

MASSAGE THERAPY TECHNICAL ADVISORY COMMITTEE
Quarterly meeting
Monday, December 12, 2022
5800 West Tenth Street, Room 906
Little Rock, AR
MINUTES

Members present: Wendy Scott, Julie Eckert, Leigh Ann Warriner, Kristy Strother, Krista Moore, Lena Strickland, Glen Scott Fleming

Presiding - Wendy Scott

Called to order at 9:05 a.m.

Call to order
Wendy Scott

Roll call

Approval of minutes
motion by Eckert, second by Moore

Hearing - verbatim transcript under separate cover

Continuing Education Applications

Old applications - approved:

1. Understanding Diagnosis Golfers Elbow -- approved pending change of 'lateral' to 'medial' terminology. Motion by Moore, second by Eckert

New applications -

All five new applications were approved

Pre-Licensure Petitions

Applicant was present via virtual. Committee needed more information on details of arrest. Poor audio connection, unable to hear applicant. Petition was tabled to next meeting.

Ad Hoc Committee Reports

Exam Ad Hoc Committee

Review of the committee's work by Eckert.
Extensive discussion and presentations by members of committee and from representatives of FSMBT.

Motion by Fleming to proceed to create/develop a state exam in Arkansas, second by Eckert. Roll call vote. Motion passed 4-3. (Moore-no, Fleming-yes, Strother-yes, Strickland-no, Warriner-no, Eckert-yes, Scott-yes)

Motion by Moore, second by Warriner to recommend to ADH a law change to create student/learning level permit. Motion passed unanimously.

Licensure Level Ad Hoc Committee

Review of committee's work by Moore.

Extensive discussion by committee and representatives of FSMBT.

Motion by Warriner, second by Moore to table vote on committee's recommendations to a future date. Motion passes.

Motion by Eckert to look at best practices for Massage Schools, and toward developing a standardized curriculum, and pre-admittance testing. No second. Motion died for lack of second.

Hooper recommended that each committee member develop personal vision and mission statements for the profession.

Discussion of potential interest and need as professionals to start a professional association for massage therapists, not related to MTTAC, but through private professionals.

Program Update Kersey/Thompson

Legislative session is coming up. Committee has voted to create/develop a student/apprenticeship/learning level permit licensure, which requires a law change. Thompson will begin develop this is bill form.

Public Comment

Laura Embleton, from Associated Bodywork and Massage Professionals - there is conversation across the county regarding the direction of the massage profession. Trade versus profession -- she considers massage therapy a profession based on the knowledge one has to have to be licensed. Discussions about curricula, licensure by endorsement, online versus in-person education. This association can provide resources to committee.

Sybil Davis - Massage school owner, sponsor of apprenticeship program through US Dept of Labor. Concern is with now and jobs.

Mai-Lin Petrine - Federation of State and Massage Therapy Boards. With regard to changes in scope, suggested having meetings with relevant/related disciplinary boards. If there are statutory and rule changes, need to talk to related boards.

Hunter Irons - FSMTB - thanks for allowing this organization to take part in the meetings. Would like to continue involvement. Resources available to committee.

Adjourned at 11:15 a.m. Next meeting March 20, 2023

ARKANSAS STATE MASSAGE THERAPY TECHNICAL ADVISORY COMMITTEE

HEARING - RE: Phillip Brinkley

ARKANSAS DEPARTMENT OF HEALTH

PETITIONER

V.

PHILLIP BRINKLEY

RESPONDENT

MONDAY, DECEMBER 12, 2022
Commencing at 9:10 a.m.
5800 West 10th Street, Room 801
LITTLE ROCK, ARKANSAS

ADAM JACKSON, ESQ., Hearing Officer

COMMITTEE MEMBERS PRESENT:

Wendy Scott, Presiding
Kristy Strother
Julie Eckert
Krista Moore
Lena Strickland
Glen Fleming
Leigh Ann Warriner

ON BEHALF OF THE MASSAGE THERAPY TECHNICAL ADVISORY
COMMITTEE:

CHUCK THOMPSON, ESQ.
Arkansas Department of Health
4815 W. Markham, Slot #31
Little Rock, AR 72205

Reported and Transcribed by Stephanie G. Branton, CCR
Gibson-Branton Reporting Service, 501-960-6313

1

CONTENTS

2	Appearances	1
3	Witnesses	
4	Kelly Adcock	6
5	Exhibits --	
6	Arkansas Department of Health Exhibits 1-5	5
7	COURT REPORTER'S CERTIFICATE	11

1 PROCEEDINGS - 9:10 a.m.

2 MR. JACKSON: Good morning. My name is Adam
3 Jackson. I'm assistant attorney general. I'm the hearing
4 officer today in the matter of Phillip Brinkley, which is to
5 be heard before the Arkansas Massage Therapy Technical
6 Advisory Committee, or MTTAC.

