

FLORIDA | Board *of* Massage Therapy

DRAFT MINUTES

May 1-2, 2014

Renaissance at Seaworld
6677 Sea Harbor Drive
Orlando, FL 32821



Bridget Burke-Wammack, LMT, CLT
Chair

Lydia Nixon, LMT,
Vice-Chair

Christy Robinson
Acting Executive Director

THURSDAY, May 1, 2014

The meeting was called to order by Ms. Burke-Wammack, Vice-Chair, at approximately 9:07 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
Sharon Phillips, LMT, AP, DOM
Jonathan Walker, LMT
Robyn Dohn Havard, PLCS
Guery Davis, PhD

BOARD COUNSEL:

Lee Ann Gustafson, Esq.
Senior Assistant Attorney General

STAFF PRESENT:

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

DEPARTMENT PROSECUTING ATTORNEYS:

Sharmin Hibbert, Esq., Assistant General Counsel
Oaj Gilani, Esq., Assistant General Counsel
Lealand McCharen, Esq., Assistant General Counsel

COURT REPORTER:

Dempsey Berryhill
Phone: 813.229.8225

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.

DISCIPLINARY PROCEEDINGS

Motion to Vacate or Amend Final Order of Relinquishment

1. SHU YUAN SUN, LMT CASE # 2013-05571

Respondent was present with counsel, Martin McDonnell, Esq.

Respondent requested the Board of Massage Therapy accept the Motion to Vacate or Amend the Final Order of Relinquishment.

Action Taken: Ms. Ford moved to deny the motion to vacate or amend final order. Motion seconded by Ms. Nixon, which carried unanimously.

Settlement Agreements

1. GUIPING DIAMOND, LMT CASE # 2012-11850 PCP: Haynes & Buckley

Respondent was not present nor represented by counsel, Edward Carhart, Esq.

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

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

Action Taken: Ms. Burke-Wammack moved to accept the Settlement Agreement. Motion seconded by Ms. Nixon, which carried 6/1 with Ms. Ford in opposition.

Penalty Imposed: Suspension of license until completion of Florida laws and rules course, HIV/AIDS course, prevention of medical errors course, and acceptable out-of-state coursework is provided.

2. HAI ZHEN GONG, LMT

CASE # 2012-11890

PCP: Haynes & Buckley

Respondent was not present nor represented by counsel, Bernard M. Cassidy, Esq.

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

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

Action Taken: Ms. Burke-Wammack moved to accept the Settlement Agreement. Motion was seconded by Ms. Nixon, which carried unanimously.

Penalty Imposed: Suspension of license until completion of Florida laws and rules course, HIV/AIDS course, prevention of medical errors course, and acceptable out-of-state coursework is provided.

3. JUN P. HAO, LMT

CASE # 2012-11912

PCP: Haynes & Buckley

Respondent was not present nor represented by counsel, Martin P. McDonnell, Esq.

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

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

Action Taken: Ms. Nixon moved to accept the Settlement Agreement. Motion seconded by Ms. Ford, which carried unanimously.

Penalty Imposed: Suspension of license until completion of Florida laws and rules course, HIV/AIDS course, prevention of medical errors course, and acceptable out-of-state coursework is provided.

4. WEI HAO, LMT

CASE # 2012-11915

PCP: Haynes & Buckley

Respondent was not present nor represented by counsel, Bernard M. Cassidy, Esq.

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

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

Action Taken: Ms. Nixon moved to accept the Settlement Agreement. Motion seconded by Ms. Havard, which carried 6/1 with Ms. Ford in opposition.

Penalty Imposed: Suspension of license until completion of Florida laws and rules course, HIV/AIDS course, prevention of medical errors course, and acceptable out-of-state coursework is provided.

5. YUPING JIANG, LMT

CASE # 2012-12154

PCP: Haynes & Buckley

Respondent was not present nor represented by counsel, Martin P. McDonnell, Esq.

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

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

Action Taken: Ms. Nixon moved to accept the Settlement Agreement. Motion seconded by Ms. Havard, which carried 6/1 with Ms. Ford in opposition.

Penalty Imposed: Suspension of license until completion of Florida laws and rules course, HIV/AIDS course, prevention of medical errors course, and acceptable out-of-state coursework is provided.

7. LYNDA SUE COLT, LMT

CASE # 2013-04099

PCP: Smallwood & Phillips

Respondent was not present nor represented by counsel.

Ms. Phillips was recused due to participation on the probable cause panel. Ms. Gilani represented the Department and presented the case to the board.

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

Action Taken: Ms. Nixon moved to accept the Settlement Agreement. Motion seconded by Ms. Havard, which carried 6/0.

