

Meeting Minutes
South Dakota Board of Massage Therapy
South Dakota State Capitol, Room 413
500 E. Capitol Ave., Pierre, SD 57501
May 10, 2018

The meeting of the South Dakota Board of Massage Therapy (“Board”) was called to order at 10:30 a.m. and the presence of a quorum was confirmed. Due to vacancies in the President and Vice-President officer positions, Executive Secretary Mitch Richter facilitated the meeting with Board Secretary Christine Ellwein.

Members of the Board present in person: Christine Ellwein, Bridget Myers, Lorin Pankratz.

Members of the Board present via phone: Meg Johnson.

Others in attendance in person: Mitch Richter, Executive Secretary, Morgan Brekke, Board legal counsel, Ashley Tanner, Department of Health, Julie Richter, administrative assistant to Executive Secretary, Rhanda Heller, Olawa Rae-Bruhjell, Sarah Lanz, Valerie Rowen.

Others in attendance via phone: Angela Taylor, Stewart School, and two other representatives from Stewart School.

Richter introduced the Board’s newly appointed lay member, Lorin Pankratz, and Pankratz provided an overview of his professional background and prior board experience. Richter noted that the Board still had one vacant position remaining and that a Vacant Board Position Interest Questionnaire was available online.

Richter proposed moving the order of certain agenda items for purposes of convenience, and upon a motion and second, the agenda was unanimously approved with the changes to the order of certain agenda items as proposed by Richter.

Richter called for public comments. Rhanda Heller addressed the Board.

Upon request from Richter, Morgan Brekke provided a review of the role and responsibilities of the Board and its members.

Upon a motion by Johnson and second, the Board unanimously approved the meeting minutes of September 11, 2018, and September 25, 2018.

Richter provided the Board with an office update. He discussed the transition process since becoming the Board’s new Executive Secretary in November 2017 and reviewed matters currently being handled by his office.

Richter then discussed a request from Stewart School pertaining to the proposed Massage Therapy Program it was seeking to offer at its facility. Angela Taylor, the School Director of

Stewart School, and two other representatives from Stewart School presented their request to the Board. Stewart School explained that although it had been accredited by the Accrediting Commission of Career Schools and Colleges (“ACCSC”) for its other programs, its new Massage Therapy Program had not yet been accredited by ACCSC. Stewart School requested that it be added to the list of recognized facilities under ARSD 20:76:08:01 from which required training would be accepted by the Board or that the Board write a letter expressing approval of the program under ARSD 20:76:08:02. Upon a motion and second, the Board unanimously voted to defer discussion of the matter until executive session pursuant to SDCL 1-25-2(3).

Myers and Ellwein provided reports regarding their attendance at the Federation of State Massage Therapy Boards Annual Meeting in Tampa, Florida in September 2017. Myers discussed a Human Trafficking Task Force Report presented at the meeting, the status of the Massage Therapy Licensing Database (“MTLD”) being created by the Federation for anti-fraud purposes, and Massage & Bodywork Licensing Exam security issues. Myers reported that she had been selected to be on the Federation’s nominating committee for the 2018 Board of Directors. The Board discussed selection of a delegate to attend the 2018 meeting and decided to delay any action on this issue until the next meeting or until all Board positions are filled. Richter then provided a report regarding his attendance at a conference in Kansas City for executive secretaries of state massage therapy boards. Richter noted that one of the topics discussed at the conference was measures to prevent individuals from obtaining licenses by fraud, and stated that he would be discussing changes to the Board’s applications to address some of these issues.

Richter subsequently provided an update on the 2018 legislative session. He specifically discussed the failure of the Governor’s proposed licensure reciprocity compact and Senate Bill 207 (“SB 207”) and sought input from the Board regarding the Board’s interest in pursuing legislation in 2019. The Board discussed SB 207 and the fact that it had been sponsored by Senator Stalzer and Representative Heinemann. Upon a motion by Pankratz and second, the Board unanimously voted to have Johnson and Richter contact Senator Stalzer to discuss the background and basis for SB 207. The Board further voted to pursue a review of its current statutes and rules in anticipation of MTL D and to form a subcommittee, if necessary, to draft proposed changes to current language regarding databases to account for MTL D.

