

STATE BOARD OF MASSAGE THERAPY

June 17, 2013

MINUTES

I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Mr. Adam Elkins called the meeting to order at 10:13 a.m. in Conference Room W064 of the Indiana Professional Licensing Agency, Indiana Government Center South, 402 W. Washington Street, Indianapolis, IN 46204. A quorum was established.

Members Present:

Todd Hubbard, Member
Barbara Lis, Member
Adam Elkins, Vice Chair

Members Absent:

Ann Botka, Chair

State Officials Present:

Tasha Coleman, Board Director, Indiana Professional Licensing Agency
Crystal Smith, Assistant Board Director, Indiana Professional Licensing Agency
Kristen Garn, Board Advisory Council, Office of the Attorney General

I. ADOPTION OF THE AGENDA

A motion was made and seconded to adopt the Agenda, as amended.

Lis/Hubbard
3/0/0 Motion carried

II. ADOPTION OF THE MINUTES FROM THE APRIL 15, 2013 MEETING OF THE BOARD

A motion was made and seconded to adopt the Minutes from the April 15, 2013, as amended.

Lis/Hubbard
3/0/0 Motion carried

III. PERSONAL APPEARANCES

A. Katrina E. Wray

Re: Positive Response Renewal

Ms. Wray did personally appear before the Board to answer questions regarding her positive response renewal application. She reported on her renewal application that she had been charged with criminal trespass and theft in December 2012 where she reentered the premises of the massage business that she had sold and claimed some of her "personal" belongings. A motion was made and seconded to renew the certification on probation; probation will be not less than the latter of: one year from the date of the final order or when her criminal proceedings have successfully completed. Terms of probation include: keeping the Board abreast of her current residential, mailing, and email

addresses, along with her telephone number, place of employment, and employer contact information. She shall submit quarterly personal reports, specifically documenting the outcome and/or status of her criminal proceedings, and personal wellbeing as well as requiring her employer to submit quarterly reports, reporting on: professional competence, sense of responsibility, work habits, mental attitude, and ability to work with others.

Lis/Hubbard
3/0/0 Motion

B. Shuangyou Wu

Re: Positive Response Renewal

Mr. WU did personally appear before the Board to answer questions regarding his positive response renewal. Mr. Wu reported that he was placed on probation by the Nebraska Board of Massage Therapy for allowing unlicensed massage therapist to practice in his salon. After hearing testimony and reviewing the information in the file a motion was made and seconded to renew his certification on indefinite probation. Probation shall run concurrent with Nebraska probation. Terms of probation include keeping the board abreast of his current address, telephone numbers, and email address and complying with all terms set out in his Nebraska order. He may not request termination until after he has successfully completed his Nebraska probationary order.

Lis/Hubbard
3/0/0 Motion carried

C. Tara Henderson

Re: Positive Response Renewal

Ms. Henderson did personally appear before the Board to answer questions regarding her positive response renewal application. Ms. Henderson is currently on probation with the board, during the course of her probation she completed one criminal probation order and was placed on probation for possession of cocaine; she requested that the Board terminate her current probationary order. After hearing information a motion was made and seconded to continue probation and to add additional stipulations to the current probationary order to include: keeping the board abreast of current residential, mailing, and email addresses, along with her telephone number, place of employment, and employer contact information, quarterly personal reports regarding her work status, completion of rehabilitation, any new personal/criminal issues.

Lis/Hubbard
3/0/0 Motion carried

D. Kari Everhart

Re: Probation Terms/Termination of Employment

Ms. Everhart did personally appear before the board to answer questions regarding her probationary terms and the conditions surrounding her recent termination. It was reported to the board that she had been terminated due to HIPPA violation where she wrote down contact information for clients as well as asking clients and fellow employees to take her UDS. A motion was made and seconded to require a random UDS, should the results be positive she will be issued an order to show cause. Should the results be negative her renewal will be granted.

Lis/Hubbard
3/0/0 Motion carried

E. Fai Mang
Re: Incorrect Renewal Response

Ms. Mang failed to appear before the board as per their request to answer questions regarding her renewal application. The FSMTB send documentation that she had been suspended in Florida and Virginia and she failed to disclose that information on her renewal application. A motion was made and seconded to deny the renewal application for her for failure to appear.

Lis/Elkins
3/0/0 Motion carried

IV. ADMINISTRATIVE HEARINGS

A. In the matter of Barry Hearin, M.T., Certificate No.: MT20902140
Administrative Cause Number: 2012 SBMT 0022
Re: Complaint/Proposed Settlement Agreement

Parties and Counsel Present:

Amanda Elizondo, Deputy Attorney General
Jeff McQuary, Counsel for Respondent
Barry Hearin, MT

Witnesses:

Barry Hearin, MT

Participating Board Members:

Todd Hubbard
Barbara Lis
Adam Elkins

Court Reporter:

Lindy Meyers

Case Summary: The board filed a complaint against the Respondent in December 2012 which alleged that he had asked clients to engage in sexual activities or had behaved verbally or nonverbally in a manner intended to solicit sexual activity with a client(s).

