

DEPARTMENT OF HEALTH
DIVISION OF MEDICAL QUALITY ASSURANCE
BOARD OF MASSAGE THERAPY

MINUTES
GENERAL BUSINESS MEETING
APRIL 25-26, 2013

Holiday Inn I-295 and Baymeadows
11083 Nurseryfields Drive
Jacksonville, FL 32256
904.854.8000

1 **Thursday, April 25, 2013**

2 The meeting was called to order by Ms. Karen Ford, LMT, Chair, approximately 9:00 a.m. Those present for
3 all or part of the meeting included the following:

MEMBERS PRESENT:

Karen Ford, M.S., LMT, Chair
Bridget Burke-Wammack, LMT, CLT, V-Chair
Joy Buckley, LMT
Lydia Nixon, LMT
Sharon Phillips, LMT, AP, DOM
Robert Tuttle, Consumer Member

BOARD COUNSEL:

Lee Ann Gustafson, Esq.
Senior Assistant Attorney General

DEPARTMENT PROSECUTING ATTORNEYS:

Cecilie Sykes, Esq., Assistant General Counsel
Elana Jones, Esq., Assistant General Counsel

STAFF PRESENT:

Anthony Jusevitch, Executive Director
Paula Mask, Program Operations Administrator
Matthew Thompson, Regulatory Specialist II

COURT REPORTER:

Statewide Reporting
Phone: 904.353.7706
Contact: Cindy Danese

4 ***Please note that the meeting minutes reflect the actual order agenda items were discussed during***
5 ***the meeting and may differ from the agenda outline.***

6 ***An AUDIO of this meeting can be found by clicking on "Audio Files" at***
<http://ww10.doh.state.fl.us/pub/osteo/Message/2013%20Meetings>

1 **DISCIPLINARY PROCEEDINGS**

2 *The board, as appropriate, accepted unanimously the following motions: 1) The Department asks that you*
3 *accept the respondent was properly served; 2) The Department asks that you adopt the findings of fact as*
4 *set forth in the Administrative Complaint; 3) The Department asks that you adopt the conclusions of law as*
5 *set forth in the Administrative Complaint; 4) The Department asks that you adopt the case materials and any*
6 *materials in the addendum into evidence as a part of the record and find that this constitutes a violation of*
7 *the practice act.*

8 **Informal Hearings**

9 **1. LI ZHOU, LMT, CASE # 2012-14134 (REMOVED FROM AGENDA)**

10 **2. XIN JIE YIN, LMT, CASE # 2012-14019**

11 Respondent was present with her husband. Both were sworn in by the court reporter. Attorney of record:
12 Lilas Ayandeh, Esq.

13 Ms. Nixon was recused due to participation on the probable cause panel.

14 Ms. Sykes represented the Department and presented the case to the board.

15 Allegations of the Administrative Complaint: Sections 480.046(1)(o), 456.072(1)(h), 456.072(1)(w) and
16 480.041(1)(b), F.S.

17 **Action Taken:** When given opportunity to address the board, the respondent disputed the materials facts as
18 stated. Ms. Gustafson advised the Board the case must now be moved to the Division of Administrative
19 Hearings, as the applicant has made a timely request to do so.

20 **Settlement Agreements**

21 **3. BENJAMIN PRIMM, IV, LMT, CASE # 2012-03882**

22 Respondent was not present, however, he was represented by Christopher e. Brown, Esq.

23 Ms. Jones represented the Department and presented the case to the board.

24 Allegations of the Administrative Complaint: Sections 480.046(1)(o), F.S. by violating section 480.0485, F.S.,
25 and rule 64B7-26.010(1)(3) and (4), F.A.C.

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

27 **Additional Action Taken:** A motion was made to counter-offer imposing a penalty of reprimand; \$4,625.01
28 costs, \$2,500 fine; 10 hours continuing education on Florida massage therapy laws and rules within 6
29 months, and to include a 6 hours of live continuing education in ethics and boundaries related to patient
30 interaction within 6 months. The motion failed due to lack of second.

31 **Additional Action Taken:** A motion was made to impose revocation and costs as stated above, which was
32 seconded and passed 4-2, with Ms. Ford and Ms. Phillips dissenting.

33 **(BREAK)**

1 **Voluntary Relinquishments**

2 **32. LIN LI, LMT, CASE # 2012-12553**

3 Respondent was present without counsel. The respondent indicated that he wished to withdraw his request
4 for voluntary relinquishment and have a hearing. The case was removed from consideration pending a
5 hearing with the Division of Administrative Hearings.

6 **Informal Hearings**

7 **3. HENG PING PENG, LMT, CASE # 2012-13357**

8 Respondent was not present nor represented by counsel.

9 Ms. Buckley was recused due to participation on the probable cause panel.

10 Ms. Sykes represented the Department and presented the case to the board.

11 Allegations of the Administrative Complaint: Sections 480.046(1)(o), 456.072(1)(h), 456.072(1)(w) and
12 480.041(1)(b), F.S.

