



Nevada State Board of Massage Therapy

LOCATIONS: **Legislature**
401 South Carson Street, Room 2134
Carson City, NV 89701

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

DATES AND TIMES: **November 20, 2019 commencing at 9:00 a.m.**

MEETING MINUTES

Notice of a Public Workshop and Request for Comments for possible changes to Nevada Administrative Code, Chapter 640C related to the practice of massage therapy, reflexology, and structural integration; and/or amendments pertaining to revisions to NAC 640C.

The purpose of the workshop is to receive comments from all interested persons and to consider the review of the Nevada Administrative Code, Chapter 640C. Persons wishing to comment and participate in the workshop of the Nevada State Board of Massage Therapy may appear at the scheduled workshop November 20, 2019 at the locations above or may address their comments, data, views, or arguments, in written form to: The Nevada State Board of Massage Therapy, 1755 E. Plumb Lane, Suite 252, Reno, NV 89502 Attn: Sandy Anderson, or via email at sjanderson@lmt.nv.gov. In order for written submissions to be made available to members of the public, the written submissions must be received before Thursday, November 14, 2019.

A copy of this Notice will be on file at the State Library, 100 N. Stewart Street, Carson City, Nevada. Additional copies of the notice will be available at the offices of the Board, Nevada State Board of Massage Therapy, 1755 East Plumb Lane, Suite 252, Reno, Nevada 89502, Nevada State Board of Massage Therapy, 1621 East Flamingo Road, Suite 16A, Las Vegas, Nevada 89121, on Board's website massagetherapy.nv.gov, at notices.nv.gov, and on the State Legislatures website at <https://www.leg.state.nv.us/App/Notice/A/>.

AGENDA

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).

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. Public comment may also be taken at other such times as requested as long as the request that public comment will not interrupt ongoing Board business. 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. The Board reserves the right to limit public comment to three minutes.

Prior to the commencement and conclusion of a contested case or quasi-judicial proceeding that may affect the due process rights of an individual, the Board may refuse to consider public comment. See NRS 233B.126. Please be aware that after the quasi-judicial Board has rendered a decision in the contested case and, assuming this happens before adjournment, the Board may entertain public comment on the proceeding at that time.

1. Meeting called to order on November 20, 2019 at 9:30 am. Chair – Diane Huleva, Vice Chair – Deirdre Strunk, Secretary/Treasurer Elisabeth Barnard, April Whiting, Teresa Lopez, Lorna Benedict, Executive Director Sandy Anderson, Deputy Attorney General Sophia Long. Bob Oliver was not present.
2. Introduction of new Board members appointed by the Governor.

No new Board members.

3. Public comment. (Discussion Only) Action may not be taken on any matter brought up under public comment until scheduled on an agenda for action at a later meeting. The Board will not restrict comments based on viewpoint. The opportunity for public comment will be available at the beginning and ending of the meeting and during the open discussion period of the workshop.

David Otto NVMT.103 – Thank you for hearing the voice of the American Therapy Association’s Nevada Chapter today. We are a member-driven, non-profit professional association of over 90,000 massage therapists, nationwide, and in Nevada, our chapter represents 971 members, many of whom are Nevada licensed massage therapists. In light of today’s workshop, the chapter’s Board of Directors, on behalf of its membership, would like to make a public comment, putting forth some ideas and commentary that may assist in

