



ALABAMA BOARD OF MASSAGE THERAPY

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MINUTES Board Meeting

October 27, 2023

The Alabama Board of Massage Therapy met on Friday, October 27, 2023 at the Board's office located at 2777 Zelda Road in Montgomery, AL. The following Board members were in attendance: Ms. Stephanie Dobbins (Board Chair), Ms. Stefanie Herfurth (Board Vice Chair), Ms. Mary Rogers (member), Ms. Denise Dale (member), and Mr. Foad Araiinejad (member). Two Board member vacancies existed due to resignations. Others present were Mr. Keith Warren (Executive Director), Mr. Matt Bledsoe (Board Legal Counsel), Mr. Dennis Trammell (Investigator), Ms. Karen Entrekin (Investigator), Ms. Karen Harlow (Legal Assistant), Ms. Camby Garner (Licensing Specialist), Mr. Patrick McWhorter (Legislative Advocate) and Ms. Renee' Reames (recording secretary) and other public guests who attended in-person.

Ms. Dobbins, Board Chairperson, called the meeting to order at 10:01 a.m. Mr. Warren called Board roll and reported that a quorum was present to conduct Board business. Mr. Warren read aloud the Opening Statement regarding Robert's Rules of Order and Open Meetings Act. Chairperson Dobbins welcomed all present at the meeting.

Public notice of this regularly scheduled meeting was submitted to the Secretary of State www.sos.alabama.gov in accordance with the requirements of the Alabama Open Meetings Act and published on the Board's website at www.almtbd.alabama.gov.

APPROVAL OF MINUTES

Chairperson Dobbins presented a copy of the September 11, 2023 regular Board meeting minutes for the Board's approval. A copy of the minutes was provided to the Board members prior to the meeting for their review.

MOTION: Ms. Herfurth made a motion to approve the September meeting minutes as presented. The motion was seconded by Ms. Dale and, following a roll call vote, the motion was unanimously approved by the Board (minutes available for viewing in the Board's Official Book of Minutes). It was noted that Chairperson Dobbins voted on the motion and she indicated that she would continue to vote on matters presented at the meeting.

EXECUTIVE DIRECTOR REPORT

Mr. Warren presented the Executive Director Report to include the financial activities of the Board for the period ending September 30, 2023 (reports on file in the Board's Official Book of Minutes), and the 13th accounting period was underway to closeout the financial activities for FY 2023. He reported that the new fiscal year began October 1, 2023.

Mr. Warren reported on the current number of licensees, along with a report on the status of complaints for FY 2020 through FY 2024, along with assessment of administrative fines, as of October 24, 2023. He indicated that a collections process was available through the Attorney General's office, which had not been implemented yet. He reported on the number of establishment inspections completed for the same reporting periods, indicating a focus on unlicensed individuals and illicit massage businesses. He indicated that more information would be discussed under New Business regarding the FSMTB licensing database (MTLD).

MOTION: Ms. Dale made the motion to accept the financial report as presented. The motion was seconded by Ms. Herfurth and unanimously approved by the Board.

Update on Board Operations:

Mr. Warren commented on scheduling a Board meeting to discuss Board operations. The Board discussed the application review process in accordance with § 34-43-6(f), requiring bi-annual meetings for this purpose. Also discussed was having application review meetings more often based on the waiting time for applicants between submitting applications and the Board approving for licensure. Several Board members commented on conflicting family schedules and as business owners receiving no compensation as a Board member. Mr. Bledsoe recommended that the Board defer these discussions until additional information was obtained about the continuation of the Board.

LEGAL COUNSEL REPORT

Mr. Bledsoe reported that during the recent audit Case MAS 2021-058 had been reviewed and noted that the respondent had not yet complied with the consent agreement. Since that time, the respondent had completed the outstanding CE course required by the Board and submitted the administrative fine.

Following some discussion, the Board concurred that a consent agreement was fully executed upon signature of both parties and recommended that an Attorney General's Opinion be requested regarding the Board continuing to approve consent agreements in the same manner of previous Board action.

Mr. Bledsoe presented the Legal Counsel report that included the following recommendations from the Investigative Committee.

- MAS 2021-058 close case having complied with consent agreement.
- MAS 2022-005BR consent agreement offer with conditions.
- MAS 2023-050 consent agreement offer with conditions.
- MAS 2023-058BR consent agreement offer with conditions.
- MAS 2023-074BR consent agreement offer with conditions.
- MAS 2023-081 consent agreement offer with conditions.
- MAS 2023-091.01 consent agreement offer with conditions.
- MAS 2023-096BR consent agreement offer with conditions.
- MAS 2023-098 consent agreement offer with conditions.
- MAS 2023-099.01 consent agreement offer with conditions.
- MAS 2024-004BR.01 consent agreement offer with conditions.
- MAS 2024-004BR.02 consent agreement offer with conditions.
- MAS 2024-004BR.03 consent agreement offer with conditions.
- MAS 2024-004BR.04 consent agreement offer. with conditions
- MAS 2023-57BR consent agreement which had been redacted for board review.
- MAS 2023-95BR.01 consent agreement which had been redacted for board review.
- MAS 2023-50 consent agreement which had been redacted for board review.
- MAS 2023-093 close as unfounded (no probable cause).
- MAS 2023-097 close as unfounded (no probable cause).
- MAS 2021-028.02 administratively close case.
- MAS 2023-060BR administrative close case.
- MAS 2023-077BR administrative close case.
- MAS 2023-099.02 issue a cease and desist to respondent and close case.
- MAS 2022-071 schedule case for a hearing.
- MAS 2022-075 schedule case for a hearing.

