

UPDATED AGENDA
South Carolina Massage/Bodywork Therapy Panel Meeting
November 3, 2017, 10:00 a.m.
110 Centerview Drive
Synergy Business Park
Kingstree Building, Conference Room 105
Columbia, South Carolina 29210

1. Meeting Called to Order

- a. Public notice of this meeting was properly posted at the SC Massage/Bodywork Therapy Panel office, Synergy Business Park, Kingstree Building and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act.
- b. Rules of the Meeting
- c. Pledge of Allegiance

2. Introduction of Panel Members and All Other Persons Attending

Chairman Janet Shaw attended and called the meeting of the SC Massage/Bodywork Therapy Panel to order. Other panel members participating in the meeting included:

- ❖ Jennifer Griffitt
- ❖ Mary Lou Kelley
- ❖ Denise Van Nostran
- ❖ Anthony Ruggiero
- ❖ Jenny Mitchell

Staff members present included: Georgia Lewis, Advice Counsel; Shalon Genwright, Staff; Theresa Brown, Administrator; Rodney Pigford, Office of Investigations and Enforcement (OIE); Dylan Sitterle, Professional and Occupational Licensing (POL); Megan Flannery, Office of Disciplinary Counsel (ODC); Rebecca Leach, Communications and Governmental Affairs

3. Approval of Excused Absences

N/A

4. Approval of the Minutes for the Following Meeting:

August 11, 2017

Ms. Mary Lou Kelley made a motion to approve the meeting minutes from August 11, 2017. The motion was seconded by Ms. Jennifer Griffitt and it carried.

5. Approval of Agenda

Ms. Denise Van Nostran made a motion to approve the agenda for the meeting with the change of moving the hearing closer to the beginning of the agenda, following item '8. b'. The motion was seconded by Ms. Jenny Mitchell and it carried.

6. Chairperson's Remarks – Janet Shaw

Chairperson Shaw attended the Federation of State Massage Therapy Boards (FSMTB) meeting in Tampa, Florida, in September. Some things that she brought from the meeting was that there are a number of Massage Therapists in this state that are advertising licensure without using their license numbers, so they need to be on top of that. Reports have been received of that. It is stated in the Code of Laws that the license number must be used any time Massage Therapists are advertising themselves. Last year, a newsletter was created that gave out information accomplished in the previous Panel meeting, and if a newsletter is created after this meeting, a notice may be placed in the newsletter about Massage Therapists using their license numbers in advertisements. A deadline may also be placed in the newsletter for the advertisements by June 30, 2018, which is also the deadline to renew your license as well. This newsletter goes out to everybody via e-mail. The purpose of the license number is to legitimize the fact that they are trained licensed Massage Therapists.

Establishment licenses were also discussed. There is a need for some sort of control to be able to go into an establishment to make sure that everything that is going on must be going on and nothing else. Verification of the Massage Therapists working in the establishment being licensed will also be done, along with verifying that they are who their license states they are. Notes can be taken. Intake forms may be used. They may also look for appropriate draping usage. In the upcoming year, she would love for the Panel to move forward with considering establishment licenses, which will be beneficial. There are a lot of laws and models that may be looked at. This would require a statutory change.

Closure is needed to the current task force. Mr. Anthony Ruggiero served as the chairperson of that task force. The task force had gone through most of the statutes in terms of what they felt were changes to get closer to the Model Practice Act. Staff may put all the recommended changes together (in terms of language changes) to bring before the Panel. This may be revisited at the next Panel meeting.

As far as educational requirements, states are making modifications to their requirements to go from 500 hours to 625 hours as a recommendation from the Entry Level Analysis Project (ELAP). There are states that are moving up in hours and others are moving down in hours. This is something the Panel may look at in the upcoming year. Recommendations were given to the Commission on Higher Education earlier this year in terms of what they want the hours to look like. Recommendations are needed as to what is being done with programs that offer 750 and 900 hours. This will require a statute change with the number of hours required.

7. Administrator's Remarks – Theresa Brown

- a. Budget – For Information – The income is coming from new licensees this year.
- b. IRC Report – Sharon Wolfe – For Approval – Mr. Rodney Pigford sat in for Ms. Sharon Wolfe. A lot of the cases stem from unlicensed practice. Local law enforcement has been working with agency in regards to criminal activities, which is where a lot of the unlicensed practice comes from. Cease and Desist orders are served. If they continue practicing after the cease and desist order, it may go to Administrative Law Court. Chairperson Shaw asked about how licensing establishments could help combat unlicensed practice, which is an expanded discussion. Ms. Egan Flannery added that the uptake in unlicensed practice comes from educating the community.

Mr. Ruggiero made a motion to approve the IRC report from May 11, 2017. The motion was seconded by Ms. Kelley and it carried.

