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
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 Fascitis 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. Cerviogenic 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 THE MASSAGE THERAPY TECHNICAL ADVISORY COMMITTEE

HEARING IN THE MATTER OF

ARKANSAS DEPARTMENT OF HEALTH                    PETITIONER

v

JEAN-PAUL FRANCOEUR                                RESPONDENT

Held at 5800 W 10th Street,
Little Rock, AR
MONDAY, JUNE 1, 2018, Commencing at 9:05 a.m.

Advisory Committee Members Present:

John Brochu
Alan Anderson, Presiding
Jessica Tolliver
Christabelle Krajewski
Chris Lovelace
Peggy Johnson, Hearing Officer

ON BEHALF OF Respondent JEAN-PAUL FRANCOEUR:

Mr. Francoeur appears without counsel

ON BEHALF OF Petitioner Arkansas Department of Health:

VICKI PICKERING, ESQ.
Arkansas Department of Health
4815 W. Markham Street, Slot 31
Little Rock, AR 72205-3867
## CONTENTS

<table>
<thead>
<tr>
<th>Proceedings</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>3</td>
</tr>
</tbody>
</table>

### Witnesses

<table>
<thead>
<tr>
<th>Witness</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kellie Kersey</td>
<td>17</td>
</tr>
<tr>
<td>Jessica Carter</td>
<td>20</td>
</tr>
<tr>
<td>Jean-Paul Francoeur</td>
<td>34</td>
</tr>
</tbody>
</table>

### Exhibits -- Admitted into Evidence

<table>
<thead>
<tr>
<th>Exhibits</th>
<th>Petitioner/State</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>9</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Exhibits</th>
<th>Respondent</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>10</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>12</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>12</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td>14</td>
</tr>
<tr>
<td>5</td>
<td></td>
<td>14</td>
</tr>
<tr>
<td>6</td>
<td></td>
<td>38</td>
</tr>
<tr>
<td>7</td>
<td></td>
<td>38</td>
</tr>
</tbody>
</table>

### COURT REPORTER'S CERTIFICATE

<table>
<thead>
<tr>
<th>Certificate</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>95</td>
</tr>
</tbody>
</table>
PROCEEDINGS [9:05 a.m.]

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

MR. FRANCOEUR: You actually nailed it.

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

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

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

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

And please put your cell phones on vibrate, if you can. This hearing is held pursuant to the Administrative Procedures Act.
And the general way that it goes is the board has received a complaint and I will let -- I will ask Ms. Pickering first, do you have any witnesses that you plan to present testimony?

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

MS. JOHNSON: Who are they?

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

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

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

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

MS. PICKERING: That's it.

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

MS. PICKERING: Yes, I do. I have the hearing packet, which consists of -- so the notice of hearing, the receipts, the e-mails. And also it includes the complaint that we received, and the licensure information from Mr. Francoeur.
MS. JOHNSON: Now, I have a packet that I'm thinking is similar to what you're looking through, before me.

MS. PICKERING: That is it.

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

MS. PICKERING: That's correct.

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

MS. PICKERING: Yes.

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

MR. FRANCOEUR: I do.

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

And you can refer to anything in it yourself.

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

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

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

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

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

MR. FRANCOEUR: I guess that -- I mean, I don't know that this is like a --

[Simultaneous conversation]

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

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

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

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

MR. FRANCOEUR: No.

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

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

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

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

MR. FRANCOEUR: Yes, I did.

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

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

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

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

MS. JOHNSON: Okay.

[parties engaged in simultaneous conversation]

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

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

MR. ANDERSON: Chris Lovelace.

MS. JOHNSON: Chris Lovelace is present.
All right, thank you.

How many pages is it?

Five pages.

Five pages. And does Mr. Francoeur have a copy of it?

I'm giving him a copy right now.

[simultaneous conversation]

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

Francoeur.

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

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

Five.

Five-page document, which consists of copies of texts -- have you had an opportunity to look at those?
MR. FRANCOEUR: Yeah, these are all screen shots, which I actually have a screen shot too, in addition to this, that was taken before this, immediately following the therapy, the day after. Just a moment and I will provide it to you.

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

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

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

MS. PICKERING: Okay.

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

MR. FRANCOEUR: Yes, yes.

