

# FLORIDA | Board *of* Massage Therapy

## **DRAFT MINUTES** **January 22-23, 2015**

Fort Lauderdale Marriott North  
6650 North Andrews Avenue  
Ft. Lauderdale, FL 33309



Bridget Burke-Wammack, LMT, CLT  
**Chair**

Lydia Nixon, LMT,  
**Vice-Chair**

Christy Robinson  
**Executive Director**

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  
Sharon Phillips, LMT, AP, DOM  
Robyn Dohn Havard, PLCS

## BOARD COUNSEL:

Lee Ann Gustafson, Esq.  
Senior Assistant Attorney General

## MEMBERS EXCUSED:

Guery Davis, PhD  
Jonathan Walker, LMT

## STAFF PRESENT:

Christy Robinson, Executive Director  
Alexandra Alday, Program Operations Administrator  
Marci Poston, Regulatory Specialist II

## DEPARTMENT PROSECUTING ATTORNEYS:

Cecilie Sykes, Esq., Assistant General Counsel

## COURT REPORTER:

Official Reporting Services  
Phone: 954-467-8204

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.floridasmassagetherapy.gov/meeting-information](http://www.floridasmassagetherapy.gov/meeting-information).

## DISCIPLINARY PROCEEDINGS

### Informal Hearings

The following items were pulled from the agenda due to lack of quorum.

1. LILY SPA, CASE # 2014-04247
2. LILY SPA, CASE # 2014-09122
3. LILY SPA, CASE # 2014-06852
4. YOSHI SWEDISH, CASE # 2014-01249
5. KYONG SEON CHOI DEKAT, LMT, CASE # 2014-05970
6. DUSTIN PERRY DUNCAN, LMT, CASE # 2014-03710
7. SERENITY MASSAGE, CASE # 2014-00202

PCP: Harrison & Nixon  
PCP: Harrison & Nixon  
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PCP: Harrison & Nixon  
PCP: Harrison & Nixon  
PCP: Smallwood & Havard  
PCP: Smallwood & Phillips

### Settlement Agreements

The following items were pulled from the agenda due to lack of quorum.

8. CARLOS L. SAMA, LMT, CASE # 2014-10374
9. MIQUEL A. GARCIA DEJESUS, LMT, CASE# 2012-07654

PCP: Harrison & Nixon  
PCP: Smallwood & Nixon

### Voluntary Relinquishments

10. XIUJIE HAN, LMT CASE # 2013-00156

PCP: Waived

**Action Taken:** After discussion, Ms. Nixon made a motion to accept the voluntary relinquishment. Motion seconded by Ms. Havard, which passed unanimously.

**11. FERNANDO LUIS LAMAZARES, LMT, CASE# 2014-04913** **PCP: Waived**

**Action Taken:** After discussion, Ms. Burke-Wammack made a motion to accept the voluntary relinquishment. Motion seconded by Ms. Phillips, which passed unanimously.

**12. MARIO LOZANO, LMT, CASE # 2013-17288** **PCP: Waived**

Respondent was present without counsel. Respondent addressed the board and verbally withdrew the voluntary relinquishment.

**13. PAUL DAVID DEMSKE, LMT, CASE # 2014-11411** **PCP: Waived**

**Action Taken:** After discussion, Ms. Phillips made a motion to accept the voluntary relinquishment. Motion seconded by Ms. Nixon, which passed unanimously.

### Determination of Waivers

The following items were pulled from the agenda due to lack of quorum.

**14. JJ EAST AMERICA d/b/a GREEN SPA, CASE # 2014-05591** **PCP: Harrison & Nixon**  
**15. D. MURPHY, LMT, CASE # 2013-17243** **PCP: Harrison & Havard**  
**16. TRAVIS J. FRANCE, LMT, CASE # 2013-18050** **PCP: Smallwood & Havard**  
**17. ABNER LLENDERROZO, LMT, CASE # 2013-07921** **PCP: Smallwood & Phillips**

**18. VIVIANNA'S BODY SECRETS, CORP.,** **PCP: Smallwood & Buckley**

Respondent was not present nor represented by counsel.

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

**Action Taken:** The Department asked the board to accept the investigative report into evidence for the purpose of imposing a penalty. The Department asked the board to find the Respondent was properly served and waived the right to a formal hearing (either by failing to respond at all or timely). The Department asked the board to 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. Ms. Nixon moved on the Department's request. Motion seconded by Ms. Phillips, which passed unanimously.

