

MASSAGE THERAPY TECHNICAL ADVISORY COMMITTEE
Quarterly Meeting
Monday, June 11, 2018
5800 West Tenth Street
Little Rock, AR

MINUTES

Members present: Christabelle Krajewski, John Brochu,
Christopher Lovelace, Jessica Tolliver
Absent: Stephenie Cooke

Presiding - Alan Anderson, Chairman

Called to order 9:02 a.m.

Call to order, roll call

Minutes approved -- motion by Tolliver, Second by Brochu

[Meeting adjourned at 9:05 a.m. in order to hold hearing re: Jean Paul Francoeur]

[meeting reconvened at 11:50 a.m.]

Continuing Education applications

Following were approved:

4. CS1 - CranioSacral Therapy 1
6. Usui/Tibetan Reiki II
7. Thai Fusion - Therapeutic Sequencing
8. Accommodating Clients with Diabetes
9. Talking to Your Clients About Skin Cancer
10. Massage Policy, Research and Advocacy - How You Can Get Involved
11. Research, the NCCIH and You - Increasing Access to Integrative Therapies
12. Thai Massage - Foundation and Basic Principles
13. AMTA Fundamentals of Fascial Therapy (Hands-on)
14. Your Massage Therapy Website - Your Marketing Machine
15. Working with Knee and Hip Replacement
16. Blissful Business - Your Path to Success
17. In Safe Hands: Working with Clients with Fibromyalgia
18. Introduction to Oncology Massage
19. Balance and Postural Stability Training for Massage Therapist
20. Fundamentals of Thai Table Massage
21. Total Body Renewal
23. Orthopedic Massage for Complicated Shoulder Conditions
24. A Dimensional Approach to Massage Therapy for Tension Headaches
25. Vital Signs of Well-Being
26. Evaluating the Breast Cancer Survivor
27. Integrated Massage for Lower Extremity Conditions
28. Ethics for Massage Therapist - Boundaries and Dilemmas
29. Effective Soft Tissue Strategies for Plantar Fasciitis and Plantar Fasciosis
30. Scalp and Face Protocol
31. Lymphatic Drainage - the Ocean Within
32. Massage Therapist and Taxes - What you Need to Know
33. Cervicogenic Headaches - Myofascial Techniques
34. Headaches and Migraines
35. Teachers Day - Educators Knowledge Forum
36. Self-Care Skills
37. Military Veterans and Massage Therapy
38. Closing Session Panel - Military Veterans and Massage Therapy
39. Techniques for Sports Massage Therapist
40. What's Bugging You? How to Deal with Infestation in Your

Massage Practice

[approved continued education applications, continued]

41. Teachers Day- Improve Lessons with Case Studies
42. New Massage Research - Staying Current So you Can Better Help Your Clients

Following approved, pending change of title of course:

1. The Henderson Method - Upper Body (change to Practical Application for Muscle Re-Education for Massage Therapists, Upper Body)
2. The Henderson Method -Lower Body (change to Practical Application for Muscle Re-Education for Massage Therapists, Lower Body)

Following were not approved:

3. Introduction to Tuning Fork Therapy - Need to resubmit and remove out of scope instructional materials and include additional documentation on sound therapy education, and request attendance at next meeting.
5. Thoroughness Thru Pressure and Speed - Upper Body
Need to resubmit application with more clarification on what will be taught and removal of any copyrighted information.

Ad Hoc Committee Update

Committee has almost gone through all rules and regulations with the exception of two sections. Ms. Pickering will re-word some sections.

Next meeting is July 20

Plan is to finalize rules and regulations and then put out for next MTAC meeting.

Public Comment

Issue brought up by Mr. Lovelace regarding students who don't finish massage therapy school but practice massage therapy.

Discussion of the procedure that is followed. It will be investigated, and if appropriate, brought to a hearing for practicing without a license.

Discussion of how to impose a penalty on an unlicensed person.

These types of issues need to be brought to attention so an

investigation can start, possibly notify prosecuting attorney

There has been contact from Department of Homeland Security regarding sex trafficking

Homeland Security -- will go with, on regular inspection visits on specific massage therapy sites. There will also be training offered to massage therapy inspectors on what to look for regarding sex trafficking.

Meeting adjourned at 1:30 p.m.

Next ad hoc committee meeting - July 20, 2018

Next Massage Therapy Technical Advisory Committee meeting - September 10, 2018

Before Stephanie G. Branton, Certified Court Reporter

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1 PROCEEDINGS [9:05 a.m.]

2 MS. JOHNSON: Good morning, everybody. We
3 are here before the Massage Therapy Technical Advisory
4 Committee. We are here on a matter concerning Jean-Paul
5 Francoeur. Am I pronouncing that name right, sir?

6 MR. FRANCOEUR: You actually nailed it.

7 MS. JOHNSON: All right, I practiced before
8 I got here. Thank you for being present this morning. We
9 are before the Technical Advisory Committee.

10 They have determined that it should hold a hearing to
11 consider the complaint received on April 2, 2018 on Mr.
12 Francoeur, who is currently licensed in Arkansas as a
13 licensed massage therapist.

14 As I stated, my name is Peggy Johnson. I'll be the
15 hearing officer. Representing the board is Vicki Pickering.
16 We have a quorum today. Four members are present from a
17 board that has seven members.

18 Of course, our court reporter is Ms. Stephanie
19 Branton. And she's present here today. And on her behalf,
20 I will just start by asking everybody to speak loudly and
21 clearly enough so that she can hear you. Don't talk over
22 each other.

23 And please put your cell phones on vibrate, if you
24 can. This hearing is held pursuant to the Administrative
25 Procedures Act.

1 And the general way that it goes is the board has
2 received a complaint and I will let -- I will ask Ms.
3 Pickering first, do you have any witnesses that you plan to
4 present testimony?

5 MS. PICKERING: Yes ma'am, I do.

6 MS. JOHNSON: Who are they?

7 MS. PICKERING: I have Jessica Carter. She
8 is the complainant. Jessica Carter.

9 MS. JOHNSON: Ms. Carter, would you raise
10 your hand? Good morning.

11 MS. PICKERING: And then also I have -- I
12 will call Kellie Kersey.

13 MS. JOHNSON: Ms. Kellie Kersey. And it's
14 been awhile since I've done a hearing for the Massage
15 Therapy Board, but Kellie is the one person I do remember.
16 All right, and any other witnesses?

17 MS. PICKERING: That's it.

18 MS. JOHNSON: Okay, do you have any
19 documentary evidence that you plan to present?

20 MS. PICKERING: Yes, I do. I have the
21 hearing packet, which consists of -- so the notice of
22 hearing, the receipts, the e-mails. And also it includes
23 the complaint that we received, and the licensure
24 information from Mr. Francoeur.

1 MS. JOHNSON: Now, I have a packet that I'm
2 thinking is similar to what you're looking through, before
3 me.

4 MS. PICKERING: That is it.

5 MS. JOHNSON: And it starts with the order
6 and notice of hearing, and it ends with -- oh, it's quite
7 lengthy. There's some 58 pages long. Would that be --

8 MS. PICKERING: That's correct.

9 MS. JOHNSON: -- the exhibits that you're
10 referring to?

11 MS. PICKERING: Yes.

12 MS. JOHNSON: And does Mr. Francoeur have a
13 copy of that?

14 MR. FRANCOEUR: I do.

15 MS. JOHNSON: You do. All right. And so
16 do you have any objection to this exhibit -- to this being
17 entered into the record on behalf of the state?

18 And you can refer to anything in it yourself.

19 MR. FRANCOEUR: Do I have a chance to read
20 through it real quick?

21 MS. JOHNSON: Oh, absolutely, that's what I
22 was asking you, if you had --

23 MR. FRANCOEUR: This looks like, you know, a
24 copy of the complaint, which I guess we're going to address.

1 MS. JOHNSON: Right.

2 MR. FRANCOEUR: And then also, you know, so
3 my specialized training, and my certifications, and my
4 continuing education stuff. So I'm guessing that that's
5 a --

6 MS. JOHNSON: Well, this is your
7 opportunity to look through it, and --

8 MR. FRANCOEUR: I guess that -- I mean, I
9 don't know that this is like a --
10 [simultaneous conversation]

11 MS. JOHNSON: Excuse me, just a minute.
12 I'm asking Mr. Francoeur right now about the exhibits. Now,
13 if you have a question --

14 MR. FRANCOEUR: Yes, I don't have any
15 problems with the exhibits.

16 MS. JOHNSON: But if you have any
17 questions, don't just blurt them out, just ask for -- raise
18 your hand, and we'll recognize you, and I'll let you ask, or
19 we can go off the record, if need be. Okay?

20 All right, so you don't have any objections?

21 MR. FRANCOEUR: No.

22 MS. JOHNSON: All right, great. So the
23 exhibits, pages 1 through 58, that Ms. Pickering is offering
24 will be entered into the record as State's Exhibit 1.

1 [Whereupon State Exhibit 1 was entered into the record.]

2 MS. JOHNSON: And I need to ask you, Mr.
3 Francoeur, if you have any documents that you --

4 MR. FRANCOEUR: I actually brought quite a
5 bit of documentation.

6 MS. JOHNSON: All right, can you tell me
7 what they are, and did you bring any copies --

8 MR. FRANCOEUR: Yes, I did.

9 MS. JOHNSON: -- for -- okay. May I --

10 MS. PICKERING: May I -- I have one more
11 exhibit.

12 MS. JOHNSON: Oh, I'm sorry. Just a
13 moment. I apologize.

14 MS. PICKERING: That's okay. It's a copy of
15 text messages that were sent to Ms. Carter.

16 MS. JOHNSON: Okay.

17 [parties engaged in simultaneous conversation]

18 MR. ANDERSON: Ms. Johnson, let the record
19 show that Chris Lovelace, our other committee member, has
20 entered.

21 MS. JOHNSON: Chris -- what is his last
22 name?

23 MR. ANDERSON: Chris Lovelace.

24 MS. JOHNSON: Chris Lovelace is present.

1 All right, thank you.

2 MS. JOHNSON: How many pages is it?

3 MS. PICKERING: Five pages.

4 MS. JOHNSON: Five pages. And does Mr.
5 Francoeur have a copy of it?

6 MS. PICKERING: I'm giving him a copy right
7 now.

8 [simultaneous conversation]

9 MS. JOHNSON: And then we'll give him a
10 moment to look through those. Mr. Lovelace, if you would,
11 sit at the table. I'm sorry --

12 MS. PICKERING: Francoeur.

13 MS. JOHNSON: I'm sorry, Mr. Francoeur, if
14 you would sit at the table. Thank you. All right, so Mr.
15 Francoeur has been seated at the table. And I will also ask
16 Ms. Jessica Carter, since you are the complainant, if you'll
17 have a seat somewhere so you don't have to be getting up and
18 coming to the table. Thank you very much.

19 All right, so now, Mr. Francoeur, this additional --
20 how many page document?

21 MS. PICKERING: Five.

22 MS. JOHNSON: Five-page document, which
23 consists of copies of texts -- have you had an opportunity
24 to look at those?

1 MR. FRANCOEUR: Yeah, these are all screen
2 shots, which I actually have a screen shot too, in addition
3 to this, that was taken before this, immediately following
4 the therapy, the day after. Just a moment and I will
5 provide it to you.

6 MS. JOHNSON: So you have some documents
7 that you want to enter also? Okay, but do you have any
8 objection to this?

9 MR. FRANCOEUR: Well, I just want to add a
10 page to it, because -- because the page prior to that is
11 this.

12 MS. JOHNSON: Okay, I will let you enter
13 your additional page as well.

14 MS. PICKERING: Okay.

15 MS. JOHNSON: But right now, I just need to
16 get your assent to this being entered into the record.

17 MR. FRANCOEUR: Yes, yes.

18 MS. JOHNSON: Okay, then the five pages of
19 text messages will be entered as State Exhibit 2.

20 [Whereupon State Exhibit 2 was entered into the record.]

21 MS. JOHNSON: All right, now --

22 MR. FRANCOEUR: Can I bring these out?

23 MS. JOHNSON: -- your documents, can you
24 just give me a brief description of what they are?

1 MR. FRANCOEUR: Yeah, it's a -- just a
2 follow-up text and -- from me to my client.

3 MS. JOHNSON: And that's one page?

4 MR. FRANCOEUR: Yeah, and then her -- yeah,
5 it's just one page. It's just a screen shot.

6 MS. JOHNSON: Okay.

7 MR. FRANCOEUR: And I have other documents
8 too. But this is just -- it's relevant to the document she
9 just handed me.

10 MS. JOHNSON: Any objection to that, Ms.
11 Pickering -- an additional page that he wants to -- would
12 you take a look at it?

13 MS. PICKERING: I have no objection.

14 MS. JOHNSON: All right, no objection.
15 Then you may go ahead and enter that -- yes, you may pass
16 it down and give the court reporter one, please, as well,
17 [Whereupon Respondent Exhibit #1 entered into evidence.]
18 [Whereupon parties went off the record.]
19 [Back on the record.]