Penalty Imposed:

- Suspension until complies with all requirements of the Final Order for case # 2012-02763
- \$199.69 costs

10. MEIHUA QIU, LMT

CASE # 2012-13663

PCP: Harrison & Nixon

Respondent was not present nor represented by counsel, Maggie M. Schultz, Esq.

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

Action Taken: Ms. Ford moved to reject the Settlement Agreement. Motion seconded by Ms. Phillips, which carried 6/0.

Penalty Imposed: Suspension of license until completion of Florida laws and rules course, HIV/AIDS course, prevention of medical errors course, and acceptable out-of-state coursework is provided.

13. SHIYING PENG, LMT

CASE # 2012-13362

PCP: Haynes & Buckley

Respondent was not present. Counsel, Lance Leider, Esq., was present.

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

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

Action Taken: Ms. Burke-Wammack moved to accept the Settlement Agreement. Motion seconded by Ms. Havard, which carried 6/1 with Ms. Ford in opposition.

Penalty Imposed: Suspension of license until completion of Florida laws and rules course, HIV/AIDS course, prevention of medical errors course, and acceptable out-of-state coursework is provided.

6. JING MASSAGE, INC.

CASE # 2013-14122

PCP: Harrison & Walker

Respondent was not present nor represented by counsel.

Mr. Walker 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)(f) and (k), F.S.

Action Taken: Ms. Ford moved to accept the Settlement Agreement. Motion seconded by Ms. Havard, which carried 5/1 with Ms. Phillips in opposition.

Penalty Imposed:

- Reprimand
- \$1,500 fine
- \$831.77 costs

8. DEBORAH K. EDENFIELD, LMT

CASE # 2012-15664

PCP: Harrison & Nixon

Respondent was not present nor represented by counsel.

Ms. Nixon was recused due to participation on the probable cause panel. Ms. Gilani represented the Department and presented the case to the board.

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

Action Taken: Ms. Burke-Wammack moved to reject the Settlement Agreement. Motion seconded by Ms. Phillips, which carried 5/1 with Ms. Havard in opposition.

Additional Action Taken: Ms. Ford moved to counter offer a reprimand, \$500 fine, and impose \$595.47 costs. Motion seconded by Ms. Burke-Wammack, which passed 6/0.

9. LI ZHAO, LMT

CASE # 2012-17264

PCP: Harrison & Nixon

Respondent was present with counsel, Thomas D. Sommerville Esq.

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 480.046(1)(c), F.S.

Action Taken: Ms. Ford moved to reject the Settlement Agreement based on previous discipline. Motion seconded by Mr. Walker, which carried 6/0.

12. XIU HUA YANG, LMT

CASE # 2012-17272

PCP: Harrison & Nixon

Respondent was not present. Counsel, Thomas D. Sommerville, 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 480.046(1)(c), F.S.

Action Taken: Ms. Ford moved to reject the Settlement Agreement based on previous discipline and violation of previous Final Order. Motion seconded by Ms. Burke-Wammack, which carried 6/0.

(break)

Informal Hearings

1. RELAX MASSAGE

CASE # 2013-11415

PCP: Harrison & Walker

Respondent, Yanling Qi, was present without counsel. Interpreter, Xue Wang, was present. Both were sworn in by the court reporter.

Ms. Hibbert represented the Department and presented the case to the board. Mr. Walker was recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Sections 480.046(1)(p) through 480.047(1)(c), F.S.

Action Taken: Ms. Burke-Wammack moved to accept the investigative report into evidence for the purpose of imposing a penalty. Motion seconded by Ms. Ford, which carried 6/0.

Ms. Ford moved to find the Respondent was properly served and promptly responded requesting an informal hearing. Motion seconded by Ms. Phillips, which carried 6/0.

Ms. Phillips moved to adopt the findings of fact as set forth in the administrative complaint as the Board's conclusions of fact in this proceeding. Motion seconded by Ms. Burke-Wammack, which carried 6/0.

Ms. Ford moved to adopt the conclusions of law as set forth in the Administrative Complaint, and find that this constitutes a violation of the practice act. Motion seconded by Ms. Nixon, which carried 6/0.

Respondent raised issues of material fact during the hearing.

Additional Action Taken: Ms. Ford moved to reject the findings of fact set forth in paragraph 5 of the administrative complaint and to refer this case to the Division of Administrative Hearings for a hearing pursuant to Section 120.57(2), Florida Statutes. Motion seconded by Ms. Phillips, which passed 6/0.

Settlement Agreements

11. RUSSIAN & TURKISH BATH

CASE # 2012-14841

PCP: Harrison & Nixon

Respondent was not present nor represented by counsel.

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 480.046(1)(o) and 480.047(1)(c), F.S.