13 **Action Taken:** Motion was made by Ms. Burke-Wammack to impose the following penalty:

- 14 • Pay \$48.06 costs within 90 days of the filed final order
- 15 • Revocation

16 Motion was seconded which passed 5-0.

17 **4. GLENN C. MOORE, LMT, CASE # 2011-08123 (REMOVED FROM AGENDA)**

18 **Settlement Agreements**

19 **1. OSMEL A. PADROZA, LMT, CASE # 2011-13042**

20 Respondent was not present nor represented by counsel. Attorney of record: Anthony Vitale, Esq.

21 Ms. Burke-Wammack was recused due to participation on the probable cause panel.

22 Ms. Sykes represented the Department and presented the case to the board.

23 Allegations of the Administrative Complaint: Sections 480.046(1)(o), 480.046(1)(f), 456.072(1)(m),
24 456.072(1)(bb) and 480.046(1)(i), F.S.

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

26 **Additional Action Taken:** A motion was made by Ms. Ford to impose the following penalty:

27 **Penalty imposed:** Reprimand; \$2,250 fine; \$5,039.05 costs; 10 hours continuing education on Florida
28 massage therapy laws and rules and 6 hours of live continuing education in ethics and boundaries within 3
29 months; Respondent cannot work in a facility that bills insurance, and may only work in a licensed massage
30 establishment; Respondent must appear before the board in 1 year.

31 Motion was seconded which passed 5-0.

1 **2. BONNIE ABBOTT-COLOMBO, LMT, CASE # 2012-04833 (Stoehs)**

2 Respondent was not present nor represented by counsel. Attorney of record: Victor R. Guzman, Esq.

3 Allegations of the Administrative Complaint: Section 480.046(1)(n), F.S.

4 **Action Taken:** A motion was made, seconded and carried unanimously to approve the Settlement
5 Agreement.

6 **Penalty imposed:** Letter of Concern; \$100 fine; \$2,503.87 costs

7 **Voluntary Relinquishments**

8 **Full Board Members:** - A motion was made to accept the following voluntary relinquishments by Ms. Nixon.
9 The motion was seconded and passed unanimously.

- 10 **2. GREEN WELL BEING, INC, CASE # 2012-14840**
- 11 **3. ROYAL WELL BEING, INC, CASE # 2012-16341**
- 12 **4. JAYR M. SORIANO, LMT, CASE # 2012-03669**
- 13 **5. RONGBI DUAN, LMT, CASE # 2012-00091**
- 14 **6. JUN GE, LMT, CASE # 2013-00130**
- 15 **7. LEYAN YU, LMT, CASE # 2013-02889**
- 16 **8. RANSHENG WU ELLIS, LMT, CASE # 2013-00092**
- 17 **9. QI FENG, LMT, CASE # 2012-00097**
- 18 **10. SU ZHI GENG, LMT, CASE # 2013-00131**
- 19 **11. HUIMING GUO, LMT, CASE # 2013-00133**
- 20 **12. XIANGLAN LI, LMT, CASE # 2013-00265**
- 21 **13. XIAOMEI DONG LMT, CASE # 2013-00088**
- 22 **14. JINGYIN BAI, LMT, CASE # 2013-00004**
- 23 **16. VICTOR MANUEL CABALLERO, LMT, CASE # 2012-04893**
- 24 **22. SIN FOO KWONG, LMT, CASE # 2013-00254**
- 25 **24. LINA TAN DRIGGERS, LMT, CASE # 201-00089**
- 26 **25. JASMIN M. ESTRADA, LMT, CASE # 2013-00094**
- 27 **27. SHULING LIU, LMT, CASE # 2013-00398**
- 28 **28. YI JUAN DU, LMT, CASE # 2013-00090**
- 29 **29. SHUZHEN AN, LMT, CASE # 2013-00001**
- 30 **34. HONGLI HAN, LMT, CASE # 2012-00138**
- 31 **40. FIONA HEARNE, LMT, CASE # 2013-00172**
- 32 **41. ZAOYUN LIU, LMT, CASE # 2013-00402**
- 33 **42. JING DONG, LMT, CASE # 2013-00087**

34 **Recused Member: Bridget Burke-Wammack** - A motion was made to accept the following voluntary
35 relinquishments by Ms. Nixon. The motion was seconded and passed unanimously.

- 36 **1. YAFENG YU, LMT, CASE # 2012-00884**
- 37 **26. MARYLDA SANTANA LMT, CASE # 2012-04544**
- 38 **30. XIANGYU ZHANG, LMT, CASE # 2012-07035**

39 **Recused Member: Lydia Nixon** - A motion was made to accept the following voluntary relinquishments by
40 Ms. Burke-Wammack. The motion was seconded and passed unanimously.

- 41 **15. XIAOQUING YANG, LMT, CASE # 2011-3998**
- 42 **17. LIXIA ZHANG, LMT, CASE # 2012-14049**
- 43 **18. CHANG LIAN YANG, LMT, CASE # 2012-13997**

- 1 19. SHUN NU XU, LMT CASE # 2012-13943
- 2 20. CHUNTANG MENG THOMPSON, LMT, CASE # 2012-13788
- 3 21. LIJING GU, LMT, CASE # 2012-11893
- 4 23. WEI XING, LMT, CASE # 2012-13924
- 5 33. YANPING ZHENG, LMT, CASE # 2012-14141
- 6 38. LING SHU, LMT, CASE # 2012-13674
- 7 39. YAN YU, LMT, CASE # 2012-14035

8 **Recused Member: Joy Buckley** - A motion was made to accept the following voluntary relinquishments by
 9 Ms. Nixon. The motion was seconded and passed unanimously.

