

BOARD OF MASSAGE THERAPY
OPEN SESSION MEETING MINUTES
NOVEMBER 16, 2023
1:30 PM

**In-Person and Virtual
Meeting Notice**

Due to the COVID-19 pandemic, the Board will have in-person and virtual meetings. Please see the hybrid schedule in the Meeting Dates section of the agenda.

In-person meetings will be held at 899 North Capitol St., NE, 2nd Floor, Washington, DC 20002. Information on how to access virtual Board meetings is listed below:

Board of Massage Therapy - Open Session

<https://dcnet.webex.com/dcnet/j.php?MTID=mfb1c085fe626a413fa9f3afd9c32502b>

Thursday, November 16, 2023, 1:30 pm | 1 hour | (UTC-05:00) Eastern Time (US & Canada)
Meeting number: 473 998 269
Password: e8bM4kYdMu7

Join by the video system.
Dial 473998269@dcnet.webex.com
You can also dial 173.243.2.68 and enter your meeting number.

Join by phone.
+1-202-860-2110 United States Toll (Washington D.C.)
1-650-479-3208 Call-in toll number (US/Canada)
Access code: 473 998 269

BOARD OF MASSAGE THERAPY
Open Session Agenda November 16, 2023

BOARD MEMBERS:	
Johanna Brooks, LMT – Board Chairperson	PRESENT
Cary Bland, LMT – Board Member	PRESENT
Vacant – Board Member, Licensed Massage Therapist	VACANT
Vacant – Board Member, Licensed Massage Therapist	VACANT
Maisha Goss Johns – Board Consumer Member	ABSENT
BOARD STAFF:	
Ericka L. Walker, MSW - Executive Director	PRESENT
Thelma Ofosu-Mensah, Health Licensing Specialist	PRESENT
Ajay Gohil, Assistant General Counsel	PRESENT
Gregory Scurlock, Compliance Officer	PRESENT
Leonard Howard, Investigator	PRESENT

OPEN SESSION AGENDA, NOVEMBER 16, 2023

OS-1116-01	<u>CALL TO ORDER: 1:49 PM</u>	
OS-1116-02	<p><u>ROLL CALL</u> Johanna Brooks- Chairperson Cary Bland – Board Member Ajay Gohil- Board Attorney Ericka Walker – Executive Director Gregory Scurlock- Supervisory Investigator Leonard Howard- Investigator Thelma Ofosu- Mensah- Health Licensing Specialist</p>	
OS-1116-03	<p><u>ACCEPTANCE OF AGENDA</u> <u>Board Action:</u> Acceptance of November 16, 2023, Open Session Agenda.</p> <p><u>Motion:</u> Motion made by Mr. Bland to accept the November 16, 2023, Open Session Agenda. Seconded by Ms. Brooks.</p> <p>Mr. Bland and Ms. Brooks voted in favor of the motion. The motion passed unanimously.</p>	
OS-1116-04	<p><u>EXECUTIVE DIRECTOR’S REPORT</u></p> <p>Ms. Ericka Walker gave updates on the following:</p> <ul style="list-style-type: none"> • There was a hearing on the Residency Requirements Amendment Act, on July 13, 2023, which will require innovative solutions to fill Board vacancies in the district. There was a final review of the Bill on November 7, 2023, and it is now pending Mayoral Approval. • She informed the Board that Dr. Ayanna Bennett's nomination as DC Health Director was unanimously approved by the Council on November 7, 2023, hence Dr. Bennet is officially the DC Health Director. • On September 27, 2023, DC Health organized an Inter Collaborative Board (IBC) symposium for all Board members to ensure a collaborative effort amongst the various Boards. She further indicated that a post-symposium section was held to form a steering committee comprised of Board members or chairs to continue the activities of the goals and objectives that were discussed during the September 27, 2023, symposium. Ms. Walker informed the Board that another section on the committee is scheduled for November 30, 2023. 	