Action Taken: Ms. Ford moved to accept the Settlement Agreement. Motion seconded by Mr. Walker, which carried 6/0.

Penalty Imposed:

- Reprimand
- \$1000 fine within one year of filed Final Order
- \$933.15 costs within one year of filed Final Order

ADMINISTRATIVE PROCEEDINGS

Motion for Reconsideration of Final Order

1. Min Liu

Applicant was present with counsel, Thomas D. Sommerville, Esq. Applicant was sworn in by court reporter.

Action Taken: Ms. Nixon moved to deny the motion for reconsideration of final order. Motion seconded by Ms. Ford, which passed unanimously.

DISCIPLINARY PROCEEDINGS

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.*

11. JILL SCOTT, LMT

CASE # 2012-10714

PCP: Smallwood & Phillips

Respondent was not present. Counsel, Joseph Pappacoda, Esq., was present.

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 Administrative Complaint: Sections 480.046(1)(f), F.S.

Action Taken: Ms. Burke-Wammack moved to impose the following penalty:

- Reprimand
- \$500 fine
- \$1,914.24 costs

Motion seconded by Ms. Havard, which carried 6/0.

24. THERESA CIPOLLONI, LMT

CASE # 2013-09776

PCP: Smallwood & Burke-Wammack

Respondent was present without 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)(p) and 456.072(1)(q), F.S.

Action Taken: Ms. Ford moved to dismiss this case and allow Respondent to pay fine and costs from previous final order within two years. Motion seconded by Ms. Nixon, which carried 6/0.

***REPORTS**

School Liaison Report – Karen Ford

2. Massage School Approval: Tai Chong School of Massage and Bodywork

Wanda Harris, owner, was present without Counsel. Ms. Ford withdrew this item from the agenda.

(lunch break)

Human Trafficking Presentation, Sergeant Patrick Guckian

ADMINISTRATIVE PROCEEDINGS

Applicant Informal Hearings

1. Robert J. Bradley

Applicant was present without counsel.

Mr. Bradley requested an informal hearing after being issued a Notice of Intent to Deny at the December 2013 general business meeting conference call.

Action Taken: After discussion, Ms. Phillips moved to grant the license with the 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 by Ms. Burke-Wammack, which carried 6/0 with Ms. Ford not present during the vote.

(break)

DISCIPLINARY PROCEEDINGS

Voluntary Relinquishments

1. JUDITH GONZALEZ, LMT, CASE # 2012-06172 PCP: Smallwood & Burke-Wammack

Respondent was not present nor represented by counsel.

Ms. Burke-Wammack was recused due to participation on the probable cause panel. Ms. Hibbert represented the Department and presented the case to the Board

Action Taken: Ms. Ford moved to accept the voluntary relinquishment. Motion seconded by Ms. Havard, which carried 6/0.

2. JR. MOUNTAIN CORP, CASE # 2013-14604

PCP: Harrison & Walker

Respondent was not present nor represented by counsel.

Mr. Walker was recused due to participation on the probable cause panel. Ms. Hibbert represented the Department and presented the case to the Board

Action Taken: Ms. Ford moved to accept the voluntary relinquishment. Motion seconded by Ms. Havard, which carried 6/0.

Respondents were not present nor represented by counsel unless noted below. Ms. Hibbert represented the Department. The following voluntary relinquishment cases, items 3 through 12, were voted on en masse.

- | | |
|--|--------------------|
| 3. ANTONIO HERNANDEZ OLIVER, LMT, CASE # 2013-14495 | PCP: Waived |
| 4. YU FANG CUI, LMT, CASE # 2013-00076 | PCP: Waived |
| 5. JUNHONG LI, LMT, CASE # 2013-00261 | PCP: Waived |
| 6. RAFAEL A. MEANA, LMT, CASE # 2013-11413 | PCP: Waived |
| Attorney of record, Mario Cano, Esq. | |
| 7. MARITZA RUANO, LMT, CASE # 2012-10479 | PCP: Waived |
| 8. GREENLY RODRIGUEZ FERNANDINI, LMT, CASE # 2013-01269 | PCP: Waived |
| 9. YAN LI, LMT, CASE # 2013-00266 | PCP: Waived |
| 10. BIGHEAD JOE, INC., CASE # 2013-18566 | PCP: Waived |
| 11. ELI MEDICAL CENTER, INC., CASE # 2013-07927 | PCP: Waived |
| 12. BENNETT C. SEARLES, LMT, CASE # 2014-00506 | PCP: Waived |

Action Taken: Ms. Ford moved to accept the following voluntary relinquishments of licensure for the above listed cases. Motion seconded by Ms. Nixon, which passed unanimously

Recognition of Ms. Karen G. Ford

Ms. Burke-Wammack recognized Ms. Ford, former Board Chair, for her service on the Board of Massage Therapy from February 2009 - May 2014. Her service and leadership were instrumental in protecting the people of Florida.