- 10 31. YUNXIU CHANG, LMT, CASE # 2012-11583
- 11 35. YAN CHEN, LMT, CASE # 2012-11609
- 12 36. JUNJIAO LI, LMT, CASE # 2012-12551
- 13 37. QIN LIN, LMT, CASE # 2012-12925
- 14 43. SHOUQIN HU, LMT, CASE # 2012-12145 (Additional information – moved from Waivers)

15 **Determination of Waivers**

16 *The board, as appropriate, accepted unanimously the following motions: 1) to find that the respondent was*
 17 *properly served and waived their rights to a hearing as to the material issues of fact by not filing a response;*
 18 *2) to adopt the material facts as alleged in the administrative complaint are not in dispute and to adopt the*
 19 *allegations of fact and law in the administrative complaint as the Board's conclusions of fact and law in this*
 20 *proceeding; and 3) to adopt the materials and any addendum materials into evidence in this proceeding.*

21 **1. ASIAN PALACE DAY SPA INC, CASE # 2012-04048**

22
 23 Respondent was not present nor represented by counsel.

24
 25 Ms. Burke-Wammack was recused due to participation on the probable cause panel.

26
 27 Ms. Jones represented the Department and presented the case to the Board.

28
 29 Allegations of the Administrative Complaint: 480.046(1)(o), 480.046(1)(e), 456.072(1)(j), 480.046(1)(j),
 30 456.072(1)(q) and 480.047(1)(c), FS, and rule 64B7-26.010(1)(2) and (4), FAC

31
 32 **Penalty Imposed:** Motion made, seconded and passed to impose a penalty of revocation and pay \$452.86
 33 costs within 30 days of the filed final order

34 **2. XINYAN LI, LMT, CASE # 2012-12647 (REMOVED FROM AGENDA)**

35 **3. SHOUQIN HU, LMT, CASE # 2012-12145 (Pulled and moved to Voluntary Relinquishment)**

36 **4. XIAO XIA LIU, LMT, CASE # 2012-12935**

37 Respondent was not present nor represented by counsel.

38 Ms. Buckley was recused due to participation on the probable cause panel.

39 Ms. Sykes represented the Department and presented the case to the Board.

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

3 **Penalty Imposed:** Motion made, seconded and passed to impose a penalty of revocation and pay \$56.59
4 costs within 30 days of the filed final order

5 **5. HONGWEI WANG, LMT, CASE # 2012-13822**

6 Respondent was not present nor represented by counsel.

7 Ms. Nixon was recused due to participation on the probable cause panel.

8 Ms. Sykes represented the Department and presented the case to the Board.

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

11 **Action Taken:** Motion made, seconded and passed to impose a penalty of revocation and pay \$95.01 costs
12 within 30 days of the filed final order

13 **6. LEI GUAN, LMT, CASE # 2012-11899 (REMOVED FROM AGENDA)**

14 **7. CAROLINE XU MCDULIN, LMT, CASE # 2012-13352 (REMOVED FROM AGENDA)**

15 **8. MARGARET PELING CHIN, LMT, CASE # 2012-11646 (REMOVED FROM AGENDA)**

16 **9. DIANPING LI, LMT, CASE # 2012-07060**

17 Respondent was not present nor represented by counsel.

18 Ms. Burke-Wammack was recused due to participation on the probable cause panel.

19 Ms. Jones represented the Department and presented the case to the Board.

20 Allegations of the Administrative Complaint: 480.046(1)(o), 456.072(1)(h), 456.072(1)(m) and 456.072(1)(w),
21 F.S.

22 **Penalty Imposed:** Motion made, seconded and passed to impose a penalty of revocation and pay \$235.73
23 costs within 30 days of the filed final order

24 **10. CLEBURN A. POWERS LMT, CASE # 2012-13912 (REMOVED FROM AGENDA)**

25 **11. DIOSNILEY ACANDA CRESPO, LMT, CASE # 2012-04761**

26 Respondent was not present nor represented by counsel. Attorney of record: Grey Tesh, Esq.

27 Ms. Burke-Wammack was recused due to participation on the probable cause panel.

28 Ms. Sykes represented the Department and presented the case to the Board.

1 Allegations of the Administrative Complaint: 480.046(1)(o), 456.072(1)(m), 456.072(1)(n) and 456.072(1)(ff),
2 F.S.

3 **Penalty Imposed:** Motion made, seconded and passed to impose a penalty of revocation and pay \$1,293.56
4 costs within 30 days of the filed final order.

5 **12. MARIA C. SUAREZ, LMT, CASE # 2012-05330**

6 Respondent was not present nor represented by counsel. Attorney of record: Joseph Tesmond, Esq.

7 Ms. Burke-Wammack was recused due to participation on the probable cause panel.

8 Ms. Sykes represented the Department and presented the case to the Board.

9 Allegations of the Administrative Complaint: 480.046(1)(o), 456.072(1)(ll), and 456.072(1)(c),
10 F.S.456.072(1)(w) and 480.041(1)(b), F.S.

