



## South Dakota Board of Massage Therapy

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### South Dakota Board of Massage Therapy Regular Meeting Monday, March 14, 2016

President Kappel called the meeting to order at 10:30 am central and determined a quorum.

Present in Person: Board Members Karen Kappel, Linda Zeller, and Christine Ellwein; Executive Secretary Jennifer Stalley; administrative staff Lisa Harsma; legal counsel Jim Carlon; and Assistant Attorney Generals Steve Blair and Grant Flynn. Also present in person: Andrew Wilka. Present via telephone: Board Member Bridget Myers; Rick Albrecht, Gene Heller, and Rhanda Heller. Board member Meg Johnson was absent.

#### **Public Forum**

Kappel asked for public comments. Rick Albrecht and Rhanda Heller addressed the Board.

#### **Approval of the Agenda**

Motion to approve the proposed agenda with item 9 moved to precede item 7 by Zeller. Seconded by Ellwein. Motion carried.

#### **Approval of Minutes**

Motion to approve the Board Minutes of December 14, 2015 by Zeller. Seconded by Ellwein. Motion carried.

#### **Financial Report**

Motion to approve the Financial Report as of February 27, 2016 by Ellwein. Seconded by Zeller. Motion carried.

#### **Office Update**

Stalley presented an office update. Stalley presented the Board with the updated lists of new licensees and temporary permit holders since December 14, 2015.

Stalley briefed the Board on the passage of House Bill 1027. The bill was signed by the Governor and will become law effective July 1<sup>st</sup>. Changes to application forms will be made in preparation for the effective date. Stalley also noted that information will be provided to city

attorneys and state's attorneys about the changes to the law to help educate local law enforcement about changes in the unlicensed practice provisions and requirements for display of licenses.

Myers asked that the Board revisit the policy to dismiss unlicensed practice complaints and refer the complaints to the local state's attorney in light of the passage of House Bill 1027.

Stalley provided the Board with the 2016 license renewal timeline. Licensees will be reminded of the annual renewal on July 1<sup>st</sup>. This year's renewal requires proof of 8 hours of continuing education and proof of \$250,000 in malpractice insurance by the licensee to renew. The online renewal database will open on August 1<sup>st</sup> and renewals must be completed by September 30<sup>th</sup>. The office is working to adapt the database to allow continuing education to be input prior to the opening of renewal period so licensees who wish to submit documentation of continuing education or malpractice insurance can do so before renewal opens.

Stalley noted that electronic communications on reminders and renewal information will be used in all instances possible to encourage electronic communications and reduce Board costs.

### **Executive Session**

Motion to go into executive session for consideration of contested cases and contractual matters at 10:56 am by Zeller. Seconded by Ellwein. Motion carried.

Motion to come out of executive session at 11:50 am by Ellwein. Seconded by Zeller. Motion carried.

### **Adoption of Findings in the Matter of the Licensure of Jun Huguenin #2015-008**

The Board continued the matter of the Licensure of Jun Huguenin for purposes of considering the Findings of Fact and Conclusions of Law proposed by the Board. Steve Blair, Assistant Attorney General, appeared and noted no objections to proposed Findings of Fact and Conclusions of Law. Andrew Wilka, attorney for Jun Huguenin, appeared and noted no objections to the Findings of Fact and Conclusions of Law, but renewed Huguenin's request to have a temporary permit issued to her.

Motion to adopt the Findings of Fact and Conclusions of Law as proposed and sign the order denying the application of Jun Huguenin by Zeller. Seconded by Ellwein. Motion carried.

### **Adoption of Findings in the Matter of the Massage License of Yufang Xie #2015-005**

The Board continued the matter of the complaint against Yufang Xie for purposes of considering the Findings of Fact and Conclusions of Law proposed by the Board. Steve Blair, Assistant Attorney General, appeared and noted no objections to proposed Findings of Fact and Conclusions of Law. Andrew Wilka, attorney for Yufang Xie, appeared and noted no objections to the Findings of Fact and Conclusions of Law.

Motion to adopt the Findings of Fact and Conclusions of Law and sign the order revoking the massage therapy license of Yufang Xie by Ellwein. Seconded by Myers. Motion carried. Zeller abstained.

Wilka informed the Board of Xie's intention to appeal the revocation order to circuit court.

### **Complaints**

Motion to dismiss Complaint 2016-001 with a letter of concern by Ellwein. Seconded by Zeller. Motion carried.

Motion to dismiss Complaint 2016-002 and refer the matter to the Pennington County State's Attorney by Ellwein. Seconded by Zeller. Motion carried.

### **Executive Session**

Motion to go into executive session for consideration of contractual matters at 12:06 pm by Ellwein. Seconded by Zeller. Motion carried.

Motion to come out of executive session at 12:55 pm by Zeller. Seconded by Ellwein. Motion carried.

### **Executive Services Request for Proposal**

Motion by Ellwein to accept the proposal of Midwest Solutions for executive services for June 1, 2016 – May 31, 2017 as presented. Seconded by Ellwein. Motion carried.

### **Legal Services Contract Renewal**

Motion to approve a contract with Carlon Law Office for legal services for the Board at a rate of \$125 per hour for June 1, 2016 through May 31, 2017 by Zeller. Seconded by Ellwein. Motion carried.

### **Long Term Finance Workgroup Report**

Zeller presented an update on the Long Term Finance Workgroup. The Workgroup recommended reducing the scheduled number of Board meetings to two per year, unless imminent business requires additional meetings. The Workgroup further recommended that the Board rely on electronic communications with licensees when practical and that licensees rely on the Board's website for information about the Board and licenses.

The Workgroup recommended noted that fee increases will need to be considered and should be considered as part of any proposed changes to the administrative rules reviewed by the Board.

## **Surplus Property**

Motion to surplus the Olympus camera owned by the Board by Ellwein. Seconded by Zeller. Motion carried.

## **Administrative Rules Proposed Updates Timeline**

Stalley presented the Board with the tentative schedule of the Legislature's Interim Rules Review Committee. The Committee must approve any proposed changes to administrative rules and the Committee's schedule dictates the timing of public hearings on proposed changes.

Stalley recommended the Board review its administrative rules for possible changes over the course of the summer, using a process similar to the process used to solicit input on the practice act revisions. Recommended changes would be presented in October for the Board to consider moving forward to the formal rules revision process.

Kappel appointed Board member Meg Johnson to work with Stalley to bring the Board proposed revisions in October.

Motion to cancel the Board's June 13, 2016 meeting and set the Board's next meeting for October 17, 2016 by Zeller. Seconded by Ellwein. Motion carried. Myers voted no.

## **Announcements**

Kappel reminded the Board that the next scheduled meeting in October 17, 2016 in Pierre.

## **Adjourn**

Motion to adjourn by Ellwein. Second by Zeller. Motion carried.

Respectfully Submitted,

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Christine Ellwein, Secretary