

**MINUTES OF THE MEETING OF THE
BOARD OF MASSAGE THERAPY**

February 1, 2019

These minutes were approved by the Board on April 5, 2019

1. ROLL CALL

The meeting of the Board of Massage Therapy was called to order by Brian Allison, Chair, at 9:01 a.m. in Lower Level Conference Room A, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. Copies of the agenda were mailed to the Board members and other interested parties in accordance with the Open Meetings Law.

The following members answered roll call:

Members Present:

Brian Allison, Chair
Steven Carper, Vice-Chair
Mallory Carstens, Member
Michele Helaney, Secretary

Others Present:

Ami Huff, Assistant Attorney General
Kris Chiles, Program Manager, Licensure Unit
Nancy Herdman, Health Licensing Coordinator, Licensure Unit
Mark Meyerson, Investigator

2. ADOPTION OF AGENDA

MOTION: Helaney moved, seconded by Carper, to adopt the agenda. A roll call vote was taken. Voting aye: Allison, Carper, Carstens, Helaney (4). Voting nay: None (0). Absent: None (0). Motion carried.

3. APPROVAL OF MINUTES (12-7-18)

MOTION: Helaney moved, seconded by Carper, to approve the minutes of 12-7-18. A roll call vote was taken. Voting aye: Allison, Carper, Carstens, Helaney (4). Voting nay: None (0). Abstain: None (0). Absent: None (0). Motion carried.

4. INVESTIGATIVE REPORTS & OTHER CONFIDENTIAL INFORMATION

CLOSED SESSION

MOTION: Carper moved, seconded by Helaney, to enter into closed session at 9:04 a.m. to hear discussions of an investigational/confidential nature and for the prevention of needless injury to the reputation of the individuals. Allison repeated the motion purpose. A roll call vote was taken. Voting aye: Allison, Carper, Carstens, Helaney (4). Voting nay: None (0). Abstain: None (0). Absent: None (0). Motion carried.

9:19 a.m. - Meyerson departed the meeting

MOTION: Carper moved, seconded by Helaney, to enter into open session at 9:30 a.m. A roll call vote was taken. Voting aye: Allison, Carper, Carstens, Helaney (4). Voting nay: None (0). Abstain: None (0). Absent: None (0). Motion carried.

9:30 a.m. - 1 public person entered meeting

5. REVIEW AND RECOMMENDATIONS – OPEN SESSION

Conviction Review:

Sarah Coble – Massage Therapist Applicant

MOTION: Helaney moved, seconded by Allison, to recommend issuing the license. A roll call vote was taken. Voting aye: Allison, Carper, Carstens, Helaney (4). Voting nay: None (0). Abstain: None (0). Absent: None (0). Motion carried.

Practice After License Expired:

Chiles explained that those who apply for reinstatement and have practiced after their license expired are assessed an administrative penalty fee based on the number of days practiced. The Board may recommend disciplinary action also.

Danielle Arroyo – Massage Therapist Reinstatement

MOTION: Carstens moved, seconded by Carper, to recommend reinstatement of the license. A roll call vote was taken. Voting aye: Allison, Carper, Carstens, Helaney (4). Voting nay: None (0). Abstain: None (0). Absent: None (0). Motion carried.

Chiles reported that 3 new school applications had been received:

Serenity School of Massage Therapy, Wayne
Lincoln Academy of Massage Therapy and Body Work, Lincoln
Ren Institute of Massage Therapy, Kearney

Chiles discussed that because paperwork also must be completed with the Department of Education it can become confusing to the applicant. She discussed adding something on the application alerting schools that they need to also work with the Department of Education.

6. NEW BUSINESS

a. 2019 Legislative Session

LB 112 – Proposes to waive initial license fees for low income, military and young workers (ages 18-25) and waive fingerprint fees. This would impact Licensure Unit income if passed.

LB 244 – Proposes mobile massage establishments. The discussion was the bill was similar to the cosmetology mobile salon and sets parameters. The Board supports LB 244 and Carper will testify at the public hearing. The public person (representative of AMTA) said the association was also in favor of the bill.

LB 140 – Proposes to prohibits an operator, an owner of a tanning facility or a lessee of a tanning facility to allow any person less than 18 years of age to use an indoor tanning device at the tanning facility.

LB 347 – Proposes that individuals engaged in the practice of reflexology, and whose services are not designated or implied to be massage or massage therapy, are not required to hold a license under the Massage Therapy Practice Act. The AMTA representative said they were opposed to the bill. The Board is opposed to the bill and will submit a letter in opposition.