20 MS. JOHNSON: Now, as soon as we get
21 finished entering -- dealing with the rest of Mr.
22 Francoeur's documents I will let you ask the question.

23 But we need to ask it out in the open, and not just --

24 MR. FRANCOEUR: I do have additional

1 documentation.

2 MS. JOHNSON: All right.

3 MR. FRANCOEUR: But should I present it now,
4 or should I wait until I get into my --

5 MS. JOHNSON: We're going to take care of
6 it right now. Describe what the additional documents are.

7 MR. FRANCOEUR: Okay, I have my SOAP notes.
8 I have a -- and I have a copy of my basic session flow. One
9 of the points that she made was that some other therapists
10 said that there was no reason that I should have my hands on
11 her upper rib cage or ribs.

12 And I've got --

13 MS. JOHNSON: Do those notes deal with that
14 issue?

15 MR. FRANCOEUR: Yes. And they document all
16 of the areas that I work, based on pass or fails on the SOAP
17 notes.

18 MS. JOHNSON: All right, then will you just
19 give Ms. Pickering a copy of those and let her look at it
20 real quick. And I'll ask her if she has any objection.

21 [inaudible simultaneous conversation]

22 MS. JOHNSON: We don't need any additional
23 explanation. Just let her look at them, and if she doesn't
24 have any objection --

1 MS. PICKERING: No objection.

2 MS. JOHNSON: Great. Then you may go ahead
3 and -- this will be entered as Respondent's Exhibit 2 and 3.
4 Number 2 will be the initial evaluation, and Number 3 will
5 be the basic session flow, the originals of which need to be
6 given to the court reporter.

7 [Whereupon Respondent Exhibits 2 and 3 were entered into the
8 record.]

9 MS. JOHNSON: The originals need to go to
10 the court reporter.

11 MR. FRANCOEUR: Oh.

12 MS. JOHNSON: And you can hand out the rest
13 to the --

14 MR. FRANCOEUR: I have one other thing to add
15 to this. As a result of this, I have modified my --

16 MS. JOHNSON: So this is a copy of the way
17 that you --

18 MR. FRANCOEUR: This is new, since this
19 incident.

20 MS. JOHNSON: Oh, it was not involved in --

21 MR. FRANCOEUR: No, no. I --

22 MS. JOHNSON: In other words, Ms. Carter --

23 MR. FRANCOEUR: What this is, is just a sort
24 of a realizing that this may end up becoming an issue --

1 MS. JOHNSON: I understand. But you didn't
2 have Ms. Carter sign this?

3 MR. FRANCOEUR: No.

4 MS. JOHNSON: So it's not relevant to this
5 particular proceeding?

6 MR. FRANCOEUR: No, it was just --

7 MS. JOHNSON: Okay.

8 MR. FRANCOEUR: It was just kind of a --

9 MS. JOHNSON: Then that -- I don't see the
10 relevance of that.

11 MR. FRANCOEUR: Okay. Well, the only
12 relevance is that second paragraph -- is basically stating
13 that I do ask people come in --

14 MS. JOHNSON: Now? Since -- since --

15 MR. FRANCOEUR: Well, no, I verbally ask it
16 before. Now they have to sign off on it, saying that --

17 MS. JOHNSON: Okay, well, you can testify
18 that you --

19 MS. PICKERING: And I have no objection to
20 that form.

21 MS. JOHNSON: Oh, you don't have any
22 objection to that form?

23 MS. PICKERING: No.

24 MS. JOHNSON: Well, if you don't have any

1 objection, then go ahead and enter it.

2 [Whereupon Respondent Exhibit 4 was marked for
3 identification.]

4 MS. JOHNSON: All right. So those are all
5 the documents that you want to admit? You have four
6 exhibits.

7 MR. FRANCOEUR: I do have one other thing
8 that is just in case people are unfamiliar with the type of
9 work that I do, because it is sort of -- I'm the only
10 licensee of the state. I have just basically some FAQs that
11 sort of talk about what type of work that I do.

12 It's a -- you know, and it's in light of --

13 MS. JOHNSON: Let Ms. Pickering see a copy
14 of one of them. What I'm trying to do is expedite things,
15 and we don't need any long drawn out discussion of what it
16 is.

17 If you will just give her what it is that you are
18 wanting to enter. Then I'll let you describe it when it's
19 time for you to testify.

20 MS. PICKERING: I have no objection.

21 MS. JOHNSON: And if you will give the
22 court reporter. It's a NEUBIE -- a new paradigm in
23 electrical stimulation.

24 [Whereupon Respondent Exhibit 5 was entered into evidence.]

1 MS. JOHNSON: And are you giving the court
2 reporter one?

3 MR. FRANCOEUR: Yes, I am.

4 MS. JOHNSON: We're not going to have a
5 long, drawn out, two-hour questioning session of each
6 witness. You need to stick to the incident that occurred,
7 and the actions that occurred on the date and time at issue.

8 And if you get too far astray on other things, then
9 I'm going to just let you know. Okay?

10 Now, at this time, you had a question? One of the
11 board members had a question for Ms. Kellie Kersey?

12 MS. TOLLIVER: So in our rules and
13 regulations, it says that complaints will be investigated by
14 a member of MTAC [inaudible] --

15 MS. PICKERING: And I think our position on
16 that was there wasn't really anything to investigate. We
17 just heard Ms. Carter's experience, and we wanted to refer
18 it to the committee to hear her experience, and hear Mr.
19 Francoeur's response to it, and let the committee make a
20 decision on whether it was appropriate or not

21 MS. TOLLIVER: Okay.

22 MS. JOHNSON: Are there any other matters
23 that we need to take up initially before we get into the
24 testimony? Anything?

1 MR. FRANCOEUR: I did notice that the
2 complaint is different than the one that was sent to me in
3 the mail.

4 MS. JOHNSON: Oh. And how so?

5 MR. FRANCOEUR: Just there's a lot more
6 detail to it.

7 MS. JOHNSON: Ms. Pickering, is the
8 complaint that he received in the mail the same as the one
9 that --

10 MS. PICKERING: We did not send him a copy of
11 the complaint. I think he may be thinking of what the
12 attorney general's office sent --

13 MR. FRANCOEUR: No, I got a copy of the
14 complaint from you guys, I believe.

15 MS. PICKERING: Just the notice of hearing.

16 MR. FRANCOEUR: Oh, okay.

17 MS. PICKERING: We didn't send a copy of Ms.
18 Carter's complaint.

19 MR. FRANCOEUR: Oh, okay.

20 MS. JOHNSON: Then at this time I will
21 allow you to call your first witness.

22 MS. PICKERING: Okay, I call Ms. Carter.

23 MS. JOHNSON: Wait a minute. I need to
24 swear them in first.

1 [Whereupon Jessica Carter, Kellie Kersey, Jean-Paul
2 Francoeur swore to tell the truth in these proceedings]

3 MS. PICKERING: Actually, I will call Kellie
4 Kersey first.

5 MS. JOHNSON: Okay.

6 EXAMINATION OF KELLIE KERSEY

7 BY MS. PICKERING:

8 Q. Ms. Kersey, would you state your name and occupation?

9 A. Kellie Kersey, Arkansas Department of Health,
10 Cosmetology and Massage Therapy Section, section chief.

11 Q. Did you receive a complaint against Jean-Paul
12 Francoeur?

13 A. We did.

14 Q. And can you just kind of summarize what the complaint
15 was?

16 A. Ms. Jessica Carter went in for a massage for some
17 treatment of some shoulder pain. And she was
18 inappropriately touched in the breast area by the massage
19 therapist, who is licensed by the Arkansas Department of
20 Health.

21 Q. And there is an exception in the law that -- for
22 massage of the breast -- if the massage therapist has at
23 least 48 hours of continuing education on lymphatic massage,
24 myofascial massage, or oncology massage.

1 Does Mr. Francoeur have any of that?

2 A. That is -- there was no evidence of that in his
3 record.

4 Q. And that's the packet -- the very first exhibit.
5 Now, was any investigation conducted of this, or how did the
6 staff proceed after receiving the complaint?

7 A. Well, brought it to your attention, and we contacted
8 Ms. Carter and we spoke to her in person. And we decided to
9 proceed because there's really nothing to investigate.

10 There was no, you know, there was nothing to
11 investigate.

12 MS. PICKERING: I have no more questions of
13 Ms. Kersey.

14 MS. JOHNSON: I would like to ask one
15 question. What is the significance of continuing education
16 in lymphatic massage, myofascial massage, or oncology
17 massage?

18 What's the significance of that if you have training
19 in that area? What does that allow you to do?

20 MS. KERSEY: Massage the breast, around the
21 breast area.

22 MS. JOHNSON: For somebody that's not in
23 your industry, I think that deserves clarification. Okay,
24 thank you.

1 All right, if you don't have any other questions of
2 her, do you have any questions, Mr. Francoeur, of Ms.
3 Kersey?

4 MR. FRANCOEUR: Oh -- well, not -- I don't
5 know if it would be a question. But my -- but if you look
6 through the flow of the certification manual that I -- for
7 the Neufit [phonetic spelling], you will see -- I don't
8 know what the particular page --

9 MS. JOHNSON: Well, now, what I will allow
10 you to do is -- if you're not going to ask her a question, I
11 can -- you're going to be able to explain the significance
12 of your Neufit or NEUBIE, or whatever -- your training. And
13 I'm assuming you're alluding to the training that you
14 received.

15 MR. FRANCOEUR: Yes.

16 MS. JOHNSON: So if you don't have a
17 question for her, you need to say you don't have a question,
18 and then I'm going to give you ample opportunity to testify.

19 MR. FRANCOEUR: Okay.

20 MS. JOHNSON: Okay, no questions. Did you
21 have anything you wanted to ask her -- Ms. Carter?

22 MS. CARTER: No.

23 MS. JOHNSON: Then call your next witness.

24 MS. PICKERING: I call Ms. Carter.

1 EXAMINATION OF JESSICA CARTER

2 BY MS. PICKERING:

3 Q. Would you please state your name?

4 A. Jessica Carter.

5 Q. And did you file a complaint against Mr. Francoeur?

6 A. Yes.

7 Q. Would you tell the committee about your experience
8 when you went to him to provide you --9 A. So on March 26, I went to see him for a shoulder
10 blade, and that injury -- shoulder blade injury that I was
11 having issues with.12 And he had me show up in a sports bra and shorts so he
13 could use the Neufit, which in my world is basically a TENS
14 unit that's like a patch thing that stimulates the muscles.15 And he had me lay face down on the massage table. And
16 he put one unit on my lower back and like he was saying,
17 found spots that were weak.18 He documented -- weak here, weak here, weak here. And
19 he had me turn over on my back -- so face-up -- and worked
20 around my shoulder area, and then to the collar bone and
21 then put his hand down my sports bra, started massaging my
22 sternum.23 And I tensed up, because I was not warned. I was not
24 told that that was going to happen. And when I tensed --

1 what's going on -- he said he was looking for trigger
2 points.

3 And then as his hand came up, he massaged the tops of
4 my breasts, and then out, and then proceeded to do TENS unit
5 on my shoulder, and had me stand up and do mobility
6 exercises from there.

7 But it was something that -- it was not stopped.
8 Where most massage therapists in my experience would say
9 I need to do this, it might be uncomfortable, for such and
10 such reason -- it was not explained to me.

11 Q. Can you show -- and I apologize if it may be
12 uncomfortable to show -- can you show with your hands where
13 is it that he touched?

14 A. Around -- all the way down to [indicating], massaged
15 here [indicating], and then here [indicating] -- like this,
16 on top.

17 He did not touch my nipple, but then there
18 [indicating]

19 Q. And what else happened?

20 A. Had me stand for a mobility exercise. Of course, my
21 tattoos are exposed. I have a tattoo of a singer on my arm.
22 And he asked about the singer. I said it was Jeff Buckley
23 [phonetic spelling]. He knows the music of that artist.

24 And he started listing favorite songs, which we talked

1 about. And he started playing a song call "Everybody here
2 wants you," which is pretty sexual in nature.

3 And I have it queued up on my phone, if you would like
4 me to play it. It doesn't take but the first five seconds
5 to know that the song is basically like -- it's just full of
6 sexual connotations.

7 Q. Explicit?

8 A. Yes. And so -- not -- just in the sense that it's
9 inappropriate to play in a situation like that. And in my
10 mind, at the time I was saying he knows I like Jeff Buckley,
11 he was trying to make a connection, this is weird, maybe
12 he's not aware of how inappropriate this feels.

13 But I just chalked it up to he's just kind of trying
14 to make a connection because I have Jeff Buckley tattooed.
15 So I told him I didn't have a favorite song, so how would he
16 know that that was inappropriate.

17 But just kind of that, just asking me if I was dating
18 anybody at the time. So it kind of progressed from there,
19 if I was seeing somebody, and he asked me my Zodiac sign.

