

State of Alaska
Department of Commerce, Community and Economic Development
Division of Corporations, Business and Professional Licensing

BOARD OF MASSAGE THERAPY

MINUTES OF THE MEETING
December 1st & 2nd, 2016

By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Board of Massage Therapy was held at the Atwood Building, in Anchorage Alaska on Thursday, December 1st and Friday, December 2nd, 2016 beginning at 8:36 a.m.

December 1st, 2016:

Agenda Item 1 **Call to Order**

Time: 8:36 a.m.

The meeting was called to order by Chair, Amanda Unser at 8:36 a.m.

Board Members Present, constituting a quorum:

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

Division Staff Present:

Dawn Hannasch, Occupational Licensing Examiner (*telephonically*)
Sara Chambers, Division Operations Manager (*telephonically*) 10:00 a.m.
Jasmin Batista, Investigator 10:40 a.m.

Members from the public:

Ed Toll-Present for more than 80% of the meeting-qualified for 1 CEU credit.
(The Board has record of Mr. Toll's attendance at 8:30 a.m. 9:21 a.m., 10:06 a.m.
10:52 a.m., 11:33 a.m., 1:00 p.m., 2:00 p.m. & 2:47 p.m.)

Agenda Item 2 **Review Agenda**

Amanda Unser initiated discussion on reviewing the agenda for December 1st and 2nd 2016.

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

RESOLVED to amend the agenda as suggested.

On a motion duly made by Rob Gibbs, seconded by David Edwards-Smith, and approved unanimously, it was:

RESOLVED to approve the amended agenda.

Agenda Item 3 Review Meeting Minutes

Hearing nothing further on reviewing the agenda, Ms. Unser prompted the Board to review the minutes from the previous meeting from September 15th & 16th 2016 as it was advised that the Board would be referring to it throughout the day. It was recommended by Amanda Unser to correct the dates that the Board meeting would qualify for CEU's for Massage Therapists in Alaska. The date should read December 1st 2016 not December 3rd 2016. The spelling of several names were corrected including the name of the American Association of Massage Therapists Alaska Chapter. The Board also recognized Laura Carrillo, Records and Licensing Supervisor for the excellent work she did at the last meeting and the thoroughness of the meeting minutes.

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

RESOLVED to approve the amended meeting minutes from September 15th & 16th 2016.

Agenda item 4 Ethics Report

There were no ethics to report

Agenda item 10 Administrative Business

- **Election of the new Chair:**

Hearing nothing further, Ms. Unser prompted the Board to elect the new Board Chair early into the meeting so that she can assist with the process of running a meeting. At which time, Ron Gibbs nominated David Edwards-Smith as the new Board Chair. Mr. Edwards-Smith expressed his willingness to serve as the Board Chair. Ms. Unser opened the discussion to other interested candidates.

On a motion duly made by Ron Gibbs, seconded by Amanda Unser, and approved unanimously by a roll call vote, it was:

RESOLVED that David Edwards-Smith is the Chairperson of the Alaska Board of Massage Therapists.

Agenda item 5 Regulations review

Hearing no further announcements, the Board moved onto the review and subsequence discussion of the Board of Nursing's disciplinary matrix. Each item on the matrix was reviewed for relevance to the Massage Therapy licensing program. It was decided that the Board would review the items in question with Investigator Batista during the Investigative report. Mr. Edwards-Smith opened the floor for the discussion of adding items to 12 AAC 79.910 "Morale Turpitude" Defined. It was decided that this topic would also be addressed during the Investigative report.

On a motion duly made by Traci Gilmour, seconded by Amanda Unser, and approved Unanimously by a roll call vote, it was:

RESOLVED to take a break

Break from 10:02 a.m. – 10:06 a.m.

Agenda item 6 Division Update

Division Operations Manager, Sara Chambers entered the room telephonically at 9:58 a.m.
Division Operations Manager, Sara Chambers left the room telephonically at 10:52 a.m.

Sara Chambers provided the Board in Anchorage with the 1st quarter FY2017 financial report as well as the 4th quarter FY 2016 financial report. Ms. Chambers explained that the reports were delayed due to the State launching its new accounting system IRIS. Ms. Chambers reviewed each report with the Board and answered their questions about specific expenses. The Board requested specific information be provided by the Division as to what code 1970 is and what the Board can expect the expenses to be when a denied applicant appeals the Boards decision. Ms. Chambers explained to the Board that with each case having so many variables, there is no way for the Division to give an estimate of this nature. Ms. Chambers did share with the Board that the Alaska State Medical Board just wrapped up a denial case and incurred a cost of close to \$100,000.00. Ms. Chambers also explained that the defensibility of the Boards decision will play into the cost. Amanda Unser stated that she was surprised that the Division did not have information like that already compiled and available.

Ron Gibbs inquired from Ms. Chambers that if the barrier crime that the license was denied for is in Statute, is the Board responsible? Ms. Chambers informed the Board that they are the only entity that can deny a license; therefore they are the responsible party in a denial situation.

