



ALABAMA BOARD OF MASSAGE THERAPY

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MINUTES Board Meeting

October 28, 2022

The Alabama Board of Massage Therapy met on Friday, October 28, 2022, at the Board's Office in Montgomery, AL. The following Board members were in attendance: Ms. Stephanie Dobbins (Board Chair), Ms. Stefanie Herfurth (Board Vice Chair), Mr. Darren Beams (member), Ms. Mary Rogers (member), Mr. Foad Araiinejad (member) and Ms. Denise Dale (member). Board member absent was Ms. Gina Lee. Others present were Mr. Keith Warren (Executive Director and recorder), Mr. Matt Bledsoe (Board Legal Counsel), Mr. Dennis Trammell (Investigator), Mr. Mike James (Investigator), Ms. Karen Harlow (Legal Assistant), Ms. Debra Persinger, FSMTB Executive Director (guest) and other public guests attended virtually via Zoom.

Ms. Dobbins, Board Chairperson, called the meeting to order at 10:05 a.m. Mr. Warren called Board roll and reported that a quorum was present to conduct Board business. Mr. Warren read aloud the Opening Statement regarding Robert's Rules of Order and Open Meetings Act. Chairperson Dobbins welcomed all present.

Public notice of this regularly scheduled meeting was submitted to the Secretary of State www.sos.alabama.gov in accordance with the requirements of the Alabama Open Meetings Act and published on the Board's web site at www.almtbd.alabama.gov.

APPROVAL OF MINUTES

Chairperson Dobbins presented a copy of the August 5, 2022, regular Board meeting minutes for the Board's approval. A copy of the minutes was provided to the Board members prior to the meeting for their review.

MOTION: Mr. Beams made a motion to approve the August minutes as presented. The motion was seconded by Mr. Araiinejad and unanimously approved by the Board (minutes available for viewing in the Board's Official Book of Minutes).

EXECUTIVE DIRECTOR REPORT

Mr. Warren presented the Executive Director Report to include the financial activities for the period ending September 30, 2022 (reports on file in the Board's Official Book of Minutes). Mr. Warren reported on the number licensees, inspections completed in FY 2021 and 2022 and reviewed the status of complaints for this same reporting period and fines collected from violations. Mr. Warren commented on modifying the rules regarding establishment inspections based on the changes in the Board's statute. Mr. Warren also reviewed activities to update the Board's website regarding disciplinary actions of the Board, licensee database searches to include establishments, submitting forms and requests online and posting quarterly updates of activities. He reported that he attended the FSMTB meeting and planned to add to the Board's website, the link to the Human Trafficking Hotline.

MOTION: Ms. Dale made a motion to accept the Financial Report as presented. The motion was seconded by Mr. Beams and unanimously approved by the Board.

LEGAL COUNSEL REPORT

Mr. Bledsoe presented the Legal Counsel report to include the following consent agreements. A copy of the Consent Agreements was provided to the Board:

Case 2021-052BR - violation of unlicensed establishment and LMT license was not properly displayed for public. Recommended \$5,000 violation fine and one-year probation. He reported that the \$5000 fine had been paid.

Case 2021-055 – violations of unprofessional and sexual misconduct by a LMT. Recommended \$1,000 fine, one-year probation, and attending a sexual boundary course.

Case 2022-004BR – violation of expired establishment license and advertising violations. Recommended \$1,500 violation fine and one-year probation. He reported that the \$1,500 fine had been paid.

Case 2022-008BR – violations of expired establishment license and advertising violations. Recommended \$1,500 violations fine and one-year probation. He reported that the \$1,500 fine had been paid.

Case 2022-034BR – violations in failing to maintain sanitary conditions at a licensed establishment. Recommended \$5,000 violations fine and one year probation. He reported the \$5,000 fine had been paid.

MOTION: Mr. Beams made the motion to approve the Consent Agreements as presented. The motion was seconded by Ms. Herfurth and was unanimously approved by the Board.

At the request of Mr. Bledsoe, the Board discussed, for clarification purposes for school instruction, the practice of glute massage and draping.

Mr. Bledsoe reported that the Investigative Committee (IC) had met and recommended action on the following cases:

Cases 2022-045, 2022-046, 2022-047, and 2022-048 regarding body contouring/body sculpturing and complaint of practicing medicine without a license, the IC recommended the cases be closed for lack of jurisdiction and medical practice complaint referred to the Medical Board.

Case 2022-039BR – consent agreement mailed to owner of licensed establishment with two unlicensed massage therapists and no response received from Respondents. The IC recommended that the owner of the establishment receive notification of an Administrative Hearing and the two unlicensed individuals be documented in the Board’s database and flagged for future reference.

Case 2021-023BR - consent agreement mailed to owner of two unlicensed establishments with two unlicensed massage therapists and no response received from Respondent/owner. The IC recommended that the two unlicensed individuals be documented in the Board’s database and flagged for future reference and the case be administrative closed due to the establishment closure.