11 **Penalty Imposed:** Motion made, seconded and passed to impose a penalty of revocation and pay \$483.12
12 costs within 30 days of the filed final order

13 **PROSECUTOR'S REPORT**

14 **1. April 2013 Massage Therapy Prosecutor's Report**

15 Ms. Sykes presented the report to the board.

Total Cases open/active in PSU:	332
Cases under legal review;	53
Cases where PC Recom made:	44
Total Cases where PC has been found:	82
Cases in holding status;	0
Cases pending before DOAH:	44
Cases in intake status:	7
Cases Agendaed for Board:	64
Cases on Appeal:	4

16 **REVIEW AND APPROVAL OF MINUTES**

17 **1. March 13, 2013, General Business Meeting**

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

19 **REPORTS**

20 **Board Chair Report – Karen Ford**

21 **Legislative Liaison Report – Karen Ford**

22 **Public Relations Liaison Report - Karen Ford**

23 No reports.

24 **School Liaison Report – Karen Ford**

25 **1. Approved Schools 12/29/2012 to 04/04/2013**

1 **Action taken:** Motion made, seconded and passed to ratify the approved massage therapy schools.

2 **Board Counsel's Report – Lee Ann Gustafson**

3 **1. 2013-2014 Regulatory Plan**

4 Ms. Gustafson's Regulatory Plan included the following rules to be updated.

- 5 64B7-25.001
- 6 64B7-26.002
- 7 64B7-26.007
- 8 64B7-28.0048
- 9 64B7-28.0043
- 10 64B7-29.002
- 11 64B7-29.003
- 12 64B7-29.005
- 13 64B7-29.007

14 Ms. Gustafson presented the updated rules report to the board, and asked for board approval to present the
15 list to the Office of the Governor as the list of rules to be developed for the Fiscal Year 2013-2014.

16 **Action Taken:** Motion made, seconded and passed to present the regulatory plan to the Office of the
17 Governor as the list of rules to be developed for the coming year.

18 **Updated Rules Report:** Ms. Gustafson presented the rules report which included the status on the following
19 rules:

- 20 64B7-25.0011, Colonic Irrigation Application
- 21 64B7-28.010, Requirements for Board Approval of Continuing Education Programs
- 22 64B7-30.002, Disciplinary Guidelines
- 23 64B7-30.005, Mediation
- 24 64B7-32.002, Proof of Graduation

25
26 **Vice Chair Report – Bridget K. Burke-Wammack**
27 **Rules Liaison Report – Bridget Burke-Wammack**
28 No reports.

29 **Continuing Education Liaison Report – Bridget Burke-Wammack**

30 **1. Approved CE Providers 12/29/2012 to 04/04/2013**

31 **Action taken:** Motion made, seconded and passed to ratify the continuing education providers.

32 **2. Approved Pro Bono Requests 12/29/2012 to 04/04/2013**

33 **Action Taken:** Motion made, seconded and passed to ratify the pro bono requests.

34 **Executive Director's Report – Anthony Jusevitch**

35 **1. Ratification of Licensure - Massage Therapists 12/29/2012 to 04/04/2013**

36 **Action taken:** Motion made, seconded and carried to ratify the continuing education providers.

1 **Budget Liaison Report – Lydia Nixon**

2 **1. Board of Massage Therapy Expenditures for Period Ending 12/31/2012**

3 Ms. Nixon presented the expenditure report to the board.

4 **Unlicensed Activity Report – Lydia Nixon**

5 No report.

6 **Human Trafficking Report – Joy Buckley**

7 Ms. Buckley presented articles relating to recent human trafficking arrests.

8 **RULES DISCUSSION**

9 **1. Rule 64B7-25.001: Examination Requirements**

10 Ms. Gustafson presented a draft of the referenced rule for board review and approval.

11 **64B7-25.001 Examination Requirements.**

12 (1) The Department shall issue a license to a person who:

13 (a) Pays to the Department the fee set out in Rule 64B7-27.100(1)(a) subsection 64B7-27.002(1),
14 F.A.C.;

15 (b) Submits a completed application on form DH-MQA 1115, "Application For Licensure," (Rev.
16 9/1240/09). The form and the attached instructions are incorporated herein by reference and may be
17 obtained from the Board Office at 4052 Bald Cypress Way, Bin C-06, Tallahassee, Florida 32399 or from the
18 website located at http://www.doh.state.fl.us/mqa/massage/ma_lic_req.html;

19 (c) Completes a course of study at a massage school approved by the Board pursuant to Rule
20 Chapter 64B7-32, F.A.C.; or completes an approved apprenticeship program in accordance with Rule
21 Chapter 64B7-29, F.A.C.;

22 ~~(d) Completes the HIV/AIDS course requirement in Rule 64B7-25.0012, F.A.C.;~~

23 ~~(d)(e) Passes a national examination approved by the Board;~~

24 ~~(e)(f) Completes a course relating to the prevention of medical errors as required by subsection~~
25 456.013(7), F.S.

26 (2) The Board approves the following examinations:

27 (a) National Certification Board for Therapeutic Massage and Bodywork Examination;

28 (b) National Certification Examination for Therapeutic Massage;

29 (c) National Exam for State Licensure option administered by the National Certification Board for
30 Therapeutic Massage and Bodywork;

31 (d) The Massage and Bodywork Licensing Examination administered by the Federation of State
32 Massage Therapy Boards.

33 (3) Any Board-approved examination may be offered in the Spanish language.

34
35 **Action Taken:** Motion made and seconded to approve the rule draft, keeping in the HIV/AIDS requirement,
36 which passed unanimously.

