

**South Carolina Massage/Bodywork Therapy Panel Meeting**  
**August 10, 2018**  
**9:00 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**

Chairperson Janet Shaw called the meeting of the S.C. Massage/Bodywork Therapy Panel to order. Other Panel members participating in the meeting included:

- ❖ Anthony Ruggiero
- ❖ Mary Lou Kelley
- ❖ Jennifer Griffitt
- ❖ Jenny Vaughn

**Staff members present included:** Georgia Lewis, Advice Counsel; Shalon Genwright, Staff; Theresa Brown, Administrator; Megan Flannery, Office of Disciplinary Counsel; Sharon Wolfe, Office of Investigations and Enforcement; Priscilla Louis, Staff; Tina Behles, Court Reporter

**3. Approval of Excused Absences**

A motion was made by Ms. Jennifer Griffitt to excuse the absence of Ms. Denise Van Nostran and it was seconded by Ms. Mary Lou Kelley. The motion carried.

**4. Approval of Agenda**

Mr. Anthony Ruggiero made a motion to approve the agenda for the meeting with the changes of moving item 8. a. i. (Nikea Berry) to follow the approval of the agenda. From there, item 9 on the agenda will follow. The motion was seconded by Ms. Kelley and it carried.

**5. Approval of the Minutes for the Following Meeting:**

March 28, 2018 (Task Force)

Mr. Ruggiero made a motion to approve the task force meeting minutes from March 28<sup>th</sup>. The motion was seconded by Ms. Vaughn and Ms. Griffitt and it carried.

April 6, 2018 (Task Force)

Mr. Ruggiero made a motion to approve the task force meeting minutes from April 6<sup>th</sup>. The motion was seconded by Ms. Griffitt and it carried.

May 4, 2018 (Task Force)

Mr. Ruggiero made a motion to approve the task force meeting minutes from May 4<sup>th</sup>. The motion was seconded by Ms. Vaughn and it carried.

May 18, 2018 (Task Force)

Mr. Ruggiero made a motion to approve the task force meeting minutes from May 18<sup>th</sup>. The motion was seconded by Ms. Vaughn and it carried.

July 13, 2018 (Task Force)

Mr. Ruggiero made a motion to approve the task force meeting minutes from July 13<sup>th</sup>. The motion was seconded by Ms. Vaughn and it carried.

May 18, 2018

Mr. Ruggiero made a motion to approve the panel meeting minutes from May 18<sup>th</sup>. The motion was seconded by Ms. Griffitt and it carried.

**6. Chairperson's Remarks – Janet Shaw**

**7. Old Business**

There was no old business.

**8. New Business**

**a. Consideration of Licensure**

**i. Nikea Berry**

Ms. Nikea Berry was seeking approval to become licensed as a Massage/Bodywork Therapist. She has a criminal background record and has completed probation.

Mr. Ruggiero made a motion to have a license issued to Ms. Nikea Berry as she has paid her debt to society. The motion was seconded Ms. Kelley and it carried.

**ii. Joseph Bogar**

Mr. Joseph Bogar was seeking approval for the renewal of his Massage/Bodywork Therapist license. He was represented by Attorney Stephen Goldfinch. Mr. Bogar has a criminal background record from over a decade ago that was not previously given to LLR.

A motion was made by Mr. Ruggiero to go into an executive session to garner legal advice on Mr. Bogar's consideration of licensure. The motion was seconded by Ms. Jenny Vaughn and it carried.

Mr. Ruggiero made a motion to come out of the executive session and it was seconded by Ms. Kelley. The motion carried. There were no motions made or votes taken during the executive session.

A motion was made by Mr. Ruggiero to accept the renewal of licensure for Mr. Joseph Bogar and it was seconded by Ms. Kelley. The motion carried. The Panel appreciated him coming forward.

**b. Consideration of Utilizing the Massage Therapy Licensing Database**

Information was submitted to the agency to see if this was something the agency could utilize in making the licensing process easier. Member boards of other states would submit information to Federation of State Massage Therapy Boards (FSMTB) and each state would be able to log into the database. As it stands, we are relying on applicants to be honest on applications. There would be a memorandum of agreement between LLR and FSMTB and the information would be shared securely (encrypted). There would be a data dump each week and other states are already doing likewise. It would be of no cost to the Panel and would serve as a great asset for information. Continuing education hours will eventually be tracked in this database as well.

Ms. Kelley asked about tabling the agenda item until the next Panel meeting. This is something used by the nursing board as well. Florida is a leader in the massage industry and they will be utilizing the database.

Mr. Ruggiero made a motion to approve the usage of the licensing database to join in with the FSMTB data sharing and it was seconded by Ms. Griffitt. The motion carried.