Traci Gilmour pointed out to Ms. Chambers that the Board was fully in support of investigative cost being returned to the Board by way of any fines collected by offending licenses. Ms. Chambers stated that the Division has been in support of that resolution and has kept it on the front burner for over 3 years with no success. It was her belief that there may be one Legislator for the upcoming session that may be willing to support Boards with this change. Ms. Chambers also explained the difference between a “fee” (is set in Regulations and is a defined activity) a “fine” (is a penalty, is not in regulations and not everyone has to pay).

Ms. Chambers informed the Board that as of December 1st, 2016 Dawn Hannasch would be the Occupational Licensing Examiner full time for the Alaska Massage Therapist Board and the Alaska State Medical Board. The Board was very pleased and welcomed Ms. Hannasch. Ms. Unser inquired of Ms. Hannasch the status of reviewing past application for correctness and completeness, specifically any applications that have in the past been tabled by a Board member but a license issued in error by the Examiner. Ms. Hannasch confirmed for the Board that she is and will continue to review all 1000+ licenses for completeness and correctness. As issues arise she will bring them to the Boards attention.

Mr. Gibbs stated for the record his concerns with the upcoming renewal. Having all licenses expire on the same day seems inefficient. The Board is concerned about processing times and lapses in practice. Ms. Chambers explained that all Professional Licensing programs renew online and the Massage Therapists licensing program will be no different. The Board was pleased with this information. The Division Director will do a fee analysis in early 2017 to determine the renewal fees and discuss them at the Board's next meeting in March 2017.

Ms. Unser inquired from Ms. Chambers as to the information requested by the Board in June of 2016 regarding an estimate for fees for a Massage Therapy Establishment license. Ms. Chambers requested more information from the Board. The Board voiced its displeasure with this information just now being requested. Ms. Chambers will take information from the June 2016 and the September 2016 meetings along with the statutory language that is being purposed by the Board to provide the requested fee information.

Ms. Chambers also opened the discussion with the Board regarding the approval of licenses pending the receipt of a clear background check. She confirmed with the Board that because of 12 AAC 79.130, the Board can approve a license without the background check being received. As long as the file is complete and otherwise a clean file, the license can be issued without further delays. The Board agrees and appreciated the reminder.

Agenda Item 7 Investigative report

Investigator Jasmin Bautista entered the room via Anchorage 10:40 a.m.
Investigator Jasmin Bautista left the room via Anchorage 11:50 a.m.

Since September 1, 2016 thru November 29, 2016 the Division opened 4 matters and closed 10. 5 matters remain open at this time. Ms. Bautista also explained the process of a denial hearing.

Break from 10:58 a.m. – 11:14 a.m.

The Board reviewed the NUR Board's disciplinary matrix. The Board is working on adding something similar to the MAS program. The word "assignment" was discussed. The definition of "assignment" is 'the making of an appointment or engagement for prostitution or an act of furtherance of such appointment or engagement'. The Board decided to discuss this term and others that they are considering adding to 12 AAC 79.910 Moral Turpitude.

Another topic that the Board discussed adding to the disciplinary matrix is "human" trafficking not just "sex" trafficking. This will cover all crimes against humans.

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

It was RESOLVED to enter into Executive Session in accordance with the provisions of Alaska Statutes 44.62.310 (c)(3) to discuss (c)(2): subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion.

Executive session at 11:33 a.m.

Back on the record at 11:43 a.m.

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

it was **RESOLVED** to break for lunch at 11:50 a.m.

Break for lunch 11:50 a.m.

Back on the record at 1:06 p.m.

Agenda Item 8 Application review

The Board reviewed 2 applications that were presented at the meeting. The Board has made a practice of reviewing most application in-between meeting as to not keep applicants waiting for licensure.

Upon a motion made by Ron Gibbs and seconded by Amanda Unser, with a unanimous roll call approval

It was RESOLVED to approve the application of Crystal Rose

**Amanda Unser-Yes
David Edwards-Smith-Yes
Ron Gibbs-Yes
Traci Gilmour-Yes
Shirley Nelson-Yes**

Upon a motion made by Ron Gibbs and seconded by Amanda Unser, with a unanimous roll call approval

**Amanda Unser-Yes
David Edwards-Smith-Yes
Ron Gibbs-Yes
Traci Gilmour-Yes
Shirley Nelson-Yes**

It was RESOLVED to approve the application of Jena Talmadge

Agenda item 10 Administrative Business

- Schedule meeting for calendar year 2017:
 - March 6th and 7th 2017-In person-Juneau
 - July 20th and 21st 2017-Videoconference
 - October 12th and 13th 2017-In person-Anchorage
 - December 18th and 19th 2017-Videoconference
- Correspondence:

The Board received a letter from LMT Sara Johnson requesting the Boards response to the following questions:

1. Is there any research for the massage therapy field that is being done that I may be a part of?
2. Is there someone that I may be in contact with, a mentor, that will point me in the right direction?

The Board has directed Occupational Licensing Examiner Dawn Hannasch to send the Boards repose as follows:

1. Contact the Massage Therapy Foundation and the Mayo Clinic for research opportunities; they always have some going on.
2. Being involved with the National organizations is a great way to grow and to make connections in the Massage Therapy profession.

Board Chair, David Edwards-Smith pointed out that the Board is not to be seen in the massage therapy community as “leadership” as Ms. Johnson stated in her letter to the Board. The Board’s primary responsibly is the protection of the public, not the furtherance of the massage therapy practice.

