



Alaska Board of Massage Therapists – September 11 – 12, 2023 Regular Board Meeting
Alaska Division of Corporations, Business and Professional Licensing

Time: September 11-12, 2023, 9:00 AM Alaska

Attendance

Board Members:

Jill Motz, Licensed Massage Therapist
Annetta Atwell, Licensed Massage Therapist
Kelli Shew, Licensed Massage Therapist
Tonia Nelson Licensed Massage Therapist
Julie Endle, Public Member

DCBPL State of Alaska Staff:

David Edwards-Smith, Occupational Licensing Examiner
Reid Bowman, Program Coordinator 2
Shane Bannarbie, Program Coordinator 1
Jennifer Summers, Investigator
Marilyn Zimmerman, Paralegal
Stefanie Davis, Regulation Specialist

1. Roll Call - 9:05 AM

Board Members Present: Annetta Atwell, Julie Endle, Kelli Shew, Jill Motz, Tonia Nelson

2. Review/Approve Agenda

A motion made by Julie Endle, seconded by Annetta Atwell, and passed with unanimous roll call vote; it was RESOLVED to APPROVE the agenda as amended.

3. Ethics Review/Disclosure

Chair Motz requested the board for ethic disclosures for the record. No disclosures were presented.

4. Public Comment - 9:30 AM

Chair Motz asked OLE Edwards-smith if there was any formal public comment scheduled. No public comment was scheduled.

5. Administrative

A. Minutes

The Board reviewed the minutes. Julie and Kellie noted minor changes

A motion made by Annetta Atwell, seconded by Julie Endle, and passed with unanimous roll call vote; it was RESOLVED to APPROVE the March board meeting Minutes as written.

B. Division Report

The Board Reviewed the division report for FY 23 Quarter 3. The board did not have any questions.

C. Correspondence

Apprentice Program:

Chair Motz discussed the subject of apprenticeship programs with Ann Velardi of Alaska department of wage and labor. The board was encouraged to recognize federally accredited programs. The Apprentice and sponsor would be responsible for meeting federal guidelines. The board was encouraged to work with Jacqueline Garcia of the department of wage and labor. The board expressed interest in exploring this option. This subject was to be discussed further later in the meeting.

Pausing Licensing:

The board recognized that The Division of Corporations, Business and Professional licensing does not currently have the statutory ability to pause licenses for a non-practicing license holder.

Body Tempering:

The Board Reviewed the publicly available information on body tempering. The board recognized that the technique of body tempering fell into the scope of practice of massage therapy as the technique involves the manipulation of soft tissue. Chair Motz and Kelly Shew feel that minimally that a massage therapy license. The board has concerns of public safety for the limited education required for this technique that involves heavy weights utilized in soft tissue manipulation and other techniques that may fall into the scope of physical therapy.

- Central Oregon Community College's Associate of Applied Science–Massage Therapy program

Motz reviewed this school and did not see any reason why this school was unacceptable as massage therapy education. Julie Endle noted that the schools hours of education exceeds the 625 hour minimum requirement in Alaska.

- CEU for Meeting Attendance

The Board determined that a spreadsheet of CEU's earned by a licensee meeting attendance is to be tracked in an excel sheet by OLE

9:50 AM Public Comment Closed Off Record - Break

10:01 AM On Record

6. FSMTB – Annual Meeting

OLE Edwards-Smith Informed the Board that Annetta Atwell is registered as the Alaska Delegate for the Federation of State Massage Therapy Board's 2023 annual meeting. Travel arrangements have been completed.

7. Interstate Massage Therapy Compact - Board Letter Review

Chair Motz presented a letter of non-support of the massage therapy Impact to the board for review. Kelli Shew informed that board that she observed a great deal of pressure from the FSMTB to support the Impact in the 2022 annual meeting. Kelli informed the board she understands the standardization of massage therapy education as a potential solution that eliminates the need for licensing COMPACTS.

8. Investigations - 11:00AM

A. Investigative Report

11 The investigative report of June 1 – September 2 was presented by Investigator Jennifer Summers. The report indicated 11 open cases with 7 closed cases.

Marilyn Zimmerman Joins at 10:40AM

B. Executive Session

In a motion made by Julie Endle, seconded by Annetta Atwell, and passed with unanimous roll call vote, it was RESOLVED to enter EXECUTIVE SESSION in accordance with AS 44.62.310(c), and Alaska Constitutional Right to Privacy Provisions, for the purpose of discussing subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion.

