State Board of Massage Therapy June 11, 2019

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BOARD MEMBERS:

7 Becky D. Caufman, LMT, Chair
8 K. Kalonji Johnson, Acting Commissioner, Bureau of
9 Professional and Occupational Affairs

Nancy M. Porambo, MS, LMT, CNMT, NCTMB, Professional Member, Vice Chair

Camille Baughman, BS, MA, LMT, Professional Member Gloria E. Rosado, LMT, Professional Member

Linda A. Chamberlain, MS, BSN, RN, CNDLTC, Secretary of Health Designee

Jessica A. Nelson, Office of Attorney General Designee Shea M. Rhodes, Esquire, Public Member Ellyn Jo Waller, Ed.D., Public Member

18 19 20

BUREAU PERSONNEL:

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Thomas M. Davis, Esquire, Board Counsel Monty J. Batson, Esquire, Board Prosecution Liaison Tara Smith, Board Prosecutor Carol J. Niner, Board Administrator

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ALSO PRESENT:

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Patricia Landis, Division Chief of Higher and Career Education, Pennsylvania Department of Education Nina M. Kottcamp, LMT, NCMT, Coordinator, Harrisburg Area Community College

Michael L. Walters, LMT, PTA, EMT-B, An Athlete's Edge Natalie Cook, Associate, McNees-Winter Group LLC, representing the American Massage Therapy Association Pennsylvania Chapter

Kelly L. Givens, LMT, CR, American Massage Therapy Association

Lorena Haynes, Pennsylvania Department of Education Edward Portley Jr., LMT, Just This Side of Heaven Massage & Continuing Education for Massage Therapists Rick Caufman

46 Michael 47

Michael J. McCarrie, Esquire, Counsel for Respondent

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2 State Board of Massage Therapy

June 11, 2019

* * *

The regularly-scheduled meeting of the State

Board of Massage Therapy was held on Tuesday, June 11,

2019. Becky D. Caufman, LMT, Chair, called the meeting

to order at 9:34 a.m.

* *

[Chair Caufman requested that all cell phones be turned off. She asked that all audience members register and requested the introduction of all those in attendance.

Chair Caufman welcomed Ellyn Jo Waller, Ed.D., as the Board's newest public member. Dr. Waller introduced herself and discussed the connection between her work in the Commonwealth and the massage industry.

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20 Report of Board Prosecutor

21 [Monty Batson, Esquire, Board Prosecution Liaison,

22 presented a Consent Agreement for File No. 18-72-

23 003622.

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Mr. Batson informed the Board that the Office of

25 General Counsel (OGC) offers a free service called a

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Mediation Program which would potentially lessen the burden on hearing examiners and the Board. He stated both the Prosecution and the Respondent would sit with an OGC Mediator and attempt to reach an agreement in final resolution of the matter, rather than having both parties argue their respective positions before a hearing examiner or the Board. Mr. Batson noted the program has been successful with the Social Work Board. Mr. Batson answered questions from Board members and Acting Commissioner Johnson.

Mr. Batson clarified that the Board would still be asked to adopt the agreements reached through mediation in the same manner as the Board is currently asked to adopt consent agreements.]

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16 Report of Acting Commissioner

17 [Kalonji Johnson, Acting Commissioner, Bureau of

18 Professional and Occupational Affairs, welcomed Ms.

19 Waller to the Board and raised awareness of bills

20 currently moving through the General Assembly.

He stated the Senate Professional Licensure

Committee recently unanimously passed House Bill 1172,

which would promote licensure portability by requiring

Boards to endorse candidates for licensure who are in

active good standing in their home states absent any

1 discipline. Board members had questions for Mr. 2 Johnson.

Ms. Rhodes noted that after looking into the matter, she found that the bill is currently back in the Appropriations Committee.

Natalie Cook, Associate, McNees-Winter Group LLC, noted the bill was recently amended in the Senate to address the reciprocity and licensure by endorsement, that it does not supersede or replace any existing statutory provisions relating to that. Ms. Cook further noted the bill would need to go back to the House for approval and then on to the Governor's desk.

Acting Commissioner Johnson stated House Bill 1477 relates to criminal history, and specifically would amend the Criminal History Records Information Act.]

