



NSBMT Board Meeting
September 5, 2018
Agenda Item 13a

Nevada State Board of Massage Therapy

NOTICE OF PUBLIC MEETING

LOCATIONS: Nevada Legislative Building – Carson City
401 South Carson Street, Suite 2134
Carson City, NV 89701

Videoconference To:
Grant Sawyer Building – Las Vegas
555 East Washington Avenue, Suite 4412
Las Vegas, NV 89101

DATE: June 27, 2018

TIME: 9:00 a.m. PDT

MEETING MINUTES

Please Note: The Nevada State Board of Massage Therapy may: 1) take agenda items out of order; 2) combine two or more items for consideration; or 3) remove an item from the agenda or delay discussion related to an item at any time. Reasonable efforts will be made to assist and accommodate individuals with disabilities who wish to attend the meeting. Please contact Sandy Anderson at 775.687.9951 (sjanderson@lmt.nv.gov), in advance, so that arrangements may be made. Public comment will be taken at the beginning and the end of the meeting. The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person (NRS 241.030).

1. Call to order at 9:00 AM. Board Members present: Chair - April Whiting, Vice Chair - Diane Huleva, Secretary/Treasurer - Deirdre Strunk, Margaret Westcamp, Elisabeth Barnard, Bob Oliver, Lorna Benedict, Nancy Zitko, Sgt. Cody Fulwiler, Sandy Anderson Executive Director, Board Council Colleen Platt and Asheesh Bhalla.
2. Public comment.
Robin Graber - Good Morning Board, I just wanted to say that I am very much looking forward to getting my Structural Integration License very soon and I want to thank everybody for their cooperation and hard work during this effort and during the last

legislative session to distinguish structural integration and reflexology with their own license. Thank you.

Billie Shea requested the following be read into the record in reference to Agenda Item 19:

The role of a licensing board is to, through self regulation, protect the public from illegal, immoral, or unskilled people in the profession. The best way to achieve that is to set certain guidelines and standards that must be met equally by all applicants. In this way, the licensing board guarantees that every effort is made to qualify that the therapist is properly trained, maintains a safe and clean environment and provides a level of care that is not only respectful but consistent with the definition of the practice.

Throughout the 50 or so years that states have been licensing touch therapies, there have been educational standards adopted, testing protocols and ethical boundaries established that are generally consistent throughout the country. In this way, state boards come together to provide a fair and consistent way of licensing that is also good for the professional by making it easier to get licensed in other states through having met these consistent standards. This is true of not only massage, but all touch therapies and somatic practices. Which begs the question, why should the Nevada board suddenly decide that Reflexologists need to be given additional opportunities to pass a licensing exam.

Exam Developers utilize the experts in the field to assist with drafting questions, validating accuracy that properly and fairly measures the entry level competency necessary for that profession. A psychometrically valid exam challenges the test taker to display an understanding of the Core Competency". Exam developers use the pass/fail information as part of the measurement of the validity of the exam and a pass/fail rate, published by the exam developer of 60 to 75 percent is an acceptable number in any industry.

Currently there are over 700 locally licensed Reflexologists in Nevada, of which, only less than 40 are certified. If the pass/fail rate in this population is extremely low, this could very well mean that the 660 others are just not properly educated. For this very reason the legislature did not give this board the authority to grandfather in these 660 licensees which is essentially what would happen if agenda item 19 is passed.

Additionally, asking this board to approve one or more attempts to retake the exam at no additional charge would mean an extra expense on the Massage Board budget. Typically exam fees go directly to the Exam provider who may or may not agree to repeat testing at no charge.

So, I would ask this board to consider applying the same level of diligence to licensing Reflexologists as they do Massage Therapists. Giving a Reflexologist an easy pass opportunity does not protect the public. Nor does it raise the level of excellence that should be the goal of the industry. What it does do is allow a group of people with less than adequate skills to enter the profession. As a licensing Board entrusted with public protection, voting to dumb down the exam or pass people who do not know the material is a failure of that trust.

I would ask, therefore, that you do not approve item 19 to allow leniency to Reflexologist applicants who cannot pass the licensing exam, but to apply a consistent rule that does not show favoritism to any one or group. In this way, the Nevada Board of Massage and Reflexology maintains the high standard that has been the hallmark of each board members commitment throughout the 13 years as a board.

