



General Business Meeting

Conference Call
May 20, 2020
9:00 am

Meet-Me Number: (888) 585-9008
Participation Code: 508-909-666

MEETING MINUTES

CALL TO ORDER

The meeting was called to order by Mr. Brooks, Chair, at 9:00 am. Those present for all or part of the meeting included the following:

MEMBERS PRESENT

Christopher Brooks, LMT, *Chair*
Sharon Phillips, LMT, AP, DOM, *Vice-Chair*
Robyn Dohn Havard, PLCS
Lydia Nixon, LMT
Victoria Drago, LMT
Jennifer Wakeman, LMT

BOARD COUNSEL

Diane Guillemette, Esq., *Assistant Attorney General*

STAFF PRESENT

Kama Monroe, *Executive Director*
Gerry Nielsen, *Program Operations Administrator*

COURT REPORTER

For the Record Reporting

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://www.floridasmassagetherapy.gov/meeting-information/>

Respondents in Attendance

AD-01. Accime, Sherley

File # 99253 (Required Appearance)

Applicant was present without counsel.

Action Taken: After discussion, Dr. Phillips moved to deny the application based on prior action taken for violation of 480, Florida Statutes by practicing without a license. Motion seconded by Ms. Wakeman, which carried 5/1 with Mr. Brooks in opposition.

AD-02. Bourdain, Sheryll

File # 100776 (Request for Reconsideration)

Applicant was present without counsel.

Action Taken: After discussion, Mr. Brooks moved to vacate the Notice of Intent to Approve with Conditions. Motion seconded by Dr. Phillips, which carried unanimously.

Action Taken: After discussion, Mr. Brooks moved to issue the license on the condition that the applicant amend the application to disclose criminal history. Motion seconded by Ms. Wakeman, which carried unanimously.

Applicant verbally amended her application on the record.

AD-04. Garland, Joanne

File # 59849 (Informal Hearing)

Applicant was present without counsel.

Action Taken: After discussion, Mr. Brooks moved to vacate the Notice of Intent to Deny. Motion seconded by Ms. Wakeman, which carried unanimously.

Action Taken: After discussion, Mr. Brooks moved to issue the license contingent on the applicant being removed from the Surgeon General's List of Excluded Individuals or Entities list within 1 year. Motion seconded by Ms. Wakeman, which carried unanimously.

RECESS 10:30 am / RECONVENE 10:42 am

AD-07. John Matthew, Bibin

File # 99245 (Applicant with Foreign Education)

Applicant was present without counsel.

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

AD-08. Burnette, Juanita Latasha

File # 100465 (Applicant with History)

Applicant was present without counsel.

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

AD-11. Martinez, Orlan Gabriel

File # 101984 (Applicant with History)

Applicant was present without counsel.

Action Taken: After discussion, Dr. Phillips moved to issue the license with the conditions of a \$500.00 administrative fine and a 10-hour Florida Laws and Rules course to be completed above and beyond renewal requirements within 1 year of the entry of the final order. Motion seconded by Mr. Brooks, which carried unanimously.

AD-13. Quinones Reyes, Isabel

File # 101779 (Applicant with History)

Applicant was present without counsel.

Action Taken: After discussion, Mr. Brooks moved to issue the license with the conditions of a \$500.00 administrative fine and a 10-hour Florida Laws and rules course to be completed above and beyond renewal requirements within 1 year of the entry of the final order. Motion seconded by Dr. Phillips, which carried unanimously.

AD-14. Figureo, Michelle

License # MA57535 (Exemption Request)

Applicant was present without counsel.

Action Taken: After discussion, Dr. Phillips moved to grant the exemption. Motion seconded by Ms. Wakeman, which carried unanimously.

AD-05. Minhall, Christopher

File # 95065 (Informal Hearing)

Applicant was present with counsel, Jeff Muspari, Esq. (301 W. Bay Street, Jacksonville FL 32202)

Action Taken: After discussion, Mr. Brooks moved that material facts are not at issue. Motion seconded by Dr. Phillips, which carried unanimously.

This item was tabled.

AD-06. Van Houten, Travis John

File # 98647 (Reconsideration)

Applicant was present without counsel.

Action Taken: After discussion, Ms. Wakeman moved to uphold the notice of intent to approve contingent. Motion seconded by Mr. Brooks, which carried unanimously.

AD-05. Minhall, Christopher

File # 95065 (Informal Hearing)

Applicant was present with counsel, Jeff Muspari, Esq. (301 W. Bay Street, Jacksonville FL 32202)

Action Taken: After discussion, Mr. Brooks moved to vacate the Notice of Intent to Deny. Motion seconded by Dr. Phillips, which carried unanimously.

