated that this is brought to the
644 board for discussion as there is nothing in regulation that states that owners who register their
645 massage establishment must show proof of currently holding a business license. Ms. Endle stated
646 that she has done some independent research of some local establishments and could not find any
647 record of them holding a current business license. Chair Edwards-Smith reminded the board of the
648 reason for requiring massage establishment registration was to protect legitimate businesses and put
649 pressure on the illegitimate businesses. Chair Edwards-Smith stated that a legitimate business would
650 have a business license so it would be beneficial to see documentation for the establishment
651 registration. Ms. Motz stated that in some places businesses also need a city, borough, or
652 municipality license and wondered if the application should include all of those. Ms. Gilmour
653 replied that she is hesitant to include all of those entities in a regulation even though she believes
654 Ms. Motz is correct. Ms. Zinn stated that professional licensing doesn't have any purview on
655 municipalities or local governments so it would probably be rejected upon review by the
656 Department of Law. Ms. Zinn stated that all businesses are required to have a business license
657 which is enforced by Business Licensing. Additionally, Ms. Zinn stated that there are very few
658 businesses that request verification of a business license as the disciplinary action can only be
659 enforced if an investigator notices a violation upon inspection. Ms. Motz stated that a massage
660 therapist cannot obtain a business license unless they have supplied proof of a professional license.
661 OLE Dulebohn reminded the board they specifically included in regulation that certain health care
662 professions, including massage therapists, are exempt from massage establishment registration and
663 therefore no professional license will be verified for this registration. Ms. Motz continued that if the
664 state can require proof of a professional license for massage therapists to obtain a business license,
665 then the board should require proof of a business license to register their massage establishment.
666 Ms. Gilmour asked Ms. Zinn if there is a centralized regulation that says that any business operating
667 for compensation must have a business license and Ms. Zinn stated that business licensing would

668 have a regulation requiring that. Mr. Gilmour replied that she doesn't see a need for the board to
669 adopt a regulation concerning business licensing if there is already something in place.

670
671 Ms. Motz reminded the board that this would come back to the board for review before it goes out
672 for public comment and they can make any changes or choose not to proceed then.

673
674 **TASK: Ms. Gilmour will write up a motion to submit to the board during tomorrow's**
675 **meeting.**

676
677 Employees vs. Independent Contractors

678
679 Chair Edwards-Smith asked OLE Dulebohn to provide a summary on this item. OLE Dulebohn
680 read 12 AAC 79.930(e)(2) "In this section, 'massage therapy establishment' means a fixed or mobile
681 place of business that engages in, conducts, or permits massage or massage therapy to be conducted
682 for any form of compensation, or uses the word 'massage' in any solicitation or advertisement."
683 OLE Dulebohn stated it is unclear whether the board's intent was to include employees of the
684 establishment or also independent contractors working for the business. Ms. Motz stated that the
685 board had made a decision on this matter in previous meetings and the reason the regulation
686 language doesn't state "employed by" or "independent contractor" was to ensure there was no
687 loophole for owner to say they are not responsible for independent contractor actions despite them
688 working on their premises. Ms. Motz reiterated that owners of establishments are responsible for all
689 the actions that take place on their premises.

690
691 OLE Dulebohn asked the board to clarify that their intention with 12 AAC 79.930 is to include
692 owners of all establishment regardless if they have massage therapists as employees or independent
693 contractors and the board agreed that was their intention.

694
695 OLE Dulebohn asked Ms. Zinn if the board needed a regulations project to put the word "and" or
696 "or" between 12 AAC 79.930(e)(1-2). Ms. Zinn stated that, in the absence of a word, the regulation
697 will mean "and" unless "or" is placed between the 2 lines.

698
699 *Missus Zinn and Spencer left the meeting at 3:05 p.m.*

700 *Chair Edwards-Smith called for a short break at 3:22 p.m.*

701 *Back on the record at 3:28 p.m.*

702 *Members of the public present were: Kathy Stubbs, Nanette Greer, Skyy Inglett, and Alyssa Reis*

703
704 Drafted Regulations

705
706 The board reviewed the drafted regulations ready to go out to public comment regarding Renewal
707 Timeframe and Requirements, Notification of Close of Business, Unregistered Establishment
708 Investigation, and Adding CPR to Continuing Education Requirements. The board made no
709 changes to the verbiage drafted by Ms. Zinn.

710
711 Online Distance Monitoring Programs

712
713 The board reviewed information on the Distance Education Accrediting Commission (DEAC) and
714 whether to add it to regulation 12 AAC 79.100 as a tool in identifying an approved online distance
715 monitoring program similarly to the way the board has approved Alaska Commission on Post-

716 Secondary Education (ACPE) and Commission on Massage Therapy Association (COMTA) as
717 approval/accrediting bodies that aid in identifying approved education programs.

718
719 Ms. Motz stated that the board had discussed the DEAC in other meetings but would like to keep
720 the regulation open for “board approved” online programs as she has identified other online
721 distance education monitoring programs such as Moodle. Ms. Motz asked the board if they would
722 like a motion to include Moodle and Blackboard as approved programs and Ms. Gilmour asked that
723 they wait and be presented with more information on Moodle and Blackboard.

724
725 **TASK: OLE Dulebohn to include a September 2020 agenda item to include motion**
726 **on approving Blackboard and Moodle as approved online distance monitoring programs.**

727
728 **In a motion made by Jill Motz, seconded by Julie Endle, and passed unanimously with a roll**
729 **call vote, it was RESOLVED to APPROVE the Distance Education Accrediting**
730 **Commission (DEAC) for online distance monitoring programs as per 12 AAC**
731 **79.100(5)(d)(1).**

732
733 Timeframe to Complete “Pending” Requirements

734
735 OLE Dulebohn stated that the board does not currently have anything in place for a timeframe for
736 applicants to complete the requirements of an application that is “approved pending.” OLE
737 Dulebohn stated that there are some applicants that have not completed their approved pending
738 requirements and it has been more than a year and a half. OLE Dulebohn consulted with
739 Regulations Specialist Zinn and formulated sample language should the board want to include a
740 timeframe for completing “approved pending” requirements in a certain time.

741
742 **In a motion made by Traci Gilmour, seconded by Jill Motz, and passed unanimously with a**
743 **roll call vote, it was RESOLVED to AMEND 12 AAC 79.920(c) to read “ An applicant whose**
744 **license application has been approved pending receipt of the license fee or additional**
745 **requirements must submit the license fee or documentation satisfactory to the board that**
746 **the additional requirements have been met to the department within six months after being**
747 **notified that the license application was approved. And applicant who does not submit the**
748 **license fee or additional documentation to the department within six months after being**
749 **notified that the license application was approved must reapply.**

750
751 Notary in the State

752
753 Julie Endle presented for board discussion, changes to regulation that would require applicants to
754 obtain any notary for documentation in the state they reside in as verified by the mailing address
755 reflected on their application. Ms. Endle stated that the board has been presented with
756 documentation applicants are submitting with notary pages from Notary Public that are in other
757 states. Ms. Endle obtained information that shows that it is not allowed for notaries to perform
758 their duties sight unseen. Ms. Endle continued it is a requirement that a person wishing documents
759 to be notarized must be physically present. Ms. Gilmour agreed that Ms. Endle’s proposal is good
760 and suggested to the board that this idea and research be sent to the Department of Law for vetting
761 for statutory and regulatory authority before it is proposed as a regulations project.