20 And so all very uncomfortable -- when you're in a
21 vulnerable position by yourself. And so my reaction was to
22 just get through it, hope to get some kind of benefit from
23 it, leave, play nice, and just never go back.

24 Q. And is that why you didn't say 'stop' or why you

1 didn't respond?

2 A. It was how weak I am, to begin with, and then I'm
3 alone in your house, and I -- I go into the protect myself
4 mode. And I don't want to challenge somebody that, you
5 know, that I don't know very well. So.

6 Q. So what happened after the massage, after you left?

7 A. He sent me a text, asking how I was doing. And I
8 said I was I'm sore, like you said I would be, thank you.
9 And my thing was -- because I didn't know that I could do
10 anything -- I didn't know about what is and is not allowed
11 in certain therapy situations.

12 So I was not going to raise any flags for him, and be
13 done with it, and say thank you and never go back, and just
14 forget it. But that was not very possible for me to just
15 forget. That was very triggering.

16 Q. So what else happened as a result -- after the text
17 message, how did you feel about the experience?

18 A. When you invade someone's personal space in a
19 vulnerable state, and do not ask permission, and you don't
20 stop, and you just do it, and then when they react to you,
21 explain what you're doing -- you bring up a lot of issues
22 which is, I would say in this profession, it's so important
23 to ask and explain beforehand.

24 Because I've had a lot of issues triggered from that,

1 and I'm not okay.

2 Q. And you've sought therapy?

3 A. Yeah, it created some PTSD. And so when you don't
4 know somebody and you don't know their history, it's
5 important to explain yourself, and that was not done.

6 Q. And not to re-emphasize this, but just to make sure
7 that it's clear that it's a definite violation of the law --
8 would you say that where he massaged you was your breast?

9 A. Yes, definitely.

10 Q. In an inappropriate part of your breast?

11 A. Yeah, I don't know what the rib cage thing was about.

12 Q. Anything else you'd like to add?

13 A. [no audible response]

14 Q. Okay. We have the text message that you screen
15 shotted. Tell us about that? Why did he send -- what
16 initiated the text message?

17 A. The attorney general's office sent him a complaint.
18 Before I knew that I could even contact the Massage Therapy
19 Board, another massage therapist told me that I should let
20 someone be aware of what happened, so that something could
21 potentially be pursued.

22 So I reached out to them, pretty much the same
23 complaint I filed with you. And they called and said that
24 they would notify me of any violations. And they forwarded

1 him the message, which he then -- when they talked to me and
2 said if he gave me my money back, would I drop the issue,
3 which I have the check he sent via the attorney general's
4 office.

5 Because when I received it, my initial reaction was to
6 want to tear it up, because it's not about money.

7 And though I would rather not have paid somebody to do
8 that to me, getting my money back doesn't fix it.

9 And that's not what I asked for. I want him in the
10 future -- you know, if this -- really to consider these
11 actions, and professionalism, and keeping people that are
12 paying him and trusting him, safe.

13 Q. So the last text message says "I'm back in town and
14 following up with your request for a refund."

15 A. I didn't --

16 Q. Did you request a refund?

17 A. -- a refund.

18 Q. In fact, you didn't even want a refund. Is that
19 correct?

20 A. It was just one of those -- yeah, it would be nice to
21 not have paid for it. But if it costs me 150 bucks to get
22 him to not do this to somebody else, then I'd say that's
23 worth it.

24 Q. And you were also offended when he --

1 A. Which is why it's here right now. I don't know if
2 it's --

3 [inaudible simultaneous conversation]

4 Q. Anything else you want to add about the experience,
5 or where you are now, or is your therapy working?

6 A. I'm just doing therapy now and working out what's
7 going on, what's been triggered in the aftermath of that.

8 MS. PICKERING: Thank you.

9 MS. JOHNSON: All right, thank you. Mr.
10 Francoeur, do you have any questions of Ms. Carter?

11 MR. FRANCOEUR: Well, I don't -- do you want
12 me to ask her questions directly, or do you want me to just
13 --

14 MS. JOHNSON: You have the opportunity to
15 ask her questions. I mean, one of the essential things of
16 an administrative hearing or to be fair is to allow the
17 respondent -- the person who's been complained on -- the
18 opportunity to question the person who has complained.

19 MR. FRANCOEUR: Is this going to be my
20 opportunity to really prove all the --

21 MS. JOHNSON: but -- no -- that --

22 MR. FRANCOEUR: -- or is that --

23 MS. JOHNSON: You're going to have a
24 separate opportunity to present your testimony.

1 MR. FRANCOEUR: Okay, got it.

2 MS. JOHNSON: This is just for you to ask
3 questions of anything that she just testified.

4 MR. FRANCOEUR: No, I don't have any
5 questions. I -- you know, and although I think when we're
6 doing with all this -- you know --

7 MS. JOHNSON: No, you will have an
8 opportunity to --

9 MR. FRANCOEUR: Right, right --

10 MS. JOHNSON: -- expound on all of the --
11 you know, anything you want to --

12 MR. FRANCOEUR: Right --

13 MS. JOHNSON: -- talk about.

14 MR. FRANCOEUR: Okay.

15 MS. JOHNSON: About any of the documents
16 that you brought, you'll have that opportunity.

17 MR. FRANCOEUR: Okay.

18 MS. JOHNSON: Okay.

19 MR. FRANCOEUR: No, I don't have any
20 questions.

21 MS. JOHNSON: All right, thank you. All
22 right, any other questions of Ms. Carter?

23 MS. PICKERING: No.

24 MS. JOHNSON: If not, then we will go to

1 you, Mr. Francoeur, and allow you to -- oh, I'm sorry. Does
2 the board have any questions for Ms. Carter?

3 MS. TOLLIVER: I have just one.

4 MS. JOHNSON: Identify yourself for the
5 record.

6 MS. TOLLIVER: Jessica Tolliver. The home
7 clinic -- could you describe the home clinic for me?

8 THE WITNESS: I would say it's like a sun
9 room that he turned into a workout/massage space, with a
10 massage table set up, and some workout devices.

11 MS. TOLLIVER: Was there anyone else at the
12 house when you were --

13 THE WITNESS: Not that I know of.

14 MR. FRANCOEUR: There actually was someone
15 who stopped by -- my girlfriend.

16 MS. JOHNSON: Well, that's not the way you
17 interject that.

18 MR. FRANCOEUR: I'm sorry.

19 MS. JOHNSON: You can say it when it's your
20 turn to -- you had the opportunity to ask her questions --
21 was there anyone at the house when you were there -- but you
22 declined. So --

23 MR. FRANCOEUR: Okay.

24 MS. JOHNSON: So you can bring that out

1 during your testimony.

2 MR. FRANCOEUR: All right.

3 MS. TOLLIVER: You said he went all the way
4 down your sports bra. Did that mean that he went under the
5 sports bra?

6 THE WITNESS: T-shirt.

7 MS. TOLLIVER: T-shirt. And when he
8 massaged your breasts, was he over or under the sports bra?

9 THE WITNESS: He was on my skin. His hands
10 were on my skin.

11 MS. TOLLIVER: So he went under all the --
12 the -- the top, as well as down the sternum, under the bra?

13 THE WITNESS: Yes.

14 MS. TOLLIVER: That's all I have.

15 MS. JOHNSON: Any other questions by any
16 other member of the board?

17 MR. LOVELACE: Chris Lovelace. How much
18 time did he spend on breast tissue?

19 THE WITNESS: I would say it was a good
20 moment where it was like you know when somebody's just doing
21 their job and whether they're taking a moment with you. And
22 it was longer than I've ever had -- in any massage therapist
23 I've been to before, any physical therapist. It was done
24 here, and sweeping out [indicating], never down, all the way

1 down the sternum, to here [indicating].

2 Here [indicating] -- like this [indicating]. And then
3 like that [indicating], and then back to [indicating] work,
4 I guess.

5 MS. TOLLIVER: Do you remember this being --
6 do you know what 'palpation' means?

7 THE WITNESS: No.

8 MS. TOLLIVER: Okay, so that means kind of
9 kneading, checking -- like when you do a self breast exam,
10 you'll palpate.

11 Do you feel like he was massaging, or did you feel
12 like he was palpating?

13 THE WITNESS: Massaging.

14 MS. PICKERING: I actually have a question.

15 MS. JOHNSON: Sure.

16 MS. PICKERING: Ms. Carter, would you tell
17 the committee where Mr. Francoeur was when he was doing it,
18 and what your position was?

19 THE WITNESS: I was face-up on the massage
20 table, and he was behind me.

21 MS. PICKERING: Sort of looking down?

22 THE WITNESS: Uh-huh.

23 MR. BROCHU: I have a question. John
24 Brochu. I'm looking at a screen shot here. It said "walked

1 in the same door as before, just parked."

2 You had been to Mr. Francoeur before?

3 THE WITNESS: Yes, to talk about the
4 injury.

5 MR. BROCHU: And you knew this was a home
6 office when you went, and you felt comfortable enough to go
7 to a home office?

8 THE WITNESS: That his license was up, and
9 the -- a lot of people can work out of their homes with the
10 right licenses, yes.

11 MR. BROCHU: And you mentioned in your
12 world, it's a TENS unit. What is your world?

13 THE WITNESS: Physical therapy,
14 chiropractic, what I'm aware of, what I've experienced.

15 MR. BROCHU: So you're not in the health
16 care field at all?

17 THE WITNESS: I am a cosmetologist.

18 MR. BROCHU: That's all.

19 MS. JOHNSON: Any other questions.

20 MS. PICKERING: Actually, I have one more.

21 MS. JOHNSON: Sure.

22 MS. PICKERING: Why did you go to Mr.

23 Francoeur? What -- how did you find him?

24 THE WITNESS: My friend Craig is -- used to

1 train in his gym, and highly recommended him. I have a
2 winged scapula [phonetic spelling] issue that was causing me
3 neck pain and with me doing my job as a hair stylist.

4 So I was seeing him for a shoulder blade issues, not
5 breast issues.

6 MS. PICKERING: Okay.

7 MS. TOLLIVER: Have you ever seen another
8 physical therapist or massage therapist that had -- that was
9 for therapeutic assessment, not relaxation?

10 THE WITNESS: Yes.

11 MS. TOLLIVER: And did you keep your clothes
12 on during those --

13 THE WITNESS: Yes. I was at St. Vincent
14 for two months when the injury happened. And I never had to
15 take my clothes off, and they used TENS units, and I -- for
16 the exact injury, no one ever touched my chest.

17 MS. TOLLIVER: And then one other question.
18 In your statement you said you were finding that his
19 reputation was being sleazy. Where did you get that
20 information?

21 THE WITNESS: A massage therapist that I
22 went to and I didn't even have to say his name, and she said
23 his name, and she said I'm sorry, he's got a reputation
24 around town, I wished that you would have talked to a woman

1 about it.

2 But it seems that a lot of guys that I know that know
3 him don't tend to know that. It's just women, and they
4 call it -- one of the ladies I talked to said they called it
5 'whisper campaigns' -- women warning other women, but never
6 thinking they could do anything about it, except say hey
7 don't go to this guy, he's a bit of a creep.

8 So it's one of those -- it's hard to get names, but it
9 was just one of those that the more people I've privately
10 consulted with that know about him, that seems to be a
11 resounding thing. He's a sleaze.

12 MS. KRAJEWSKI: I have a question.
13 Christabelle Krajewski. In your e-mail to us, you said that
14 Mr. Francoeur claimed to be able to do some chiropractic
15 adjustments. Did he actually do any --

16 THE WITNESS: No.

17 MS. KRAJEWSKI: -- bone manipulation?

18 THE WITNESS: No.

19 MS. KRAJEWSKI: That's all.

20 MS. JOHNSON: And just for my information,
21 where is his office located?

22 THE WITNESS: Broadway Street.

23 MS. JOHNSON: In Little Rock?

24 THE WITNESS: Yes.

1 MS. JOHNSON: Oh, okay. All right, thank
2 you. Any other questions?

3 MS. PICKERING: No more questions from the
4 board.

5 MS. JOHNSON: All right, then, your
6 testimony phase is concluded. And we'll allow you to --
7 this is your opportunity, Mr. Francoeur, to tell the board
8 your side of the story.

9 MR. FRANCOEUR: Okay.

10 MS. JOHNSON: You know, anything you want
11 with regard to this matter, and to bring up your documents
12 as well.

13 MR. FRANCOEUR: You know what, I handed you
14 guys all of my documents, and I don't think I kept a copy
15 for myself. I've got my SOAP notes, but I don't have the
16 basic flow. Oh, I do. I have it right here.

17 TESTIMONY OF JEAN-PAUL FRANCOEUR

18 MR. FRANCOEUR: And first, I am -- although I
19 am going to defend myself emphatically on this, I'm not
20 going to -- I'm not trying to take away from her experience.

21 Obviously, she did have a bad experience, and I -- you
22 know, had she explained at any point that she was
23 uncomfortable, as you can see in my new documentation, I
24 would like for her to have said that.

