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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

STATE BOARD OF MASSAGE THERAPY

TIME: 10:30 A.M.

Held at

PENNSYLVANIA DEPARTMENT OF STATE

2525 North 7th Street

CoPA HUB, Eaton Conference Room

Harrisburg, Pennsylvania 17110

as well as

VIA MICROSOFT TEAMS

Tuesday, April 2, 2024

State Board of Massage Therapy
April 2, 2024

BOARD MEMBERS:

Nancy M. Porambo, MS, LMT, CNMT, NCTMB, Chair,
Professional Member
Arion R. Claggett, Acting Commissioner, Bureau of
Professional and Occupational Affairs
Linda A. Chamberlain, MS, BSN, RN, CNDLTC, Secretary
of Health designee
Jessica Nelson, Office of Attorney General designee
Dana J. Douglas, LMT
Vickiann Hicks, LMT, BCTMB, CCCA
Jennifer A. Keth, LMT, CNC, Vice Chair
Imelda Alumbro Shade, LMT
Bryan Strawser, LMT

BUREAU PERSONNEL:

Shana M. Walter, Esquire, Senior Board Counsel
Jared Hinsey, Esquire, Board Counsel
Thomas M. Davis, Esquire, Regulatory Board Counsel
J. Karl Geschwindt, Esquire, Senior Board Prosecutor
and Prosecution Liaison
Julius Zeitlinger, Esquire, Board Prosecutor
Paul Keller, Board Administrator
Deena Parmelee, Legal Office Administrator 1,
Department of State
Andrew LaFratte, MPA, Deputy Policy Director,
Department of State

ALSO PRESENT:

Natalie Cook, Associate, McNeese-Winter Group
Twyla Jones, Manager, Online Programs Section,
Pennsylvania Department of Environmental Protection
Camille Baughman, MA, BSed, LMT, American Massage
Therapy Association Pennsylvania Chapter,
Government Relations
Edward Portley Jr., LMT, Just This Side of Heaven
Massage & Continuing Education for Massage
Therapists
Ashley Hernandez, MPA, Government Relations
Specialist, Federation of State Massage Therapy
Boards
Stephanie Dunkerley

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State Board of Massage Therapy
April 2, 2024

ALSO PRESENT: (cont.)

Liliana Fisher, Esquire, CGA Law Firm
Jamie Lester, LMT, Owner, Elevated Wellness
Derek Richmond, Sargent's Court Reporting Service,
Inc.

1 ***

2 State Board of Massage Therapy

3 April 2, 2024

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act,
6 at 9:00 a.m. the Board entered into Executive Session
7 with Jared Hinsey, Esquire, Board Counsel, for the
8 purpose of conducting quasi-judicial deliberations
9 and to receive advice of counsel on the matters upon
10 which the Board would later vote. The Board returned
11 to open session at 10:30 a.m.]

12 ***

13 The regularly scheduled meeting of the State
14 Board of Massage Therapy was held on Tuesday, April
15 2, 2024. Nancy M. Porambo, MS, LMT, CNMT, NCTMB,
16 Chair, called the meeting to order at 10:30 a.m.

17 ***

18 [Jared Hinsey, Esquire, Board Counsel, noted the
19 meeting was being recorded, and those who continued
20 to participate were giving their consent to be
21 recorded.

22 Mr. Hinsey also noted the Board entered into
23 Executive Session with Board Counsel to have
24 attorney-client consultations and for the purpose of
25 conducting quasi-judicial deliberations.]

1 ***

2 Introduction of Board Members/Attendees

3 [Chair Porambo requested an introduction of Board
4 members and attendees. A quorum of Board members was
5 present.]

6 ***

7 Approval of minutes of the February 13, 2024 meeting

8 CHAIR PORAMBO:

9 Let's see if we can get the minutes of
10 the meeting approved from February 13,
11 2024. Are there any changes? Hearing
12 none.

13 I'll ask for a motion?

14 MR. HINSEY:

15 At this time, I believe the Board Chair
16 would entertain a motion to approve the
17 draft minutes of the meeting on
18 February 13, 2024.

