



South Dakota Board of Massage Therapy

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South Dakota Board of Massage Therapy Regular Meeting Monday, September 21, 2015

President Kappel called the meeting to order at 10:06 am central and determined a quorum.

Present in Person: Board Members Karen Kappel, Bridget Myers, Christine Ellwein, and Margaret Johnson; Executive Secretary Jennifer Stalley; administrative staff Lisa Harsma; and legal counsel Jim Carlon and Assistant Attorney Generals Steve Blair and Grant Flynn. Also present: Rebecca Herrmann, Laura Brien, Heather Payden, Deb Calmus, Rhanda Heller, Gene Heller, Valerie Rowen, Yufang Zhi, and Olawa Rae-Bruhjell. Board Member Linda Zeller was absent.

Public Forum

Kappel asked for public comments. Gene Heller, Heather Payden, Deb Calmus, Rebecca Herman and Rhanda Heller addressed the Board. The comments included concerns about access to the June 15, 2015 board meeting via teleconference, open records from hearings held at the last meeting, unlicensed practice, contact information for board members, temporary permits to practice, and communications with licensees. Gene Heller and Rhanda Heller requested that their written comments be included as part of the meeting minutes. The written information provided by Gene Heller and Rhanda Heller is attached.

Approval of Minutes

Motion to approve the Board Minutes of June 15, 2015 with noted corrections by Myers. Seconded by Johnson. Motion carried.

Financial Report

Motion to approve the Financial Report as of August 29, 2015 by Ellwein. Seconded by Johnson. Motion carried.

Office Update

Stalley presented an update on license renewals. Stalley noted that to date 339 licensees remained to be renewed. All grandfathered licensees were personally called by the Board's office to alert the licensee to the renewal deadlines and the option to inactive the license.

Multiple reminders were sent to licensees via e-mail throughout the renewal period. The number of licensees using the online renewal system is up from last year, with 58% of licensees renewing online to date.

Stalley presented the Board with the updated lists of new licensees and temporary permit holders since June 15, 2015.

Stalley updated the Board on potential revisions to the Board's Records Retention Policy. Updates to the policy will be ready for the Board's consideration at the December meeting.

Blair updated the Board on the assignment of duties for the assistant attorney generals representing the Board. Blair will be transitioning from his duties with the Board of Massage Therapy. Grant Flynn will take on the representation of the Board on behalf of the Attorney General. Blair and Flynn will work together through the pending cases before Flynn assumes full responsibility for representing the Board.

Student Internship Costs

Motion to clarify that costs associated with a student performing a massage may be recovered when the student performs such services within the scope of an approved massage therapy school curriculum under the supervision of a licensed massage therapist by Ellwein. Seconded by Myers. Motion approved.

Code of Ethics

Motion to unadopt the NCBTMB code of ethics previously adopted by the Board on May 16, 2011 by Johnson. Seconded by Ellwein. Motion approved.

Request for Proposal for Services

Kappel appointed Zeller to serve as the Board's liaison to the Department of Health to discuss the Board's options and the process for a request for proposal for executive services. Zeller will bring a timeline and recommendation to the December meeting.

Application Hearing of Yufang Zhi (#2015-007)

The Board noted the time and place for the application hearing of Yufang Zhi. Ms. Zhi appeared before the Board and presented information concerning her application for a temporary permit.

Practice Act Workgroup

The Board took additional comments on the proposed revisions to the practice act as presented by the Practice Act Workgroup.

In Re the Matter of Declaratory Ruling Regarding ARSD 20:76:08:01

The Board held a declaratory ruling hearing to consider whether a South Dakota facility recognized pursuant to ARSD 20:76:08:01 may sell, bargain, transfer or assign its recognition and whether such a facility can relocate or expand and diversify its location. Olawa Rae-Bruhjell testified regarding the matter.

Adoption of the Findings in the Matter of the Application of Zuojin Zhang (#2015-002)

Motion by Myers to file an injunction against Zuojin Zhang for unlicensed practice by Myers. Motion failed for lack of a second.

Motion to adopt the Findings of Fact and Enter the Order of Denial in the matter of the application of Zuojin Zhang (#2015-002) by Ellwein. Seconded by Johnson. Motion carried.

Adoption of the Findings in the Matter of the Application of Feng Wei (#2015-003)

Motion to adopt the Findings of Fact and Enter the Order of Denial in the matter of the application of Feng Wei (#2015-003) by Johnson. Seconded by Ellwein. Motion carried.

Executive Session

Motion to go into Executive Session for consideration of contested cases and contractual matters at 1:45 pm by Ellwein. Seconded by Johnson. Motion carried.

Motion to come out of Executive Session at 3:00 pm by Ellwein. Seconded by Johnson. Motion carried.

Motion to proceed to a hearing with Complaints 2015-02/2015-04 by Ellwein. Seconded by Johnson. Motion carried.

Motion to proceed to a hearing with Complaint 2015-05 by Myers. Seconded by Johnson. Motion carried.

Motion to deny the application for a temporary permit of Yufang Zhi (#2015-007) by Johnson. Seconded by Ellwein. Motion carried.

Motion to refer the questions contained in In Re the Matter of Declaratory Ruling Regarding ARSD 20:76:08:01 to the circuit court for a declaratory judgement by Ellwein. Seconded by Johnson. Motion carried. Myers voted no.

Motion to forward the proposed practice act revisions with Board modifications to the Department of Health for consideration as legislation to be introduced in 2016 by Ellwein. Seconded by Johnson. Motion carried.

Announcements

Kappel reminded the Board the remaining meeting for 2015 is scheduled for December 14th.

Adjourn

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

Respectfully Submitted,

A handwritten signature in cursive script that reads "Christine Ellwein, Secretary". The signature is written in black ink and is positioned above the printed name. The word "Secretary" is written in a smaller, more compact cursive style compared to the first name.
Christine Ellwein, Secretary