

THE BOARD OF MASSAGE THERAPY
Professional & Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

- Date: Wednesday, May 4, 2016
- Time: 9:00 a.m.
- Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii 96813
- Present: Olivia Nagashima, Massage Therapist, Chair
George Davis, Jr., Massage Therapist, Vice Chair
Stephanie Bath, Massage Therapist
Paula Behnken, Public Member
Rodney J. Tam, Deputy Attorney General (“DAG”)
Carlos Keen, Executive Officer (“EO Keen”)
Carol Kramer, Executive Officer (“EO Kramer”)
Jennifer Fong, Secretary
- Guests: Arlene Estrella
Anne Fritz, American Massage Therapy Association (“AMTA”) Treasurer
- Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by section 92-7(b), Hawaii Revised Statutes (“HRS”).
1. Call to Order: There being a quorum present, Chair Nagashima called the meeting to order at 9:01 a.m.
2. Additions/
Additional
Distribution
to Agenda: Upon a motion by Ms. Behken, seconded by Ms. Bath, it was voted on and unanimously carried to add the following items to the agenda:
- Under 4. Executive Officer’s Report, a. Legislation Update, add “1) HB 2233”, “2) SB 2863”, and “3) SB 2976”.
- Upon a motion by Ms. Bath, seconded by Vice Chair Davis, it was voted on and unanimously carried to add the following item to the agenda:
- Under 5. Unfinished Business, add “b. Hawaii Massage Exam”.

3. Approval of
Minutes of the
February 3, 2016
Meeting:

Chair Nagashima requested the following change to the minutes (underlined material added):

- On Page 8, under “7. Applications”, the sixth paragraph should read “Chair Nagashima noted that work experience is not credited towards the academic education requirement.”

There being no further discussion or amendments to the minutes, Ms. Bath voted to approve the minutes of the February 3, 2016 meeting as amended. It was seconded by Ms. Behnken, voted on and unanimously carried.

4. Executive Officer’s
Report:

a. Legislation Update

1) HB 2233

EO Keen noted that the original version of the bill required health care professionals to take an annual continuing medical education (“CME”) course in health issues unique to Hawaii and requires the Department of Health (“DOH”) to develop the course, in consultation with the Hawaii Medical Board (“HMB”). He informed the Board that the content of the bill from the original to the current version has drastically changed. He reminded the Board that at their last meeting Ms. Bath volunteered to work on proposed language for a bill to amend their law to add a continuing education requirement.

The Board reviewed Ms. Bath’s follow up report, in which she stated that she has not come up with language at this time.

2) SB 2863

EO Keen noted that SB 2863 is the proposed legislation by the Regulated Industries Complaints Office (“RICO”) which authorizes the issuance of a citation for specific violations of massage therapy laws by licensees, sets forth a process for licensees to contest the citation and provides for the assessment of fines for each violation. He reported that the bill has passed and is effective July 1, 2016.

3) SB 2976

EO Keen noted that SB 2976 is the bill which would transfer administration of the licensing and regulation program for private trade, vocational, and technical schools (including massage schools) from the Department of Education to the Department of Commerce and Consumer Affairs. He reported that this bill has died.

5. Unfinished Business:

a. Rule Revisions – Title 16, Chapter 84, Hawaii Administrative Rules (“HAR”)

This matter was deferred to the end of the meeting.

b. Hawaii Massage Exam

Ms. Bath noted that she requested this item be added to the agenda because the minutes of the February 3, 2016 meeting does not indicate that the Board made a decision on if they would like to keep the exam content with the current percentages.

EO Keen noted that the minutes are accurate as the Board did not make a decision to date.

Ms. Bath noted that the Board was previously told that the passing rate for the Hawaii exam is high. She made a motion to ask the exam provider to bring the exam content in line with the national pass/fail percentages.

EO Tam noted that as the pass/fail percentages are dependent on the candidates, the exam provider would not be able to adjust the content to change those percentages.