	<ul style="list-style-type: none"> • A hearing is scheduled on December 7, 2023, for the upcoming changes to the HORA. • Census 621 • Upcoming Meeting Dates: <ul style="list-style-type: none"> ➤ January 18, 2024 (In-person) ➤ March 21, 2024 ➤ May 16, 2024 (In-person) ➤ July 18, 2024 ➤ September 19, 2024 ➤ November 21, 2024 (In-person) • District of Columbia COVID-19 https://coronavirus.dc.gov/vaccine • District of Columbia Monkeypox https://dchealth.dc.gov/page/monkeypox • The Mayor’s Office of Talent and Appointments (MOTA) recruits talented and interested individuals from all eight Wards to serve on District Boards. Link to apply to serve on a Board: https://mota.dc.gov/page/boards-vacancies-or-available-seat 	
OS-1116-05	<p><u>CHAIRPERSON’S REPORT</u></p> <ul style="list-style-type: none"> • Ms. Brooks gave a summary of the topics discussed at the Annual FSMTB meeting in San Diego, California on September 28-30, 2023. She indicated that some of the topics discussed included Human Trafficking, the rise of Illicit massage, and the rise of collaborative efforts being made by member states to curb the issues in the profession. • On October 24, 2023, there was a legislative summit attended by an FSMTB representative in Washington DC to discuss a new Interstate Massage Compact Legislation (IMPACT). She further informed the Board that she also attended the meeting and gave a summary of the topics discussed during the meeting. 	
OS-1116-06	<p><u>BOARD ATTORNEY’S REPORT</u></p> <p>Mr. Ajay Gohil gave an update on the following:</p> <ul style="list-style-type: none"> • No change of Scope of Practice on Massage Therapy in the HORA • He informed the Board that he discussed with FSMTB creating a State Board Attorney Section Forum where State Board Attorneys can share ideas amongst themselves. • He advised the Board that they should endeavor to attend the Hearing Meeting on November 30, 2023, scheduled by DC Council. 	

OS-1116-07	<p>LEGISLATIVE UPDATES – OFFICE OF GOVERNMENT RELATIONS</p> <p>No Report</p>	
OS-1116-08	<p><u>OPEN SESSION MINUTES</u></p> <p><u>Board Action:</u> Consideration of the Open Session Minutes from the September 21, 2023, meeting.</p> <p><u>Motion:</u> Motion made by Mr. Bland to accept the September 21, 2023, Open Session Minutes. Seconded by Ms. Brooks.</p> <p>Mr. Bland and Ms. Brooks voted in favor of the motion. The motion passed unanimously.</p>	
OS-1116-09	<p><u>CONSENT AGENDA</u></p> <p><u>Board Action:</u> Consideration of the applications approved and items for purposes of review and/or ratification of Board actions taken since the last Board meeting.</p> <p><u>Background:</u> The Consent Agenda is a record of the decisions and/or actions taken by the Board or its staff since the last Board meeting.</p> <p><u>Applications Approved Since September 21, 2023.</u></p> <ul style="list-style-type: none"> • Mynai Abram • Tiffany Spencer • Marques Branch • Patrick Hall • Maria Claudia Amorim Sobrinho • Renair Montgomery • Higor Costa Santos • Scott Brown • Alexander Luciano • Jeanine McSorley <p><u>Motion:</u> Motion made by Mr. Bland to accept the consent agenda. Seconded by Ms. Brooks.</p> <p>Mr. Bland and Ms. Brooks voted in favor of the motion. The motion passed unanimously.</p>	