1 But I am sorry that she did have a bad experience.
2 And the reason I asked her about the refund is because the
3 attorney general investigator, Joyce Sexton, told me that
4 she requested one.

5 So I -- and when I got -- and I told her that -- you
6 know, I was on my way to Kansas City for a continuing
7 education fitness summit. And I just told her that I would
8 have to take care of it when I got back in town.

9 So when I got back in town, you know, she told me just
10 to -- she told me to refund her. And when I got back in
11 town, I sent the text message, asking if she would like --
12 you know, who would she like the refund.

13 And when she did not reply, I called the attorney
14 general's office back and I said how am I supposed to refund
15 Ms. Carter. And they said why don't you just send it to us,
16 and I said okay, I'll do that.

17 But that -- my understanding was that she had
18 requested it, and that they said that they were -- and they
19 also told me that based on their investigation and their --
20 when they looked into it that they had -- that they were
21 going to take no further action with it.

22 They were satisfied with my answer to them. And which
23 I'm about to give to you guys.

24 MS. JOHNSON: Let me -- before you go on,

1 I'm interested in who exactly at the attorney general's
2 office contacted you, and --

3 MR. FRANCOEUR: I don't think I gave you guys
4 copies of that, because I was just maxed out on sending
5 copies. But her name is Marsha Sexton [phonetic spelling]
6 -- I'm sorry. I got the name wrong.

7 MS. JOHNSON: All right. And do you have
8 copies of your communications with her?

9 MR. FRANCOEUR: Yes, I do. I don't have
10 enough copies but I'll be happy to hand these around if
11 everybody wants to look at those.

12 MS. JOHNSON: Sure.

13 MS. PICKERING: We can make copies.

14 MS. JOHNSON: We'll take a break. Let's go
15 off the record for us to look at the documents and take a
16 break to make copies.

17 [Whereupon parties went off the record.]

18 [Back on the record.]

19 MS. JOHNSON: All right, we're back on the
20 record before the Massage Therapy Technical Advisory
21 Committee. And Mr. Francoeur was testifying. We are making
22 copies of the communications that he had between him and the
23 attorney general's office.

24 And while that is being done, we decided to let Mr.

1 Francoeur continue with his testimony.

2 MR. FRANCOEUR: Okay.

3 MS. JOHNSON: You may continue.

4 MR. FRANCOEUR: Well, if you guys will pull
5 up the SOAP notes you have -- she had --

6 MS. JOHNSON: SOAP notes are what?

7 MR. FRANCOEUR: She had multiple problems.
8 She had --

9 MS. JOHNSON: Those are -- the SOAP notes,
10 for everybody's information -- initial evaluation?

11 MR. FRANCOEUR: Yes.

12 MS. JOHNSON: Okay.

13 MR. FRANCOEUR: She had shoulder pain, and
14 also knee pain, incidentally.

15 MS. JOHNSON: Just a minute, Mr. Francoeur.
16 Some people don't -- some board members don't have this
17 evaluation.

18 MR. FRANCOEUR: Oh.

19 [Whereupon parties went off the record.]

20 [Back on the record.]

21 MR. FRANCOEUR: If you will go to the flow,
22 on the thing that I showed you, you will see on the page
23 that says 'activations' which on the bottom corner it's 814.

24 MS. PICKERING: Are you referring to -- I'm

1 sorry -- this?

2 MR. FRANCOEUR: That -- I'm referring to the
3 -- yes, the basic flow.

4 MS. PICKERING: Oh, okay, basic flow.

5 MR. FRANCOEUR: And in my work, we do muscle
6 testing and then we do activations based on pass or fail of
7 those muscle tests.

8 So when somebody fails a test, you know, then I will
9 -- the I -- I generally explain I'm going to have to put my
10 hands here, here or here. It's sort of auto pilot by now.

11

12 And she's saying that I didn't, and I don't -- I don't
13 -- there is a possibility that I am willing to acknowledge
14 that I may have -- I may have not explained it all ahead of
15 time. Generally I do.

16 That is why now I have a waiver that explains
17 everything.

18 MS. JOHNSON: All right, and just -- to
19 interrupt you just for a moment, the copies of the
20 communication between Mr. Francoeur and the AG's office have
21 arrived, and they will be passed out to the board. And that
22 will be Respondent's Exhibit Number 6 -- 6 and 7.

23 [Whereupon Respondent's Exhibits 8 and 7 were entered into
24 evidence.]

1 MS. JOHNSON: There are two separate
2 documents -- 6 and 7. The one that's 12 pages will be --

3 MR. FRANCOEUR: That was the first one.

4 MS. JOHNSON: -- will be Exhibit 6. And
5 the one that is 20 pages will be 7. You may continue.

6 MR. FRANCOEUR: And I have -- okay. Anyway,
7 so if you look at the SOAP notes, you will see where I put
8 down whether she passed or failed various strength tests.

9 This is the foundation for the neurological
10 stimulation work that we do. But if someone fails one of
11 these strength tests, then there are relevant reflex points.

12 And you know, again, I don't see how I could have not
13 explained it because I am so over-communicative about what I
14 do, because it's -- the most difficult thing about what I
15 do, since it's sort of intense and it can be sort of
16 uncomfortable -- is over-explain and try to create
17 expectations that are -- you know, that are realistic.

18 So I do talk constantly about the fact that I am going
19 to have work on this area and this area. Like I work on the
20 hips and the -- you know, I might work on the glutes, you
21 know.

22 But I also ask all of my clients -- male or female --
23 to -- their -- I don't work on any -- I don't have -- use
24 sheets and naked people under a sheet.

1 All my clients are clothed because I need for them to
2 be able to move around, and I can't diaper wrap. You know,
3 somebody under a sheet is just not worth it.

4 Most of what I do involves some manual therapies,
5 followed by putting pads on the skin. And again, I can't do
6 that through a shirt. It would be sort of pointless. I
7 have to go on to the skin.

8 Now, as far as massaging the breasts, the lowest I got
9 was the second rib, because that's where the -- or maybe
10 it's the third rib -- where the neck attachments are for the
11 scalenes.

12 Because she failed the neck test, the neck strength
13 test which is where I push your forehead down. And if you
14 can't ramp up enough force to resist against that, then I'm
15 going to work the attachments which is the primary reflex
16 point for a failed neck test.

17 And you can see that -- those points -- on page 16.
18 So page 14 is where I had to work the sternum. And I also
19 did work over and under the rib cage. And I basically used
20 my thumb in a wedgelike manner.

21 And it's not comfortable. I don't know how anyone
22 could interpret it as sexual in any way. But -- and -- but
23 it's -- you know, it's -- so I -- but I take my thumb and I
24 wedge it into the reflex points and I work my way up he

1 sternum and under the ribs, and over the ribs, on the
2 outside edge.

3 And then also for the neck, I worked, you know, down
4 to the second and third rib where the scalenes attach. And
5 then I work on scalenes themselves.

6 Where am I -- so in terms of massaging the breasts,
7 there was absolutely no sexual context for me, in any way,
8 shape or form.

9 And I -- and again, I'm not trying to say that she
10 didn't experience that. She obviously did, and you know,
11 but there was no -- there was nothing that was outside of my
12 scope that I did with her.

13 MS. JOHNSON: Ms. Pickering, did you have
14 any questions for Mr. Francoeur?

15 EXAMINATION OF MR. FRANCOEUR

16 BY MS. PICKERING:

17 Q. You would have mentioned this, but the complaint was
18 sent -- we're talking about the attorney general information
19 in your response -- was April 2. And then it was resent to
20 you on May 2?

21 A. I didn't -- they sent it -- when they first sent the
22 complaint, they sent it to the address in my old health
23 club. I used to own a health club, called JP Fitness, on
24 the twenty-ninth floor of the Metropolitan Tower.

1 And they sent the initial complaint there. I received
2 an e-mail and I replied within an hour. So yeah, I did not
3 reply to it earlier because it never reached me.

4 But then I -- if you'll look in there, I gave them the
5 correct address to send any future documentation. That's
6 not something that I would sit on.

7 MS. PICKERING: I don't have any more
8 questions.

9 MS. JOHNSON: All right. Does the board
10 have --

11 MR. FRANCOEUR: And --

12 MS. JOHNSON: Oh, do you have something
13 additional that you wanted to state?

14 MR. FRANCOEUR: You know, just -- you know,
15 when I'm working with people, I want them to feel
16 comfortable. You know, and I'm not in any way was I sleazy.

17 My -- in fact, my curtains to the tv room were open.
18 I generally keep things open, unless my kids are at home,
19 when I don't -- I just don't want it to be unprofessional if
20 my kids are in the next room, for them to sit there and
21 watch me take somebody -- some shirtless guy through a bunch
22 of mobilization exercises.

23 But you know, that's really the only reason that I
24 ever close my curtains. Everything that I do, if I do it --

1 when I go and work and -- you know, at other clinics, or I
2 work at other facilities, it's out in the open.

3 And I work on males and females of all ages. I work
4 on kids. I work on, you know, elderly. And you know, and
5 everything that I do is consistent. It's across the board.
6 There is nothing that I did with her that I would not --
7 that I have not or would not do with every single one of my
8 clients -- male or female.

9 And that's not to say that I was inappropriate in any
10 way. That's just saying that, you know, I mean, perhaps she
11 interpreted that.

12 But that was not what was coming from me. Everything
13 that I worked on was part of my scope and part of my
14 practice. And in terms of conversation, you know, she was a
15 mutual friend of a very good friend of mine. And so you
16 know, I felt sort of comfortable with that.

17 And I was, you know, making conversation. You know, I
18 mentioned -- I might have mentioned my girlfriend, who
19 incidentally, did drop in, but saw that I was working with
20 someone, and just went in the kitchen, and said hi on the
21 way out, and then went back out.

22 So she was -- you know, so I don't have -- you know,
23 it's not like one of these situations where I'm kind of --
24 you know, I got a little -- what do they call them -- like

1 little love shack thing going. It's not that atmosphere.

2 It's very clinical and it's all very open, and
3 everything is very transparent. And there's nothing that I
4 would do with anyone that my kids couldn't witness from
5 sitting in the other room.

6 So there was absolutely no -- you know, no -- well,
7 even any flirtation. I mean, there was not -- none of that
8 existed.

9 And you know, she felt uncomfortable about the music -
10 - now I hear that. I did not know that at the time. It's
11 very rare to meet somebody who likes Jeff Buckley. It's
12 kind of like who likes Leonard Cohen, or some other kind of
13 artist's artist.

14 And Jeff Buckley is one of my favorites. But I was
15 excited. I just started playing -- I said oh, have you
16 heard this song, because it's on an album that was made
17 after he died.

18 And so I can't really -- I'm not going to deny that I
19 put the music on. It's not sexually explicit. It was just
20 a great song. And all of his music is -- they call it --
21 that brand of music was called 'confessional music,' like
22 Leonard Cohen, Jeff Buckley, Mercymachine [phonetic
23 spelling]. It's just really kind of raw, you know, lyrics.

24 And it's a -- and I have multiple play lists.

1 Normally I'm playing a more benign play list, or I might
2 even have it on Pandora.

3 But when I found out she was a Jeff Buckley fan, I was
4 excited, and I said oh, you gotta hear this. So again, it
5 was -- on my part, it was just me being innocently excited
6 that, you know, where I have a fellow Jeff Buckley fan.

7 And if that was somehow interpreted to be sexual, it
8 was a gross misunderstanding, absolutely.

9 Not -- in no way was I -- I mean, I am going to have
10 conversation -- but I am going to have conversations with my
11 clients because I like them to feel comfortable. I want
12 them to be able to relax.

13 It's a very major part of the therapy. Because I'm --
14 one of the -- this is not a TENS unit. It's nothing like a
15 TENS unit. You will not find this in any chiropractor
16 clinic.

17 Well, you will now. They're starting to. More
18 chiropractors and physical therapists are adopting the use
19 of this machine. But I'm -- as of now, I'm the only
20 licensee in the state. It's relatively new.

21 But you know, in terms of when I have a client on the
22 table and I'm working with them, I want them to feel
23 comfortable. So I try to be very open and conversational
24 and you know, just friendly so that they can relax.

1 Because -- and I talk to them about the importance of
2 belly breathing and diaphragmatic breathing. That's one of
3 the reasons that when I do the psoas test, if they fail that
4 test, I have to work those spots in the rib cage and at the
5 sternum, because it is a -- those reflex points activate
6 diaphragmatic breathing and correct breathing.

7 And so I spend a lot of time emphasizing correct
8 breathing. And there are times -- I don't think I did it
9 with her -- but there are times that I will -- you know, I'm
10 very hands-on with my work. I have to be.

11 But I will place my hands on someone's belly, and I'll
12 tell them to fill their belly like they're -- you know, like
13 they're -- you know, like they're trying to push their belly
14 out as far as they can.