Ms. Bath withdrew her motion.

Chair Nagashima reminded the Board that Prometric is asking the Board to review the current percentages in the exam content outline. She noted that currently, the exam content is 10% Laws and Rules, 50% Anatomy and Physiology, 15% Massage Theory and 25% Clinical Situations. At the previous meeting, she reported that she had compared the percentages to those of other exams like the Massage and Bodywork Licensing Examination (“MBLEx”) and found the percentages similar, except in Anatomy and Physiology. The national percentage is around 33%.

Ms. Bath stated that she likes the percentages as they are and believes that Anatomy and Physiology should be high.

Chair Nagashima suggested that it may be time for the Board to review the exam questions again. She asked if that would be possible.

EO Keen said that he would contact Prometric and ask.

After some discussion, upon a motion by Ms. Bath, seconded by Vice Chair Davis, it was voted on and unanimously carried to approve the current percentages in the Hawaii Massage Therapy Exam content outline.

After some discussion, upon a motion by Chair Nagashima, seconded by Ms. Behnken, it was voted on and unanimously carried to form an investigative committee consisting of Vice Chair Davis and Ms. Bath for the purpose of reviewing the current bank of questions for the Hawaii Massage Therapy Exam.

6. New Business: None.

7. Applications: a. Ratifications

Upon a motion by Ms. Behnken, seconded by Vice Chair Davis, it was voted on and unanimously carried to approve the attached ratification list.

b. Applications

Executive Session:

At 9:29 a.m., it was moved by Vice Chair Davis, seconded by Ms. Behnken, and unanimously carried to move into Executive Session in accordance with HRS, 92-5(a)(1) and (4), "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;" and "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities".

At 9:32 a.m., it was moved by Ms. Behnken, seconded by Ms. Bath, and unanimously carried to move out of Executive Session.

- Zachary Mandryk

Upon a motion by Vice Chair Davis, seconded by Ms. Bath, it was voted on and unanimously carried to approve Mr. Mandryk to sit for the exam.

8. Chapter 91, HRS Adjudicatory Matters:

None.

5. Unfinished Business:

a. Rule Revisions – Title 16, Chapter 84, Hawaii Administrative Rules ("HAR")

EO Keen noted that the subcommittee has provided a new draft which includes Subchapters 1 through 3.

Vice Chair Davis reported that the subcommittee has been meeting frequently to work on the draft. The new draft incorporates comments from Ms. Bath and Ms. Behnken.

Ms. Bath questioned the issue of payment to students and apprentices in the draft.

DAG Tam noted that HRS §452-2(a) states “It is unlawful for any person in the State to engage in or attempt to engage in the occupation or practice of massage for compensation without a current massage therapist license issued pursuant to this chapter.” He went on to note that §452-2(b) permits an apprentice who has a permit, or a student under the direct supervision of a teacher in a massage school setting, to engage in or attempt to engage in the occupation or practice of massage, however, they cannot do so for compensation.

Ms. Bath said she feels apprenticeships are problematic because some do it solely for business, and not to train apprentices. She expressed concern that apprentices are being abused.

Chair Nagashima noted that the purpose of the SB 2863 is to allow RICO to issue citations for violations. She reminded the Board that anyone can file a complaint with RICO for violations.

Ms. Bath noted that she does not agree that apprentices should be limited to only obtaining hours working in a massage establishment. She cited an example where a sponsor may want to take their apprentice into a care home and teach them how to massage in a care bed or take them to a labor and delivery. She feels that limiting them to working in a massage establishment would be depriving the apprentices of these types of experiences.

EO Keen noted that the proposed language states apprentice can practice outside of the massage establishment, however, they cannot receive credit towards the education requirement or compensation.

Vice Chair Davis noted that some events contract with schools to have their students perform massage at their event. Students are not compensated but the school may be.

Chair Nagashima said that those events would be purely voluntary and would not count towards their massage education.