- Wall Certificates

Ms. Hannasch will mail the entire batch of wall certificated to Mr. Edwards-Smith for signature and return.

- Task list from June 2016 & September 2016:

Task June 2016	Status	Comments
Amanda will provide a legible copy of statutes that the board has decided needs changing. David Edwards-Smith will be reviewing data to come up with an estimate of the number of potential massage establishments in the state.	AU and DES will send the drafted language to DH who will then forward it to SC.	DES forwarded to SC & DH on 12/5/2016
The board is waiting to hear back from the Department of Law regarding the regulations that were submitted regarding the apprenticeship program.	The drafted regulations wording was sent to the Regulations Specialist in Mid-October. There has been no movement due to other more pressing projects	DH will check in with JM a few weeks before the March 2017 meeting.
Contact FBI and Investigations regarding financial records for potential shop licensing requirements	This is a completed task	
TASK September 2016	STATUS	COMMENTS
Trace applications that received a tabled vote after the license was issued.	Ongoing	This is an ongoing process, will continue until every application has been re-reviewed for correctness.
Send motion(s) to Jun Maiquis for regulation review.	Complete	Sent Mid October 2016
Contact the Department of Environmental Conservation regarding shop inspection, Jolene Godden (FBI), Jeremy Applegate (Labor and Wage Investigator) regarding a three hour class on human trafficking.	Completed	
Sara Chambers: if there were 150 massage establishment businesses, what would the fee for shop licensing look like?		Further clarification needed via e-mail

(Board Members): Temporary license research		Further discussion anticipated
(Board Members): Review scope of practice as initiated by David Edwards-Smith		Further clarification needed via e-mail

Agenda Item 5 Regulations review

Hearing nothing further on the topic of past tasks, the Board moved on to their review of the information provided by the investigative team regarding the Board of Nursing's disciplinary matrix. Definitions and context were discussed.

Upon a motion made by Amanda Unser and seconded by Ron Gibbs, with a unanimous roll call vote,

It was **RESOLVED** to amend regulation 12 AAC 79.910 -Moral Turpitude as follows:

ADD:

- (13) Murder**
- (14) Assignment**
- (15) Human Trafficking**
- (16) Criminal Sexual Conduct**
- (17) Incest**
- (18) Robbery**
- (19) Extortion**
- (20) Forgery**
- (21) Criminal Homicide**
- (22) Theft**
- (23) Endangering the welfare of a child**
- (24) Endangering the welfare of a vulnerable adult**
- (25) Reckless endangerment**

ADD:

(B) Conviction of an offense in another jurisdiction, with elements similar to an offenses listed in "a" of this section, or substantially related to the qualifications functions or duties of a massage therapist.

Amanda Unser-Yes
David Edwards-Smith-Yes
Ron Gibbs-Yes
Traci Gilmour-Yes
Shirley Nelson-Yes

Upon a motion made by Ron Gibbs and seconded by Amanda Unser, with unanimous approval it was **RESOLVED** to break at 1:50 p.m.

Break at 1:50 p.m.

Back on the record at 2:00 p.m.

Agenda item **Public Comment** **2:00 p.m.**

- **Ed Toll**
 1. I would like to see a document that outlines the Board Legislative agenda.
 2. The Board needs to remove the fingerprint/background requirement at renewal time.
 3. What are you trying to accomplish with the change to the new barrier crimes?

The Board thanked Mr. Toll for taking the time to attend the meeting and for his comments and questions to the Board.

Agenda item 9 **Old Business**

- Other:
 1. The Board brought up the question “Does the Board want to regulate WHO can provide CEU’s?” No, they do not.
 2. At the next meeting the Board will discuss adding an Ethics requirement to the CEU requirement.
- The Board will need to have a teleconference on 12/12/2016 to finalize the wording for the statutory changes that they will present to their Legislative sponsor. Ms. Hannasch will public notice and schedule the meeting, 11:45-1:45 each member will call in from their own phone.
- Temporary license: The Board discussed the issue of a temporary license but came to the conclusion that it is not necessary because they have the authority to issue a license before the background check has been received as long as the file is completed otherwise.
- Denied application file - Chan Springer: The Board was notified that they did not make a correct motion when they denied the license for Chan Springer in September 2016. The Board reviewed the application file.

Upon a motion made by Amanda Unser and seconded by Ron Gibbs, with a unanimous roll call approval

It was RESOLVED to deny the application for licensure for Chan Springer under the authority of AS 08.61.080(9) , for violations under 12 AAC 79.910 (11) Moral Turpitude, specifically the conviction of soliciting a lewd act.

**Amanda Unser-Yes
David Edwards-Smith-Yes
Ron Gibbs-Yes
Traci Gilmour-Yes
Shirley Nelson-Yes**

Upon a motion made by Amanda Unser and seconded by Ron Gibbs, with unanimous approval it was RESOLVED to recess until Friday, December 2, 2016 at 10:00 a.m.

Recessed at 2:45 p.m.

