

Meeting Minutes
IOWA BOARD OF MASSAGE THERAPY
March 5, 2013
Lucas State Office Building, 5th Floor Conference Room #526
Des Moines, Iowa

Call to Order:

The meeting was called to order at 9:07am by Mary Belieu, Chairperson.

Roll Call

Members Present:

Mary Belieu, Public Member

Jill Ellsworth, Licensed Massage Therapist

Coy Clark, Public Member

Adam Schweers, Public Member

Larry Dallenbach, Licensed Massage Therapist –joined hearing by conference call

Members Absent:

Rhonda Reif, Licensed Massage Therapist

Staff Present:

Pierce Wilson, Board Executive

Barb Huey, Bureau Chief

Meghan Gavin, AAG

Barb Christiansen, Administrative Assistant

Tammy Hidlebaugh, Licensure Specialist

Guests Present:

Zachary Flick, Massage Therapist

Meghan Green, AAG Intern

Review Agenda:

The Board reviewed the agenda.

Approval of Minutes:

A motion was made by Schweers to approve the meeting minutes of December 4, 2012. A second was received from Clark. All ayes, opposed none, motion carried.

A motion was made by Schweers to approve the conference call meeting minutes of January 8, 2013. A second was received from Ellsworth. All ayes, opposed none, motion carried.

A motion was made by Ellsworth to approve the conference call meeting minutes of February 5, 2013 with changes. A second was received from Schweers. All ayes, opposed none, motion carried.

Public Comment: None

Reports:

Chair – Mary thanked everyone for their hard work while she served on the board.

Board Executive – Pierce presented Mary with a certificate of appreciation for her years of service on the board.

Bureau Chief – Barb Huey gave a presentation of the board’s history, overview and board analysis.

AAG – Meghan Gavin provide a legislation update. There was some proposed legislation regarding sexual assault convictions. A bill has been introduced making the throwing of bodily fluids on another person a sexual assault and will have impact on some the cases this board will look at in the future.

Jill Ellsworth recused herself from the hearing.

Larry Dallenbach joined the board meeting via teleconference.

Hearing: Bai, Liu

Rob Wheeler, ALJ

Hearing began at 9:19am.

No appearance at the hearing of either licensee’s.

Meghan Gavin, AAG gave history regarding the notice of personal service for this hearing. Certified letters were mailed but never accepted by either licensee’s. DIA was unable to serve these individuals face to face, because of that the hearing was published for three consecutive weeks in the Des Moines Register. State entered the personal service affidavit as evidence.

Judge Wheeler gave board members the choice of default judgment in the absence of the licensees or to hold a hearing in their absence. The board’s preference was to proceed with a default judgment in this case. At this point the board is ready to deliberate sanctions. By entering a default judgment, the Statement of Charges will be deemed true.

A motion was made by Belieu to enter into closed session at 9:29am to deliberate the decision to be rendered in a contested case according to Iowa Code Chapter 21.5(1)f. A second was received from Clark. Roll call taken

Belieu – aye

Schweers – aye

Clark – aye

Dallenbach – aye

Motion carried

A motion was made by Dallenbach to return to open session at 9:43am. A second was received from Schweers. Roll call taken

Belieu – aye

Schweers – aye

Clark – aye

Dallenbach – aye

Motion carried.

Board returned to open session at 9:43am.

A motion was made by Schweers to authorize the ALJ to draft the board's decision as discussed in closed session. A second was received from Clark. Roll call taken

Belieu – aye

Schweers – aye

Clark – aye

Dallenbach – aye

Motion carried.

Jill returned to the board meeting.

Larry Dallenbach left the meeting at 9:45am.

Applications:

Three applications received are all on the list of NCTMB school revocations. Georgia Academy of Massage. Also when applicants took the exam they listed the Georgia Academy of Massage, but on application for licensure another school was listed.

Daugherty: received application on 2/28/2013 – Charged with prostitution in October, 2012.

Jien Fan –VIP Beauty School in Florida which is on the listing of schools that have discipline, revocation or something questionable about them.

The Board discussed the issue when there are identified issues with schools or of a personal nature identified by organizations or by other states. Some states are asking for applicants to have attended a school with certification.