7 Today is Monday, December 12, 2022. Is the respondent, Mr.
8 Brinkley, present?

9 It seems that Mr. Brinkley is not present in the room. Let
10 the record reflect I'm going to the hallway to call for him.
11 Let the record reflect that I have gone to the hallway, called
12 for Mr. Phillip Brinkley. No one responding to that name has
13 appeared.

14 So briefly, I will go through the procedures of this
15 hearing. Counsel, if you want to identify yourself, for the
16 record.

17 MR. THOMPSON: Charles Thompson, attorney for the
18 Arkansas Department of Health.

19 MR. JACKSON: And you're ready to proceed?

20 MR. THOMPSON: Yes, I am, Your Honor.

21 MR. JACKSON: Okay. Well, for the benefit of
22 anyone present today who may not have appeared at an
23 administrative hearing, the board will base its decision
24 solely on the evidence presented.

1 This hearing is held under the Administrative Procedures
2 Act, which means that the strict rules of evidence do not
3 apply and the parties will be given latitude in introducing
4 evidence. This is to promote a fair hearing by the board with
5 adequate information to make a decision.

6 To ensure the efficiency of the proceeding, I will grant
7 objections or caution the parties only as necessary. If there
8 is anything that you have in your possession that you want the
9 board to consider, you must offer it into evidence today.

10 All participants should to the hearing should be aware that
11 the proceedings are subject to the Freedom of Information Act,
12 and as such, all parts of the hearing, including the
13 deliberations of the board, are open to the public.

14 It is important that all persons necessary to the hearing
15 are in the room during the hearing. If a party, attorney,
16 board member needs to take a break or leave the room, please
17 advise me, and we'll take a break in the proceedings.

18 Counsel, who's going to be your witnesses today?

19 MR. THOMPSON: I call Kelly Adcock, please.

20 MR. JACKSON: Okay.

21 [Whereupon Kelly Adcock swore to tell the truth in these
22 roceedings.]

23 MR. JACKSON: Let the record reflect the witness
24 has been sworn in. Counsel, any preliminary matters?

1 MR. THOMPSON: Yes, Judge, I want to go ahead and
2 offer into evidence what is Department's Exhibits 1, 2, and 3.
3 These include the -- oh, sorry -- 4 and 5. These include a
4 letter and notice of order of temporary suspension, and notice
5 of hearing, the certified return receipts from Mr. Brinkley,
6 noting that he received them, and also the criminal matters,
7 public records, regarding his arrest.

8 And then Exhibit 5 would be his massage therapy license,
9 which he has sent in to try to surrender.

10 MR. JACKSON: It shall be admitted.

11 {Exhibits 1-5 were admitted into evidence}.

12 MR. JACKSON: Counsel, if you want to make an
13 opening statement, you can. Otherwise, proceed as you wish.

14 MR. THOMPSON: Thank you, Judge. Briefly, MTTAC
15 members, it's a pretty cut and dry case. The documents you
16 have in front of you shows Mr. Brinkley was charged with
17 felony rape during the course of a massage.

18 And so we did an emergency suspension. Those documents --

19 MR. JACKSON: They'll be -- we admitted them, but
20 they weren't passed out.

21 MR. THOMPSON: Oh, they weren't passed out.
22 Sorry. So he was charged with rape during the course of a
23 massage.

24 We did emergency suspension and in due process, you have

1 the documents you'll see. He has in there he tried to
2 surrender his license. We would not accept that surrender.
3 We would go forward with the disciplinary action which we have
4 today, which would be asking y'all to continue the temporary
5 suspension until due process.

6 And if and when he is convicted, we at that point will
7 bring him back to do a permanent revocation.

8 Ms. Adcock is here.

9 EXAMINATION OF KELLY ADCOCK

10 BY MR. THOMPSON:

11 Q. Kelly, I don't have -- well, my only question for you is
12 are you familiar with the documents that were passed around?

13 A. I am.

14 Q. And in those documents, isn't it the case that Mr.
15 Brinkley tried to surrender his license and said that he would
16 not be practicing any more?

17 A. It is.

18 Q. And we decided not to continue -- we decided not to
19 accept that surrender, and we're here today on the emergency
20 suspension continuation?