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. YU ZI BAI, LMT

CASE # 2012-11570

PCP: Haynes & Buckley

Respondent was not present nor represented by counsel.

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

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

Action Taken: Ms. Ford moved to impose the following penalty:

- Revocation

Motion seconded by Ms. Nixon, which passed unanimously.

2. YU FU, LMT

CASE # 2012-11874

PCP: Haynes & Buckley

Respondent was not present nor represented by counsel.

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

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

Action Taken: Ms. Nixon moved to impose the following penalty:

- Revocation

Motion seconded by Ms. Ford, which passed unanimously.

3. XINYAN LI, LMT

CASE # 2012-12647

PCP: Haynes & Buckley

Respondent was not present nor represented by counsel.

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

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

Action Taken: Ms. Nixon moved to impose the following penalty:

- Revocation

Motion seconded by Ms. Ford, which passed unanimously.

4. JING MA-NOHRDEN, LMT

CASE # 2012-13350

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

Action Taken: Ms. Nixon moved to impose the following penalty:

- Revocation

Motion seconded by Ms. Havard, which passed unanimously.

5. FURONG LI, LMT

CASE # 2012-12545

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

Action Taken: Ms. Nixon moved to impose the following penalty:

- Revocation

Motion seconded by Ms. Ford, which passed unanimously.

6. FEI FEI LAN, LMT

CASE # 2012-12160

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

Action Taken: Ms. Nixon moved to impose the following penalty:

- Revocation

Motion seconded by Ms. Havard, which passed unanimously.

7. SHU HONG MENG, LMT

CASE # 2012-13353

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

Action Taken: Ms. Nixon moved to impose the following penalty:

- Revocation

Motion seconded by Ms. Havard, which passed unanimously.

8. MAGGIE LEON, LMT

CASE # 2012-18134

PCP: Smallwood & Buckley

Respondent was not present nor represented by counsel.

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)(II), F.S.

Action Taken: Ms. Phillips moved to impose the following penalty:

- Revocation

Motion seconded by Ms. Havard, which passed unanimously.

9. ZHEN JI PIAO, LMT

CASE # 2012-15666

PCP: Smallwood & Buckley

Respondent was not present nor represented by counsel.

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)(c), F.S.

Action Taken: Ms. Nixon moved to impose the following penalty:

- Revocation

Motion seconded by Ms. Phillips, which passed unanimously.

10. ANGELA BENCK, LMT

CASE # 2012-17160

PCP: Smallwood & Buckley

Respondent was not present nor represented by counsel.

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)(q), F.S.

Action Taken: Ms. Nixon moved to impose the following penalty:

- Suspension until respondent complies with all terms of final order in case # 2012-02733

Motion seconded by Ms. Havard, which passed unanimously.

11. MICHAEL A. STER, LMT

CASE # 2013-08907

PCP: Smallwood & Phillips

Respondent was not present nor represented by counsel.

Ms. Phillips was recused due to participation on the probable cause panel. Ms. Gilani represented the Department and presented the case to the Board.

Allegations of Administrative Complaint: Sections 480.046(1)(o) and 480.0485, F.S.

Action Taken: Ms. Nixon moved to impose the following penalty:

- Revocation
- Pay \$1,230.38 costs
- Pay \$1000 fine

Motion seconded by Ms. Havard, which carried 6/0.

13. FRANTZLEY MOISE, LMT

CASE # 2013-04388

PCP: Harrison & Walker

Respondent was not present nor represented by counsel.

Mr. Walker 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)(k), F.S.

Action Taken: Ms. Ford moved to impose the following penalty:

- Suspension of license until respondent complies with all terms of final order and provides proof of completion of required continuing education courses for 2009-2011 biennium
- Pay \$136.19 costs
- Pay \$750 fine

Motion seconded by Ms. Nixon, which carried 6/0.

14. CAROLINE XU MCDULLIN, LMT CASE # 2012-13352

PCP: Haynes & Buckley

This case was withdrawn from agenda.

15. BEI WANG, LMT

CASE # 2012-13813

PCP: Harrison & Nixon

Respondent was not present nor represented by counsel.

Ms. Nixon was recused due to participation on the probable cause panel. Ms. Gilani represented the Department and presented the case to the Board.

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

Action Taken: Mr. Walker moved to impose the following penalty:

- Revocation
- \$454.16 costs

Motion seconded by Ms. Havard, which carried 4/2 with both Ms. Burke-Wammack and Ms. Ford in opposition.

