

AGENDA
South Carolina Massage/Bodywork Therapy Panel
Meeting
10:00 A.M., May 13, 2016
Synergy Business Park
Kingstree Building, Conference Room 105
110 Centerview Drive, Columbia, SC 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 Read by the Chairman
- c. Pledge of Allegiance

Chairman Janet Shaw asked for a moment of silence.

2. Introduction of Panel Members and All Other Persons Attending

Chairman Janet Shaw called the meeting of the SC Massage/Bodywork Therapy Panel to order.

Other panel members participating in the meeting included:

- ❖ Jennifer Griffitt
- ❖ Tony Ruggiero
- ❖ Denise Van Nostran
- ❖ Mary Kelley

Staff members present included: Georgia Lewis, Advice Counsel; Shalon Genwright, Staff; Theresa Richardson, Administrator; Megan Flannery, Office of Disciplinary Counsel (ODC)

All Other Persons Attending:

M. Sean Cary, Court Reporter (Creel Court Reporting); Oggy Donkov; Morgan Adcock; Bailey B. Rotenberry; Debra Gallup

3. Approval of Excused Absences

Ms. Theresa Richardson, Administrator, stated that Ms. Jenny Mitchell (Panel member) was absent due to a conference.

Mr. Tony Ruggiero moved that they excuse her absence. Ms. Denise Van Nostran seconded the motion. The motion carried.

4. Approval of the Minutes from the Following Meeting:

February 12, 2016

Mr. Ruggiero stated that a correction was needed under 'Old Business'. Deborah Gallagher needed to be Debra Gallup. Ms. Van Nostran made a motion to accept the minutes with the amendment. Mr. Ruggiero seconded the motion. The motion carried.

5. Approval of Agenda

Mr. Ruggiero made a motion to approve the agenda with the addition of an executive session before item #10. Ms. Jennifer Griffitt seconded the motion. The motion carried.

6. Chairman's Remarks – Janet Shaw

The new members (Ms. Jennifer Holder Griffitt and Ms. Mary Lou Kelley) were welcomed to the Panel. They both are very passionate about the industry and excited.

The Panel is now only missing a public member and if you would like to be a part of the Panel, you will need to contact the governor's office. Chairman Shaw mentioned how Ms. Richardson has been with the Panel for two years now and has done a fabulous job. She is very professional and on top of things. She and Ms. Georgia Lewis are doing an excellent job.

7. Administrator's Remarks – Theresa Richardson

- a. Budget – For informational purposes only.
- b. IRC Report – Sharon Wolfe – Ms. Wolfe had another engagement to attend, so Ms. Richardson went over the materials. Dismissal is recommended for the 1st case, as there were no violations. The next 4 cases are dismissals with a cease and desist order.

Ms. Lewis gave an overview of the IRC (Investigative Review Committee). She stated that it was kept very separate from the initial complaint and review process. The Panel is completely separated from the investigative process. The investigator does the report and the committee meets to make the decisions. There are consent agreement parameters. Dismissals and cease and desists, by statute, has to be approved by the Panel.

The IRC report is not public. The budget may be requested through a FOIA (Freedom of Information Act) request; it is not printed on the webpage.

Ms. Van Nostran made a motion to accept the IRC report and Mr. Ruggiero seconded the motion. The motion carried.

- c. OIE Report – This is for informational purposes only. This report goes over the type of case, violation(s) alleged, and the issues. The following information is for cases that were received from January 1, 2016 – May 3, 2016. There was a total of 14 cases.
 - 2 (Active Investigations)
 - 2 (Do Not Open Cases)
 - 3 (Currently Open)
 - 6 (Pending Board Action)
 - 1 (Pending IRC)

With the same timeframe, there were a total of 6 closed cases.

- 4 (Closed Status)
 - 2 (Do Not Open Status)
- d. ODC Report – Megan Flannery – There is 1 case pending action where the hearing is forthcoming and another case is pending a consent agreement/memorandum of agreement. ODC has closed 1 case since January 2016. The cases are current and on par on what they have been doing for the last year and a half. Ms. Flannery gave a synopsis of her role, in which she is over the legal side of things to

point out what would be necessary at hearings. Once it goes through the IRC, she receives cases that were approved from formal complaints. There are 3 ways to resolve formal complaints.

1. Consent Agreement – This is a document from the state to the respondent. The document states the facts from the case and any violations that were alleged. This is an option for the licensee to take. The licensee knows exactly what happens when they come before the Panel. They agree to the facts, violations, and sanctions.
2. Memorandum of Agreement – The state and respondent agree on the facts and the violation, but the respondent may think that the sanctions are too high.
3. Issuing a Formal Complaint with an Evidentiary Hearing – This is a full hearing and her job is to prove the facts and that the violation occurred. The respondent has a right to an attorney that may cross examine, ask questions, and put up their own defense. At the end of the hearing, the Panel decides what the facts are, if a violation occurred, and the sanctions given if a violation did occur. Ms. Lewis writes up the Final Order to get signed by the chairman. If it is a public order, it will go out on the website.

Ms. Flannery has no control on how the licensees are disciplined. Chairman Shaw stated that all the information that the Panel gets is really general. Without the regulation of establishments, when dealing with unlicensed practice, the only thing that can be done is cease and desist. It is something that is being worked on.

8. Old Business

A few comments were given by Chairman Shaw.