Applicant verbally withdrew his application on the record.

AD-09. King, Clurissa M

File # 99892 (Applicant with History)

Applicant was present without counsel.

Applicant verbally amended her application on the record.

Action Taken: After discussion, Dr. Phillips moved to issue the license unencumbered. Motion seconded by Ms. Wakeman, which carried unanimously.

E. Applicants with History

AD-10. Landreth, Daniel J

File # 102023

Applicant was not present.

Action Taken: After discussion, Dr. Phillips moved to issue the license unencumbered. Motion seconded by Mr. Brooks, which carried unanimously.

Applicant was not present.

Action Taken: After discussion, Ms. Drago moved to issue the license with the conditions of a \$500.00 administrative fine and a 10-hour Florida Laws and Rules course to be completed above and beyond renewal requirements within 1 year of the entry of the final order. Motion seconded by Dr. Phillips, which carried unanimously.

B. Request for Informal Hearing

Applicant was not present.

Action Taken: After discussion, Mr. Brooks moved to continue this item. Motion seconded by Ms. Wakeman, which carried unanimously.

RECESS 1:00 pm / RECONVENE 1:54 pm

II. REPORTS

A. Board Counsel's Report (Diane Guillemette, Esq.)

January 2020 Rules Report

February 2020 Rules Report

March 2020 Rules Report

April 2020 Rules Report

Counsel provided that the rules reports are current, with the exception of some additional JAPC correspondence which will be discussed in rules discussion.

B. Board Chair Report (Christopher Brooks, LMT)

Nothing at this time.

C. Vice Chair Report – (Sharon Phillips, LMT, AP, DOM)

Nothing at this time.

D. School Liaison Report (Sharon Phillips, LMT, AP, DOM)

Dr. Phillips provided that there were three schools in review, and seventeen total applications pending review awaiting additional documentation.

D. Continuing Education Liaison Report (Sharon Phillips, LMT, AP, DOM)

Dr. Phillips provided that she is working on continuing education applications under review. Ms. Drago indicated that she has been trained for CEBroker use and is beginning reviews as well.

F. Legislative Liaison Report (Victoria Drago, LMT)

Ms. Drago indicated that Continuing Education is a concern at the national level and asked if fellow Board members would prepare for a discussion of options concerning continuing education at the next Board meeting.

G. Unlicensed Activity Report – (Jennifer Wakeman, LMT)

Nothing at this time.

H. Budget Liaison Report

Nothing at this time.

I. Rules Liaison Report (Sharon Phillips, LMT, AP, DOM)

Dr. Phillips reported that she provided some input in rules drafting, which was on the agenda.

J. Public Relations Liaison Report

Ms. Drago reported that work in this area is impacted by COVID-19.

K. Healthiest Weight Liaison Report

Nothing at this time.

L. Executive Director's Report – Kama Monroe

Ratification of Licenses (December 27, 2019 – May 19, 2020)

Action Taken: After discussion, Mr. Brooks moved to ratify the licenses presented. Motion seconded by Ms. Wakeman, which carried unanimously.

FSMTB Update – “Guidelines for Practice with COVID-19 Considerations”

- **Ms. Monroe** provided that the guidelines should assist licensees in understanding the practice of massage therapy considering COVID-19.
- **Dr. Phillips** provided that this document gives very explicit information about the difference in cleaners vs. disinfectants, etc., and would be valuable information for every practitioner.
- **Mr. Brooks** provided that this document would also be beneficial to schools as a part of curriculum related to safety and sanitation concerns.
- **Ms. Monroe** stated that staff would work to disseminate this information by emailed correspondence, and would also begin drafting a blanket correspondence to all licensees.

M. Review and Approval of Minutes

January 8 – 10, 2020 – General Business Meeting

February 26, 2020 – General Business Meeting

April 3, 2020 – General Business Meeting

Action Taken: After discussion, Mr. Brooks moved to approve the minutes as presented. Motion seconded by Ms. Wakeman, which carried unanimously.

III. RULES DISCUSSION

A. 64B7-26.0035, F.A.C. – Designated Establishment Managers

Ms. Guillemette provided that the rule would be re-filed as 26.0035, F.A.C., as opposed to 28.0035, F.A.C., and addressed changes to the rule from the originally proposed language.

Dr. Phillips indicated that she would like to see “massage establishment” in place of “establishment” in the proposed rule text.

Ms. Guillemette addressed Dr. Phillips’ concerns that the rule should reiterate 480.033(11), F.S., and that the statute already addresses that Florida is the jurisdiction of licensure required for DEM.