37 **2. Rule 64B7-25.004: Endorsements**

38 Ms. Gustafson presented a draft of the referenced rule for board review and approval.

39 **64B7-25.004 Endorsements.**

40 (1) The Department shall issue a license by endorsement to a person who:

41 (a) Pays to the Department the initial licensure fee set forth in subsection 64B7-27.008(2), F.A.C.;

42 and

1 (b) Submits a completed application on form DH-MQA 1115, "Application For Licensure," (Rev. 9/12
2 10/09), adopted and incorporated by reference in Rule 64B7-25.001, F.A.C.; and

3 (c) Is currently licensed and has practiced massage under the laws of another state, and was
4 required, in order to be so licensed to meet standards of education or apprenticeship training substantially
5 similar to, equivalent to, or more stringent than those required for licensure by Florida law and these rules;
6 and

7 (d) Demonstrates that his out-of-state license was issued upon the satisfactory completion of an
8 examination comparable to the examination approved by the Board; and

9 (e) Has no outstanding or unresolved complaints filed against him or her in the jurisdiction of
10 licensure.

11 (f) Completes a current curriculum course from a Board approved school covering the Florida
12 Statutes and rules related to massage therapy.

13 (g) ~~Completes the HIV/AIDS course requirement in Rule 64B7-25.0012, F.A.C.~~

14 ~~(g)(h)~~ Completes a course relating to the prevention of medical errors as required by Section
15 456.013(7), F.S.

16 ~~(2) The Department may interview an applicant for licensure by endorsement to determine whether~~
17 ~~he qualifies for such endorsement.~~

18 **Action Taken:** Motion made and seconded to approve the rule draft, keeping in the HIV/AIDS requirement,
19 which passed unanimously.
20

21 **4. Rule 64B7-28.0095: Continuing Education for Pro-bono Services**

22 Ms. Gustafson presented a draft of the referenced rule for board review and approval.

23 **64B7-28.0095 Continuing Education for Pro Bono Services.**

24 (1) Up to 6 hours of continuing education per biennium in satisfaction of the live classroom hours that
25 include instruction, demonstration and/or hands on practice in Rule 64B7-28.009, F.A.C., may be awarded,
26 on an hour per hour basis, for the performance of pro bono services to the indigent, underserved populations
27 or in areas of critical need within the state where the licensee practices. The standard for determining
28 indigence shall be that recognized by the Federal Poverty income guidelines produced by the United States
29 Department of Health and Human Services.

30 (2) In order to receive credit under this rule, the licensee must receive prior approval from the Board by
31 submitting a formal request for approval on form DH-MQA 1243 "Request for Approval of Continuing
32 Education for Pro Bono Services For the Biennial Renewal period of (rev. 4/13 10/11)",
33 <http://www.doh.state.fl.us/mqa/massage> hereby adopted and incorporated by reference, and can be obtained
34 from the Board of Massage Therapy's website at http://www.doh.state.fl.us/mqa/massage/ap_business.pdf,
35 which must include the following information:

36 (a) The type, nature and extent of services to be rendered;

37 (b) The location where the services will be rendered;

38 (c) The number of patients expected to be served; and

39 (d) A statement indicating that the patients to be served are indigent, underserved or in an area of
40 critical need.

41 (3) A statement of completion of preapproved services performed must be submitted on form
42 "Statement of performance of Continuing Education credits for preapproved Pro Bono Services for the
43 Biennial Renewal Period of _____", pursuant to Rule 64B7- 29.0095, incorporated herein by reference.
44 The form can be obtained from the Board of Massage Therapy, ATTN: Pro Bono Services, 4052 Bald
45 Cypress Way #C-06, Tallahassee, FL 32399-3256 or from the following website:
46 <http://www.doh.state.fl.us/mqa/massage>

47 ~~(3) Credit shall be given on an hour per hour basis.~~

48 (4) Approval for pro bono services is only granted for the biennium for which it is sought. The licensee
49 must request approval for each biennium they wish to receive credit for pro bono services.

50 **Action Taken:** Motion made and seconded to approve the rule draft, inserting a reference to the current
51 Board of Massage Therapy website into subsection 2 (*completed*) and adding end quotes to subsection (3)
52 (*completed*), which passed unanimously.

53 **The meeting recessed at 11:15 A.M.**

1 **Friday, April 26, 2013**

2 The meeting was called to order by Ms. Karen Ford, LMT, Chair, approximately 9:00 a.m. Those present for
3 all or part of the meeting included the following:

MEMBERS PRESENT:

Karen Ford, M.S., LMT, Chair
Bridget Burke-Wammack, LMT, CLT, V-Chair
Joy Buckley, LMT
Lydia Nixon, LMT
Sharon Phillips, LMT, AP, DOM
Robert Tuttle, Consumer Member

BOARD COUNSEL:

Lee Ann Gustafson, Esq.
Senior Assistant Attorney General

STAFF PRESENT:

Anthony Jusevitch, Executive Director
Paula Mask, Program Operations Administrator
Matthew Thompson, Regulatory Specialist II

COURT REPORTER:

Statewide Reporting
Phone: 904.353.7706
Contact: Cindy Danese

DEPARTMENT PROSECUTING ATTORNEYS:

Cecilie Sykes, Esq., Assistant General Counsel
Elana Jones, Esq., Assistant General Counsel

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5 ***the meeting and may differ from the agenda outline.***

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<http://ww10.doh.state.fl.us/pub/osteo/Massage/2013%20Meetings/>

7 **DISCIPLINARY PROCEEDINGS**

8 **Request for Reconsideration of Final Order**

9 **1 THE SPA AT ONE BAL HARBOR, CASE # 2011-19386**

10 Respondent was present and was represented by Ron Cohen, Esq. Both were duly sworn in by the court
11 reporter.

12 Mr. Cohen spoke on behalf of his client.

13 After discussion, it was determined that as the establishment is no longer the property of Ms. Papetti and she
14 has not obtained a new establishment, the board could take no further action on her establishment license.