The Board discussed with Investigator Entrekin involvement by local law enforcement and the IC's recommendations.

MOTION: Ms. Dale made the motion to approve the recommendations of the Investigative Committee as presented. The motion was seconded by Ms. Rogers and unanimously approved by the Board, with Ms. Herfurth abstaining as a committee member.

Mr. Bledsoe also reported on a complaint concerning a Board member as the respondent in the case. He reminded the members familiar with the case to recuse themselves from voting on the matter. Mr. Bledsoe recommended that the matter of the complaint be set for an administrative hearing. He also reminded the members that at the October 22, 2022 meeting the Board agreed that hearings would go solely before an ALJ rather than the Board.

MOTION: Ms. Dale made the motion to approve the Legal Counsel's recommendation that the current case concerning a Board member be set for an administrative hearing. The motion was seconded by Ms. Rogers and unanimously approved by the members, with Ms. Herfurth and Ms. Dobbins recusing themselves from voting.

MOTION: Ms. Herfurth made a motion to request an Attorney General's Opinion regarding the Board continuing with the previous activities to consider and approve consent agreements after negotiations with the respondent. The motion was seconded by Ms. Dale and unanimously approved by the Board.

Cease and Desist Order in the Field:

Mr. Bledsoe presented for the Board's approval a copy of an immediate cease and desist form. He explained that the form would allow investigators to issue a cease and desist notice on-site, and a copy of the notice would be provided to the local magistrate or similar officials. He also stated that the Board would continue to issue documents to follow-up on the case.

MOTION: Ms. Dale made the motion to approve the immediate cease and desist form as presented. The motion was seconded by Mr. Araiinejad and unanimously approved by the Board.

OLD BUSINESS

Update on Sunset Committee Meeting:

Mr. Warren reported that the national massage therapy associations were aware of the Sunset Committee's recommendation to sunset the Board and were following the matter closely and would be working with licensees about supporting the profession and continuing the Board.

Code of Ethics Committee Report:

Mr. Warren reported that there was no report at this time from the Code of Ethics Committee.

NEW BUSINESS

FSMTB - Massage Therapy Licensing Database (MTLD pronounced Matilda):

Mr. Warren reported that the Federation of State Massage Therapy Boards (FSMTB) was creating a licensing database that would be comprised of states' disciplinary actions and final orders, etc. He indicated that IT development may be needed for the Board to submit information electronically and securely to the database.

MOTION: Ms. Dale made the motion to participate in MTLT. The motion was seconded by Ms. Rogers and unanimously approved by the Board.

Interstate Massage Therapy Compact:

Mr. Warren reported on the development of a Massage Therapy Compact. The formation would require a minimum number of states to join the Compact to become effective. This Compact would create a licensing pathway for reciprocity among the participating states. Mr. Bledsoe recommended the Board

work in developing regulations that would ensure alignment with the Compact to allow licensee participation.

Proposed 2024 Board Meeting Calendar:

Chairperson Dobbins presented a list of 2024 dates for the Board to conduct meetings.

MOTION: Mr. Araiinejad made the motion for the Board to meeting on January 5, April 5, July 12, and October 18, 2024. The motion was seconded by Ms. Dale and unanimously approved by the Board.

Annual Election of Board Officers:

Mr. Warren reported that the annual election of Board officers was due for the positions of Board Chair and Board Vice Chair. Mr. Araiinejad nominated Ms. Dale as Board Chair and Ms. Herfurth as Board Vice Chair. The nomination was seconded by Ms. Rogers. There were no other nominations from the floor and the nominations were approved by acclamation.

Mr. Warren indicated that the officers would assume their roles in November.

Review and Approval of Applications:

Mr. Warren and Ms. Garner presented applications for Board review and Board action.

