

**MINUTES
TENNESSEE MASSAGE LICENSURE BOARD
MARY 12, 2022**

Emergency Meeting (Teleconference)

Time:

Location: Virtual WebEx Meeting
665 Mainstream Drive
HRB- 1st Floor, Iris Room
Nashville TN 37243

Members Present: William E Mullins, LMT
Emily Newberry, LMT
Michael Velker, Chairperson-Citizen Member
Dee Vickers-Smith, LMT
Marvis Burke, LMT

Members Absent: Virginia P Yarbrough, LMT

Staff Present: Noranda French, Unit 2 Director
Kimberly Hodge, Board Director
Jessica Turner, Board Attorney- Office of General Counsel

Guest: Austin Lucas, Attorney
Debbie Shumaker, Court Reporter
Anna Scheneck, Court Reporter

The WebEx meeting was called to order at 5:01pm by Board Attorney, Jessica Turner. A roll call was conducted to establish a quorum for the emergency meeting and a quorum was present. Ms. Turner conducted a roll call vote to ensure that each participant was connected and that each participant could hear all responses. Ms. Turner then provided the requirements and justification for an emergency electronic meeting. This emergency meeting of the Tennessee Massage Licensure Board was held to consider essential disciplinary matters including T.C.A. §4-5-320(c) review of the summary action against the license of Mr. Gary Genna, for the purposes of protecting the health, safety, and welfare of the people of Tennessee. This review of the recent summary and action is intended to be an informal and reasonable opportunity for Mr. Genna to present his version of the situation to the panel. The sole issue to be considered is whether the public health, safety, or welfare imperatively required the emergency action taken by the board against Mr. Genna's license at the previous hearing. The board is not making ultimate findings as to the allegations before them. The board meeting rooms are in Nashville TN. All participants today attended the meeting electronically through WebEx and the meeting was live streamed from the Iris Board Meeting room. Mr. Mullins made motion to continue meeting as all requirements for electronic meeting have been met. Ms. Newberry seconded the motion. Roll call vote was taken, motion passed. A motion and roll call vote was taken to determine if the disciplinary matters to be addressed meet the following requirements; the disciplinary matters to protect the public required timely action, the physical presence of the quorum of board members is not practical considering the period of time required for action on the disciplinary matters, and the participation by a quorum of board members by electronic or

other means of communication is necessary to conduct these disciplinary matters. Mr. Mullins made motion to move forward with electronic meeting as necessary. Ms. Newberry seconded the motion. Roll call vote was taken, motion passed.

Gary Genna, LMT 852

The emergency meeting of the Tennessee Massage Licensure Board is to review the recent summary action against Mr. Genna. Mr. Genna's Massage Therapist license was suspended by this board at the March 28, 2022, Board Meeting. Mr. Genna addressed the board with concerns over the timing of the action taken against him. Reading from the Board Order issued in March 2022, Mr. Genna pointed to the Summary Action portion of the order, specifically the sentence referring to the imperative action needed to protect the public. Summary Action, first paragraph, "This situation imperatively requires emergency action in order to protect the public health, safety, and welfare prior to the initiation of formal disciplinary actions." Based on the untimely actions of the board and contradicting statements from witnesses, Mr. Genna has requested his license be reinstated immediately.

Approximately 30 minutes into the meeting, after Mr. Genna's address to the Board, Board Member Marvis Burke signed into the WebEx. It was determined that since Ms. Burke missed Mr. Genna's opening statement in its entirety, Ms. Burke would be excluded from voting on any motion. She was allowed to be present for the rest of the meeting and may ask questions for clarity. All party's agreed and the meeting moved forward.

Mr. Lucas addressed the board with a list of discrepancies in the written statements of Morgan Gardner. Mr. Lucas first addressed an added addendum that was not part of the original affidavit. He notes, the addendum was not notarized and the material fact in the addendum stated by Ms. Gardner contradicts her original statements. In the original report, Ms. Gardner stated she was wearing underclothes when she initially spoke to the Police Chief at Roane State Community College. In her signed affidavit she contradicts her original statement saying she was fully undressed at the time of the incident. Mr. Lucas also pointed out that in the affidavit, Ms. Gardner states there were three (3) sessions. In her statement to the Police Chief at Roane State College, she stated there were four (4) to five (5) sessions. In addition, Ms. Morgan states in her initial statement, "I was not sexually assaulted." Two months later, in her affidavit, she states "I was sexually assaulted." In her handwritten statement, Ms. Gardner states, "I'm not one hundred percent sure if anything happened." Mr. Lucas labels these as substantial contradictions in Ms. Morgan's statements have a considerable impact on Mr. Genna and the Order of Summary Suspension. Mr. Lucas, on behalf of his client, Mr. Genna request the board rescind the Summary Suspension against Mr. Genna's license.

After brief discussion among Board Members, Mr. Mullins made motion, based on current information, including statements from Mr. Genna and Mr. Lucas, to uphold the Summary Suspension. Ms. Newberry seconded the motion. A roll call vote was taken by Ms. Kimberly Hodge. Mr. Velker, aye, Ms. Newberry, aye, Ms. Vickers, aye, and Mr. Mullins, aye. The motion passed.

With no further business to be discussed at this emergency meeting, meeting was adjourned at 6:11pm.