MS. JOHNSON: Okay, then the five pages of text messages will be entered as State Exhibit 2. [Whereupon State Exhibit 2 was entered into the record.]

MS. JOHNSON: All right, now --

MR. FRANCOEUR: Can I bring these out?

MS. JOHNSON: -- your documents, can you just give me a brief description of what they are?
MR. FRANCOEUR: Yeah, it's a -- just a follow-up text and -- from me to my client.

MS. JOHNSON: And that's one page?

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

MS. JOHNSON: Okay.

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

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

MS. PICKERING: I have no objection.

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

[Back on the record.]

MS. JOHNSON: Now, as soon as we get finished entering -- dealing with the rest of Mr. Francoeur's documents I will let you ask the question. But we need to ask it out in the open, and not just --

MR. FRANCOEUR: I do have additional
MS. JOHNSON: All right.

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

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

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

And I've got --

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

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

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

[inaudible simultaneous conversation]

MS. JOHNSON: We don't need any additional explanation. Just let her look at them, and if she doesn't have any objection --
MS. PICKERING: No objection.

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

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

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

MR. FRANCOEUR: Oh.

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

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

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

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

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

MR. FRANCOEUR: No, no. I --

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

MR. FRANCOEUR: What this is, is just a sort of a realizing that this may end up becoming an issue --
MS. JOHNSON: I understand. But you didn't have Ms. Carter sign this?

MR. FRANCOEUR: No.

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

MR. FRANCOEUR: No, it was just --

MS. JOHNSON: Okay.

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

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

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

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

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

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

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

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

MS. PICKERING: No.

MS. JOHNSON: Well, if you don't have any
objection, then go ahead and enter it.

[Whereupon Respondent Exhibit 4 was marked for identification.]

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

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

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

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

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

MS. PICKERING: I have no objection.

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

[Whereupon Respondent Exhibit 5 was entered into evidence.]
MS. JOHNSON: And are you giving the court reporter one?

MR. FRANCOEUR: Yes, I am.

MS. JOHNSON: We're not going to have a long, drawn out, two-hour questioning session of each witness. You need to stick to the incident that occurred, and the actions that occurred on the date and time at issue. And if you get too far astray on other things, then I'm going to just let you know. Okay?

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

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

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

MS. TOLLIVER: Okay.

MS. JOHNSON: Are there any other matters that we need to take up initially before we get into the testimony? Anything?
MR. FRANCOEUR: I did notice that the complaint is different than the one that was sent to me in the mail.

MS. JOHNSON: Oh. And how so?

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

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

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

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

MS. PICKERING: Just the notice of hearing.

MR. FRANCOEUR: Oh, okay.

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

MR. FRANCOEUR: Oh, okay.

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

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

MS. JOHNSON: Wait a minute. I need to swear them in first.
Whereupon Jessica Carter, Kellie Kersey, Jean-Paul Francoeur swore to tell the truth in these proceedings

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

MS. JOHNSON: Okay.

EXAMINATION OF KELLIE KERSEY

BY MS. PICKERING:

Q. Ms. Kersey, would you state your name and occupation?
A. Kellie Kersey, Arkansas Department of Health, Cosmetology and Massage Therapy Section, section chief.

Q. Did you receive a complaint against Jean-Paul Francoeur?
A. We did.

Q. And can you just kind of summarize what the complaint was?
A. Ms. Jessica Carter went in for a massage for some treatment of some shoulder pain. And she was inappropriately touched in the breast area by the massage therapist, who is licensed by the Arkansas Department of Health.

Q. And there is an exception in the law that -- for massage of the breast -- if the massage therapist has at least 48 hours of continuing education on lymphatic massage, myofascial massage, or oncology massage.
Does Mr. Francoeur have any of that?

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

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

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

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

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

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

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

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

MS. JOHNSON: For somebody that's not in your industry, I think that deserves clarification. Okay, thank you.
All right, if you don't have any other questions of her, do you have any questions, Mr. Francoeur, of Ms. Kersey?

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

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

MR. FRANCOEUR: Yes.

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

MR. FRANCOEUR: Okay.

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

MS. CARTER: No.

MS. JOHNSON: Then call your next witness.