OS-1116-10	<p><u>MOTION TO CLOSE</u></p> <p><u>Board Action:</u> To go into closed session to discuss confidential matters as permitted in DC Official Code § 2-575(b).</p> <p><u>Background:</u> Pursuant to DC Official Code § 2-575(b), the Board will move into the Closed Executive Session portion of the meeting to discuss the following:</p> <ol style="list-style-type: none"> 1. To consult with an attorney to obtain legal advice and to preserve the attorney-client privilege between an attorney and a public body, or to approve settlement agreements pursuant to § 2-575(b)(4)(a); 2. Preparation, administration, or grading of scholastic, licensing, or qualifying examinations pursuant to section § 2-575(b)(6); 3. To discuss disciplinary matters pursuant to section § 2-575(b)(9); 4. To plan, discuss or hear reports concerning the ongoing or planned investigation of alleged criminal or civil misconduct or violations of law or regulations, if disclosure to the public would harm the investigation pursuant to section § 2-575(b) (14). <p><u>Motion:</u> Motion made by Mr. Bland to close the meeting. Seconded by Ms. Brooks.</p> <p>Mr. Bland and Ms. Brooks voted in favor of the motion. The motion passed unanimously.</p>	
	Roll Call Vote	
OS-1116-11	This concludes the Public Open Session of the meeting. The Board will now move into the Closed Executive Session portion of the meeting pursuant to D.C. Official Code § 2-575(b) for the reasons set forth in the motion.	

This ends the Open Session Agenda.
The next meeting is scheduled for January 18, 2024- In- person.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov

EXECUTIVE SESSION AGENDA NOVEMBER 16, 2023

ES-1116-01	<p>CALL TO ORDER AND ROLL CALL</p> <p><u>ROLL CALL</u> Johanna Brooks- Chairperson Cary Bland – Board Member Ajay Gohil- Board Attorney Ericka Walker – Executive Director Gregory Scurlock- Supervisory Investigator Leonard Howard- Investigator Thelma Ofosu- Mensah- Health Licensing Specialist</p>	
ES-1116-02	<p>APPROVAL OF THE AGENDA</p> <p><u>Board Action:</u> Acceptance of November 16, 2023, Executive Session Agenda.</p> <p><u>Motion:</u> Motion made by Mr. Bland to accept the November 16, 2023, Executive Session Agenda. Seconded by Ms. Brooks.</p> <p>Mr. Bland and Ms. Brooks voted in favor of the motion. The motion passed unanimously.</p>	
ES-1116-03	<p>EXECUTIVE SESSION MINUTES</p> <p><u>Board Action:</u> Consideration of the Executive Session Minutes from the September 21, 2023, meeting.</p> <p><u>Motion:</u> Motion made by Mr. Bland to accept the September 21, 2023, Open Session Minutes. Seconded by Ms. Brooks.</p> <p>Mr. Bland and Ms. Brooks voted in favor of the motion. The motion passed unanimously.</p>	
ES-1116-04	<p><u>ROBERT WHITE, LMT 1016- SCOPE OF PRACTICE</u></p> <p><u>Board Action:</u> The Board to review a notice from Mr. White and decide the next step of action.</p> <p><u>Background:</u> On March 22, 2023, DC Health began an investigation into allegations of unlicensed practice at the Washington Institute of Natural Medicine.</p>	