Dr. Phillips provided clarifying language for (3)(a), concerning the status of licenses, and created a new (b) to bifurcate establishment license status from practitioner licenses.

The Board discussed the possibility of additional required reporting.

Dr. Phillips provided clarification of timeframe for a DEM to report that they are no longer serving as a 3-day requirement.

Mr. Brooks asked for public comment on the rules as discussed.

Mr. Whitridge voiced support of the language as presented and amended by the Board.

Mr. Brooks inquired as to any specifically burdensome requirements in the DEM rule as presented.

Mr. Whitridge provided that he did not see anything in the language which was unduly burdensome.

Mr. Brooks inquired as to the timeframe presented for a DEM.

Mr. Whitridge provided that it may be appropriate to consider the 3-day timeframe as a minor violation, letter of guidance, or other resolution for the purposes of discipline.

Dr. Phillips provided that she did not intend for the 3-day timeframe to be disciplinary.

Ms. Guillemette clarified that all language referencing “employee” should be replaced by “practitioner.”

Additional concerns were expressed concerning the nature of sexual misconduct violations with respect to victims. Staff provided additional information about the confidential nature of investigations

Action Taken: After discussion, Mr. Brooks moved to accept the proposed rule language, with amendments as made on the record. Motion seconded by Dr. Phillips, which carried unanimously.

Action Taken: After discussion, Ms. Havard moved that the proposed rule would not have a direct or indirect impact on small business, or an increase in regulatory cost in excess of \$200,000 within 1 year of implementation. Motion seconded by Dr. Phillips, which carried unanimously.

Action Taken: After discussion, Mr. Brooks moved that violation of the 3-day provision should be considered a minor violation, and that no other part of the rule should be considered a minor violation. Motion seconded by Dr. Phillips, which carried unanimously.

Action Taken: After discussion, Dr. Phillips moved that the rule should not sunset. Motion seconded by Mr. Brooks, which carried unanimously.

B. 64B7-28, F.A.C. – Continuing Education

64B7-28.002, F.A.C. – Biennial Renewal of Massage Establishment License

64B7-28.0043, F.A.C. – Biennial Renewal of Massage Therapist License

64B7-28.009, F.A.C. – Required Continuing Education for Massage Therapists

Ms. Guillemette suggested the addition of “instruction” before hour in the human trafficking course requirement, and other language clarification.

Dr. Phillips suggested that language should be added in this section to mirror the language in the requirements for classroom hours in 28.0096.

Ms. Guillemette suggested the removal of “additional” in (4)(f).

Language to be substituted at the beginning of additional activities to reiterate “instruction hour” as the items being substituted.

64B7-28.0095, F.A.C. – Continuing Education for Pro Bono Services

64B7-28.0096, F.A.C. – Minimum Standards for Continuing Education

Dr. Phillips indicated that all continuing education should require evaluation of mastery of student learning objectives in (5)(a), and would strike language elsewhere.

64B7-28.010, F.A.C. – Requirements for Board Approval of Continuing Education Programs

The floor was opened for public comment. The public requested additional information about the use of “evaluation” and “skill mastery” as proposed.

Mr. Whitridge indicated that the use of evaluation seemed to be in line with principles of adult education, and that many modes of evaluation would be prudent.

Mr. McIntosh asked whether the intention of the rule was to provide accountability for completion of CE courses.

Dr. Phillips provided that CE courses, regardless of category, would require evaluation regardless of delivery; that the intent was to create uniform requirements for all continuing education.

Action Taken: After discussion, Ms. Havard moved to accept the proposed rule language, with amendments as made on the record. Motion seconded by Dr. Phillips, which carried unanimously.

Action Taken: After discussion, Mr. Brooks moved that the proposed rule would not have a direct or indirect impact on small business, or an increase in regulatory cost in excess of \$200,000 within 1 year of implementation. Motion seconded by Dr. Phillips, which carried unanimously.

Action Taken: After discussion, Mr. Brooks moved that the rule would not be considered a minor violation. Motion seconded by Dr. Phillips, which carried unanimously.

Action Taken: After discussion, Dr. Phillips moved that the rule should not sunset. Motion seconded by Mr. Brooks, which carried unanimously.

C. 64B7-32.001, .003, F.A.C. – Board Approved Massage Schools

64B7-32.001, F.A.C. – Definitions

Ms. Guillemette inquired about the use of “program” and “curriculum” in definitions.

Ms. Monroe suggested that course of study be defined in (1) as “all classes required to complete a massage therapy program, which meet or exceed the minimum subject area hour requirements.”

64B7-32.003, F.A.C. – Minimum Requirements for Board Approved Massage Schools

Ms. Monroe inquired as to the creation of quality distance learning material given a year timeframe.