clarifying some of the language for our members in the proposed new provisions. Namely, provision 1: if it is appropriate and since ‘money laundering’ is known to be an activity of illicit businesses, we ask for consideration of adding money laundering to NAC 640C.083(4)(c) and that ‘convicted’ be added to case descriptions of dispositions of which an owner may not be subject, the same subsection. Provision 4: remove the specificity of titles when referring to who the public members are: the nature of the term public defines the role in which anyone in a clinical setting participates as a client, which is much larger than the “may include list of “other students, licensees and Board members” for which there seems to be no obvious reasoning for such specificity. Provision 7: Clarify what “and offer to report the incident on the clients behalf” means with clearer language – since “the Board” has already been distinguished (in the first part of the second sentence in NAC 640C.093(2)) as being notified (and as in the first sentence of the same subsection) that reporting “to whom” needs to be considered and clarified. If the (to whom) is (to criminal Law Enforcement) then we’d ask the Board to consider the implication of a business being required by law (their certification) to get involved, to a great degree, in a perpetrator/victim relationship. Also: What are the details of the proposed, conspicuous-posting of the client bill of rights? There is no detail available for review, in this subsection, nor is this numbered. Please find, attached Minnesota’s statute regarding a client bill of rights, reasoning and guidance for that regulation, and an example of how one practitioner applies the statute. Provision 9: Is there a form that the Nevada State Board of Massage Therapy (NSBMT) will provide/require for establishment/licensee use that will act as a legal waiver of rights of the parent(s)/guardian(s)? Provision 10: Is there a form that NSBMT will provide/require for waiver of photography of a client? The remaining 36 unmentioned proposed provisions are generally supported by the Nevada Chapter and lauded as improving current practice for a safe and more-professional therapeutic relationship and outcome between licensees and their clients, the public. Thank you for accepting the Nevada Chapter’s comments and thank you for the work you continue to do regarding the fair and innovative regulation of Nevada massage therapists and the massage therapy profession.

Nancy Zitko NVRF.0002 – ARCB, RAA and NCRE have a new reflexology definition Reflexology, an integrative health practice, maps a reflection of the body predominately on the feet, hands and out ears. It uses unique manual technique to deliver pressure to neural pathways assisting the body to function optimally.

Charles Williams NVMT.4937 – Enforcing NRS/NAC is difficult. Information is overwhelming. Clothing mid-thigh. Is that enforceable? Is someone going to carry a tape measure? It is unenforceable, not a workable thing. You do not talk about people wearing underwear. Human trafficking in massage is miniscule.

Kristy Berge NVMT.1192 - I did not receive the changes in the Rules and Regulations until Monday, 2 days before the meeting. I was told Friday they were not available and would be sent to me when they were. I did not receive my email until after 1:30 PM, Monday. I don’t think this is enough time for me to fully go over all the changes; therefore, you are violating the open meeting law. I also, am unable to attend the meeting in person because of not knowing what the changes were going to be because of receiving them so late. I do have concerns about some of the wording and changes. Please read my comments into the record if you continue to hold this meeting. Provision 7 under item 2: The first sentence is an

incomplete sentence. The yellow highlighted sentence is contradicting. “The establishment will report to the Massage Board (if a statement is made about inappropriately touch)” but “will offer to help the client report”. Which one is it? If an establishment reports why would the client? Provision 7 under item 4: “The posting may be provided by the Board or at minimum, must include XX.” Must include what? Provision 8: says the person holding the license has to report any arrest. How are you going enforce that? Provision 8 under item 6: it is an incomplete sentence. Provision 21: I can petition your board to repeal every regulation and make all the laws go away that was passed by the legislature? If that is the case, then I’ll petition you to make all the Massage Therapy laws go away. Provision 33 section 20: “Touching a client under his or her underwear or other clothing which the client has elected to wear means to me pulling down or going under underwear or a bra or even under their shirt sleeve on their arm would be a “sexual activity”. I hope you consider my comments. I am at a disadvantage because I cannot hear your discussion because of getting the changes so late.

4. Workshop discussion to review, update, and make changes to NAC 640C as needed including licensing, continuing education, massage establishments, standards of practice, and unprofessional conduct. (For Discussion and Possible Action)

The Board held open discussion throughout the workshop on each new Provision 1 through 37. The Chair accepted public comment as each provision was discussed followed by Board discussion and then additional public comment as interested stakeholders came forward. Members of the public participating in the process included: Robin Graber licensed structural integration practitioner, David Otto licensed massage therapist, Nancy Zitko licensed reflexologist, Rachel Henderson licensed massage therapist, Kristy Berge licensed massage therapist, Charles Williams licensed massage therapist, Meaghan Maillet licensed massage therapist, Wendy Kaufman licensed massage therapist, and Michelle Flater the Director of Regulatory Compliance for Wynn Resorts Las Vegas, Additionally, the Chair called on staff members and legal counsel as appropriate to the discussion.

Teresa Lopez left the workshop at 11:23 am.

5. Approval of draft regulations to be sent to Legislative Counsel Bureau for drafting. (For Possible Action)

Diane Huleva motioned to approve with updated changes, seconded by Elisabeth Barnard. Motion carried unanimously.