Off Record at 11:05 AM

On Record at 11:10 AM

In a motion made by Julie Endle, seconded by Kelli Shew, and passed with unanimous roll call vote, it was RESOLVED to APPROVE the CONSENT AGREEMENT for Tiffany Eggers, case 203-0002.

C. New Applications with pending consent agreements and abandoned apps

Chair Motz initiated the discussion of applicants abandoning and reapplying for licenses when presented with a consent agreement. The board agreed that this is a potential

loophole to study and seek consultation of a potential regulations project.

9. Updated Guidance of Apprenticeship Programs

The board reviewed information from the federal massage therapy apprenticeship program. It was determined that this program will be studied by the board as a consideration of an accepted model.

10. Lunch – Off Record at 12:00 – On Record at 1:00 PM

11. Regulations Projects

Regulation Project Review Massage Therapy Online Advertisement

Review of Regulations Project Draw

Ms. Davis presented draft language that was developed with the research of similar regulations within the State of Alaska and states with similar advisement regulation requirements. Ms. Davis asked the board if there was interest in the inclusion of massage establishments in the online advertisement license display requirement. Kelli Shew brought to the boards attention that this is an acceptable requirement that the State of Washington has in place.

A motion made by Julie Endle, seconded by Annetta Atwell and passed with unanimous roll call vote; it was RESOLVED to APPROVE the draft regulations project 12 AAC 79.950. that is amended to include massage establishments.

12 AAC 79.910. "MORAL TURPITUDE" DEFINED

CPBL: Requirement of conviction disclosures of applicants with pending charges.

The Board discussed the necessity of a requirement of required reporting of pending charges for reasons of public safety. Chair Motz made the point that in current regulation there is no reporting requirements and a licensed massage therapists with unreported convictions of crimes of moral turpitude. This is a public safety concern because currently background checks are completed every six years.

A motion made by Aneta Atwell, seconded by Julie Endle and passed with unanimous roll call vote; it was RESOLVED to APPROVE a regulations project 12 AAC 79.910 to amend the requirements of reports to the board of being charged with a crime of moral turpitude within 60 days of being charged.

12 AAC 79.200. "CONCLUDING LICENSING PERIOD - 4,5(C)2 " UPDATE

CPBL: Regulation currently forwarded to Law for review.

The board has previously reviewed the proposed regulation project. It was discussed that the intention of the regulation is to no longer require applicants to submit CPR or continued education documentation with a licensing renewal application. The requirement of documentation is in the event of a licensee being selected in the random audit.

A motion made by Julie Endle seconded by Annetta Atwell and passed with unanimous roll call vote; it was resolved to APPROVE the regulation draw of 12.AAC.200 and amend 4,5 to change the word documentation to attestation.

Break – Off Record at 2:30, On Record at 3:00

10. Legal review of board authority to regulate tips as compensation.

The question of the legality of receiving tips as compensation as a student or with practice unlicensed massage therapy services was forward to Director Sylvan Robb. The statutes of massage therapy state that the practice of massage therapy for compensation is legal only as a licensed massage therapist. Students of massage therapy are unlicensed and therefore statute clearly defines that those students cannot legally received compensation for services. The board went on to clarify that compensation is not limited to monetary compensation.

Recess at 3:15

11. Roll Call - 9:05 AM

Board Members Present: Annetta Atwell, Julie Endle, Kelli Shew, Jill Motz, Tonie Nelson

Joined by Administrative Law Judge Kathleen Frederick

12. State of Alaska Board of Massage Therapists- Case No.: 2022-000986

A motion made by Julie Endle seconded by Annetta Atwell and passed with unanimous consent to Move into Deliberative Session

A motion made by Julie Endle seconded by Annetta Atwell and passed with roll call vote to; it was resolved to APPROVE a settlement agreement non-disciplinary letter of advisement for Sommer Nielson case no. 2022-000986.

Julie: Yes, Kelli: Yes, Tonia: Yes, Annetta: Yes, Jill: Obtains

13. Apprenticeship Programs

Board discussed the 2017 board accepted apprenticeship program. There was consensus that the framework was well structured and that guidance that would be extended. The hours of training needed to be defined. Tonia suggested that 1500 hours was a reasonable minimum hour requirement. Kelli makes the point the 2000 hours would be better received in reciprocity with other states. Julie informed the board in research she completed, she found the state of Utah and Arkansas as states with models that are reasonable to investigate. Both programs require minimum hours programs of over 1000 hours.

The board moved discussion to the question of whether sponsors should have requirements. An example discussed was 5000 hours of professional experience and no licensing actions within the last 5 years.