Allegations of Administrative Complaint: Count I Sections 480.046(1)(o), F.S., by violating 456.072(1)(j), F.S.; Count II Sections 480.046(1)(j), F.S.; Count III Sections 456.072 (1)(o), F.S., by violating 480.046(1)(o), F.S.;

**Final Action Taken:** Ms. Nixon made a motion to impose the following penalty:

- Revocation
- Pay \$477.16 costs

Motion seconded by Ms. Burke-Wammack, which passed unanimously.

## **PROSECUTOR'S REPORT**

## **Presentation by Unlicensed Activity Office, *Bureau of Enforcement***

Mr. Chilo Casas, JD, Unlicensed Activity Liaison, and Ms. Blanca Gomez, Supervisor, presented the board with statistical information for unlicensed activity in the state of Florida. Information was provided regarding the investigative process.

**(break)**

### **\*REVIEW AND APPROVAL OF MINUTES**

#### **26. December 10, 2014, Telephone Conference Call Meeting Minutes**

Ms. Burke-Wammack made a motion to approve the minutes with the noted corrections. Ms. Phillips seconded the motion, which carried unanimously.

### **\*REPORTS**

#### **Chair Report – Bridget Burke-Wammack**

No report at this time.

#### **27. New Committee Appointments**

After discussion the board determined current liaison designations will remain. The Board Chair encouraged everyone to be available for an upcoming increase in meetings of the Probable Cause Panel.

Ms. Phillips recognized and thanked Mr. Smallwood for his contributions to the probable cause panel meetings and his dedication to the massage therapy profession.

#### **Executive Director's Report – Christy Robinson**

#### **28. Ratification of Licensure - Massage Therapists 09/30/2014 to 12/21/2014**

**Action taken:** Ms. Nixon made a motion to ratify the massage therapist licenses. Motion seconded by Ms. Phillips, which passed unanimously.

#### **29. 2015 Legislative Update**

Ms. Robinson provided the board with information regarding HB369; this upcoming bill would require the display of a human trafficking notice be posted in businesses designated in the bill.

#### **44. Massage Therapy House Bill 1065 Update**

Ms. Robinson updated the Board on compliance rates and implementation status of HB1065. As of January 22, 2015, 55% of massage therapists are in compliance with this bill.

#### **Legislative Liaison Report – Bridget Burke-Wammack**

## **Public Relations Liaison Report - Bridget Burke-Wammack**

Ms. Burke-Wammack held discussion on her recent attendance to the AMTA annual meeting held in Jacksonville, FL on January 9-10, 2015.

## **Vice Chair Report – Lydia Nixon**

No report at this time.

## **Rules Liaison Report – Lydia Nixon and Sharon Phillips**

No report at this time.

## **School Liaison Report – Jonathan Walker**

### **30. Massage Therapy Program Approval 09/30/2014 to 12/21/2014**

**Action taken:** Mr. Burke-Wammack made a motion to ratify the massage therapy programs. Motion seconded by Ms. Nixon, which passed unanimously.

## **Continuing Education Liaison Report – Sharon Phillips**

### **31. Approved Pro Bono Requests 09/30/2014 to 12/21/2014**

**Action taken:** Ms. Burke-Wammack made a motion to ratify the pro bono requests. Motion seconded by Ms. Nixon, which passed unanimously.

### **32. Approved CE Providers 09/30/2014 to 12/21/2014**

Ms. Phillips provided an update on the status of continuing education provider applications under review.

### **33. Review of Continuing Education Courses – General**

Ms. Alday addressed the board on the continuing education provider process.

### **34. Review of Continuing Education Courses – Animal Massage**

This item was tabled until the next meeting.

### **45. 2014 CE Broker Course Statistics 01/01/2014 to 12/31/2014**

Ms. Alday addressed the board and provided statistical data showing an increase in continuing education provider applications during renewal years. Discussion was held for the potential in needing a temporary continuing education liaison to assist in reviewing applications if board staff notices an increase in new submissions as presented in the data given.

## **Budget Liaison Report – Robyn Havard**

### **46. Board Expenditures, period ending September 30, 2014**

Ms. Havard presented the board with the current expenditures report. Discussion was held regarding unlicensed activity and the state of current funds.

## **Unlicensed Activity Report – Lydia Nixon**

No report at this time.