MS. PICKERING: I call Ms. Carter.
EXAMINATION OF JESSICA CARTER

BY MS. PICKERING:

Q. Would you please state your name?
A. Jessica Carter.

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

Q. Would you tell the committee about your experience when you went to him to provide you --
A. So on March 26, I went to see him for a shoulder blade, and that injury -- shoulder blade injury that I was having issues with.

And he had me show up in a sports bra and shorts so he could use the Neufit, which in my world is basically a TENS unit that's like a patch thing that stimulates the muscles.

And he had me lay face down on the massage table. And he put one unit on my lower back and like he was saying, found spots that were weak.

He documented -- weak here, weak here, weak here. And he had me turn over on my back -- so face-up -- and worked around my shoulder area, and then to the collar bone and then put his hand down my sports bra, started massaging my sternum.

And I tensed up, because I was not warned. I was not told that that was going to happen. And when I tensed --
what's going on -- he said he was looking for trigger points.

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

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

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

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

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

Q. And what else happened?

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

And he started listing favorite songs, which we talked
about. And he started playing a song called "Everybody here wants you," which is pretty sexual in nature.

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

Q. Explicit?

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

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

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

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

Q. And is that why you didn't say 'stop' or why you
didn't respond?
A. It was how weak I am, to begin with, and then I'm alone in your house, and I -- I go into the protect myself mode. And I don't want to challenge somebody that, you know, that I don't know very well. So.
Q. So what happened after the massage, after you left?
A. He sent me a text, asking how I was doing. And I said I was I'm sore, like you said I would be, thank you. And my thing was -- because I didn't know that I could do anything -- I didn't know about what is and is not allowed in certain therapy situations.

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

Q. So what else happened as a result -- after the text message, how did you feel about the experience?
A. When you invade someone's personal space in a vulnerable state, and do not ask permission, and you don't stop, and you just do it, and then when they react to you, explain what you're doing -- you bring up a lot of issues which is, I would say in this profession, it's so important to ask and explain beforehand.

Because I've had a lot of issues triggered from that,
and I'm not okay.

Q. And you've sought therapy?

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

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

A. Yes, definitely.

Q. In an inappropriate part of your breast?

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

Q. Anything else you'd like to add?

A. [no audible response]

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

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

So I reached out to them, pretty much the same complaint I filed with you. And they called and said that they would notify me of any violations. And they forwarded
him the message, which he then -- when they talked to me and said if he gave me my money back, would I drop the issue, which I have the check he sent via the attorney general's office.

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

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

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

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

A. I didn't --

Q. Did you request a refund?

A. -- a refund.

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

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

Q. And you were also offended when he --
A. Which is why it's here right now. I don't know if it's --

[inaudible simultaneous conversation]

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

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

MS. PICKERING: Thank you.

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

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

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

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

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

MR. FRANCOEUR: -- or is that --

MS. JOHNSON: You're going to have a separate opportunity to present your testimony.
MR. FRANCOEUR: Okay, got it.

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

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

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

MR. FRANCOEUR: Right, right --

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

MR. FRANCOEUR: Right --

MS. JOHNSON: -- talk about.

MR. FRANCOEUR: Okay.

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

MR. FRANCOEUR: Okay.

MS. JOHNSON: Okay.

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

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

MS. PICKERING: No.

MS. JOHNSON: If not, then we will go to
you, Mr. Francoeur, and allow you to -- oh, I'm sorry. Does the board have any questions for Ms. Carter?

MS. TOLLIVER: I have just one.

MS. JOHNSON: Identify yourself for the record.

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

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

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

THE WITNESS: Not that I know of.

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

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

MR. FRANCOEUR: I'm sorry.

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

MR. FRANCOEUR: Okay.

MS. JOHNSON: So you can bring that out
during your testimony.

MR. FRANCOEUR: All right.

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

THE WITNESS: T-shirt.

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

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

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

THE WITNESS: Yes.

MS. TOLLIVER: That's all I have.

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

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

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

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

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

THE WITNESS: No.

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

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

THE WITNESS: Massaging.

MS. PICKERING: I actually have a question.

MS. JOHNSON: Sure.

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

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

MS. PICKERING: Sort of looking down?

THE WITNESS: Uh-huh.

MR. BROCHU: I have a question. John Brochu. I'm looking at a screen shot here. It said "walked
in the same door as before, just parked."

You had been to Mr. Francoeur before?

THE WITNESS: Yes, to talk about the injury.