Upon a motion and second, the Board unanimously voted to go into executive session pursuant to SDCL 1-25-2(3) for consideration of proposed contested cases and consultation with legal counsel and invited Richter and legal counsel to join the Board at approximately 12:08 p.m.

Upon a motion by Ellwein and second by Johnson, the Board unanimously voted to go out of executive session at approximately 1:15 p.m.

Myers moved to send a letter to Stewart School under ARSD 20:76:08:02 in response to their request. Johnson seconded the motion. The motion passed unanimously.

Myers moved to approve the license application of T10393. Johnson seconded the motion. The motion passed unanimously.

Ellwein moved to deny the licensure application of T10396. Johnson seconded the motion. The motion passed unanimously.

Myers moved that the Board recognize that the mentorship requirement for license 11528 had been completed and that license 11528 be deemed in good standing with the Board. Ellwein seconded the motion. The motion passed unanimously.

Pankratz moved to deny the request of Good Earth Arts to be granted a license by grandfathering status. Ellwein seconded the motion. The motion passed unanimously.

With the assistance of Julie Richter, Richter then reviewed the Board's current licensure and reciprocity applications and proposed various changes to these forms, primarily for convenience and anti-fraud purposes.

Myers moved (1) to add language to the applications clarifying that email would be the Board's means of communication; (2) to add language requiring applicants to disclose any licenses they have held or currently hold in other states and any disciplinary actions; and (3) to disclose whether they have ever previously held a license in South Dakota. Pankratz seconded the motion. The motion passed unanimously.

Ellwein moved to (1) add language to the application for temporary licensure requiring applicants to disclose whether it is their first or second application for temporary license; (2) waive the \$75 application fee for individuals applying for their second temporary license if the application is made within one year of the first application; and (3) waive the \$75 application fee for individuals who applying for full licensure if such application is made within a year of when the individual applied for and obtained a temporary license. Myers seconded the motion. The motion passed unanimously.

Ellwein moved to add language to all applications requiring individuals to provide a copy of their social security card along with their application and to add language requiring individuals to disclose all names they have ever gone by, including any maiden names or nicknames. The motion was seconded and passed unanimously.

Richter then discussed the Board's sale of its list of licensees and proposed adding a notarization section to the form requiring purchasers to confirm that they will use the form only once for their stated purpose. Upon a motion and second, the Board unanimously approved adding a notary section to the form.

Upon request from Richter, Myers discussed various changes she believed should be made to the Board's statutes and administrative rules to close gaps in the law.

Thereafter, Richter provided the Board with a financial update. Based on the Board's current budget and finances, Richter discussed increasing the Board's fees consistent with statutory maximums. Ellwein moved to increase the Board's licensure fees to \$65 and its application fees to \$100 and to make corresponding changes to the fee schedule in the Board's administrative rules. Pankratz seconded the motion. Discussion followed. Upon a roll call vote, Ellwein,

Pankratz, and Johnson voted for the fee increase. Myers voted against the fee increase. The motion passed.

Pankratz moved to increase the fee charged to individuals and vendors who purchase the Board's list of licensees from \$100 to \$300. Ellwein seconded the motion. The motion passed unanimously.

Upon a motion and second, the Board moved to tentatively schedule the next Board meeting for September 11, 2018, in Rapid City. The motion passed unanimously.

The Board then proceeded with election of officers pursuant to SDCL 36-35-4. Johnson moved to elect Ellwein as President. Pankratz seconded the motion. The motion passed unanimously. Johnson moved to elect Myers as Vice-President. Pankratz seconded the motion. The motion passed unanimously. Ellwein moved to elect Johnson as Secretary. Myers seconded the motion. The motion passed unanimously.

Upon a motion and second, the Board unanimously voted to go into executive session pursuant to SDCL 1-25-2(4) for consideration of contracts and invited Richter to join the Board at approximately 4:00 p.m. Legal counsel, Brekke, exited the meeting along with the other meeting attendees at this time.

Upon a motion by Myers and second by Ellwein, the Board unanimously voted to go out of executive session at approximately 4:11 p.m. and Brekke the other meeting attendees returned to the meeting.

Upon a motion and second, the Board unanimously voted to approve its contract with Woods, Fuller, Shultz & Smith P.C.

Pankratz then moved to adjourn the meeting at approximately 4:15 p.m. Ellwein seconded the motion. The motion passed unanimously.

Respectfully submitted,

Meg Johnson, Secretary