



South Dakota Board of Massage Therapy

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South Dakota Board of Massage Therapy Regular Meeting Monday, June 15, 2016

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

Present in Person: Board Members Karen Kappel, Bridget Myers, Christine Ellwein, and Linda Zeller; Executive Secretary Jennifer Stalley; administrative staff Lisa Harsma; and legal counsel Jim Carlon and Steve Blair. Also present: Rebecca Herrmann, Laura Brien, Olawa Rae-Bruhjell, Rhanda Heller, Deb Calmus, Bill Calmus, Wie Feng, ZuoJin Zhang and Howard Wang. Board Member Margaret Johnson attended the meeting via telephone. Gene Heller and Jeanne Robinson also attended the meeting via telephone.

Public Forum

Kappel asked for public comments. Gene Heller, Bridget Myers, Olawa Rae-Bruhjell, Deb Calmus, Rhanda Heller and Bill Calmus addressed the Board. The comments included concerns about the Board's finances, unlicensed practice, the code of ethics, student internships and communications with licensees.

Application Hearing of Laura Brien (#2015-005)

The Board noted the time and place for the application hearing of Laura Brien. Ms. Brien appeared before the Board and presented information concerning her application for licensure.

Executive Session

Motion to go into Executive Session for consideration of contested cases at 10:44 am by Myers. Seconded by Ellwein. Motion carried.

Motion to come out of Executive Session at 11:06 am by Ellwein. Seconded by Zeller. Motion carried.

Motion to approve the temporary permit application of Laura Brien contingent on her having an approved licensed massage therapist as a mentor for six months by Zeller. Seconded by Myers. Motion carried.

Board member Johnson left the meeting at 11:14 am.

Application Hearing of Chunyan Chen (#2014-007)

The Board noted the time and place for the application hearing of Chunyan Chen. Ms. Chen did not appear for the hearing. Stalley informed the Board that Mr. Todd Farah contacted the office on behalf of Ms. Chen and indicated she wished to withdraw her application. Blair informed the Board that Ms. Chen was previously represented by legal counsel, Andrew Wilka, who verbally indicated that Ms. Chen did not wish to proceed with the application.

Motion to deny the application of Chunyan Chen (#2014-008) by Zeller. Seconded by Ellwein. Motion carried.

Approval of Minutes

Motion to approve the Board Minutes of March 16, 2015 by Zeller. Seconded by Ellwein. Motion carried.

Financial Report

Motion to approve the Financial Report as of May 31, 2015 by Ellwein. Seconded by Zeller.

Office Update

Stalley presented an office update. Stalley presented the Board with the updated lists of new licensees and temporary permit holders since March 16, 2015.

Stalley reviewed the renewal timeline for 2015 and the planned communications with licensees to provide information about the process and renewal deadlines. 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.

Revised Application Forms

Stalley presented proposed revisions to the Application for Licensure, Application for Temporary Permit, Application for Licensure by Reciprocity and Application to Reactive an Inactive License with a requirement of providing a color photograph with each of the application forms.

Stalley shared from a letter from licensee Janet Kosar expressing opposition to requiring photographs on massage therapy licenses. Stalley informed the Board that she spoke with Kosar and explained the proposal was not to require photographs of current licensees, but to require photographs of new applicants as of July 1st. Kosar does not oppose requiring the photograph with new applications.

The Board discussed other wording changes to the applications.

Zeller moved to change the heading of all applications from “Contact Information” to “Employment Information”; to change the wording of the question asking about membership in a state association to membership in a national association and provide ABMP, AMTA, NAMT and Other as possible answers for the question; and to require a color photograph as part of the Application for Licensure, Application for Temporary Permit, Application for Licensure by Reciprocity and Application to Reactive an Inactive License for all new applications. Seconded by Ellwein. Motion carried.

Application Hearing of Yamin Yang (#2014-008)

The Board noted the time and place for the application hearing of Yamin Yang. Ms. Yang did not appear for the hearing. Stalley informed the Board that Mr. Todd Farah contacted the office on behalf of Ms. Yang and indicated she wished to withdraw her application. Blair informed the Board that Ms. Yang was previously represented by legal counsel, Andrew Wilka, who verbally indicated that Ms. Yang did not wish to proceed with the application.

Motion to deny the application of Yamin Yang (#2014-008) by Zeller. Seconded by Ellwein

Long Term Finance Workgroup

Zeller reported the Long Term Finance Workgroup has not officially met due to member schedules but the workgroup is reviewing financial data to identify trends. The workgroup is looking at the revenue of the Board as well as the expenses. Zeller also informed the Board that the Department of Health would like the Board’s executive services contract returned to a fiscal year term as soon as the opportunity presents. Having all contracts on a fiscal year will better help show trends and expense

Practice Act Workgroup

Stalley reported the Practice Act Workgroup hosted a call for licensees on June 1st and a meeting for stakeholder organizations on June 15th to discuss possible changes to the practice act. The Federation of State Massage Therapy Boards, Association of Bodywork and Massage Professionals, and American Massage Therapy Association were invited to provide input and did so through participants at the June 15th meeting. The plan is to follow up on the comments made during these two meetings, prepare a draft of possible changes and make the draft available for licensee and stakeholder input in August. Stalley reminded the Board this is a fluid process but there will be opportunities for input by interested parties.