16. LI XIE, LMT

CASE # 2013-13913

PCP: Harrison & Nixon

Respondent was not present nor represented by counsel.

Ms. Nixon was recused due to participation on the probable cause panel. Ms. Gilani represented the Department and presented the case to the Board.

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

Action Taken: Ms. Phillips moved to impose the following penalty:

- Revocation

Motion seconded by Ms. Ford, which carried 6/0.

17. HUAYUE JIN, LMT

CASE # 2012-15665

PCP: Harrison & Nixon

Respondent was not present nor represented by counsel.

Ms. Nixon was recused due to participation on the probable cause panel. Ms. Gilani represented the Department and presented the case to the Board.

Allegations of Administrative Complaint: Sections 480.046(1)(o), 456.072(1)(h), and 480.0485, F.S.

Action Taken: Mr. Walker moved to impose the following penalty:

- Revocation
- Pay \$11,000 fine
- \$725.58 costs

Motion seconded by Ms. Ford, which carried 6/0.

18. LIN SONG, LMT

CASE # 2012-13675

PCP: Harrison & Nixon

Respondent was not present nor represented by counsel.

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

Action Taken: Ms. Phillips moved to impose the following penalty:

- Revocation

Motion seconded by Mr. Walker, which carried 6/0.

19. XIN WANG, LMT**CASE # 2012-13829****PCP: Harrison & Nixon**

Respondent was not present nor represented by counsel.

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

Action Taken: Mr. Walker moved to impose the following penalty:

- Revocation

Motion seconded by Ms. Ford, which carried 6/0.

20. JING XU, LMT**CASE # 2012-13939****PCP: Harrison & Nixon**

Respondent was not present nor represented by counsel.

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

Action Taken: Ms. Ford moved to impose the following penalty:

- Revocation

Motion seconded by Mr. Walker, which carried 6/0.

The following three cases, items 21-23, were withdrawn from the agenda.

21. VALERIE MARSHALL, LMT**CASE # 2013-00700****PCP: Smallwood & Burke-Wammack****22. CARMEN VENEGAS, LMT****CASE # 2013-15858****PCP: Smallwood & Burke-Wammack****23. DAO MASSAGE, INC.****CASE # 2013-14390****PCP: Smallwood & Burke-Wammack****25. PETER W. BOORAS, LMT****CASE # 2013-09776****PCP: Smallwood & 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)(k), F.S.

Action Taken: Ms. Havard moved to impose the following penalty:

- Suspension of license until respondent provides proof of completion of required continuing education courses for current biennium

Motion seconded by Ms. Ford, which carried 6/0.

PROSECUTOR'S REPORT**1. April 14, 2014 Massage Therapy Prosecutor's Report**

Action Taken: Motion made, seconded and passed to accept the prosecutor's report.

***REPORTS**

School Liaison Report – Karen Ford

1. Massage Therapy Program Approval 12/24/2013 to 04/15/2014

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

3. New School Approval Checklist (informational)
4. Program Hour Worksheet (informational)

Human Trafficking Report – Karen Ford

1. Input on Human Trafficking as part of massage therapy curriculum (informational)

Ms. Burke-Wammack appointed Ms. Nixon as Human Trafficking Liaison.

Chair Report – Bridget Burke-Wammack

No report at this time.

Legislative Liaison Report – Bridget Burke-Wammack

No report at this time.

Public Relations Liaison Report - Bridget Burke-Wammack

No report at this time.

Executive Director's Report – Christy Robinson, Acting Executive Director

1. Ratification of Licensure - Massage Therapists 12/24/2013 to 04/15/2014

Action taken: Motion made, seconded and carried to ratify the massage therapist licenses.

2. ELAP Coalition Statement (Informational)

Continuing Education Liaison Report – Sharon Phillips

1. Approved Pro Bono Requests 12/24/2013 to 04/15/2014

Action taken: Motion made, seconded and carried to ratify the pro bono requests.

2. Approved CE Providers 12/24/2013 to 04/15/2014

Action taken: Motion made, seconded and carried to ratify the CE providers.

FRIDAY, May 2, 2014

Healthy Weight Liaison Report – Jonathan Walker

Mr. Walker will be attending the upcoming meeting with all Healthy Weight Liaisons in July.

(recess at 4:42 p.m.)

