

FLORIDA | Board of Massage Therapy

MINUTES January 16-17, 2014

Wyndham Bay Point Resort
4114 Jan Cooley Drive
Panama City Beach, FL 32408



Karen Goff Ford, M.S., LMT
Chair

Bridget Burke-Wammack, LMT, CLT
Vice-Chair

Anthony Jusevitch
Executive Director

THURSDAY, January 16, 2014

The meeting was called to order by Ms. Burke-Wammack, Vice-Chair, at approximately 9:00 a.m. Those present for all or part of the meeting included the following:

MEMBERS PRESENT:

Bridget Burke-Wammack, LMT, CLT, Vice-Chair
Lydia Nixon, LMT
Sharon Phillips, LMT, AP, DOM
Jonathan Walker, LMT

STAFF PRESENT:

Anthony Jusevitch, Executive Director
Matthew Thompson, Regulatory Supervisor

MEMBERS ABSENT:

Karen Ford, M.S., LMT, Chair (*excused*)

COURT REPORTER:

Dempsey Berryhill
Phone: 813.229.8225

BOARD COUNSEL:

Lee Ann Gustafson, Esq.
Senior Assistant Attorney General

DEPARTMENT PROSECUTING ATTORNEYS:

Sharmin Hibbert, Esq., Assistant General Counsel
Oaj Gilani, Esq., Assistant General Counsel

Please note the minutes reflect the actual order agenda items were discussed and may differ from the agenda outline. AUDIO from this meeting can be found online: www.floridasmassage.com/meeting-information.

DISCIPLINARY PROCEEDINGS

Informal Hearings

If the Respondent **was present** the board, as appropriate, accepted unanimously the following motions:

1) The Department asks that you find the Respondent was properly served and that an informal hearing was requested. **2)** The Department asks that you adopt the findings of fact as set forth in the Administrative Complaint; **3)** The Department asks that you adopt the conclusions of law as set forth in the Administrative Complaint; **4)** The Department asks that you accept the case materials and any materials in the addendum into evidence as a part of the record and find that this constitutes a violation of the practice act.

If the Respondent **was not present**, the board, as appropriate, accepted unanimously the following motion:

1) The Department asks that you accept the investigative report into evidence for the purpose of imposing a penalty. **2)** The Department asks you find the Respondent was properly served and an informal hearing was requested. **3)** The Department asks that you adopt the findings of fact and conclusions of law as set forth in the Administrative Complaint, and find that this constitutes a violation of the practice act.

1. CHAE I. JEONG, LMT

CASE # 2010-13126

PCP: Harrison & Stoehs

Respondent was not present nor represented by counsel.

Ms. Hibbert represented the Department and presented the case to the board.

Allegations of the Administrative Complaint: Sections 480.046(1)(o) and 456.072(1)(c)(x), F.S.

Action Taken: Motion was made by Ms. Nixon to impose the following penalty:

- Revocation
- Pay \$1,250 fine within 1 year of the filed final order
- Pay \$962.36 costs within 1 year of the filed final order

Motion seconded, which passed unanimously.

Settlement Agreements

2. JINCHUN CUI, LMT

CASE # 2012-11653

PCP: Haynes & Buckley

Respondent was not present. Counsel, Lance Leider, Esq., was present.

Ms. Gilani represented the Department and presented the case to the board.

Allegations of Administrative Complaint: Sections 480.046(1)(o), 456.072(1)(h)(w), and 480.041(1)(b) F.S.

Action Taken: A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

Additional Action Taken: A motion was made by Ms. Phillips to dismiss the Administrative Complaint. The motion was seconded by Ms. Nixon, which carried unanimously.

Motion to Vacate or Amend Final Order of Relinquishment

1. WEN FANG HE, LMT, CASE # 2012-12138

Respondent was not present. Counsel, June Zhou, Esq., was present.

