



NSBMT - Board Meeting
November 4, 2020
Agenda Item 14d

Nevada State Board of Massage Therapy

DRAFT 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.

<https://zoom.us/j/98844482882?pwd=YnVWeHBaMEtWZWFnZmdJRXRwYlpgQT09>

Meeting ID 988 4448 2882
Password 246012
SIP 98844482882@zoomcrc.com
Phone participation by location
+1 669 900 6833 US (San Jose)
+1 253 215 8782 US (Tacoma)
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+1 301 715 8592 US (Germantown)
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DATES AND TIMES: August 19, 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 were made to assist and accommodate individuals with disabilities who wished to attend the meeting by providing contact information for accommodations to be made in advance. Public comment was 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 was a time designated at the beginning of the meeting and the end of the meeting for Public Comment. Members of the general public were able to bring matters not appearing on this Agenda to the attention of the Board or make comment on specific Agenda Items. Public comment was also taken at other such times as requested as long as the request for public comment did not interrupt ongoing Board business. The Board may discuss the matters not on the Agenda but did not act on the matters at this meeting. If the Board desired, the matters may be placed on a future Agenda for action. In consideration of others who may also wish to provide Public Comment, repetition may be avoided. The Board reserved 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. The meeting was called to order at 9:07 a.m.

Board Members present – Chair Diane Huleva, Vice Chair Deirdre Strunk, Secretary/Treasurer Elisabeth Barnard, Lorna Benedict, Richard Fields, Robert Oliver, Sommer Plotnick, Bianca Smith, Executive Director Sandy Anderson, Senior Deputy Attorney General Sophia Long as prosecutor, and Deputy Attorney General Harry Ward as Board counsel. Vice Chair Deirdre Strunk was absent from 11:16-12:41, and Sgt. Jorge Marty was excused.

2. The Chair read the mission statement into the record. 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.

Bianca Smith was introduced as a representative for Southern Nevada massage therapists.

4. Public comment – Members of the public who wish to participate in a public meeting may do so by providing public comment during the two designated public comment periods. Additionally, public comment options may include, without limitation, telephonic or email 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.

Public comment was provided by:

Nancy Zitko provided public comment as a licensed reflexologist who recently went through the renewal process. She found the 60-day notification to be a timely window; however, there were some concerns with the rest of the renewal process including the application fee on the form, the continuing education requirements, and recent photograph. She had an issue with the email address available on the Board website and stated she waited a week for a response after which she sent an email to a different address and her concerns were addressed. Her public comment was directed at the recorded message which did not give the option to speak to a person. She stated that it would be very difficult for a member of the general public to file a complaint or a person that had English as a second language to address the Board. She called 4 Nevada state boards randomly and indeed 100% of those Boards had a live person answer the phones. Her comment was that she was not sure why that option isn't given to the callers of the Massage Board to make it a little more user friendly to the people that are trying to contact the Board.

Sommer Plotnick provided public comment that requested that the Board adopt a practical exam. Sophia Long advised Board member Plotnick that this needed to be an agenda item.

Elizabeth Benion President of the Nevada Chapter of the American Massage Therapy Association provided public comment and survey results from the Chapter. A copy of this public comment is attached to these minutes.

5. Motion for Reconsideration of disciplinary action pursuant to NRS 622A.390 regarding the license of Chien Yu Chen heard by the Board on October 30, 2019. (For Discussion and Possible Action)

Motion for Reconsideration continued at the request of respondent's legal counsel Francis Arena.

6. Formal Hearing Chien Yu Chen – NVMT #7145 - NVMT-C-1921. (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)

Motion for Reconsideration continued at the request of respondent's legal counsel Francis Arena.

7. Formal Hearing Elizabeth M. Galvan – NVMT #4828 – NVMT-S-1937 (The Board may convene in session to consider the character, alleged misconduct, professional competence or physical or mental health of a person.) (For Possible Action)

Elizabeth M. Galvan was not present.

The Board was presented with a Settlement Agreement for Ms. Galvan which included background checks at her expense every two years and quarterly reporting.

Elisabeth Barnard motioned to accept the settlement agreement, seconded by Richard Fields. Motion carried. Sommer Plotnick recused.

