



DRAFT MEETING MINUTES

**Board of Massage Therapy
General Business Meeting
Conference Call
November 9, 2015
9:00 a.m., EST**

**Meet Me # (888) 670-3525
Participation Code: 428.436.4155**

Call to Order:

Ms. Burke-Wammack, Chair, called the meeting to order at 9:15 am. 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, left call at 12:00pm
Sharon Phillips, LMT, AP, DOM
Jonathan Walker, LMT
Robyn Dohn Havard, PLCS
Guery Davis, PhD

BOARD COUNSEL:

Lee Ann Gustafson, Esq.
Assistant Attorney General

STAFF PRESENT:

Claudia Kemp, Executive Director
Lee Ann Gustafson, Esq., Board Counsel
Alexandra Alday, Program Operations Administrator
Gerry Nielsen, Regulatory Specialist II

COURT REPORTER:

For The Record
(850) 224-0728

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: <http://floridasmassagetherapy.gov/meeting-information/past-meetings/>

ADMINISTRATIVE PROCEEDINGS

Applicants with History

1. Fang Fang

Applicant was present without counsel.

Action Taken: After discussion, Ms. Burke-Wammack moved to grant the license with the condition the Board investigate exam score validation with FSMTB. The Executive Director is delegated authority to issue the license upon receiving a valid exam score for Fang Fang from FSMTB. Ms. Phillips seconded the motion, which passed unanimously.

2. Huiming Guo

Applicant was not present nor represented by counsel.

Action Taken: After discussion, Ms. Phillips moved to grant the license with the condition the applicant submit a corrected application. The Executive Director is delegated authority to issue the license upon receiving a corrected application. Ms. Burke-Wammack seconded the motion, which passed unanimously.

3. Yuan Zhang

Applicant was not present nor represented by counsel.

Action Taken: After discussion, Mr. Walker moved to grant the license with conditions of being issued a letter of concern and a \$500 administrative fine. The Executive Director is delegated the authority to issue the license once the fine has been paid. Motion seconded by Ms. Havard, which passed unanimously.

4. Shiyong Li

Applicant was present without counsel.

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

Applicants with Out of State Education

5. Jessica Lessard

Applicant was present without counsel.

Action Taken: After discussion, Ms. Phillips moved to grant the license with the condition the applicant submit a corrected application. The Executive Director is delegated authority to issue the license upon receiving a corrected application. Ms. Burke-Wammack seconded the motion, which passed unanimously.

6. Aradia Robertson

Applicant was present without counsel.

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

Petition for Variance or Waiver

7. Mandalyn Kellogg

Applicant was not present nor represented by counsel.

Action Taken: Ms. Burke-Wammack moved to grant the petition as applicant has met the purpose of the underlying statute and that application of the rule would impose a substantial hardship. Motion seconded by Ms. Havard, which passed unanimously.

Action Taken: After discussion, Ms. Burke-Wammack moved to grant the license unencumbered. Motion seconded by Ms. Havard, which passed 5/1 with Ms. Phillips in opposition.

RULES DISCUSSION

33. Rule Title 64B7-32.002, FAC. – Proof of Graduation

Action Taken: After discussion, Ms. Burke-Wammack made a motion to approve with the removal of “counterfeit proof paper” requirement, in addition to opening Rule 64B7-32.002, F.A.C. for development, and approved the language as presented. Motion seconded by Ms. Nixon, which passed 5/1 with Ms. Phillips opposing.

Action on SERC Questions: Ms. Burke-Wammack moved to find that the proposed changes would not have an adverse impact on small business, that the proposed changes would not have a direct or indirect impact on regulatory costs, and the proposed changes would not directly or indirectly increase regulatory costs to any entity in excess of \$200,000 in the aggregate within one year after implementation, no SERC was needed and legislative ratification was not required. Ms. Nixon seconded the motion, which passed unanimously.

Petition for Variance or Waiver

8. Taylor Dangerman

Applicant was not present nor represented by counsel.

Action Taken: Ms. Burke-Wammack moved to deny the petition, as petitioner did not demonstrate how the underlying purpose of the statute would be met by accepting a copy of her transcript from her rather than an official transcript. Motion seconded by Ms. Phillips, which passed unanimously.

Action Taken: After discussion, Ms. Burke-Wammack moved to deny the license, as the applicant has not established eligibility for licensure pursuant to Section 480.041, Florida Statutes, because she did not provide an official transcript. In addition, the applicant did not list her previous license or explain what happened to her previous license. Motion seconded by Ms. Phillips, which passed unanimously.