19 CHAIR PORAMBO:

20 Do we have a motion?

21 ACTING COMMISSIONER CLAGGETT:

22 So moved.

23 MR. STRAWSER:

24 I'll second it.

25 MR. KELLER:

1 Porambo, aye; Claggett, aye;
2 Chamberlain, aye; Nelson, aye; Keth,
3 aye; Strawser, aye; Douglas, aye;
4 Hicks, aye; Alumbro Shade, aye.

5 [The motion carried unanimously.]

6 ***

7 Regulatory Report

8 [Thomas M. Davis, Esquire, Regulatory Counsel,
9 provided Board members with a Regulatory Report prior
10 to this meeting. He addressed the practice of
11 massage therapy in cosmetology and esthetician salons
12 and virtual supervision. He stated the practice of
13 massage therapy in cosmetology salons was published
14 as proposed in 2023.

15 Mr. Davis reported receiving two comments from
16 the licensure base and a letter from the Independent
17 Regulatory Review Commission (IRRC) that essentially
18 summarized the two comments received. He mentioned
19 also having the same discussion with the Board of
20 Cosmetology.

21 Mr. Davis noted one public comment was received
22 on December 21, 2023, stating the requirement of 120
23 square feet is onerous, because there was only one
24 instance where their office was that size in 42
25 years. He noted the public comment also mentioned

1 the vast majority of offices were smaller than 120
2 square feet, and the size of the separate massage
3 therapy room must provide for the safe and effective
4 application of massage therapy, allowing for freedom
5 of movement.

6 Mr. Davis stated 120 square feet is the current
7 requirement in the annex of massage therapy in the
8 cosmetology salon regulation.

9 Mr. Davis noted the second comment stated a 10' x
10 10' or 10' x 11' room still provides enough room and
11 is 100 square feet or 110 square feet. The comment
12 further stated the Cosmetology Board has allowed
13 owners to file for an exemption, where the Board of
14 Massage Therapy may want to consider a similar
15 exception.

16 Mr. Davis addressed the letter from IRRC on
17 February 15, 2024, asking the Board to reevaluate
18 with the Cosmetology Board the reasonableness of the
19 appropriate minimum square footage requirement in the
20 final regulation, as well as ways to minimize fiscal
21 impacts from implementation of the final regulation.

22 Mr. Davis mentioned speaking with Board Counsel
23 after receiving the comments and discussing the
24 possibility of having an exemption or an exception
25 similar to the Cosmetology Board. He reported the

1 Cosmetology Board has a minimum square footage of 60
2 square feet per licensee but does have the ability to
3 allow licensees to ask for an exception.

4 Mr. Hinsey addressed the State Board of
5 Cosmetology requirements, noting each salon must be
6 120 square feet for the salon itself but requires 60
7 square feet of space for each additional licensee.
8 He explained a massage therapist joining a salon
9 would only be required to have 60 square feet of
10 space to practice and having the requirement of 120
11 square feet for massage therapists in esthetician
12 salons or cosmetology salons would increase that.

13 Mr. Hinsey mentioned requiring 120 square feet in
14 places that are already in practice with massage
15 therapists in those salons at a much smaller square
16 footage would require an increase in their square
17 footage and have a negative financial impact. He
18 noted cosmetology provides for a variance request for
19 floor space.

20 Mr. Hinsey believed reducing the amount of square
21 footage to something more reasonable would be
22 appropriate and to allow for a variance request
23 mainly for places that are still in existence
24 currently and practicing safely.

25 Mr. Davis informed Board members that he and Mr.

1 Hinsey discussed lowering the 120 square foot
2 requirement to 90 square feet. He mentioned
3 receiving five letters from Massage Envy individuals
4 when the regulation was sent out for an exposure
5 draft a few years ago saying that their treatment
6 rooms are currently set at a minimum of 90 square
7 feet and suggested lowering it from 120 square feet
8 to 90 square feet.

9 Mr. Davis informed Board members that the
10 exception or exemption might get a little difficult
11 to actually do, because they would probably be asking
12 the Cosmetology Board to review the requests for
13 exception because it is an exception to the square
14 footage of the cosmetology salon. He stated
15 cosmetology salons are the ones that are already set
16 up for the exceptions and exemptions, and they would
17 be asking a sister board to review the need or the
18 appropriateness of a smaller room.