18 Report of Board Chair

19 [Becky Caufman, LMT, Chair, reported that Jamie Corey
20 is now on the policy committee for FSMTB and noted
21 some of the Board's concerns may be brought out by a
22 resolution and possibly an amendment that would be
23 presented to be voted on at the annual meeting.

There was discussion regarding whether Ms. Nelson would be able to remain on the probable cause

1 committee considering her role as the Office of 2 Attorney General Designee.

Mr. Batson provided an explanation that the function of the probable cause committee is to make a determination whether or not evidence has been presented that shows a crime and/or violation has been committed. If the probable cause committee determines the licensee to be an immediate and clear danger to the public health and safety, that person's license would be immediately temporarily suspended and a hearing would be required within 30 days for determination by the hearing examiner.

Mr. Batson further explained that in some cases, the committee can recommend that the Respondent be sent for a mental and/or physical examination. That if the examination does not reveal a mental health and/or physical condition, the matter would be closed within the Prosecution Division.

After further discussion the Board suggested that Ms. Nelson remain on the committee. Ms. Baughman volunteered to be an alternative member and back up for Ms. Nelson.]

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24 | Appointment

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25 | Pat Landis - PA Department of Education

- 1 | [Patricia Landis, Division Chief of Higher and Career
- 2 | Education, Pennsylvania Department of Education,
- 3 provided an overview of her position with the
- 4 Department of Education and how it relates to massage
- 5 | therapy. She stated the PA Department Education's
- 6 | Higher and Career Education supports the Board of
- 7 Private Licensed Schools which licenses trade schools
- 8 including massage therapy schools.
- 9 Ms. Landis noted that some of the functions of
- 10 Board of Private Licensed Schools are to ensure that
- 11 entry-level massage therapy programs have a minimum of
- 12 | 600 clock hours of instruction, to investigate
- 13 complaints against schools (usually lodged by
- 14 | students), and to investigate reports of schools
- 15 involved in human trafficking.
- 16 Ms. Landis offered her contact information in
- 17 case the Board had a concern about a school. Ms.
- 18 Landis stated she could be reached at her direct desk
- 19 | number (717) 787-4645.
- 20 Ms. Landis answered questions from Board members
- 21 regarding how cases of human trafficking are dealt
- 22 | with, the Department of Education's instructor
- 23 qualification standards and regulation changes.
- Mr. Batson inquired as to the frequency the
- 25 Department checks whether teachers at massage schools

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meet certification requirements. Ms. Landis stated an unaccredited school and its instructors are reviewed once every three years, that accredited schools are visited once every five years.

Mr. Batson inquired if Ms. Landis was aware of the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB). Ms. Landis noted she is aware of that Board and has received reports of their action in the past against schools and that those reports are utilized to launch an investigation by her Department. She discussed the investigation process going forward.

Ms. Landis answered a question by Mr. Batson regarding schools that would credential students who had not completed a curriculum and what action would be taken for not presenting a program as approved by the Board. She noted that such schools would be closed if convincing evidence was provided. There was further discussion regarding the matter.]

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21 [The Board recessed from 10:41 a.m. to 10:48 a.m.]

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[Tara Smith, Esquire, Board Prosecutor, introduced herself to the Board. She provided a brief history of her professional background and stated she is looking