Dr. Phillips suggested that a timeframe allows for redress of the rule to further consider school concerns.

Ms. Wakeman provided information about private postsecondary schools that use rolling starts or have non-traditional schedules compared to public schools.

The Board discussed the ongoing revision of the rule with regards to minimum hours, and the need for a school workshop with regards to minimum subject area hours. The floor was opened to public comment.

Ms. Krafksa indicated concerns with the timeline, given current events, and indicated that distance learning has been successful thus far. She indicated that focus on outcome and placement is of utmost importance. She also expressed concerns about the effects of deadlines on enrollment and the ability to enroll students.

Ms. Guillemette provided clarification that 2021 was the year specified.

Mr. Brooks inquired as to what a reasonable timeframe might be for a private postsecondary school.

Ms. Krafksa indicated that “as long as possible,” was helpful.

Dr. Phillips inquired as to whether the rule could be extended by emergency in 2021.

Mr. Lee indicated that as much sympathy and extension as possible, including no bookends, would be helpful to private postsecondary schools. He also indicated that significant investment in development of distance learning would be needed in his situation, and that the possibility of distance learning would benefit his program and ability to enroll students.

Mr. Brooks inquired as to the length of the program.

Mr. Lee indicated he offers a 6-month program and would next enroll students in September.

Dr. Phillips inquired as to whether the rule would require distance learning.

Ms. Guillemette provided that the rule would not prohibit all hours to be taught as classroom hours.

Mr. Lee provided that it was appreciated that the clarification of hours being allowed as distance rather than required is helpful. He provided that much of the consideration of distance learning for his program was related to ongoing concerns about COVID-19.

Ms. Wakeman indicated that curriculum changes are a concern if curriculum reviews must be completed more than once.

Dr. Phillips inquired as to administrative procedures around school curriculum changes.

Mr. Padgett provided that programs that have been consistently on-ground may be cost-substantive, given that the program would have to change logistics to accommodate new distance learning. He also stated that a move back to only on-ground would be cost-prohibitive.

Dr. Phillips inquired as to whether school would have to move all at once.

Ms. Guillemette provided that there was no requirement to move to distance learning options, if a school did not wish to move in that direction.

Mr. Padgett provided some further insight as to required texts used in their course of study, and shared his experience working with textbook providers. He provided further that consistency is significant in providing whether tools and resources are working.

Mr. Brooks provided his experiences as an educator in moving to digital resources, and how his timeline has changed considering issues of stability if timelines are instituted in rule.

Mr. Padgett asked for clarification as to how the timeline would work.

Mr. Lee provided that it would be difficult to go backwards, but not unrealistic. He emphasized the importance of learning outcomes, regardless of requirement.

Ms. Wakeman provided that August 31, 2022 may be a more appropriate timeframe.

Mr. Lee inquired whether the workshop is contingent on the end date. It was provided that the timeframe was not necessary to schedule the workshop. He provided additional information about what the timeframe might look like for moving toward distance learning.

Ms. Wakeman indicated that there are other concerns with rules in light of COVID-19.

Mr. Lee indicated that the issue is two-pronged; the immediate concerns of COVID-19, and the long-term concerns of migrating to programs that are hybrid in their delivery.

Action Taken: After discussion, Ms. Drago moved to accept the proposed rule language in 64B7-32.001 and 32.003, with amendment of the timeline to March 22, 2022. Motion seconded by Dr. Phillips, which carried unanimously.

Action Taken: After discussion, Ms. Wakeman moved that the proposed rule would not have a direct or indirect impact on small business, or an increase in regulatory cost in excess of \$200,000 within 1 year of implementation. Motion seconded by Ms. Drago, which carried unanimously.

Action Taken: After discussion, Dr. Phillips moved that the rule would not be considered a minor violation. Motion seconded by Mr. Brooks, which carried unanimously.

Action Taken: After discussion, Dr. Phillips moved that 32.001, F.A.C. should not sunset. Motion seconded by Mr. Brooks, which carried unanimously.

Action Taken: After discussion, Dr. Phillips moved that 32.003, F.A.C. should sunset. Motion seconded by Mr. Brooks, which carried unanimously.

D. 64B7-30.002, F.A.C. – Disciplinary Guidelines

Ms. Guillemette provided a summary of changes in response to JAPC correspondence and posed questions about specific changes presented in response to the second JAPC letter.

Action Taken: After discussion, Dr. Phillips moved to accept the proposed rule language with amendments on the record. Motion seconded by Ms. Drago, which carried unanimously.