A motion made by Julie Endle seconded by Annetta Atwell and passed with roll call vote to; it was resolved to ACCEPT and extend the current 2017 board approved Apprenticeship Program Model

A motion made by Julie Endle seconded by Annetta Atwell and passed with roll call vote to; it was resolved to begin regulations PROJECT to REQUIRE that apprenticeship program to be a minimum of 2000 hours.

14. Application Review

The board has reviewed applications provided in their board packets. The board did not have any discussion.

In a motion made by Julie Endle, seconded by Annetta Atwell, and passed with unanimous roll call vote, it was RESOLVED to APPROVE the application for reinstatement for Donna Demaris.

In a motion made by Julie Endle, seconded by Annetta Atwell, and passed with unanimous roll call vote, it was RESOLVED to APPROVE the application for examination or Katie Louise Moore.

In a motion made by Tonia Nelson, seconded by Annetta Atwell, and passed with unanimous roll call vote, it was RESOLVED to APPROVE the application for reinstatement for Krystal Gauley.

In a motion made by Tonia Nelson, seconded by Kelli Shew, and passed with unanimous roll call vote, it was RESOLVED to APPROVE the application for reinstatement for Virginia Norris.

Break – 10:20AM

15. Town Hall

Public Present: Michele Kirton, Chaz Alexander, Debbie Ballard, Doris Belle, Elizabeth Pearch, Leo Petit, Mary Curry, Tammy Gifford, Cynthia spies, Crystal Garrett, Joe Williamson, Kristi Benevides, Volker Ruby

Roll Call - 1:30 PM

Board Members Present: Annetta Atwell, Julie Endle, Kelli Shew, Jill Motz, Tonia Nelson

Chair Motz provided a presentation to inform the public of the process of regulations, financials, and communication with the board.

Question: Tips Received by Students

The board was presented with several questions about students receiving tips or other forms of compensation such as gifts for services. Sentiment was expressed that the board was being unfair in not allowing students to receive tips. The board was informed that students receiving tips was a standard practice in massage school education.

Chair Motz informed that board that the issue of illegality of students receiving tips or other forms of compensation was not a board decision. The statute of the state law of the practice of massage therapy clearly states that the legal practice of massage therapy means the provision, for compensation of the services of massage therapy. The practice of unlicensed massage therapy is a class B misdemeanor in the State of Alaska. A complaint to the board that results in an investigation and legal action could impact a students application process. The board received feedback from the Director of the Division of Corporations, Business and Professional Licensing that confirmed that the legal definition of compensation does include gifts.

Question: Apprenticeship Program

The board was asked about how one could develop an apprenticeship program.

Chair Motz spoke to the current guidelines that have been adopted by the board in 2017 as an acceptable framework to the board. The public was informed that there was a regulations project that would be pending that is intended to improve apprenticeship program.

Question: Clarification of CPR

The board was asked to clarify the information available of acceptable CPR courses. The public asked for clarification of the requirement of CPR needed to be completed from the American Red Cross, American Heart Association, American Safety and Health Institute, or an equivalent organization. A member of the public informed the board of that he felt the current interpretation was that an equivalent organization was that which used programs provided by the Red Cross, AMA or ASHI. He felt a clarification such as this could avoid an exhaustive list of acceptable programs.

Chair Motz informed the public that online CPR certifications are available and acceptable to

the board. She agreed that this is a subject that the board will include discussion of this in the next board meeting.

Comment: The town hall meeting is a welcome format. The board was thanked for this transparency.

Comment: Continued Education Renewal Requirement

The recent regulation that amends the language that requires that all continued education to be completed by the date of the concluding licensing to the date of the time of application is a welcome solution that the board has initiated. The board was asked the status of the regulation.

Chair Motz informed the public that the regulations project has been expedited and has gone into effect as of May 24, 2023. Continued education will be required by the time of application in the 2023-2025.

Question: Interstate Compact Process

The public asked for a status update on the interstate compact that has been presented by the Federation of State Massage Therapy Boards.

Chair Motz informed the public that in today's meeting the board has reviewed a letter of non-support. The board cited concerns of the effects of the compact with unique funding of professional licensing in Alaska. The board also cited public safety concerns. Ultimately this compact could be presented to the legislature. The public was encouraged to contact their legislature to express their support or lack of support of the compact.

Question: Streamline Communication with Massage Therapist

The public asked about how the board communicates with the public regarding pending regulations projects.

The public was informed that licensed massage therapists are mailed public notices and are encouraged to make sure their information is current. Email notifications will be utilized more in the future.

Comment: The board was thanked for their work as volunteers and felt there are often misunderstandings of what is and isn't in the board's control.

Adjourn: 3:33

Minutes Board Approved December 7, 2023