15 **2. DANIELA A. PAPETTI, LMT, CASE 2011-19381**

16 Respondent was present but was represented by Ron Cohen, Esq.

17 **Penalty Imposed:** Motion made, seconded and passed imposing the following penalty: the license shall be
18 restored with a 6 month retroactive suspension, reprimand, and pay \$2,250 fine and \$1,996.60 costs within
19 two years. Ms. Ford seconded the motion, which passed unanimously.

20 **Notice of Final Order Awarding Attorney's Fees and Costs**

1 **1 Teresa Gonzalez, LMT – DOH Case # 2007-36172 / DOAH Case # 11-5322PL**

2 **Action Taken:** Ms. Ford moved to pay \$10,500 as reasonable attorney's fees and costs related to case #
3 2007-36172 and DOAH Case # 11-5322PL. Motion seconded and passed unanimously.

4 **ADMINISTRATIVE PROCEEDINGS**

5 **Massage Therapist Applicants**

6 **2. Elizabeth Ciavattone – exam**

7 Applicant was present without counsel, and was duly sworn in by the court reporter.

8 **Action Taken:** Motion made, seconded and passed granting the license with the following conditions:

9 The license will not be issued until the applicant undergoes an evaluation coordinated by the Professionals
10 Resource Network (PRN), and complies with any and all terms and conditions imposed by PRN as a result of
11 said evaluation. It is the duty of the applicant to contact PRN within 30 days of the filed Board Order. If the
12 applicant is not in need of monitoring or treatment no further action will be required. If a contract is
13 recommended, the applicant must sign a contract within 120 days of the filed Board Order. The applicant
14 must comply with all conditions of the PRN Advocacy Contract or she will be in violation of the Board Order.
15 The Board delegates to the Executive Director the authority to accept the recommendation of PRN.

16 **4. Steven Dwyer – exam**

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

18 **Action Taken:** Motion made, seconded and passed to grant the license unencumbered.

19 **6. Evan Johnson – exam**

20 Applicant was present without counsel and was duly sworn in by the court reporter. Mr. Johnson was
21 ineligible for licensure pursuant to s. 456.0635, F.S., based on a felony conviction under Chapter 893, F.S.

22 **Action Taken:** The applicant verbally withdrew his application for licensure and the withdrawal was accepted
23 by the Board.

24 **8. Joshua Lee – exam**

25 Applicant was present without counsel, and was duly sworn in by the court reporter.

26 **Action Taken:** Motion made, seconded and passed granting the license with the following conditions:

27 The license will not be issued until the applicant undergoes an evaluation coordinated by the Professionals
28 Resource Network (PRN), and complies with any and all terms and conditions imposed by PRN as a result of
29 said evaluation. It is the duty of the applicant to contact PRN within 30 days of the filed Board Order. If the
30 applicant is not in need of monitoring or treatment no further action will be required. If a contract is
31 recommended, the applicant must sign a contract within 120 days of the filed Board Order. The applicant
32 must comply with all conditions of the PRN Advocacy Contract or he will be in violation of the Board Order.
33 The Board delegates to the Executive Director the authority to accept the recommendation of PRN.

1 **9. Xue Hua Lin – exam**
2 *(Ms. Ford was out of the room during this case.)*

3 Applicant was present without counsel. Both she and her fiancé, Mr. Alburto Rosello, were duly sworn in by
4 the court reporter.

5 **Action Taken:** Motion made, seconded and passed denying licensure based on previous discipline.

6 **10. Yousong Liu – exam**

7 Applicant was present without counsel, and was duly sworn in by the court reporter.

8 **Action Taken:** Motion made, seconded and passed denying licensure based on prior discipline and the
9 applicant graduated from the Academy of Health & Beauty before it was an approved massage school.

10 Ms. Nixon seconded the motion, which passed unanimously.

11 **11. Ambra Wayne – exam**

12 Applicant was present without counsel, and was duly sworn in by the court reporter. Mr. Tim Davidson, First
13 Coast Technical College was present on her behalf.

14 **Action Taken:** Motion made, seconded and passed granting the license with the following conditions:

15 The license will not be issued until the applicant undergoes an evaluation coordinated by the Professionals
16 Resource Network (PRN), and complies with any and all terms and conditions imposed by PRN as a result of
17 said evaluation. It is the duty of the applicant to contact PRN within 30 days of the filed Board Order. If the
18 applicant is not in need of monitoring or treatment no further action will be required. If a contract is
19 recommended, the applicant must sign a contract within 120 days of the filed Board Order. The applicant
20 must comply with all conditions of the PRN Advocacy Contract or she will be in violation of the Board Order.
21 The Board delegates to the Executive Director the authority to accept the recommendation of PRN.