19 Mr. Davis stated the Board may want to just set
20 the square footage to 90, instead of 120, to appease
21 the commenters and IRRC and to appease the five
22 commenters from the exposure draft a few years ago.

23 Ms. Douglas commented that lowering it from 120
24 square feet to 90 square feet is absolutely
25 reasonable, noting she worked in a room as small as

1 an 8' x 10' in size. She mentioned there are many
2 Massage Envy franchises across the United States and
3 making it larger than what they have is would be a
4 big deal. She also mentioned the exceptions would be
5 difficult, because it would go through the Board of
6 Cosmetology, noting they do not have site licenses.

7 Mr. Hinsey clarified that the variance request
8 for cosmetology salons is already built into their
9 regulations and statutes. If a salon wanted a floor
10 variance request, the Board of Cosmetology would
11 already be reviewing that request. He reported the
12 Board of Cosmetology adheres closely to the
13 requirements set by statutes and regulations and
14 believed they would respect the 90 square feet.

15 Ms. Hicks agreed with Ms. Douglas, noting many
16 massage therapy rooms may be as little as 8' x 10',
17 so 90 square feet is probably the smallest
18 appropriate size.

19 Mr. Strawser commented that 90 square feet is big
20 enough for even some storage and believed it to be
21 sufficient, along with the rest of the Board members.

22 Mr. Davis informed Board members that he would
23 draft the final preamble, which addresses the
24 questions, and amend the annex to a final annex to
25 change it from 120 square feet to 90 square feet. He

1 would be responding to the comments and putting the
2 final preamble before the Board as soon as possible,
3 so the Board could vote on moving forward through the
4 process.

5 Mr. Davis addressed the virtual supervision
6 regulation, noting a discussion at the last meeting
7 concerning virtual education and how it would benefit
8 the licensure base, which is why there is a
9 regulation in the works. He referred to Act 100 of
10 2021, which is now in the law under Title 63 § 3107.1
11 and § 3102, noting one is the discussion of virtual
12 supervision and one is the discussion of the virtual
13 platform.

14 Mr. Davis reminded everyone that Act 100 of 2021
15 passed right after the COVID emergency to formalize
16 and recognize the fact that online education is
17 becoming mainstream when it comes to licensure, and
18 many individuals seeking licensure appreciated the
19 ability for virtual education.

20 Mr. Davis mentioned the Board's statute requires
21 individuals to obtain 600 hours in class, and current
22 regulations define in class as in the physical
23 presence of an instructor. He noted the regulations
24 would need to be amended to allow for virtual
25 supervision or virtual education on a long-term

1 basis.

2 Mr. Davis mentioned the Board would be
3 essentially doing the same as it did during the
4 emergency, which is allowing up to 125 of the 600
5 hours to be obtained via virtual supervision. He
6 informed Board members that he was still working on
7 the regulation and simultaneously working on the
8 cosmetology regulation.

9 Ms. Hicks thanked Mr. Davis and commented that it
10 would be very helpful for educational purposes and
11 schools for adoption.

12 Ashley Hernandez, MPA, Government Relations
13 Specialist, Federation of State Massage Therapy
14 Boards, asked whether the Board had an outline of
15 which classes would be permitted via virtual and
16 which classed would be required to be in person.

17 Mr. Davis explained that the Board's regulations
18 outline how many hours must be obtained in different
19 facets of the education, and the Board was discussing
20 allowing a certain percentage of those hours to be
21 virtual. He referred to the annex portion circulated
22 in 2022 of the Board's current regulations under
23 § 20.11, minimum hour requirements for massage therapy
24 programs. He noted the requirement of at least 175
25 contact hours of instruction in anatomy, physiology,

1 kinesiology, and pathology, including a few other
2 topics. He explained the Board was considering
3 allowing 75 of those 175 hours to be obtained through
4 contact hours, where 100 of the 175 could be obtained
5 via virtual education.

6 Mr. Davis referred to § 20.11 (a) (2), where at
7 least 250 contact hours in massage therapy and
8 bodywork assessment must be earned through contact
9 hours, noting no change there. He referred to § 20.11
10 (a) (3), at least 25 hours in professional ethics and
11 business law related to massage therapy business,
12 where all 25 of those would be allowed through
13 virtual education. He also referred to § 20.11
14 (a) (4), at least 150 hours in related courses, all of
15 which must be earned through contact hours.