Case 2021-028 - consent agreement mailed to licensed establishment owner regarding one unlicensed massage therapist and no response received from Respondent/owner. The establishment closed and establishment license had expired. The former owner had a current LMT license. The IC recommended that the matter be set for an Administrative Hearing for the former owner.

Case 2021-042BR - consent agreement mailed to establishment owner regarding one unlicensed massage therapist and no response received from Respondent. The establishment was advertising acupressure and this case occurred before the Board’s law had changed to include acupressure. The IC recommended the case be closed as no jurisdiction.

Case 2021-045BR - – consent agreement mailed to owner of unlicensed establishment with advertising violations. The fine had been partially paid, the establishment closed and the license had been surrendered. The IC recommended that the remaining fee be waived and the case closed.

Case 2021-051BR – consent agreement to owner of unlicensed establishment and sexually-oriented business with three unlicensed massage therapists. The Respondent’s attorney had counter-offered a lower fine and the IC recommended the matter be set for an Administrative Hearing.

Case 2021-053 – consent agreement mailed to LMT for improper display of license and no response received from Respondent, who holds a current license. The IC recommended the matter be set for Administrative Hearing.

Case 2021-061 – consent agreement mailed to Respondent for advertising violations. The advertisement had been corrected and in compliance. The IC recommended the case be administratively closed.

2022-003BR – consent agreement mailed to owner of establishment with expired license. The license had been renewed and in compliance. The IC recommended the case be administratively closed.

2022-005BR - consent agreement mailed to owner of establishment with expired establishment license with three unlicensed massage therapists and advertising violations. Respondent’s attorney had challenged the consent with a \$11,500 fine and requested a cancellation of fines. The IC recommended the case be set for an Administrative Hearing.

Case 2021-058 consent agreement mailed to LMT requiring boundary course and fine. Fine has not been paid. The IC recommended the case be set for an Administrative Hearing.

Case 2022-007BR – consent agreement mailed to unlicensed massage therapist in an exempt establishment. The assessed fines had been paid and Respondent is no longer performing massage. The IC recommended the case be administrative closed.

Case 2022-033 - consent agreement mailed to owner of unlicensed establishment and as an unlicensed massage therapist. The IC recommended the case be administratively closed.

Case 2022-037BR – consent agreement mailed to owner to licensed establishment with one unlicensed massage therapist. No response from Respondent. IC recommended the case be set for an Administrative Hearing.

Case 2022-055/056– during investigation of case, the LMT surrendered their license. The IC recommended the surrender of license be accepted and the case be closed.

Case 2022-061 – LMT made derogatory remarks on Facebook regarding a school. The IC recommended the case be closed due to lack of jurisdiction in the Board’s practice Act.

Case 2022-062 – LMT made derogatory remarks on social platform about the Board. The IC recommended the case be closed due to lack of jurisdiction in the Board’s practice Act.

Case 2022-063 – IC continuing review of this case.

Case 2022-064 – sexual assault complaint against LMT. Respondent surrendered their license. The IC recommended the surrender of license be accepted and case closed. Under investigation of law enforcement.

Case 2022-066 – advertising violation unfounded. The IC recommended the case be closed as unfounded.

Case 2022-067 – sexually-oriented business complaint unfounded. The IC recommended the case be closed as unfounded.

Case 2022-069 – sexually oriented business complaint unfounded. The IC recommended the case be closed as unfounded, having worked the case with law enforcement.

Case 2022-076 – unlicensed establishment with unlicensed LMT accused of molesting someone. IC reported that a cease and desist had been issued and notifications were sent to local city hall and lease manager regarding cease and desist.

Case 2022-079 – violation of unlicensed LMT unfounded. The Responded was an LMT working in a licensed establishment. The IC recommended the case be closed as unfounded.

2023-003LE – sexually-oriented business complaint investigated and establishment closed. The IC recommended the case be closed and the Respondent in the case flagged in the database for future reference.

Case 2023-004LE – sexually-oriented business complaint investigated with unlicensed massage therapy along with two other unlicensed individuals. IC recommended the case be set for a hearing.

Case 2023-005LE – sexually-oriented business complaint unfounded. The IC recommended the case be closed as no probable cause.

Case 2023-006LE – sexually-oriented business complaint unfounded. The IC recommended the case be closed as unfounded.

Case 2023-007LE - sexually-oriented business complaint unfounded. The IC recommended the case be closed as unfounded.

Case 2023-008LE - sexually-oriented business complaint unfounded. The IC recommended the case be closed as unfounded.

Cases 2023-011, 2023-012, 2023-014, 2023-015 – case regarding posts on social platforms. The IC recommended the cases be closed due to no jurisdiction.

MOTION: Mr. Beams made the motion to approve the recommendations of the Investigative Committee as presented. The motion was seconded by Ms. Rogers and was unanimously approved by the Board.

Mr. Warren explained to the Board the Administrative Hearing process, with an Administrative Law Judge (ALJ) to preside over the hearings, either before the Board or heard solely by the ALJ. He recommended that hearings concerning massage techniques come before the full Board.