21 A. Yes sir.

22 Q. And those documents contain information that he did in
23 fact that he -- you have notice that he obviously signed for
24 and responded to our correspondence with him?

1 A. Yes.

2 MR. THOMPSON: That's all I have, and I'll turn it
3 over to the MTTAC member.

4 MR. JACKSON: Does the board have any questions
5 for this witness? Okay, no questions. Counsel, anything
6 else?

7 MR. THOMPSON: That's all I have.

8 MR. JACKSON: Do you rest at this time?

9 MR. THOMPSON: I do.

10 MR. JACKSON: Okay. Since Mr. Brinkley is not
11 here, do you have any closing statement?

12 MR. THOMPSON: Just what I said -- y'all see all
13 the documents. I do apologize. I thought we had extra
14 copies. But the documents are going around. I ask y'all for
15 a vote to uphold the continuing suspension.

16 MS. STRICKLAND: I make a motion to uphold the
17 suspension.

18 MR. JACKSON: Just a minute. Just a second.

19 MR. THOMPSON: And I would ask. And if y'all
20 agree with the department, I ask that you make a motion that
21 the suspension continue until the adjudication of the charges,
22 and then he would come back before y'all after that.

23 MR. JACKSON: At this time, we'll go off the
24 record for deliberation and a decision regarding counsel's

1 argument.

2 [Whereupon parties went off the record.]

3 [Back on the record.]

4 MR. JACKSON: We're back on the record. Let me -
5 - we're back on the record, and it's been brought to our
6 attention that one of the committee members may know the
7 respondent here.

8 Could you please identify yourself, for the record?

9 MS. MOORE: Krista Moore.

10 MR. JACKSON: Okay. If she recuses herself, is
11 there still a quorum for voting?

12 MR. THOMPSON: Yes, there is, Your Honor?

13 MR. JACKSON: Then yeah, then there's no issue
14 with her recusing. So let the record reflect that this board
15 member has recused. And the quorum is still met.

16 MS. SCOTT: Do any other members have any
17 questions?

18 MR. JACKSON: We're still on the record. But in
19 case we have any other issues while we're on the record,
20 before we go back off.

21 MS. SCOTT Sorry. We still have another
22 member that needs to look at the paper work.

23 MR. JACKSON: Okay, well, we'll go back off the
24 record and let you guys do your deliberations.

1 [Whereupon parties went off the record.]

2 [Back on the record.]

3 MR. JACKSON: Back on the record. Let the record
4 reflect that Ms. Strother has participated in this meeting and
5 reviewed the documents. I'll turn it back over to the chair.

6 MS. SCOTT: Do we have a motion to continue the
7 temporary suspension of this massage therapist until court
8 proceedings have completed?

9 MR. FLEMING: Yes.

10 MS. SCOTT: Is that your motion?

11 MR. FLEMING: Uh-huh.

12 MS. SCOTT: Do I have a second?

13 MS. STROTHER: I second the motion.

14 MS. SCOTT: Kristy seconds. All in favor?

15 BODY: Aye.

16 MS. SCOTT: Any opposed?

17 BODY: [no response]

18 MS. SCOTT: All right, we're all in favor of
19 continuing the suspension until the court proceedings are
20 complete.

21 MR. JACKSON: Okay. Let the record reflect that
22 the decision is unanimous. Counsel, if you can reduce the
23 board's decision to writing and serve upon all parties.

24 And also if you can put in the notice that if the

1 respondent cares to appeal the decision, that the appeal can
2 be taken under any specific provisions relating to this board
3 under the Administrative Procedures Act, found in the Arkansas
4 Code, Annotated, 25-15-201, et,seq.

5 If there are no other questions or comments, this hearing
6 is concluded and the record is closed.

7 MR. THOMPSON: Thank you, Judge.

8 [proceeding concluded at 9:25 a.m.]

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CERTIFICATE

STATE OF ARKANSAS]

COUNTY OF PULASKI] ss

I, Stephanie G. Branton, an Arkansas Certified Court Reporter and Notary Public in and for the aforesaid county and state, do certify that a verbatim record of these proceedings were taken and reduced to typewriting by me; that this transcript is a true and correct record of the proceedings, to the best of my knowledge and belief. I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action; I am not a relative or employee of any attorney or counsel employed by the parties, nor financially or otherwise interested in the outcome of this action; that I have no contract with the parties, attorneys, or any person with an interest in this action that would affect impartiality. WITNESS MY HAND AND SEAL as court reporter on this 12th day of December, 2022.

STEPHANIE G. BRANTON, CCR
CCR #430