762
763 **In a motion made by Traci Gilmour, seconded by Jill Motz, and passed unanimously with a**
764 **roll call vote, it was RESOLVED to SUBMIT proposal for “notary in state” and research to**

765 **the Department of Law to vet for regulatory and statutory authority of the board to require**
766 **notary be obtained in the state of residence.**

767
768 OLE Dulebohn asked the board whether the potential regulations projects they reviewed today
769 would result in motions to send them out for public comment as there were a mix of drafted and
770 suggested regulations projects. OLE Dulebohn stated that the board has been building a packet of
771 regulations projects to be fiscally responsible and send them out at the same time for public
772 comment so a delay of projects to the September 2020 meeting would circumvent this initiative.
773 The board acknowledged this information.

774

775 **Agenda Item 13 Old Business**

776

777 FSMTB MTLD Update

778

779 OLE Dulebohn reported to the board that the MTLD project has been postponed due to COVID-
780 19 and the inability to secure updated information from FSMTB in a timely manner.

781

782 **TASK: OLE Dulebohn will include on MTLD as an item on the September 2020**
783 **meeting agenda.**

784

785 Follow-Up on HB 225

786

787 Ms. Gilmour reported that HB 225 died when legislature gaveled out as it was not passed by the end
788 of the two-year session. Ms. Gilmour stated that her meetings with Senator Kiehl, Representative
789 Story, Greg Smith, and Representative Hannan went well and they were receptive to the board's
790 feedback regarding sex and human trafficking in Alaska.

791

792 Ms. Gilmour reported that there was support for HB 225 and she hopes to see it reintroduced next
793 session.

794

795 FSTMB Annual Meeting

796

797 The annual meeting for the Federation of State Massage Therapy Boards (FSMTB) in Chicago was
798 cancelled for 2020. FSMTB has requested board delegates attend meetings and submit votes online
799 on behalf of their state. Jill Motz was designated as Alaska's delegate in the March 2, 2020 meeting.

800

801 **Agenda Item 14 Recess or Adjourn Until Following Day**

802

803 Chair Edwards-Smith briefly reviewed the items that were pushed from Day 1 to Day 2. The Chair
804 reminded the board to review all the applications scheduled for Day 2 tonight as to allow the board
805 to have discussion prior to making motions on the files tomorrow.

806

807 OLE Dulebohn reminded the board that the majority of the Board Training/Refresher would need
808 to be moved to Day 2 and that Ms. Zinn stated she would be available to do Regulations Training
809 tomorrow at 9:10 a.m. pending approval from the board. Chair Edwards-Smith agreed with that
810 change and that the rest of Board Training/Refresher could be done first thing tomorrow and the
811 other agenda items would be moved down. The board discussed the Investigative Training for
812 Continuing Education and how it changed how they were asked to view the audits listed on the
813 agenda tomorrow. Ms. Gilmour stated that she did not consider the Investigative Training for

814 Continuing Education “training.” OLE Dulebohn suggested to the board that they await the
815 forthcoming information promised by Ms. Zimmerman before reviewing the tabled continuing
816 education (CE) audits as the audits are not keeping therapists from working at this time and the
817 board needs all the information that has yet to be provided by Ms. Zimmerman in order to make an
818 educated decision on the audits. The board decided to postpone the CE audits until the September
819 2020 meeting but to review and vote on the reinstatement application for L.T. OLE Dulebohn
820 asked the board to make note of this conversation and present a motion during item #16 Review
821 Agenda.

822
823 Chair Edwards-Smith recessed the meeting until June 19, 2020 at 9:00 a.m.

824
825 *Off the record at 3:56 p.m.*

826
827 **Friday, June 19, 2020**

828
829 **Agenda Item 15** **Call to Order/Roll Call**

830
831 *On the record at 9:02 a.m.*

832
833 Board Members present, constituting a quorum:

834
835 David Edwards-Smith, Board Chair-Licensed Massage Therapist
836 Traci Gilmour, Vice Chair- Licensed Massage Therapist
837 Jill Motz, Licensed Massage Therapist
838 Kristin Tri, Licensed Massage Therapist
839 Julie Endle, Public Board Member

840
841 Division Staff present:

842
843 Dawn Dulebohn, Occupational Licensing Examiner
844 Cynthia Spencer, Acting Records and Licensing Supervisor
845 Sher Zinn, Regulations Specialist

846
847 Division Staff Joining Telephonically

848
849 Carl Jacobs, Investigator III

850
851 Public Joining Telephonically

852
853 Nanette Greer, Applicant for Massage Therapist Licensure
854 Kathy Stubbs, Alaska Licensed Massage Therapist (in at 9:26 a.m.)
855 Alyssa Reis, Alaska Licensed Massage Therapist
856 Sky Inglett, Alaska Licensed Massage Therapist

857
858 **Agenda Item 16** **Review Agenda**

859
860 The board reviewed the agenda and proposed changes to include moving the “Tabled Continuing
861 Education Audits” agenda item #18 until the September 2020 meeting, adding an item to review
862 and approve the FY 2020 annual Report, moving the discussion on “Inspection Allotment for

863 Compliance” agenda item # 6 to today, moving the bulk of the “Board Training/ Refresher” agenda
864 item #7 to today, adding a discussion for the regulations questionnaires, and continuing the topic of
865 “Regulations Projects” agenda item #12 to today.

866
867 *Supervisor Spencer and Regulations Specialist Zinn joined the meeting at 9:05 a.m.*

868
869 **In a motion made by Jill Motz, seconded by Julie Endle, and passed unanimously with a roll**
870 **call vote, it was RESOLVED to AMEND the agenda to include board training, regulation**
871 **training, inspection allotment, and annual report review to today’s meeting.**

872
873 **Agenda Item 7 Board Training/Refresher (continued)**

874
875 Chair Edwards-Smith welcomed Ms. Zinn to the meeting and asked that she begin her presentation
876 on regulations training.