3. Discussion regarding how to state a motion, what the motion must include and other aspects of making a motion during a meeting on an action item – training provided by Colleen Platt Esq. of Platt Law Group Reno. (For Discussion and Possible Action)

Colleen Platt, Board Counsel, discussed how to make a motion, settlement agreements and agenda items.

4. Formal Hearing for Jenny Hoang-Coursol – NVMT #8339 – NVMT-C-1828. (The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person.) (For Possible Action)

Ms. Hoang-Coursol was not present.

Elisabeth Barnard motioned to approve the settlement agreement, seconded by Deirdre Strunk. Motion carried unanimously.

5. Formal Hearing for Xiujuan Xie – NVMT #8873 – NVMT-C-1833. (The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person.) (For Possible Action)

Ms. Xie was not present.

Diane Huleva motioned to approve the settlement agreement, seconded by Deirdre Strunk. Motion carried unanimously.

6. Formal Hearing for Yuling Yang – NVMT #8420 – NVMT-C-1834. (The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person.) (For Possible Action)

Ms. Yang was not present.

Nancy Zitko motioned to approve the settlement agreement, seconded by Margaret Westcamp. Motioned carried unanimously.

7. Formal Hearing for Hong Guo – NVMT #343 – NVMT-C-1835. (The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person.) (For Possible Action)

Ms. Guo was not present.

Diane Huleva motioned to approve the settlement agreement, seconded by Lorna Benedict. Motioned carried unanimously.

Elisabeth Barnard – I have just one thing that concerns me, is looking at her license number. She has been licensed for quite a long time and that just raises some concerns for me; whether this is a new behavior for this licensee or if she has just been flying under the radar with it for a long time. I don't believe we can know this at all, it just causes me concern.

8. Formal Hearing for Lin Fang Zu Damon – NVMT #609 – NVMT-C-1836. (The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person.) (For Possible Action)

Ms. Zu Damon was not present.

Diane Huleva motioned to approve the settlement agreement, seconded by Deirdre Strunk. Motioned carried unanimously.

Elisabeth Barnard – I have the same concern as the prior one. I don't know that it changes anything for me. I am curious to see if it's a trend that goes anywhere.

9. Approval of applications approved and authorized by the Chairperson. (For Possible Action)

Lorna Benedict motioned to approve licenses, seconded by Deirdre Strunk. Motion carried unanimously.

10. Discussion and possible action regarding data tracking and reporting including monthly reporting of the number of licensees in the northern and southern areas of the state. (For Discussion and Possible Action)

Staff will breakdown complaints between the two regions of the State. No motion needed.

11. Discussion and possible action regarding moving the Southern Nevada Office location, including possible cost analysis, authorizing a maximum amount that the Executive Director may spend on rent and related costs associated with moving the office, and guidelines for lease negotiations including expectations of potential use for the next five (5) years. (For Discussion and Possible Action)

Diane Huleva motioned to accept the costs associated to 1641 East Flamingo Ave., Suite 16A as the new Southern Nevada office location, seconded by April Whiting. Motion carried unanimously.

12. Discussion and possible action regarding financial reports and budgetary approvals (For Discussion and Possible Action)

- a. Discussion and possible action regarding review of 2018 Budget vs. Actual and acceptance. (For Discussion and Possible Action)

Deirdre Strunk motioned to accept the 2018 Budget vs. Actual, seconded by Diane Huleva. Motion carried unanimously.

- b. Discussion and possible action regarding sending representatives from our Board to the FARB Regulatory Law Seminar in Portland, Oregon. (For Discussion and Possible Action)

Diane Huleva motioned to send Sandy Anderson and Diane Huleva to the FARB Regulatory Law Seminar in Portland, Oregon, seconded by Deirdre Strunk. Motion carried unanimously.

- c. Discussion and possible action regarding authorizing staff to research multiple data processing options and report back to the Board potential cost impacts to improve the Board's database and software systems. (For Discussion and Possible Action)

Diane Huleva motioned to accept staff researching multiple data processing options and report back to the Board potential cost impacts to improve the Board's database and software systems, seconded by Lorna Benedict. Motioned carried unanimously.