6. Strategic Plan and SWOT results including guidance from the Board to staff regarding primary focus and three (3) to five (5) action items for completion during Fiscal Year 2020. (For Possible Action)

Discussion was held with Board members, Executive Director Sandy Anderson and staff. Strategic Plan items include: Technology enhancements and database improvement, inspection and investigation remains related to the safety of the public, continue to promote massage therapy as a healing modality and distinguish it from the sex trade, enhance communication within the industry. The five (5) year – focus remains on education in

relation to massage or continuing and to possibly hold 2-3 events for the licensees for Q&A, as well as meet and greet with Board members and staff.

7. Discussion and possible action regarding Nevada State Board of Massage Therapy Policies and Procedures (For Discussion and Possible Action)

a. 2.3.1 Ethical Behavior

April Whiting motioned to approve with changes, seconded by Lorna Benedict. Motion carried unanimously.

b. 2.4.1 Possession Firearms and Dangerous Weapons

Diane Huleva motioned to approve, seconded by Elisabeth Barnard. Motion carried unanimously.

c. 2.5.1 Workplace Violence Prevention

Diane Huleva motioned to approve, seconded by April Whiting. Motion carried unanimously.

d. 2.6.1 Alcohol and Drug Free Workplace

Lorna Benedict motioned to approve, seconded by April Whiting. Motion carried unanimously.

e. 3.1.1 Compensation and Performance Reviews

Diane Huleva motioned to approve, seconded by Lorna Benedict. Motion carried unanimously.

f. 3.2.1 Separation of Employment

Diane Huleva motioned to approve, seconded by April Whiting. Motion carried unanimously.

g. 4.1.1 Board Issued Cellular Phone and Portable Device

Diane Huleva motioned to approve, seconded by Lorna Benedict. Motion carried unanimously.

h. 4.2.1 Board Issued Computers and Information

Diane Huleva motioned to approve with changes, seconded by April Whiting. Motion carried unanimously.

i. 4.3.1 Use of State-Owned Motor Vehicles

April Whiting motioned to approve, seconded by Diane Huleva. Motion carried unanimously.

- j. 5.1.1 – Internal Control Monitoring and Evaluation updated and modified to comply with changes recommended by Governor’s Finance Office – Division of Internal Audits – Executive Branch Auditor Heather Domenici and administrative changes recommended by staff. Including formally adding \$5,000 signing authority for the Executive Director and \$10,000 signing authority for the Executive Director for unexpected expenses if approved by the Chair or the Treasurer.

Lorna Benedict motioned to approve, seconded by Diane Huleva. Motion carried unanimously.

- k. 6.1.1 Board Responsibility for Records

April Whiting motioned to approve, seconded by Lorna Benedict. Motion carried unanimously.

- l. 7.1.1 Workers’ Compensation

Elisabeth Barnard motioned to approve, seconded by Lorna Benedict. Motion carried unanimously.

- m. 9.1.1 Computer Software, Computers, E-Mail, and Voice Mail Usage

Diane Huleva motioned to approve, seconded by April Whiting. Motion carried unanimously.

- n. 9.2.1 Receiving Gifts

Lorna Benedict motioned to approve, seconded by April Whiting. Motion carried unanimously.

- o. 10.1.1 Organizational Chart

Diane Huleva motioned to approve, seconded by Lorna Benedict. Motion carried unanimously.

- p. 10.2.1 Description of Chairperson

Elisabeth Barnard motioned to approve with changes, seconded by April Whiting. Motion carried unanimously.

- q. 10.3.1 Description of Vice Chairperson

Diane Huleva motioned to approve, seconded by April Whiting. Motion carried unanimously.

r. 10.4.1 Description of Secretary/Treasurer

Diane Huleva motioned to approve with changes, seconded by Elisabeth Barnard. Motion carried unanimously.

s. 10.5.1 Description of Executive Director

Diane Huleva motioned to approve, seconded by Lorna Benedict. Motion carried unanimously.

t. 10.6.1 Board Member Responsibilities

Lorna Benedict motioned to approve as a work in progress 10.6.1 Board Member Responsibilities, seconded by Deirdre Strunk. Motion carried unanimously.

u. 10.7.1 Administrative Team Grades and Requirements

Diane Huleva motioned to approve, seconded by Lorna Benedict. Motion carried unanimously.

v. 10.8.1 Inspection Team Grades and Requirements

Inspection team requirements will be presented at a later time.