The meeting was called to order by Ms. Burke-Wammack, Vice-Chair, at approximately 9:06 a.m. Those present for all or part of the meeting included the following:

MEMBERS PRESENT:

Bridget Burke-Wammack, LMT, CLT, Vice-Chair
Lydia Nixon, LMT
Sharon Phillips, LMT, AP, DOM
Jonathan Walker, LMT
Robyn Dohn Havard, PLCS
Guery Davis, PhD

MEMBERS ABSENT:

Karen Ford, M.S., LMT, Chair (*excused*)

BOARD COUNSEL:

Lee Ann Gustafson, Esq.
Senior Assistant Attorney General

STAFF PRESENT:

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

DEPARTMENT PROSECUTING ATTORNEYS:

Sharmin Hibbert, Esq., Assistant General Counsel
Oaj Gilani, Esq., Assistant General Counsel
Lealand McCharen, Esq., Assistant General Counsel

COURT REPORTER:

Dempsey Berryhill
Phone: 813.229.8225

ADMINISTRATIVE PROCEEDINGS

Applicants with History

3. Baoli Cao

Applicant was present with counsel, Kenneth Skinner, Esq. Applicant was sworn in by the court reporter.

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

14. Xia Peng

Applicant was present with counsel, Kenneth Skinner, Esq. Applicant was sworn in by the court reporter.

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

13. Li Peng

Applicant was present with counsel, Kenneth Skinner, Esq. Applicant was sworn in by the court reporter.

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

1. Brian Raymond Bing Bingham

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 undergoes an evaluation coordinated by the Professionals Resource Network (PRN), and complies with any and all terms and conditions imposed by PRN as a result of said evaluation. It is the duty of the applicant to contact the PRN within 30 days of the filed final order. If a contract is recommended, the applicant must sign a contract within 120 days of the filed final order. The Board delegates to the Executive Director the authority to accept the recommendation of PRN. Motion seconded by Ms. Nixon, which passed unanimously.

4. Vincent Solomon Carthane

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

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

5. Xiaoling Chin

Applicant was present with counsel, Qian Wan, Esq. 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.

8. Zhongli Gu

Applicant was present with counsel, Qian Wan, Esq. Applicant was sworn in by the court reporter.

Action Taken: After discussion, applicant requested a continuance and waived 90 days for board action.

18. Heping Su

Applicant was present with counsel, Qian Wan, Esq. 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.

11. Katherine Ellice Ketterer

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 Mr. Walker, which passed unanimously.

12. Hak Woo Lee

Applicant was present with wife, Myume Lee, and son Sang Lee, interpreter, without counsel. All present were sworn in by the court reporter.

Action Taken: After discussion, Ms. Phillips moved to continue this case until the disciplinary case against applicant's acupuncture license has been closed. Motion seconded by Mr. Walker, which passed unanimously.

(break)

17. Ricardo Rivera Tosabo

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

Dr. Ziegler, Medical Director of Professionals Resource Network (PRN), was present to answer questions from the Board.

Action Taken: After discussion, Ms. Nixon moved to grant the license with the condition that the applicant undergoes an evaluation coordinated by the Professionals Resource Network (PRN), and complies with any and all terms and conditions imposed by PRN as a result of said evaluation. It is the duty of the applicant to contact the PRN within 30 days of the filed final order. If a contract is recommended, the applicant must sign a contract within 120 days of the filed final order. The Board delegates to the Executive Director the authority to accept the recommendation of PRN. Motion seconded by Mr. Walker, which passed unanimously.

15. Beibei Qin

Applicant was present without counsel. Applicant's husband was also present. Applicant and husband were sworn in by the court reporter.

Action Taken: After discussion, applicant waived 90 days for board action in order to submit additional materials for consideration.

6. Aimee Victoria Erb

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 undergoes an evaluation coordinated by the Professionals Resource Network (PRN), and complies with any and all terms and conditions imposed by PRN as a result of said evaluation. It is the duty of the applicant to contact the PRN within 30 days of the filed final order. If a contract is recommended, the applicant must sign a contract within 120 days of the filed final order. The Board delegates to the Executive Director the authority to accept the recommendation of PRN. Motion seconded by Ms. Nixon, which passed unanimously.

19. Lilin Su

Applicant was present without counsel and with husband, James Stevens. Applicant and husband were sworn in by the court reporter.

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

22. Yin Zhang

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.

2. Amber Chena Burns

Applicant was not present nor represented by counsel.

Action Taken: After discussion, Ms. Burke-Wammack moved to grant the license with the following condition: Probation shall 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 by Mr. Walker, which passed unanimously.

(break)

Applicants with Foreign Education

2. Luis Fernando Rivera Rivera

Applicant was present without counsel. Mr. Ortiz served as translator for Mr. Rivera Rivera. Applicant and translator were sworn in by the court reporter.

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

Applicants with History

10. Amy Jaeger

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 Mr. Walker, which passed unanimously.

7. Stuart Richard Friedman

Applicant was not present nor represented by counsel.

Action Taken: After discussion, Ms. Nixon moved to deny and based on previous sexual misconduct in the massage therapy profession. Motion seconded by Mr. Walker, which passed unanimously.