- d. Discussion and possible action regarding approval of contract with Coulson and Associates in the amount of \$6,000 to perform the Annual Audit of the Board's Financial Statements. (For Discussion and Possible Action)

Diane Huleva motioned to approve contract with Coulson and Associates in the amount of \$6,000.00, seconded by Elisabeth Barnard. Motion carried unanimously.

- e. Discussion and possible action regarding approval of the contract with Reno Print Store & Office Supplies in the amount of \$8,000 for printing of postcards to be sent to licensees. (For Discussion and Possible Action)

Diane Huleva motioned to accept contract with Reno Print Store & Office Supplies in the amount of \$8,000 for printing of postcards to be sent to licensees, seconded by Bob Oliver. Motion carried unanimously.

- f. Discussion and possible action regarding sending representatives from the board to the FSMTB Annual Meeting October 4th through the 6th in Salt Lake City. (for Discussion and Possible Action)

Diane Huleva motioned to approve sending Sandy Anderson, Tereza Van Horn and April Whiting to the FSMTB Annual Meeting October 4th through the 6th in Salt Lake City, seconded by Margaret Westcamp. Motion carried unanimously.

- g. Discussion and possible action regarding approval of travel for Maggie to attend the CLEAR Executive Leadership Training in Philadelphia September 24th through 26th.

Diane Huleva motioned to approve travel for Maggie Adams to attend the CLEAR Executive Leadership Training in Philadelphia September 24th through 26th, seconded by April Whiting. Motion carried unanimously.

- h. Discussion and possible action regarding increasing the Fiscal Year 2019 Budget by \$17,000 for new routers and completion of the computer system upgrades at both of the Board's locations. (For Discussion and Possible Action)

Bob Oliver motioned to increase the Fiscal Year 2019 Budget by \$17,000 for new routers and completion of the computer system upgrades at both of the Board's locations, seconded by Lorna Benedict. Motion carried unanimously.

- i. Discussion and possible action regarding continuation of the Board's occupancy in the Las Vegas offices on a month-to-month basis at a rate of \$1,002.62. (For Discussion and Possible Action)

Bob Oliver motioned to approve the Board's occupancy in the Las Vegas offices on a month-to-month basis at a rate of \$1,002.62, seconded by Lorna Benedict. Motion carried unanimously.

- 13. Discuss, amend and approve Board meeting minutes. (For Discussion and Possible Action)

- a. April 16 and 17, 2018 Board Retreat

Diane Huleva motioned to accept April 16 and 17, 2018 Board Retreat meeting minutes with corrections, seconded by Elisabeth Barnard. Motion carried unanimously.

- b. April 18, 2018 Regular Meeting

Diane Huleva motioned to accept April 18, 2018 Board meeting minutes with corrections, seconded by Deirdre Strunk. Motion carried unanimously.

- c. June 18, 2018 Hearing R040-18

Nancy Zitko motioned to accept June 18, 2018 Hearing R040-18 minutes, with corrections, seconded by Deirdre Strunk. Motion carried unanimously.

- 14. Inspection Team Report (For Discussion)

Maggie Adams, Bianca Smith, and Christy Brunner presented the inspection team report.

- 15. Discussion and possible action regarding possible drafting of a new regulation to adopt by reference the Associated Bodywork and Massage Professionals Code of Ethics. (For Discussion and Possible Action)

Lorna Benedict motioned that the Board work on crafting this regulation over the period of a year's time, seconded by Diane Huleva. Motion carried unanimously.

- 16. Discussion and possible revision to the Nevada State Board of Massage Therapy Policies and Procedures. (For Discussion and Possible Action)

Lorna Benedict motioned to review the Policies and Procedures Manual based on the recommended priorities from Internal Controls. This review will occur during currently scheduled Board meetings, seconded by Deirdre Strunk. Motion carried unanimously.

17. Discussion and possible action regarding meeting dates for calendar year 2019 including the possibility of a Board retreat in Northern Nevada. (For Discussion and Possible Action)

Diane Huleva motioned to approve meeting dates with the January 23, 2019 meeting date amended to January 16, 2019, seconded by April Whiting. Motion carried unanimously.