15 So I'm trying to teach them how to correctly breathe
16 because most people don't breathe correctly. And that's --
17 and it -- their correct breathing is good because it helps
18 -- when I have the pads on particularly, it helps oxygenate
19 the blood so I can help -- it helps.

20 Since I'm creating a lot of additional local blood
21 flow, I want highly oxygenated blood going into those pads
22 -- I mean, going through that area, going into that area
23 where the pads are.

24 Because the pads are placed in areas where I have

1 detected neurological deficiencies, where I've detected
2 weaknesses.

3 And so if you want me to take you through the flow --
4 the basic flow -- I can explain it to you. The process she
5 explained is called 'mapping' or a scan. We call it -- I've
6 also called it -- it's also been called 'search and destroy'
7 in my other -- in another modality that I use.

8 But in -- I put a ground on her, I put a ground pad on
9 here, and then I use the other pad to search for areas that
10 are not receiving good nerve signals, good blood flow.

11 So if I am rolling over healthy tissue, it just simply
12 tingles. It can be kind of intense, but it doesn't hurt.
13 But when I go over an area that I see a person immediately
14 react and try to pull away from it, I realize that I have --
15 I'm -- what I'm doing is I'm magnifying the compensation
16 pattern, so that I can identify where they're having the
17 problem.

18 And you know, if you look at physical therapy
19 practices, most of what they do is they work directly on the
20 area that you are injured.

21 So she had a knee problem and a shoulder problem and a
22 neck problem. If you look at my practices, you will find
23 that I -- I've rarely found a neck and shoulder problem that
24 actually where the pads end up on their shoulder.

1 They usually end up on their forearm, on the wrist,
2 you know, somewhere in the scapula. And so we don't base
3 where we treat on anything sort of subjective like okay,
4 based on my experience, you're weak here, here, here.

5 I use the machine to identify where those neurological
6 disconnects are. And so as I am scanning, I find the areas
7 that are the most -- that have the most reaction, and then
8 I'll -- and then I'll stop there, and then I'll have them --
9 and I'll ask them -- get feedback from them.

10 Would you say that -- on a scale of 1 to 10, how
11 uncomfortable is that. And then once I've identified the
12 worst spots, then I basically pad the person up, and strap
13 any pads down that I need to.

14 And then I have them perform mobilization exercises.
15 Now, during this mobilization, they -- the pad -- the
16 machine is -- where it's different from a typical TENS unit
17 is that it uses a direct current, as opposed to alternating
18 currents.

19 And these guys have figured out how to use the direct
20 currents to penetrate the epithelial tissue where it won't
21 singe the skin.

22 So they use a -- I'm not going to get into their
23 proprietary means, but they basically have found -- it --
24 our nervous system is direct current.

1 And so I'm able to utilize, send a signal that the
2 brain is familiar with and comfortable with. And then I can
3 -- and then what I do is once I find those deficient areas,
4 I start to -- it elicits a -- what the brain interprets as a
5 load.

6 So if the brain said I'm being loaded here, and
7 they're wanting to pull away, then I can -- I can have them
8 do some of the deep breathing exercises, and relax, and try
9 to stay parasympathetic, go through the motion as cleanly
10 and carefully as possible, as I gradually increase the load.
11 And so they adapt --

12 MS. PICKERING: I'm going to object right
13 here. I wanted to allow Mr. Francoeur to testify, but this
14 is not an issue.

15 MS. JOHNSON: And I was going to ask --

16 MR. FRANCOEUR: Well, I mean, it's --

17 MS. JOHNSON: No, no, no.

18 MR. FRANCOEUR: It's just part of the flow.

19 MS. JOHNSON: I was going to ask you as
20 someone who is not familiar with it, what does this have to
21 do with the incident in question at all.

22 MR. FRANCOEUR: Well, it -- it -- it has
23 everything to do with it. Because she was uncomfortable
24 because of where I had to place my hand or --

1 MS. JOHNSON: Well, let me ask you that,
2 about that. Did you -- and she's already stated that she
3 was kind of taken aback. Because she had on her sports bra.

4 MR. FRANCOEUR: Uh-huh.

5 MS. JOHNSON: And you went inside the
6 sports bra, all the way down to her sternum.

7 MR. FRANCOEUR: I --

8 MS. JOHNSON: Did you say anything to her
9 before you put your hand inside her sports bra? Did you --

10 MR. FRANCOEUR: I -- well --

11 MS. JOHNSON: -- warn her?

12 MR. FRANCOEUR: First, I don't actually think
13 my hand went inside her sports bra. But I -- but generally
14 I explain to people I'm going to have to work these --

15 MS. JOHNSON: Generally. But on that
16 particular occasion. did you --

17 MR. FRANCOEUR: I think I did. I don't --

18 MS. JOHNSON: You think you did?

19 MR. FRANCOEUR: Well, I mean, I don't
20 remember every single thing that I do. I treat hundreds of
21 people. And my --

22 MS. JOHNSON: But on that particular day --

23 MR. FRANCOEUR: Part of my general flow is
24 that I'm explaining these things as I go. I am -- the only

1 reason I'm saying 'generally' is because I'm willing to give
2 her the benefit of the doubt, that maybe I didn't.

3 I generally do. So I --

4 MS. JOHNSON: And you've said that, many
5 times.

6 MR. FRANCOEUR: Yes.

7 MS. JOHNSON: That generally this is your
8 spiel. And if so, it's a habit.

9 MR. FRANCOEUR: Yes, it's habit, yes.

10 MS. JOHNSON: So if it's a habit, you --

11 MR. FRANCOEUR: I'm pretty confident that I
12 did say it.

13 MS. JOHNSON: -- you can't recall on that
14 particular occasion?

15 MR. FRANCOEUR: I would just say that based
16 on my habit of the way I explain things, that I probably
17 did.

18 MS. JOHNSON: And how would you have said
19 it?

20 MR. FRANCOEUR: I would have said okay, you
21 failed this test, I'm going to have to work some points
22 along your sternum and your rib cage, and I'm going to use -
23 - I'm going to stimulate these reflex points, and then we're
24 going to re-test and see if it worked.

1 MS. JOHNSON: Well, would you have said,
2 explicitly, that you are going to have to place your hand
3 inside her sports bra to --

4 MR. FRANCOEUR: I would say I'm going to have
5 to work from your sternum up to your clavicle -- yes, and
6 then also up and under and over the ribs.

7 And also with the neck test, I told her that I would
8 have to work the attachments of the scalenes, which is --
9 you know, you can feel that -- the little lump right there
10 [indicating] about the third and second rib, where those
11 attachments are.

12 MS. JOHNSON: And you heard her testimony
13 where she's had massages of this type before?

14 MR. FRANCOEUR: Well, there is no massage.
15 This was -- I palpated for the point. Once I got -- you can
16 feel the tissue under there.

17 MS. JOHNSON: Okay.

18 MR. FRANCOEUR: Where that attachment point
19 is. And once it's there, I stimulate it like that.

20 MS. JOHNSON: But you heard her testimony
21 where she's never ever had someone put their -- place their
22 hand inside her bra to do any type of --

23 MR. FRANCOEUR: I can't speak to other
24 people's work. But I mean, generally speaking, you know, I

1 mean, I work on males and females, and I -- you know, I
2 always explain to people where I'm going to have to work.

3 But at no point did it touch her breast, none
4 whatsoever.

5 MS. JOHNSON: And I don't think she's --
6 she stated you didn't touch her nipple.

7 MR. FRANCOEUR: Well, and I -- well, I didn't
8 mean -- I would say that I didn't even work as low as she's
9 claiming I did, because I know exactly which point I was
10 going for.

11 MS. JOHNSON: And with respect to the
12 inside of the sports bra, can you -- can you state
13 unequivocally whether you placed your hand inside the sports
14 bra --

15 MR. FRANCOEUR: I -- I -- I don't --

16 MS. JOHNSON: -- to her sternum?

17 MR. FRANCOEUR: I definitely know that I
18 worked from the sternum to the clavicle.

19 MS. JOHNSON: But was it inside the sports
20 bra?

21 MR. FRANCOEUR: I don't remember even what
22 her sports bra looked like. Generally I don't. Generally
23 I'm working like -- but I -- you know, unless the sports bra
24 is cut lower. I will work from here to here [indicating],

1 over the sports bra.

2 But I am going to work up the -- but so I don't -- I
3 don't --

4 MS. JOHNSON: So you don't --

5 MR. FRANCOEUR: I don't remember putting my
6 hand down her shirt, but I mean, if it's low enough just
7 right there, I mean, I might. I don't -- but it's not --
8 again, I'm just trying to get contact with the -- with the
9 reflex points.

10 MS. JOHNSON: That's fair enough if you
11 don't recall. But Ms. Pickering, did you have anything?

12 MS. PICKERING: I do.

13 EXAMINATION OF MR. FRANCOEUR

14 BY MS. PICKERING:

15 Q. In your text messages, you said you didn't recall
16 playing the song.

17 A. Well, at the time, I didn't. I didn't recall until I
18 heard about it later. I didn't recall some -- well, that it
19 was sexually explicit. And then once I -- somebody else
20 told me that she knows that -- because she's apparently been
21 talking to everybody about this experience.

22 They said it was Jeff Buckley, and then I was like oh
23 -- "Everybody Here" -- okay. So yeah, I didn't recall at
24 the time what the song was.

1 I didn't recall until another mutual friend told me
2 about it, and said that I -- and then I said, okay, I
3 remember exactly which song it was.

4 I just couldn't remember. I know that I -- I'm always
5 listening to music. I'm a musician. And I've got dozens of
6 play lists. And I'm always playing music.

7 And you know, it's -- and I get -- I geek out when I'm
8 talking to musicians and artists. And actually, I was -- I
9 thought she was cool because she was an artist and she was
10 talking about her art, showing me pictures of her art.

11 And I felt like okay, I'm talking to a fellow artist
12 and musician. I had no idea that I was triggering anything
13 in her. I was -- I really was just, you know, innocently
14 excited to be working on someone who I felt like was, you
15 know, a very similar person.

16 You know, somebody who appreciated -- you know, what
17 would otherwise be very obscure music, and somebody who
18 worked as an artist for a living.

19 Q. And then the refund that you said -- did you say that
20 the attorney general's office told you that she wanted a
21 refund?

22 A. Yes, they did.

23 Q. Was that in writing?

24 A. No. She had a conversation with me. I was driving.

1 I was driving on my way to Kansas City when she told me
2 that. But you're more than welcome to --

3 Q. And that was this Margie Sexton?

4 A. Margie Sexton, and you are more than welcome to call
5 her, and I'm sure she will attest to that. I mean, that was
6 just -- I mean, it's -- I don't know if it's relevant or
7 not, but she did tell me that she would -- that she had
8 requested a refund and she said that would satisfy her.

9 Q. And then when you did down the sternum and on her
10 breast, do you -- is probably when you went down the side of
11 the sports bra to do the third -- the rib area?

12 A. I don't -- I don't -- you know, I don't remember her
13 -- what her configuration was. But I mean, you know, if
14 it's kind of like in here [indicating], I mean, the point is
15 right here [indicating].

16 So I mean, you know, if they're wearing a sports bra,
17 I generally go for skin contact. Because I can feel better.

18 But if I -- if somebody's wearing a -- you know, a --
19 you know, like a -- something that's cut a little higher, I
20 might have to feel over it and just try to do my best to
21 find the tissue.

22 I don't remember what her sports bra looked like. So
23 I can't really tell you specifically. But I mean, there's
24 no -- there's no like sinking my hand down there, copping a

1 feel. I can tell you that.

2 I mean, it was absolutely professional contact, from
3 front to back. And there was nothing in there. If I
4 hadn't, I would have had the curtain closed. I would have
5 been -- I wouldn't have -- you know, I wouldn't have
6 followed up with her to say hey, how's your shoulder and
7 knee, you know.

8 I mean, I was -- I was -- as far as I was concerned,
9 that session was successful. I mean, she had a good
10 outcome, and that was -- that's all I care about, is getting
11 good outcomes with my clients.

12 And obviously, you know -- I mean, I do care if I'm --
13 if I'm -- I mean, if there's something in the way that I
14 work with somebody that triggers something. And so I -- I'm
15 willing to acknowledge that sometimes people who I work with
16 in physical therapy -- and those of you who are therapists
17 might can attest to this -- sometimes you can work on
18 something on someone, and you know, you can trigger
19 something without even realizing it.

20 Because you know, a lot of times people have trauma
21 attached especially in the kind of work that I do. There is
22 trauma attached to specific injuries, or specific a specific
23 guarding patterns.

24 So I -- my best, you know, estimation, you know, is

1 that's probably what happened with her, because -- because
2 from my perspective, I was 100 percent professional from
3 front to back.

4 You know, that -- and I'm also saying yes, I am chatty
5 when I'm working with somebody, especially somebody who has
6 a mutual -- has a close mutual friend.

7 But I'm not -- I'm not ever unprofessional. And
8 Craig's a dear friend of mine. And I would be mortified if
9 -- to think that someone would send someone to me and that I
10 would just, you know, molest them.

