

THE BOARD OF MASSAGE THERAPY
Professional & Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Section 92-7(b), Hawaii Revised Statutes ("HRS").

- Date: Wednesday, October 24, 2012
- Time: 9:00 a.m.
- Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813
- Present: Wendee Wilson, Public Member, Chair
Rhonda Scott, Massage Therapist, Vice Chair
Laura Chock, Public Member
George Davis, Jr., Massage Therapist
Olivia Nagashima, Massage Therapist
Rodney J. Tam, Deputy Attorney General ("DAG")
Kenyatta Nichols, Executive Officer ("EO")
Jennifer Fong, Secretary
- Guests: Walter Aipa, American Massage Therapy Association ("AMTA")
Gary Brauer
- Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by section 92-7(b), Hawaii Revised Statutes ("HRS").
1. Call to Order: There being a quorum present, Chair Wilson called the meeting to order at 9:07 a.m.
 2. Additions/
Revisions to
Agenda: None.
 3. Approval of
Board Meeting
and Executive
Session Minutes
of the August 1,
2012 Meeting: Upon a motion by Chair Wilson, seconded by Ms. Nagashima, it was voted on and unanimously carried to approve both the board and executive session minutes of the August 1, 2012 Board meeting.

4. 2013 Board Meeting Schedule: After some discussion, it was the consensus of the Board to approve the 2013 Board Meeting Schedule.

5. Applications: a. Ratifications
Upon a motion by Ms. Nagashima, seconded by Chair Wilson, it was voted on and unanimously carried to approve the attached ratification list.

b. Applications

Executive Session:

At 9:12 a.m., it was moved by Chair Wilson, seconded by Vice Chair Scott, and unanimously carried to enter into executive session to consider and evaluate personal information relating to individuals applying for licensure in accordance with Section 92-5(a)(1), HRS, and to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities in accordance with Section 92-5(a)(4), HRS.

Guests were excused from the meeting room.

At 10:11 a.m., it was moved by Chair Wilson, seconded by Ms. Nagashima, and unanimously carried to move out of executive session.

6. Chapter 91, HRS, Adjudicatory Matters: At 10:12 a.m., Chair Wilson recessed the Board's meeting to discuss the following adjudicatory matter pursuant to Chapter 91, HRS.

- a. In the Matter of the Massage Therapy Establishment's License of Ho'onani Salon & Day Spa LLC; MAS 2011-30-L; MAS 2011-10-L; MAS 2011-31-L; MAS 2011-37-L; MAS 2011-38-L; MAS 2011-42-L; MAS 2011-46-L; MAS 2011-54-L; MAS 2011-57-L; MAS 2011-58-L; MAS 2011-59-L; MAS 2011-60-L; MAS 2011-67-L; MAS 2011-72-L; MAS 2011-87-L; – Settlement Agreement Prior To Filing of Petition for Disciplinary Action and Board's Final Order

It was moved by Chair Wilson, seconded by Ms. Nagashima, and unanimously carried to approve the above referenced settlement agreement.

At 10:14 a.m., the Board came out of Chapter 91, HRS and returned to its regular order of business.

5. Applications: b. Applications
Exam & License – Massage Therapist

- Gary Brauer

After discussion, it was the consensus of the Board that based on the information provided as well as Act 247 which states in part "...an applicant for licensure by endorsement or licensure by reciprocity who is a nonresident military spouse may demonstrate competency in a specific profession or vocation as determined by the licensing authority in lieu of a requirement that the applicant has worked or practiced in that profession or vocation for a specified period of time prior to the application for licensure by endorsement or licensure by reciprocity.", the Board determined that Act 247 does not apply to this board as they do not offer licensure by endorsement or licensure by reciprocity.

In addition, as Mr. Brauer's request specifically was in reference to the exam, he was informed that as the Act only addresses demonstrating competency in lieu of an experience requirement, it would not apply to the examination requirement.

- Michael Evers

After discussion, it was moved by Ms. Nagashima, seconded by Chair Wilson, and unanimously carried to approve Mr. Evers' application for massage therapist exam and license subject to submitting additional documents and that if the documents verify the information submitted by the applicant, delegate to the EO to approve the application.

- Paul Fratus

After discussion, it was moved by Vice Chair Scott, seconded by Ms. Nagashima, and unanimously carried to approve Mr. Fratus' application for massage therapist exam and license.

- Zachary Hansen

After discussion, it was moved by Chair Wilson, seconded by Vice Chair Scott, and unanimously carried to deny Mr. Hansen's request for examination waiver on the basis of §452-16, HRS.

At this time, Chair Wilson announced she was taking the agenda out of order to discuss the following agenda item:

- 7. New Business, b. Reviewing 2007 Recognition of the training and education of the students of NCBTMB Approved Providers Marguerite Pennington and S. Pualani Gillespie

7. New Business: b. Reviewing 2007 Recognition of the training and education of the students of NCBTMB Approved Providers Marguerite Pennington and S. Pualani Gillespie

EO Nichols gave brief background on the Board's previous decisions to accept the training and education of the students of Ms. Pennington and Ms. Gillespie provided that the training is in accordance with "Hawaii Administrative Rules section 16-84-24 and also must be conducted at a licensed massage establishment or a Department of Education licensed school." He noted that section 16-84-24 does not exist. He suggested it was a typo and asked if the Board meant to reference section 16-84-23.

Board members agreed by consensus that the letters should have cited HAR section 16-84-23.

At 10:27 a.m., the DAG left the meeting.

The Board returned to its regular order of business.

7. New Business: a. Application for License – Massage Establishment

EO Nichols noted that at their last meeting, the Board had requested that this item be placed on the agenda.

After some discussion, it was the consensus of the Board to defer this discussion as the Board will be moving towards repealing Chapter 84 and creating a new HAR chapter.

- c. Inquiry regarding whether a licensed massage therapist is able to use a peddler's permit to establish a massage business and if a peddler's permit allows a licensed/unlicensed massage therapist to offer services at open/farmer's markets

Ms. Nagashima said she had asked that this item be placed on the agenda because she has spoken to several people recently who believed that they did not need a massage establishment license because they have a peddler's permit.

Vice Chair Scott said she did some research and the peddler's permit only covers specific areas of public land. It does not cover private property. In addition, the permit states that the permittee still has to comply with state and city and county laws, therefore, she believes having the peddler's permit does not allow anyone to circumvent the Board's requirements.

At 10:43 a.m., the discussion on this agenda item was interrupted when the building's fire alarm went off.

Recess: At 10:44 a.m., Chair Wilson called for a recess.

Reconvene: At 11:06 a.m., the Board reconvened.

Chair Wilson announced that due to circumstances beyond the Board's control, the Board will be deferring the following agenda items:

- 7. New Business, c. Inquiry regarding whether a licensed massage therapist is able to use a peddler's permit to establish a massage business and if a peddler's permit allows a licensed/unlicensed massage therapist to offer services at open/farmer's markets
- 7. New Business, d. Department of Health proposed legislative bill – Massage Establishments
- 8. Old Business, a. Rule Revisions – Title 16, Chapter 84, Hawaii Administrative Rules

9. Next Meeting: Wednesday, January 30, 2013
9:00 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

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10. Adjournment: With no further business to discuss, Chair Wilson adjourned the meeting at 11:08 a.m.

Taken by:

/s/ Jennifer Fong

Jennifer Fong
Secretary

Reviewed by:

/s/ Kenyatta Nichols

Mr. Kenyatta Nichols
Executive Officer

11/8/12

[] Minutes approved as is.

[] Minutes approved with changes; see minutes of _____.