9. Megan J. Halvey

Applicant was not present nor represented by counsel.

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

16. Haiyan Qin

Applicant was not present. Counsel, Hongwei Shang, Esq., was present.

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

20. Li Yun Tarsi

Applicant was not present. Counsel, Hongwei Shang, Esq., was present.

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

23. Xue Zhao Chen

Applicant was present with counsel, Hongwei Shang, Esq. Applicant was sworn in by the court reporter.

Action Taken: After discussion, Ms. Burke-Wammack moved to deny the license because applicant does not have sufficient hours of the following educational requirements for licensure: Hydrotherapy, Theory & History, Clinical Practicum and Ethics. Motion seconded by Ms. Nixon, which passed unanimously.

21. Douglas Alan Walker

Applicant was not present nor represented by counsel.

Action Taken: After discussion, Ms. Burke-Wammack moved to grant the license with the condition that the applicant undergoes an evaluation coordinated by the Professionals Resource Network (PRN), and complies with any and all terms and conditions imposed by PRN as a result of said evaluation. It is the duty of the applicant to contact the PRN within 30 days of the filed final order. If a contract is recommended, the applicant must sign a contract within 120 days of the filed final order. The Board delegates to the Executive Director the authority to accept the recommendation of PRN. Motion seconded by Ms. Nixon, which passed unanimously.

Continuing Education Provider Application

1. EZ Skincare and Wellness Center

Applicant Elena Zabala was present without counsel. Adriana Ayoub, applicant's daughter, also present. Both were sworn in by the court reporter.

Action Taken: After lengthy discussion, Ms. Phillips moved deny the application for continuing education provider approval for the reasons below:

Course #20-418361 Lymphatic Draining Massage

- (a) The subject matter does not support the number of hours to be awarded for the course.
- (b) There is no routine presented that addresses the progression necessary from one drainage area to the next, and there is no discussion of facial and neck water sheds
- (c) Learner objectives state six objectives, but the subject only covers five objectives.
- (d) There are no learner objectives or subject stated for the Final Practical Exam.

Course #20-401515 Reflexology Hands and Feet

- (a) The subject matter does not support the number of hours to be awarded for the course.
- (b) There is no reflexology sequence described in the subject matter.
- (c) A practical exam is scheduled for each learner objective, but there are no learner objectives or subject concerning the actual exam.

Course #20-429586 Tui Na

- (a) The course includes material outside the scope of practice of massage therapy as defined by Section 480.033(3), Florida Statutes, including assessing the use of Tui Na as an adjunct to acupuncture and assessing and correcting hip displacement.
- (b) Learner objectives are not paired with subject matter descriptions.
- (c) Learner objectives are included that are not covered in the course materials.
- (d) Learner objectives are not stated for all subjects covered.

Motion seconded by Ms. Nixon, which passed unanimously.

(lunch break)

Applicants with Foreign Education

1. Nichola M. Lake

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

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

Applicant Informal Hearings

2. Lijing Gu

Applicant was present with counsel, Qian Wan, Esq. Applicant was sworn in by the court reporter.

Ms. Gu requested an informal hearing after being issued a Notice of Intent to Deny at the December 2013 general business meeting conference call. She has provided the Board with more clarification regarding hours that the Board indicated were deficient.

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

4. Stephanie Narbeth

Applicant was present without counsel.

Ms. Narbeth requested an informal hearing after being issued a Notice of Intent to Deny at the December 2013 general business meeting conference call. She has provided the Board with more clarification regarding hours that the Board indicated were deficient.

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

3. Min Zheng

Applicant was present with counsel, Qian Wan Esq. Applicant was sworn in by the court reporter. Ms. Zheng requested an informal hearing after being issued a Notice of Intent to Deny at the December 2013 general business meeting conference call. She has provided the Board with more clarification regarding hours that the Board indicated were deficient.

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

1. Tammy Michele Cobb

Applicant withdrew petition prior to the Board meeting.

3. Lisa Michelle Flores

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

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

Compliance and Probation Review

1. Massage Hut

Owner, Jacqueline Levine, was present without counsel. Owner was sworn in by court reporter.

The Board imposed a final order on February 5, 2013. The final order imposed one year of probation, reprimand, \$400 inspection costs which were paid March 26, 2013, a \$250 fine and costs of \$1,254.58 to be paid by February 5, 2014, the Department shall make four unannounced inspections during probation, requires the owner to appear at the first board meeting after probation commences and a last appearance preceding termination of probation. On August 27, 2013, the respondent was granted a payment extension until February 5, 2015 to pay the fines and costs. The only inspection completed was May 31, 2013, which the respondent passed.