Ms. Van Nostran made a motion to approve the IRC report from October 16, 2017, and it was seconded by Ms. Griffitt. The motion carried.

- c. OIE Report – Sharon Wolfe – For Information Only – The cases below were received from January 1, 2017 – October 25, 2017, for a total of 41 cases:
 - 7 (active)
 - 3 (closed)
 - 12 (do not open)
 - 3 (open)
 - 7 (pending Board action)
 - 3 (pending criminal action)
 - 4 (pending further investigation)

There is a total of 10 closed cases and 14 'do not open' cases for the entire year.

- d. ODC Report – Megan Flannery – For Information Only -
 - 6 (open)
 - 3 (pending action/being drafted)
 - 1 (pending Consent Agreement/Memorandum of Agreement)
 - 1 (pending hearing)
 - 1 (pending appeals from ALC)

A total of 4 cases have been closed since the beginning of the year. At least one hearing will be conducted at each meeting.

8. New Business

a. Legislative Update

i. Rebecca Leach

Back in 2012, the General Assembly passed legislation to combat human trafficking in our state. A Human Trafficking Task Force was established that was chaired by the Attorney General. This agency was required appointment on the task force to develop a plan to address human trafficking in this state. The plan was revealed in 2015. There is a legislative sub-committee that has been charged with looking at possible legislative changes that would help combat human trafficking in this state. One area that they are interested in addressing is massage facilities. It was asked what authority the panel currently has in entering the facilities. The authority is very limited. Ideas are needed on what it would take to license facilities, allowing inspectors to enter them and assess operations. If inspectors feel as though human trafficking is occurring, they will then forward that to the proper authorities. Chairperson Shaw stated that there are certain things that could be looked at, such as having health history and intake forms. Also, certain protocol must be followed as far as what they are looking for, such as draping methods and cleanliness. Discussion followed on basic establishment and licensee guidelines. The Panel will create a task force to look at all aspects in reference to combating human trafficking, which will give the Panel time to properly propose their recommendations. This Panel does have the ability to develop ethics regulations, which may contribute to the issue. It wouldn't be effective until 2019. The Panel is one of the tools that the state may use, not to combat human trafficking themselves. Ms. Mitchell mentioned background checks being done, but that cannot be asked of employers, only for initial licensure. The General Assembly will adjourn in May 2018, so the timeline is very short. The Massage Panel is one of four boards that may make recommendations to their statutes. The creation of a new task force issue came up and was tabled until later during the meeting.

The Panel took a five minute break.

This agenda item was revisited after the discussion on communicable diseases.

A motion was made by Mr. Ruggiero to conclude the present task force as it is and to use the same task force to fervently work on crafting a recommendation to determine a need for establishment licensure and its criteria between now and February. This motion was seconded by Ms. Griffitt and it carried. Chairperson Shaw will chair this task force.

An e-mail will be sent out concerning dates for the task force meetings.

b. Consideration of Implementing CE Broker

i. Dylan Sitterle

Mr. Sitterle gave a presentation on better tracking of continuing competencies of licensees. The agency has contracted with Continuing Education Broker. The service is free for licensees, which takes away hard copies of tracking CE hours. This will help the licensees a lot. The system is unbiased and not attached to an association. There is also a support center built in for questions from licensees. All of the providers will already be approved and built in. It is very simple, easy, and straight forward. A mobile app is included as well. E-mails are sent out about renewal and whether the licensee is compliant or not. As far as implementation, a questionnaire is completed and after approximately 3 months, it should be up and running.

The hearing followed this agenda item.

c. Consideration of Licensure

i. Cai Fen Zhou

Ms. Zhou is seeking approval of licensure in South Carolina. She currently has a revoked North

Carolina license and her MBLEx scores are invalid according to the FSMTB. Mr. Don Cupit accompanied her as a witness.

A motion was made by Mr. Ruggiero to go into an executive session to garner legal advice. The motion was seconded by Ms. Griffitt and it carried.

Ms. Van Nostran made a motion to come out of the executive session and it was seconded by Ms. Griffitt. The motion carried.

A motion was made by Ms. Van Nostran regarding the disposition of Ms. Cai Fen Zhou. The motion consisted of having a continuance of Ms. Zhou's licensure approval, pending the receipt of official documentation from the state of North Carolina regarding the status of her licensure. The information must be provided to staff. This motion was seconded by Mr. Ruggiero and it carried. Her licensure in South Carolina cannot move forward until the North Carolina license issue is resolved, as it is currently revoked.

ii. Lisa Kellim

Ms. Kellim was not present for the hearing as she had a family emergency. She is seeking approval of licensure in South Carolina, but has not taken the MBLEx examination. That examination did not exist when she initially became licensed. Ms. Kellim currently holds a massage license in North Carolina, but was originally licensed in the state of Florida.

