

# SOUTH DAKOTA BOARD OF MASSAGE THERAPY MEETING MINUTES

Wednesday, February 21, 2024  
1601 N Harrison Ave Suite 6 Pierre SD  
And Teams Meeting

## 1. Call to Order

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

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

**Members Present:** Fallon Helm – via Teams Meeting  
Kallyn Reinert – via Teams Meeting  
Al Trace – via Teams Meeting

**Members Absent:** N/A

**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:** Missy Regan, Christine Hooper-AMTA, Angela Gleason, Kara Goodrich, Angela Taylor, Olawa Rae-Bruhjell, Bobbi Buchholz, Kaylynn Overacker, Peggy Sproat, Ralph Wiedmann, Amber Hamburger, Heather Herrick, Mike Oster, Randa Heller, Sharolyn Sombke, Bridget Myers, Lorin Pankratz, All via Teams, and Bob Mercer-KELO at 1601 N Harrison Ave Suite 6, Pierre, SD.

## 2. Approval of Agenda

A motion was made by Al Trace, seconded by Kallyn Reinert, to approve the agenda as presented. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Trace yea)

## 3. Open Forum

Olawa Rue-Bruhjell asked if a recording of the January 17, 2024 meeting is available. It was not available at this time. She said that she will forward the recording she has so that it can be posted on the Board of Massage Therapy website. Randa Heller stated that she is looking forward to improved communication between the Board of Massage Therapy and the licensees.

## 4. Approval of January 17, 2024 Meeting Minutes

Al Trace made a motion, seconded by Kallyn Reinert, to approve the minutes of the January 17, 2024 meeting. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Trace yea)

## 5. Executive Secretary Report and Updates

**Financial Report for the month ending January 31, 2024** - Executive Secretary Kate Boyd reported that the financial report for the month ending January 31, 2024, showed the available budget for the remainder of FY 2024 of \$24,526.34 and cash center balance of \$47,374.68 (reserve funds).

**Title IV – Education Hours Required for Federal Financial Aid** - Ms. Boyd reported that there are new rules being proposed at the federal level relating to qualification for IV financial funding. Some of the details are:

Title IV funding is available to students in an accredited school.

The current threshold for students to be eligible for funding under Title IV for clock hour education is 600 hours.

South Dakota's legal mandate for massage therapy education is 500 hours.

The current Title IV rule allows a school to increase hours up to 150% above the State mandate. South Dakota schools can require 750 hours and their students are eligible to apply for financial aid under Title IV.

The proposed Title IV rule would lower the 150% rule to 100%. The result, if the rules go into effect July 1, 2024, is that no students in South Dakota would be eligible for Title IV funding since South Dakota only requires 500 hours of education.

Legislation would need to be introduced in the 2025 South Dakota legislative session to increase the required education hours so that students at accredited schools can seek Title IV funding. The Board invited Christine Hooper, a representative of American Massage Therapy Association (AMTA) to share whatever information she had on this subject. Ms. Hooper stated that the new rules will likely go into effect. An effort is being made to delay the implementation of the rules to allow states to raise their education hours, but it may be doubtful that the delay will occur. It is also unknown how this will affect students who enroll prior to July 1, 2024. She stated that the US Department of Education believes that schools requiring more clock hours of education above what a State licensing board requires may be a money grab on the parts of the schools.

President Fallon Helm stated that the next step for South Dakota will be to form a Roundtable that will include one board member, representatives of the massage therapy schools, Executive Secretary Kate Boyd. President Helm appointed herself as the Board representative to lead the round table. It was noted that Board member Al Trace, while a school owner, would not be able to participate in the roundtable because it would violate the State's open meeting laws if a majority of the current board was present. A different representative from Black Hills Health & Education Center will participate in the roundtable. Representatives from AMTA and ABMP (Associated Bodywork & Massage Professionals) will also be invited to participate since their associations keep abreast of federal legislation and have lobbyists in DC.

President Helm suggested three possible dates for the roundtable and requested that Executive Secretary Kate Boyd, contact the stakeholders to determine the best date to hold the roundtable meeting. A report of the roundtable meeting will be given at the March 20, 2024 board meeting.

### **Business Licenses/Permits**

Executive Secretary Boyd mentioned business licenses or permits. She said that if the Board would ever like to consider this, it will be placed on the agenda for further discussion.