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forward to working with the Board.]
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   Appointment - Lorena Haynes, Director of Government
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   Relations, FSMTB
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   [Lorena Haynes, Director of Government Relations,
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   FSMTB, presented before the Board for discussion of
   what the FSMTB is and to answer questions from Board
   members. She provided a history of her professional
   experience and also a history of the federation and
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   its mission.
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        Ms. Haynes noted an annual meeting is held where
   delegates from each member board assemble to make
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   decisions, discuss communication and exchange
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   information with other member boards. She explained
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   another mission of the federation is to facilitate
   professional mobility, maintain the MBLEx examination,
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   work with the FBI and Polaris to formulate a human
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   trafficking report as it relates to massage therapy,
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   as well as offer updates via newsletters and emails.]
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   [Kalonji Johnson, Acting Commissioner of Professional
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   and Public Affairs, exited the meeting at 11:32 a.m.]
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   Appointment - Lorena Haynes, Director of Government
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   Relations, FSMTB (Continued)
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1 [Ms. Haynes discussed the Massage Therapy Licensing
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- 2 Database (MTLD) and all the information available in
- 3 that program, CE standards and the CE Registry System.
- 4 | She noted the federation does legislation tracking
- 5 for boards and has a school support program. She
- 6 talked about the MBE Summit for executive directors
- 7 and/or senior staff members. Candidate care and
- 8 member benefits were also noted. There was discussion
- 9 regarding the MTLD Memorandum of Understanding, the
- 10 encryption software protection created by the
- 11 | federation and the Regulatory Education and Competence
- 12 | Hub (REACH) or online learning management system.
- 13 She noted that the federation is a member of the
- 14 | Council on Licensure Enforcement and Regulation
- 15 (CLEAR), and also a governing member of the Federation
- 16 of Associations of Regulatory Boards (FARB).]
- 17
- 18 | [Kalonji Johnson, Acting Commissioner of Professional
- 19 and occupational Affairs, re-entered the meeting at
- 20 | 12:01 p.m.]
- 21 ***
- 22 Appointment Lorena Haynes, Director of Government
- 23 Relations, FSMTB (Continued)
- 24 Ms. Haynes answered questions from Board members,
- 25 Counsel and audience members.

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2 Report of Board Regulatory Counsel
3 [Chair Caufman noted a regulatory committee meeting
4 was recently held.

Thomas M. Davis, Esquire, Board Counsel, provided a printout of two selections from the proposed general revisions regulation package (16A-725) to members of the Board, including Section 20.1, Definitions, the definition of the Asian Bodywork Therapy and Standards of Professional Conduct, Section 20.42 (13). He explained that the Massage Therapy Regulations Committee met on June 10, 2019, and the Committee suggested that language be added to the proposed regulation to make it clear that Massage therapists wearing bathing attire, lingerie and/or any clothing that is transparent or translucent shall not be considered to be, "professional in dress and appearance." Furthermore, the Committee suggested a small change to the definition of Asian Bodywork Therapy.

Acting Commissioner Johnson suggested that a model practice for sanitation and cleanliness be followed. He also stated these regulations go through an internal vetting process, the Policy Office, then the Governor's Policy Office, and that if something

presents itself as a policy concern, that that could affect movement of the regulation.

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Chair Caufman explained that the definition of professional attire is currently vague, which is why the Board wishes to add the discussed language. There was further discussion regarding moving the regulations forward in a timely manner. Acting Commissioner Johnson also had concerns regarding the English proficiency requirements.

Ms. Rhodes commented that the proposed English-language requirement is not just about protecting the safety of the patron but also the safety of the licensees.

Acting Commissioner Johnson reiterated that the desire to wrap everything into this revisions package may end up slowing the very thing the Board is trying to accomplish.

Chair Caufman explained the Board was going to vote today on whether or not to release an exposure draft of the proposed general revisions regulation package. Acting Commissioner Johnson suggested that the Board "vote their conscience" but did want them to know that they "could be ambushed down the line" and should be prepared to have some awkward conversations with the Governor's Office. He referred members to

- 1 | Mohan Seshadri, Executive Director of the Commission
- 2 on Asian Pacific American Affairs for further
- 3 guidance.
- 4 Ms. Rhodes noted that her organization, The
- 5 | Villanova Law Institute to Address Commercial Sexual
- 6 Exploitation, is in the process of seeking funding to
- 7 do a study of the issue of commercial sexual
- 8 exploitation in Pennsylvania. She had further
- 9 discussion regarding that matter.
- 10 Acting Commissioner Johnson suggested that the
- 11 | Board reach out to the Office of Policy for
- 12 information regarding the status of the regulation.
- Mr. Davis suggested that the Board hold off on a
- 14 vote to release the exposure draft one more cycle, so
- 15 that the BPOA Policy Office could have more time to
- 16 review the proposed regulation. Board members agreed
- 17 | with the suggestion.
- 18 Board members had discussion regarding Section
- 19 20.52, Massage Therapy Equipment.
- 20 Chair Caufman stated the Office of Policy and the
- 21 Commission on Asian Pacific American Affairs would be
- 22 | invited to the Board's next regulatory meeting in
- 23 August.]
- 24 **
- 25 | Approval of Board Minutes