877
878 Regulations Training

879
880 Ms. Zinn stated that she will briefly outline the regulations process as a training for the new board
881 member and a refresher for the other members. Some highlights from the training:

- 882 • Meeting minutes regarding motions should be very clear, express the intent of the regulation,
883 and consider the cost to the individual that the regulation will affect. Board members must
884 fill out the FAQ questionnaire for each proposed regulation to be sent to with their motions
885 to the Regulations Specialist.
- 886 • Minutes discussing regulations should be completed in a timely manner and forwarded to the
887 Regulations Specialist to ensure the potential regulation can be public noticed prior to the
888 next board meeting date.
- 889 • Proposed regulations are published for a 30-day period to allow for public comments.
890 Regulations Specialists will receive and reply to questions from the public regarding the
891 proposed regulations.
- 892 • The board cannot accept any comments on a regulation project between the time when the
893 public comment period has ended and the time they vote to adopt the regulation.
- 894 • After public comment concludes, the board will review the comments and decide if any
895 changes should be made to the regulation. If there are any significant changes, the item
896 must go back out for public comment. If not, the board will make a motion to approve the
897 verbiage to go to the next step.
- 898 • Proposed regulation language goes to the Department of Law for final review/approval.
899 The assigned attorney will either approve or disapprove change of regulation.
- 900 • Governor’s office will forward the adopted regulations to the Lt. Governor’s office for
901 signature and filing.
- 902 • Regulations changes are effective 30 days after filing.

903
904 Chair Edwards-Smith asked Ms. Zinn if the board can weigh in on the method regulations are public
905 noticed for something more cost effective and modern. Ms. Zinn replied that the board can submit
906 their concern to Director Sara Chambers who will be able to pass their feedback on to the
907 Commissioner’s Office. Ms. Zinn stated that regulations notices are sent via e-mail should the
908 licensee opt in for paperless communication which does significantly reduce costs.

909
910 *Sher Zinn left the meeting at 9:48 a.m.*

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Robert's Rules of Order

Chair Edwards-Smith highlighted a few items for discussion:

Supervisor Spencer and Investigator Jacobs left the meeting at 9:51 a.m.

- When Debating Your Motion
 1. Listen to the other side
 2. Focus on the issues
 3. Avoid questioning motives
 4. Be polite
- How to Accomplish What You Want to Do in Meetings- Main Motion
 1. Come to the meeting with a prepared motion
Member: “Madame Chairman, I move that _____.”
- Refer to a Committee
 1. You feel that an idea or proposal being discussed needs more study and investigation
After recognition, “Madam Chairman, I move that the question be referred to a committee made up of member Smith, Jones, and Brown.”
- Postpone Definitely
 1. You want the membership to have more time to consider the question under discussion and you want to postpone it to a definite time or day, and have it come up for further consideration.
After recognition, “Madame Chairman, I move to postpone the question until _____.”
- Limit Debate
 1. You think discussion is getting long, but you want to give a reasonable length of time for consideration of a question.
After recognition, “Madame President, I move to limit discussion to two minutes per speaker.”
- Postpone Indefinitely
 1. You want to kill a motion that is being discussed.
After recognition, “Madame Moderator, I move to postpone the question indefinitely.”
- Call for Orders of the Day
 1. At the beginning of the meeting, the agenda was adopted. The chairman is not following the order of the approved agenda.
Without recognition, “Call for orders of the day.”
- Point of Personal Privilege
 1. The noise outside the meeting has become so great that you are having trouble hearing.
Without recognition, “Point of personal privilege.”
Chairman, “State your point.”
Member, “There is too much noise, I can’t hear.”
- Being Recognized by the Chair
 1. If you wish to speak, you may raise your hand or address the chair and wait to be recognized. In addition to keeping order, it is also important for those who are listening to the audio of the meeting to be able to identify the speaker.
Without recognition, “Jane Doe through the chair...”

959 Meetings 101- Board Guidance

960

961 Chair Edwards-Smith highlighted a few items for discussion:

962

963 • Quasi- Judicial: a government body that has the capacity to make judgements and decisions
964 that affect a licensee’s property rights. Has the right to hold hearings on and conduct
965 investigation into disputed claims and alleged infractions of rules and regulations.

966 • Meeting vs. Not a Meeting

967 1. A meeting is more than three members or the majority of the members, whichever is
968 less, are present, a matter upon which the governmental body is empowered to act is
969 considered by the members collectively, and the governmental body has the authority to
970 establish policies or make decision for a public entity; or

971 2. The gathering is prearranged for the purpose of considering a matter upon which the
972 governmental body is empowered to act and the governmental body has only authority
973 to advise or make recommendation for a public entity but has no authority to establish
974 policies or make decision for the public entity.

975 • Meeting Must Be Publicly Noticed

976 1. Board Meeting- If a group is gathering that IS a quorum of the board OR three or more
977 members of a board is considering a matter on which they have the power to act.

978 2. Subcommittee Meeting- If a group is gathering that is NOT a quorum OR three or more
979 members of a board AND is recognized by the board/division AND has authority to
980 advise the board/division, AND is considering a matter for recommendation to a board.

981

982 Chair Edwards-Smith asked all board members to review Meetings 101, especially the portion titled
983 “Is it really a meeting?”

984

985 Public Communications as Board Members

986

987 Chair Edwards-Smith made a statement that board members should be very careful with social
988 media interactions. The Chair stated that any social media interactions regarding massage therapy
989 board related subject matter is discouraged. Chair Edwards-Smith stated that, should a board
990 member choose to speak to subject matter related to the board, it is best practice to refer questions
991 to the licensing examiner or links that are publicly available on the board website.

992

993 Ms. Motz stated that she has seen members of the public willfully spreading misinformation and she
994 believes it is important for board members to respond using meeting minutes and links.

995

996 CBPL Legislative Guidance

997

998 Chair Edwards-Smith asked that this training item be moved to the December 2020 meeting.

999

1000 Review/Update Disciplinary Matrices and “No Investigations Needed” List

1001

1002 OLE Dulebohn asked the board to review the disciplinary matrix, continuing education disciplinary
1003 matrix, and the “No Investigations Needed” list as a refresher but also to identify any changes or
1004 updates that should be made by the board.

1005

1006 No Investigation Needed

1007

1008 Ms. Endle stated she believes that changes should be made to #5 and #6 because of the potential
1009 severity of those convictions. OLE Dulebohn stated that yesterday, Investigator Jacobs had
1010 suggested to the board that they add “misdemeanor” or a monetary amount to #5 and #6. Ms.
1011 Gilmour agreed with the previous assessments and suggested changing #5 and #6 to say
1012 misdemeanor convictions older than 5 years but she would like to consult Inv. Jacobs on this matter.
1013

1014 *Chair Edwards-Smith called for a short break at 10:08 a.m.*

1015 *Back on the record at 10:19 a.m.*

1016 *All board members present. Inv. Jacobs in attendance.*

1017 *Members of the public present were: Kathy Stubbs, Nanette Greer, and Alyssa Reis*