### **How Do Schools Get Approved in South Dakota**

Ms Boyd stated that she has received inquiries regarding the steps necessary for a massage school to become approved by the Massage Therapy Board in South Dakota. She said she did not have a definitive answer and the subject of approval of schools is not clearly defined in law or rule. It was agreed that the Board would like to discuss this at a future meeting.

### **Should the Board Be Regulating Schools**

The subject of regulating schools is related to the process of seeking State approval of a school and will be discussed in conjunction with approval of a school at future meetings.

### **6. Payment for Student Massage Services**

The subject of payment for student massage services was the result of inquiries from massage therapy schools. Attorney Steve Blair provided some preliminary information on this subject, and, it was once again agreed that this will be part of the discussion about massage schools as noted in the Executive Secretary report.

The Board asked that the subject of massage therapy schools be placed on the agenda beginning with the March 20, 2024 meeting, to include: (a) process for a school to become approved as a massage therapy school in South Dakota; (b) should the Board be regulating schools; and, (c) payment for student massage therapist services.

### **7. Disciplinary Cases 2023-002 and 2023-003 Massage Therapy Board vs HaiLing Zhang**

President Helm turned the meeting over to Steve Blair, General Counsel to the Board, for the discussion and action concerning disciplinary cases 2023-002 and 2023-003 – In re Massage Therapy License of HaiLing Zhang. Deputy Attorney General Blair noted that a formal hearing was held on November 15, 2023. A verbatim court reporter transcript was made available to the Board members and included in the public meeting packet, together with the Findings of Fact and Conclusions of Law submitted by both attorney Robert Christenson, representing Ms. Zhang, and Special Assistant Attorney General Tamara Lee, appearing as prosecuting counsel for the Board. It was noted that Ms. Lee had also submitted objections to Mr. Christenson's Findings of Fact and Conclusions of Law.

Mr. Blair asked that the record state the following: (1) all current Board members were present, including President Fallon Helm, Vice President Kallyn Reinert and Secretary-Treasurer Al Trace; (2) former Board member Lorin Pankratz, who had been the investigator on this case was present; (3) neither Attorney Christenson representing Ms. Zhang nor HaiLing Zhang were present.

Mr. Blair advised the Board that all options concerning discipline of Ms. Zhang were available to the Board, including revocation or suspension of Ms. Zhang's massage therapy license. The Board was also advised that it may impose its costs of the proceedings upon Ms. Zhang, not to include attorney fees. Mr. Blair further advised the Board that Executive Session was available for the purposes of seeking legal counsel on the options available to the Board, but that deliberation of the matter should otherwise occur in general session.

Mr. Blair thereafter gave a detailed verbal report of the proposed Findings of Fact and Conclusions of Law presented to the Board.

Kallyn Reinert made a motion, seconded by Al Trace, to adopt the Findings of Fact and Conclusions of Law presented by Mr. Blair for cases 2023-002 and 2023-003 – In re Massage Therapy License of HaiLing Zhang, and to revoke Zhang's massage therapy license for one year.

The Board will consider the financial costs to be imposed upon Ms. Zhang at its March 20, 2024 Board meeting. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Trace yea)

The Final Order of the Board, including its Findings of Fact and Conclusions of Law are attached to these meeting minutes.

- 8. Approval/Denial of Application T10854**  
and
- 9. Approval/Denial of Application T10867**

At 10:32 am, Kallyn Reinert made a motion, seconded by Al Trace, to go into Executive Session to discuss agenda item 8. License T10854 and agenda item 9. License T10867 pursuant to SDCL 1-25-2(3) and 1-27-1.5(5). **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Trace yea)

The Board exited Executive Session at 10:49 am and made the following motions.

Kallyn Reinert made a motion, seconded by Al Trace, to approve the application of T10854. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Trace yea)

Kallyn Reinert made a motion, seconded by Al Trace to defer action on Application T10867 and to request further information. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Trace yea)

#### **11. Adjourn**

Kallyn Reinert made a motion, seconded by Al Trace to adjourn. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Trace yea)

The meeting was adjourned at 10:57 am.

Respectfully submitted,

Executive Secretary Kate Boyd and Secretary Al Trace