



Oklahoma State Board of Cosmetology and Barbering
Advisory Board on Massage Therapy
SPECIAL BOARD MEETING AGENDA
February 5, 2024
10:00 a.m.
2401 N.W. 23rd, Suite 84 Testing Center
Oklahoma City, OK 73107
Machele Callicoat, Chair – Presiding

-
1. Call to order, roll call, and determination of quorum.

Chair Callicoat called the meeting to order at 10:01AM. A quorum was established with roll call. The following Board Members were present.

Callicoat
Gargone
Jackson
Nguyen-Pham (was late, arrived at 10:05AM)
Miller
Jarnagin
Sinclair
Wilkins

2. This special meeting of the Oklahoma Cosmetology and Barbering Board has been convened in accordance with the Oklahoma Open Meeting Act.

Chair Callicoat verified the agenda had been properly posted. Maria Maul, Legal Counsel, due to unexpected water line break, the meeting was moved from the testing center to suite 18. Notices were posted on website, testing center, board office, as well as website and emailed James Reynold.

Board Legal Counsel

Maria Maule, AAG
Kylie Cooper, AAG

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Board Staff

Malena Curtsinger, Executive Director
John Funderburk, Principal Assistant
Janelle Hastings Admin Assistant
Cheryl Clemons, Inspector

GUESTS

Karen Cunningham
Sarah Samples
James Reynolds
Seth Bishop
Sarah Bishop
Steven Bishop
Zoe Bishop

3. Discussion and possible action on individual proceeding, In the Matter of the Complaint against James Reynolds, Massage Therapist license no. #189448, Case No. 2024-001

Further, the Board may vote to enter Executive Session to engage in deliberations or render a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act, pursuant to 25 O.S. § 307(B)(8). Should the Board enter Executive Session to deliberate, the following actions may be taken:

- Vote to enter Executive Session
- Exit Executive Session and vote to re-enter open session
- Possible action on matters discussed in Executive Session

Chair Callicoat introduced herself as Board Chair and presiding officer for this meeting. In accordance with OAC 175 20 13 1 and 175 1 5 1 C the board may request the Assistant Attorney General assigned to the board to take part in the hearing proceedings as the board deems necessary. Accordingly may I entertain a motion to authorize AAG Maule to open the record, lead the proceedings, rule on motions and answer Board questions on legal matters.

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1st Motion: Wilkins

2nd Motion: Miller

Motion: Authorize AAG Maule to open the record; lead the proceedings; rule on motions; and answer Board questions on legal matters.

Voting

Gargone Yes; Jackson yes; Nguyen-Pham yes; Miller yes; Jarnagin yes; Sinclair yes; Wilkins yes

Motion passed

Maria Maule called the hearing to order, stating the date February 5, 2024, time as 10:04AM. These hearings are called to order and hearing record open; OSBCB v. James Nelson Reynolds, Massage Therapist license no. #189448, Case No. 2024-001. Quorum of board is present and have jurisdiction to hear this hearing.

All members answered NO to being impartial.

AAG Maule asked the Boards prosecutor to identify themselves and all the state's witnesses. Board prosecutor, Kylie Cooper AAG, identified herself as well as the following witnesses: Malena Curtsinger, Tony Blasier, and Zoe Bishop.

Respondent, James Reynolds, identified himself as well as the following witness: Shelby Freeman AAG Maule informed respondent that he has right to attorney. Respondent chose to appear without an attorney.

AAG Maule briefly explained the procedure followed by the Board when conducting hearings. The strict rules of evidence which apply in courts do not apply in administrative hearings, the practice of the board is more informal. Council or parties may object to admission of evidence and AAG Maule will rule on those objections and motions by council in accordance with 175:20-13-1 and 175:1-5-1(c). No objection received. The board will deliberate following the hearing and will announce its decision. The Board takes official notice of the Oklahoma administrative procedures act, the Oklahoma massage therapy practice act title 175 Oklahoma administrative code. AAG will

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AAG Maule swore in all witnesses and asked if either party would like to be present.

AAG Kylie Cooper - Count 1. 175:20-9-1(b) a licensee shall be clean, fully-clothed and professional in dress and appearance, 175:20-9-1(c) a licensee shall not engage in an activity, interest or influence that conflicts with the licensee's obligation to act in the best interest of the client, and 175:20-9-1(d) a licensee shall not exploit a relationship with a client for the licensee's personal advantage, including, but not limited to, a personal, sexual, romantic, ,or financial relationship. Request to revoke and suspend license immediately pursuant to an emergency.

There is clear and convincing evidence to revoke and suspend license.

Mr. Reynolds opening statement - states there was a relationship between him and the victim. He has text messages and witnesses to support this evidence. Witness was not a client but instead a partner. No professional boundaries were crossed.