9. Martha Kelly

Applicant was not present nor represented by counsel.

Action Taken: Ms. Burke-Wammack moved to grant the petition as applicant has met the purpose of the underlying statute and that application of the rule would impose a substantial hardship. Motion seconded by Dr. Davis, which passed unanimously.

No action taken on the application as it is incomplete at this time.

10. Elizabeth Burland

Applicant was present without counsel.

Action Taken: Ms. Burke-Wammack moved to grant the petition as the applicant has met the purpose of the underlying statute, and application of the rule would cause a substantial hardship. Motion seconded by Ms. Nixon, which passed unanimously.

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

11. Laura Randich

Applicant was not present nor represented by counsel.

Action Taken: Ms. Burke-Wammack moved to grant the petition as the applicant has met the purpose of the underlying statute, and application of the rule would cause a substantial hardship. Motion seconded by Ms. Nixon, which passed unanimously.

Action Taken: After discussion, Ms. Phillips moved to deny the license as applicant is missing the following education hours for licensure: 80 hours of basic massage theory & history, 50 hours of anatomy & physiology, 7 hours of theory and practice of hydrotherapy, and 2 hours of professional ethics. Motion seconded by Mr. Walker, which passed 5/1 with Ms. Burke-Wammack opposing the motion.

34. Nicole Panella

Applicant was not present nor represented by counsel. Ms. Phillips and Ms. Nixon recused themselves, as they had not had an opportunity to review the material.

Action Taken: After discussion, Ms. Havard moved to grant the license unencumbered. Motion seconded by Ms. Burke-Wammack, which passed 4/0.

(break)

REVIEW AND APPROVAL OF MINUTES

12. July 15, 2015, Rules Workshop

Ms. Burke-Wammack made a motion to approve the minutes as written. Ms. Nixon seconded the motion, which carried unanimously.

13. July 16-17, 2015, General Business Meeting Minutes

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

14. September 9, 2015, Telephone Conference Call Minutes

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

15. September 25, 2015, Telephone Conference Call Minutes

Ms. Burke-Wammack made a motion to approve the minutes as written. Ms. Havard seconded the motion, which carried unanimously.

REPORTS

Chair Report – Bridget Burke-Wammack

16. SWOT Presentation from Annual Board Chairs & Vice-Chairs Meeting

Ms. Burke-Wammack gave a report to the Board from the Annual Board Chairs & Vice-Chairs meeting, which she and Ms. Nixon attended.

Executive Director's Report – Claudia Kemp, Executive Director

17. Board Staff Update

Ms. Kemp shared some of the workload statistics from September and expressed her eagerness to work with the Board in the future.

The Board welcomed Ms. Kemp and looks forward to working together.

18. Ratification of Licensure - Massage Therapists 06/23/2015 to 09/29/2015

Action taken: Ms. Burke-Wammack moved to ratify the massage therapist licenses. Motion seconded

by Ms. Phillips, which passed unanimously.

School Liaison Report – Jonathan Walker

19. Massage Therapy Program Approval 06/23/2015 to 09/29/2015

No massage therapy programs approved during this time.

Continuing Education Liaison Report – Sharon Phillips

20. Approved Pro Bono Requests 06/23/2015 to 09/29/2015

Action taken: Ms. Burke-Wammack moved to ratify the pro bono requests. Motion seconded by Ms. Phillips, which passed unanimously.

21. Approved CE Providers 06/23/2015 to 09/29/2015

Action taken: Ms. Burke-Wammack moved to ratify the approved CE providers. Motion seconded by Dr. Davis, which passed unanimously.

Budget Liaison Report – Robyn Havard

22. Board Expenditures Report, period ending June 30, 2015

Ms. Havard presented the board with the current expenditures report.

Healthy Weight Liaison Report – Jonathan Walker

23. Employee Wellness

24. September 23, 2015 Healthiest Weight Liaison Strategy Development

Mr. Walker reminded the Board and those in attendance that this is not just an issue in Florida, but a nationwide epidemic. Mr. Walker reported that in 2013, Florida was ranked as having the 24th healthiest weight in the nation and today ranks 8th.

Board Counsel Report – Lee Ann Gustafson, Esq.