8. Formal Hearing Xin Liang – NVMT #7499 – NVMT-C-1959. (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)

Xin Liang was not present. Legal counsel James Smith represented the respondent.

The Board was informed that a settlement agreement had been reached for a Voluntary Surrender for 3 years. Senior Deputy Attorney General Sophia advised the Board that since the item had been on a previous agenda, the agreement was dated July 29, 2020.

Bob Oliver motioned to accept the voluntary surrender, seconded by Elisabeth Barnard. Motion carried unanimously.

9. Formal Hearing Jeff DeGiovanni – NVMT #7866 – NVMT-C-1965. (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)

Jeff DeGiovanni was not present. Legal counsel Paul Quade represented the respondent.

Senior Deputy Attorney General Sophia Long asked the Board to close this case.

Elisabeth Barnard motioned to close the case, seconded by Lorna Benedict. Motion carried unanimously.

10. Formal Hearing Hengxia Ding – NVMT #117 – NVMT-C-2006. (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)

Hengxia Ding was present. Legal counsel Nathan Lafontaine represented the respondent during the proceedings.

The Board received copies of the supporting exhibits and all exhibits were accepted into evidence.

The Chair swore in Detective Radich.

Elisabeth Barnard motioned to accept that the alleged facts were true, seconded by Bianca Smith. Motion carried unanimously.

Sommer Plotnick motioned that the violations of law did occur, seconded by Richard Fields. Motion carried unanimously.

Lorna Benedict motioned to revoke for seven (7) years based on NRS 640C.700(4) and/or (9). No second. Motion failed.

Elisabeth Barnard motioned to revoke for five (5) years, seconded by Bob Oliver. Motion carried. Bianca Smith opposed.

11. 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)

Ping Zhang was not present. Legal counsel Kirk Kennedy represented the respondent.

The Board was presented with a Voluntary Surrender for three (3) years.

Lorna Benedict motioned to accept the Voluntary Surrender, seconded by Sommer Plotnick. Motion carried unanimously.

12. Formal Hearing Hua Yang – NVMT #8935 – NVMT-C-2014. (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)

Hua Yang was present. Legal counsel Jack Buchanan represented the respondent.

The Chair swore in Hua Yang who stated her lawyer represented her. Legal counsel confirmed that Ms. Yang communicates with him in English and no translator was present.

The Chair swore in Detective Simental.

The Board received copies of the supporting exhibits and all exhibits were accepted into evidence.

Elisabeth Barnard motioned that the alleged facts were true, seconded by Deirdre Strunk. Motion carried. Bob Oliver was not on the call at the time of the vote.

Sommer Plotnick motioned that the violations of law did occur, seconded by Bianca Smith. Motion carried. Bob Oliver was not on the call at the time of the vote.

Summer Plotnick motioned to revoke the license for five (5) years, seconded by Lorna Benedict. Motion carried with Bob Oliver recused for the vote.

13. Formal Hearing Ping Wang – NVMT #9683 – NVMT C-2024. (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)

Ping Wang was not present. Legal counsel Emilee Hammond representing the respondent was not present.

Chair Huleva recused herself from this item due to signing the Summary Suspension for this case. Secretary/Treasurer Barnard sat as Chair for this item

The Board was presented with a settlement agreement for a one (1) year voluntary surrender.

Deirdre Strunk motioned to accept the settlement agreement, seconded by Lorna Benedict. Motion carried with Chair Huleva recused.

14. Reconsideration of probation Raeann Rigirozzi NVMT #10452. (For Discussion and Possible Action)

Raeann Rigirozzi was not present. The Board reviewed the email statement provided by Ms. Rigirozzi and discussed the original decision made by the Board.

Bob Oliver motioned to leave the probation as it is, seconded by Lorna Benedict. Motion carried unanimously.

15. Reconsideration of probation Kendal L. Priestly NVMT #10263. (For Discussion and Possible Action)

Kendal L. Priestly was present and provided a document for the Board's review including licensing costs and a plan for the operation of her own business.

Richard Fields motioned to lift the restriction prohibiting outcall from her probation, seconded by Deirdre Strunk. Motion carried unanimously.