16 Mr. Davis explained that it would be 100 hours in
17 § 20.11(a) (1) and 25 hours in § 20.11(a) (3). He
18 offered to provide the draft version of the annex and
19 the exposure draft to anyone who wished to make
20 comments.

21 Ms. Hicks asked Mr. Davis to provide a timeframe
22 for schools.

23 Mr. Davis suggested the proposed regulation be
24 published sometime late summer of 2024, which would
25 allow for a 30-day public comment period. He noted

1 the Board would review the comments, receive comments
2 from several different sources, and then draft the
3 final regulation. He explained that it may be months
4 to a full year before the regulation is published as
5 final.]

6 ***

7 Report of Board Counsel

8 Final Adjudications and Orders

9 MR. HINSEY:

10 Based on Executive Session
11 deliberations, I believe the Board
12 Chair would entertain a motion to
13 direct Board Counsel to issue the Final
14 Adjudication and Order in the matter of
15 agenda item 6, Tamer Ahmed, Case No.
16 22-72-005932.

17 CHAIR PORAMBO:

18 Do I have a motion?

19 ACTING COMMISSIONER CLAGGETT:

20 So moved.

21 MR. STRAWSER:

22 I'll second the motion.

23 MR. KELLER:

24 Porambo, aye; Claggett, aye;

25 Chamberlain, aye; Nelson, recuse; Keth,

1 aye; Strawser, aye; Douglas, aye;
2 Hicks, aye; Alumbro Shade, aye.

3 [The motion carried. Jessica Nelson recused herself
4 from deliberations and voting on the motion.]

5 ***

6 MR. HINSEY:

7 Based on Executive Session
8 deliberations, I believe the Board
9 Chair would entertain a motion to
10 direct Board Counsel to issue the Final
11 Adjudication and Order in the matter of
12 agenda item 7, Shanshan Cao, Case No.
13 23-72-002253.

14 CHAIR PORAMBO:

15 Do I have a motion?

16 ACTING COMMISSIONER CLAGGETT:

17 So moved.

18 MR. STRAWSER:

19 I'll second the motion.

20 MR. KELLER:

21 Porambo, aye; Claggett, aye;
22 Chamberlain, aye; Nelson, aye; Keth,
23 aye; Strawser, aye; Douglas, aye;
24 Hicks, aye; Alumbro Shade, aye.

25 [The motion carried unanimously.]

1 ***

2 Report of Board Counsel - United States Department of
3 Education Title Funding

4 [Jared Hinsey, Esquire, Board Counsel, stated the new
5 eligibility rules for the United States Department of
6 Education Title IV of the Higher Education Act funds
7 will go into effect July 1, 2024. He explained that
8 the changes may impact new students who enroll in
9 educational programs that exceed the minimum number
10 of hours required by statute and/or the Board's
11 regulations to obtain licensure by the Board.

12 Mr. Hinsey noted that schools offering
13 educational programs to prepare students for gainful
14 employment in a recognized occupation, including
15 those regulated by the Board, would be required to
16 provide specific information to the Department of
17 Education about the educational program and the
18 Board's requirements for licensure.

19 Mr. Hinsey commented that the Board is unable to
20 provide specific or general legal advice regarding
21 the new rules to potential students or institutions
22 offering the programs. He encouraged potential
23 students to visit the Department of Education's
24 website at www.ed.gov and speak with their school or
25 educational institution for additional information on

1 the affect of the new rules to their educational
2 goals and ability to qualify for Title IV of the
3 Higher Education Act funds.

4 Mr. Hinsey also noted that educational
5 institutions are encouraged to visit the Department
6 of Education website in conjunction with their legal
7 counsel for information specific to the institution
8 and its educational programs. He offered to place
9 links for the final regulations and fact sheets on
10 the final rule into the group chat.]

11 ***

12 Report of Board Prosecutors - No Report

13 ***

14 Report of Acting Commissioner - No Report

15 ***

16 Report of Board Administrator

17 Applications

18 MR. HINSEY:

19 Based on Executive Session
20 deliberations, I believe the Board
21 Chair would entertain a motion at
22 agenda item 8 to provisionally deny the
23 Application for Licensure as a Massage
24 Therapist of Nancy Tieu.