1018

1019 Chair Edwards-Smith asked Inv. Jacobs for his feedback on #5 and #6 of the “No Investigations
1020 Needed” list and whether he would advise adding the term “misdemeanor” to theft and burglary to
1021 help define the board’s intent. Inv. Jacobs stated that “theft” could cover a slew of infractions such
1022 as embezzlement and “burglary” and can also encompass elements of violent behavior. Chair
1023 Edwards-Smith asked Inv. Jacobs if the board included the word “misdemeanor” would that help to
1024 concern. Inv. Jacobs replied that while an offense or conviction may be lowered down to a
1025 misdemeanor level, the offense of a case that warranted prosecution may have started out as a much
1026 graver offense and the charge may not be indicative of the initial complaint. Ms. Gilmour stated
1027 that the board has been instructed to disregard any charge that did not result in disciplinary action
1028 such was the case with prostitution. Ms. Gilmour continued that she does not see how an original
1029 charge that had been reduced is applicable. Inv. Jacobs stated it is appropriate to consider the nature
1030 of offenses if someone chooses not to disclose something, the circumstances surrounding the event
1031 may help to determine overall if someone has the ability to practice competently and safely or a
1032 failure to disclose. Ms. Gilmour asked Inv. Jacobs if he believes adding the word “misdemeanor” to
1033 #5 and #6 would help avoid any pitfalls or if they should remove those two completely and he
1034 replied that it is at the board’s discretion. Chair Edwards-Smith reiterated that, in terms of #5 and
1035 #6, a crime that does not rise above a level of a misdemeanor would not be considered a crime of
1036 moral turpitude and should not impede licensure. Ms. Gilmour acknowledged Inv. Jacobs hesitancy
1037 in endorsing any part of the “No Investigations Needed” list and re-stated that at any time in the
1038 review process a member of the board feels like the conviction needs more scrutiny, they can table
1039 the application and refer it to Investigations for more information. Ms. Gilmour stated that the “No
1040 Investigations Needed” list is a fluid document and is not a regulation and therefore it can be
1041 modified by the board as needed.
1042

1043

1043 **In a motion made by Traci Gilmour, seconded by Julie Endle, and passed unanimously with**
1044 **a roll call vote, it was RESOLVED to AMEND the “No Investigations Needed” list to**
1045 **remove #5 Burglary and #6 Theft.**

1046

1047 *Senior Investigator Lipker joined the meeting at 10:33 a.m.*

1048

1049

No Investigations Needed

1050

1051 The Board of Massage Therapists determined at its June 10-11, 2019 meeting that the disclosure of one
1052 (or more) of the following convictions on an application (or in a criminal background check) will not
1053 result in a referral to Investigations unless the Division, in its discretion, reasonably believes that an
1054 attempt to secure a license through fraud, deceit, or misrepresentation has occurred.
1055

1056

Failure to Disclose

1057 In the board's January 13, 2020 meeting, the board made a motion to add internal direction that a failure
1058 to disclose one or more convictions (from this list) that occurred 10 or more years ago on an application
1059 will not result in a referral to Investigations. Additionally, Division through the Licensing Examiner will
1060 send out an informational letter to applicants for failure to disclose.

1061

1062 1. Traffic Violations (minor), including, but not limited to:

- 1063 • Reckless driving
- 1064 • Driving without a license/suspended license
- 1065 • Speeding tickets, other minor moving violations
- 1066 • Driving without insurance
- 1067 • Jaywalking

1068

1069 2. Fish and Game Violations

1070

1071 3. Animal Offenses (excluding animal cruelty or abuse)- Convictions older than 10 years from
1072 date of application

1073

1074 4. Petty Crimes (misdemeanors)- Convictions older than 5 years from application, including, but
1075 not limited to:

- 1076 • Shoplifting
- 1077 • Bounced/Bad checks
- 1078 • Minor theft charges
- 1079 • Littering

1080

1081 5. Underage Drinking- including, but not limited to:

- 1082 • Minor Consuming

1083

1084 6. Possession or Use of Marijuana- Single offense

1085

1086 7. Driving Under the Influence/Driving While Intoxicated- No more than 2 conviction in a 10-
1087 year period

1088

1089 8. Disorderly Conduct

1090

1091 9. Public Inebriation- Single offense

1092

1093 10. Harassment- Conviction more than 5 years from the date of application

1094

1095 11. Assault- Conviction more than 5 years from the date of application

1096

1097 Continuing Education Disciplinary Matrix

1098

1099 The board reviewed the continuing education disciplinary matrix that was created by them on March
1100 8, 2018.

1101

1102 **In a motion made by Traci Gilmour, seconded by Julie Endle, and passed unanimously with**
1103 **a roll call vote, it was RESOLVED to AMEND the continuing education disciplinary matrix**
1104 **to add the information regarding CPR non-compliance disciplinary action from the motion**
1105 **made in the March 2, 2020 meeting.**

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Continuing Education Disciplinary Matrix

Adopted by the Board of Massage Therapists on March 8, 2018
Updated March 2, 2020

	REMEDIAL REQUIREMENT	MANDATORY AUDIT REQUIREMENT	REPRIMAND	FINE	IMPOSITION OF CIVIL FINE USED IN SOME CASES	LETTER OF ADVISEMENT APPROVED IN SOME CASES**
Continuing Education (CE)	Yes. Licensee must make up the deficient CE hours.	Yes	Yes	\$50 for each deficient hour.	No	Yes.
Cardiopulmonary Resuscitation (CPR) Certificate	Yes. Licensee must attain the CPR certificate.	No.	No.	No.	Yes. \$250 Civil Fine	No.

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This matrix will be used in relation to any infraction that includes continuing education or CPR regarding audits, renewal, or reinstatement of licensure.

Continuing Education

For licensees who fail their audit or to meet the continuing education requirements for reinstatement of licensure, there are two options:

- 1) **Licensee can voluntarily surrender their license.** Should they choose to come back:
 - Licensee must wait a minimum of a year but not more than 3 years
 - Licensee would have to satisfy the audit by entering into a consent agreement including continuing education for each year they didn't have a license.
 - Licensee would not have to reapply unless they cannot meet the requirements of the audit.
- 2) **Consent Agreement-** Would include:
 - Completion of Remedial Continuing Education- any deficient from the audit would need to be satisfied.
 - Fine- amount to be determined by the Board. Could be a set amount (for violation of the inaccurate statement on their application) with the option to suspend for completion of the CE **OR** a dollar amount for each hour not completed.
 - Reprimand- will go on the licensee's record.
 - Mandatory Audit Participation- for two licensing periods.

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At the Board's discretion, a letter of advisement may be issued for licensees that fail to complete up to 1 hour of continuing education.

Cardiopulmonary Resuscitation (CPR) Certificate

Non- Compliance with CPR requirement will result in an imposition of civil fine in the amount of \$250.

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Disciplinary Matrix and Fine Schedule

Ms. Endle asked the board for clarification regarding the Disciplinary Matrix and Fine Schedule that was adopted in the board's September 19-20, 2019 meeting. Ms. Endle asked the difference between "engaged in deceit, fraud or intentional misrepresentation in the course of providing

1146 massage services” and “false or misleading massage advertisement.” The Chair explained that the
1147 first item was used to describe an infraction where a therapist claimed to have training in a certain
1148 modality that they did not receive. Ms. Motz explained the second item was for therapists using
1149 false or sexually explicit advertising so the board would have a way to issue a warning as education
1150 and correct anything done after that warning.

1151
1152 Applications and Voting
1153

1154 OLE Dulebohn presented to the board training on electronic application review and voting. OLE
1155 Dulebohn reminded the board that it is their responsibility to vote on every application.

