

SOUTH DAKOTA BOARD OF MASSAGE THERAPY MEETING MINUTES

Wednesday, January 22, 2025

Via Microsoft Teams

1. Call to Order

President Fallon Helm called the meeting to order at 9:00 am CST. Members of the public could join the meeting via Microsoft Teams or tele-conferencing.

2. Roll Call

President Fallon Helm read the roll and a quorum was established.

Members Present: Fallon Helm – via Teams Meeting
Kallyn Reinert – via Teams Meeting
Thor Thonvold – via Teams Meeting

Members Absent: Al Trace

Others Present: Kate Boyd, Executive Secretary – via Teams Meeting
Steve Blair Staff Legal Counsel – via Teams Meeting
Tamara Lee, DOH Attorney – via Teams Meeting

Guests Present: Bridget Myers, Rhanda Heller, Dazee Gertz, Kammie Thompson, Nikki Hooper, Heather Thrash, Seth Dinkel, Olawa Rae-Bruhjell, Shayla Nyberg-Sutton,

3. Approval of Agenda

Executive Secretary Kate Boyd stated she would like to add an item to her Executive Secretary Report to include federal apprenticeships. Kallyn Reinert made a motion, seconded by Thor Thonvold, to approve the agenda as amended. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace absent and not voting)

4. Open Forum

Rhanda Heller asked several questions about the complaint process that Board legal counsel Steve Blair would be reviewing under agenda item 7. She also asked that others be invited to the round-table sessions that are currently being held with licensees and other interested parties. A report of the round-table discussions for possible legislation in 2026 was agenda item 8 on the agenda for a status report from President Fallon Helm and Board member Kallyn Reinert.

5. Approval of December 5, 2024 Meeting Minutes

Thor Thonvold made a motion, seconded by Kallyn Reinert, to approve the minutes of the December 5, 2024 meeting. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace absent and not voting)

6. Executive Secretary Report

Financial Report for the month ending December 31, 2024 - Executive Secretary Kate Boyd reported that the financial report for the month ending December 31, 2024, showed the available budget of \$43,339.18 and cash center balance of \$38,811.66 (reserve funds).

Office Procedures & Policies

Ms. Boyd stated that she recently had a conversation with the manager of the State's Records Management. There are several things that should be updated, including the reference to microfilm old records, that should be changed to scanning and digitally saving. She would also like to have the board move toward online applications and fee payments, in an effort to eliminate duplication of records. Every application, after it is completed, is scanned and uploaded to the database. We could eliminate the paper files and save time by not having to scan documents that are received digitally. We would need an update in our Records Retention manual in order to do this. She also asked for Board input on whether or not it is acceptable to use the official documents that we possess when an individual applies for a license after having let their previous license expire. These would be the exam pass/fail score received from the organization who owns the exam, and Verification of Education documents that were previously properly received from the school the applicant attended. In many cases, the school attended is no longer operational, so it is impossible for the applicant to request another Verification of Education form from a school that doesn't exist. The consensus of the Board that it is acceptable to use national exam reports and Verification of Education forms, including the official school transcript that the Board already has in its possession, as long as the documents were properly submitted when the applicant previously became licensed. The manager of Records Management provided a Word document of the Board's current Records Retention Manual to use as a working copy. Ms. Boyd indicated she will draft updates and then present to the Board at the next meeting for their information, review, updates, and approval to be submitted for review by the State's Records Retention group that meets twice a year to review and approve changes. Their next meeting will likely be in July. Legal counsel Steve Blair also noted that there is a broader Records Retention Manual that applies to most state agencies so it should be reviewed at the same time to ensure that our manual is also in compliance with that.

Request for Board Approval of a Policy for Investigative committee to dismiss a compliance, in compliance with SDCL 36-1C-4.

A copy of SDCL 36-1C-4 was provided in the meeting packet. Ms. Boyd asked if the Board would like to implement a policy to allow for dismissal of a complaint for lack of probable cause. Legal counsel Steve Blair suggested this be put on the agenda for the next meeting for the Board's consideration. He added that there may already be something similar that was approved a few years ago by the Board.

Federal Apprenticeships

Ms. Boyd reported that she recently met with two South Dakota Department of Labor individuals who had contacted her about federal apprenticeships. She suggested that they be invited to the April 23, 2025 meeting to make a presentation on what this would entail. If the Board chooses to pursue this, we will need to review to see if we need a change in our laws.

