



Nevada State Board of Massage Therapy

MEETING MINUTES

LOCATIONS: Pursuant to Governor Steve Sisolak's Emergency Directive 006, there was no physical location for this meeting. Participants joined the meeting via Zoom.

Register in advance for this meeting:

<https://zoom.us/j/7991196295?pwd=SnY2ak5yUnB5eUJHbFNuaTdjZkx6Zz09>

Meeting ID 7991196295
Password 257161
SIP 7991196295@zoomcrc.com

Join by phone US : +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or
+1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799

DATES AND TIMES: **July 1, 2020 commencing at 9:00 a.m.**
Zoom sign-in available at 8:30 a.m.

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).

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 July 1, 2020 at 9:02 am. Chair – Diane Huleva, Vice Chair – Deirdre Strunk, Secretary/Treasurer Elisabeth Barnard, April Whiting, Teresa Lopez, Lorna Benedict, Bob Oliver, Richard Fields, Executive Director Sandy Anderson, Senior Deputy Attorney General Sophia Long and Deputy Attorney General Harry Ward.
2. The mission of the Nevada State Board of Massage Therapy is to, through licensing and regulating the practice of massage therapy, reflexology, and structural integration, protect the public health, safety and welfare by ensuring that only qualified competent massage therapists, reflexologists, and structural integration practitioners are licensed in the State of Nevada. It is our goal to balance the needs of the public with those of the licensees, through development, implementation, enforcement, and continued improvement in the areas of education, public safety, boundaries and ethics, in compliance with the highest standards set forth within the massage therapy profession.
3. Introduction of new Board members appointed by the Governor.

No new appointments at this time.

4. 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.

Joni Beavers, Jo Lawrence and D.A. Grey Weisheipl provided public comment via email. Emails are attached.

5. Election of officers (For Possible Action)

- a. Chair

Teresa Lopez nominated Diane Huleva for Chair. No other nominations were presented.

Teresa Lopez motioned for Diane Huleva to remain as Chair, seconded by April Whiting. Motion carried unanimously.

b. Vice Chair

April Whiting nominated Deirdre Strunk for Vice Chair. No other nominations were presented.

April Whiting motioned for Deirdre Strunk to remain as Vice Chair, seconded by Lorna Benedict. Motion carried unanimously.

c. Secretary/Treasurer

Teresa Lopez nominated Elisabeth Barnard for Secretary/Treasurer. No other nominations were presented.

Teresa Lopez motioned for Elisabeth Barnard to remain as Secretary/Treasurer, seconded by Deirdre Strunk. Motion carried unanimously.

6. Formal Hearing Qui Ping Lin – NVMT #0428 – NVMT-C-1963. (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)

Qui Ping Lin was not present; Kirk Kennedy, Legal Counsel was present.

Teresa Lopez motioned to accept voluntary surrender, seconded by Lorna Benedict. Motioned carried unanimously.

7. Formal Hearing Qin X. Oneufer – NVRF #0089 – NVMT-C-1964. (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)

Qin X. Oneufer was not present; Kirk Kennedy, Legal Counsel was present.

Lorna Benedict motioned to accept voluntary surrender, seconded by Teresa Lopez. Motioned carried unanimously.

8. Formal Hearing Jianqin Wang – NVMT #10117 – NVMT-C-1973. (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)

Jianqin Wang was not present; Kirk Kennedy, Legal Counsel was present.

April Whiting motioned to accept voluntary surrender, seconded by Teresa Lopez. Motioned carried unanimously.

9. Formal Hearing Xiaoyan Wang – NVMT #8551 – NVMT-C-1974. (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)

Xiaoyan Wang was not present; Kirk Kennedy, Legal Counsel was present.

Lorna Benedict motioned to accept voluntary surrender, seconded by April Whiting.
Motioned carried unanimously.

10. Formal Hearing Yingfeng Hsu – NVMT #6741 – NVMT-C-2004. (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)

Yingfeng Hsu was not present; Kirk Kennedy, Legal Counsel was present.

Teresa Lopez motioned to accept voluntary surrender, seconded by Lorna Benedict.
Motioned carried unanimously.

11. Formal Hearing Chaoxia Fan – NVMT #7970 – NVMT-C-2007. (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)

Chaoxia Fan was not present; Kirk Kennedy, Legal Counsel was present.

Teresa Lopez motioned to accept voluntary surrender, seconded by April Whiting. Motioned carried unanimously.

12. Formal Hearing Ping Zhang – NVMT #4297 – NVMT-C-2012. (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)

Item tabled until August 19, 2020.

13. Application Review. (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)

- a. Review Application for Jinping Chen. (For Discussion and Possible Action)

Jinping Chen was not present; Kirk Kennedy, Legal Counsel was present.

Item tabled until August 19, 2020.

- b. Review Application of Joanna M. Iris. (For Discussion and Possible Action)

Joanna M. Iris was present.