## 9. Hearings – Megan Flannery

### i. 2017-25

This case was in the matter of Yan Wang. The respondent was present and represented by Attorney Marcelo Fornicos. Ms. Cindy Huang, a Chinese and Mandarin Interpreter, provided services to Ms. Wang as well. A memorandum of agreement had been given where Ms. Wang agreed to the stipulation of the facts. Ms. Wang's license is currently suspended as she was criminally charged for prostitution in 2015. She has completed pre-trial intervention with no issues, was given a ticket, and community service. She also has to submit to random drug testing. Ms. Wang has been in the United States for over eight (8) years and has had no other criminal charges. The charge has had a great influence on her life as she relies on her work. She has always been truthful with law enforcement and LLR. Ms. Wang was the owner of her establishment and was the only employee there. Her business license was not suspended, but she lost her business due to not being able to work. The pre-trial intervention is enough to get this expunged off of her record. Ms. Theresa Brown, Board Administrator, served as a witness for the state. Ms. Brown verified the school that Ms. Wang attended, when she passed the national certification examination, and her status in the United States.

Mr. Ruggiero made a motion to go into an executive session to garner legal advice on the hearing and it was seconded by Ms. Kelley. The motion carried.

A motion was made by Mr. Ruggiero to come out of the executive session and it was seconded by Ms. Griffitt. The motion carried. There were no motions made or votes taken during the executive session.

In the case of 2017-25 for Ms. Yan Wang, a motion was made by Ms. Kelley to accept the memorandum of agreement and the evidence presented. A public reprimand was given with one (1) year of suspension of Ms. Wang's Massage/Bodywork Therapist license and the suspension shall be stayed. Three (3) years of probation were also given once Ms. Wang's license is reinstated. In order to reinstate her license, the following conditions should be met:

- Twelve (12) hours of continuing education are needed from National Certification Board for Therapeutic Massage & Bodywork (NCBTMB) approved courses to include content of professional boundaries, legal and ethical issues. This shall be completed by or before 60 days from the date of the order.

For renewal, six (6) hours of NCBTMB applied courses is needed in ethics, along with courses designed for therapeutic relationships, roles/boundaries, and professional conduct for the 2018-2020 renewal. This motion was seconded by Mr. Ruggiero and the motion carried. Ms. Wang may proceed with taking the courses as she does not need to wait on the Board Order. Her license cannot be reinstated until the twelve (12) hours of continuing education are obtained. For the renewal period, at least six (6) of the twelve (12) continuing education hours required must include ethics courses. There is no fine.

A ten (10) minute break was then given.

## 10. Approval of Panel Meeting Dates for 2019

The following dates were given for Panel meetings of 2019:

- February 8, 2019
- May 17, 2019
- August 9, 2019
- November 8, 2019

Ms. Kelley made a motion to approve the dates given for the 2019 Panel meetings. The motion was seconded by Ms. Vaughn and it carried.

## 11. Administrator's Remarks – Theresa Brown

- a. Budget – For Informational – this was given for informational purposes only. There were no inquiries.
- b. IRC Report – Sharon Wolfe – For Approval – This report was given by Ms. Megan Flannery on the July 30, 2018 IRC report. There have been four (4) case dismissals so far this year. A motion was made by Mr. Ruggiero to approve the dismissed cases of the IRC report and it was seconded by Ms. Griffitt. The motion carried. Mr. Ruggiero made another motion to approve the dismissed/cease and desist case and it was seconded by Ms. Kelley. The motion carried. Another motion was made by Mr. Ruggiero to approve the formal complaints of the IRC report and it was seconded by Ms. Vaughn. The motion carried. Lastly, Mr.

Ruggiero made a motion to approve the letters of caution seen on the IRC report and it was seconded by Ms. Griffitt. The motion carried.

- c. OIE Report – Sharon Wolfe – For Information Only – Ms. Megan Flannery read the OIE report for informational purposes only.
- d. ODC Report – Megan Flannery – For Information Only – Ms. Megan Flannery went over the ODC report. There are currently four (4) open cases with two (2) pending consent agreements/memorandums of agreement and two (2) pending hearings. Nine (9) cases have been closed since January 1, 2018.

## 12. Review of the Task Force Recommendation for Statutory Changes

The Panel is at a very exciting time in their profession as evolution is the strength of survival. There are 42 boards under LLR and only 4 boards can provide recommendations to make statutory changes. Statutory changes have to be sponsored normally and the agency cannot lobby. Once the recommendation is given, the Panel cannot do anything, aside from the Board Chair or Administrator testifying if the recommendations end up in the committee. Recommendations were given from the public as well.

The S.C. Code of Laws Title 40 Chapter 30 (Massage/Bodywork Practice Act) latest recommendations draft was reviewed by each section as seen below:

### SECTION 40-30-10. Short title.

- The title is recommended to be changed to Massage Therapy Practice Act and a second sentence should be added for it to apply to massage therapists and massage establishments.

A motion was made by Mr. Ruggiero to accept section 40-30-10 as written with the corrections given. The motion was seconded by Ms. Vaughn and it carried.

### SECTION 40-30-20. Purpose.

- Massage/bodywork therapists should be changed to massage therapists throughout the statute.
- There was an issue with an addition of referring to establishments as unsafe.

A motion was made by Mr. Ruggiero to accept section 40-30-20 as written with the corrections given. The motion was seconded by Ms. Griffitt and it carried.

### SECTION 40-30-30. Definitions.

- The licensure must be updated to include massage establishments.