22 **Petition for Declaratory Statement**

23 **2. Diana Richardson**

24 Ms. Richardson was present and was sworn in by the court reporter.

25 The petition seeks the agency's opinion as to the applicability of Chapter 480, F.S., as it applies to the
26 petitioner. The petitioner is seeking clarification as to whether skin beautification services and body wrapping
27 services are within the scope of practice for a licensed massage therapist.

28 **Action Taken:** Motion made, seconded and passed to deny the petition as the contents of the petition are
29 outside the scope of practice for massage therapists.

30 **Applicant Informal Hearings**

31 **1. Tierney Segda**

32 Ms. Segda was present without counsel, and duly sworn in by the court reporter.

1 **Action Taken:** Motion made, seconded and passed denying the request for hearing, as the applicant did not
2 submit her request until February 1, 2013, the Notice of Intent to Approve with Conditions became final
3 agency action. Ms. Segda failed to timely pursue her administrative remedy. Ms. Segda was advised she
4 could reapply as the board no longer had jurisdiction.

5 **Massage Therapist Applicants**

6 **1. Allison Castillo – exam**

7 Applicant was not present nor represented by counsel.

8 **Action Taken:** Motion made, seconded and passed to grant the license unencumbered.

9 **3. Erica Constransitch – exam**

10 Applicant was not present nor represented by counsel.

11 **Action Taken:** Motion made, seconded and passed granting the license with the following conditions:

12 The license will not be issued until the applicant undergoes an evaluation coordinated by the Professionals
13 Resource Network (PRN), and complies with any and all terms and conditions imposed by PRN as a result of
14 said evaluation. It is the duty of the applicant to contact PRN within 30 days of the filed Board Order. If the
15 applicant is not in need of monitoring or treatment no further action will be required. If a contract is
16 recommended, the applicant must sign a contract within 120 days of the filed Board Order. The applicant
17 must comply with all conditions of the PRN Advocacy Contract or she will be in violation of the Board Order.
18 The Board delegates to the Executive Director the authority to accept the recommendation of PRN.

19 **5. Marcelina Hernandez – exam**

20 Applicant was not present with nor represented by counsel.

21 **Action Taken:** Motion made, seconded and passed granting the license with the following conditions:

22 The license will not be issued until the applicant undergoes an evaluation coordinated by the Professionals
23 Resource Network (PRN), and complies with any and all terms and conditions imposed by PRN as a result of
24 said evaluation. It is the duty of the applicant to contact PRN within 30 days of the filed Board Order. If the
25 applicant is not in need of monitoring or treatment no further action will be required. If a contract is
26 recommended, the applicant must sign a contract within 120 days of the filed Board Order. The applicant
27 must comply with all conditions of the PRN Advocacy Contract or she will be in violation of the Board Order.
28 The Board delegates to the Executive Director the authority to accept the recommendation of PRN.

29 **7. Carlo Lazzari – exam**

30 Applicant was not present nor represented by counsel.

31 **Action Taken:** After discussion, Ms. Ford moved to grant the license with the following condition: the
32 applicant complete 24 hours of continuing education within 120 days of the filed final order, which will not be
33 credited to the renewal of the license.

34 Ms. Nixon seconded the motion, which failed 5/1 with Ms. Ford dissenting.

35 **Additional Action Taken:** Motion made, seconded and carried requiring the applicant to appear at one of
36 the next two regularly schedule meetings of the board to answer questions regarding the application.

1 **12. JoAnn Marie Hopkins – exam with Petition for Variance/Waiver (PULLED FROM AGENDA)**

2 **Continuing Education Provider Applicants**

3 **1. Gyrotonics Tallahassee**

4 **COURSES**

5 **20-387051 INTRODUCTION TO GYROTONIC EXPANSION SYSTEM**

6 **20-387060 GYROKINESIS PRE-TRAINING**

7 **20-387065 GYROKINESIS FOUNDATION TEACHER TRAINING**

8 Applicant was not present nor represented by counsel.

9 **Action Taken:** Motion made, seconded and carried to deny approval of the courses and providership as the
10 courses were incomplete and out of the scope of practice.

11 **2. Zen Hands (REMOVED FROM AGENDA BY CHAIR)**

12 **Petition for Declaratory Statement**

13 **1. John Sweeney**

14 Mr. Sweeney was not present nor represented by counsel.

15 The petitioner seeks the agency's opinion as to whether Iontophoresis is within the scope of practice for a
16 licensed massage therapist.

17 **Action Taken:** Motion made, seconded and passed to deny the petition as it is out of the scope of practice
18 for massage therapists to administer legend drugs (Dexamethasone SOD Phosphate 8 mg/ml (2cc).

19 **Compliance and Probation Review**

20 **1. Rolando Cruz**

21 **Action Taken:** As the terms of the probation were met, the licensee is to be removed from probation.

22 **Request for Reconsideration**

23 **1. Yanyun Wei (REMOVED FROM AGENDA)**

24 **RULES DISCUSSION**

25 **3. Rule 64B7-28.009, Continuing Education**

26 Ms. Gustafson presented a revised draft prepared by Ms. Burke-Wammack for board review. Final draft
27 prepared by board counsel.