Deirdre Strunk for the record, I think the Board is really good, not to pat ourselves on the back, but in a really nice place and have some really great members that have some individual great things about each one of them and so that's why I don't think a retreat is necessary. Not because I don't want to get together with everyone, but I just feel we are in such a great place that it's just not necessary.

18. Discussion and possible action regarding the State of Nevada Governor's Finance Office Division of Internal Audits – Audit Report #18-05 Boards and Commissions Nevada's Independent Licensing Boards dated June 14, 2018 with Steve Weinberger, Division Administrator. (For Discussion and Possible Action)

Steve Weinberger, Warren K. Lowman and Mark J. Richards were present. Mr. Weinberger provided an overview of Audit Report #13-05. Mr. Weinberger stated the following items were discovered during the review process: the Board did not receive approval from BOE for the 2016 CPA audit contract, and there was no evidence that the Board had a reserves policy.

A second Boards and Commissions audit will look at overall governance structure and regulatory practices. Mr. Lowman stated they are not currently looking at any additional audits after that. Mr. Lowman also discussed that Boards could benefit from a baseline level of support from the Office of the Attorney General for compliance with open meeting law and regulatory practices.

19. Discussion and possible action regarding “lessons learned” on the Reflexology Exam failure and path forward to include the possibility of allowance for retesting at no additional charge. (For Discussion and Possible Action)

Bianca Smith and Donna Sarvello with NCBTMB shared information regarding the recent Reflexology Exam process.

20. Discussion and possible action regarding the Executive Director's license to practice massage. (For Discussion and Possible Action)

Diane Huleva motioned to grant the Executive Director's license to practice massage, seconded by Elisabeth Barnard. Margaret Westcamp abstained due to personal discomfort, motion carried.

21. Closed Session for discussion between Board and counsel regarding potential litigation involving the Board.

Diane Huleva motioned to close the meeting based on NRS 241.030, seconded by Lorna Benedict. Motion carried unanimously.

Diane Huleva motioned to open the meeting based on NRS 2410.030, seconded by Margaret Westcamp. Motion carried unanimously.

22. Discussion and possible approval of waiving the Board's attorney-client privilege between the Board and Louis Ling regarding certain documents and emails concerning the development of the Board's Employee Policy and Procedure Manual. (For Discussion and Possible Action)

Diane Huleva motioned to approve of waiving the Board's attorney-client privilege between the Board and Louis Ling regarding certain documents and emails concerning the development of the Board's Employee Policy and Procedure Manual, seconded by Margaret Westcamp. Motion carried unanimously.

23. Public Comment

David Otto discussed concerns for October 2 after the deadline for Reflexology licensing has passed.

24. Meeting adjourned at 4:01 PM.

Public Comment Agenda Item: There is a time designated at the beginning of the meeting and the end of the meeting for Public Comment. Members of the general public may bring matters not appearing on this Agenda to the attention of the Board or make comment on specific Agenda Items. The Board may discuss the matters not on the Agenda, but may not act on the matters at this meeting. If the Board desires, the matters may be placed on a future Agenda for action. In consideration of others who may also wish to provide Public Comment, please avoid repetition and limit your comments to no more than three (3) minutes.

Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual the Board may refuse to consider Public Comment.

Supporting material for this meeting may be requested from Sandy Anderson at 775.687.9955 (sjanderson@lmt.nv.gov) and is available at the Nevada State Board of Massage Therapy, 1755 E. Plumb Lane, Suite 252, Reno, Nevada 89502.

In accordance with NRS 241.020, this public notice and agenda was posted on or before June 22, 2018, on the Nevada State Board of Massage Therapists website, <http://massagetherapy.nv.gov>, the State of Nevada's Public Notice Website, <https://notice.nv.gov>, and at the following locations:

Nevada State Board of Massage Therapists
1755 E. Plumb Lane, Suite 252
Reno, NV 89502

Grant Sawyer Building
555 E. Washington Avenue
Las Vegas, NV 89101

Nevada State Board of Massage Therapy

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Nevada State Library
100 South Stewart Street
Carson City, NV 89701

Nevada Attorney General's Office
100 N. Carson Street
Carson City, NV 89701