1156
1157 A summary of the Application and Voting presentation:

- 1158 • Board members have a responsibility to the Governor and the public to license qualified
1159 massage therapists in a timely manner.
- 1160 • Every vote counts and is important. If lack of participation results in the inability to reach a
1161 quorum, the application is automatically tabled to the next meeting which impacts an
1162 individual’s livelihood.
- 1163 • Options for voting are approved, approved pending, deny, table, and recusal.
- 1164 • Board members are asked to review and vote on applications twice a month.
- 1165 • Board members are sent reminders to vote by OnBoard, e-mail from the License Examiner,
1166 and by the calendar they are given at the beginning of every year.

1167
1168 Ms. Gilmour stated that she has an issue with electronic voting and quorums; specifically, in terms
1169 of denials. Ms. Gilmour stated that the state forces the board’s hand when it comes to tabling an
1170 application when it should not be an issue if a quorum is reached. Ms. Gilmour stated that she is
1171 happy to write a statement to this effect because it is the board that gets the blame for delaying
1172 applications. Ms. Gilmour reflected that OLE Dulebohn has explained the reasoning why one
1173 denial vote will result in an application being tabled because the board cannot have a conversation
1174 on an application during electronic voting, however Ms. Gilmour would like it stated for the record
1175 that she does not agree with this process. OLE Dulebohn acknowledged that Ms. Gilmour gave a
1176 very well-rounded summary as to why some applications get tabled but if anyone has any further
1177 questions on the subject, they are welcome to contact her directly. OLE Dulebohn stated that many
1178 of the Policies and Procedures (P & P) are out of date but until the right someone has time to
1179 update the P & P’s, the board must use the versions available.

1180
1181 Ms. Endle stated that there are instances where she voted “yes” on an application because a
1182 reviewing board member had been assigned to evaluate the transcript of that applicant. OLE
1183 Dulebohn clarified that this was a separate issue and never did a reviewing board member voting
1184 against the majority regarding a transcript hold up an application and cause it to be tabled.

1185
1186 Agenda Item 12 Regulations Projects (continued)
1187

1188 Ms. Gilmour began her presentation to the board regarding potential regulations projects and the
1189 motions she has crafted in anticipation of today’s meeting. Ms. Gilmour asked OLE Dulebohn if
1190 the changes to the massage establishment registration application would need a regulations change?
1191 OLE Dulebohn replied, should the board decide to amend “Change of Location”, “Proof of
1192 Business License”, and “Application by Credentials”, the board would need a regulation change as
1193 applications are the preview of Division.

1195 Application by Credentials

1196

1197 **In a motion made by Traci Gilmour, seconded by Jill Motz, and passed unanimously with a**
1198 **roll call vote, it was RESOLVED to AMEND 12 AAC 79.110 to ADD “the department will, in**
1199 **its discretion, require additional documentation to substantiate the education claimed by**
1200 **the applicant prior to approving an applicant for licensure by credentials.”**

1201

1202 Massage Establishment Registration

1203

1204 The board had discussion that entailed amending 12 AAC 79.930(c) to allow owners to submit only
1205 an application, a self-inspection checklist, and minimal fee to notify Division of a change of physical
1206 location. Any new ownership would still submit a full registration application and fee and the
1207 timeline for notification for both new ownership and change of location would remain 30 business
1208 days.

1209

1210 **In a motion made by Traci Gilmour, seconded by Jill Motz, and passed unanimously with a**
1211 **roll call vote, it was RESOLVED to AMEND 12 AAC 79.930(c) to read “in lieu of new**
1212 **registration, owner will submit on a form provided by division, a change of physical**
1213 **location, with a fee to be determined by division and to include a self-inspection checklist.”**

1214

1215 OLE Dulebohn stated, if the board wanted to add a regulation requiring proof of a business license
1216 for massage establishment registration, it would not act as a threshold for registration as this item is
1217 a registration and not a license. OLE Dulebohn continued that a disclosed business license would
1218 be used as an informational tool only since the board’s intent to register establishments is to weed
1219 out illicit massage establishments.

1220

1221 **In a motion made by Traci Gilmour, seconded by Jill Motz, and passed unanimously with a**
1222 **roll call vote, it was RESOLVED to AMEND 12 AAC 79.930 to require documentation of a**
1223 **current, Alaska business license.**

1224

1225 OLE Dulebohn stated that the board has been presented with potential regulations projects that
1226 have been approved with a motion in previous meetings and have had language drafted for review
1227 by the board. These projects are: renewal timeframe requirements, notification of close of business,
1228 unregistered establishment investigation fee, and CPR to be included in continuing education
1229 regulation.

1230

1231 **In a motion made by Kristin Tri, seconded by Traci Gilmour, and passed unanimously with**
1232 **a roll call vote, it was RESOLVED to send the drafted regulations presented to the board**
1233 **out for public comment.**

1234

1235 Agenda Item 17 Application Review

1236

1237 Chair Edwards-Smith reminded board members that should discussion be needed on these
1238 applications it should be done in Executive Session and outside of Executive Session board
1239 members should only refer to applicants by their initials. OLE Dulebohn suggested to the board
1240 that they do go into Executive Session to review these applications as they most likely would require
1241 in depth discussion.

1242

1243 **In a motion duly made by Julie Endle, seconded by Jill Motz, it was RESOLVED to**
1244 **ENTER into Executive Session in accordance with AS 44.62.310(c), and Alaska**
1245 **Constitutional Right to Privacy Provisions, for the purpose of discussing “subjects that tend**
1246 **to prejudice the reputation and character of any person, provided the person may request a**
1247 **public discussion.” All Division staff to remain during Executive Session.**
1248

1249 *Entered into Executive Session at 11:16 a.m.*

1250 *Back from Executive Session at 12:10 p.m.*

1251 *All board members present. Investigator Jacobs and Lipker in attendance.*

1252 *Members of the public present were: Kathy Stubbs, Nanette Greer, and Alyssa Reis*

1253

1254 L.L.

1255

1256 Chair Edwards-Smith directed the board to the application for L.L. L.L. applied for licensure by
1257 Credentials per AS 08.61.040 and an applicant by Credentials must “currently have a license to
1258 practice massage therapy in another state or country that has licensing requirements that are
1259 substantially equal to or greater than the requirements of this state.” Ms. Gilmour stated that L.L.
1260 applied under a 500-hour requirement prior to July 1, 2019 and review of the application showed
1261 that the school approval for New Wave Myotherapy was revoked by the National Certification
1262 Board for Therapeutic Massage and Bodywork in 2011 and the applicant graduated in 2014.

1263

1264 **In a motion made by Jill Motz, seconded by Traci Gilmour, and passed unanimously with a**
1265 **roll call vote, it was RESOLVED to DENY the application for licensure for Lianhua Li per**
1266 **AS 08.61.040.**

1267

1268 E.C.

1269

1270 Chair Edwards-Smith directed the board to the application for E.C. E.C. applied for licensure by
1271 Credentials per AS 08.61.040 and an applicant by Credentials must “currently have a license to
1272 practice massage therapy in another state or country that has licensing requirements that are
1273 substantially equal to or greater than the requirements of this state.” Ms. Motz stated that there is
1274 no consensus on the certification entity based on the information provided in the application.