## **Healthy Weight Liaison Report – Jonathan Walker**

No report at this time.

## **\*RULES DISCUSSION**

### **35. Rule Title 64B7-33.001, F.A.C. – FSMTA Proposed Change**

### **47. Rule Title 64B7-33.001, F.A.C. – FSMTA Proposed Change, Sharon Phillips**

Alex Spassoff, JD, addressed the board on the proposed change on behalf of FSMTA. Karen Roth, AMTA Florida Chapter, and Iris Burman, Educating Hands, also addressed the board on the Rule change proposal. After lengthy discussion, Ms. Nixon made a motion not to approve the proposed changes. Motion seconded by Ms. Phillips, which passed unanimously.

*(lunch break)*

## **\*GENERAL BUSINESS DISCUSSION**

### **36. Chapter 480, F.S. – FSMTA 2015 Legislative Proposal, December 2014**

### **48. Chapter 480, F.S. – FSMTA 2015 Legislative Proposal, Sharon Phillips**

### **37. Chapter 480, F.S. – BOMT 2015 Legislative Proposal, July 2014**

### **49. Chapter 480, F.S. – BOMT 2015 Legislative Proposal, Sharon Phillips**

The above items were discussed en masse.

Ms. Roth addressed the Board and members of the audience to address her concerns with the FSMTA's legislative proposal. She believes some of these changes may be dangerous to the public and would like to see more collaboration from associations and stakeholders when proposing legislative changes.

After lengthy discussion of the FSMTA legislative proposal for Chapter 480, F.S., the Board came to the following consensus regarding their changes to the massage practice act:

### **480.033(3), F.S.**

The Board supports changing the term colonic irrigation to the profession standard "colon hydrotherapy".

(3)“Massage’ means the manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including ~~colonic irrigation~~ colon hydrotherapy, or thermal therapy;...”

The Board is not in support of the proposed changes below as pharmacology is beyond the scope of practice for massage therapy and does not further protection of the public. Also, the addition of the sentence beginning with, “for the purposes of...” narrows the scope of practice in the Board’s opinion.

“... any electrical or mechanical device; or the application to the human body of a chemical, pharmaceutical (under standards adopted by the board), or herbal preparation; for the purposes of relaxation, facilitation, rehabilitation, symptom alleviation or homeostasis related to conditions, specific conditions, or injuries of the patient or client.”

**480.033(4) and (5), F.S.**

The Board is not in support of the below changes. During the discussion it was determined that a therapist may already perform an assessment.

(4) “Massage therapist” means a person licensed as required by this act, who performs a massage therapy assessment and administers massage for compensation. A massage therapist may:

(a) Develop a plan of massage treatment, or

(b) Refer to a physician or physician assistant licensed under chapter 458, an osteopathic physician licensed under chapter 459, a chiropractic physician licensed under chapter 460, a podiatric physician licensed under chapter 461, and advanced registered nurse practitioner licensed under part 1 of chapter 464 or a dentist licensed under chapter 466 for further evaluation.

(5) “Massage Therapy Assessment” means an evaluation that focuses on patient history, examination and development of plan of care to determine the type of massage therapy required.

**480.041(1)(c) and 480.041(3), F.S.**

The Board supports the below addition of “massage therapy” to define the type of national examination.

~~(c) Has received a passing grade on an examination administered by the department~~ passed a national massage therapy examination in accordance with rules adopted by the board.

(3) Upon an applicant passing the a national massage therapy examination and paying the initial licensure fee, the department shall issue to the applicant a license, valid until the next scheduled renewal date, to practice massage therapy.

**480.046(1)(n), F.S.**

The Board does not support the addition of “temporary or permanent”, but does support the change from “sports” event to “special” event.

(n) Practicing massage at a site, location, or place which is not duly licensed as a massage establishment, except that a massage therapist, as provided by rules adopted by the board, may provide massage services, excluding ~~colonic irrigation~~ colon hydrotherapy, at the temporary or permanent residence of a client, at the office of the client, at a ~~sports~~ special event, at a convention, or at a trade show.

**480.046(1)(q), F.S.**

The board is in support of the proposed change below upon removal of “in rendering or providing services.”

(q) Failure to maintain minimal standards for record keeping as defined by Board rule, in rendering or providing services.

**38. Comments from Karen Roth, AMTA Florida Chapter President**

Ms. Roth submitted a statement regarding minimal standards for record keeping and suggested using the Board of Chiropractic Medicine’s standards as a tool when drafting language.