State of Alaska
Department of Commerce, Community and Economic Development
Division of Corporations, Business and Professional Licensing

BOARD OF MASSAGE THERAPY

MINUTES OF THE MEETING
December 1st & 2nd, 2016

December 2nd, 2016:

Agenda Item 1 **Call to Order**

Time: 8:36 a.m.

The meeting was called to order by Chair, Amanda Unser at 8:36 a.m.

Board Members Present, constituting a quorum:

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

Division Staff Present:

Dawn Hannasch, Occupational Licensing Examiner (*telephonically*)
Jasmin Batista, Investigator

Agenda item **Review the agenda**

Hearing no changes, the agenda stands as is for December 2, 2016.

Agenda item 11 **Establishment Licensing**

Chairmen David Edwards-Smith opened the discussion to the statutory changes that the Board will be pursuing through a Legislative sponsor this coming session. The following language will be reviewed by Ms. Sara Chambers and Mr. Jun Maiquis at the request of the Board.

MESSAGE ESTABLISHMENT DRAFT LANGUAGE

License Required.

No owner or manager of a massage establishment shall permit or allow any person to engage in, or attempt to engage in, the practice of massage therapy within a massage establishment unless the massage establishment:

- 1. Possesses a massage establishment license, or*
- 2. Is exempted by this Code from the massage establishment license requirement.*

Exemptions.

A. The following are exempt from the massage establishment license requirement:

- 1. Hospitals, residential care facilities, and assisted living facilities licensed by the state of Alaska;*
- 2. Public and private secondary schools or accredited colleges and universities who are approved by the board and when massage is performed as an educational requirement.*

3. Sports venues at which massage may be conducted on the members of professional sports franchises by athletic trainers employed by professional sports franchises. Where a sports venue shares a structure with another business or businesses, such as a hotel or motel, this exemption shall not apply to the other existing business/businesses within the structure where massage or massage therapy may take place;

4. The business locations in which barbers and cosmetologists, currently licensed by the state of Alaska, practice massage limited to the neck, face, scalp, hair, hands, or feet, when such massage is conducted in conjunction with a cosmetic service such as a haircut or styling, shave, manicure, or pedicure.

5. A massage therapist licensed in the State of Alaska and operating a sole proprietorship with or without employees.

6. Owners that are licensed to practice massage therapy by the State of Alaska may be exempt from this provision.

License Term and Expiration, Application and Renewal.

A. Every massage establishment license shall be valid for a period of one (1) years from the date of issuance, unless suspended, revoked, or surrendered prior to expiration.

B. Every application for a new or renewed massage establishment license shall be:

1. Made upon the form provided by the Department and

2. Filed with the Department

3. Accompanied by a non-refundable application fee set by the Department,

4. Completed to the satisfaction of Department and Board

5. Signed by every person who is an owner or principal massage therapist of a massage establishment.

C. An application for a massage establishment license shall be made to the

Department on a form provided by the Department and the applicant shall provide all required information including the following items and attachments at the time the application is submitted:

1. The business name, location, and mailing address of the massage establishment; and

2. A copy of the occupancy permit for the building in which the massage establishment will operate; and

3. The following information and documents for every owner and principal massage therapist of the massage establishment:

a. Full name and all aliases;

b. Residential address;

c. Telephone number;

d. Social Security Number;

e. Date of birth;

g. A photocopy of two valid state or federal issued photo identification; and Employment history, for the five (5) years preceding the application date;

i. A national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400;

j. A complete list of all criminal judgments, notwithstanding the form of judgment and including withheld judgments, deferred judgments, and bond forfeitures, against every owner and manager for any offense other than traffic infractions for the ten (10) years preceding the application date. The Department may require additional information, including, but not limited to, the date, place, and nature of the crime that resulted in the judgment.

SEE PROFESSIONALFITNESS QUESTIONS FOR

k. Owners that are licensed to practice massage therapy by the State of Alaska may be exempt from this provision and may submit a photocopy of the massage therapist license issued by the State of Alaska in lieu of the list.

4. A photocopy of the massage therapist license issued by the State of Alaska for every person who performs or will perform massage or massage therapy in the massage establishment during the term of the massage establishment license.

5. All other information deemed reasonably necessary by the Board.

6. Completion a Labor and Wage course provided by the Department of Wage and Labor (The applicant must provide evidence of course completion)

D. It is the massage establishment operator's responsibility to ensure the license application is filed timely with the Department to avoid a lapse in lawful operation prior to renewal. Renewal applications filed at least 30 days before expiration of the license are timely. Applications filed less than 30 days before expiration are not considered timely and may result a lapse is lawful operation.

License Qualifications and Responsibilities.

A. A national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under

AS 12.62.400;

B. No massage establishment license shall be issued to any applicant if any person required to be on the application:

1. Is under the age of eighteen (18) years;
2. Is not the bona fide owner or lessee of the premises within which the massage establishment is to be operated; or
3. has been convicted of, or pled guilty or no contest to, a crime involving moral turpitude 12 AAC 79.910., or who has been convicted of, or pled guilty or no contest to, a crime involving moral turpitude if the board finds that the conviction does affect the person's ability to practice competently and safely.
4. Is not legal US citizen
5. Holds liability insurance
6. has been fingerprinted and has provided the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and

1 a national criminal history record check; the fingerprints and fees shall be forwarded

2 to the Department of Public Safety to obtain a report of criminal justice information

3 under AS 12.62 and a national criminal history record check under AS 12.62.400;

C. The Department shall not issue a massage establishment license to any applicant if it is determined that the application included any false, misleading, or fraudulent information.