Ms. Behnken agreed.

Ms. Bath noted that the sponsor can require their apprentices to do the event without compensation.

Chair Nagashima stated that the apprentice can file a complaint with RICO.

Ms. Bath stated that the apprentices do not report such incidents because it is difficult to find sponsors, especially in rural areas, and the apprentices just want

to finish their apprentice hours so they can get their license.

Vice Chair Davis noted that the apprentice does not have to stay with that sponsor. Any apprentice can request for a change in sponsor.

Chair Nagashima stated that unless the incidents are reported, nothing will change.

Ms. Bath reminded the Board that at the last meeting, she suggested that each massage establishment have a chart which is visible to clients that lists both the massage apprentices and their sponsors working that day.

DAG Tam reminded the Board that HRS §452-15 states that the license shall be conspicuously displayed in the place of business or employment and §16-84-15(c) states that every establishment shall display, in a conspicuous place, its license, together with the licenses and permits of all persons employed by the establishment with the current validation of the certificates of the massage therapists and apprentices.

Vice Chair Davis stated that without complaints being filed, the Board cannot take action against these sponsors.

Chair Nagashima stated that there can be some anonymity when reporting to RICO. She also noted that the complaint does not have to be filed by the apprentice. She reminded the Board that if someone speaks to them about violations, they can refer that individual to the EO or the board member can report the violations themselves.

Ms. Bath said the issue is that the apprentice signs a contract with the sponsor and the massage establishment.

Vice Chair Davis noted that it is not required that an apprentice sign a contract. No change in the rules is going to fix a contract that the apprentice chooses to sign.

Chair Nagashima noted that there was past discussion about removing the apprenticeships altogether. She stated that Hawaii is only one of two states in the country which allow apprenticeships.

DAG Tam reminded the Board that SB 2863 will give RICO better enforcement authority. He stated that HRS §26-9 delegates the authority to investigate complaints to RICO. He noted that abuse by a sponsor is not unique to the massage therapy profession, however, in order to investigate, a complaint must be filed. The apprentice can always leave and request a change in sponsor.

Ms. Bath asked what the apprentice will do if they are unable to find another sponsor.

Vice Chair Davis stated that is not something that the Board can control.

Chair Nagashima reminded the Board members that they should be familiar with the Board's statutes and rules, however, they are not the enforcers. If they receive any questions, they should direct those individuals to speak to the EO.

Ms. Bath expressed concern that the proposed definition of "direct supervision" includes the word "control" and suggested that it may be a violation of Department of Labor regulations.

DAG Tam noted that "control" is included in the current definition of "direct supervision".

Ms. Bath suggested that the proposed definition of "sexual act" be amended to remove "kissing" as she noted that local culture includes greeting family and friends with a hug and/or kiss.

At 10:33 a.m., DAG Tam left.

Ms. Bath noted that the proposed definition of "sponsoring massage therapist" requires that a sponsor be licensed for at least three years. She feels that a sponsor should be licensed for a minimum of five years. She explained that typically, massage therapists do not work traditional 40 hour work weeks for the first couple of years they are licensed as they are building their business. Also, she finds that the current trend for employers is to hire lots of part time staff instead of full time staff.

Chair Nagashima noted that someone could hold a current license for five years but not be practicing. She suggested that the Board may want to consider an education requirement for sponsors instead.

Recess: At 10:38 a.m., Chair Nagashima called for a recess.

Reconvene: At 10:41 a.m., the Board returned to its regular order of business.

Chair Nagashima requested that the Board members go through the new draft. She reported that she and Vice Chair Davis will be meeting to continue their work on the draft and asked Ms. Bath and Ms. Behnken to provide any additional comments and concerns as soon as possible to EO Kramer who will forward them to the subcommittee. She noted that once the Board can come to an agreement on a full draft, the rules process can begin.

