

**Board of Registration of Massage Therapy
November 20, 2017, Public Session Meeting Minutes
Location: 1000 Washington St., Boston, MA 02118, Room 1G**

Present:

Board members:

Paul Andrews, Board Chair
Alexei Levine, Vice Chair
Matthew Olds, Board Member
Sheri Sarmiento, Board Secretary

DPL Staff:

Ana Garcia, Executive Director
Peter Kelley, Board Counsel
Shawn Croke, Board Investigator

Board members not present:

Ann Marie Kennedy, Board Member

Item 1) 10:10 a.m. Meeting called to order:

Housekeeping and Evacuation Procedure – Executive Director detailed the evacuation plan to be followed in the event of an emergency. Do not use the elevators, exit down the stairwell and go across Harrison St. to Whole Foods parking lot.

Item 2) 10:11 a.m. Board Meeting Business:

- **Executive Minutes (August)** – Motion made by Mr. Olds to accept the Executive Minutes for August 14, 2017, seconded by Mr. Levine, Motion passed unanimously.
- **Public Minutes (August)** - Motion made by Ms. Sarmiento to accept the Public Minutes for August 14, 2017, seconded by Mr. Levine, Motion passed unanimously
- **Proposed Board Meeting Schedule:** December 2017 meeting changed to December 4, 2017, January 2018 meeting changed to January 22, 2017, March 2018 meeting changed to March 19, 2017. Mr. Olds made a motion to approve the new schedule, seconded by Mr. Levine. The motion passed unanimously.

Mr. Andrews made a motion to look at Correspondence before conducting the Application Reviews. Mr. Levine seconded the motion. The motion passed unanimously.

Item 3) 10:13 a.m. Correspondence:

- **Email from Caroline Dickerson dated 08/17/2017 re: Body Wraps:** Mr. Andrews made A motion that body wraps are not within the scope of massage therapy, seconded by Ms. Sarmiento. The motion passed unanimously.

- **Email from Gina Klay dated 10/06/2017 re: Local Ordinances:** Ms. Klay brought up the discrepancy between the Board’s regulation regarding square footage and her town’s regulation for square footage, which is greater than the Board requirement. Attorney Mark Malloy stated that the town may be potentially in violation if they are attempting to regulate massage therapy, unless it is a zoning issue. Mr. Andrews made a motion to have Board Counsel respond that therapists have to abide by local requirements which may be more burdensome than the Board’s regulations.

Item 4) 10:20 a.m. Application Review:

- **2017-136-MT-MF-APP [SD]** – The therapist, Ms. Shu Hua Dong, came to the interview with another woman, Susan Lannigan, as an interpreter. Mr. Andrews asked her if she was currently open for business. She said, yes. She then said that she did not understand. She then stated that she was only doing feet and back. She then claimed she was only doing “Chinese type” on the feet and back and using her elbow on the back.

According to her application she is requesting a single establishment license, but on the floor plan she submitted there are other rooms. She could not or would not answer a majority of the questions posed. She was informed that she needs a compliance officer who is able to read and understand English. She also needs to fill out an application for a multi-therapist license. She chose to withdraw her single therapist license application and will submit a multi-therapist license application.

- **2017-132-MT-MF-APP-[tabled from August]** - The application was tabled from the August meeting to obtain the dates of the attempts of communication with the owner of the Business, from the DPL inspector assigned. Ms. Jeannette Nguyen (DPL Inspector) provided additional information. There was no sign of a business at the location. She called three times, went by twice, and never received a response. Mr. Olds made a motion to deny the application, seconded by Mr. Levine. The motion passed unanimously.

Item 5) 10:36 a.m. Candidate Interviews: [Executive Session – closed pursuant to G.L. 30A]

Mr. Olds moved to enter into Executive Session pursuant to G.L.30A §21(1) to discuss the character rather than competence of an applicant for licensure. Ms. Sarmiento seconded. After taking a roll call vote (all “yes”), motion passed.

Item 6) 11:15 a.m. Investigative Conference: Review Cases: [Closed session pursuant to MGL. C. 112 §65C]

Mr. Olds moved to exit executive session and enter into closed session for the purpose of conducting investigatory conferences and settlement conferences pursuant to G.L. c. 112, § 65C and quasi-judicial conferences pursuant to G.L.c. 30A, § 18(5)(d). Seconded by Ms. Sarmento, following a roll call vote, all in favor, the motion passed.

During investigative conference the Board voted to take the following action:

- **2016-001004-IT-ENF [HE] – tabled** **Mr. Levine took no part in the discussion of or deliberation on this matter.*

12:26 pm Mr. Olds moved to enter into Executive Session pursuant to G.L.30A §21(1) to discuss the character rather than competence of an applicant for licensure. Ms. Sarmento seconded. After taking a roll call vote (all “yes”), motion passed.

12:43 pm Mr. Olds moved to exit executive session and enter into closed session for the purpose of conducting investigatory conferences and settlement conferences pursuant to G.L. c. 112, § 65C and quasi-judicial conferences pursuant to G.L.c. 30A, § 18(5)(d). Seconded by Mr. Levine, following a roll call vote, all in favor, the motion passed.

During investigative conference the Board voted to take the following action:

- **2016-0404MT140-IT-ENF [TC] – Dismiss w/o prejudice.**
- **2016-001084-IT-ENF [LM] – Dismiss w/o prejudice.**
- **Adverse Action [HB] – No action. Read & Filed.**
- **2017-000356-IT-ENF [ZH] – Dismiss w/o prejudice.**
- **2017-00120-IT-ENF [JWZ] – Dismiss w/o prejudice.**

At the end of the investigative conference, the closed session continued with adjudicative conferences.

Item 7) 12:07 p.m. Final Decision & Order: [Adjudicative conferences: closed session pursuant to G.L.30A § 18, (5) (d)]

The board reviewed cases in closed session to conduct quasi-judicial deliberations.

At the end of the adjudicative conferences, the closed session continued with settlement conferences.

Item 8) Settlement Conferences: [closed session pursuant to MGL c. 112, §65C]

Board discussed settlement offers presented by prosecuting counsel.

At the end of the closed session, Mr. Levine moved to exit closed session and to resume the open meeting. Mr. Olds seconded. Motion passed unanimously.

Item 9) 1:32 p.m. Discussion of Initial Establishment Inspection: [Martha Sesnovich-Assistant Chief of Office of Investigations & Kelly Puccio- Inspection Supervisor]

Discussion regarding mobile massage inspections. Board discussed with OI staff regarding difficulties getting in contact with establishment operators for massage therapy services being offered exclusively offsite. OI indicated that multiple attempts are made to coordinate initial inspections in which they are unable to reach the operator or become a “no-show” once the inspector arrives.

Board motioned to allow issuance of establishment licensure so long as all required documents have been submitted and forwarded to Inspection post licensure. The Board’s inspector Shawn Croke will conduct the initial inspection 90 days of license issuance to the establishment, for all exclusively “off-site” establishment applications. Brick and mortar locations will continue to be inspected prior to licensure.

Item 10) Compliance Monitoring:- 2nd Review and approval of Compliance Monitors

- **20140219MT093-IT-ENF through 20140219MT098-IT-ENF [SL]** – Have Ms. Sherri Miller come in to talk to the board with Ms. Lopes.

Item 11) Board member to attend a hearing:

- Adjudicatory Hearing in the Matter of MT-16-014 [QC] for February 8, 2018 – Mr. Andrews
- Adjudicatory Hearing in the Matter of MT-16-047[LL] for February 28, 2018 – Ms. Sarmiento

Respectfully submitted,



Ana Garcia
Executive Director