D. A massage establishment shall not be issued a license, and an existing license shall be revoked pursuant to the revocation authority set forth in this chapter, if the operation of the massage establishment is found to violate any existing law, ordinance, or regulation, including, but not limited to, building, zoning, and health regulations. Issuance of a massage establishment license does not exempt any person from obedience to any other local, state or federal law, ordinance, or regulations.

E. Every owner and manager shall have an affirmative continuing duty to notify the Department in writing within fifteen (15) business days of any change to the information provided on their license application including any change in staffing.

F. Every massage establishment, and every owner and manager listed on the license application, shall continue to have and maintain all of the qualifications and none of the disqualifications provided in this chapter throughout the license period.

License Denial, Revocation and Suspension.

A. License Denial

1. In the event the Board determines that an applicant fails to qualify for a massage establishment license, the Department shall deny that applicant a license.

2. Notice of a denial shall be deemed properly served in accordance with statute if sent by United States Postal Service Certified Mail to the address provided by the applicant or if hand-served upon the applicant. An applicant's failure to accept, acknowledge, or receive notification of a denial shall not invalidate the denial, provided notice was served as prescribed by this section.

4. A license issued in error, upon discovery by or notice to the Department shall be deemed denied and shall be null, void, and invalid effective at the earlier of:

a. Immediately upon service of the notice of denial, if the required notice is hand-served upon the applicant or licensee; or. Twelve o'clock (12:00) a.m. on the third (3rd) day following the date written notice of the denial is sent to the applicant/ licensee.

The applicant/ licensee shall have the right to appeal the denial, as set forth in this chapter. Refers to centralized statutes

B. License Suspension and Revocation

1. The suspension and revocation provisions in sections shall apply to the refers to centralized statutes massage establishment license.

2. In addition to other remedies set forth in this title, failure to comply with

16 the requirements of this chapter shall constitute grounds for suspension, revocation, or other restriction of the massage establishment license.

Operating and Sanitary Requirements.

A. Every massage establishment shall be constructed, operated, and maintained in compliance with the following minimum standards and requirements:

1. Physical Facilities

a. All massage therapy in a massage establishment shall be in a room, cubicle, or area dedicated to that purpose.

b. Steam rooms, shower compartments, steam compartments, tub compartments, toilet rooms, and adjacent exit areas shall have smooth, nonabsorbent, and easily cleanable floors and walls.

c. Floors of wet and dry heat rooms shall be adequately sloped to one or more floor drains properly connected to an approved sewer system, except that dry heat rooms with wooden floors need not be provided with sloped floors and floor drains.

d. Establishment must adhere to all state, local and federal fire, health, safety and building codes.

- e. The premises shall be equipped with facilities and equipment for disinfecting or sanitizing non-disposable instruments and materials used to administer massages.
- f. Massage tables, massage chairs, exercise tables, and benches shall have easily cleanable upholstery or other approved material covering the entire surface that may come into contact with a client during a massage.
- g. Pools, tubs, and similar equipment designed for multiple use without the water being changed, shall comply with all local, state and federal and other applicable laws. The water contained in tubs, baths, and similar equipment designed for a single use shall be emptied after each use, thoroughly cleaned, and properly sanitized prior to the next use.
- h. No massage establishment shall be used as a shelter or living quarters for any person. No owner or manager shall allow a licensed massage establishment to be used for housing, sheltering, or harboring any person(s), or as living or sleeping quarters for any person(s). The owner and family members of a massage establishment operated as a home occupation, as defined by State Code Title 21, are exempt from this prohibition. If a massage establishment is located within, but is ancillary to, a business such as a hotel or motel, this prohibition shall apply only to the areas designed, designated, or used as a massage establishment.
- i. Restroom and toilet facilities shall be provided in a convenient location separate from a room in which massage is performed, to provide privacy.
- j. Each hand-washing facility shall include hot and cold running water, soap or detergent, and sanitary single service towels or an air hand dryer. A common towel shall not be provided or used for hand drying.
- k. No room, cubicle, or area that is designed to accommodate the practice of massage or massage therapy shall have a door that is equipped with a locking mechanism.

2. Cleaning and Maintenance

- a. Every appliance, exercise table, and every other piece of equipment, furniture, or apparatus within a massage establishment shall be kept clean, in good repair, and maintained in a sanitary condition.
- b. Every massage establishment shall provide clients with clean, sanitized sheets, towels, or other linens. No common use of sheets, towels, or other linens shall be permitted.

2. Managers, Massage Therapists, and Employees

- a. Every manager, massage therapist, and employee shall maintain a high degree of personal hygiene by wearing clean clothes, and conduct the business and operations of the massage establishment in a sanitary and hygienic manner.
- b. Every massage therapist shall wash their hands thoroughly after going to the bathroom, smoking, or eating, and before and after administering a massage or treatment on each client, and as often as necessary to remove soil and contamination during a massage therapy or treatment session.
- c. No massage therapist shall administer a massage or give treatment if he or she knows, or should know, that he or she has any contagious or communicable disease without written consent.