1275

1276 **In a motion made by Jill Motz, seconded by Julie Endle, and passed unanimously with a roll**
1277 **call vote, it was RESOLVED to DENY the application for licensure for Eunja Choi per AS**
1278 **08.61.040.**

1279

1280 L.T.

1281

1282 Chair Edwards-Smith directed the board to the application for L.T. L.T. applied for his license to
1283 be reinstated by the board after a lapse on September 30, 2017. The board determined that L.T. did
1284 not meet the continuing education requirements of licensure as listed in regulations.

1285

1286 **In a motion made by Jill Motz, seconded by Julie Endle, and passed unanimously with a roll**
1287 **call vote, it was RESOLVED to APPROVE the reinstatement of license for Lukas Tucker**
1288 **PENDING the acceptance of a continuing education consent agreement per the board’s**
1289 **continuing education disciplinary matrix.**

1290

1291 L.W.

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Chair Edwards-Smith directed the board to the application for L.W. L.W. applied for licensure by Examination from the newly implemented regulation regarding online schools.

In a motion made by Jill Motz, seconded by Traci Gilmour, and passed unanimously with a roll call vote, it was RESOLVED to APPROVE the application for Lori Wikle.

H.P.

Chair Edwards-Smith directed the board to the application for H.P.

In a motion made by Jill Motz, seconded by Traci Gilmour, and passed unanimously with a roll call vote, it was RESOLVED to APPROVE the application for Heather Pritchard.

M.V.

Chair Edwards-Smith directed the board to the application for M.V.

In a motion made by Traci Gilmour, seconded by Jill Motz, and passed unanimously with a roll call vote, it was RESOLVED to APPROVE the application for Mary Veselka.

Agenda Item 19 Lunch

*Chair Edwards-Smith called a lunch break at 12:17 p.m.
Back from lunch at 1:31 p.m.
All board members present. Carl Jacobs and Sonia Lipker were present.
Members of the public present were: Kathy Stubbs, Nanette Greer, and Ahysa Reis*

Agenda Item 6 Investigative Case Review and Probation Reports (continued)

Chair Edwards-Smith invited Inv. Carl Jacobs to present information regarding the board’s determination of inspection allotments.

Inspection Allotment

Inv. Jacobs stated that the Board of Barbers and Hairdressers had determined that there is a minimum amount of inspections they want administered every year in accordance with statutes involving the Department of Conservation (DEC). From that information, the Board of Massage Therapists would like to determine a maximum amount of inspections to be performed every year in order to keep costs to the board reasonable. Inv. Jacobs continued that the board can lay out a guideline in terms of inspections. Chair Edwards-Smith acknowledged that this item might be “out of the box” but massage therapy is a unique program.

Inv. Jacobs advised the board that a regional inspection would be in an area that would require travel authorization by the state such as Juneau, Fairbanks, Nome, or Barrow; a local inspection would be more localized to Anchorage and surrounding areas. Inv. Jacobs stated that several businesses may be visited for each inspection trip and may include compliance checks for business licenses too.

1341 Chair Edwards-Smith asked Inv. Jacobs if he goes out to inspect in conjunction with another
1342 program, if the costs are shared between the boards? Inv. Lipker answered that inspections are
1343 billed to the profession that are conducting them and Investigations prefers to send investigators out
1344 together for safety reasons. Inv. Lipker stated that some boards have requested the amount of
1345 inspections for their program to be increased but none have requested a cap.

1346
1347 Ms. Motz stated that she would like to see the board set a range of inspections to give Investigations
1348 more latitude and recalled that the last regional trip to Fairbanks was not a great expense. Ms. Motz
1349 continued that the board has been made aware, through public comment, that the public would like
1350 to see more inspections occur. Chair Edwards-Smith stated that this is a fluid proposal that can be
1351 amended as needed.

1352
1353 Ms. Gilmour stated she would like to see a report on the results of these inspections during the
1354 board's scheduled meetings. The board requested feedback from Inv. Jacobs as to the verbiage for
1355 their motion and he suggested 3 regional trips and 24-36 local trips. Inv. Jacobs stated that those
1356 numbers could equate to 2-3 local inspections a month and approximately 1 regional trip a quarter.
1357 Inv. Jacobs stated that, due to COVID-19, he was not sure when staff will be approved to travel.

1358
1359 Ms. Endle asked Inv. Jacobs if the establishments are given notice that they will be inspected; Inv.
1360 Jacobs stated that the inspections are un-announced. OLE Dulebohn asked the board if they
1361 wanted to delineate between massage therapist and massage establishment inspections and the board
1362 answered that they did not.

1363
1364 **In a motion made by Julie Endle, seconded by Traci Gilmour, and passed unanimously with**
1365 **a roll call vote, it was RESOLVED to ADVISE Investigations to perform up to 3 regional**
1366 **and up to 36 local inspections every fiscal year.**

1367
1368 *Investigators Lipker and Jacobs left the meeting at 2:03 p.m.*

1369
1370 **Agenda Item 20** **New Business**

1371
1372 **Board Guidance on COVID-19**

1373
1374 Chair Edwards-Smith stated that in the April 20, 2020 board meeting, the board worked diligently to
1375 craft board guidance regarding the Governor's COVID-19 Mandate 15. Chair Edwards-Smith
1376 stated that the Board of Massage Therapists was the first board to meet and craft guidance on that
1377 matter. Chair Edwards-Smith stated that the board did their due diligence to create COVID-19
1378 related guidance as soon as possible but, recognizing that they were not infectious disease specialists,
1379 opted to send that guidance out to be vetted by the Department of Law, Health and Social Services,
1380 and the Governor's office before releasing it to the public. Chair Edwards-Smith stated that the
1381 delay in releasing guidance to the public was a result of waiting for that vetted guidance to be
1382 received by Division.

1383
1384 Ms. Motz asked if the board had a plan in place should Mandate 15 be retired by the Governor's
1385 office? Ms. Motz continued that she would like the board to have a plan in place in terms of an
1386 emergency meeting so the board is prepared to issue guidance in a timely manner. Ms. Motz
1387 continued that the guidance the board crafted was never finalized as board guidance and was instead
1388 published as an appendix to Mandate 15.

1390 Ms. Gilmour stated that should the mandate be lifted, she would like to see the board meet as soon
1391 as possible according to public notice requirements. Chair Edwards-Smith asked that COVID-19
1392 board guidance to be on the September agenda.

1393
1394 **TASK: OLE Dulebohn will put COVID-19 Board Guidance on the September 2020**
1395 **meeting agenda.**

1396
1397 OLE Dulebohn stated that the Governor has a “Re-Open Alaska” plan on his website and that
1398 Alaska is currently on stage 3 of 5 and the Governor stipulates personal protective equipment would
1399 be addressed during stage 4 of the plan.