- Administrative request to close application
KG initial application on 8/15/2022; failed to provide transcripts.
ZM initial application on 3/24/2023; failed to provide 150 hours to meet 650-hour requirements.
TF reinstatement application on 10/12/2022; failed to provide 16 CE hours; had provided 8 nursing hours.
MOTION: Ms. Herfurth made the motion to approve the recommendation to close the applications as presented. The motion was seconded by Mr. Araiinejad and unanimously approved by the Board.
- Establishment transfer to new address:
JS requested to transfer establishment license to a new address.
MOTION: Ms. Dale made the motion to approve the transfer request. The motion was seconded by Ms. Rogers and unanimously approved by the Board.
- Instructor Initial Application
MS initial application for Instructor license.
MOTION: Ms. Dale made the motion to approve the application request. The motion was seconded by Ms. Rogers and unanimously approved by the Board.
- MT Initial Applications from Graduates from in-state schools
A total of 12 applications were reviewed: AM, JG, OS, AP, MR, TS, AH, VL, SM, RC, AD and KB.
MOTION: Mr. Araiinejad made the motion to approve the application requests. The motion was seconded by Ms. Herfurth and unanimously approved by the Board.
- MT Initial Applications from graduates from out-of-state schools
A total of 13 applications were reviewed: SS, CC, CD, WY, YM, WF, JD, CT, CJ, QC, YD, FW and PQ.
MOTION: Ms. Dale made the motion to approve the application from YM. The motion was seconded by Mr. Araiinejad and approved by the Board, with Ms. Herfurth abstaining from voting.
MOTION: Ms. Herfurth made the motion to approve the application from CJ pending a clear background check. The motion was seconded by Ms. Dale and unanimously approved by the Board.

MOTION: Ms. Dale made the motion to approve the requests from SS, CC, CD, WF, JD, CT, and YD. The motion was seconded by Ms. Rogers and unanimously approved by the Board.

MOTION: Ms. Herfurth made the motion to deny the request from QC based on educational discrepancies. The motion was seconded by Ms. Dale and unanimously approved by the Board.

MOTION: Ms. Dale made the motion to deny the request from FW due to educational discrepancies. The motion was seconded by Ms. Rogers and unanimously approved by the Board.

MOTION: Ms. Herfurth made the motion to deny the request from PQ due to exam date not aligning with school dates. The motion was seconded by Ms. Rogers and unanimously approved by the Board.

MOTION: Ms. Herfurth made the motion to approve the request from WY pending receipt of a valid transcript. The motion was seconded by Ms. Dale and unanimously approved by the Board.

- Establishment Initial Application

A total of 13 establishment initial applications from in-state resident owners were reviewed and 8 establishment applications were from 8 LMTs. Four (4) additional establishment applications were reviewed from out-of-state resident owners.

MOTION: Ms. Dale made the motion to approve the 17 establishment application requests as presented. The motion was seconded by Ms. Rogers and unanimously approved by the Board.

- MT School Initial Application

AMBI (MT school) application was reviewed. It was noted that an official address was not available with an anticipated location in the Birmingham/Tuscaloosa area. The application also indicated a hybrid component with specific days on-campus.

MOTION: Ms. Herfurth made the motion to approve the school application from AMBI. The motion was seconded by Ms. Dale and unanimously approved by the Board.

- MT School Renewal Application

MT School renewal application for S-143 was reviewed.

MOTION: Mr. Araiinejad made the motion to approve the S-143 renewal application. The motion was seconded by Ms. Dale and unanimously approved by the Board.

- LMT renewal applications with review of background history.

The Board discussed the following renewal applications that had background history discrepancies. JL– criminal case was pending.

XZ – plead guilty to sexual offense; not eligible until November 2023.

MG – plead guilty to sexual offense; not eligible until May 2025.

LL– criminal case was pending.

MOTION: Ms. Herfurth made the motion to hold the applications from JL and LL pending outcome of criminal cases. The motion was seconded by Ms. Dale and unanimously approved by the Board. Mr. Bledsoe referenced Rule 34-43-15(d) in future considerations.

MOTION: Ms. Herfurth made the motion to deny renewal applications from XZ and MG. The motion was seconded by Ms. Dale and unanimously approved by the Board.

Inspection of Establishments

Mr. Warren reported that the inspection fee for establishments owned by out-of-state residents was removed from the Board's statute. The Board discussed the potential detriment to protecting the public concerning undesirable activities and violations and whether to discuss this matter further with the members of the Sunset Committee and inquire to the Committee about continuation of the Board. It was noted that the Sunset Committee had cited issues that were covered by the new legislation.

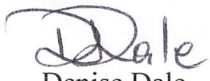

MOTION: Ms. Herfurth made the motion to request a meeting with the members of the Sunset Committee to discuss what the Board could and could not legally act upon in the interim of the Committee's recommendation to sunset the Board. The motion was seconded by Ms. Dale and unanimously approved by the Board.

Chairperson Dobbins reminded the members that the Alabama Board of Massage Therapy was scheduled to meet on January 5, 2024, at 10:00 a.m. and encouraged the members to attend in-person.

ADJOURNMENT

MOTION: There being no further business, Ms. Herfurth made the motion that the meeting be adjourned. The motion was seconded by Ms. Dale and was unanimously approved by the Board. Chairperson Dobbins adjourned the meeting at 12:08 p.m.

Respectfully Submitted,


Denise Dale
Board Chair


Approved by the Board on January 5, 2024 /rr 