Meghan stated that the board has the authority to deny any application that is deemed incomplete or questionable, the board could ask for more information as well as issue a Notice of Intent to Deny Licensure because of validity of application. This would allow an applicant to request a hearing. Board agreed that a Notice of Intent to Deny Licensure would be the acceptable process for these 4 applications. Meghan will have these documents ready for approval at the next conference call meeting.

Application for Continuing Education Extension or Exemption: Individual stated she had a medical condition and is undergoing treatment. Applicant is looking for an exemption of all of her Continuing Education hours for licensure because of her illness. The applicant has not practiced for 4 years but would like to start practicing again part time. Board believes this individual's application should be denied.

Roll call to deny this application for extension or exemption.

Belieu – Deny

Schweers – Deny

Ellsworth – Deny

Clark – Deny

Petition for Waiver – Thielman: The petitioner has never taken the national exam. Individual is asking for a waiver of passing of the national exam to license by endorsement. Since the petition relates to waiving a requirement of the Iowa Code and not just the Iowa Administrative Rules this request has to be denied because the law cannot be waived.

Motion was made by Schweers to deny the waiver of passing the national exam for the reasons discussed. A second was received from Belieu. Roll call taken.

Belieu – Deny

Schweers – Deny

Ellsworth – Deny

Clark - Deny

New Business:

Continuing education discussion: Ellsworth would like the board to review the amount of hours of continuing education that is required. Pierce discussed the rationale of why the continuing education hours were increased and reviewed the rules with the members regarding this issue.

Pierce asked members what they thought the number of hours should be to protect the public. The board could require 12 hours with 6 of the hours being hands on and 6 hours earned on-line. Pierce suggested the board look at the rules and look at the categories and come up with content areas that are important. Meghan and Pierce will put something together in draft form and then send to other stakeholders for comments, bring the comments back to the board and eventually make some rule changes. One of the guests asked about roll over hours when attending a conference over 24 hours. Pierce suggested that roll over hours would be difficult to monitor with current staffing levels.

FSLB Annual Meeting Discussion: Jill would like to attend this meeting. To be held in Baltimore October 10-12th, 2013. Board members agreed to send Jill as an Iowa representative.

Civil Penalty Discussion: David North is an unlicensed person. Attorney contacted Meghan to find out how North could comply with the board order. Meghan suggested that North become licensed. The Notice of Intent has been filed and now the board can impose a civil penalty upon Mr. North. The board agrees that Meghan prepare the documentation for the civil penalty to proceed. If North does not comply with the order and cease and desist, the board can charge him \$1000 per day up to 10 days. This can also be referred to the State's Off Set Program. Adam wanted Meghan to include full disclosure of what would happen should he ignore the board order.

Open session complaint form – unlicensed individuals.

Case #12-009 Marion Nichole – working without a massage therapy license but does have a nursing license. Individual admitted that she does not charge for massages. Nurses can give massages in their scope of practice. Close without probable cause.

Motion made by Schweers to close this case with no probable cause. A second was received from Clark. All ayes, opposed none, motion carried.

Case #12-031 Newhouse – Unlicensed at this time but does have an application for licensure in the office. Individual admitted to practicing without a license in a cosmetology salon as well as Massage Therapy. Pierce suggests sending a Cease and Desist letter. Board discussed granting her licensure or licensing by a consent order which would include taking a 6 hour ethics course plus a fine of \$500.

Meghan will prepare the Consent Order for board approval as discussed at the next meeting.

Closed Session – Complaints:

A motion was made by Belieu to enter into closed session at 11:41am to discuss confidential material related to applications and complaints according to Iowa Code Chapter 21.5(1) a and d. A second was received from Schweers. Roll call taken.

Belieu – Aye

Schweers –Aye

Ellsworth – Aye

Clark – Aye

Motion Carried.

Board returned to open session at 11:51am

Follow Up from Closed Session:

A motion was made by Schweers to close the following cases #12-009, #12-030 and #12-032. A second was received from Clark. All ayes, opposed none, motion carried.

A motion was made by Schweers to approve Statement of Charges for Case #12-029. A second was received from Clark. All Ayes, opposed none, motion carried.

A motion was made by Clark to approve Combined Statement of Charges for Case #12-022. A second was received from Schweers. All ayes, opposed none, motion carried.

Adjournment:

A motion was made by Ellsworth to adjourn the meeting at 12:01pm. A second was received from Schweers. All ayes, opposed none, motion carried.