Management Analyst Tereza Van Horn - Ms. Iris's massage application is before you today due to potential criminal history that could not be approved administratively. Ms. Iris was arrested on September 7, 2006 by New Orleans Police Department for Prostitution and April 4, 2008 for prostitution by Bossier City Police Department.

Ms. Iris is requesting to be granted a license under NRS 640C.580 or 420 and is before you today for review under NRS 640C.700. Staff's recommendation is to deny this application based on NRS.640C.700(2)(9) or approve a probationary license for two (2) years with restrictions.

Board members discussed their concerns with the application as well as the applicants conduct during the Board meeting.

Teresa Lopez motioned to deny based on NRS.640C.700(2)(9), seconded by Lorna Benedict. April Whiting, Elisabeth Barnard, Deirdre Strunk and Rick Fields opposed. Motion failed.

April Whiting motioned to approve a two (2) year probationary license with the following restrictions: report all contact with law enforcement personnel within forty-eight (48) hours after such contact occurs, notify the Board of any changes in her employment within ten (10) calendar days, submit to the Board a complete set of fingerprints each year of renewal at licensees expense, attend probation orientation, quarterly reports from employer to Executive Director, responsible for all administrative fees incurred by the Board as a result of their probation compliance, notify any change in address or phone number to the Board office within ten (10) days, cooperate fully with Board staff to administrate terms of probation and comply with all laws governing massage therapy, seconded by Deirdre Strunk. Teresa Lopez and Diane Huleva opposed. Motion carried.

Consent agenda items are shown in italics. The Consent Agenda contains matters of routine acceptance. The Board members may approve the consent agenda items as written or, at their discretion, may address individual items for discussion or change.

14. *Consent Agenda Items – Board members may choose to request any item listed below be pulled for discussion and possible action. Any items not pulled may be approved in a single motion to approve the consent agenda excluding pulled items. (For Discussion and Possible Action*

a. *Discuss, amend and approve Board meeting minutes for June 10, 2020. (For Discussion and Possible Action)*

Teresa Lopez motioned to approve consent agenda item, seconded by Deirdre Strunk. Motion carried unanimously.

15. Board Counsel report. (For Discussion and Possible Action)

a. Status of District Court cases

Senior Deputy Attorney General Sophia provided information regarding four (4) cases currently being appealed by applicants. Three (3) of the four (4) cases have been denied appeal.

b. Discussion regarding settlement agreements

Board held discussion regarding application review, settlement agreements and voluntary surrenders. Board is in agreement with current options available provided by Senior Deputy Attorney General Sophia.

- c. Discussion and possible action regarding whether to appeal Wright v. Nevada State Board of Massage Therapy, District Court case A-810041-J. (For Discussion and Possible Action)

Senior Deputy Attorney General Sophia Long discussed 4 pending cases that were appealed to District Court.

Board held discussion and agreed to request Board counsel to appeal to Nevada Supreme Court in relation to Wright V. Nevada State Board of Massage Therapy.

Teresa Lopez motioned to Board Counsel to take Wright V. Nevada State Board of Massage Therapy to Supreme Court, seconded by Lorna Benedict. Motion carried unanimously.

16. Federation of Associations of Regulatory Boards (FARB) Forum Report by Secretary/Treasurer Barnard. (For Discussion)

Secretary/Treasurer Elisabeth Barnard shared information regarding the FARB forum and the role Occupational Licensing Boards play in protecting public safety. Mainly ensuring minimum standards for entry to the profession by competent people practicing within the scope of their profession. The Board's purpose is to carry out the intent of the legislature. Further discussion was held as to how Boards fit into the structure of government.

17. Executive Director Report including but not limited to (For Discussion)

- a. Financials Explained

Executive Director Anderson updated the Board on the revenue received in June and the reduction in expenses due to Covid-19 and other cost savings. Due to the to the fiscal practices during Fiscal Year 2020 the Boards projected short fall of \$639K was reduced to a shortfall of just over \$300K. Executive Director Anderson stated that final numbers would be available after yearend reconciliations are complete.

- b. Number of licensees – number renewed in the last period

Licenses with June 30, 2020 expiration renewed at a rate of 64.5% with 376 licensees renewing before the deadline. The previous budgetary concern was if renewals did not exceed 50%. As a result of the level of renewals and the reduction in expenses due to COVID-19 no changes to the budget or staffing are needed at this time. Additionally, the database provider, inLumon, implemented the cancellation of late fee accruals effective June 30th.

- c. Discussion regarding Inspection Team calendar year-to-date key indicators

Investigator Brunner updated the Board on how the virtual inspections are going and how well they are being received by the licensees. She also provided information regarding the shift to conducting investigations in the virtual format and the ability to still observe the licensees and complainants.

- d. Discussion regarding complaints and investigations key indicators
Investigations continue regarding complaints for non-compliance with Directives and/or the Roadmap to Recovery Phase 2 Guidelines for Massage Therapy and Massage Establishments. To date all complaints regarding non-compliance have been closed with licensees and establishment owners/operators agreeing to comply with the guidelines.

