South Dakota Board of Massage Therapy

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South Dakota Board of Massage Therapy
Regular Meeting
Monday, March 16, 2015

President Kappel called the meeting to order at 10:04 am central and determined a quorum.

Present: Board Members Karen Kappel, Bridget Myers, Christine Ellwein, and Margaret Johnson; Executive Secretary Jennifer Stalley; and legal counsel Jim Carlon and Steve Blair. Also present: Rhanda Heller, Bryan Broussard, and Drea Miller. Gene Heller attended the meeting via telephone.

Absent: Board Member Linda Zeller

Open Forum

Kappel asked for public comments. Rhanda Heller addressed the Board. Heller asked the Board to avoid adopting a code of ethics that references a specific national organization, if a code of ethics is adopted. Heller asked the Board for a clear understanding of the Board's complaint process and the injunction process. Heller noted at least two complaints have been before the Board since November/December. Heller asked the Board to consider language similar to Iowa to allow the Board to have jurisdiction over establishments and people who are practicing without a license. Heller expressed frustration with the Board's inability to stop unlicensed practice. Heller asked the Board to look at changes to the massage therapy laws and Board processes to make the laws efficient, effective and enforceable.

Approval of Minutes

Motion to approve the Board Minutes of November 3, 2014 by Ellwein. Seconded by Myers. Motion carried.

Financial Report

Motion to approve the Financial Report as of February 28, 2015 by Myers. Seconded by Ellwein.

Updated Board Policies Summary

Stalley presented the Board with an updated version of the Board's Policies Summary to replace any previous versions. Stalley noted the Board's Policies Summary is also available on the Board's website.

Office Update

Stalley presented an office update. Stalley presented the Board with the updated lists of new licensees and temporary permit holders since November 3, 2014.

Stalley updated the Board on the passage of House Bill 1102 during the 2015 Legislative Session. The bill will become law on July 1st. The bill provides the Board with the discretion to approve a license application from someone who has a felony conviction if the conviction is remote enough in time and of such a nature that the applicant does not pose a risk to public safety. The bill also removes the requirement that an applicant provide proof of a high school education or its equivalent as a requirement of licensure. This change will necessitate a change in the format of the application forms on July 1st.

The Board discussed requiring a photograph to be provided by the applicant at the time of application. The Board instructed Stalley to draft a revised application that makes the changes necessitated by House Bill 1102 and includes a requirement for a photograph of the applicant for consideration at the next meeting.

Stalley informed the Board of the timeline for the 2015 license renewal process. Information about renewal will be included in the May newsletter to licensees. All licensees will receive a reminder letter on July 1st and the renewal database will open on August 1st and remain open through September 30th. This is the same timeline for renewal used in 2014. In 2015, licensees only need to provide proof of malpractice insurance with the renewal application.

Long Term Finance Workgroup

Kappel reported the Long Term Finance Workgroup has not met but will plan to meet prior to the June meeting.

Practice Act Workgroup

The Practice Act Workgroup provided a tentative deadline for drafting recommended changes to the practice act and for taking public input on drafts. The workgroup expects to have a first draft to share for informal comments by May 15, 2015 and will schedule a conference call for informal comments by May 29, 2015. A second draft will be prepared for informal comments by August 14, 2015 and a conference call for informal comments will be held by August 28, 2015. A draft will be presented to the Board for its consideration at the September 21, 2015 meeting. The workgroup emphasized the dates were soft dates but the intention is to have an opportunity for public comments.

Code of Ethics

The Practice Act Workgroup will make recommendations regarding a code of ethics as part of any recommendations regarding the practice act.

Application Hearing of Li Li (#2014-011)

The Board noted the time and place for the application hearing of Li Li at 11:00 am. Ms. Li did not appear for the hearing.

Motion to deny the application of Li Li (#2014-011) by Ellwein. Seconded by Myers. Motion carried.

Application Hearings of Yamin Yang (#2014-008)/ Chunyan Chen (#2014-007)/ Chunyan Yang (#2014-010)/ Meijun Zhang (#2015-001)

Blair informed the Board that counsel for Chunyan Yang and Meijun Zhang requested a continuance for their application hearings until June 15, 2015. Stalley informed the Board that a representative for Yamin Yang and Chunyan Chen requested a continuance for their application hearings until June 15, 2015.

Motion to continue the application hearings for Yamin Yang (#2014-008), Chunyan Chen (#2014-007), Chunyan Yang (#2014-010) and Meijun Zhang (#2015-001) to June 15, 2015 per the applicant's request by Ellwein. Seconded by Myers. Motion carried.

Application Hearing of Chunyan Bi (#2014-009)

Stalley informed the Board that Chunyan Bi contacted the Board and requested to withdraw her application for licensure.

Motion to allow Chunyan Bi withdraw her application for licensure by Ellwein. Seconded by Johnson. Motion carried.

Application Hearing of Bryan Broussard (#2014-006)

The Board noted the time and place for the application hearing of Bryan Broussard at 11:30 am. Mr. Broussard appeared before the Board and presented information concerning his application for licensure. The hearing concluded at 11:45 am.

Board Complaint and Discipline Jurisdiction Presentation

Carlon presented information concerning the Board's complaint process and limitations on its jurisdiction regarding unlicensed practice.

Motion to adopt a policy to authorize the Executive Secretary to refer complaints alleging unlicensed practice to the state's attorney at the time the complaint is filed with the Board and dismiss the complaint due to lack of jurisdiction by Johnson. Seconded by Ellwein. Motion carried.

Executive Session

Motion to go into Executive Session for consideration of contested cases at 1:04 pm by Ellwein. Seconded by Johnson. Motion carried.

Motion to come out of Executive Session at 3:08 pm by Ellwein. Seconded by Johnson. Motion carried.

Motion to deny the application of Bryan Broussard (32014-006) by Ellwein. Seconded by Johnson. Motion carried.

Motion to dismiss Complaint 2014-02 by Ellwein. Seconded by Johnson. Motion carried. Myers was recused.

Motion to dismiss Complaint 2014-03 and refer the complaint to the state's attorney by Myers. Seconded by Johnson. Motion carried.

Motion to dismiss Complaint 2014-04 and refer the complaint to the state's attorney by Johnson. Seconded by Ellwein. Motion carried.

Motion to open complaint file 2015-05 and authorize Stalley to file a complaint on behalf of the Board by Ellwein. Seconded by Johnson. Motion carried.

Announcements

Kappel reminded the Board of the meeting schedule for 2015. The remaining meetings for 2015 are scheduled for June 15th, September 21st and December 14th.

Adjourn

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

Respectfully Submitted,

Christine Ellwein, Secretary

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