16. 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 of Jinping Chen. (For Discussion and Possible Action)

Legal counsel Kirk Kennedy represented the applicant and advised that the applicant was present. Legal counsel requested continuance of the application review. The continuance was granted.

- b. Review Application of Jiazhen Zou. (For Discussion and Possible Action)

Legal counsel Kirk Kennedy represented the applicant and advised that the applicant was present. Legal Counsel requested continuance of the application review. The continuance was granted.

- c. Review Application of Fengfang Li. (For Discussion and Possible Acton)

Fengfang Li was not present.

Executive Assistant Tereza VanHorn – Ms. Li's massage application is before you today due to potential criminal history that could not be approved administratively. Ms. Li was arrested on January 10, 2017 for prostitution and massage parlor – unlawful conduct by Washington County Sheriff's Office in Utah. Both charges were later dismissed. Ms. Li 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(1)(4)(6) & (9).

The Chair stated for the record she was arrested for prostitution in Utah 1/10/17 and then came to Las Vegas and attended AMO School. The documentation reflects she failed the FSMTB exam twice, a year after she attended school, and then she took the

ITEC exam which she passed. The Chair also advised the Board that only an arrest for prostitution is required for discipline under NRS 640C.

Lorna Benedict motioned to deny the license to Fengfang Li based on NRS 640C.700(1)(4)(6) and (9), seconded by Elisabeth Barnard. Motion carried unanimously.

d. Review Application of Mei Hsuan Yang. (For Discussion and Possible Action)

Mei Hsuan Yang was not present.

Executive Assistant Tereza VanHorn – Ms. Yang’s massage application is before you today due to education that could not be approved administratively. Ms. Yang attended Jackson Institute in Wyoming and previously attended Lincoln Institute of Body Therapy in California. Ms. Yang is requesting to be granted a license under NRS 640C.400 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.580.

Elisabeth Barnard motioned to deny based on NRS 640C.580, seconded by Bianca Smith. Motion carried unanimously.

e. Review Application of JauQeel Reavis. (For Discussion and Possible Action)

JauQeel Reavis was present.

Executive Assistant Tereza VanHorn – Mr. Reavis’s massage application is before you today due to potential criminal history that could not be approved administratively. Mr. Reavis was arrested on January 25, 2018 for Obstruction of Mails Generally, Petty by US Postal Inspection Service. Mr. Reavis 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 approve a probationary license for two (2) years with restrictions.

Bianca Smith motioned to approve a probationary license for two (2) years including reporting all contact with law enforcement within 48 hours and having his employer report every four (4) months his employment status, seconded by Elisabeth Barnard. Motion carried unanimously.

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.

17. *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)*

No items were pulled.

Deirdre Strunk motioned to approve items 17.a. through f., seconded by Lorna Benedict. Motion carried unanimously. Bianca Smith recused from item e.

- a. *Approval of applications approved and authorized by the Chairperson through July 31, 2020 (see Exhibit A). (For Possible Action)*
- b. *Discussion and possible action regarding review and acceptance of the Fiscal Year 2020 Budget verses Actual. (For Possible Action)*
- c. *Discussion and possible action regarding approval of contract with Auditor Michael Coulson CPA to increase amount from the budgeted \$6,500 to \$8,000. (For Possible Action)*
- d. *Discussion and possible action regarding review and acceptance of the Fiscal Year 2021 Budget verses Actual through July 31, 2020. (For Possible Action)*
- e. *Discuss, amend and approve Board meeting minutes for July 29, 2020. (For Possible Action)*
- f. *Discussion and possible action regarding approval of Massage Therapy Programs meeting the criteria of NAC 640C (see Exhibit B). (For Possible Action)*

18. Board Counsel report. (For Discussion)

Board counsel had nothing new to report.

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

a. Financials and renewals

Executive Director Anderson shared the current renewal rates and concerns regarding potential financial impacts due to the increase in licensees choosing to not renew or go inactive as a result of COVID-19.

b. Discussion regarding Inspection Team calendar year-to-date key indicators (For Discussion and Possible Action)

Christy Brunner provided statistics regarding the inspection process for 2020.

c. Discussion regarding complaints and investigations key indicators

Executive Director Anderson provided information regarding the volume of investigations closed year to date and the 14 cases closed due to violations of the Governor's Directive or the Roadmap to Recovery Phase 2 Guidelines. She also shared information on staff's approach to these cases including the voluntary surrender that was presented to the Board at the meeting.