1400
1401 Summary of Board Chair Weekly Meeting

1402
1403 Chair Edwards-Smith stated that there have been weekly Board Chair meetings for health care
1404 professions to discuss COVID-19 issues. The Chair stated that most of the discussion has not been
1405 pertinent to the Board of Massage Therapists. Chair Edwards-Smith stated that he had presented
1406 some of the Board of Massage Therapist mitigation efforts and it was recognized that the Board of
1407 Massage Therapists was the first board to draft a mitigation plan.

1408
1409 Chair Edwards-Smith stated that the weekly Chair meetings have been very informative and he has
1410 been able to ask questions directly to Dr. Anne Zink, Chief Medical Officer for the State of Alaska,
1411 as well as board chairs from other healthcare professions.

1412
1413 **TASK: Chair Edwards-Smith will correspond with other board chairs during the**
1414 **weekly Chair meeting on topics concerning the retirement of Mandate 15 and feedback on**
1415 **guidance.**

1416
1417 Ms. Gilmour asked Chair Edwards-Smith to send out a summary of the Chair meetings to the rest
1418 of the board through OLE Dulebohn.

1419
1420 **TASK: Chair Edwards-Smith will send out a “snapshot” summary of the weekly**
1421 **Chair meeting through OLE Dulebohn to the entire board.**

1422
1423 Summary of Board of Chiropractic Examiners Meetings

1424
1425 Chair Edwards-Smith stated that he was invited to attend two meetings of the Board of Chiropractic
1426 Examiners. Chair Edwards-Smith stated the first meeting was to discuss board guidance crafted by
1427 the Board of Massage Therapists on April 20, 2020. Chair Edwards-Smith stated that there had
1428 been excellent dialogue and he “feels that a very respectful working relationship is developing with
1429 the chiropractic board.” Chair Edwards-Smith stated that the chiropractic board had initial
1430 concerns about whether they would be able to respect the board guidance issued by the Board of
1431 Massage Therapists.

1432
1433 After Appendix 01 was added to Mandate 15, Chair Edwards-Smith stated that he attended another
1434 Board of Chiropractic Examiners meeting to discuss the implementation of Appendix 01 in
1435 chiropractic offices that employ massage therapists. Chair Edwards-Smith stated that there were
1436 many questions about the personal protective equipment to be utilized by massage therapists
1437 regarding cloth masks vs. surgical masks. Chair Edwards-Smith stated that he is happy to see that

1438 the Board of Massage Therapists can now be involved with the Board of Chiropractic Examiners
 1439 and utilize that resource.

1440

1441 **Agenda Item 21** **Administrative Business**

1442

1443 Administrative Statistics

1444

1445 OLE Dulebohn stated that in the March 2, 2020 meeting, she was asked to provide more historical
 1446 information to the statistics and so has included information from the last meeting and the year 2019
 1447 for the board’s review.

1448

February 29 – June 15, 2020

ITEM	June 18-19, 2020	March 2, 2020	2019
Applications Received	16	16	172
Applications Reviewed by the board	19	37	181
Rolfers Issued Massage License using the Board’s Curriculum Breakdown (not Grandfathered)	2	2	2
Licenses Issued	24	26	149
Applications Denied	1	3	8
Applications in Process	66	44	--
Total Renewed as of 11/29/2019		1067	
Total Renewed Online Using MyLicense (as of 10/27/2019)		823	
Total Number Lapsed as of 11/29/2019 due to Non-Compliance with Renewal Requirements (CPR)		56	
# of Licensee’s who have “opted in” for paperless communications	905	772	
Sent in Un-Necessary Fingerprint Cards for 2019 Renewal		46	
Phone Calls Received	262	442	1915
E-mails Sent	7069 (1951+6 mass e-mails)	1085	8444
Fitness to Practice Interviews		0	3
Written Correspondence to the Board	17	82 (April 2020)	9
Indirect Expenditures (Admin, Department, State)	\$69, 004		\$92, 005
Investigations (LAW, Hearings, Staff)	\$44,513		\$222,447

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Meeting Calendar Review

The board reviewed the meeting calendar for the remainder of 2020 and the dates set for 2021. OLE Dulebohn stated that the September 2020 meeting is still scheduled as “in person” but it will depend on the Division’s travel policy going forward. Ms. Gilmour stated that she would like the board to consider, should the in-person aspect of the September meeting be cancelled, that the board hold an in-person December 2020 meeting in Anchorage. OLE Dulebohn suggested that the board make a motion in their September meeting on whether they would like their December meeting to be by videoconference or in person.

TASK: OLE Dulebohn will put an agenda item to review the December 2020 meeting method in the September 2020 meeting.

Previous Meeting Minutes

The board reviewed the meeting minutes from January 13, March 2, and April 20, 2020. There were no amendments to these meeting minutes. Ms. Gilmour stated that OLE Dulebohn did “good work” on the meeting minutes. Chair Edwards-Smith stated the minutes are “very well done.”

In a motion made by Traci Gilmour, seconded by Julie Endle, and passed unanimously with a roll call vote, it was RESOLVED to APPROVE meeting minutes as written for January 13, 2020.

In a motion made by Jill Motz, seconded by Traci Gilmour, and passed unanimously with a roll call vote, it was RESOLVED to APPROVE meeting minutes as written for March 2, 2020.

In a motion made by Julie Endle, seconded by Jill Motz, and passed unanimously with a roll call vote, it was RESOLVED to APPROVE meeting minutes as written for April 20, 2020.

TASK: OLE Dulebohn will mail the signature page from the approved minutes and the adoption orders from the license surrenders to the Chair for signature and return.

Review and Update “Unapproved Continuing Education” List

Ms. Gilmour would like the board to reconsider the inclusion of #15 “energy work that does not involve the application of professional therapeutic touch” to the list. Ms. Gilmour stated that #15 can be used in conjunction with many therapeutic methods and is complimentary to massage. Ms. Gilmour would like the board to remove #15 as she feels it can be a valid tool and made a motion to remove it but it was not supported by the rest of the board members.

No changes were made to the “Unapproved Continuing Education” list during this meeting.

Correspondence

Christine Hooper, AMTA- Ms. Hooper asked whether the board had considered waiving license renewal and/or continuing education for this licensing period due to COVID-19. Chair Edwards-Smith replied that the board was not considering waivers for continuing education as it is allowed by

1498 regulation to be completed online. Ms. Gilmour stated that should massage therapists be mandated
1499 to not practice again due to the continuing pandemic, the board would consider other options. Ms.
1500 Motz stated that there are many national organizations offering free continuing education online.

1501
1502 Mary Andrews- Ms. Andrews expressed concern during the Governor’s required shut down of
1503 massage therapy due to COVID-19 on April 8, 2020. OLE Dulebohn replied to Ms. Andrews on
1504 April 13, 2020 explaining the mandate requiring massage therapists to cease operations at that time
1505 and giving contact information links for the Governor’s office. The board replied that they
1506 concurred with OLE Dulebohn’s reply and had nothing further to add.