Action Taken: After discussion, Ms. Havard moved that the proposed rule would not have a direct or indirect impact on small business, or an increase in regulatory cost in excess of \$200,000 within 1 year of implementation. Motion seconded by Mr. Brooks, which carried unanimously.

Action Taken: After discussion, Mr. Brooks moved that the rule would not be considered a minor violation. Motion seconded by Ms. Drago, which carried unanimously.

Action Taken: After discussion, Dr. Phillips moved that the rule should not sunset. Motion seconded by Mr. Brooks, which carried unanimously.

E. 64B7-29, F.A.C. – Apprenticeship; 64B7-32.005 – Minimum Standards for Colon Hydrotherapy Training Programs

64B7-32.005, F.A.C.

Action Taken: After discussion, Mr. Brooks moved to accept the proposed rule language in 64B7-32.005, F.A.C. Motion seconded by Dr. Phillips, which carried unanimously.

Action Taken: After discussion, Mr. Brooks moved that the proposed rule would not have a direct or indirect impact on small business, or an increase in regulatory cost in excess of \$200,000 within 1 year of implementation. Motion seconded by Ms. Drago, which carried unanimously.

Action Taken: After discussion, Mr. Brooks moved that the rule would not be considered a minor violation. Motion seconded by Ms. Havard, which carried unanimously.

Action Taken: After discussion, Dr. Phillips moved that the rule should not sunset. Motion seconded by Mr. Brooks, which carried unanimously.

64B7-29, F.A.C.

Action Taken: After discussion, Dr. Phillips moved to accept the proposed application changes to DH-MQA 1265 and proposed rule language in 64B7-29, F.A.C. Motion seconded by Dr. Phillips, which carried unanimously.

Action Taken: After discussion, Mr. Brooks moved that the proposed rule would not have a direct or indirect impact on small business, or an increase in regulatory cost in excess of \$200,000 within 1 year of implementation. Motion seconded by Ms. Wakeman, which carried unanimously.

Action Taken: After discussion, Mr. Brooks moved that the rule would not be considered a minor violation. Motion seconded by Ms. Wakeman, which carried unanimously.

Action Taken: After discussion, Mr. Brooks moved that the rule should not sunset. Motion seconded by Ms. Wakeman, which carried unanimously.

F. Application Updates – 64B7-25.001; 26.002, .006, .007; 29.007, F.A.C.

Massage Therapist Licensure; Certification (64B7-25.001, F.A.C., DH-MQA 1115, 1247)

Action Taken: After discussion, Mr. Brooks moved to accept the proposed application changes to DH-MQA 1115 and 1247 and proposed rule language in 64B7-25.001, F.A.C. Motion seconded by Dr. Phillips, which carried unanimously.

Action Taken: After discussion, Mr. Brooks moved that the proposed rule would not have a direct or indirect impact on small business, or an increase in regulatory cost in excess of \$200,000 within 1 year of implementation. Motion seconded by Ms. Drago, which carried unanimously.

Action Taken: After discussion, Mr. Brooks moved that the rule would not be considered a minor violation. Motion seconded by Ms. Drago, which carried unanimously.

Action Taken: After discussion, Mr. Brooks moved that the rule should not sunset. Motion seconded by Ms. Wakeman, which carried unanimously.

Massage Establishment Licensure (64B7-26.002, .006, F.A.C.; DH-MQA 1263, 5040)

Action Taken: After discussion, Mr. Brooks moved to accept the proposed application changes to DH-MQA 1263 and 5040 and proposed rule language in Rules 64B7-26.002 and .006, F.A.C. Motion seconded by Ms. Wakeman, which carried unanimously.

Action Taken: After discussion, Mr. Brooks moved that the proposed rule would not have a direct or indirect impact on small business, or an increase in regulatory cost in excess of \$200,000 within 1 year of implementation. Motion seconded by Ms. Wakeman, which carried unanimously.

Action Taken: After discussion, Mr. Brooks moved that the rule would not be considered a minor violation. Motion seconded by Ms. Wakeman, which carried unanimously.

Action Taken: After discussion, Mr. Brooks moved that the rule should not sunset. Motion seconded by Ms. Wakeman, which carried unanimously.

IV. GENERAL BUSINESS DISCUSSION

A. OLD BUSINESS

B. NEW BUSINESS

Ms. Collins provided some insight as to the effect of COVID-19 on apprenticeships and indicated that she will petition the Board in the matter in a future meeting.

Mr. Brooks thanked Ms. Nixon on the record for her 10 years of dedicated service.

V. ADJOURN 7:20 pm

VI. INFORMATIONAL

Notes on Rule Changes (S. Phillips)

ABMP Regulatory Guides / Endorsement Information