7. Review of Complaint Process

Legal counsel Steve Blair gave a detailed overview of the complaint process. SDCL 1-26, 36-35, and 36-1C require boards and commissions to follow these specific laws. Additional Board of Massage Therapy laws SDCL 36-35-13 Unprofessional Conduct and 36-35-22 Grounds for cancellation, suspension, or revocation of license - Hearing - Appeal also help dictate the process. In response to questions raised during the Open Forum, Attorney Blair clarified that, yes, the Board does receive a copy of complaints, although not until they are considering a complaint. The reason for this is the Board needs to be impartial until the case comes before them. Also, if a licensee has an active pending complaint, license comes up for renewal, and the licensee attempts to renew in a timely manner during the renewal period, the license is not renewed until the complaint case is completed. However, state law allows a licensee to continue to work under their previous license until the complaint case has been settled.

8. Report of Round-Table Discussions Regarding Possible 2026 Legislation

President Fallon Helm and Board member Kallyn Reinert gave a report of the status of the round-table meetings that are being conducted to review areas that the Board may want to pursue legislation in 2026. Round-table meeting reports will be provided at the next meeting. The discussion topics the group is reviewing are shown below.

Discussion Topics 2026 for Legislation:

- 1. Brick & Mortar Licenses:**
 - Review of current requirements and potential updates for brick-and-mortar businesses.
- 2. Changing Licensing to Every Other Year:**
 - Pros and cons of transitioning from annual to biennial licensing for professionals in the industry.
- 3. Business Permits:**
 - Discussion on streamlining the process for obtaining and renewing business permits.
- 4. Instructor Credentials:**
 - Requirements for instructor qualifications and potential changes to the credentialing process.
- 5. Title Protection:**
 - Considerations for protecting professional titles in the industry to prevent misuse and ensure consumer trust.
- 6. Guides on "Yes" Conviction Checklist:**
 - Review of existing conviction-related criteria for licensing eligibility, and possible improvements for clarity and fairness.
- 7. Labor/Health Board Consideration of Governance:**
 - Discussion on whether and how labor and health boards should be involved in governance and oversight of industry-related matters.
- 8. Increase in Access to Education and Marketplace:**
 - Strategies for increasing access to educational opportunities and expanding marketplace accessibility.
- 9. School's In Rules:**
 - Review of rules governing educational institutions and schools in the industry, including licensing requirements and operational standards.
- 10. Application of Education Facilities Process:**

- Discussion on how to streamline the process for approving and regulating educational facilities.
- 11. Program Structure & Distance Learning Consideration in Rules/Regs:**
 - Deliberating on the role of distance learning within industry programs, and potential updates to rules and regulations governing this area.
- 12. Complaint Process:**
 - Review and potential improvements to the complaint process, including leveraging the Pennsylvania rulemaking process and ensuring due process for those with felony convictions.
- 13. Include Healthcare Professional Licensure in All Language:**
 - Discussion on broadening the scope of professional licensure language to include healthcare professionals where applicable.

9. Executive Session

Thor Thonvold made a motion, seconded by Kallyn Reinert, to go into Executive Session. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace absent and not voting)

Executive Session began at 10:02 am and the board fell out of executive session at 10:35 am.

Review Application T10978 (SDCL 1-25-2(3) & 1-27-1.5(5))

Kallyn Reinert made a motion, seconded by Thonvold, to approve Application T10978. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace absent and not voting)

Dismissal of Complaint 2025-001

Kallyn Reinert made a motion, seconded by Thonvold, to dismiss Complaint 2025-001. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace absent and not voting)

Communication with Legal Counsel (SDCL 1-25-2(3))

Kallyn Reinert made a motion, seconded by Thonvold, to add criminal convictions on the next meeting agenda. At that time the Board will be asked to adopt a motion regarding the procedures to follow regarding applicants with criminal convictions. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace absent and not voting)

10. Upcoming Meetings

Applicant Requested a Hearing – Set Hearing Date

The Board and staff reviewed their calendars and agreed to schedule this hearing on April 8, 2025 at 1:00 pm. The hearing will be held via Teams and will be open to the public.

Next Regularly Scheduled Meeting – April 23, 2025

The following items were requested by the Board to be on the agenda for the April 23, 2025 meeting:

Federal Apprenticeships
Felony Convictions

- On-line Applications
- Records Retention Manual
- Complaint Process – Consider Approving Investigative Committee dismissal of complaints with no probable cause
- Policy for Acceptance of Credit to Clock Hour conversation for massage therapy education
- Round-table Meeting Report

11. Adjourn

Thor Thonvold made a motion, seconded by Kallyn Reinert to adjourn. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace absent and not voting)

The meeting was adjourned at 11:00 am

Respectfully submitted,

Executive Secretary Kate Boyd and Secretary Thor Thonvold