14 Approval of Minutes of the April 9, 2019 meeting 1 2 CHAIR CAUFMAN: 3 Let's look at the draft Board minutes from the April 9, 2019 meeting. 4 5 [The Board discussed corrections to the minutes.] 6 CHAIR CAUFMAN: Did anyone else have any additions or 8 corrections to the draft minutes? 9 I need a motion from the Board to accept 10 the draft minutes of the April 9, 2019 minutes with corrections. 11 MS. PORAMBO: 12 So moved. 13 CHAIR CAUFMAN: 14 15 Second? MS. ROSADO: 16 17 Second. CHAIR CAUFMAN: 18 19 All those in favor? All those opposed? 20 Any abstentions? 21 [The motion carried. Ms. Waller and Ms. Rhodes 22 abstained from voting on the motion.] 2.3 2.4 [The Board recessed from 1:02 p.m. until 1:08 p.m.] 25

1 [Kalonji Johnson, Acting Commissioner of Professional

- 2 and Occupational Affairs, exited the meeting at 1:08
- 3 p.m.]
- 4 ***
- 5 Miscellaneous
- 6 Other Draft Newsletter Article
- 7 | [Board members were referred to an article for the
- 8 | Massage Board newsletter presented by Ms. Baughman for
- 9 further comment. Mr. Davis suggested further
- 10 discussion of the wording he highlighted in yellow.
- 11 Hyperlinks were added also.
- 12 Ms. Niner provided information regarding how to
- 13 be added to the Board's list of stakeholders. She
- 14 explained that an email needs to be submitted to the
- 15 Board's resource account which would then be forwarded
- 16 to Board Counsel for addition to the stakeholder
- 17 | list.1
- 18
- 19 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
- 20 1:18 p.m. the Board entered into Executive Session
- 21 | with Thomas Davis, Esquire, Board Counsel, for the
- 22 | purpose of conducting quasi-judicial deliberations and
- 23 to receive advice of Counsel on the matters upon which
- 24 the Board shall later vote. The Board returned to
- 25 open session at 2:32 p.m.]

16 * * * 1 2 MOTIONS 3 Pursuant to Section 708(a)(5) of the MR. DAVIS: 4 Sunshine Act, the Board met in Executive 5 Session for the purpose of conducting quasi-judicial deliberations and to 6 receive advice of Counsel on the following matters for which the Board is 9 about to vote: Number 3 on the agenda. 10 Based on the Board's discussions in Executive Session, I believe the Chair 11 12 would accept a motion to adopt as final 1.3 the Proposed Adjudication and Order of 14 the Hearing Examiner in the following 15 matter: In the Matter of the 16 Application for Massage Therapist Licensure of Zijia Yin, Applicant, Case 17 No. 18-72-006834. 18 19 CHAIR CAUFMAN: 20 From the floor?

MS. BAUGHMAN: 21

22 I move.

2.3 CHAIR CAUFMAN:

24 Camille moves.

MS. RHODES: 25

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                  I second.
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   CHAIR CAUFMAN:
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                  Shea seconds. All those in favor?
                                                        All
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                  those opposed? Any abstentions?
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   [The motion carried unanimously.]
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   MR. DAVIS:
                  Number 4 on the agenda. Based on the
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                  Board's discussions in Executive
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                  Session, I believe the Chair would
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                  accept a motion to adopt as final the
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                  Proposed Adjudication and Order of the
1.3
                  Hearing Examiner in the following
                  matter: In the Matter of the
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                  Application for Massage Therapist
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                  Licensure of Bin Wang, Applicant, Case
                  No. 18-72-007083.
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   CHAIR CAUFMAN:
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                  Motion from the floor?
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   MS. NELSON:
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                  I'll make the motion.
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   CHAIR CAUFMAN:
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                  Jessica first.
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   MS. RHODES:
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                  Second.
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18 1 CHAIR CAUFMAN: 2 Shea seconds. All those in favor? All 3 those opposed? Any abstentions? 4 [The motion carried unanimously.] * * * 5 6 MR. DAVIS: [Number 5 on the agenda is File No. 18-72-009031. That has been tabled until 8 9 the next meeting.] * * * 10 11 MR. DAVIS: 12 Number 6 on the agenda. Based on the 13 Board's discussion in Executive Session 14 I believe the Chair would accept a 15 motion to adopt as final the Proposed 16 Adjudication and Order of the Hearing 17 Examiner in the following matter: 18 the Matter of the Application for 19 Massage Therapist Licensure of Ryan 20 Shreve, Applicant, Case No. 18-72-21 008981. CHAIR CAUFMAN: 22 2.3 Motion from the floor? 2.4 MS. ROSADO: 25 So moved.