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

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

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

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

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

THE WITNESS: I am a cosmetologist.

MR. BROCHU: That's all.

MS. JOHNSON: Any other questions.

MS. PICKERING: Actually, I have one more.

MS. JOHNSON: Sure.

MS. PICKERING: Why did you go to Mr. Francoeur? What -- how did you find him?

THE WITNESS: My friend Craig is -- used to
train in his gym, and highly recommended him. I have a winged scapula [phonetic spelling] issue that was causing me neck pain and with me doing my job as a hair stylist. So I was seeing him for a shoulder blade issues, not breast issues.

MS. PICKERING: Okay.

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

THE WITNESS: Yes.

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

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

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

THE WITNESS: A massage therapist that I went to and I didn't even have to say his name, and she said his name, and she said I'm sorry, he's got a reputation around town, I wished that you would have talked to a woman
But it seems that a lot of guys that I know that know him don't tend to know that. It's just women, and they call it -- one of the ladies I talked to said they called it 'whisper campaigns' -- women warning other women, but never thinking they could do anything about it, except say hey don't go to this guy, he's a bit of a creep.

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

MS. KRAJEWSKI: I have a question.

Christabelle Krajewski. In your e-mail to us, you said that Mr. Francoeur claimed to be able to do some chiropractic adjustments. Did he actually do any --

THE WITNESS: No.

MS. KRAJEWSKI: -- bone manipulation?

THE WITNESS: No.

MS. KRAJEWSKI: That's all.

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

THE WITNESS: Broadway Street.

MS. JOHNSON: In Little Rock?

THE WITNESS: Yes.
MS. JOHNSON: Oh, okay. All right, thank you. Any other questions?

MS. PICKERING: No more questions from the board.

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

MR. FRANCOEUR: Okay.

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

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

TESTIMONY OF JEAN-PAUL FRANCOEUR

MR. FRANCOEUR: And first, I am -- although I am going to defend myself emphatically on this, I'm not going to -- I'm not trying to take away from her experience. Obviously, she did have a bad experience, and I -- you know, had she explained at any point that she was uncomfortable, as you can see in my new documentation, I would like for her to have said that.
But I am sorry that she did have a bad experience. And the reason I asked her about the refund is because the attorney general investigator, Joyce Sexton, told me that she requested one.

So I -- and when I got -- and I told her that -- you know, I was on my way to Kansas City for a continuing education fitness summit. And I just told her that I would have to take care of it when I got back in town. So when I got back in town, you know, she told me just to -- she told me to refund her. And when I got back in town, I sent the text message, asking if she would like -- you known, who would she like the refund.

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

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

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

MS. JOHNSON: Let me -- before you go on,
I'm interested in who exactly at the attorney general's office contacted you, and --

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

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

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

MS. JOHNSON: Sure.

MS. PICKERING: We can make copies.

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

[Whereupon parties went off the record.]

[Back on the record.]

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

And while that is being done, we decided to let Mr.
Francoeur continue with his testimony.

MR. FRANCOEUR: Okay.

MS. JOHNSON: You may continue.

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

MS. JOHNSON: SOAP notes are what?

MR. FRANCOEUR: She had multiple problems.

She had --

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

MR. FRANCOEUR: Yes.

MS. JOHNSON: Okay.

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

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

MR. FRANCOEUR: Oh.

[Whereupon parties went off the record.]

[Back on the record.]  

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

MS. PICKERING: Are you referring to -- I'm
MR. FRANCOEUR: That -- I'm referring to the -- yes, the basic flow.

MS. PICKERING: Oh, okay, basic flow.

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

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

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

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

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

[Whereupon Respondent's Exhibits 8 and 7 were entered into evidence.]
MS. JOHNSON: There are two separate documents -- 6 and 7. The one that's 12 pages will be --

MR. FRANCOEUR: That was the first one.

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

MR. FRANCOEUR: And I have -- okay. Anyway, so if you look at the SOAP notes, you will see where I put down whether she passed or failed various strength tests. This it the foundation for the neurological stimulation work that we do. But if someone fails one of these strength tests, then there are relevant reflex points.

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

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

But I also ask all of my clients -- male or female -- to -- their -- I don't work on any -- I don't have -- use sheets and naked people under a sheet.
All my clients are clothed because I need for them to be able to move around, and I can't diaper wrap. You know, somebody under a sheet is just not worth it.