Investigator Brunner and the Executive Director continue to work on twenty-four (24) open cases. Through June 30th forty-nine (49) cases have been closed with six (6) closed due to hearings, nine (9) issued citations, nineteen (19) insufficient evidence/no violation for 640C/referred to another agency/no victim to testify, one (1) test invalidation, and fourteen (14) practicing in violation of the Governor's Directives regarding the state of emergency. An additional six (6) cases were closed during this Board meeting bringing the total through July 1, 2020 to fifty-five (55) closed cases.

Additionally, the Executive Director answered a question posed at a previous Board meeting regarding the number of licensees processing their renewals via paper. During 2019 there were one hundred twenty-six (126) paper renewals sent out or 6.11%, and so far in 2020, eighty-eight (88) have been mailed out. With the large number of renewals scheduled for 2020, the estimate is roughly four hundred (400) by calendar yearend or roughly eight percent (8%).

18. Approval of contract with inLumon to facilitate the coordinated data transfer, design, development, testing, and interface as well as scheduled export for interlocal agreement with City of Las Vegas and Clark County in the amount of \$6,000. (For Discussion and Possible Action)

April Whiting motioned to approve contract with inLumon for six thousand dollars (\$6,000.00), seconded by Teresa Lopez. Motion carried unanimously.

19. Strategic Plan review and discussion. (For Possible Action)

Discussion was held regarding the strategic plan and any changes or adaptations that might be necessary as a result of COVID-19. The Board made no changes to the plan.

No motion needed.

20. For discussion and possible action regarding selection of a delegate to represent the Board during the Federation of State Massage Therapy Boards Annual Meeting to be held telephonically or via Zoom in October. (For Discussion and Possible Action)

April Whiting motioned to nominate Diane Huleva as delegate, seconded by Lorna Benedict. Motion carried unanimously.

21. For discussion and possible action regarding comments from the Federation of State Massage Therapy Boards regarding Nevada Administrative Code, Chapter 640C. (For Discussion and Possible Action)

Chair Diane Huleva shared the reasons for multiple testing options and the elimination of a monopoly. Elisabeth Barnard commented on individuals that come into Nevada with testing prior to MBLEx. Teresa recommended leaving the regulation at status quo. Bob Oliver shared his concerns regarding the minimum hours requirement and the cost impact to schools to increase their hours. The Board acknowledged the work of FSMTB and chose not to move forward with implementing any of the requested changes.

22. Discussion and possible action regarding modifying the mission statement for the Board. (For Discussion and Possible Action)

Motioned by Bob Oliver for the Executive Director to come up with three (3) options and bring them back to the Board, seconded by Teresa Lopez. Motion carried unanimously.

23. Discussion and possible action regarding approach to educating the licensees by sharing information and providing educational emails, newsletters, or other forms of documentation. (For Discussion and Possible Action)

Discussion was held regarding different options for sharing information with licensees. The Board will continue to primarily use the Board website as well as emails to share the continually changing information regarding COVID-19 and other items with the licensees as relevant information is available to share.

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

No items were discussed.

25. 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.

Tereza Van Horn - Requested leeway from licensees to allow the staff to accomplish their tasks and requested that the Board assure licensees that staff is working and trying to get things done as diligently as possible.

Joanne Lawrence - NVMT.4831 – I am concerned. I have been following COVID as I am sure you all have. The Governor has decided “no shirt, no shoes, no mask, no service” is now our motto. I am concerned about this. That indicates to the patron that they need to wear a mask indoors, and I am concerned about ability to breath. If you have given or received a massage and I am concerned about people being able to breath during treatment properly. And if we are at this point where massage therapy is permitted, and service providers should be wearing masks; that is questionable whether the client is wearing a mask and we accept that as a given. But I have to also look at the inconsistency of how this is being administered

to the different industries. For example, tattoo artists cannot apply a tattoo to the face area, yet aestheticians can perform facials to the face. I am concerned about the inconsistent message and we are to protect ourselves by wearing masks in order to protect others when we are out in public. As we rise in cases, this causes me to be more concerned. Overwhelmed with concern if it is safe being open or not be open and asked if we are heading into a place where we will shall not be open again.

David Otto - NVMT.103 – “Good Morning. Oh my gosh, I said Good Morning”. Thank you so much to the Board. Thank you so much for whatever it took to streamline and for being prepared again today. It is very promising for me to be able to attend the morning session without having to avoid discipline because it is simply nothing that I am interested in. I am glad to see all the things that are happening in order to moving the profession forward. I really want to clap instead of throwing an icon or emoticon/emoji up. I also wanted to remind you about that if you have future agenda items, that you would still consider looking at massage therapy being relevant under NRS.629 – Healing Arts or healthcare profession.

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

Adjournment at 11:35 am.

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 **Monday, June 29, 2020** 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/**

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 Declaration of Emergency Directive 006 which temporarily waived posting requirements of NRS 241.020, this public notice and agenda was posted on or before June 26, 2020, at the following online locations:

http://massagetherapy.nv.gov/About/Board_Meetings/Meetings/
<https://notice.nv.gov>