AAG Kylie Cooper requested sequestration. Executive Director Ms. Curtsinger stated exhibit 1 was a true and accurate copy of a copy of Mr. Reynolds license. Ms. Curtsinger stated she received a complaint from witness stating rape and police report.

AAG Maule requested a 10-minute break to make copies of any proposed evidence from Mr. Reynolds and provide copy of complaint from witness to Mr. Reynolds. Break started at 10:16AM; returned at 10:40

1st Motion: **2nd Motion:**
Motion: To return from break to establish quorum

Voting

Gargone Yes; Jackson yes; Nguyen-Pham yes; Miller yes; Jarnagin yes; Sinclair yes; Wilkins yes

Motion passed

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Mr. Reynolds requested to enter email complaint from witness to Mr. Funderburk as evidence. Entered as Reynolds exhibit 1.

Mr. Reynolds requested if Ms. Curtsinger had any discussion over email complaint? Ms. Curtsinger stated she only had discussion with legal and no board members. A police report was not requested. Ms. Curtsinger did not draft hearing notice.

Tony Blasier, Agent with the Attorney Generals office. CLEET certified and serves apers as part of his employment. Mr. Blasier served papers at Mr. Reynolds home. First attempt, Mr. Reynolds was not present mid-morning January 3rd. Mr. Blasier returned later same day and served notice of hearing to Mr. Reynolds. AAG Cooper requested to submit affidavit of service to be entered into evidence; admitted as states exhibit 2.

No questions from Mr. Reynolds for Mr. Tony Blasier.

AAG Cooper called Zoe Bishop as witness. Ms. Bishop explained how she met Mr. Reynolds at a BDSM party. Mr. Reynolds reached out via a messaging app to witness after they met at the party. Discussed Mr. Reynolds girlfriend, the rope demonstration witness presented at the party. No discussion of a sexual relationship with Mr. Reynolds or his girlfriend were ever discussed. Mr. Reynolds informed witness that he was a licensed massage therapist. Witness received website information from Mr. Reynolds where website displayed a well-lit open space. Location of new establishment was not the same as what was advertised on his website. The space was not well-lit and open as was advertised online. Mr. Reynolds locked the door due to sharing space with a tax company. An intake form was completed by witness. This included areas of concern including what was off-limits. Mr. Reynolds stepped out after asking witness to dress down to her comfort. Witness left underwear on. Mr. Reynolds excused himself to use restroom while witness was laying face down. Mr. Reynolds returned, applied lotion to hands, due to sensory issues witness stated he could remove her underwear so lotion would not get on them. Ms. Reynolds described in graphic detail what happened during massage. Waited to report to police, was not ready to report. Scheduled emergency session with therapist. Requested STD panel from respondent. Agreed to see him as a massage due to him being a licensed Massage Therapist.

Mr. Reynolds requested text messages between Mr. Reynolds and witness to be reviewed by witness. Used to show a relationship was being developed and not a client. Entered into evidence as Reynolds exhibit 2. No discussion of being a client or price was indicated in messages. Witness explained that they wanted "after care" which to them, meant discussing the scene. Mr. Reynolds invited the witness over to their home to discuss. Witness wanted to test Mr. Reynolds self control

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and violated their consent. Witness left when Mr. Reynolds pressed on same pressure points as incident. Witness left and when they returned home, notified Mr. Reynolds they returned home. Witness was at Mr. Reynolds home for six hours.

Mr. Reynolds presented post from witness profile as Reynolds exhibit 3.; "Friendly Saturday night reminder: if your playmat tells you something's triggered them, DO NOT CDONTINUE OR RESUME THE SCENE, EVEN IF THEY SEEM FINE. Fight, flight, freeze, or FAWN. Okay now go have fun ya rascals." In reference to a party witness was going to attend.

Mr. Reynolds verbally agreed they were not being represented by an attorney.

Mr. Reynolds presented Edmond Police Department report, case number 23-58227. Witness has never seen this report. Not exhibited into evidence at this time.

Presented Reynolds exhibit 1, email complaint from witness. No discussion between Mr. Reynolds and witness discussed payment.

Consent is important in the BDSM community. It is all about consent and power dynamic; what their boundaries are, language, trauma, emergency contact. All acts are agreed to 100% ahead of the time. Completing new client paperwork was consent for massage.

No payment was made, no option was presented to make pay.

Take 10 minute break

Break at 11:56AM

Roll call to establish quorum for record.

Voting

Gargone Yes; Jackson yes; Nguyen-Pham yes; Miller yes; Jarnagin yes; Sinclair yes; Wilkins yes

Mr. Reynolds called for his witness, Shelby Freeman. Mr. Reynolds and Ms. Freeman have been in a relationship for almost a year. They do have a consensual open BDSM relationship. Ms. Freeman stated she was an abuse survivor and would not be in a relationship with someone who would be abusive. Ms. Freeman stated Mr. Reynolds never offered massage therapy in exchange for a sexual relationship. Ms. Freeman stated Mr. Reynolds was going on a date with witness.