	<p>During the investigation, it was determined that several non-licensed massage therapists were performing a) Lymphatic drainage and b) craniosacral massages [technique]. However, questions regarding massage therapist's scope of practice were raised by the respondent and investigators.</p> <p>Mr. Scurlock, Supervisory Investigator sent a request for an advisory opinion from the Board of Massage Therapy (Board) with regards to a) Lymphatic drainage and b) craniosacral massages [technique] is being submitted to the Board to ascertain who is allowed to perform these modalities, and if applicable, any exceptions to the regulations. Based on the Board's opinion, DC Health will determine if Notices of Infractions can be issued in this matter. The investigative report on the matter is ready for Board review and decision-making. Mr. White has an active license which expires on 2025-01-31.</p> <p>During the September 21, 2023, meeting, the Board made a motion to fine Mr. White five hundred dollars (\$500) for practicing outside the scope of practice. Seconded by Ms. Goss-Johns.</p> <p><u>Motion:</u></p> <p>Mr. Bland voted to grant the Request for an extension and reconsideration to meet with Mr. White on January 18, 2024.</p> <p>Ms. Johanna Brooks has recused herself from this matter.</p>	
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ADDENDUM	<p><u>JUAN DEL RISCO HERNANDEZ VS. IZABELA OSINIECKA</u></p> <p><u>Board Action:</u> Pending Investigative report.</p> <p><u>Background:</u> A complaint was sent to the Board from the Investigative Department to the Board on 7/5/2023. The complaint was against Juan del Risco, LMT. The complainant alleges inappropriate behavior and unwanted sexual contact by Mr. Del Risco Hernandez (MT1732) during a massage session on May 29, 2023. The Board Attorney requests an investigation into the matter based on the nature of the complaint. A request for an investigation was sent to the investigation department. On 8/9/2023 Ms. Emilia Moran submitted the investigative report for Board review and decision-making.</p> <p>During September 21, 2023 meeting Mr. Bland requested an additional investigation into the matter to determine the length of time the two unlicensed contractors identified in the report have been working at the establishment find out if any additional individuals may have currently worked at the establishments and if and determine how long they have been working at the location. Seconded by Ms. Goss-Johns.</p> <p>During the November 16, 2023, meeting Mr. Scurlock, Supervisory investigator gave an update on the investigation pertaining to the Board's request during the September 21, 2023, meeting.</p> <p>Motion made by Mr. Bland to issue a Letter of Concern for the sexual allegation complaint from Ms. Osiniecka. Seconded by Ms. Brooks.</p> <p><u>Motion:</u></p> <p>A second Motion was made by Mr. Bland to issue a private order to fine Mr. Del Rico \$1000 for each unlicensed person that he hired and \$250 for failure to comply with the subpoena regarding the investigation. The fine is to be paid within three (3) months.</p> <p>Mr. Bland and Ms. Brooks voted in favor of the motion. The motion passed unanimously.</p>	
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<p>ADDENDUM</p>	<p><u>PURVIS ROLLINS, LMT</u></p> <p><u>Update:</u> Pending delivery of NOI. The</p> <p><u>Background:</u> NOI has been sent to Mr. Rollins via email on 6/23/2021 and mailed via USPS-certified mail on 06/29/2021. Mr. Rollins has not acknowledged receipt of the NOI via email and has not confirmed receipt by mail and neither has he responded to the notice. There has not been any proof from the USPS system that the NOI has been delivered to Mr. Rollins. Mr. Gohil, Board Attorney advised that the NOI Should be resent to Mr. Rollins to ensure that he has been properly served. On 11/17/2022 the NOI was resent via USPS-certified mail with tracking number 70131710000152324658.</p> <p>The last update on the USPS website as of 3/6/2023 indicates that “Your package is moving within the USPS network and is on track to be delivered to its destination. It is currently in transit to the next facility”.</p> <p><u>Motion:</u> Motion made by Mr. Bland to dismiss the NOI against Purvis Rollins, and administratively close the matter, and red flag his application if ever he attempts to reinstate his license, the issue will be discussed by the Board.. Seconded by Ms. Brooks.</p> <p>Mr. Bland and Ms. Brooks voted in favor of the motion. The motion passed unanimously.</p>	
	<p><u>Motion:</u> Motion made by Mr. Bland to close the meeting. Seconded by Ms. Brooks.</p> <p>Mr. Bland and Ms. Brooks voted in favor of the motion. The motion passed unanimously.</p>	