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   MS. BAUGHMAN:
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                  Second.
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   CHAIR CAUFMAN:
                  Gloria and Camille seconds. All those
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                  in favor? All those opposed? Any
                  abstentions?
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   [The motion carried unanimously.]
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   MR. DAVIS:
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                  Number 7 on the agenda. In the Matter
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                  of the Application for Licensure as a
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                  Massage Therapist of Jessi Jones.
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                       Based on the Board's discussions in
                  Executive Session I believe the Chair
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                  would accept a motion approving the
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                  application.
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   MS. BAUGHMAN:
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                  So moved.
   MS. PORAMBO:
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20
                  Second.
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   CHAIR CAUFMAN:
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                  Camille, Nancy seconds. All those in
2.3
                  favor? All those opposed? Any
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                  abstentions?
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   [The motion carried unanimously.]
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20 * * * 1 2 MR. DAVIS: 3 Number 8 on the agenda. Based on the Board's discussions in Executive 4 5 Session, I believe the Board will 6 entertain a motion to adopt the Consent 7 Agreement at File No. 18-72-003622. MS. NELSON: 9 I'll make the motion. 10 MS. RHODES: 11 Second. 12 CHAIR CAUFMAN: 13 Jessica, Shea seconds. All those in 14 favor? All those opposed? 15 abstentions? 16 [The motion carried unanimously. The Respondent's 17 name is Donna M. Trotter, LMT/ t/d/b/a Healing Kneads 18 Therapy.] * * * 19 20 MR. DAVIS: 21 Number 9 on the agenda. In the Matter 22 of the Application for Licensure as a 2.3 Massage Therapist of Monica Lewis. 2.4 Based on the Board's discussions in 25 Executive Session, I believe the Board

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21
                  would entertain a motion approving the
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                  application.
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   MS. CHAMBERLAIN:
                  Motion.
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   CHAIR CAUFMAN:
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                  Linda first.
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   MS. WALLER:
                  Second.
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   CHAIR CAUFMAN:
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                  Linda first, Ellyn Jo seconds.
                                                    All
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                  those in favor? All those opposed?
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                  abstentions?
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   [The motion carried unanimously.]
                               * * *
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   MR. DAVIS:
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                  Number 10 on the agenda, in the Matter
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                  of the Application for licensure as a
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                  massage therapist of Qi Chen.
                       Based on the Board's discussions in
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                  Executive Session, I believe the Chair
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                  would accept a motion provisionally
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                  denying the application.
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   CHAIR CAUFMAN:
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                  From the floor?
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   MS. BAUGHMAN:
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                  So moved.
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   MS. PORAMBO:
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                  Second.
   CHAIR CAUFMAN:
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                  Camille first, Nancy. All those in
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                  favor? All those opposed? Any
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                  abstentions?
   [The motion carried unanimously.]
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   MR. DAVIS:
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                  In the Matter of the Application for
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                  Licensure as a Massage Therapist of Hyun
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                  Na, H-Y-U-N, N-A.
                       Based on the Board's discussions in
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15
                  Executive Session, I believe the Chair
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                  would accept a motion provisionally
17
                  denying the application.
   MS. PORAMBO:
18
                  I motion.
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   CHAIR CAUFMAN:
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                  Nancy first.
22
   MS. WALLER:
2.3
                  Second.
2.4
   CHAIR CAUFMAN:
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                  Ellyn Jo seconds. All those in favor?
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23 1 All those opposed? 2 [The motion carried unanimously.] 3 MR. DAVIS: 4 5 Number 12 on the agenda, in the Matter 6 of the Application for Licensure as a Massage Therapist of Tanya Kuny. Based on the Board's discussions in 8 9 Executive Session, I believe the Chair 10 would accept a motion approving the 11 application. MS. WALLER: 12 13 So moved. CHAIR CAUFMAN: 14 15 Ellyn Jo moves. MS. NELSON: 16 I'll second. 17 CHAIR CAUFMAN: 18 Jessica seconds. All those in favor? 19 20 All those opposed? Any abstentions? 21 [The motion carried unanimously.] * * * 22 2.3 MR. DAVIS: 2.4 Number 14 on the agenda. 25 Based on the Board's discussions in