3. Hours of Operation. Every massage establishment shall be closed for business between the hours of 12:00 a.m. and 5:00 a.m.

B. Required Records

1. Every massage establishment shall keep and maintain:

- a. A book containing the names, dates of birth, and a legible photocopy of the Alaska massage therapists license of every massage therapist employed by or contracting with the massage establishment; and
- b. A menu of all services available at the massage establishment, including the price for each service, which shall be posted in plain view of clients.
- c. A log including the date, time, and type of massage or massage therapy service performed, the amount of money or other payment received from the client, including the amount of tip or gratuity.

2. Every document and record required by this chapter shall be dated and kept at the massage establishment for a minimum period of three (3) years from the date of the last record contained therein, and on or off the premises for the period required by state law or the rules, code of ethics, or standards of practice of the State of Alaska Board of Massage Therapy.

3. Every owner, manager, massage therapist, and employee shall immediately present the records required herein for inspection or review upon request of the department, local, federal or state agency.

D. Insurance Required

1. Every owner shall possess a policy of insurance that provides liability coverage for all foreseeable risks that may arise from the operation of a massage establishment and from the practice of massage therapy.

2. Every massage therapist performing massage or massage therapy at the massage establishment shall be covered by liability insurance for massage therapy.

3. Every owner shall maintain, at the massage establishment, documentary proof of compliance with the insurance requirements contained in this chapter.

E. Inspections

1. *An inspector may, at any time during business hours and as frequently as reasonably necessary to ensure compliance, inspect any massage establishment.*

2. *Every massage establishment shall obtain and receive every other inspection required by law, including, but not limited to, inspections performed by the local Fire Department, the Building Inspector, the local or state Health Department, and any other department or agency authorized to conduct an inspection. 10.41.055 – Illegal Acts. In addition to the illegal acts and omissions proscribed throughout this chapter, each of the following acts or omissions shall be unlawful:*

A. Licenses Required; no owner or manager of a massage establishment shall permit or allow any person to engage in, or attempt to engage in, the practice of massage therapy within the massage establishment unless the massage establishment:

- 1. Possesses a State of Alaska massage establishment license, or*
- 2. Is exempted by the State of Alaska Board of Massage Therapists from the massage establishment license requirement.*

B. Licenses - Generally

- 1. Every massage establishment license issued pursuant to this chapter shall remain the property of the State of Alaska, and shall be surrendered to the Department within seventy two (72) hours of suspension, revocation, or expiration, or immediately upon demand by a Licensing Officer.*
- 2. No person shall have in his or her possession a massage establishment license issued pursuant to this chapter that has been denied, suspended or revoked, or that has expired.*
- 3. No massage establishment license shall be transferred.*
- 4. Every owner and manager shall notify the Department in writing within fifteen (15) business days upon the change of any of the information provided in the massage establishment license application.*
- 5. Every applicant, massage therapist, manager, and owner shall continue to have and maintain all the qualifications, and none of the disqualifications, for licensure pursuant to this chapter.*
- 6. Every applicant, massage therapist, manager, and owner shall notify the Department within two (2) business days in the event any person whose name appears on an application for a massage establishment license loses any qualification or gains any disqualification for licensure pursuant to this chapter.*
- 7. Every massage establishment license and state-issued massage therapist license shall be posted in the massage establishment at all times, and shall be in full and clear view of clients and potential clients.*
- 8. Every owner, manager, and massage therapist, upon request of an inspector or any client, shall immediately present all required licenses for inspection.*
- 9. No manager or owner shall employ or allow any person to perform massage or massage therapy in a massage establishment under their management or ownership, unless such person possesses a valid massage therapy license issued by the state of Alaska or is specifically exempted in state statute from the requirement to possess a state massage therapist license.*
- 10. No person with any license governed by this chapter that has expired or has been suspended or revoked shall engage in the practice of massage or massage therapy, or attempt to practice massage or massage therapy in a massage establishment.*
- 11. No person shall include any false or misleading information on an application for a massage establishment license.*
- 12. No person shall operate or run a massage establishment with a suspended or revoked license.*
- 13. No owner, manager, massage therapist, or employee shall perform, solicit or in any way make available or permit others to make available any service that is not specifically listed on the menu of services provided with the license application and that is not a legitimate, recognized massage service. Independent massage therapists must not perform, solicit or in any way make available or permit others to make available any service that is not a legitimate, recognized massage service in the course of providing massage services.*

C. Massage Establishments - Construction, Operation, and Maintenance

- 1. Every massage establishment shall comply with the minimum operating and sanitary requirements*
- 2. No massage establishment shall operate or be open for business between the hours of 12:00 a.m. and 5:00 a.m.*
- 3. No massage establishment shall conduct or operate on the same premises whereon is also conducted the business of a cocktail lounge, photography studio, model studio, art studio, telephone answering service, motion picture theater or adult-oriented business.*
- 4. The owner and manager of every massage establishment shall notify the Department in writing within two business (2) days of any change in ownership of the massage establishment.*
- 5. The owner and manager of every massage establishment shall notify the Department in writing within two business (15) days of every change in massage therapists employed by, or working at, the massage establishment, whether such change is by new or renewed employment, termination or discharge, transfer, or other employment change.*
- 6. No person shall perform massage or massage therapy in any cubicle, room, or area equipped with a locking door.*