EXECUTIVE SESSION INFORMATION ONLY ITEMS

**ALL ITEMS FOLLOWING THIS PAGE ARE
 INFORMATION/UPDATES NO BOARD DECISION
 IS REQUIRED
 (AT THE BOARD’S DISCRETION)**

ES-1116-05	<p><u>REGINALD JOHNSON,</u> <u>Update:</u> The order has been posted on the Board’s website and reported to the NPDB per the Board Attorney’s directives. <u>Background:</u> Mr. Johnson’s hearing was held by the Office of Administrative Hearings in September 2020. Per regulations, the presiding Administrative Law Judge shall provide the Board with a Recommended Decision and Order that the Board may adopt in whole or in part or decline to adopt. Currently, the Board staff has received a Recommended Decision from OAH for the Board to review and decision making. A new complaint has been submitted against Mr. Johnson. The complaint was sent to the investigative department for further investigations. The order has been finalized</p>	
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	<p>and it has been posted on the Board’s website and reported to the National Practitioner Databank. A copy of the order was sent to Mr. Johnson via USPS-certified mail and via email on 2/21/2023. The USPS tracking system indicates that “Your item was forwarded to a different address at 2:42 pm on March 6, 2023, in HYATTSVILLE, MD. This was because of forwarding instructions or because the address or ZIP Code on the label was incorrect”.</p>	
ES-1116-07	<p>ANONYMOUS COMPLAINT Update: Pending Investigative Report Background: An anonymous complaint was received by the Board on 02/15/2022. The complainant alleged sexual misconduct occurred during a massage session at Unwind Signature Massage. The complainant alleged the Massage Therapist involved was named Sergei. A search in the license database did not show a massage therapist licensed with the Board named Sergei. The matter was sent to the investigative department for further investigation. During the May 2022 meeting, the Board decided to get additional information on the matter from the anonymous complainant. The anonymous complainant needs to respond to the request for additional information within a period of 30 days of receipt of the request. The anonymous complainant has been identified as Jewel Addy; she left a voicemail for Board Attorney on 7/12/2022 to check on the status of the complaint. Mr. Howard, the Board investigator, needs to update the Board on whether additional information has been obtained from the complainant other than her voicemail.</p>	
ES-1116-08	<p>SHAWN HARRIS VS. TERREL HALE LMT Update: The letter is yet to be sent to the Maryland Board. Background: A complaint was received from Mr. Shawn Harris against Mr. Terrel Hale. The complainant indicated that Mr. Hale engaged in sexual misconduct during his massage session. On 8/31/17 an order to answer was sent to Mr. Hale and an acknowledgment letter sent to Mr. Shawn Harris. On October 13, 2017, Mr. Hale submitted the response to the OTA for Board review and decision-making. During the November meeting, the Board requested an investigation on the matter to make an informed decision on the next step of actions. A review of the Mr. Hale’s records with the Board indicated that he has a record of another sexual misconduct complaint that was filed against him by Mr. David LeBreton in 2014.</p>	

	<p>The Board’s final decision on LeBreton’s case cannot be located. The matter is before the Board for it to reconsider the matter. Mr. Hale renewed and had an active license in DC. During the March 18, 2021, meeting, the Board decided to have a case resolution interview with Mr. Hale. On April 22, 2021, Mr. Hale with his Attorney Paula Grant were interviewed by Board members Ms. Brooks and Ms. Ferriss.</p> <p>Ms. Brooks and Ms. Ferriss recommended that Mr. Hale should be issued a letter of concern and send a copy of the letter to the Maryland Board of Massage Therapy referencing the 2014 complaint with a copy of the 2017 complaint.</p> <p><u>Motion:</u> Motion made by Ms. Brooks to send a letter of concern to Mr. Hale and send a copy of the letter to the Maryland Board of Massage Therapy referencing the 2014 complaint with a copy of the 2017 complaint. Seconded by Mr. Reo.</p> <p>Mr. Bland, Ms. Ferriss, Mr. Reo, and Ms. Brooks voted in favor of the motion. The motion passed unanimously. Ms. Jackson recused herself.</p>	
<p>ES-1116-09</p>	<p><u>PIEDMONT SCHOOL OF MASSAGE CASES</u></p> <p><u>Updates</u> Pending Additional Information and an Investigative Report</p> <p><u>Background:</u> The Board requested an investigation into the matter regarding the Piedmont School Transcript submitted at the time of application. Mr. Howard, the Board investigator will update the Board.</p> <ul style="list-style-type: none"> • HAIMEI YANG, LMT- ACTIVE • FANG WANG, LMT- ACTIVE • MYONG KIM, LMT- ACTIVE • YINGYING FENG, LMT- ACTIVE • ANHUA CAO, LMT- EXPIRED 	
<p>ES-1116-10</p>	<p><u>ANGELA CUMMINGS: NEW APPLICANT</u></p> <p><u>Board Action:</u> Pending Exam Score and Clearance from FSMTB list</p> <p><u>Background:</u> Ms. Cummings submitted the application by endorsement. She answered YES to the question, have you ever voluntarily surrendered your license or registration certificate and have you ever been arrested. She submitted court documents and explanations for Board review and decision-making. Mr. Gohil reviewed the court documents</p>	