11 It would be absolutely -- I mean, my reputation is
12 everything in this city. I've been doing this -- I've been
13 in this field for 30 years. So I have worked with people,
14 probably thousands of people. And I've -- you know, I mean,
15 she says that some people think I'm sleazy. I can't say
16 whether they do or not. That's hearsay as far as I'm
17 concerned.

18 But -- but I have never had a complaint. And I've had
19 people -- I've worked on people from, you know, going back
20 to 1987 is when I started in this field.

21 So -- so you know, and I -- I've just always been
22 professional. I've always taken very good care of my
23 clients. Them being successful has always been my priority.
24 And that's how I measure the success of my business, is, you

1 know, the success of my clients' outcome, their outcomes in
2 therapy.

3 MS. PICKERING: I have no further questions.

4 MS. JOHNSON: Does the board have any
5 questions for Mr. Francoeur?

6 MR. BROCHU: I have a question for you.

7 MS. JOHNSON: Yes.

8 MR. BROCHU: I noticed that -- is your last
9 name 'Carter' -- has testimony, but this fellow has a spiel.
10 I felt that was sort of judgmental in terms of not your
11 testimony, but your spiel, that someone was using that -- as
12 if it was a sales pitch, whatever remark you made to --

13 MS. JOHNSON: I'm sorry?

14 MR. BROCHU: You made the remark 'that was
15 in your spiel,' rather than 'your testimony' --

16 MS. JOHNSON: Did I say 'spiel'?

17 MR. BROCHU: Yes, you did.

18 MS. JOHNSON: Did I?

19 MR. BROCHU: Yes.

20 MS. JOHNSON: I'm so sorry. That was --

21 MR. BROCHU: Yeah, which is inappropriate
22 and condescending.

23 MS. JOHNSON: Okay. Well, I didn't say it
24 to be that way. No, I meant that was in his customary way

1 of doing --

2 MR. BROCHU: Yes, that was --

3 MS. JOHNSON: -- whatever it was that he
4 was doing.

5 MR. BROCHU: I understand.

6 MS. JOHNSON: So I stand corrected, but I
7 was not trying to be condescending.

8 MR. FRANCOEUR: Well, and actually that
9 illustrates a very good point, though. Sometimes you can
10 say things that you don't -- it's just completely innocent
11 on your part, but other people hear it differently. So you
12 know, I think that actually outlines this issue perfectly.

13 But you know, but I appreciate the correction. And I
14 don't feel condescended to. But --

15 MS. JOHNSON: Any other questions by the
16 board?

17 MS. KRAJEWSKI: Yes. Mr. Francoeur, do you
18 have any other Arkansas-issued professional licenses, other
19 than a massage therapy license?

20 MR. FRANCOEUR: I'm a certified strength
21 coach.

22 MS. KRAJEWSKI: Anything higher than a
23 massage license -- like nurse or doctor, physical therapist?

24 MR. FRANCOEUR: No, no, and I actually do not

1 do any kind of chiropractic adjustments. I sort of -- I
2 mean, I mentioned to her that, you know -- and I mean, I
3 don't mean to make fun of my own industry. But I sort of
4 talk about chiropractors of being glorified massage
5 therapists.

6 But I don't -- you know, not to say there's anything
7 wrong with what we do as massage therapists. But I don't --
8 they -- my experience with chiropractors has been sort of
9 disappointing.

10 And so I just -- I might have remarked about that.
11 But I don't -- I don't ever practice any kind of
12 chiropractic adjustments.

13 MS. KRAJEWSKI: Did you say that you could
14 possibly do a chiropractic adjustment on her, sir?

15 MR. FRANCOEUR: No.

16 MS. KRAJEWSKI: Have you had any training in
17 lymphatic massage, myofascial massage, or oncology massage?

18 MR. FRANCOEUR: Not --

19 MS. KRAJEWSKI: Any documented training?

20 MR. FRANCOEUR: Not lymphatic. Myofascial,
21 yes. I'm --

22 MS. KRAJEWSKI: Is it documented?

23 MR. FRANCOEUR: You know, I don't think it
24 got to be documented because it was -- I took the -- it was

1 a CEU course that I took before my license was issued,
2 because I was still in school when I took it.

3 But I took a course on British sports therapy from Ron
4 Wallace, who is a CEU provider. And it's a -- myofascial,
5 active release, you know, kind of a --

6 MS. KRAJEWSKI: How can you take a class like
7 that without being a massage therapist?

8 MR. FRANCOEUR: He taught -- I mean, they
9 allowed students to take the class. They just --

10 MS. KRAJEWSKI: Is that at the massage
11 school?

12 MR. FRANCOEUR: -- told us our credit -- huh?

13 MS. KRAJEWSKI: You took it at the massage
14 school?

15 MR. FRANCOEUR: Yes, I took it -- he came to
16 the massage school. And actually, I have -- as part of my
17 strength training, and in fact, part of my -- one of my
18 certifications -- and I don't think it's in there -- back
19 golf [phonetic spelling]. It does include various -- I
20 wouldn't call them adjustments because we're not moving
21 bone.

22 But we do like -- what we call 'multifidus
23 adjustments' [phonetic spelling], where we have somebody --
24 we do proprioceptive neuromuscular facilitation-type

1 movements.

2 And so I am certified in that, which is specific to
3 golfers, but I use -- I can use that on really anybody who
4 needs it. They're multifidus to be able to activate the --
5 or, you know, there are various techniques that I use that
6 do fall within my scope, though.

7 I have -- I mean --

8 MS. KRAJEWSKI: In the three things that I
9 just asked you, have you had any documented training since
10 you became licensed as a massage therapist?

11 MR. FRANCOEUR: On what -- myofascial?

12 MS. KRAJEWSKI: Lymphatic massage,
13 myofascial, or --

14 MR. FRANCOEUR: No, I have not had --

15 MS. KRAJEWSKI: -- or oncology massage?

16 MR. FRANCOEUR: Not since I became a massage
17 therapist.

18 MS. KRAJEWSKI: Have you had -- did you have
19 any written consent from this particular female client
20 before she got --

21 MR. FRANCOEUR: I did not have her --

22 MS. KRAJEWSKI: -- on your table?

23 MR. FRANCOEUR: -- fill out a waiver.

24 MS. KRAJEWSKI: Did she --

1 MS. JOHNSON: I think that Ms. Branton is
2 holding her finger up because you're talking over each
3 other.

4 MR. FRANCOEUR: I'm sorry.

5 MS. JOHNSON: Well, first of all, Mr.
6 Francoeur, let her ask her question.

7 MR. FRANCOEUR: Okay.

8 MS. JOHNSON: Let her complete the
9 question.

10 MR. FRANCOEUR: I understand.

11 MS. JOHNSON: Then you take a breath, and
12 then answer it.

13 MR. FRANCOEUR: Okay.

14 MS. JOHNSON: And that way, we won't have
15 any bleed-over.

16 MR. FRANCOEUR: Gotcha.

17 MS. KRAJEWSKI: Did she fill out any intake
18 paper work before she got on your table?

19 MR. FRANCOEUR: She didn't. I was taking
20 notes when I interviewed her initially, the day before she
21 came over for the treatment.

22 MS. KRAJEWSKI: So she didn't fill out any
23 kind of a medical history, or --

24 MR. FRANCOEUR: Well, she --

1 MS. KRAJEWSKI: -- permission to treat?

2 MR. FRANCOEUR: No, I -- I mean, I asked her
3 all the medical history questions, like do you have cancer,
4 because I can't treat people with cancer; do you have -- you
5 know, are you -- do you possibly think you're pregnant.

6 The contraindications for treatment are cancer,
7 pregnant, and -- or if they are on any kind of treatment for
8 blood thinning, or any of that kind of -- you know, if they
9 have like clots.

10 We don't work with people that have blood clot issues,
11 if they're under active treatment for it. But -- so yeah, I
12 -- I mean, I did not have her sign anything.

13 But I did take her through an interview process where
14 I asked her those questions prior to putting her through
15 treatment.

16 MS. KRAJEWSKI: Did she come in with any kind
17 of a qualified medical professional referral?

18 MR. FRANCOEUR: No, she was referred by a
19 friend of mine.

20 MS. KRAJEWSKI: Okay.

21 MS. TOLLIVER: You mentioned electric hands.
22 And can you describe what that is?

23 MR. FRANCOEUR: Oh, yes. When I'm working
24 with -- especially like on the scalenes, or something like

1 that -- I will sometimes use my hands as leads.

2 So what I do is I put a ground on the person's thigh,
3 or lower back -- generally the thigh, though. And then I
4 put the black pad on my hand, and then I'll work the muscle.

5 I'll massage the muscle, and I'm -- the current flows
6 through my hand, and it helps lengthen the muscle, and bring
7 in both blood flow to the muscle that I'm directly working
8 on. So -- and I did some electric hands work.

9 MS. TOLLIVER: Did you do the electric hands
10 on the --

11 MR. FRANCOEUR: No, no, I did that mostly
12 around the -- oh, I'm sorry --

13 MS. TOLLIVER: Did you do the electric hands
14 in or around the breast tissue --

15 MR. FRANCOEUR: I -- you know, I might have.
16 But mostly it was -- I think most of it was around the
17 shoulders and neck.

18 MS. TOLLIVER: Would you have used electric
19 hands down the sternum?

20 MR. FRANCOEUR: No, I did not use that down
21 the sternum.

22 MS. TOLLIVER: You would have to touch skin
23 for that to work?

24 MR. FRANCOEUR: Yes. I did work -- I worked

1 some of those same spots with the pads on my hands, but I
2 don't think I got down all the way to the sternum when I put
3 the pads on the back of my hands.

4 MS. TOLLIVER: You mentioned that your
5 girlfriend came through the room. Did she actually walk
6 through the room?

7 MR. FRANCOEUR: Not through the clinic, no.
8 I have a -- she came through my other entrance. You know,
9 I mean, I had my door open to the clinic, to the outside.
10 And then my girlfriend just --

11 MS. TOLLIVER: The door opened to the
12 outside, like --

13 MR. FRANCOEUR: I had a screen door. And so
14 the main door was open, and then my curtains were open to
15 the -- to the -- to my -- like I had a little den in there,
16 where sometimes clients would wait if I'm working with
17 someone.

18 They'll sit in there and they can watch a little news
19 or something like that, while they wait. So she just came
20 in, saw that I was working with someone, said 'hey' and just
21 grabbed something out of the kitchen, and then said 'I'm out
22 of here,' and that was it.

23 MS. TOLLIVER: Was she seen or just heard?

24 MR. FRANCOEUR: She was -- I saw her. I saw

1 her walk past the -- walk through the entrance. But --

2 MS. TOLLIVER: Jeff Buckley song -- I'm
3 sorry, I'm not familiar with his work. Do his songs in
4 general have a varying sexual nature, or is this a unique
5 song to his --

6 MR. FRANCOEUR: I mean, no. This is -- it
7 was pretty much right in line with his -- just his general
8 style. It's a beautiful song. It's a -- I mean, it's --

9 MS. TOLLIVER: But lyric-wise, could you
10 name two or three other songs that have similar lyrics?

11 MR. FRANCOEUR: Mojopin [phonetic spelling],
12 and Hallelujah.

13 MS. TOLLIVER: I'll take your word for that.
14 Now, how long have you been licensed as a massage therapist?
15 You said 30 years, but --

16 MR. FRANCOEUR: Yeah, 30 years was strength
17 training. And -- but yeah, I guess it's been about four or
18 five years, maybe. I don't know.

19 MS. PICKERING: Licensed in 2014.

20 MS. TOLLIVER: So since you've been
21 licensed, have you had any massage complaints?

22 MR. FRANCOEUR: Nope.

23 MS. TOLLIVER: And in the 30 years of your
24 strength training -- is that personal training?

1 MR. FRANCOEUR: Uh-huh, and actually, I was
2 certified prior to -- I've been certified to do the
3 electrical therapies for eight years. Because massage
4 therapy was not required as a part of that.

5 I just started doing more manual therapies, so I
6 wanted to add that massage therapy to my -- my list of
7 qualifications.

8 But I'm not actually required to be a licensed massage
9 therapist to use this machine. But I was certified -- I've
10 been certified to do this neurological electrical stim work
11 for over eight years.

12 Prior to the Neubie, which you guys see all that
13 information on, I worked with a machine called an Arc Wave
14 system, and I just preferred this one. It's just superior.

15 MS. KRAJEWSKI: And in your opinion, I know
16 that it's not in our rules and regulations. It's not
17 specifically defined. But in your definition, could you
18 define where the breast tissue is?

19 MR. FRANCOEUR: I would say if I'm
20 working at -- I mean, I -- if I'm going down into this area
21 here [indicating], I'm working on breasts. You know, I
22 mean, when I'm staying -- when I'm trying -- if I can't feel
23 intercostal muscle tissue through it, then I feel like I'm
24 probably -- that's probably too low.