Myers reported that the workgroup was progressing and the input to date was good. The focus of comments continues to be unlicensed practice and the workgroup hopes to look at changes that would allow for more action against unlicensed practice.

Ellwein thanked the parties who have participated in the workgroup sessions for their comments and openness to looking at possible revisions.

Adoption of Findings in the Matter of Li Li (#2014-001)

Kappel informed the Board she has signed the Findings in the Matter of Li Li denying the license application.

Adoption of the Findings in the Matter of Bryan Broussard (#2014-006)

Motion to adopt the Findings in the Matter of Bryan Broussard by Zeller. Seconded by Ellwein. Motion carried.

Federation of State Massage Therapy Boards Membership Renewal

Motion to renew the Board's membership in the Federation of State Massage Therapy Boards by Zeller. Seconded by Myers. Motion carried.

Motion by Zeller to have Ellwein attend the Federation of State Massage Therapy Board's annual meeting as the South Dakota delegate. Motion failed for lack of a second.

Motion by Ellwein to have Myers attend the Federation of State Massage Therapy Board's annual meeting as the South Dakota delegate. Seconded by Zeller. Motion carried.

Executive Session

Motion to go into Executive Session for consideration of contested cases and contractual matters at 1:13 pm by Ellwein. Seconded by Zeller. Motion carried.

Myers was recused from Executive Session at 1:55 pm.

Motion to come out of Executive Session at 2:19 pm by Zeller. Seconded by Ellwein. Motion carried.

Motion to dismiss Complaint 2015-01 by Myers. Seconded by Zeller. Motion carried.

Motion to dismiss Complaint 2015-03 with a letter of concern by Ellwein. Seconded by Zeller. Motion carried. Myers was recused.

Motion to approve a contract with Carlon Law Offices for legal services through May 31, 2016, at a rate of \$100 per hour by Zeller. Seconded by Myers. Motion carried.

Motion to approve a contract with Midwest Solutions for executive and administrative services from October 1, 2015 until May 31, 2016 with a 2% increase by Zeller. Seconded by Ellwein. Motion carried.

Application Hearing of Chunyan Yang (#2014-010)

The Board noted the time and place for the application hearing of Chunyan Yang. Ms. Yang did not appear for the hearing.

Motion to deny the application of Chunyan Yang (#2014-010) by Zeller. Seconded by Ellwein. Motion carried.

Application Hearing of Meijun Zhang (#2015-001)

The Board noted the time and place for the application hearing of Meijun Zhang. Ms. Zhang did not appear for the hearing.

Motion to deny the application of Meijun Zhang (#2015-001) by Ellwein. Seconded by Zeller. Motion carried.

Application Hearing of Zuojin Zhang (#2015-002)

The Board noted the time and place for the application hearing of Zuojin Zhang. Ms. Zhang appeared before the Board and presented information concerning her application for licensure. Howard Wang translated on behalf of Ms. Zhang.

Application Hearing of Feng Wei (#2015-003)

The Board noted the time and place for the application hearing of Feng Wei. Mr. Wei appeared before the Board and presented information concerning his application for licensure. Howard Wang translated on behalf of Mr. Wei.

Application Hearing of Qunfang Huang (#2015-004)

The Board noted the time and place for the application hearing of Qunfang Huang. Ms. Huang did not appear for the hearing.

Motion to deny the application of Qunfang Huang (#2015-004) by Zeller. Seconded by Ellwein. Motion carried.

Executive Session

Motion to go into Executive Session for consideration of contested cases at 4:39 pm by Ellwein. Seconded by Zeller. Motion carried.

Motion to come out of Executive Session at 5:05 pm by Zeller. Seconded by Ellwein. Motion carried.

Motion to deny the application of Zuojin Zhang (#2015-002) by Myers. Seconded by Ellwein. Motion carried.

Motion to deny the application of Feng Wei (#2015-003) by Zeller. Seconded Myers. Motion carried.

Student Internships

Zeller moved to defer discussion on recovering costs for student internships to the September 21, 2015 meeting. Seconded by Ellwein. Motion carried.

Announcements

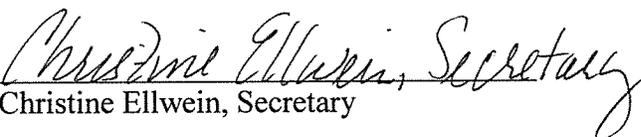
Stalley informed the Board of a request by Olawa Rae-Bruhjell for clarification on the acceptance of education provided by Springs Bath House in Costa Rica. The Board accepted the request as a request for a declaratory ruling and will conduct a hearing on the matter.

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

Adjourn

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

Respectfully Submitted,


Christine Ellwein, Secretary