Respondent is petitioning the Board for termination of probation.

Action Taken: After discussion, Ms. Burke-Wammack moved to lift the conditions from the license and find the licensee in compliance. Motion seconded by Ms. Nixon, which passed unanimously.

Applicants with Out of State Education

1. Kai Yan Song-Lee

Applicant was not present nor represented by Counsel.

Action Taken: After discussion, Ms. Burke-Wammack 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, Ethics, and Business. Motion seconded by Ms. Nixon, which passed unanimously.

Petition for Variance or Waiver

2. Gloria Coppola

Applicant was not present nor represented by Counsel.

Action Taken: Ms. Burke-Wammack moved to deny the Petition for Variance or Waiver based on inability to waive statute. Motion seconded by Ms. Nixon, which passed unanimously.

Action Taken: Ms. Burke-Wammack moved to deny application because applicant did not demonstrate that she completed a massage therapy program that meets the minimum standards for training and curriculum set forth in Rule 64B7-32.003, Florida Administrative Code. The applicant did not complete a massage program at a board-approved massage school as defined in Section 480.033(9), Florida Statutes. Motion seconded by Ms. Nixon, which passed unanimously.

4. Angela Williams

Applicant was not present nor represented by Counsel.

Action Taken: Ms. Phillips moved to deny the Petition for Variance or Waiver based on inability to waive statute. Motion seconded by Ms. Burke-Wammack, which passed unanimously.

Action Taken: Ms. Phillips moved to deny application because she did not demonstrate that she completed a massage therapy program that meets the minimum standards for training and curriculum set forth in Rule 64B7-32.003, Florida Administrative Code. The applicant was originally licensed in Texas in 2012. The applicant's transcripts demonstrate that she completed 319 classroom hours of study in massage therapy. The requirements for licensure in Texas are not similar or equivalent to the requirements in Florida. Motion seconded by Ms. Burke-Wammack, which passed unanimously.

***REVIEW AND APPROVAL OF MINUTES**

1. January 16-17, 2014, General Business Meeting Minutes

Action Taken: Ms. Burke-Wammack moved to approve the minutes with technical corrections. Motion was seconded by Mr. Walker, which passed unanimously.

2. February 27, 2014, General Business Meeting Conference Call

Action Taken: Ms. Burke-Wammack moved to approve the minutes as written. Motion was seconded by Ms. Phillips, which passed unanimously.

(break)

***REPORTS**

Board Counsel's Report – Lee Ann Gustafson

1. March 2014 Rules Report (Informational)

Rules Liaison Report – Lydia Nixon and Sharon Phillips

1. Dan Towey, present – Suggestion for Rule Amendment

Action Taken: The Board requested board staff research provider and instructor approval requirements and process for those entities whose CE courses are approved by 64B7-28.010(9), F.A.C.

Budget Liaison Report – Robyn Havard

1. Board Expenditures, period ending December 31, 2013

Unlicensed Activity Report – Robyn Havard

No report at this time.

***RULES DISCUSSION**

1. Chapter 64B7-28.010(9), F.A.C. – Request to Change

The Board tabled this agenda item until a response was received from board staff regarding provider and instructor approval requirements and process for those entities whose CE courses are approved by 64B7-28.010(9), F.A.C.

2. Chapter 64B7-32.003, F.A.C. – January 2014

This item was discussed in concurrent with the below items: Human Trafficking in the Massage Therapy Curriculum and DOE Curriculum Framework for Massage Therapy.

***OLD BUSINESS**

1. Human Trafficking in the Massage Therapy Curriculum

Ms. Phillips submitted a proposal to:

1. Draft letter to the FDOE requesting to amend the CORE curriculum to include human trafficking indicators and reporting; and
2. Open Rule 64B7-32.003 Minimum Requirement for Board Approved Massage Schools, to expand professional Ethics by 2 hours to include education covering human trafficking indicators and reporting.

Dar Mikula and Michael Garcia addressed the board.

2. DOE Curriculum Framework for Massage Therapy

Ms. Burke-Wammack submitted the DOE curriculum framework for Massage Therapy for discussion of human trafficking education requirement.

Action Taken: After lengthy discussion of the above items, the board delegated Dr. Davis to research costs of a Human Trafficking video to be presented within the massage therapy curriculum. Dr. Davis mentioned that Dr. Terry Coonan and the Florida State University created a Human Trafficking video.

*NEW BUSINESS

1. 2015 Proposed Meeting Dates

Action Taken: Motion made, seconded, and passed unanimously to accept the proposed meeting dates.

2. Jacqueline Levine

Ms. Levine addressed the Board with her concerns within the massage therapy profession.

No action taken at this time.

The meeting adjourned approximately 5:01 p.m.