25 CHAIR PORAMBO:

1 Do I have a motion?

2 ACTING COMMISSIONER CLAGGETT:

3 So moved.

4 MR. STRAWSER:

5 I'll second.

6 MR. KELLER:

7 Porambo, aye; Claggett, aye;

8 Chamberlain, aye; Nelson, aye; Keth,

9 aye; Strawser, aye; Douglas, aye;

10 Hicks, aye; Alumbro Shade, aye.

11 [The motion carried unanimously.]

12 ***

13 Report of Board Administrator

14 Waiver Request

15 MR. HINSEY:

16 Based on Executive Session

17 deliberations, I believe the Board

18 Chair would entertain a motion at

19 agenda item 9 to grant the Waiver

20 Request of Jamie Nester.

21 CHAIR PORAMBO:

22 Do I have a motion?

23 ACTING COMMISSIONER CLAGGETT:

24 So moved.

25 MR. STRAWSER:

1 I'll second it.

2 MR. KELLER:

3 Porambo, aye; Claggett, aye;
4 Chamberlain, aye; Nelson, aye; Keth,
5 aye; Strawser, aye; Douglas, aye;
6 Hicks, aye; Alumbro Shade, aye.

7 [The motion carried unanimously.]

8 ***

9 Miscellaneous - Sunshine Act Presentation

10 [Jared Hinsey, Esquire, Board Counsel, provided a
11 Pennsylvania Sunshine Act presentation to discuss its
12 effect on the Board's operations. He stated it is
13 the right of the public to be present at all meetings
14 of agencies and to witness the deliberations,
15 decision-making, and policy formulation, which is
16 vital to the enhancement and proper functioning of
17 the democratic process.

18 Mr. Hinsey stated meetings must be open to the
19 public after public notice when deliberations or
20 official actions will take place. He provided the
21 definition of agency, deliberation, and official
22 action.

23 Mr. Hinsey addressed public notice, where an
24 agency is required to give public notice on its first
25 regular meeting of each calendar year, not less than

1 three days in advance of the meeting and shall give
2 public notice of the schedule of its remaining
3 meetings. He noted the agency shall give public
4 notice of any special meetings 24 hours in advance.
5 He stated public notice is not required in the case
6 of an emergency meeting or conference.

7 Mr. Hinsey explained that public notice includes
8 the publication of notice of the place, date, and
9 time of the meeting in a newspaper of general
10 circulation, posting a notice at the office of the
11 agency holding the meeting, and at the public
12 building in which the meeting is held. He mentioned
13 Act 65 of 2021 also added posting the agenda on a
14 publicly accessible website and listing each matter
15 of agency business.

16 Mr. Hinsey addressed the recording of votes,
17 where the vote of each member must be publicly casted
18 and recorded, noting one must be seen as well as
19 heard.

20 Mr. Hinsey stated written minutes must be kept of
21 all meetings and made available to the public. He
22 noted the only exceptions for the open meeting
23 requirements are for conferences and executive
24 sessions. He mentioned conferences, training
25 programs, and seminars are organized for the purpose

1 of providing information to members directly related
2 to their official responsibilities. He noted
3 deliberation of agency business may not occur at a
4 conference.

5 Mr. Hinsey stated an executive session may be
6 held for personnel issues, consulting with attorneys
7 or other advisors regarding information in connection
8 with litigation. He mentioned executive sessions
9 could be held at any time during the open meeting.
10 He also noted executive sessions may not be used as
11 subterfuge to defeat the purpose of the act.

12 Mr. Hinsey addressed legal challenge, noting they
13 must be filed within 30 days from the date of the
14 meeting or within 30 days from the discovery of an
15 action that occurred at a meeting that was not open
16 and Sunshine Act was violated. He stated no action
17 may be commenced more than a year from the date of
18 the meeting on which the alleged violation occurred.

19 Mr. Hinsey addressed penalties for a violation.
20 He stated the key points are that Board business,
21 deliberations, and official action must be conducted
22 in open meetings. He noted Board members should not
23 discuss agency business, especially Executive Session
24 matters, outside of an official Board meeting.

25 Mr. Hinsey stated committee meetings also have to

1 take place in an open meeting if it is for
2 formulating policy or regulations, noting
3 administrative or prosecutorial functions do not have
4 to occur at an open meeting.