Respondent requested the Board of Massage Therapy accept the Motion to Vacate or Amend the Final Order of Relinquishment.

Action Taken: Motion made and seconded to deny the motion. Motion passed unanimously.

2. LING SHU, LMT, CASE # 2012-13674

Respondent was not present. Counsel, June Zhou, Esq., was present.

Respondent requested the Board of Massage Therapy accept the Motion to Vacate or Amend the Final Order of Relinquishment.

Action Taken: Motion made and seconded to deny the motion. Motion passed unanimously.

Settlement Agreements

1. ASIAN MASSAGE

CASE # 2010-01536

PCP: Harrison & Stoehs

Respondent was not present without counsel Thomas R. Busatta, Esq.

Ms. Giliani represented the Department and presented the case to the board.

Allegations of Administrative Complaint: Sections 480.046(1)(e)(j)(o) and 480.047(1)(c), F.S.

Action Taken: A motion was made and seconded to reject the Settlement Agreement. Motion passed 3/1 with Ms. Burke-Wammack in opposition.

Additional Action Taken: A motion was made, seconded and carried unanimously to approve the Settlement Agreement with paragraph 4, section 2 removed and with the following penalties imposed:

- Reprimand
- Probation for 5 years with 4 inspections per year
- Pay \$2,250 fine within 30 days of the filed final order
- Pay \$4,127.82 costs within 30 days of the filed final order

Motion passed unanimously.

Voluntary Relinquishments

A motion was made to accept the following voluntary relinquishments items 2 through 4, by Mr. Walker. The motion was seconded and passed unanimously.

2. BENJAMIN PRIMM, IV, LMT

CASE # 2012-03882

PCP: Harrison & Oliver

Attorney of record, Christopher E. Brown, Esq.

3. YIFANG LI, LMT

CASE # 2013-04730

PCP: Waived

4. JIE YANG, LMT

CASE # 2013-1421

PCP: Waived

PROSECUTOR'S REPORT

1. December 2013 Massage Therapy Prosecutor's Report

Action Taken: Motion made, seconded and passed to accept the prosecutor's report.

Motion to Vacate or Amend Final Order

3. SHU YUAN SUN, LMT, CASE # 2013-05571

Respondent was not present. Counsel of record is Martin McDonnell, Esq.

Respondent requested the Board of Massage Therapy accept the Motion to Vacate or Amend the Final Order.

Action Taken: Motion made and seconded to deny the motion. Motion passed unanimously.

***REVIEW AND APPROVAL OF MINUTES**

1. October 24-25, 2013, General Business Meeting Minutes

Ms. Burke–Wammack made a motion to approve the minutes as written, which was seconded and carried unanimously.

2. December 11, 2013, General Business Meeting Conference Call Minutes

Ms. Nixon made a motion to approve the minutes as written, which was seconded and carried unanimously.

***REPORTS**

Board Counsel's Report – Lee Ann Gustafson

- 1. December 2013 Rules Report**
- 2. January 2014 Rules Report**

Board Chair Report – Karen Ford

Legislative Liaison Report – Karen Ford

Public Relations Liaison Report - Karen Ford

School Liaison Report – Karen Ford

No report at this time.

Vice Chair Report – Bridget K. Burke-Wammack

No report at this time.

Continuing Education Liaison Report – Sharon Phillips

1. Approved Pro Bono Requests 10/05/2013 to 12/23/2013

Action taken: Motion made, seconded and carried to ratify the pro bono requests.

2. Approved CE Providers 10/05/2013 to 12/23/2013

Action taken: Motion made, seconded and carried to ratify the CE providers.

Executive Director's Report – Anthony Jusevitch

1. Ratification of Licensure - Massage Therapists 10/02/2013 to 12/23/2013

Action taken: Motion made, seconded and carried to ratify the massage therapist licenses.