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

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

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

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

And it's not comfortable. I don't know how anyone could interpret it as sexual in any way. But -- and -- but it's -- you know, it's -- so I -- but I take my thumb and I wedge it into the reflex points and I work my way up he
sternum and under the ribs, and over the ribs, on the outside edge.

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

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

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

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

EXAMINATION OF MR. FRANCOEUR

BY MS. PICKERING:

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

A. I didn't -- they sent it -- when they first sent the complaint, they sent it to the address in my old health club. I used to own a health club, called JP Fitness, on the twenty-ninth floor of the Metropolitan Tower.
And they sent the initial complaint there. I received an e-mail and I replied within an hour. So yeah, I did not reply to it earlier because it never reached me.

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

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

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

MR. FRANCOEUR: And --

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

MR. FRANCOEUR: You know, just -- you know, when I'm working with people, I want them to feel comfortable. You know, and I'm not in any way was I sleazy. My -- in fact, my curtains to the tv room were open. I generally keep things open, unless my kids are at home, when I don't -- I just don't want it to be unprofessional if my kids are in the next room, for them to sit there and watch me take somebody -- some shirtless guy through a bunch of mobilization exercises.

But you know, that's really the only reason that I ever close my curtains. Everything that I do, if I do it --
when I go and work and -- you know, at other clinics, or I work at other facilities, it's out in the open.

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

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

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

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

So she was -- you know, so I don't have -- you know, it's not like one of these situations where I'm kind of -- you know, I got a little -- what do they call them -- like
little love shack thing going. It's not that atmosphere.

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

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

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

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

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

And it's a -- and I have multiple play lists.
Normally I'm playing a more benign play list, or I might even have it on Pandora.

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

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

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

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

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

But you know, in terms of when I have a client on the table and I'm working with them, I want them to feel comfortable. So I try to be very open and conversational and you know, just friendly so that they can relax.
Because -- and I talk to them about the importance of belly breathing and diaphragmatic breathing. That's one of the reasons that when I do the psoas test, if they fail that test, I have to work those spots in the rib cage and at the sternum, because it is a -- those reflex points activate diaphragmatic breathing and correct breathing.

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

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

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

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

Because the pads are placed in areas where I have
detected neurological deficiencies, where I've detected weaknesses.

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

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

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

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

So she had a knee problem and a shoulder problem and a neck problem. If you look at my practices, you will find that I -- I've rarely found a neck and shoulder problem that actually where the pads end up on their shoulder.
They usually end up on their forearm, on the wrist, you know, somewhere in the scapula. And so we don't base where we treat on anything sort of subjective like okay, based on my experience, you're weak here, here, here.

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

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

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

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

So they use a -- I'm not going to get into their proprietary means, but they basically have found -- it -- our nervous system is direct current.
And so I'm able to utilize, send a signal that the brain is familiar with and comfortable with. And then I can -- and then what I do is once I find those deficient areas, I start to -- it elicits a -- what the brain interprets as a load.

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

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

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

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

MS. JOHNSON: No, no, no.

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

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

MR. FRANCOEUR: Well, it -- it -- it has everything to do with it. Because she was uncomfortable because of where I had to place my hand or --
MS. JOHNSON: Well, let me ask you that, about that. Did you -- and she's already stated that she was kind of taken aback. Because she had on her sports bra.

MR. FRANCOEUR: Uh-huh.

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

MR. FRANCOEUR: I --

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

MR. FRANCOEUR: I -- well --

MS. JOHNSON: -- warn her?

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

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

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

MS. JOHNSON: You think you did?

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

MS. JOHNSON: But on that particular day --

MR. FRANCOEUR: Part of my general flow is that I'm explaining these things as I go. I am -- the only
reason I'm saying 'generally' is because I'm willing to give her the benefit of the doubt, that maybe I didn't.

I generally do. So I --

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

MR. FRANCOEUR: Yes.

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

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

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

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

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

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

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

MR. FRANCOEUR: I would have said okay, you failed this test, I'm going to have to work some points along your sternum and your rib cage, and I'm going to use -- I'm going to stimulate these reflex points, and then we're going to re-test and see if it worked.
MS. JOHNSON: Well, would you have said, explicitly, that you are going to have to place your hand inside her sports bra to --

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

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

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

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

MS. JOHNSON: Okay.