9. Next Meeting: Wednesday, August 10, 2016
9:00 a.m.
King Kalakaua Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii 96813

10. Adjournment: With no further business to discuss, Chair Nagashima adjourned the meeting at 11:05 a.m.

Taken by:

/s/ Jennifer Fong

Jennifer Fong
Secretary

Reviewed by:

/s/ Carol Kramer

Carol Kramer
Executive Officer

5/20/16

[] Minutes approved as is.

[✓] Minutes approved with changes; see minutes of August 10, 2016.

BOARD OF MASSAGE THERAPY

RATIFICATION LIST
Wednesday, May 4, 2016

MASSAGE THERAPIST

MAT 14628 LAVERNE L LEE	MAT 14673 MONINA B AMBY
MAT 14629 KEVIN L WATKINS II	MAT 14674 MITOS A STEPHENSON
MAT 14630 MAYUKA YAMAMOTO	MAT 14675 HENRY K REANO
MAT 14631 BOBBIE A WERRE	MAT 14676 VERONICA N BUENO
MAT 14632 MELISSA M HARVEY	MAT 14677 VIRGINIE B M SOLACE-MICHAUD
MAT 14633 KATRINA M FRANK	MAT 14678 SOROKO SAKAMOTO
MAT 14634 YUKAKO KUBO	MAT 14679 TEESH K BEADLE
MAT 14635 DORTHE T JENSEN	MAT 14680 ROBIN S KUTKOWSKI
MAT 14636 MALIA D KILLAM	MAT 14681 MEGUMI NOJIMA
MAT 14637 JUVY R ALCONCEL	MAT 14682 YUKI SATO
MAT 14638 CYNTHIA S CRAMER	MAT 14683 DEANNA PALREY-VELARDE
MAT 14639 ANDREA S RYON	MAT 14684 PEARL L INGALLS
MAT 14640 THOMAS J FASULO	MAT 14685 NINA GIORDANO
MAT 14641 MICHAEL D BARAD	MAT 14686 RYAN A MULNICK
MAT 14642 JESSICA V THOMPSON	MAT 14687 RACQUEL I PILLOS
MAT 14643 NEVA TSUKIYAMA	MAT 14688 NANCY C EUBANKS
MAT 14644 CONNIE A DUNCAN	MAT 14689 MARC P ESPOSITO
MAT 14646 TATE A ROLFS	MAT 14690 MICHAEL L GOSNEY
MAT 14647 SYDNEY K COELHO	MAT 14691 JULIE R WILLIS
MAT 14648 ALEJANDRO HERNANDEZ	MAT 14692 CHELSEA M O'GUIN
MAT 14649 JASON ABARCA	MAT 14693 JENNIFER M AYRES
MAT 14650 ANNA LIVINGSTON	MAT 14694 ERINA R LUCHS
MAT 14651 AMIRA NYSTROM	MAT 14695 ANNA L LIPKIN
MAT 14652 JOSHUA S BERMAN	MAT 14696 SAYAKA S MCCLOUD
MAT 14653 MEE-KYUNG SU	MAT 14697 ANDREA GAYTAN
MAT 14654 THERESA S DE JESUS	MAT 14698 YOKO CHONG
MAT 14655 ALLISON M KOZLOWSKI	MAT 14699 TEHANI-NICOLE K MOSS
MAT 14656 HOLLY N WALTER	MAT 14700 EMERSON T TUMBAGA
MAT 14657 JUNKO MAEDA	MAT 14701 ERIN L WAGNER
MAT 14658 KRISTEN S MCCOY	MAT 14702 CHRISTINE TRANKA
MAT 14659 ALBERTO JIMENEZ	MAT 14703 ERIC Z THOMPSON
MAT 14660 MISHA K SARME	MAT 14704 JENNIFER M THOMPSON
MAT 14661 ASA V DEAN	MAT 14705 RHEALYN U TAPIC
MAT 14662 KIYOMI PHELPS	MAT 14706 MORGAN E RUSSELL
MAT 14663 DE ANN L L K SELF	MAT 14707 JAN A NADAMOTO
MAT 14664 JENNIFER M KRAMER	MAT 14708 BARBARA LINIGER
MAT 14665 LEAF E VAN ALSTINE	MAT 14709 YOH KITAHARA
MAT 14666 TYLER Y RAUTMANN	MAT 14710 NICOLE K BRANSON
MAT 14667 DESIREE ROLIRAD	MAT 14711 KYLIE T BOOTH
MAT 14668 JOSELYN M JUCUTAN	MAT 14712 BERNARD W BAILADO
MAT 14669 MIYAKO MASUI	MAT 14713 ADRIAN ALCANTARA ESQUIVEL
MAT 14670 BRITTANY L DAVIS	MAT 14714 ELIZABETH J HUETER
MAT 14671 JESSICA A JORDAN	MAT 14715 JUNWOO YOON
MAT 14672 KIM K EATON	MAT 14716 KAZUMI R WALSH