20. Discussion and possible action regarding approval for Board members to take CLEAR virtual training \$795 per person or 2-5 Board members and staff for \$1,495 or 6-10 Board members/staff for \$2,895. (For Discussion and Possible Action)

This item was not discussed. The Executive Director agreed to contact each new Board member and discuss their participation.

21. Discussion and possible action regarding Board members and staff participating in the CLEAR 2020 Annual Education conference A Virtual Experience September 21, 2020 through September 25, 2020 at a cost of \$445 per attendee up to 4 attendees, \$405 per attendee from 5-10 attendees, and \$380 per attendee for 11 or more attendees and/or the Introduction to Regulatory Governance or Advanced Concepts in Regulatory Governance offered in conjunction with the annual conference at a cost of between \$165 and \$350 depending upon the options. (For Discussion and Possible Action)

This item was not discussed. The Executive Director agreed to contact each Board member and discuss their participation.

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

Mission Statement Options

- a. To protect the public health, safety, and welfare through effective massage therapy regulation. Insuring that qualified, competent, ethical practitioners are licensed. (Proposed)
- b. The Board serves the State of Nevada by protecting the public health, safety and welfare through the effective regulations of massage therapy thereby insuring that qualified, competent, ethical practitioners are licensed.
- c. The Nevada State Board of Massage Therapy serves the State of Nevada by protecting the public health, safety and welfare through the effective regulations of massage therapy thereby insuring that qualified, competent, ethical practitioners are licensed.
- d. The Board provides for public protection through effective regulation of massage therapy which ensures the health, safety, and welfare of the public by licensure of qualified, competent, ethical practitioners.
- e. The Nevada State Board of Massage Therapy provides for public protection through effective regulation of massage therapy which ensures the health, safety, and welfare of the public by licensure of qualified, competent, ethical practitioners.

Discussion was held regarding the options provided.

Bianca Smith motioned to approve the mission statement to now read: “To protect the public health, safety, and welfare through effective massage therapy regulation. Insuring that qualified, competent, ethical practitioners are licensed.”, seconded by Richard Fields. Motion carried unanimously.

23. Discussion regarding possible statutory changes to NRS 640C including comments from the public regarding recommended changes. (For Discussion and Possible Action)

The Board discussed several possible statutory changes for the 2021 Session. The Board decided not to move forward at this time with any of the items discussed.

Public comment was provided by David Otto with the Nevada Chapter of the American Massage Therapy Association, Laura Embleton with Associated Bodywork and Massage Professionals, and Christine Hooper with American Massage Therapy Association.

24. Discussion and possible action regarding downsizing or closing the Las Vegas office. (For Discussion and Possible Action)

Executive Director Anderson presented fiscal impact information for maintaining the Las Vegas office at its current location, downsizing to a smaller space in the Grant Sawyer Building, and eliminating a Las Vegas office. The Board discussed the options.

Elisabeth Barnard motioned to defund the Las Vegas office and downsize, seconded by Deirdre Strunk. Motion carried unanimously.

25. Discussion and possible action regarding scheduling Board meetings for calendar year 2021 and the continuance of meetings every 10 weeks January 20th, March 31st, June 9th, August 18th, and October 27th. (For Discussion and Possible Action)

Elisabeth Barnard motioned to adopt the dates above, seconded by Bianca Smith. Motion carried unanimously.

26. Discussion regarding recommended future agenda items. (For Discussion)
27. 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.

Public comment was provided by David Otto thanking the Board for addressing his request to consider inclusion as health care providers.

28. Meeting adjourned at 4:28 p.m.

Notices:

Items may be combined for consideration by the board. Items may be pulled or removed from the agenda at any time. Public comment was 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. The Board requests that public comments be limited 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 **Tuesday August 18, 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 NRS 241.020, the public notice of this meeting was posted on or before August 14, 2020, at the following locations:

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

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