MOTION: Mr. Beams made the motion that the cases recommended for hearings go solely before the ALJ. The motion was seconded by Ms. Dale and was unanimously approved by the Board.

Chairperson Dobbins called a recess at 11:17 a.m. for 10 minutes.
Chairperson Dobbins reconvened the Board meeting at 11:28 a.m.

Mr. James presented a list of fees for disciplinary violations. He reported that the IC recommended the list of standardized fines for initial offenses be approved by the Board. The Board also discussed establishing fines for repeat offenders.

MOTION: Ms. Dale made the motion to approve the list of standardized fines for initial violations as presented. The motion was seconded by Mr. Beams and was unanimously approved by the Board.

NEW BUSINESS

Federation of State Massage Therapy Boards:

Mr. Warren introduced Ms. Debra Persinger, Executive Director of the Federation of State Massage Therapy Boards (FSMTB). Ms. Persinger reported to the Board on FSMTB activities, to include examination updates, job task analysis survey, sexual harassment survey and efforts to improve negative public opinion regarding massage therapy occupation, developing standardized disclosure of costs and content of continuing education programs, advocacy for massage therapy interstate compact, along with topics discussed at the annual meeting. She also reported that Mr. Warren had been elected to the FSMTB Board and Mr. Araiinejad continued to serve on the Federation's Board.

Review of Applications

Mr. Warren presented 4 LMT applications and one school application for Board's approval.

MOTION: Ms. Dale made the motion to deny the application from HC, GY, FM due to inconsistencies in transcripts and examination. The motion was seconded by Mr. Beams and was unanimously approved by the Board.

MOTION: Ms. Herfurth made the motion to deny the request for exam waiver from JK and advise the applicant to take the national examination in accordance with licensing requirements. The motion was seconded by Ms. Dale and was unanimously approved by the Board.

MOTION: Mr. Araiinejad made the motion to approve the Nashville School of Massage. The motion was seconded by Mr. Beams and was unanimously approved by the Board.

Discussion and Review of Proposed Rules

Mr. Warren presented copies of the State of Delaware and Nevada's Administrative Code for Massage Therapy for the Board's review. He recommended the Board establish a Rules Committee to address changes to the Board's rules in accordance with the Board's statute changes. Based on recommendations from the Board members, Chairperson Dobbins created a Rules Committee comprised of Ms. Dale, Ms. Rogers, Ms. Dobbins and Ms. Kristie Duncan, as an ex-officio member, along with the Executive Director and Board Legal Counsel.

MOTION: Ms. Herfurth made a motion to approve the Rules Committee as identified. The motion was seconded by Mr. Araiinejad and unanimously approved by the Board.

Administrative Services Specifications for Request for Proposals

Mr. Warren left the meeting at 12:25 p.m.

Mr. Bledsoe presented request for bid specifications for administrative services for the Board review. He recommended that he be given authority to work with the Board Chair in converting the RFB specifications into request for proposal (RFP) specifications.

MOTION: Ms. Herfurth made the motion that the Board's Legal Counsel be authorized to create specifications for request for proposals for administrative services, with the assistance of the Board's Chairperson. The motion was seconded by Ms. Dale and unanimously approved by the Board.

Emergency Administrative Services Contract 2022-2023

Mr. Bledsoe presented a letter to enter an emergency contract with Warren and Company for administrative services, at a rate of \$11,000 per month.

MOTION: Mr. Beams made the motion to approve an emergency contract with Warren and Company for continuation of administrative services. The motion was seconded by Ms. Dale and unanimously approved by the Board.

Mr. Warren joined the meeting at 12:39 p.m.

Proposed 2023 Board Meeting Calendar

MOTION: Ms. Herfurth made the motion to approve the following meeting dates: January 20, April 28, June 28 and October 27, 2023. The motion was seconded by Ms. Dale and unanimously approved by the Board.

RFP Specifications for New Inspector/Investigator Hire

Mr. Warren introduced Ms. Karen Estrin as an applicant and recommended hire for the new inspector/investigator that would be an exempt state employee.

MOTION: Ms. Herfurth made a motion to approve the employment of Ms. Karen Estrin for the new inspector/investigator position as an exempt state employee. The motion was seconded by Ms. Dale and unanimously approved by the Board.

Election of Board Officers

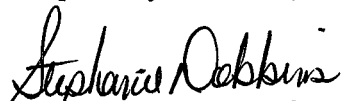
MOTION: Mr. Beams made the motion that the current slate of Board officers remain the same with Ms. Dobbins as Board Chair and Ms. Herfurth as Board Vice Chair. The motion was seconded by Mr. Araiinejad and unanimously approved by the Board.


OTHER BUSINESS AND ANNOUNCEMENTS

Chairperson Dobbins reported that the next meeting of the Board was scheduled January 20, 2023.

MOTION: There being no further business, Mr. Beams made the motion to adjourn the meeting. The motion was seconded by Ms. Dale and unanimously approved by the Board. Chairperson Dobbins adjourned the meeting at 12:50 p.m.

Respectfully Submitted,


Stephanie Dobbins
Board Chair


Keith E. Warren
Executive Director

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