A motion was made by Mr. Ruggiero to accept section 40-30-30 as written with the corrections given. The motion was seconded by Ms. Griffitt and it carried.

### SECTION 40-30-40. Panel for Massage/Bodywork

- There were concerns about panel members' qualifications.

A motion was made by Mr. Ruggiero to accept section 40-30-40 with the exceptions noted and the corrections given. The motion was seconded by Ms. Griffitt and Ms. Kelley and it carried.

### SECTION 40-30-50. Duties of panel for Massage/Bodywork.

- Establishments should be added after practices of individuals.
- There were also typos.

A motion was made by Mr. Ruggiero to accept section 40-30-50 with the corrections as noted in the draft. The motion was seconded by Ms. Griffitt and it carried.

### SECTION 40-30-60. Employees; duties.

- This section was verbatim from the engine.
- It should state manager in charge, instead of professional.
- A copy of the roster be provided, instead of using the term that it must be provided.
- Use the term of businesses, instead of establishments, so that the agency is covered to do a better job as the licensee may not be working in an establishment.

A motion was made by Mr. Ruggiero to accept section 40-30-60 with the corrections as seen in the draft. The motion was seconded by Ms. Vaughn and it carried.

## SECTIONS 40-30-65, 40-30-70

No approval was needed.

### SECTION 40-30-80. Fees.

- Chapter 10 is where all of the fees are.
- Our communications and governmental affairs department will need to be notified to publish the fees.
- Legislators do not like the term '...not to exceed'.
- Lapsed license fees should be added.
- Endorsement fees should be added and defined as those licensed in another state seeking licensure in South Carolina.
- The examination fee should be removed.
- A reinstatement fee for massage establishments should be added, along with the initial license and renewal fees.

A motion was made by Mr. Ruggiero to accept section 40-30-80 with the corrections proposed for the draft. The motion was seconded by Ms. Griffitt and it carried.

### SECTION 40-30-90. Annual report.

This section was deleted.

### SECTION 40-30-100. Practice without license.

- The title may be updated to: Practice without License; License Overlap.
- Change 'himself' to 'himself/herself'.
- Change 'panel' to 'board' throughout the statute.

A motion was made by Mr. Ruggiero to accept section 40-30-100 with the corrections given. The motion was seconded by Ms. Vaughn and it carried.

### SECTION 40-30- UNNUMBERED. Special Provisions or Exemptions for massage therapy and massage establishment licensure.

- This unnumbered section was seen in the draft.
- There were several typos.

A motion was made by Mr. Ruggiero to table this unnumbered section and it was seconded by Ms. Kelley. The motion carried.

### SECTION 40-30-110. Qualifications for license.

- Add 'initial' to the title – for initial licensure and delete the rest of the title from the draft.
- Typos need to be updated.
- There was an extensive discussion on verbiage on applicants being able to effectively communicate with a client and speaking English.
- Native language should be deleted.
- Jurisprudence, English proficiency, and other examinations were discussed.
- The language barrier is a safety and public protection issue.
- A legal standpoint is needed that does not put the law in jeopardy.
- Foreign educated applicants need their own section.

The Panel stopped at 40-30-110 (C) and will meet again on a special called meeting.

Ms. Kelley made a motion to table section 40-30-110, along with the unnumbered section that referenced being licensed from another state. It was seconded by Ms. Vaughn. The motion carried.

## 13. Public Comments

Ms. Laura Embleton, National Government Relations Director for Associated Bodywork and Massage Professionals, made a comment about the licensing database as there has been some concern about hacking and privacy. She also stated that other states have asked their legal department to look into it as well. Chairperson Shaw stated that the FSMTB is highly sensitive to the database and that a lot more states are rolling into this. They been considered top notch by the federation of regulatory boards.

Ms. Kimberly Curtis, applicant, stated that she has a concern with the MBLEx as they no longer give a numerical score, so those taking the examination have no way of knowing their scores. She also stated that the examination is adaptive, which is unfair for protection of the public and the Panel should look into reinstating the scores. The MBLEx also has a lot of diagnostic questions on the examination and this examination should be congruent with the law. She also inquired about her application status. Chairperson Shaw thanked her reading the law and stated that the Panel members do not dictate the questions on the exam, but her concerns can be addressed at the conference in October. Ms. Theresa Brown, Board Administrator, gave detailed information on the application process as well.

Mr. David "Scott" Lawrence stated that he was all in favor of licensing massage establishments and mentioned other businesses in his local area. He currently is only mobile with the services that he provides and Horry County would not issue him a business license as he was classified as providing uncertified services. With him being licensed by the state of South Carolina, that should be a moot point and that he should get with a local attorney in his county.

#### **14. Discussion**

Ms. Brown will get with the Deputy Director over Professional Occupational Licensure as far as the distribution of the previously approved massage brochures.

#### **15. Adjournment**

Ms. Kelley made a motion to adjourn the meeting and it was seconded by Ms. Vaughn and Ms. Griffitt. The motion carried.

The meeting adjourned at 3:24 p.m.

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

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