7. *No person shall perform massage or massage therapy in a hotel room. (Definition of outcall service)*
8. *No Living or Sleeping in Massage Establishment*
 - a. *No person shall use a massage establishment as housing, living quarters, or sleeping quarters.*
 - b. *No owner or manager shall permit or allow a massage establishment to be used as housing, living quarters, or sleeping quarters by any person.*
 - c. *Home occupations, as defined in state reference here, are exempted from this prohibition.*
- D. *Other Unlawful Practices*
 1. *No owner, manager, massage therapist, or employee shall allow or permit any person under the age of eighteen (18) years to come into or remain in any massage establishment without and written parental consent.*
 2. *No owner, manager, massage therapist, or employee shall sell, give, dispense, provide, or keep, or cause or permit to be sold, given, dispensed, provided, or kept, any controlled substance within any massage establishment.*
 3. *No owner, manager, massage therapist, or employee shall initiate or engage in any sexual contact or sexual act in any massage establishment.*
 4. *No owner, manager, massage therapist, or employee shall keep, or allow to be kept, within any massage establishment any item known as or commonly used as a marital or sexual aid, including, but not limited to, any contraceptive item or device, vaginal or anal lubricant, or any sex toy.*
 5. *No owner, manager, massage therapist, or employee shall solicit, initiate, engage in, permit, or allow any act that violates Alaska Statutes sections 08.61 et seq., the Regulations of the Alaska State Board of Massage Therapy, or the code of ethics or standards of practice set forth by the Alaska State Board of Massage Therapy.*
 6. *No owner, manager, massage therapist, or employee shall engage in unprofessional conduct, including but not limited to the following:*
 - a. *Engaging in sexually suggestive advertising related to massage services.*
 - b. *Engaging in any form of sexual activity on the premise of a massage establishment where massage is provided for compensation.*
 - c. *Engaging in any form of sexual activity while providing massage services for compensation.*
 - d. *Engaging in any form of assignation*
 7. *No owner, manager, massage therapist, or employee shall dress, while engaged in the practice of massage for compensation or while visible to clients in massage establishment, in any of the following:*
 - a. *Attire that is transparent, see-through, or substantially exposes the massage practitioner's undergarments.*
 - b. *Swim attire, if not providing a water-based massage modality.*
 - c. *A manner that exposes the massage practitioner's breasts, buttocks, or genitals.*
 8. *No owner, manager massage therapist, or employee shall allow television, video or recording equipment in any room where massage services are being provided, but a security surveillance monitor that can only receive images of the inside of the common areas of the establishment may be located in these rooms at any time.*
 9. *No owner, manager, massage therapist, or employee shall exchange money with any client for any purpose in the massage room's.*

Agenda item 12 **New Business**

- Insurance Billing –Traci Gilmour

Mr. Edwards-Smith recognized Ms. Gilmour. She then reported to the Board that at this time, a licensed massage therapist cannot bill Alaska Care medical insurance unless they are within a Clinicians office. Ms. Gilmour would like to encourage the Board to seek to support a statutory change with regards to this topic.

Ms. Unser mentioned that when she had a conversation with the Representative from AETNA, they were very supportive of the Massage Therapist as covered providers.

Mr. Edwards-Smith stated that it is not in the Boards purview to pursue this change; it needs to come from the public. Ms. Unser added that the Board can take a position statement if they wish to.

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

It was RESOLVED to approve take a break

Break at 10:40 a.m.

Back on the record at 10:45 a.m.

- Statutory FAQ work sheet

Mr. Edwards-Smith requested that the board work on the FAQ work sheets before the December 12, 2016 teleconference.

- Blood Borne Pathogens certificate requirements

The Board confirmed on the record that to meet the requirements of the BBP certificate an applicant can provide their transcripts along with a letter of verification from the program.

- License renewal

Hearing nothing further, Ms. Hannasch reviewed the renewal process and review process with the Board. Ms. Hannasch plans to provide the licenses with a postcard or mass email reminder 4 months before the expiration date to send in the required fingerprints. The renewal fees will be determined by the Division. Director Hovenden will work on a fee analysis starting in January and present it to the Board at their March meeting.

Agenda item 13

Tabled application review

Moving onto the next topic, the Board reviewed 4 applications that had been tabled over the past few months. Each member of the Board reviewed each application thoroughly and a minimal discussion of all information ensued.

Upon a motion made by Amanda Unser and seconded by Ron Gibbs, with a unanimous roll call approval

It was RESOLVED to deny the application for licensure for Han Mee Kim under the authority of AS 08.61.080(9), for violations under 12 AAC 79.910 (11) Moral Turpitude, specifically the conviction of prostitution.

Amanda Unser-Yes

David Edwards-Smith-Yes

Ron Gibbs-Yes

Traci Gilmour-Yes

Shirley Nelson-Yes

Upon a motion made by Amanda Unser and seconded by Traci Gilmour, with a unanimous roll call approval

It was **RESOLVED** to approve the application for licensure for Cynthia Lee Taranto and to issue a letter of reprimand for the non-disclosure of criminal information.