2. **Continuing Education Integration Project, Final Report** (Informational)
3. **Board Request Update: Tokyo Beauty and Massage School** (Informational)
4. **Correspondence from Georgia Board of Massage Therapy - Georgia Academy of Massage** (Informational)
5. **Section 456.0635 F.S. status report** (Informational)
6. **2012 Florida Approved Massage School Pass Rates** (Informational)

Budget Liaison Report – Lydia Nixon

1. **Board Expenditures, period ending September 30, 2013** (Informational)

Unlicensed Activity Report – Lydia Nixon

Ms. Nixon advised the Board that said a cease and desist notice is issued any time unlicensed activity is found.

Ms. Nixon indicated there is a plan in place to start an ongoing unlicensed activity campaign highlighting each of the professions a few months out of the year.

Human Trafficking Report – Anthony Jusevitch and Karen Ford

Mr. Jusevitch indicated that the Department of Health is developing basic-level training for all Department of Health employees and an advanced training for inspectors and county health department employees. Additionally, there is a plan to develop training for health care professionals.

Rules Liaison Report – Bridget Burke-Wammack

No report at this time.

***RULES DISCUSSION**

1. Chapter 64B7-27.100, F.A.C.

Action Taken: Motion made, seconded and carried to approve the rule.

2. Chapter 64B7-28.009, F.A.C. – Comments on Proposed Rule Change

Discussion was held by the board members regarding the proposed change.

3. Chapter 64B7-28.010(9), F.A.C. – Request to Change

Action Taken: Motion made, seconded and carried to table the rule discussion to the May 2014 meeting.

4. Chapter 64B7-32.003, F.A.C. – January 2014

Action Taken: Motion made, seconded and carried to table the rule discussion to the May 2014 meeting.

5. New Massage Therapist Application

Action Taken: Motion made, seconded and carried to approve the new application.

***NEW BUSINESS**

1. Election of Board Officers

Action Taken: Motion made, seconded and carried to elect Ms. Burke-Wammack as Chair.

Additional Action Taken: Motion made, seconded and carried to elect Ms. Nixon as Vice Chair.

The meeting recessed at 11:25 a.m.

The meeting was called to order by Ms. Burke-Wammack, Vice-Chair, at approximately 9:00 a.m. Those present for all or part of the meeting included the following:

MEMBERS PRESENT:

Bridget Burke-Wammack, LMT, CLT, Vice-Chair
Lydia Nixon, LMT
Sharon Phillips, LMT, AP, DOM
Jonathan Walker, LMT

STAFF PRESENT:

Anthony Jusevitch, Executive Director
Matthew Thompson, Regulatory Supervisor

MEMBERS ABSENT:

Karen Ford, M.S., LMT, Chair (*excused*)

COURT REPORTER:

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DEPARTMENT PROSECUTING ATTORNEYS:

Sharmin Hibbert, Esq., Assistant General Counsel
Oaj Gilani, Esq., Assistant General Counsel

ADMINISTRATIVE PROCEEDINGS

Applicants with History

5. Ya Feng Yu – exam

Applicant was not present, and was represented by counsel, June Zhou Esq.

Action Taken: After discussion, Ms Nixon moved to deny the license based upon applicant does not have sufficient hours of the following educational requirements for licensure: Anatomy and Physiology, Theory and History, Clinical Practicum, and Business

Motion seconded, which passed unanimously.

2. Evan Lewis – exam

Applicant was present without counsel. Applicant was sworn in by the court reporter.

Action Taken: After discussion, Ms. Burke-Wammack moved to grant the license with the following condition that his license be placed on probation to run concurrent with the probation imposed by the Court; the applicant shall submit documentation that the Court-ordered probation has terminated; and after submission of the documentation, the Executive Director is delegated the authority to lift the probation.

Motion seconded, which passed unanimously.

Additional Action Taken: Ms. Burke-Wammack moved to reconsider the previous motion. Motion was seconded by Ms. Nixon and passed unanimously.