**39. 2015 Chair and Vice-Chair Elections**

**Action Taken:** After discussion, Ms. Burke-Wammack made a motion to elect Ms. Nixon as Vice-Chair for 2015. Motion seconded by Ms. Havard, which passed unanimously.

**Additional Action Taken:** After discussion, Ms. Nixon made a motion to elect Ms. Burke-Wammack as Board-Chair for 2015. Motion seconded by Ms. Havard, which passed unanimously.

**\*OLD BUSINESS**

**\*NEW BUSINESS**

**\*INFORMATIONAL**

**Meeting recessed at 3:25pm.**

*FRIDAY, January 23, 2015*

**ADMINISTRATIVE PROCEEDINGS**

**Applicants with History**

**19. Karen Catoe**

Applicant was present without counsel, but with Matthew Gunter, Everest University. Applicant was sworn in by the court reporter.

**Action Taken:** After discussion, Ms. Burke-Wammack moved to grant the license with conditions of being issued a letter of concern, submit an amended application, and a \$200.00 administrative fine. The Executive



Director is delegated the authority to issue the license once the amended application has been received by board staff and the fine has been paid. Motion seconded by Ms. Nixon, which failed 2/2 with Ms. Phillips and Ms. Havard opposing the motion.

**Additional Action Taken:** After discussion, Ms. Burke-Wammack moved to grant the license with conditions of being issued a letter of concern, submit an amended application, and a \$500.00 administrative fine. The Executive Director is delegated the authority to issue the license once the amended application has been received by board staff and the fine has been paid. Motion seconded by Ms. Havard, which passed unanimously.

## 20. Yuhua Liang

Applicant was present with Hwegie Lin, translator. Both were sworn in by the court reporter.

**Action Taken:** After discussion, Ms. Burke-Wammack moved to grant the license unencumbered. Motion seconded by Ms. Havard, which passed unanimously.

## 21. Xiaoqing Liu

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 unencumbered. Motion seconded by Ms. Nixon, which passed unanimously.

## 22. Xin Osborn

Applicant was present without counsel. Eric Weigand was also present. Both were sworn in by the court reporter.

**Action Taken:** After discussion, Ms. Nixon moved to grant the license unencumbered. Motion seconded by Ms. Burke-Wammack, which passed unanimously.

**Additional Action Taken:** Ms. Burke-Wammack moved to open the item back up for discussion. Motion seconded by Ms. Nixon.

**Additional Action Taken:** After discussion, Ms. Burke-Wammack moved to grant the license with conditions of being issued a letter of concern and a \$500.00 administrative fine. The Executive Director is delegated the authority to issue the license once the fine has been paid. Motion seconded by Ms. Phillips, which passed unanimously.

## 23. Thomson Chancellor Witzigman III

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 conditions of being issued a letter of concern and a \$500.00 administrative fine. The Executive Director is delegated the authority to issue the license once the fine has been paid. Motion seconded by Ms. Phillips, which passed unanimously.

***(moved to Applicants with Out of State Education)***

## Applicants with Out of State Education

### **24. Barbara Ramos**

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

**Action Taken:** After discussion, Ms. Phillips moved to grant the license with the condition that the applicant must submit documentation of completion of 11 hours of education in hydrotherapy at a board-approved massage program or through a board-approved continuing education provider. The Board delegates to the Executive Director the authority to review and approve the documentation and issue the license. Motion seconded by Ms. Burke-Wammack, which passed unanimously.

*(moved back to Applicants with History)*

### **40. Karen Halcyon**

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 unencumbered. Motion seconded by Ms. Nixon, which passed unanimously.

## Applicants with Foreign Education

### **41. John Coronado**

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

**Action Taken:** After discussion, Ms. Havard moved to grant the license unencumbered. Motion seconded by Ms. Phillips, which passed unanimously.

## Petition for Declaratory Statement

### **25. Janet Jean Hardy**

After lengthy discussion, the board decided to table this item and require the petitioner's appearance at one of the next two board meetings.

**(moved to additional Public Relations Liaison Report)**

### **Public Relations Liaison Report - Bridget Burke-Wammack**

Ms. Burke-Wammack was invited to speak at the Successful Start program at the FSMTA Annual Convention and Trade Show in Orlando, FL on June 25-28, 2015.

**The meeting adjourned approximately 10:30 a.m.**