Resolution: Motion was made and seconded to adopt the Settlement as written.

Hubbard/Elkins
3/0/0 Motion carried

B. In the matter of Amy Buckles
Administrative Cause Number: 2013 SBMT 0005
Re: Order to Show Cause/Motion for Cease and Desist

Parties and Counsel Present:

Amanda Elizondo, Deputy Attorney General

Amy Buckles

Witnesses:

Amy Buckles

Participating Board Members:

Todd Hubbard

Barbara Lis

Adam Elkins

Court Reporter:

Lindy Meyers

Case Summary: The board filed a motion for order to cease and desist in April 2013 which alleged that the Respondent had engaged in activities for which a license or certification was required in that she had represented herself as a licensed massage therapist when in fact she is not licensed or certified as a massage therapist in the State of Indiana.

Resolution: After hearing testimony and hearing that Ms. Buckles will no longer advertise as a massage therapist a motion was made and seconded to issue the Cease and Desist Order.

Lis/Hubbard

3/0/0 Motion carried

C. In the matter of Charles Foster

Administrative Cause Number: 2013 SBMT 0004

Re: Order to Show Cause/Motion for Cease and Desist

Parties and Counsel Present:

Amanda Elizondo, Deputy Attorney General

Witnesses:

None

Participating Board Members:

Todd Hubbard

Barbara Lis

Adam Elkins

Court Reporter:

Lindy Meyers

Case Summary: The board filed a motion for order to cease and desist in May 2013 which alleged that the Respondent had engaged in activities for which a license or certification was required in that he had represented himself as a licensed massage therapist when in fact he is not licensed or certified as a massage therapist in the State of Indiana.

Resolution: Due to the Respondent's failure to appear a motion was made and seconded to issue a notice of proposed default.

Lis/Hubbard
3/0/0 Motion carried

D. In the matter of Christopher Lee Bellamy, M.T., Certificate No.: MT20901410

Administrative Cause Number: 2011 SBMT 0027

Re: Petition to Withdraw Suspension

Parties and Counsel Present:

Amanda Elizondo, Deputy Attorney General

Christopher Lee Bellamy, MT

Witnesses:

Christopher Lee Bellamy, MT

Participating Board Members:

Todd Hubbard

Barbara Lis

Adam Elkins

Court Reporter:

Lindy Meyers

Case Summary: The board filed a complaint against the Respondent in December 2011 which alleged that he had continued to practice after having allowed his professional liability insurance to lapse. In June 2012, due to his failure to appear after of a notice of proposed default was issued, or submit proof of having obtained the professional liability insurance, the board suspended his massage therapist certification and imposed a fine of \$250.00 payable prior to requesting that the certification be reinstated.

Resolution: \$250 past due fine is due immediately, upon receipt his status will be updated to "Conditional". An additional fine of \$250 will be due within 60 days of the date of the final order. Failure to pay the fine will result in an Order to Show Cause.

Lis/Elkins
3/0/0 Motion carried

E. In the matter of Jennifer Trowbridge

Administrative Cause Number: 2009 SBMT 0025

Re: Notice of Proposed Default

Parties and Counsel Present:

Amanda Elizondo, Deputy Attorney General

Witnesses:

Tasha Coleman

Participating Board Members:

Todd Hubbard

Barbara Lis

Adam Elkins

Court Reporter:

Lindy Meyers

Case Summary: In December 2009 the board granted the Respondent's certification on indefinite probation following a personal appearance. She reported multiple arrests and convictions for drug use, theft, and maintaining a common nuisance.

Resolution: A motion was made and seconded to hold the Respondent in Default for failure to appear or respond to the notice of proposed default.

Elkins/Hubbard
3/0/0 Motion carried

After hearing the State's case a motion was made and seconded to suspend the certification, impose a fine of \$250 to be paid within 30 days, and submit all missing documents from her original probationary order.

Lis/Hubbard
3/0/0 Motion carried

VI. DISCUSSION

A. FSMTB

A motion was made and seconded to appoint Crystal Smith as Delegate at the annual meeting and Barb Lis as the Alternate Delegate.

Elkins/Lis
3/0/0 Motion carried

B. Renewals/Next Board Meeting

Due to the large number of massage therapist that have started the renewal process but have not submitted the proof of liability insurance for renewal the Board is adding two ALJ meetings on July 11 and 25, 2013. To accommodate the 90 day rule that requires that the board act on a renewal within 90 days of the date of renewal the board has moved the August meeting from the 19th to the 12th.

C. New IPLA Executive Director

Tasha Coleman introduced IPLA's new executive director, Nicholas Rhoad to the board. He was previously the director for the real estate commission and has returned to IPLA as the ED.

VIII. ADJOURNMENT

There being no further business, and having completed its duties, the meeting of the Indiana State Board of Massage Therapy adjourned at 2:42 p.m.

Adam Elkins, Vice Chair