MASSAGE THERAPIST (continued from previous page)

MAT 14717 KELLY M THUNE	MAT 14725 MIYOKO ADAMS
MAT 14718 MAX A WELLEIN	MAT 14726 CHRISTOPHER S ARAMAKI
MAT 14719 KRISTINA A EBERLE	MAT 14727 VICTORIA K BANATAO
MAT 14720 STACI-JANE K KUBO	MAT 14728 RANDALL M HAMER
MAT 14721 JARED M MELAND	MAT 14729 BORBALA ISAAC
MAT 14722 VERA L VIDAURRI	MAT 14730 SAOWANIT SAWANGKHOKKUAD
MAT 14723 AYAKO NAGASHIMA	MAT 14731 FARLEY O JONES
MAT 14724 SAILOR N HAMLIN	MAT 14732 JESSICA R WOOD NEWALU

MASSAGE THERAPY ESTABLISHMENT

MAE 3122 POIPU INVESTMENT PROPERTIES LLC	MAE 3137 MODERN THAI MASSAGE & SPA LLC
MAE 3123 COAST MAUI LLC	MAE 3138 HAWAIIAN RAINFOREST LLC
MAE 3124 GRACE F J CROZIER	MAE 3139 NANCY CHIDSANTHIA THERAPEUTIC MASSAGE LLC
MAE 3125 BEYOND BARE WAXING HAWAII INC	MAE 3140 KATRINA K EMMANUEL
MAE 3126 ENZO B MADRONE	MAE 3141 17 MASSAGE LLC
MAE 3127 S S ENTERPRISE INC	MAE 3142 808 WELLNESS INC
MAE 3128 HEAD TO TOE SALON LLC	MAE 3143 THAI STYLE MASSAGE SERVICE LLC
MAE 3129 MEDICAL MASSAGE LLC	MAE 3144 SRIDHARA LLC
MAE 3130 SIRI THAI MASSAGE LLC	MAE 3145 KATHI L MIYAGAWA
MAE 3131 LOLI'ANA BODY WORKS LLC	MAE 3146 KAPOLEI MASSAGE INSTITUTE LLC
MAE 3132 SPAYA THAI MASSAGE LLC	MAE 3147 JUN CRYTSER
MAE 3133 PERFECT-SEITAI LLC	MAE 3148 KNEAD PROFESSIONAL MASSAGE LLC
MAE 3134 HEALING ALCHEMY MASSAGE LLC	MAE 3149 TURTLE BAY RESORT LLC
MAE 3135 HOLLY H HO	
MAE 3136 KAORU TAKAGI	

MASSAGE THERAPY WORKSHOP

Tina Walter, MAT 11747
Tina Walter, MAE 2684

February 28, 2016 – May 8, 2016

Christopher Musslewhite, MAT 13028
Cheriess Bugado, MAT 6644
Hilo Massage Clinic and Day Spa LLC, MAE 2826

March 22, 2016 – May 24, 2016