1507
1508 Bradley Dishner- Mr. Dishner provided information on options for gloves for massage therapists
1509 wishing to utilize them as personal protective equipment during the pandemic. The board stated
1510 that they greatly appreciated the information and it is available in the board packet for all members
1511 of the public and licensees.

1512
1513 Sabrina Garcia- Ms. Garcia asked that the board grant a variance for her to not be required wear a
1514 surgical mask while performing massage. Chair Edwards-Smith stated that the board does not have
1515 the ability to give exemptions under Mandate 15. Ms. Motz stated that therapists are not required to
1516 go back to work if they cannot follow the mandate. Ms. Motz stated that Americans with
1517 Disabilities Act (ADA) will make accommodations that are reasonable and safe but not wearing a
1518 mask, with close contact with people, the way that massage therapists do, is not reasonable or safe.
1519 Ms. Gilmour stated that the mandate requires both therapists and clients wear a mask and therapists
1520 have the ability to reschedule clients to when they are more comfortable wearing it or when the
1521 mandate is lifted.

1522
1523 Susette Henrikson- Ms. Henrikson asked whether the board was aware of the concern that massage
1524 might be contraindicated for asymptomatic clients due to the newly discovered blood clotting and
1525 cardiovascular issues with COVID-19? Ms. Gilmour stated that the board should research the
1526 blood clotting issue. Ms. Motz stated that she has being completing ongoing research into COVID-
1527 19 and, although it is designated as a respiratory disease, it is being found that it is more a
1528 cardiovascular and inflammatory disease.

1529
1530 **TASK: Chair Edwards-Smith will research the concerns brought to the board by Ms.**
1531 **Henrikson which will include consulting the medical board during the next Chair meeting.**

1532
1533 Renaë Nelson- Ms. Nelson stated that she and clients were having issues wearing masks during her
1534 massage sessions. OLE Dulebohn replied that masks are mandatory for therapists and clients per
1535 Mandate 15, which gives the allowance to return to work only if the Mandate can be followed. The
1536 board replied that they concurred with OLE Dulebohn’s reply and had nothing further to add.

1537
1538 Jenna O’Fontanella- Ms. O’Fontanella asked about a telemedicine option for massage therapists in
1539 Alaska. Ms. Motz replied that telehealth is not in massage therapists Scope of Practice.

1540
1541 Cynthia McMullen- Alaska Institute of Oriental Medicine, Acupuncture, & Massage Therapy- Ms.
1542 McMullen submitted safety guidelines for the board to consider when massage is allowed to resume
1543 in Alaska. The board reviewed the document, appreciate the information provided by Ms.
1544 McMullen, and feels like the Governor’s Mandate 15 and Appendix 01 have provided the necessary
1545 information for massage therapists to return to work.

1546

1547 Gwen Younger- Ms. Younger had questions regarding massage establishment registration. Ms.
1548 Gilmour stated that establishments that are not open do not need to register at this time but that
1549 massage licensees have the prorating options. OLE Dulebohn stated that there is a provision in
1550 centralized regulations for prorating fees for licenses but as massage establishments are a
1551 registration, she is not sure if it is applicable.

1552
1553 **TASK: OLE Dulebohn will research if centralized regulation on prorated fees is**
1554 **applicable to registrations as well as licensees and present that information in the**
1555 **September 2020 meeting.**

1556
1557 Joanie Waller- Ms. Waller asked the board what they are doing to advocate for massage therapists to
1558 participate in telehealth? Ms. Endle asked if whether emergency telehealth was an option during
1559 times such as a pandemic? Ms. Motz stated that massage therapy in Alaska is defined as a hands-on
1560 profession and that there is not another option for an alternative revenue stream under the massage
1561 therapist license at this time.

1562
1563 Kierke Kussart- Alaska Academy of Advanced Cosmetology- Ms. Kussart suggested the board
1564 review Milady Massage textbook and MindTap Digital Learning as approved online distance
1565 monitoring programs for online education. Ms. Gilmour suggested Ms. Motz review these
1566 programs and present her findings to the board in the September 2020 meeting. Ms. Motz stated
1567 that she has done some research on these platforms already and it is not a complete program.

1568
1569 **TASK: Ms. Motz will research Milady Massage textbook and MindTap Digital**
1570 **Learning as approved online distance monitoring programs and present her research to the**
1571 **board in the September 2020 meeting.**

1572
1573 Beth Fountain- Ms. Fountain asked about the requirements in Mandate 15 and Appendix 01
1574 requiring all persons returning from out of state not be seen by a massage therapist unless they have
1575 been in Alaska for a minimum of 14 days. The board replied that they concurred with OLE
1576 Dulebohn's reply and had nothing further to add.

1577
1578 Nanette Greer- Ms. Greer requested that the board re-evaluate her application for licensure. Ms.
1579 Greer's application has been reviewed by the board 3 times and the board had issued a decision
1580 approving Ms. Greer's application pending the completion of remedial hours. Chair Edwards-Smith
1581 stated that the board has already reviewed Ms. Greer's application for licensure and have completed
1582 their due diligence and does not see a need for another review. Ms. Motz questioned the validity of
1583 a revised transcript and agreed with the Chair's assessment of the matter moving forward. The
1584 board replied that they concurred with OLE Dulebohn's reply and had nothing further to add.

1585
1586 Chair Edwards-Smith stated that everyone who submitted correspondence should be referred to the
1587 meeting minutes for replies with the exception of Ms. Henrikson, whose question will need to be
1588 researched by the board.

1589
1590 At this time, Ms. Greer asked for the opportunity to address the board regarding her
1591 correspondence. OLE Dulebohn replied that the opportunity for public comment was on June 18,
1592 2020 at 1:15 p.m. and, at this time, anyone except board members or staff were not invited to
1593 participate in the meeting and were only attending as observers.

1594
1595 Task List

1596
1597 Chair Edwards-Smith asked OLE Dulebohn to review the task list assigned from this meeting.
1598 Tasks were assigned to Inv. Jacobs, Ms. Motz, OLE Dulebohn, and Mr. Edwards-Smith.

1599
1600 **Agenda Item 22** **Adjourn**

1601
1602 At this time, the board concluded all scheduled board business.

1603
1604 **In a motion made by Jill Motz, seconded by Julie Endle, and passed unanimously, it was**
1605 **RESOLVED to ADJOURN.**

1606
1607 Hearing nothing further, Chair David Edwards-Smith adjourned the meeting and the record ended
1608 at 3:19 p.m.

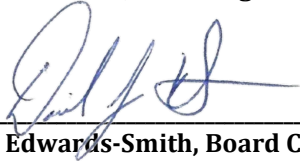
1609
1610
1611 **Respectfully Submitted,**

1612 

1613
1614 _____
1615 **Dawn Dulebohn, Licensing Examiner**

09/11/2020

Date

1616 

1617
1618 _____
1619 **David Edwards-Smith, Board Chair**

9-11-02

Date

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1621