1 I have to be able to feel the ribs and the intercostal
2 muscles in between them. So I was -- I generally stay
3 pretty high, male or female, when I'm working on the chest
4 area.

5 And you know, but I will work these areas. So I mean
6 -- I work that up. And I also work on people's glutes and
7 hips and you know, I mean, it's all a part of -- you know,
8 you can see by my -- by the documents here, where the areas
9 are highlighted blue -- those are just the reflex points.

10 But I'm also a licensed massage therapist, and I do a
11 lot of assisted stretching, and a lot of that kind of stuff.
12 And you know, a lot of pin and stretch, a lot of -- we might
13 do some British sports therapy type techniques, where I
14 release a piriformis.

15 You know, but so those were all -- that's all pretty
16 standard stuff that I do.

17 MS. JOHNSON: Any questions? Mr. Anderson?
18 Mr. Brochu?

19 MR. BROCHU: No questions, no.

20 MR. ANDERSON: In your -- at what point is
21 it during your consultation or at what point did you advise
22 her what clothing to wear to the therapy?

23 MR. FRANCOEUR: Before she came. I always
24 tell people to come -- just in case people forget, because

1 they do, I actually have a drawer full of short and
2 t-shirts, and tank tops, and sports bras at my house. You
3 know, just long-term clients donate stuff, they leave stuff
4 for people just in case they forget.

5 But I told her to be wearing those when she came,
6 because it would -- just -- you know, I don't work on naked
7 clients. They have to be able to get up and move around.

8 And I have to be able to get pads on their skin. So I
9 have to have access to larger areas of --

10 MR. ANDERSON: You answered my question.

11 MR. FRANCOEUR: Okay.

12 MR. ANDERSON: And that leads me into the
13 next one. In your massage therapy training, what did they
14 advise -- what was advised to you or what did you learn in
15 the sense of if a client comes in and they refuse to take
16 off -- I mean, not refuse.

17 They just don't wish to take off their bra or their
18 pants, what becomes of those areas?

19 MR. FRANCOEUR: Oh, I mean, if anybody is
20 ever uncomfortable, or says that they're not comfortable
21 with something --

22 MR. ANDERSON: Not saying. What's the
23 unspoken --

24 MR. FRANCOEUR: What do you mean?

1 MR. ANDERSON: If they've left their
2 clothing on, what is that? I mean, a female -- a female has
3 left the bra on, what does that state to you?

4 MR. FRANCOEUR: If they are wearing a bra --
5 like if I am doing like a traditional massage and I've got
6 them under a sheet, and they choose to wear their underwear,
7 I mean, I guess they just -- that's just them being --
8 that's what they're comfortable with, and that's -- you
9 know, I don't have any issue with that.

10 But I mean, I don't give massages in that context for
11 the most part. But yeah, if somebody did, I would just work
12 around it.

13 MR. ANDERSON: How do you deal with privacy
14 issues? If you've told a client to come in a sports bra,
15 are you sure that client is comfortable with the general
16 public seeing you in that sports bra?

17 MR. FRANCOEUR: Well, I do explain to people
18 that their -- you know, and some clients are more private
19 than others. If they are, out of respect to their level of
20 comfort -- now, there was nobody else at the house until my
21 girlfriend popped in and out.

22 But if -- like for example, if there's a client
23 waiting or my kids are at the house in the next room, I will
24 close the curtains.

1 And I also have a set of french doors that I can
2 close, leading into that room. But if anybody ever had any
3 -- you know, and I do have some clients that are
4 uncomfortable or would prefer a little bit more privacy.
5 And so out of respect to their needs, I will close them.

6 But I mean, in general, like if you go -- where I
7 trained to do this, where I got my certification, in Austin,
8 it's all -- you know, they have six stations that are all
9 out in the open in a room. And so I --

10 MR. ANDERSON: Oh, I understand. I
11 understand training.

12 MR. FRANCOEUR: Well, no, but I'm saying this
13 is where they -- that's their actual clinic. So that's
14 their clinical space. That's where they do their therapy.

15 So you know, they don't do like behind closed doors,
16 lights down low, fake waterfall in the corner, tinkly music.
17 You know, there's none of that in what we do. It's all very
18 -- I mean, it's -- you know, lights are up, and we want to -
19 - we're out in the open, we're moving. You got to be able
20 to move.

21 MR. ANDERSON: Thank you.

22 MS. JOHNSON: Any other questions?

23 MR. FRANCOEUR: And I would like to finish,
24 again, by apologizing to Ms. Carter for making her

1 uncomfortable. I -- it was not, I can assure you,
2 intentional. But Jessica, I'm sorry that you felt that way,
3 and I would -- you know, if I would have known, I would have
4 changed the way that I was working with you to make you feel
5 more comfortable.

6 But that was -- you know, it was unintentional, but I
7 am sorry that you got a negative experience from that.

8 MS. PICKERING: I have a question. Ms.
9 Carter testified that when you touched her sternum that she
10 tensed up.

11 MR. FRANCOEUR: I don't recall any -- I mean,
12 when I'm grinding on someone's sternum, sometimes they tense
13 up. And when they do, I usually instruct them okay, I need
14 you to breathe and relax.

15 So people tense up a lot. When I get into someone's
16 piriformis, a lot of times they'll tense up and they'll
17 stiffen up their leg, and then I have to wait. Okay, just
18 take a second, breathe and relax, and let me re-seat my
19 elbows.

20 And then I'll let them kind of get into a relaxed
21 state, and then I'll take them through the movements. So let
22 -- I mean I -- it is possible that if she did tense up, that
23 I misread that to be because it's kind of -- it's not
24 pleasant.

1 It doesn't feel good. I'm working in some reflex
2 points. They're not super comfortable. So when she reacted
3 by tensing up, I may have thought that she was just tensing
4 because it was uncomfortable, and not realizing that she
5 tensed up because I violated her personal space.

6 MS. PICKERING: So do you recall what that --
7 and I know you testified that you don't remember whether you
8 explained what you were doing. But --

9 MR. FRANCOEUR: It is --

10 MS. PICKERING: Could I finish my question?

11 MR. FRANCOEUR: Sorry, sorry.

12 MS. PICKERING: Does that jog your memory in
13 that that might have -- did you explain then when you went
14 over to -- close to her rest area, or on the rest area- -
15 did you explain that --

16 MR. FRANCOEUR: I --

17 MS. PICKERING: -- after her tensing up?

18 MR. FRANCOEUR: Yes, I always explain why I'm
19 working on the areas that I'm working on -- always.

20 MS. PICKERING: But you testified earlier
21 that you don't recall.

22 MR. FRANCOEUR: Well, I only said that to
23 give her the benefit of the doubt, that that might have been
24 the one time in a thousand that I maybe didn't mention it.

1 But I'm -- generally that's part of my spiel. That's
2 part of my explanation -- is this is what I need to do, and
3 I need you to -- you know, this is where I'm going to be
4 working.

5 Now, as a result, if you guys will pull out the new --
6 the -- I created a new waiver that explains that I will be
7 working in these areas that are uncomfortable, and if at any
8 -- and they initial that.

9 And they have to initial that to say that they
10 acknowledge that I'm going to work on those areas, and if at
11 any point they're uncomfortable with that, they can stop the
12 therapy or the session at any time, by letting the
13 practitioner know. I'm trying to streamline all my
14 processes, because I would like to -- I'm trying to build a
15 business plan to open up a bigger clinic that has multiple
16 therapists.

17 So -- so you know, that -- that was something that I
18 had been working on anyway. But I modified the language of
19 that after this experience, because clearly, she did not
20 feel comfortable at some point telling me that she wasn't
21 comfortable.

22 And I would have liked for her to have told me,
23 because I would have absolutely altered the method, or
24 whatever I was doing, or I would have been a little bit --

1 or I would have taken -- at least stopped and talked to her,
2 had a conversation, saying tell me what's going on so we can
3 figure this out.

4 Because I don't want her -- I don't want anybody to be
5 uncomfortable. They have to be comfortable so they can
6 relax and get a better benefit from the therapy.

7 So yeah, if I had known, I would have had a -- we
8 would have had a conversation about it. And I would have
9 explained a little more clearly. But -- but I mean, I
10 always explain what I'm doing while I'm doing it.

11 MS. PICKERING: How long do you stay on that
12 area?

13 MR. FRANCOEUR: I mean, not very long. I
14 mean, you know, it depends on -- it depends on the -- you
15 know, if I'm actually working on -- it depends on if I'm
16 doing a reflex point, or if I'm actually working on an
17 adhesion.

18 If I'm working on an adhesion, like if I feel like
19 there's adhesions in the intercostal muscle, I might strip
20 the muscle a little bit. So it might -- I might spend a
21 minute on it. If I'm just working a reflex point, it's just
22 a matter of I'm just going to stimulate them for a few
23 seconds, and then retest.

24 And then if it doesn't work, I'll either retest. I'll

1 either do that again, or I will go to the secondary and then
2 the tertiary reflex points.

3 And if those don't work, then I have a set of nerve
4 glides that I take them through.

5 MS. PICKERING: I don't have any more
6 questions.

7 MS. JOHNSON: And let the record reflect
8 that you used the word 'spiel'.

9 MR. FRANCOEUR: I did. Well, I did that for
10 you.

11 MS. JOHNSON: I don't think you meant it in
12 any --

13 MR. FRANCOEUR: No, I was saying that for
14 your benefit.

15 MS. JOHNSON: I don't think you meant to
16 demean your own --

17 MR. FRANCOEUR: No, I was just saying that --

18 MS. JOHNSON: Nor did I.

19 MR. FRANCOEUR: I was just being funny.

20 MS. TOLLIVER: When you answered Ms.
21 Pickering about how long you stay in a space, you described
22 several different situations.

23 Based upon your SOAP notes, can you give us any
24 indication of how long you stayed in each of those spaces?

1 MR. FRANCOEUR: Well if I do electric hands,
2 I might spend a little bit more time on that. You know,
3 because if I'm -- especially if I'm sitting behind someone,
4 and I'm going to just like -- like I'm going to -- I want
5 those muscles to -- that adhesion to relax.

6 So I'm going to -- I'm sending a current through my
7 fingers, through the pad. And so I'm going to kind of work
8 on that spot, or whatever spot.

9 This is the one that's relevant to this case. But if
10 it's something in their VMO or if it's something in their
11 elbow, or whatever, I'm going to work on that area until I
12 kind of feel that area sort of break down a little bit.

13 MS. TOLLIVER: Well, just specific to this
14 one session, is it -- I know that you may work some others,
15 and things like that. But you said here specifically that
16 you worked reflex points in primary and secondary.

17 And you said you worked the neck, electric hands. In
18 this -- based on your SOAP notes, can you give an estimate
19 of time?

20 MR. FRANCOEUR: I mean, I think the total
21 session took like an hour and 15 minutes -- maybe an hour.
22 So I mean, that might have been -- it might have been 5, 10
23 minutes. I mean, I don't know.

24 I mean, when I'm doing electric hands, it's usually

1 [Back on the record.]

2 MR. FRANCOEUR: Sometimes the leads are sort
3 of big, and for some things, they work really well. But
4 there are times when I am working with TMJ problems, or
5 stuff like that, I will work up in the masseter muscles.
6 I'll work along the temporalis muscles, I work on the
7 scalenes.

8 And so it needs to be a low grade current. Because
9 it's, frankly, just about as much as I can tolerate anyway
10 because I'm feeling quite a bit through my hands.

11 But it's also my finger points, my fingertips can
12 become -- I can deliver the current to a small point. So
13 I'm -- I don't have to just distribute to this wide area.

14 I can deliver it specifically to a small point, you
15 know. And I can -- I can -- you know, I mean, that's how it
16 works.

17 But it's-- again, it's not -- the difference between
18 this and a TENS unit, or any other kind of electrical stim
19 device, is that those are strictly put on an area where you
20 feel pain. They treat the symptom with them.

21 And the only thing that they can do is force a muscle
22 to contract. So with this system, it starts to feel the
23 same, but to the brain, perception is reality. But as soon
24 as -- you know, I can sort of coach you through the process.

1 And you -- and you recognize that you actually can
2 move. So sometimes you'll get stuck, and then I'll coach
3 you through -- okay, I need you to turn on this muscle, I
4 need you to turn on that muscle, and just kind of
5 concentrate on lengthening your arm.

6 Then once they start to move, they realize that okay,
7 I can move. So then they can start to do the movement
8 protocol. And as they go through it, through higher and
9 higher loads, they can -- then their brains adapt to turning
10 -- to neurologically turning on the correct muscle firing
11 pattern.

12 MS. JOHNSON: All right, thank you. Did
13 that answer your question? Any other questions? And let's
14 try, Mr. Francoeur, to just kind of concentrate on the
15 question and answer it, so we don't get into long
16 explanations.

17 MR. FRANCOEUR: Sorry, I am long-winded. But
18 I also just want you guys to understand what I'm doing,
19 because it is different than what -- you know, what you
20 would probably typically see.

