

FLORIDA | Board of Massage Therapy

MINUTES February 27, 2014

Department of Health
4042 Bald Cypress Way, Room 301
Tallahassee, FL 32311



Bridget Burke-Wammack, LMT, CLT
Chair

Lydia Nixon, LMT
Vice-Chair

Anthony Jusevitch
Executive Director

THURSDAY, February 27, 2014

The meeting was called to order by Ms. Burke-Wammack, 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, Chair
Lydia Nixon, LMT, Vice-Chair
Karen Ford, M.S., LMT
Robyn Dohn Havard, PLCS
Sharon Phillips, LMT, AP, DOM
Jonathan Walker, LMT

STAFF PRESENT:

Anthony Jusevitch, Executive Director
Alexandra Alday, Program Operations Administrator
Marci Poston, Regulatory Specialist II

COURT REPORTER:

Dempsey Berryhill
Phone: 813.229.8225

BOARD COUNSEL:

Lee Ann Gustafson, Esq.
Senior Assistant Attorney General

DEPARTMENT PROSECUTING ATTORNEYS:

Lealand McCharen Esq. Assistant General Counsel
Sharmin Hibbert, Esq., Assistant General Counsel
Candace Rochester., 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.

ADMINISTRATIVE PROCEEDINGS

Applicants with History

1. Dustin Geiger

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

Action Taken: After discussion, Ms. Ford 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.

5. Yousong Liu

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

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

Motion seconded, which passed unanimously.

Applicants with Petition for Variance-Waiver

2. Laurie Nienhaus

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

Action Taken: Motion made, seconded and carried to deny the Petition for Variance or Waiver as it does not support the underlying statute for licensure.

Action Taken: Motion made, seconded and carried to deny application based on not meeting requirements of 64B7-32.003, F.A.C. - Minimum requirements for massage schools.

3. Kenneth Leitenberger

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

Action Taken: Motion made, seconded and carried to approve the Petition for Variance or Waiver based on licensure held in another state and inability to obtain education documentation.

Action Taken: Motion made, seconded and carried to grant the license unencumbered.

DISCIPLINARY PROCEEDINGS

Settlement Agreements

1. KELLY C. DROUIN, LMT

CASE # 2012-03163

PCP: Harrison & Burke-Wammack

Respondent was not present nor represented by counsel.

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

Mr. McCharen represented the Department and presented the case to the board.

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

Action Taken: A motion was made, seconded and carried 5/0 to accept the Settlement Agreement.

Penalties Imposed:

- Reprimand
- \$500 fine within 365 days of filed Final Order
- \$1,653.96 costs within 365 days of filed Final Order
- Suspension of license until proof of required continuing education is provided

2. YANET BETANCOURT SANTANA, LMT

CASE # 2012-08745

PCP: Smallwood & Nixon

Respondent was not present. Counsel of record, Donald Richard Kerner Jr., Esq, was not present.

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

Mr. McCharen represented the Department and presented the case to the board.

Allegations of Administrative Complaint: Sections 480.046(1)(o) and 456.072(1)(m) F.S.

Action Taken: A motion was made, seconded and carried 5/0 to accept the Settlement Agreement.

Penalties Imposed:

- Reprimand
- \$500 fine within 180 days of filed Final Order
- \$1,999.45 costs within 180 days of filed Final Order

3. YU YAO XU, LMT

CASE # 2012-13944

PCP: Harrison & Nixon

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

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

Mr. McCharen represented the Department and presented the case to the board.

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

Action Taken: A motion was made and seconded to accept the Settlement Agreement, which carried 3/2 with Ms. Phillips and Ms. Ford in opposition.

Penalties Imposed:

- Suspension of license until proof of 10 hours Florida Laws and Rules course, 3 hours HIV/AIDS course, 2 hours Prevention of Medical Errors course, and acceptable out-of-state coursework is provided.

4. RANJIE XU, LMT

CASE # 2012-13942

PCP: Harrison & Nixon

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

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

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

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

Action Taken: A motion was made and seconded to accept the Settlement Agreement, which carried 3/2 with Ms. Phillips and Ms. Ford in opposition.

Penalties Imposed:

- Suspension of license until proof of 10 hours Florida Laws and Rules course, 3 hours HIV/AIDS course, 2 hours Prevention of Medical Errors course, and acceptable out-of-state coursework is provided.

