

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

MINUTES OF MEETING

- Date: Wednesday, March 7, 2018
- Time: 12:30 p.m.
- Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii 96813
- Present: George Davis, Jr., Massage Therapist, Chair
Stephanie Bath, Massage Therapist
Jodie Hagerman, Public Member
Samantha Meehan-Vandike, Massage Therapist
Carol Kramer, Executive Officer ("EO")
Shari Wong, Deputy Attorney General ("DAG")
Jennifer Fong, Secretary
- Excused: Paula Behnken, Public Member, Vice Chair
- Guests: Olivia Nagashima
Claudette Larocque
Victor Kotilevski
- 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 Davis called the meeting to order at 12:30 p.m.
- Chair Davis asked the audience members to give a brief introduction to the Board.
2. Additional Distribution to Agenda: None.
3. Approval of Minutes of the January 31, Chair Davis asked if there were any comments or concerns regarding the Board minutes of the January 31, 2018 meeting.

2018 Meeting: Ms. Hagerman noted that on page 10, the following corrections should be made in the first section (underlined material added, while bracketed material is to be deleted):

The second paragraph should read "Ms. [Robinson] Raymond said no but she is looking to streamline the process."

The fifth paragraph should read "Ms. [Robinson] Raymond thanked the Board for their time and clarification.

Chair Davis asked if there were any other corrections to the minutes.

There being no further discussion or amendments to the minutes, Ms. Hagerman moved to approve the minutes of the January 31, 2018 meeting as amended. It was seconded by Ms. Meehan-Vandike, with Chair Davis, Ms. Hagerman and Ms. Meehan-Vandike voting "yes" and Ms. Bath abstaining. The motion carried.

4. Executive Officer's Report: None.

At this time, Chair Davis announced he was taking the agenda out of order to discuss the following agenda item:

- 5. 2018 Legislative Session, b. S. B. No. 2638, S.D. 1 Relating to Professional and Vocational Licensing – *Prohibits a licensing authority from using rules to supersede requirements set forth in licensing laws and adopting rules that authorize an unlicensed individual to perform duties, activities, or functions that, if performed by another professional, would require licensure of that professional.*

5. 2018 Legislative Session: b. S. B. No. 2638, S.D. 1 Relating to Professional and Vocational Licensing – Prohibits a licensing authority from using rules to supersede requirements set forth in licensing laws and adopting rules that authorize an unlicensed individual to perform duties, activities, or functions that, if performed by another professional, would require licensure of that professional.

EO Kramer gave a brief synopsis of the bill, noting that this measure wants to make certain that unlicensed auxiliary personnel assisting licensees do not infringe on the licensed profession's scope of practice. In addition, it requires that the Board shall not use their rules to supersede requirements under the licensing law, HRS Chapter 436B. The measure does exempt apprentices working towards licensure.

Board members noted that in their profession, it is highly unlikely that unlicensed auxiliary personnel would be assigned to perform tasks which would

infringe on the massage therapy scope of practice. In most cases, unlicensed auxiliary personnel such as receptionists or spa attendants prepare rooms. The only contact they may have with a client is an initial greeting and possibly escorting the client to the treatment room. The client in-take and pre-screening are done by licensed personnel.

After some discussion, it was the consensus of the Board that they do not believe this bill would affect their profession.

The Board returned to its regular order of business.

5. 2018 Legislative Session:
- a. H. B. No. 1966, H.D. 1 Relating to Massage Therapy – Exempts individuals and establishments that only offer foot, hand, and outer ear manipulation from massage therapy licensure requirements and related advertising restrictions

EO Kramer reminded the Board that at their January 31, 2018 meeting, they determined that they were opposed to this bill as massage performed on the feet, hands and manipulation of outer ear fall under the definition of “massage” pursuant to HRS §452-1 and would therefore, require a Hawaii massage therapist license. Since that meeting, this bill passed through two House committees and will be moving over to the Senate. There were very distinct testimonies in support and in opposition of this bill. Because the bill is moving on, the legislators apparently are in support of this version, but are still open for discussion. She noted that the Board may now want to consider a compromise. She provided some research in favor of these amendments and some confirming the Board’s decision to oppose.

Ms. Bath said she feels strongly that reflexology is massage therapy.

Ms. Meehan-Vandike noted that there are other states that do not license reflexologists.

EO Kramer stated that the “MASSAGE Laws Across the USA” document which was provided to the Board gives a list of states exempting reflexology from the massage law, states with reflexology laws and states without a massage law. She noted that initially, Washington took reflexology out of their law but due to an increase in unlicensed activity, they put reflexology back into their law.

Chair Davis stated that while he can understand that someone who only wants to practice reflexology would not want to invest the time and money into getting the education required to obtain a Hawaii massage therapist license, he is concerned that passage of this bill would open the door to an increase in unlicensed activity.

Ms. Meehan-Vandike stated that in Australia, additional training and certification is required in order to call yourself a “reflexologist”.

Chair Davis noted that the testimony in support of the bill submitted by the American Reflexology Certification Board (“ARCB”) stated that techniques applied in reflexology stimulate the neural pathways linking the body systems and does not acknowledge manipulation of the soft tissue.