24 Executive Session I believe the Chair 1 2 would accept a motion approving the CE 3 Waiver Request of Joan Lafty and allowing her to take the CEs online. 4 * * * 5 6 MS. RHODES: So moved. MS. ROSADO: 9 Second. 10 CHAIR CAUFMAN: 11 Shea first, Gloria second. All those in 12 favor? All those opposed? Any abstentions? 13 14 [The motion carried unanimously.] * * * 15 MR. DAVIS: 16 Number 13 on the agenda is the Proposed 17 2021 waiver of CEs for new licensees. 18 19 ask that Board Administration please 20 explain exactly what this would entail. 21 MS. NINER: 22 The Board is going to grant a waiver for 2.3 new licensees, that is, those who are 2.4 issued licenses in this renewal period, 25 so that when they renew in 2021, they

25 would only need to pay the renewal fee 1 2 and complete the child abuse CE. 3 MR. DAVIS: And from what I understand this is 4 5 something the Board has been doing for 6 several years, is that correct? 7 CHAIR CAUFMAN: Correct. MR. DAVIS: 10 Is there any discussion on the matter? 11 CHAIR CAUFMAN: 12 Hearing none from the floor, we need a motion to approve the 2021 waiver for 13 CEs for new licensees. 14 15 MS. CHAMBERLAIN: 16 So moved. 17 MS. WALLER: 18 Second. 19 CHAIR CAUFMAN: 20 So moved Linda, Ellyn Jo seconds. All those in favor? All those opposed? 21 22 Any abstentions? 23 [The motion carried unanimously.] 2.4 25 [Becky D. Caufman, LMT, Chair, announced the Board's

26 next meeting is scheduled for August 13, 2019, and 1 2 that a Regulatory Meeting would be held the day 3 before. 4 Chair Caufman noted that approval has not yet 5 been received as to who would be attending the 2019 Annual FSMTB Meeting October 3-5 in Atlanta, GA.] 6 * * * 8 Adjournment [There being no further business, the State Board of 10 Massage Therapy meeting adjourned at 2:39 p.m.] * * * 11 12 1.3 CERTIFICATE 14 15 I hereby certify that the foregoing summary 16 minutes of the State Board of Massage Therapy Meeting, 17 was reduced to writing by me or under my supervision, 18 and that the minutes accurately summarize the 19 substance of the State Board of Massage Therapy 20 Meeting. eth & Daies 2.1 2.2 Seth Baier, 2.3 Minute Clerk 2.4 Sargent's Court Reporting 25 Service, Inc.

		27
1 2 3		STATE BOARD OF MASSAGE THERAPY REFERENCE INDEX
4		June 11, 2019
5 6 7	TIME	AGENDA
8 9	9:34	Official Call to Order
.0 .1 .2 .3	9:34	Roll Call
	9:38	Report of Board Prosecutor
.5	9:46	Report of Acting Commissioner
.6	10:00	Report of Board Chair
.8	9:46	Report of Board Chair
10 11 12	10:10	Appointment - Pat Landis, PA Department of Education
23 24 25 26	10:41 10:48	Recess Return to Open Session
. 0 2.7 2.8	12:05	Return to Open Session
19 10 11	10:48	Appointment - Lorena Haynes, Director of Government Relations, FSMTB
32	12:13	Report of Board Regulatory Counsel
33 34 35	12:58	Approval of Minutes
36 37	1:02 1:08	Recess Return to Open Session
88	1:08	Miscellaneous
.0 .1 .2	1:18 2:32	Executive Session Return to Open Session
. 4	2:32	Motions
.5 .6 .7 .8 .9	2:39	Adjournment