21 I mean, it's -- I don't know that you will ever --
22 have had a massage therapist at this point who -- you know,
23 who uses this.

24 MR. LOVELACE: We're all more clinically --

1 more therapy based therapists.

2 MR. FRANCOEUR: Okay.

3 MS. PICKERING: If I could just make a
4 statement, or offer something. Ms. Carter does have the
5 song pulled up if you guys would like to hear just the first
6 part of it.

7 MR. FRANCOEUR: And if she didn't have it, I
8 could do it too.

9 [song is played]

10 MS. PICKERING: And let me ask Ms. Carter too
11 -- the other songs that Mr. Francoeur, are they similar?

12 MS. JOHNSON: What are those themes in
13 those songs? I think 'Hallelujah' and what was the other
14 song?

15 MS. CARTER: And --

16 MS. JOHNSON: That's what I -- the only
17 'Hallelujah' that I was familiar with is not sexual or --

18 MS. CARTER: No, that is unique to his
19 songs. That's --

20 MS. PICKERING: Would you like to play a
21 snippet of both of those --just a snippet?

22 MS. CARTER: And the other one was -- what
23 was the other one you mentioned? Mojopin. Yeah, Yeah.

24 [song played]

1 MR. FRANCOEUR: I've actually created ring
2 tones for all of these. So if you would like to -- you were
3 saying that there's nothing sexual in 'Hallelujah' -- I --

4 MS. JOHNSON: Well but the overall that one
5 gets listening to the song, in my view, is not -- I mean,
6 it's a --

7 MR. FRANCOEUR: Remember when I moved in you,
8 the holy dove was moving to, and every breath we drew was
9 Hallelujah.

10 MS. PICKERING: Mr. Anderson had a question.

11 MS. JOHNSON: Okay, go ahead.

12 MR. ANDERSON: During your comments, you
13 said that you were a cosmetologist?

14 MS. CARTER: Yes.

15 MR. ANDERSON: So I want to bring part of
16 that out. So in your learning -- how long have you been a
17 cosmetologist?

18 MS. CARTER: Fifteen years.

19 MR. ANDERSON: So as that, you learned some
20 A and P [phonetic spelling] portions in that. So you're
21 familiar with what is breast tissue and what is not? Would
22 that be a true statement?

23 MS. CARTER: Yes.

24 MR. ANDERSON: In a professional manner?

1 MS. CARTER: Yes.

2 MR. ANDERSON: How is -- and the other part
3 is how comfortable did you feel when he told you to -- you
4 know, what clothing to wear?

5 MS. CARTER: Not comfortable, but in the
6 sense of I trusted the friend who had sent me to him, and if
7 he's telling me he can prevent me from having to have
8 surgery in the future, or he could correct my shoulder blade
9 injury, so it was something that against my better judgment,
10 I did.

11 MR. ANDERSON: And --

12 MS. CARTER: In hopes that I could get a
13 benefit from the therapy he did.

14 MR. ANDERSON: Then what is your comfort
15 level in a setting that's more public in a sports bra?

16 MS. CARTER: I would have a tank top on
17 over it, or something.

18 MR. ANDERSON: You would generally have
19 some --

20 MS. CARTER: I have burn scars on my
21 torso, so I tend to cover them up. So my -- for my own
22 comfort, yes.

23 MR. ANDERSON: For your comfort. So what
24 was your comfort feeling when someone else entered the room

1 while you were there?

2 MS. CARTER: No one entered the room while
3 I was there.

4 MS. JOHNSON: Did you hear --

5 MR. FRANCOEUR: She didn't enter the room.

6 MS. CARTER: No.

7 MS. JOHNSON: Francoeur's --

8 MS. CARTER: No.

9 MS. JOHNSON: Did you hear anybody --

10 MS. CARTER: No.

11 MS. JOHNSON: -- say hi or just passing
12 through, or whatever?

13 MS. CARTER: No.

14 MS. PICKERING: How would you have felt if
15 someone had done that?

16 MS. CARTER: I'm not sure. He didn't
17 mention he had a girlfriend until I told him I was seeing
18 someone, after he asked me if I was dating.

19 MS. JOHNSON: When did he ask you if you
20 were dating? When did he ask you that?

21 MS. CARTER: He said are you seeing Craig,
22 that sent me to him, are you seeing Craig, or are you seeing
23 anyone. And I said yes.

24 MS. JOHNSON: Before or after the massage?

1 MS. CARTER: After.

2 MS. JOHNSON: Mr. Anderson, going back to
3 you, do you have any further questions?

4 MR. ANDERSON: No questions.

5 MS. JOHNSON: Anybody else? Has the board
6 heard sufficient testimony at this point? Are you ready to
7 close the record, and deliberate?

8 MR. ANDERSON: Yes.

9 MS. JOHNSON: All right, the board has
10 heard from Ms. Carter. And the board has had an opportunity
11 to question her. And the board has heard from Mr. Francoeur
12 and had an opportunity to question him, as well as had an
13 opportunity to consider all of the documents that have been
14 entered into the record.

15 We will conclude the testimony phase at this time, and
16 I will go off the record and allow the board to deliberate.
17 The deliberations are done in this same room.

18 So you are welcome to stay, and to be present during
19 the deliberations. There will be no more testimony, or no
20 more comments from the witnesses directed to the board.

21 Please just -- you can still be here, but just you can
22 sit through the deliberations. At the conclusion, once
23 they decide on the allegations before them, they will go
24 back on the record, and announce their decision, along with

1 any action that they take -- that they plan to take with
2 regard to the allegations.

3 So we are off the record.

4 [Whereupon parties went off the record at 10:50 a.m.]

5 [Back on the record at 11:35 a.m.]

6 MS. JOHNSON: We are back on the record in
7 the matter of Jean-Paul Francoeur. The Technical Advisory
8 Committee of the Massage Therapy Board has deliberated over
9 the allegations in this matter, and are now ready to
10 entertain a motion.

11 I will turn it over to Chairman Anderson to entertain
12 a motion.

13 MR. BROCHU: Don't you have to ask us if
14 we know him.

15 MS. JOHNSON: Thank you. Before we
16 entertain the motion, I would like to ask each and every
17 member that's present here. One member had to leave.
18 Christabelle Krajewski had to leave early. She did
19 communicate -- she did complete listening to the entire
20 testimony, and she did communicate her vote in this matter
21 to her colleagues before she left.

22 But at this time I would like to ask Mr. John Brochu
23 whether you know the respondent in this matter, Mr.
24 Francoeur?

1 MR. BROCHU: No, I do not.

2 MS. JOHNSON: All right, Mr. Anderson?

3 MR. ANDERSON: No, I do not.

4 MS. JOHNSON: Mr. Lovelace?

5 MR. LOVELACE: No, I do not.

6 MS. JOHNSON: And Ms. Tolliver?

7 MS. TOLLIVER: Yes, I do.

8 MS. JOHNSON: And in what capacity -- in
9 what manner do you know him?

10 MS. TOLLIVER: In a professional manner.

11 MS. JOHNSON: In a professional manner.

12 Does your professional acquaintanceship with Mr. Francoeur,
13 would that influence your ability to listen to this matter
14 in a fair and impartial manner?

15 MS. TOLLIVER: No.

16 MS. JOHNSON: And Mr. Francoeur, did you
17 have any objection to Ms. Tolliver sitting in, in this
18 matter?

19 MR. FRANCOEUR: No, I do not.

20 MS. JOHNSON: I just wanted -- I wanted to
21 be above board and get that on the record, and to have
22 everybody aware of it.

23 MR. ANDERSON: Do we also have to ask that
24 question of Ms. Pickering?

1 MS. JOHNSON: Well, you, being the
2 representative of this board -- ideally you would have found
3 this out prior to the hearing, and if you had any concerns,
4 you would have asked Ms. Tolliver to recuse.

5 But since it wasn't brought to my attention until
6 during the -- while we were off the record, while the board
7 was deliberating, the best thing I could think of to cure
8 the situation was to ask retroactively Ms. Tolliver on the
9 record about her knowledge and acquaintanceship with Mr.
10 Francoeur, and have her state that, and have her state
11 whether that would influence her decision, or impair her
12 ability to listen to this impartially, and then give Mr.
13 Francoeur that same opportunity to object.

14 I didn't think as a representative of this board, you
15 would be wanting to object.

16 MS. PICKERING: No, I don't.

17 MS. JOHNSON: All right, but thank you for
18 bringing it up. All right, now that we've done that, now
19 we're ready to entertain a motion with respect to the
20 allegations.

21 And I'll turn it over to Chairman Anderson.

22 MR. ANDERSON: So coming out of this, we've
23 made some decisions. We've had discussions. So I am able
24 to hear a motion on the findings.

1 MS. TOLLIVER: I would like to make a motion
2 in the matter of Jean-Paul Francoeur. Allegations of fact,
3 we have modified to read as -- In the complaint, Jessica
4 Carter alleges that she was in the home office of Jean-Paul
5 Francoeur for the treatment of a shoulder/back injury on
6 March 26, 2018. While there Mr. Francoeur engaged in
7 unprofessional conduct by failing to check in with her
8 comfort level and placing his hand under her sports bra onto
9 her sternum.

10 MR. ANDERSON: Do I hear a second?

11 MR. BROCHU: I'll second.

12 MR. ANDERSON: It's time for a vote. Chris?

13 MR. LOVELACE: Aye.

14 MR. ANDERSON: Jessica?

15 MS. TOLLIVER: Aye.

16 MR. ANDERSON: Christabelle. She stepped
17 out. John?

18 MR. BROCHU: Aye.

19 MR. ANDERSON: Okay, so the motion does
20 carry. So we find the allegations of fact to be true as
21 read by Ms. Tolliver.

22 MS. JOHNSON: And did you not have a
23 quorum?

24 MR. ANDERSON: There's four.

1 MS. JOHNSON: But I didn't hear you say --

2 MS. TOLLIVER: You have to vote.

3 MR. ANDERSON: I have to vote? I get to
4 vote -- okay, I am in favor of that motion.

5 MS. JOHNSON: Okay, all right. So the
6 motion passes by a vote of four to zero. And with respect
7 to the -- to any imposition of disciplinary action, is there
8 a motion?

9 MR. ANDERSON: I'm ready now to entertain a
10 motion for disciplinary action and/or penalty.

11 MS. TOLLIVER: I'd like to make a motion in
12 this matter. We are recommending a penalty of two years
13 probation, and he must complete a minimum of six continuing
14 education hours in the subject matter of ethics, before his
15 license renewal in April of 2020.

16 MR. ANDERSON: Do I hear a second?

17 MR. LOVELACE: Seconded by Chris. Okay,
18 let's take a vote. John.

19 MR. BROCHU: Yes -- aye.

20 MR. ANDERSON: Chris.

21 MR. LOVELACE: Aye.

22 MR. ANDERSON: Jessica.

23 MS. TOLLIVER: Aye.

24 MR. ANDERSON: I also vote yes on this. So

1 this motion also passes.

2 MS. JOHNSON: All right, the board has also
3 agreed on the disciplinary action by a vote of four to zero.

4 The board's action today will be reduced to a written
5 order.

6 MR. ANDERSON: May I make clarification.
7 We're not a board, we're the --

8 MS. JOHNSON: I'm sorry, the technical
9 advisory committee's action today will be -- will there be a
10 formal, written order?

11 MS. PICKERING: There will.

12 MS. JOHNSON: Memorializing the action that
13 the committee took today, and that will go to the full
14 Massage Therapy Board.

15 MS. PICKERING: The Board of Health, and it's
16 only if Mr. Francoeur appeals.

17 MS. JOHNSON: Okay.

18 MS. PICKERING: He'll have 30 days when he
19 receives the order to appeal.

20 MS. JOHNSON: And the order will explain
21 your appeal rights when you receive it.

22 MS. PICKERING: Right.

23 MS. JOHNSON: So you will know at that
24 point. It will explain what steps you need to take in order

1 to appeal it to the Department of Health. All right.

2 MS. PICKERING: Kellie has one question about
3 the penalty.

4 MS. JOHNSON: Okay.

5 MS. KERSEY: The six hours -- is that on
6 top of his 18 hours, or could that be part of it?

7 MR. ANDERSON: I think it needs to be part
8 of it. I don't know -- it's part of it. He just needs to
9 specify in that.

10 MS. JOHNSON: Okay, it can be part of it.
11 So there's not an additional six hours.

12 MR. ANDERSON: Right.

13 MS. JOHNSON: All right, great. That
14 should conclude the board's actions in this matter. Thank
15 you for your presence here, everyone. And that concludes
16 this hearing.

17 [Whereupon the hearing concluded at 11:40 a.m.]

CERTIFICATE

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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 the testimony in this hearing was
taken by me; and the proceedings were reduced to typewriting
by me; that this transcript is a true and correct record of
all 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, nor have any interest that would
affect impartiality. WITNESS MY HAND AND SEAL as court
reporter on this 23rd day of July, 2018.

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Stephanie G. Branton