6. BEI SHENG, LMT

CASE # 2012-13670

PCP: Harrison & Nixon

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

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

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

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

Action Taken: A motion was made and seconded to accept the Settlement Agreement, which carried 3/2 with Ms. Phillips and Ms. Ford in opposition.

Penalties Imposed:

- Suspension of license until proof of 10 hours Florida Laws and Rules course, 3 hours HIV/AIDS course, 2 hours Prevention of Medical Errors course, and acceptable out-of-state coursework is provided.

9. ZIXUAN YANG, LMT

CASE # 2012-13999

PCP: Harrison & Nixon

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

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

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

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

Action Taken: A motion was made and seconded to accept the Settlement Agreement, which carried 3/2 with Ms. Phillips and Ms. Ford in opposition.

Penalties Imposed:

- Suspension of license until proof of 10 hours Florida Laws and Rules course, 3 hours HIV/AIDS course, 2 hours Prevention of Medical Errors course, and acceptable out-of-state coursework is provided.

ADMINISTRATIVE PROCEEDINGS

Applicants with History

6. Chuang Wu

Applicant was present with nephew, Don (no last name given) and without counsel. Both were sworn in by the court reporter.

Action Taken: After discussion, Ms. Ford moved to grant the license unencumbered. Motion seconded, which passed unanimously.

DISCIPLINARY PROCEEDINGS

Settlement Agreements

5. FUMEI ZHANG, LMT

CASE # 2012-14047

PCP: Harrison & Nixon

Respondent was not present. Counsel of record, Darrell J. Conway, Esq. was not present.

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

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

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

Action Taken: A motion was made and seconded to accept the Settlement Agreement, which carried 3/2 with Ms. Phillips and Ms. Ford in opposition.

Penalties Imposed:

- Suspension of license until proof of 10 hours Florida Laws and Rules course, 3 hours HIV/AIDS course, 2 hours Prevention of Medical Errors course, and acceptable out-of-state coursework is provided.

7. HONGPENG ZHOU, LMT

CASE # 2012-14143

PCP: Harrison & Nixon

Respondent was not present. Counsel of record, Alex Yu, Esq. was not present.

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

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

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

Action Taken: A motion was made and seconded to accept the Settlement Agreement, which carried 3/2 with Ms. Phillips and Ms. Ford in opposition.

Penalties Imposed:

- Suspension of license until proof of 10 hours Florida Laws and Rules course, 3 hours HIV/AIDS course, 2 hours Prevention of Medical Errors course, and acceptable out-of-state coursework is provided.

8. YING YANG WILSON, LMT

CASE # 2012-13887

PCP: Harrison & Nixon

Respondent was not present. Counsel of record, Alex Yu, Esq. was not present.

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

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

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

Action Taken: A motion was made and seconded to accept the Settlement Agreement, which carried 3/2 with Ms. Phillips and Ms. Ford in opposition.

Penalties Imposed:

- Suspension of license until proof of 10 hours Florida Laws and Rules course, 3 hours HIV/AIDS course, 2 hours Prevention of Medical Errors course, and acceptable out-of-state coursework is provided.

10. BAI MEI WU, LMT

CASE # 2012-13891

PCP: Harrison & Nixon

Respondent was not present. Counsel of record, Alex Yu, Esq. was not present

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

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

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

Action Taken: A motion was made and seconded to accept the Settlement Agreement, which carried 3/2 with Ms. Phillips and Ms. Ford in opposition.

Penalties Imposed:

- Suspension of license until proof of 10 hours Florida Laws and Rules course, 3 hours HIV/AIDS course, 2 hours Prevention of Medical Errors course, and acceptable out-of-state coursework is provided.

Voluntary Relinquishments

A motion was made to accept the following voluntary relinquishment item 1, by Ms. Ford. The motion was seconded and passed 5/0, with Ms. Nixon recused.

1. CHUNG YUK TSO, LMT

CASE # 2012-13807

PCP: Harrison & Nixon

A motion was made to accept the following voluntary relinquishments items 2 through 3, by Ms. Ford. The motion was seconded and passed unanimously.