	<p>and explanation and advised that the matter should be submitted to the Board for final decision-making. During the June meeting the Board voted to approve the application of Angelina Ms. Cummings pending the verification that she has taken and passed the MBLEX exams after she graduated from ACE Training Institute and if she has not taken and pass the MBLEX exams she will be required to take the National Exams before licensure. She also needs to submit AND take First Aid /CPR. On 7/17/2023 an email was sent to Ms. Cummings regarding the decision of the Board regarding her application. Ms. Cummings is yet to respond.</p> <p>Mr. Bland and Ms. Brooks voted in favor of the motion. The motion passed unanimously.</p>	
ES-1116-11	<p><u>CHAD PADDIE VS. ART MASSAGE- LOWER LEVEL</u></p> <p><u>Update:</u> Pending Investigative Report</p> <p><u>Background:</u> A complaint was sent to the Board from Mr. Paddie on 01/26/2023. The complainant alleges inappropriate behavior by an unidentified Massage Therapist at the Art Massage Lower level in DC during a massage session on January 22, 2023. Board Attorney requests an investigation into the matter based on the nature of the complaint. A request for an investigation was sent to the investigation department. This matter is pending an investigative report.</p>	
ES-1116-12	<p><u>JENNIFER KENNEALLY vs. CHRIS BEDNARCZYK, (IDENTIFIED)LMT MT1409</u></p> <p><u>Update:</u> Pending Submission of Reinstatement Application</p> <p><u>Background:</u> A complaint was received by the Board via fax on July 21, 2022, from Ms. Kenneally against Chris B (unknown last name) for sexual misconduct during a massage therapy session at Aveda. Mr. Howard requested a signed subpoena from the Board Attorney Mr. Gohil to initiate an investigation into the matter. The subpoena was signed on August 30, an acknowledgment letter was sent to the complainant on 9/6/2022. During the January 2023 meeting the Board decided to flag Mr. Bednarcyk’s renewal application to determine whether he will answer YES or NO to the renewal screening question. If he answered NO to the question of whether he is under investigation, then Board staff can issue an NOI for the license.</p>	

	<p>Mr. Bednarczyk has not renewed his license and his license has expired.</p> <p>Ms. Kenneally filed a lawsuit against Aveda. On Monday, August 28, 2023, Ms. Kenneally's Attorney submitted a FOIA request to DC Health for records in the matter of Logan 14 LLC DBA the Aveda Salon and Chis ("Christopher") Bednarczyk. All documents related to the FOIA were forwarded to Board Attorney Mr. Gohil to comply with the request.</p> <p><u>Motion:</u></p> <p>Motion made by Mr. Bland to request that Mr. Bednarczyk's reinstatement application (if he submits at any point in time) be sent to the Board for review and decision-making based on allegations of investigations into boundary issues. Seconded by Ms. Goss-Johns. Mr. Bland, Ms. Brooks, and Ms. Goss-Johns voted in favor of the motion. The motion passed unanimously.</p>	
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