5 Mr. Hinsey addressed recusal guidelines, noting
6 recusal is mandatory when a Board member has a
7 prosecutorial role in the matter or direct personal
8 financial interest in the outcome of the matter.

9 Mr. Hinsey noted it is strongly suggested to
10 recuse if a Board member has knowledge from outside
11 of a case that they cannot set aside in order to make
12 a fair and unbiased determination.

13 Mr. Hinsey addressed discretionary recusal, where
14 a Board members should recuse themselves if they
15 cannot decide on a subject fairly without prejudice.
16 He encouraged Board members to contact Board Counsel
17 in advance if they are uncertain whether to recuse.

18 Mr. Hinsey addressed the difference between
19 abstention and recusal, where abstention is
20 withholding a vote and does not affect quorum
21 requirements, but recusal is when someone is unable
22 vote and will have an effect on the quorum.

23 Mr. Hinsey addressed conflicts of interest, where
24 no member of any professional examining and licensing
25 board shall at the same time be an officer or agent

1 of any statewide association or organization
2 representing the profession or occupation subject to
3 the Board's actions.

4 Mr. Hinsey addressed additional conflicts of
5 interest for public board members, where a member of
6 a licensing board or commission designated as
7 representing the public at large shall be a private
8 citizen and not be a member of any professional
9 occupation which is regulated or licensed by the
10 board, commission, or Bureau of Professional and
11 Occupational Affairs nor be related to or part of the
12 immediate family of any member of the profession or
13 occupation to be licensed or regulated by the
14 particular board or commission.

15 Mr. Hinsey stated public Board members also may
16 not be affiliated in any way with the profession or
17 occupation to be licensed or regulated. He noted
18 they may also not hold any other appointed or
19 elective public office or position within the
20 Commonwealth or another state or the United States
21 government during the appointed term for which they
22 serve. He mentioned any person not meeting the
23 standards set forth herein shall be ineligible for
24 membership on the board or commission as a public
25 member.]

1 ***

2 Next Meeting Date

3 [Nancy M. Porambo, MS, LMT, CNMT, NCTMB, Chair, noted
4 the next scheduled Board meeting date is June 4,
5 2024. She also noted the remaining 2024 meeting
6 dates are August 13, September 24, and December 3.]

7 ***

8 Report of Board Chair

9 [Nancy M. Porambo, MS, LMT, CNMT, NCTMB, Chair,
10 thanked everyone for their participation and interest
11 in this meeting.

12 Chair Porambo announced Vickiann Hicks would be
13 leaving the Board and thanked her for her service to
14 the State Board of Massage Therapy.]

15 ***

16 Adjournment

17 CHAIR PORAMBO:

18 I'd like to make a motion to adjourn.

19 ACTING COMMISSIONER CLAGGETT:

20 So moved.

21 MR. STRAWSER:

22 Second.

23 CHAIR PORAMBO:

24 Thank you everyone.

25 ***

1 [There being no further business, the State Board of
2 Massage Therapy Meeting adjourned at 11:11 a.m.]

3 ***

4

5 CERTIFICATE

6

7 I hereby certify that the foregoing summary
8 minutes of the State Board of Massage Therapy
9 Meeting, was reduced to writing by me or under my
10 supervision, and that the minutes accurately
11 summarize the substance of the State Board of Massage
12 Therapy Meeting.

13

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16

Derek Richmond,

17

Minute Clerk

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Sargent's Court Reporting

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Service, Inc.

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STATE BOARD OF MASSAGE THERAPY
REFERENCE INDEX

April 2, 2024

	TIME	AGENDA
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6		
7		
8	9:00	Executive Session
9	10:30	Return to Open Session
10		
11	10:30	Official Call to Order
12		
13	10:31	Introduction of Board Members/Attendees
14		
15	10:32	Approval of Minutes
16		
17	10:32	Report of Regulatory Counsel
18		
19	10:53	Report of Board Counsel
20		
21	10:58	Report of Board Administrator
22		
23	11:00	Miscellaneous
24		
25	11:09	Next Meeting Dates
26		
27	11:10	Report of Board Chair
28		
29	11:11	Adjournment
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