2. JACI ALISHA CALE, LMT

CASE # 2013-04349

PCP: Smallwood & Phillips

3. ZHEN SPA, LLC

CASE # 2013-09399

PCP: Smallwood & Phillips

Determination of Waivers

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

***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 waived the right to a formal hearing (either by failing to respond at all or timely). **3)** The Department asks you adopt the findings of fact as set forth in the Administrative Complaint. **4)** The Department asks you adopt the conclusions of law as set forth in the Administrative Complaint, 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 motions:*

***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 waived the right to a formal hearing (either by failing to respond at all or timely). **3)** The Department asks 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. YANKIEL CORDERO, LMT

CASE # 2013-04360

PCP: Smallwood & Phillips

Respondent was not present nor represented by counsel.

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

Mr. McCharen represented the Department and presented the case to the Board.

Allegations of the Administrative Complaint: 480.046(1)(k) F.S.

Action Taken: Motion made and seconded to impose the following penalty:

- Suspension of license until licensee complies with the terms of previous Final Order
- Suspension of license until licensee pays \$54.90 costs

Motion passed 5/0.

2. GLAISTER ANTHONY NOTICE, LMT

CASE # 2013-04434

PCP: Smallwood & Phillips

Respondent was not present nor represented by counsel.

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

Mr. McCharen represented the Department and presented the case to the Board.

Allegations of the Administrative Complaint: 480.046(1)(k) F.S.

Action Taken: Motion made and seconded to impose the following penalty:

- Suspension of license until licensee complies with the terms of previous Final Order
- Suspension of license until licensee pays \$54.90 costs

Motion passed 5/0.

3. MARGARET PELING CHIN, LMT

CASE # 2012-11646

PCP: Smallwood & Nixon

Respondent was not present nor represented by counsel.

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

Mr. McCharen represented the Department and presented the case to the Board.

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

Action Taken: Motion made and seconded to revoke the license, which passed 5/0.

4. MIN LIU, LMT

CASE # 2012-17274

PCP: Harrison & Nixon

Respondent was not present nor represented by counsel.

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

Mr. McCharen represented the Department and presented the case to the Board.

Allegations of the Administrative Complaint: 480.046(1)(c) F.S.

Action Taken: Motion made and seconded to revoke the license, which passed 5/0.

5. XIULI WANG, LMT

CASE # 2012-07039

PCP: Harrison & Burke-Wammack

Respondent was not present nor represented by counsel.

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

Mr. McCharen represented the Department and presented the case to the Board.

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

Action Taken: Motion made and seconded to revoke the license, which passed 5/0.

6. BETHANY ANNE VAUGHN, LMT

CASE # 2012-04369

PCP: Harrison & Burke-Wammack

Respondent was not present nor represented by counsel.

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

Mr. McCharen represented the Department and presented the case to the Board.

Allegations of the Administrative Complaint: 480.046(1)(o), 456.072(1)(h), and 456.035(1) F.S.

Action Taken: Motion made and seconded to revoke the license, which passed 5/0.

7. XIUMEI JIANG, LMT

CASE # 2012-12153

PCP: Haynes & Buckley

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: 480.046(1)(o), 456.072(1)(h)(w), and 480.041(1)(b) F.S.

Action Taken: Motion made and seconded to revoke the license, which passed unanimously.

ADMINISTRATIVE PROCEEDINGS

Applicants with History

2. Carolyn Molle

Applicant was not present nor represented by counsel.

Action Taken: After discussion, Ms. Ford moved to grant the license unencumbered. Motion seconded, which passed unanimously.

7. Lijuan Rench

Applicant was not present nor represented by counsel.

Action Taken: After discussion, Ms. Ford moved to grant the license unencumbered. Motion seconded, which passed unanimously.

Applicants with Out of State Education

1. Shiyong Li

Applicant was not present nor represented by 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: Theory and History of Massage, Clinical Practicum, and Business. Motion seconded, which passed unanimously.

Applicants with Foreign Education

1. Sophie Gauthier

Applicant was not present nor represented by counsel.

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

Applicants with Petition for Variance-Waiver

1. Kai Myrbakk

Applicant was not present nor represented by counsel.

Action Taken: Motion made, seconded and carried to deny the Petition for Declaratory Statement as applicant meets the requirements for licensure.

Action Taken: Motion made and seconded to grant the license unencumbered. Motion passed 5/1 with Ms. Nixon in opposition.

NEW BUSINESS

Legislative Conference Call

The Board discussed a possible legislative conference call in March. The Board selected March 18, 2014, at 8:30 a.m. for the date and time of the call.

The meeting adjourned at approximately 12:30 p.m.