Ms. Nagashima stated that in order to stimulate the neural pathways, the practitioner must apply pressure to the soft tissue.

Ms. Meehan-Vandike said she discovered in testifying on the Board’s behalf during this legislative session, that politics at the legislature is a very real thing. She noted that after testifying on one of the bills, she was approached by representatives of organizations/agencies with opposing position to the Board and asked to offer further explanation and clarification on the Board’s position.

DAG Wong stated that the Board needs to recognize the political realities and if they feel strongly about their position on any bill, they need to do leg work behind the scenes and meet with individual legislators one-on-one.

Chair Davis asked who the Board needs to see.

EO Kramer stated that once the bill crosses over, they will find out which committees it has been referred to and who the members of those committees are.

Ms. Nagashima noted that she is a certified reflexology instructor.

EO Kramer asked if the reflexology certification can be obtained through Remington.

Ms. Nagashima said no, she went beyond general training to get her reflexology certification. She noted that it is not a weekend course. Getting the certification requires lengthy training.

Ms. Bath asked if reflexologists would be required to comply with the massage laws and rules.

EO Kramer said currently, yes.

Ms. Meehan-Vandike noted that the current laws and rules require that the practitioner have training in order to perform a massage technique.

EO Kramer asked if anyone had a contact at the American Massage Therapy Association (“AMTA”).

Ms. Nagashima said yes and asked why she needed to contact the AMTA.

EO Kramer stated that Daria Loy-Goto, the Compliance and Enforcement Officer at the Regulated Industries Complaints Office (“RICO”) has been in contact with their Washington lobbyist.

Ms. Meehan-Vandike acknowledged that while the Board feels reflexology is a massage modality, 32 other states exempt reflexology from their massage law. She noted that this may be the Board’s only chance to propose amendments for specific requirements to ensure that the reflexologists have proper training and certification.

Ms. Bath agreed, however, she said the first thing the testimony should address is that the Board remains strongly opposed to the bill as it is because it opens the door to human trafficking and prostitution and also puts a large burden on RICO and police departments with regards to enforcement.

Ms. Meehan-Vandike suggested that the Board use the Washington requirements as a guideline to drafting their testimony. She stated that Washington requires certification by the ARCB. She volunteered to draft the testimony.

DAG Wong noted that an argument could be made that requiring a specific certification requirement for reflexologists might trigger a Sunrise Analysis from the Legislative Auditor’s Office.

By consensus, the Board directed Ms. Meehan-Vandike to draft proposed testimony for the bill.

6. Applications: a. Ratifications

Upon a motion by Ms. Meehan-Vandike, seconded by Ms. Hagerman, it was voted on and unanimously carried to approve the attached ratification list.

b. Applications

Executive Session:

At 1:17 p.m., it was moved by Ms. Hagerman, seconded by Ms. Bath, 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" to discuss the following agenda items:

- 6. Applications, b. Applications, 1) Victor Kotilevski

At 1:50 p.m., it was moved by Ms. Bath, seconded by Ms. Hagerman, and unanimously carried to move out of Executive Session.

1) Victor Kotilevski

Upon a motion by Ms. Hagerman, seconded by Ms. Bath, it was voted on and unanimously carried to approve Mr. Kotilevski to sit for the Hawaii Massage Therapy Examination.

Mr. Kotilevski asked if he would be able to take the exam the following day.

EO Kramer said no. She informed him that after the meeting concluded, his application would be taken to the Licensing Branch for processing. Once processed, the Licensing Branch would send his Notice of Approval and the exam registration paperwork to his mailing address of record.

Executive
Session:

At 1:53 p.m., it was moved by Chair Davis, seconded by Ms. Bath, 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" to discuss the following agenda items:

- 6. Applications, b. Applications, 2) Jared Couch
- 6. Applications, b. Applications, 3) Susan Hoo
- 6. Applications, b. Applications, 4) Jeffery Leiendecker

At 2:18 p.m., it was moved by Ms. Bath, seconded by Ms. Hagerman, and unanimously carried to move out of Executive Session.

2) Jared Couch

Upon a motion by Ms. Meehan-Vandike, seconded by Ms. Hagerman, it was voted on and unanimously carried to defer Mr. Couch's Application for Exam & License – Massage Therapist pending receipt of additional documents and to delegate authority to the EO to approve Mr. Couch to sit for the Hawaii Massage Therapist Exam if all of the requirements to do so are met.

3) Susan Hoo

Upon a motion by Ms. Bath, seconded by Ms. Meehan-Vandike, it was voted on and unanimously carried to approve Ms. Hoo to sit for the Hawaii Massage Therapy Examination.

4) Jeffery Leiendecker

Upon a motion by Ms. Meehan-Vandike, seconded by Ms. Hagerman, it was voted on and unanimously carried to defer Mr. Leiendecker's Application for Exam & License – Massage Therapist pending receipt of additional documents and to delegate authority to the EO to approve Mr. Couch to sit for the Hawaii Massage Therapist Exam if all of the requirements to do so are met.