Additional Action Taken: Ms. Burke-Wammack moved to grand the license unencumbered. Motion was seconded and passed unanimously.

3. Casey Torrance – exam

Applicant was present without counsel. Applicant was sworn in by the court reporter.

Action Taken: After discussion, Ms. Burke-Wammack moved to grant the license with the following condition that his license be placed on probation to run concurrent with the probation imposed by the Court; the applicant shall submit documentation that the Court-ordered probation has terminated; and after submission of the documentation, the Executive Director is delegated the authority to lift the probation.

Motion seconded, which passed unanimously.

4. Tanya Bouffard – exam

Applicant was present without counsel. Applicant was sworn in by the court reporter. Ms. Judy Rivenbark from Professional Resources Network was also present and was sworn in by the court reporter.

Action Taken: After discussion, Ms. Burke-Wammack moved to grand the license unencumbered. Motion was seconded and passed unanimously.

Motion seconded, which passed unanimously.

Applicant Informal Hearings

1. Marcela Bragg

Applicant was present without counsel.

Ms. Bragg requested an informal hearing after being issued a Notice of Intent to Deny at the October 2013 general business meeting. She has provided the Board with more clarification regarding hours that the Board indicated were deficient.

Action Taken: After discussion Ms. Burke-Wammack moved to grand the license unencumbered.

Motion was seconded and passed unanimously.

Applicants with History

1. Weihong La Femina – exam

Applicant was not present and without counsel.

Action Taken: After discussion, Ms. Burke-Wammack moved to grant the license unencumbered.

Motion seconded, which passed unanimously.

4. Lishu Wang – exam

Applicant was not present and without counsel,

Action Taken: After discussion, Ms. Nixon moved to grant the license unencumbered.

Motion seconded, which passed unanimously.

Applicants with Out of State Education

1. Yanhong Jiao - exam

Applicant was not present and without counsel.

Action Taken: After discussion, Ms. Burke-Wammack moved to deny the license as applicant does not have sufficient hours of the following educational requirements for licensure: Theory and History of Massage, Clinical Practicum, and Business. Motion seconded, which passed unanimously.

2. Jinshan Liu - exam

Applicant was not present and without counsel.

Action Taken: After discussion, Ms. Burke-Wammack moved to deny the license as applicant does not have sufficient hours of the following educational requirements for licensure: Anatomy and Physiology, Hydrotherapy, Theory and History of Massage, Clinical Practicum, and Business. Motion seconded, which passed unanimously.

3. Gui Ling Wang – exam

Applicant was not present and without counsel.

Action Taken: After discussion, Ms. Nixon moved to deny the license as applicant does not have sufficient hours of the following educational requirements for licensure: Anatomy and Physiology, Clinical Practicum, Business and Theory and History of Massage. Motion seconded, which passed unanimously.

4. Yuanmei Zhang – exam

Applicant was not present and without counsel.

Action Taken: After discussion, Ms. Nixon moved to deny the license as applicant does not have sufficient hours of the following educational requirements for licensure: Anatomy and Physiology, Clinical Practicum, Business and Theory and History of Massage. Motion seconded, which passed unanimously.

Applicant Informal Hearings

2. Gladys Carmona

Applicant was not present and without counsel.

Ms. Carmona requested an informal hearing after being issued a Notice of Intent to Deny at the October 2013 general business meeting. She has provided the Board with more clarification regarding hours that the Board indicated were deficient.

Action Taken: After discussion, Ms. Burke-Wammack moved to deny the application based upon that the applicant had not taken a course of study in massage therapy with sufficient hours to grant licensure.

Motion seconded, which passed unanimously.

Compliance and Probation Review

1. Regino Gonzalez

Licensee was not present nor with counsel.

Action Taken: After discussion, Ms. Burke-Wammack moved to lift the conditions from the license.

Motion seconded, which passed unanimously.

The meeting adjourned approximately 10:06 a.m.