Mr. Ruggiero made a motion to approve licensure by reciprocity for Ms. Lisa Kellim and it was seconded by Ms. Griffitt. The motion carried.

The Panel will review these cases on a case by case basis. This is not a blanket disposition on reciprocity.

iii. Lori Day

Ms. Lori Day is seeking approval of licensure by reciprocity. Her husband, Mr. James Kingsbury, served as a witness. She has not taken the MBLEx examination. Ms. Day has been licensed in massage since 1980 in California and her licensure has been continuous and is still up to date. The MBLEx was not a requirement then. She is currently licensed in North Carolina as well.

Mr. Ruggiero made a motion to go into an executive session for legal advice and it was seconded by Ms. Griffitt. The motion carried.

Mr. Ruggiero made a motion to come out of the executive session and it was seconded by Ms. Griffitt. The motion carried.

A motion was made by Mr. Ruggiero to approve licensure by reciprocity for Ms. Lori Day and it was seconded by Ms. Griffitt. The motion carried.

The Panel will review these cases on a case by case basis. This is not a blanket disposition on reciprocity.

d. Hearings – Megan Flannery

i. 2015-3

Ms. Van Nostran recused herself from the hearing because of a personal relationship with the respondent. Attorney Dan Atkinson represented Ms. Christen Miller in this case. A telephone testimony from the complainant was used, in which Attorney Atkinson objected to, but was allowable by the Panel according to laws that allow public input, as this is a complaint driven agency. The complainant had a notary with them who confirmed their identity.

After the testimony of the complainant, Mr. Ruggiero made a motion to go into an executive session for legal advice. The motion was seconded by Ms. Mitchell and it carried.

Ms. Kelley made a motion to come out of executive session and it was seconded by Ms. Mitchell. The motion carried.

Ms. Miller also served as a witness and answered questions.

Another motion was then made to go into an executive session to garner legal advice. This motion was made by Mr. Ruggiero and seconded by Ms. Griffitt. The motion carried.

Ms. Kelley made a motion to come out of executive session and it was seconded by Ms. Griffitt. The motion carried.

Ms. Mitchell made a motion for case 2015-3 that the state did not meet its burden of proof regarding the following violations from the Code of Laws in that the respondent lacks professional competence to practice massage/bodywork:

- 40-30-230(7)
- 40-1-110(g)

The state did meet its burden in the following violation:

- 40-1-110(f)

A non-disciplinary letter will be issued regarding clear communication with clients regarding treatment measures and techniques.

The motion was seconded by Mr. Ruggiero and it carried.

Ms. Jenny Mitchell and Ms. Mary Lou Kelley left the meeting at this time at approximately 1:30 p.m.

e. Discussion Regarding R. 77-120

This stemmed from the regulatory review and the confusion. It needs to be rewritten. The task force may pick this item up. On the CE provider applications, names of courses are received, along with a course outline, objective, requirements, policies and procedures. Their certificate of attendance is also needed. As far as the instructor, they have three options and only one of the options are needed. The options are listed below:

1. Holds a minimum of a bachelor's degree from a college or university which is accredited by a regional accrediting body recognized by the U. S. Department of Education or a substantially equivalent accrediting body of a foreign sovereign state, with a major in a subject directly related to the content of the program to be offered.
2. Has graduated from a school of massage or an apprenticeship program which has a curriculum equivalent to requirements in this state and was approved by a state licensing authority, a nationally recognized massage therapy association, or a substantially equivalent accrediting body, or the LLR and has completed three years of professional experience in the practice of massage; or
3. Is licensed as a massage therapist in another state or foreign sovereign state having standards of education or apprenticeship training substantially similar to or more stringent than those required for licensure in South Carolina and has taught at a school of massage which has a curriculum equivalent to requirements in this state and was approved by a state licensing authority, a nationally recognized massage therapy association, or a substantially equivalent accrediting body, or LLR for a minimum of two years.

It also asks if the instructors will be holding courses in other areas other than massage therapy, such as history, techniques, or ethics.

This must be a regulatory change.

f. Discussion Regarding Ethics

There can be ethics regulations. It must be drafted and submitted by August of 2018.

g. Discussion Regarding Communicable Diseases

This is in located in the regulations as well and may be expanded. This agenda is a good outline on what the Panel wants to do for regulatory changes.

9. Public Comments

N/A

10. Discussion

N/A

11. Adjournment

A motion was made by Ms. Griffitt to adjourn the meeting and it was seconded by Mr. Ruggiero. The motion carried.

The meeting ended at approximately 3:30 p.m.

The next meeting of the SC Massage/Bodywork Therapy Panel is scheduled for February 9, 2018.