25. US Supreme Court Ruling in *North Carolina State Board of Dental Examiners v. FTC*: Overview, Implications, and the New Regulatory Landscape

26. US Supreme Court Syllabus: *North Carolina State Board of Dental Examiners*

27. FTC Staff Guidance on Active Supervision of State Regulatory Boards Controlled by Market Participants

Ms. Gustafson confirmed that the Office of the Attorney General has staff that specializes in Anti-Trust Laws that review all board rule language changes. Ms. Burke-Wammack asked Board staff to research if any legislation is being drafted to address this topic and how this affects Board members.

RULES DISCUSSION

28. Rule Title 64B7-26.002, FAC. - Licensure of Massage Establishments

- Draft - DH-MQA 1263, "Massage Establishment Licensure Application," (Rev. 10/15)
- Draft - 64B7-26.002, F.A.C., Licensure of Massage Establishments, October 2015

Action Taken: After discussion, Ms. Burke-Wammack made a motion to approve the addition of "date ready for inspection" question, in addition to opening Rule 64B7-26.002, F.A.C. for development, and approved the language as presented. Motion seconded by Mr. Walker, which passed unanimously.

Action Taken: After discussion, Ms. Burke-Wammack made a motion to approve the removal of recommendation letter requirement, in addition to opening Rule 64B7-26.002, F.A.C. for development, and approved the language as presented. Motion seconded by Ms. Havard, which passed unanimously.

Action on SERC Questions: Ms. Burke-Wammack moved to find that the proposed changes would not have an adverse impact on small business, that the proposed changes would not have a direct or indirect impact on regulatory costs, and that the proposed changes would not directly or indirectly increase regulatory costs to any entity in excess of \$200,000 in the aggregate within one year after implementation, no SERC was needed and legislative ratification was not required. Dr. Davis seconded the motion, which passed unanimously.

29. Rule Title 64B7-26.007, FAC. – Transfer of Massage Establishment License

- Draft - DH-MQA 1264, "Massage Establishment Change of Location/Name Application," (Rev. 10/15).
- Draft - 64B7-26.007, F.A.C., Transfer of Massage Establishment License, October 2015

Action Taken: After discussion, Ms. Burke-Wammack made a motion to approve the addition of "date ready for inspection" question, in addition to opening Rule 64B7-26.007, F.A.C. for development, and approved the language as presented. Motion seconded by Ms. Phillips, which passed unanimously.

Action Taken: After discussion, Ms. Burke-Wammack made a motion to approve the removal of recommendation letter requirement, in addition to opening Rule 64B7-26.007, F.A.C. for development, and approved the language as presented. Motion seconded by Dr. Davis, which passed unanimously.

Action on SERC Questions: Ms. Burke-Wammack moved to find that the proposed changes would not have an adverse impact on small business, that the proposed changes would not have a direct or indirect impact on regulatory costs, and that the proposed changes would not directly or indirectly increase regulatory costs to any entity in excess of \$200,000 in the aggregate within one year after implementation, no SERC was needed and legislative ratification was not required. Dr. Davis seconded the motion, which passed unanimously.

30. Rule Title 64B7-28.010, FAC. – Requirements for Board Approval of Continuing Education Programs

- Correspondence from Brock Ingmire, *Federation of State Massage Therapy Boards (FSMTB), Government Relations Specialist*
- FSMTB License Renewal Program Information

Mr. Brock Ingmire, FSMTB Government Relations Specialist, requested this item be moved to the December 9,

2015 general business meeting so he may be present during discussion and to answer any questions board members may have.

31. Rule Title 64B7-30.004, FAC. – Citations

Action Taken: After discussion, Ms. Burke-Wammack made a motion to approve the removal of Rule Title 64B7-30.004(h) and (l), and add (n) F.A.C., in addition to opening Rule Title 64B7-30.004, F.A.C. for development, and approved the language as presented. Motion seconded by Ms. Phillips, which passed unanimously.

32. Rule Title 64B7-30.005, FAC. – Mediation

Action Taken: After discussion, Ms. Burke-Wammack made a motion to approve the removal of Rule Title 64B7-30.005(12) and (14), F.A.C., in addition to opening Rule Title 64B7-30.005, F.A.C. for development, and approved the language as presented. Motion seconded by Mr. Walker, which passed unanimously.

GENERAL BUSINESS DISCUSSION

FSMTB Examination Contract Preliminary Discussion

The current contract expires June 2016. A copy of the current contract will be on the December 9, 2015 general business meeting materials for further discussion. Brock Ingmire, FSMTB Government Relations Specialist, will be present during discussion to answer any questions board members may have.

OLD BUSINESS

NEW BUSINESS

ADJOURN

There being no further business, the meeting adjourned at 12:22pm.