Amanda Unser-Yes

David Edwards-Smith-Yes

Ron Gibbs-Yes

Traci Gilmour-Yes

Shirley Nelson-Yes

The 3rd and 4th applications that the Board reviewed will continue to be “TABLED” until the background check’s has been received and reviewed by the Investigative team.

Agenda Item **Report from the FSMTB Annual Meeting**

NCBTMB and the FSMTB both have a process for accrediting continue education providers. This has caused some “static” between the 2 organizations. Questions have been raised, “does this make the NCBTMB obsolete? Is the vetting process from both organizations stringent enough or is one softer than the other?”. There is no resolution between the 2 organizations. FSMTB is still developing their accreditation program. The Alaska Board accepts accreditations from either organization and will not chime in to the dispute between the two.

Mr. Edwards-Smith wanted to highlight the red flags pointed out by the FSMTB. Fraudulent applications including discrepancy’s in social security number, handlers (a person that is preparing applications for one or more people, most of the applicants do not speak English, they are also tied to sex trafficking offenses) that take on multiple applicants. Mr. Edwards-Smith encouraged the Division as well as the members of the Board to keep these red flags in mind when reviewing applications. CEU fraud is also a huge concern amongst the States.

Another topic that was discussed was the need for each applicant to meet the educations requirements in their own State to be eligible to take the MBLEX. This will help to ensure that the schools/programs that are “out there” just teaching to the test and faking the curriculum will begin to be weeded out.

The Board discussed a few other States establishment license and situations that occurred during an investigative inspection. Contraband of all kinds has been located. This is another reason that an establishment license is a top priority for the Alaska Board.

Each State was in support of requiring 625 hours for licensing by exam and credentials. It is believed that this will strengthen reciprocity between states. Attending the conference was very “eye opening”. Mr. Edwards-Smith believes that the relationship between the Alaska Massage Therapy Board and the FSMTB is essential and very valuable. It gives the Board the opportunity to glean valuable information and experience by associating and networking with other State Boards. It is very clear that most all States are in favor of an Establishment license. It is their belief that this is a huge way to help fight the sex trafficking trade.

The Board will review the report provided by David Edwards-Smith on their own time.

The Board returned to discussing the establishment license drafted statutory language.

Ron Gibbs left the meeting 11:54 a.m.

A quorum remained

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

It was **RESOLVED** to take a break

Break at 12:00 p.m.

Back on the record at 12:20 p.m.

The Board returned to discussing the establishment license drafted statutory language.

Investigator Jasmin Bautista entered the room via Anchorage at 12:25 p.m.

Investigator Jasmin Bautista left the room via Anchorage 12:30 p.m.

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

It was **RESOLVED** to take a break

Break at 12:28 p.m.

Back on the record at 12:29 p.m.

The Board returned to discussing the establishment license drafted statutory language.

Agenda item **Board Task list**

Task	Status	Comments
Regulations FAQ work sheets for the Establishment license, bring the completed sheets to the 12/12/16 teleconference.		
Each Board member to read through the FSMTB info provided by Mr. Edwards-Smith		
Mr. Edwards-Smith will send Ms. Hannasch the drafted language for the establishment license	Completed on 12/5/2016	This was also forwarded to Sara Chambers
Amanda Unser will send Ms. Hannasch the information put together regarding the disciplinary matrix from Investigator Bautista		
Each Board member will review the information provided by Investigator Bautista regarding the disciplinary matrix.		
Send all travel receipts to Ms. Hannasch	Gilmour & Gibbs have been received by Ms. Hannasch	

Upon a motion made by Amanda Unser and seconded by Shirley Nelson, with unanimous approval

It was RESOLVED to take a break

Break at 1:20 p.m.

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

Investigator Jasmin Bautista entered the room via Anchorage at 1:30 p.m.

Investigator Jasmin Bautista left the room via Anchorage 1:35 p.m

In the Matter of Case No. 2016-001121

The Board reviewed a proposed consent agreement from an investigation of an applicant.

Upon a motion duly made by Amanda Unser seconded by Traci Gilmour, and approved unanimously by a roll call vote:

It was resolved to adopt the consent agreement for case #2016-001121, Arturo Ramirez

Amanda Unser-Yes

David Edwards-Smith-Yes

Ron Gibbs-Absent

Traci Gilmour-Yes

Shirley Nelson-Yes

Upon a motion duly made by Amanda Unser seconded by Traci Gilmour, and approved unanimously by a roll call vote:

It was resolved to approve the license to practice Massage Therapy for Arturo Ramirez

Amanda Unser-Yes

David Edwards-Smith-Yes

Ron Gibbs-Absent

Traci Gilmour-Yes

Shirley Nelson-Yes

Agenda Item Adjourn

Upon a motion made by Amanda Unser and seconded by Shirley Nelson, with unanimous approval

It was RESOLVED to adjourn at 1:37 p.m.

Respectfully Submitted by:

Dawn K Hannasch

Dawn K Hannasch
Occupational Licensing Examiner

Approved by:

David Edwards-Smith
David Edwards-Smith, Chair
Alaska State Board of Massage Therapy