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Couple weeks later, witness was invited over to Mr. Reynolds and Ms. Freeman's home. They discussed bringing witness into relationship. Ms. Freeman stated relationship between Mr. Reynolds and witness was that of a romantic relationship.

Mr. Reynolds entered letter from attorney into evidence as Reynolds exhibit 4. Letter states investigation was closed and declined. DA found no probable cause.

Mr. Reynolds entered code of ethics from NCBTMB, National Certification Board for Therapeutic Massage & Bodywork, as Reynolds exhibit 5. Mr. Reynolds pulled code of ethics from massage therapy textbook dated September 15, 2017.

Ericka Jackson left at 1:35PM

1st Motion: Miller
Motion: Enter into Executive Session

2nd Motion: Sinclair

Voting

Gargone Yes; Nguyen-Pham yes; Miller yes; Jarnagin yes; Sinclair yes; Wilkins yes

Motion passed

*****EXECUTIVE SESSION*****

1st Motion: Miller
Motion: Exit Executive Session

2nd Motion: Jarnigan

Voting

Gargone Yes; Nguyen-Pham yes; Miller yes; Jarnagin yes; Sinclair yes; Wilkins yes

Motion passed

No votes taken during Executive Session

1st Motion: Jarnigan
Motion: Matter of case 2024-001 regarding James Nelson Reynold license 189448 the following facts are true: Client-therapist relationship was established, being unclothed and unprofessional in a place of business and having sex in a business establishment.

2nd Motion: Miller

1st Motion: Jarnigan
Motion: Clear and convincing evidence of respondent guilty of 175:20-9-1(b), (c), and (d).

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Voting

Gargone Yes; Nguyen-Pham yes; Miller yes; Jarnagin yes; Sinclair yes; Wilkins yes

Motion passed

1st Motion: Sinclair

2nd Motion: Nguyen-Pham

Motion: Motion that respondents license be revoked and in pursuant with OAC175:20-13-1(c) respondent ordered to pay cost of disciplinary hearing fees of \$914.50.

Voting

Gargone Yes; Nguyen-Pham yes; Miller no; Jarnagin no; Sinclair yes; Wilkins yes; Calliccoat yes
Due to quorum on votes to revoke, chair was asked to vote. Since it was four yes out of six, no quorum.

Motion passed

1st Motion: Miller

2nd Motion: Sinclair

Motion: Pursuant to OAC 175:20-3-1(d) due to public health, safety and welfare licensee license be summarily suspend license pending Attorney Generals review per ED 2023-13.

Voting

Gargone Yes; Nguyen-Pham yes; Miller yes; Jarnagin yes; Sinclair yes; Wilkins yes;

Motion passed

4. Discussion and possible action on individual proceeding, In the Matter of the Complaint against Daniel Paul Binkley, Massage Therapist license no. #194245, Case No. 2023-002; specifically, discussion, revision, and vote to approve 1) Order Nunc Pro Tunc re Final Agency Order, and 2) Order Denying Motion for Rehearing, Reopening, or Reconsideration of Agency Decision.

Further, the Board may vote to enter Executive Session to engage in deliberations or render a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative

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Procedures Act, pursuant to 25 O.S. § 307(B)(8). Should the Board enter Executive Session to deliberate, the following actions may be taken:

- Vote to enter Executive Session
- Exit Executive Session and vote to re-enter open session
- Possible action on matters discussed in Executive Session

1st Motion: Miller
Motion: To enter Executive Session

2nd Motion: Wilkins

Voting

Gargone Yes; Nguyen-Pham yes; Miller yes; Jarnagin yes; Sinclair yes; Wilkins yes;

Motion passed

*****EXECUTIVE SESSION*****

1st Motion: Miller
Motion: To exit Executive Session

2nd Motion: Jarnigan

Voting

Gargone Yes; Nguyen-Pham yes; Miller yes; Jarnagin yes; Sinclair yes; Wilkins yes;

Motion passed

1st Motion: Miller
Motion: Approve order of nunc pro tunc re agency final order

2nd Motion: Gargone

Voting

Gargone Yes; Nguyen-Pham yes; Miller yes; Jarnagin yes; Sinclair yes; Wilkins yes;

Motion passed

1st Motion: Sinclair
Motion: To approve order denying rehearing or reopening or reconsideration of agency decision.

2nd Motion: Miller

Voting

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Gargone Yes; Nguyen-Pham yes; Miller yes; Jarnagin yes; Sinclair yes; Wilkins yes;

Motion passed

5. Board adjournment

Note: The Board may, at its discretion, discuss, vote to approve, vote to disapprove, vote to table, change the sequence of any agenda item, or vote to strike or not discuss any agenda item. Any conflicts of interest must be disclosed prior to discussion, and the conflicted Board member must recuse from all discussion and votes pertaining to that item.

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