Diane Huleva motioned to approve Inspection team grades, seconded by Lorna Benedict. Motion carried Unanimously.

w. 11.1.1 Complaint Policy

Diane Huleva motioned to approve, seconded by Lorna Benedict. Motion carried Unanimously.

8. Board Counsel Report (For Discussion)

Sophia Long spoke briefly regarding Sarah Bradley's departure from the Office of the Attorney General. A replacement Deputy Attorney General will be hired to work in Northern Nevada in order to assist the Nevada State Board of Massage Therapy. Sophia discussed two pending cases and will follow up with Sandy for further resolution.

9. Executive Director Report (For Discussion)

Sandy Anderson provided an update on items handled by Chief Deputy Attorney General Sarah Bradley prior to her departure. Tereza Van Horn presented the completed disciplinary action list to the Board. This list has 413 licensees that have been disciplined by the Board

since its inception. This report will be available on our website in the near future. The types of disciplinary actions include citations, collections, voluntary surrenders, revocations and probations.

10. Discussion regarding recommended future agenda items. (For Discussion)

Discussion was held regarding the changes to the existing complaint form. The revised complaint form will be presented during the January meeting.

11. Public comment. (Discussion Only) Action may not be taken on any matter brought up under public comment until scheduled on an agenda for action at a later meeting. The Board will not restrict comments based on viewpoint.

David Otto NVMT.103 – The positivity and development of the profession in Nevada is overwhelming right now. Focusing on developing education and things that affect better service provision and then everything can come from a legal document. Does this serve our purpose? A Client bills of rights? This document can be a working document. Build from there all while building the profession at the same time.

Rachel Henderson NVMT.9625 – Thank you to the Board for their service for being respectful of public feedback and welcome and looking forward to the new Board.

12. Adjournment no later than 4:30 PM each day of the meeting. (For Possible Action)

Meeting adjourned at 4:24 pm.

Notices:

Items may be combined for consideration by the board. Items may be pulled or removed from the agenda at any time. Public comment will be taken at the beginning and at the end of the meeting. Regarding public comment no vote may be taken upon a matter raised under this agenda item until the matter itself has been specifically included on a future agenda as an item upon which action may be taken. (NRS 241.020). The Chair may allow comment on individual agenda items at her discretion. Please limit public comments to 3 minutes.

The Nevada State Board of Massage Therapy may address agenda items out of sequence to accommodate persons appearing before the Board or to aid the efficiency or effectiveness of the meeting. Interested persons may present oral and/or written comments at the time and place of the meeting, or written comments may be sent no later than **Thursday, November 14, 2019** to the following address: **Nevada State Board of Massage Therapy, 1755 E. Plumb Lane, Suite 252, Reno, NV 89502.** To request supporting materials, please contact: **Sandy Anderson, Executive Director at 775.687.9951** or via email: sjanderson@lmt.nv.gov supporting materials are also available at the Board's office and on the Board's website http://massagetherapy.nv.gov/About/Board_Meetings/Meetings/

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.

Persons/facilities who want to be on the mailing list must submit a written request every six months to the Board. We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify Sandy Anderson at 775.687.9951 or sjanderson@lmt.nv.gov no later than 48 hours prior to the meeting.

In accordance with NRS 241.020, this public notice and agenda was posted on or before November 5, 2019, at the following locations:

http://massagetherapy.nv.gov/About/Board_Meetings/Meetings/

<https://notice.nv.gov>

<https://www.leg.state.nv.us/App/Notice/A/>

Nevada Attorney General – Carson City Office, 100 N. Carson St. Carson City, NV 89701

Nevada Attorney General – Las Vegas Office, 555 E. Washington Ave., Las Vegas, NV 89101

Nevada Legislature Building, 401 S. Carson Street, Carson City, NV 89701

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

Nevada State Board of Massage Therapy, 1621 E. Flamingo Road, Suite 16A, Las Vegas NV 89121

Nevada State Library and Archives, 100 N. Stewart St., Carson City, NV 89701