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

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

MR. FRANCOEUR: I can't speak to other people's work. But I mean, generally speaking, you know, I
mean, I work on males and females, and I -- you know, I always explain to people where I'm going to have to work. But at no point did it touch her breast, none whatsoever.

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

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

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

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

MS. JOHNSON: -- to her sternum?

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

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

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

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

MS. JOHNSON: So you don't --

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

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

MS. PICKERING: I do.

EXAMINATION OF MR. FRANCOEUR

BY MS. PICKERING:

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

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

They said it was Jeff Buckley, and then I was like oh -- "Everybody Here" -- okay. So yeah, I didn't recall at the time what the song was.
I didn't recall until another mutual friend told me about it, and said that I -- and then I said, okay, I remember exactly which song it was. I just couldn't remember. I know that I -- I'm always listening to music. I'm a musician. And I've got dozens of play lists. And I'm always playing music. And you know, it's -- and I get -- I geek out when I'm talking to musicians and artists. And actually, I was -- I thought she was cool because she was an artist and she was talking about her art, showing me pictures of her art.

And I felt like okay, I'm talking to a fellow artist and musician. I had no idea that I was triggering anything in her. I was -- I really was just, you know, innocently excited to be working on someone who I felt like was, you know, a very similar person. You know, somebody who appreciated -- you know, what would otherwise be very obscure music, and somebody who worked as an artist for a living.

Q. And then the refund that you said -- did you say that the attorney general's office told you that she wanted a refund?
A. Yes, they did.

Q. Was that in writing?
A. No. She had a conversation with me. I was driving.
I was driving on my way to Kansas City when she told me that. But you're more than welcome to --

Q. And that was this Margie Sexton?

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

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

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

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

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

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

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

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

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

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

So I -- my best, you know, estimation, you know, is
that's probably what happened with her, because -- because from my perspective, I was 100 percent professional from front to back.

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

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

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

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

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

MS. PICKERING: I have no further questions.

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

MR. BROCHU: I have a question for you.

MS. JOHNSON: Yes.

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

MS. JOHNSON: I'm sorry?

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

MS. JOHNSON: Did I say 'spiel'?

MR. BROCHU: Yes, you did.

MS. JOHNSON: Did I?

MR. BROCHU: Yes.

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

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

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

MR. BROCHU: Yes, that was --

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

MR. BROCHU: I understand.

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

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

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

MS. JOHNSON: Any other questions by the board?

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

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

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

MR. FRANCOEUR: No, no, and I actually do not
do any kind of chiropractic adjustments. I sort of -- I mean, I mentioned to her that, you know -- and I mean, I don't mean to make fun of my own industry. But I sort of talk about chiropractors of being glorified massage therapists.

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

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

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

MR. FRANCOEUR: No.

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

MR. FRANCOEUR: Not --

MS. KRAJEWSKI: Any documented training?

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

MS. KRAJEWSKI: Is it documented?

MR. FRANCOEUR: You know, I don't think it got to be documented because it was -- I took the -- it was
a CEU course that I took before my license was issued, because I was still in school when I took it.

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

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

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

MS. KRAJEWSKI: Is that at the massage school?

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

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

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

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

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

I have -- I mean --

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

MR. FRANCOEUR: On what -- myofascial?

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

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

MS. KRAJEWSKI: -- or oncology massage?

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

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

MR. FRANCOEUR: I did not have her --

MS. KRAJEWSKI: -- on your table?

MR. FRANCOEUR: -- fill out a waiver.

MS. KRAJEWSKI: Did she --
MS. JOHNSON: I think that Ms. Branton is holding her finger up because you're talking over each other.

MR. FRANCOEUR: I'm sorry.

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

MR. FRANCOEUR: Okay.

MS. JOHNSON: Let her complete the question.

MR. FRANCOEUR: I understand.

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

MR. FRANCOEUR: Okay.

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

MR. FRANCOEUR: Gotcha.

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

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

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

MR. FRANCOEUR: Well, she --
MS. KRAJEWSKI: -- permission to treat?

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

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

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

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

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

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

MS. KRAJEWSKI: Okay.