The AMTA representative commented that there were four tax bills (314, 508, 507, and 497) regarding taxing services such as massage services. One bill refers to spa services and it is unclear what that means. The AMTA representative stated they oppose the tax bills. They view massage therapy as a health service and health services are not taxed. The AMTA representative also indicated there were four other bills (112, 209, 609, and 244) that mention massage therapy in some manner.

Carper commented that he and Allison had received a letter from Pam Rowland, member of the cosmetology board, advising them a bill was being proposed requiring those who do manicures and pedicures to be

licensed as nail technologists. The bill states that a nail technologist can massage from the knee down and the elbow down as part of providing nail technology services.

b. Regulations Discussion

In July 6, 2017, the Governor issued an executive order that all state agencies immediately suspend all rulemaking until December 31, 2017. So, during this 6-month suspension period, all state agencies were required to conduct a review of all existing and pending regulations and submit a report to the Governor's office. This report required the Department to answer the following questions:

1. Is the regulation essential to the health, safety, or welfare of Nebraskan's?
2. Do the costs of the regulation outweigh the benefits? Provide specific data and reasoning.
3. Does a process exist to measure the effectiveness of the regulations? (explain)
4. Has a less restrictive alternative been considered?
5. Was the regulation solely promulgated due to a state statutory requirement? (provide citations)
6. Was the regulation promulgated as the result of a federal mandate? (provide citations)

It was also directed that any regulation deemed to be MORE restrictive than required under state or federal law or created an undue burden on Nebraskans, must be revised and repealed.

Early 2019, the Department was informed that the executive order report had been reviewed and the direction to all agencies was to make the changes identified in the report by summer 2019.

Chiles reviewed the regulation implementation process. She stated the Board had suggested regulation revisions and asked them to review the draft regulations.

Chapter 81

Some sections discussed were:

- Course of study – Reviewed and confirmed draft content.
- Continuing education – Reduced the hours from 24 to 16 with 50% allowed to be home study. The AMTA representative asked why the hours were reduced. The response was that Nebraska's continuing education hours for massage therapy was higher than other states and higher than other professions in Nebraska.
- Acceptable continuing education - Since no longer pre-approve continuing education, removed the section.
- Unprofessional conduct - Section was fine.

Chapter 82

Some sections discussed were:

- Massage therapy establishment license: There was a discussion about who needs an establishment license. Going to the location of the client is a current exception but does that include situations such as going to a company and providing massages for its employees or when set up at a health fair. The Board recommended language changes to make it clearer when an establishment license was not needed.
- Liquor: The licensee may not use alcohol while providing services but it is up to those establishments that want to allow the clients to have alcohol to obtain a Liquor License.

Chiles stated the next step is she will finalize the draft and send it to Department legal.

7. UPDATES AND REPORTS

a. Nebraska Chapter of AMTA

The representative from AMTA provided the following:

- They have finalized their plans for their conference.
- There will be a sports event in May.
- There will be a cadaver workshop in July.
- The national conference is in October.
- They are updating their website.
- Does the Board want to do a small article for the AMTA newsletter? Chiles will draft something on mandatory reporting for their next newsletter.

b. Federation of State Massage Therapy Boards There was no report.

c. Statistics: Examinations / Licensing / Administrative Penalties / Renewals / Disciplinary and Non-Disciplinary Information / School Report

The Disciplinary/Non-Disciplinary Report was circulated.

Chiles reported that \$1770 in massage therapy administrative penalties had been assessed in 2018 with all paid except for \$900 outstanding where the person is making payments on a payment plan.

Chiles reported the following statistics:

Examination results since 1-1-19:

MBLEx – 2 pass
Jurisprudence (CEU) – 1 pass
Jurisprudence (reciprocity) – 3 pass

Active License Statistics:

Massage Therapist – 1528
Massage Therapy Establishment – 619
Massage Therapy School – 8
Temporary Massage Therapist – 1

8. METHOD OF NOTICING MEETING AGENDAS

Chiles explained that annually the Board is required to approve the method for noticing meeting agendas. Currently meeting agendas are posted on the Department website and posted in the lobby of the Licensure Unit. She asked if the Board wished to continue that method.

MOTION: Carper moved, seconded by Allison, to maintain the same method of noticing meeting agendas. A roll call vote was taken. Voting aye: Allison, Carper, Carstens, Helaney (4). Voting nay: None (0). Abstain: None (0). Absent: None (0). Motion carried.

9. ADJOURNMENT

There being no further business, Allison declared the meeting of the Board of Massage Therapy adjourned at 10:52 a.m.

Respectfully Submitted,

Michele Helaney, Secretary
Board of Massage Therapy