The former chairperson, Ms. Carolyn Talley-Porter (recently retired) has done an enormous amount of good for this industry in South Carolina and across the nation. The Panel wanted to present a plaque to her on today, but she was unable to attend today's meeting. It will be postponed until the next Panel meeting and if she cannot attend, we will try to get her on a conference call. Carolyn appreciates the offer and the honor.

The following task forces have been developed to address a few things:

1. Resolution Guidelines – This will be a uniform way of handling sanctions. With this, administration will be able to handle the different issues and complaints without it elevating to the level of the Panel. It is a floating body and can always have adjustments or changes made. It is not a confinement. At the last meeting, the final draft was given for that.
2. Task Force – Statutes and regulations are being looked at and compared to the Model Practice Act. Mr. Ruggiero stated that they are not looking to reinvent the wheel. It is only housekeeping and pure language changes. The task force is putting a package together that will be given to the legislators. Everyone is welcome to attend these meetings. It would be really beneficial to have more voices, yet they will not be going back over the material until it is finished. They have gone through it once and are almost halfway through. The amount of schooling requirements are being investigated now, as far as what the federation recommends in comparison to what we already have. It has been an interesting process.

Ms. Lewis added that within the statute, the Panel is very fortunate to be able to make changes. There are very few boards in the agency with that authority. As far as taking it to a legislator to make the changes, that cannot be done. It is limited to associations and lobbyists of those associations. We cannot lobby for any changes in the statute. Associations are the ones that do the legwork of getting a

sponsor for the bill and statutory changes. The legislation works on a two year process and we currently have two years to get a bill dropped and passed. Holly Beeson (LLR – Communications and Governmental Affairs) works closely with the legislators and keeps up with the statutory changes. It has been recommended to change the name to “board” from the “panel” to run normally under the LLR umbrella. The working document that they have is not for public knowledge; it is just a draft.

Regulations are used to support the statute and cannot increase what is in the statute, but can be used for support and guidance. Changing regulations would be a whole different process. It is looked at closely by legislation when boards try to change regulations. The next step is to clean up the regulations. The process is not as tedious, but just as important. With a statute, the bill is presented to legislation. Regulations go through a publication process. It is a 120 day process that may be problematic and contested. To change the amount of initial education would be a statutory change.

Chairman Shaw states that having laws are to protect the industry and the public. Everything is being looked at on a nationwide level to ensure that we are up to date. She wants the South Carolina massage industry to be top notch. Ms. Lewis says that the utmost priority is to protect the public. Associations like membership and to promote the profession. We are here to keep the public safe.

Mr. Ruggiero gave the next task force meeting date, which will be held on July 22, 2016, at 9:00 a.m.

Chairman Shaw mentioned that in the previous meeting, photos on licenses had been discussed. A new license with space for a 2x2 photo will be distributed to licensees upon their renewal. There is some subjectivity to the process and honesty of the licensees are needed. It will give the Panel another step with violations that legal may impose if individuals are caught practicing without a license. In the next two years, we hope to have a good situation established.

A panel newsletter was also brought up. It was spoken of briefly before. The therapists would be informed on what was going on with any new news. It would be as simple as a 1 page newsletter that Chairman Shaw will write. Ms. Richardson stated that Chairman Shaw could send her the content and she would then give her a mock-up of what it will look like. An e-blast would be able to be sent to all licensees, as well as being placed on the website. It would be a wrap-up of what was talked about at the panel meetings, where they are, and what to look forward to. The newsletter may start after this meeting.

9. New Business

a. Consideration of Massage Education

i. Oggy Donkov

Mr. Donkov represented himself and is seeking to register for the MBLEX. His education has to be acceptable and approved by the Panel to do so. He has worked in Europe for five years and has recently moved to the states in 2015. Mr. Donkov would like to carry on working in this business and wants all of his hours to be looked at and combined to give the whole picture.

Mr. Ruggiero made a motion to enter into executive session for legal advice after a 15 minute break. It was seconded by Ms. Van Nostran. The motion carried.

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

Ms. Van Nostran made a motion to approve the educational background of Mr. Donkov based on the bachelor's degree and massage therapy transcripts for him to take the exam. It was seconded by Mr. Ruggiero. The motion carried. They look forward to having him work in the industry.

b. Proposed Board Meeting Dates for 2017

The dates given were as follows:

- February 10, 2017
- May 19, 2017
- August 11, 2017
- November 3, 2017

Ms. Kelley made a motion to accept the meeting dates that were established for 2017. It was seconded by Mr. Ruggiero and the motion carried.

10. Executive Session (amendment to the agenda per #5.)

A motion was made by Ms. Van Nostran to go into executive session, to include Ms. Richardson, for recent cases. It was seconded by Ms. Kelley. The motion carried.

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

11. Public Comments

Ms. Van Nostran spoke about the Commission on Massage Therapy Accreditation where she is the Program Director. They just renewed their accreditation and have been approved through 2033. They have elections for commissioners and there was a vacancy for a regulator, where she put her name in for the nomination. She ended up being appointed for that position. As a member of the commission, she will be able to connect the Panel even closer with the national body. It is for a 4 year term.

Mr. Ruggiero is thinking about running for the National Certification Board seat as well.

The agency encourages involvement in national associations.

12. Adjournment

Mr. Ruggiero made a motion to adjourn the meeting. It was seconded by Ms. Griffitt and the motion carried.

The meeting adjourned at 12:18 p.m.

The next meeting of the SC Massage/Bodywork Therapy Panel is scheduled for August 12, 2016.