1 Due to length of rule, the draft is attached to the minutes.

2 **Action Taken:** The discussion of this rule is tabled to the July 2013 General Business Meeting.

3 **NEW BUSINESS**

4 **1. Proposed 2014 Meeting Dates**

5 The Board of Massage Therapy voted on the following 2013 meeting dates:

6 **FACE-TO-FACE GENERAL BUSINESS MEETINGS**

7 **Date**

8 January 23-24, 2014

9 May 1-2, 2014

10 July 24-25, 2014

11 October 23-24, 2014

12 **TELEPHONE CONFERENCE CALLS (Wednesday @ 8:30 a.m.)**

13 January 12, 2014

14 June 18, 2014

15 September 10, 2014

16 December 10, 2014

17 **PROBABLE CAUSE PANEL CONFERENCE CALLS (Thursday @ 2:45 p.m.)**

18 January 9, 2014

19 March 20, 2014

20 May 15, 2014

21 July 10, 2014

22 September 18, 2014

23 November 13, 2014

24 **FEDERATION OF STATE BOARD OF MASSAGE THERAPY ANNUAL MEETING –**

25 Tucson, AZ - October 2-4, 2014

26 **FLORIDA STATE MASSAGE THERAPY ASSOCIATION CONVENTION**

27 Orlando – June 25-29, 2014

28 **2. Legislation Discussion: HB7005 and SB500**

29 CS/CS/CS/SB 500 – Passed the Senate Appropriations Committee 4/23/13.

30 CS/CS/CS/HB 7005 – 4/18/13 sent to Senate messages and referred to Regulated Industries; Community
31 Affairs; Health Policy; Appropriations

32 **Meeting adjourned approximately 11:15 a.m.**

64B7-28.009 Continuing Education (Substantial rewrite of rule-See FAW for current text)

(1) For each full biennium during which a massage therapist is licensed, pursuant to Chapter 480, F.S., the licensee shall complete one contact hour of board-approved continuing education, up to the maximum of 24 hours, for each month or part thereof during which the licensee holds an active license, ~~plus the course on HIV/AIDS that meets the requirements of 456.034(1), F.S.~~, which shall, in the aggregate, meet the following requirements.

(a) At least 12 contact hours relevant to and focus on human massage therapy techniques, which may include history of massage therapy or human anatomy, physiology, kinesiology, or pathology, taught via live classroom instruction including hands-on instruction and/or demonstration. Up to 6 contact hours may be met by performing pro bono services pursuant to Rule 64B7-28.0095.

(b) A 2 hour course in prevention of medical errors that meets the requirements of F.S. 456.013(7).

(c) Two hours of instruction in professional ethics and two hours on the laws and rules regulating the practice of massage therapy, which includes instruction on Chapter 480 and 456, F.S. and ~~Rule Chapter 64B7, F.A.C. and the rules promulgated by the Board.~~ The requirements of this subsection can be met by attending four continuous hours of a meeting of the Board of Massage Therapy, if the licensee does not have a discipline or licensure matter on the agenda for the same meeting day. The licensee must sign in and out of the meeting to demonstrate compliance with this requirement.

(d) The six remaining required contact hours may include courses on communications with clients and other professionals, insurance relating to third party payment or reimbursement for services, psychological dynamics of the client-therapist relationship, risk management, including charting, documentation, record keeping, or infection control ~~(other than the HIV/AIDS course required by F.S. 456.034)~~; or massage practice management. The remaining hours may also include up to 4 hours credit for adult cardio-pulmonary resuscitation (CPR), provided the course is sponsored by the American Red Cross, the American Heart Association or the American Safety and Health Institute, or is instructed by persons certified to instruct courses for those organizations. These continuing education requirements may be met through live classroom instruction and/or correspondence/home study courses. Correspondence/home study courses must include a test graded by the provider. Video cassette courses shall not exceed 5 hours per subject. A certificate of attendance/completion shall be issued and shall indicate the course is a correspondence/home study course, and shall indicate that the attendee has passed the course.

(2) For massage therapists licensed during the renewal biennium in which they completed their massage therapy program, and who are licensed for fewer than 24 months, shall complete ~~the course on HIV/AIDS that meets the requirements of F.S. 456.034(1), and~~ a 2 hour course in prevention of medical errors that meets the requirements of F.S.456.013(7). The courses completed in their massage therapy program shall meet the remaining continuing education requirements of this rule.

~~(3) The licensee shall retain, for not less than four years, such receipts, vouchers or certificates as are necessary to document completion of the continuing education requirements of this rule.~~

~~(4) At the end of each biennium, the Board will audit a number of randomly selected licensees to assure that the continuing education requirements have been met. Within 21 days of a request from the Board or Department, the licensee must provide written documentation that the continuing education requirements have been met.~~

Attachment 64B7-28.009
draft

Rulemaking Specific Authority 456.013(7), (8), (9), 480.035(7), 480.0415 FS. Law Implemented 456.013(7), (8), (9), 480.0415 FS. History-New 4-21-86, Amended 2-25-88, 8-29-88, 1-30-90, 10-2-90, Formerly 21L-28.009, Amended 8-16-94, 6-5-95, 2-12-97, Formerly 61G11-28.009, Amended 8-16-98, 3-15-99, 9-20-99, 11-28-02, 2-13-05, 3-1-07, 5-1-07,