7. Chapter 91,
HRS –
Adjudicatory
Matters:

At 2:22 p.m., Chair Davis recessed the Board's meeting to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

- a. In the Matter of the Massage Therapist License of Jason Robert Myhre (MAS 2014-24-L) – Transmittal Memorandum; Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order; Board's Final Order

After discussion, it was moved by Ms. Meehan-Vandike, seconded by Ms. Hagerman, and unanimously carried to adopt the Hearings Officer's recommended decision as the Board's Final Order.

At 2:27 p.m., the Board moved out of Chapter 91, HRS, and returned to its regular order of business.

Ms. Meehan-Vandike announced that her husband got a new job and her family would be moving to Washington in May. She has subsequently withdrawn her application for reappointment to the Board.

Board members noted that Ms. Meehan-Vandike has made significant contributions during her time on the Board and expressed sadness that she would be leaving.

Ms. Meehan-Vandike stated that she would like the Board to consider requiring a student to submit a current criminal history record check to their school prior to being admitted into a massage therapy program.

DAG Wong stated that Ms. Meehan-Vandike needs to submit a written request and it would need to be on the agenda of a scheduled board meeting before the Board can have any discussion.

Recess: At 2:37 p.m., Chair Davis called for a recess. DAG Wong left the meeting.

Reconvene: At 2:48 p.m., the Board returned to its regular order of business.

8. Unfinished Business: a. Rule Revisions – Title 16, Chapter 84, Hawaii Administrative Rules

The following are some of the substantive changes which were discussed:

- Increasing the education requirement for massage therapist apprentices to a minimum of six hundred (600) hours including not less than eighty (80) hours of anatomy, physiology, and kinesiology;
- In order to obtain an apprentice permit, the applicant must have at least one sponsoring massage therapist at one massage therapy establishment. The applicant may submit another application for an additional sponsor at the same massage therapy establishment (“MAE”) as the principal massage therapist of that MAE is ultimately responsible to ensure the applicant gets the necessary training but an applicant will not be issued multiple apprentice permits to train at multiple massage therapy establishments.
- To request either an Extension of an Apprenticeship Permit or a Change in Sponsor of an Apprenticeship Permit, the following must be provided prior to the expiration date of the existing apprentice permit:
 - An original written request including the reason(s) for the request;
 - An original completed apprentice permit application including all required supporting documents and fees;
 - An original notarized "Training Report - Massage Therapist Apprentice" (Form MA-09) completed for the existing permit by the sponsor and principal massage therapist of the massage establishment of record.

At 3:55 p.m., Ms. Bath left the meeting.

The Board will resume discussion of the current draft at their next scheduled meeting.

9. Next Meeting: Wednesday, May 2, 2018
9:00 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii 96813

10. Adjournment: With no further business to discuss, Chair Davis adjourned the meeting at 4:05 p.m.

Taken by:

/s/ Jennifer Fong

Jennifer Fong
Secretary

Reviewed by:

/s/ Carol Kramer

Carol Kramer
Executive Officer

3/19/18

Minutes approved as is.

Minutes approved with changes; see minutes of _____.

BOARD OF MASSAGE THERAPY

RATIFICATION LIST
Wednesday, March 7, 2018

MASSAGE THERAPIST

MAT 15540 NOELANI A FEVELLA
MAT 15541 JADE M THOMAS
MAT 15542 GARY K SCHNEIDER
MAT 15543 MATTHEW I CHONG
MAT 15544 JONITA J OVALLES-PECJO
MAT 15545 ELENA A ARAUJO BORISOFF
MAT 15546 STEPHANIE L PEARCE
MAT 15547 KATELYN C CRUZ
MAT 15548 SARAH J VANCUREN
MAT 15549 YUKARI ARAI
MAT 15550 TODD PLYMALE-MALLORY
MAT 15551 SCOTTISH S GRIMM
MAT 15552 QUINCY A BJORCK

MAT 15553 JENNA L SPIRIT
MAT 15554 AMANDA L MADDON
MAT 15555 ARIEL L K ANI-ANGUAY
MAT 15556 KIMBERLY G EVANS
MAT 15557 ERNEST A KANEKOA
MAT 15558 JANICE D BROWN
MAT 15559 ANNETTE E GALLAGHER
MAT 15560 TRISHA K THEVENIN
MAT 15561 KAZMEIR K RAGRAGOLA
MAT 15562 EVA M WAGONER
MAT 15563 GRIET H D DE SCHAEPMEESTER
MAT 15564 SARGYLANA NIKIFOROVA

MASSAGE THERAPY ESTABLISHMENT

MAE 3343 NADIA TORAMAN
MAE 3344 JUN HEE TSUCHIYA
MAE 3345 TAKURO INO
MAE 3346 FOUR SEASONS THAI THERAPY LLC
MAE 3347 JACOB R TUFT
MAE 3348 KIMBERLY S MUFALLI

MAE 3349 HAWAIIAN RAINFOREST LLC
MAE 3350 SAN CORPORATION
MAE 3351 ALOHA HAND INC
MAE 3352 QUINNIE'S NAIL SALON & SPA LLC
MAE 3353 QING LI

MASSAGE THERAPY WORKSHOP

None.