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

MR. FRANCOEUR: Oh, yes. When I'm working with -- especially like on the scalenes, or something like
that -- I will sometimes use my hands as leads.

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

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

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

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

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

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

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

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

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

MR. FRANCOEUR: Yes. I did work -- I worked
some of those same spots with the pads on my hands, but I don't think I got down all the way to the sternum when I put the pads on the back of my hands.

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

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

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

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

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

MS. TOLLIVER: Was she seen or just heard?

MR. FRANCOEUR: She was -- I saw her. I saw
her walk past the -- walk through the entrance. But --

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

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

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

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

MS. TOLLIVER: I'll take your word for that.

Now, how long have you been licensed as a massage therapist? You said 30 years, but --

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

MS. PICKERING: Licensed in 2014.

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

MR. FRANCOEUR: Nope.

MS. TOLLIVER: And in the 30 years of your strength training -- is that personal training?
MR. FRANCOEUR: Uh-huh, and actually, I was certified prior to -- I've been certified to do the electrical therapies for eight years. Because massage therapy was not required as a part of that.

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

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

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

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

MR. FRANCOEUR: I would say if I'm working at -- I mean, I -- if I'm going down into this area here [indicating], I'm working on breasts. You know, I mean, when I'm staying -- when I'm trying -- if I can't feel intercostal muscle tissue through it, then I feel like I'm probably -- that's probably too low.
I have to be able to feel the ribs and the intercostal muscles in between them. So I was -- I generally stay pretty high, male or female, when I'm working on the chest area.

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

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

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

MS. JOHNSON: Any questions? Mr. Anderson?

Mr. Brochu?

MR. BROCHU: No questions, no.

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

MR. FRANCOEUR: Before she came. I always tell people to come -- just in case people forget, because
they do, I actually have a drawer full of short and
t-shirts, and tank tops, and sports bras at my house. You
know, just long-term clients donate stuff, they leave stuff
for people just in case they forget.

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

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

MR. ANDERSON: You answered my question.

MR. FRANCOEUR: Okay.

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

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

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

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

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

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

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

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

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

But if -- like for example, if there's a client waiting or my kids are at the house in the next room, I will close the curtains.
And I also have a set of french doors that I can close, leading into that room. But if anybody ever had any -- you know, and I do have some clients that are uncomfortable or would prefer a little bit more privacy. And so out of respect to their needs, I will close them.

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

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

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

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

MR. ANDERSON: Thank you.

MS. JOHNSON: Any other questions?

MR. FRANCOEUR: And I would like to finish, again, by apologizing to Ms. Carter for making her
uncomfortable. I -- it was not, I can assure you, intentional. But Jessica, I'm sorry that you felt that way, and I would -- you know, if I would have known, I would have changed the way that I was working with you to make you feel more comfortable.

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

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

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

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

And then I'll let them kind of get into a relaxed state, and then I'll take them though the movements. So let -- I mean I -- it is possible that if she did tense up, that I misread that to be because it's kind of -- it's not pleasant.
It doesn't feel good. I'm working in some reflex points. They're not super comfortable. So when she reacted by tensing up, I may have thought that she was just tensing because it was uncomfortable, and not realizing that she tensed up because I violated her personal space.

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

MR. FRANCOEUR: It is --

MS. PICKERING: Could I finish my question?

MR. FRANCOEUR: Sorry, sorry.

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

MR. FRANCOEUR: I --

MS. PICKERING: -- after her tensing up?

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

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

MR. FRANCOEUR: Well, I only said that to give her the benefit of the doubt, that that might have been the one time in a thousand that I maybe didn't mention it.
But I'm -- generally that's part of my spiel. That's part of my explanation -- is this is what I need to do, and I need you to -- you know, this is where I'm going to be working.

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

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

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

And I would have liked for her to have told me, because I would have absolutely altered the method, or whatever I was doing, or I would have been a little bit --
or I would have taken -- at least stopped and talked to her, had a conversation, saying tell me what's going on so we can figure this out.

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

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

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

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

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

And then if it doesn't work, I'll either retest. I'll
either do that again, or I will go to the secondary and then
the tertiary reflex points.

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

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

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

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

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

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

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

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

MS. JOHNSON: Nor did I.

MR. FRANCOEUR: I was just being funny.

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

Based upon your SOAP notes, can you give us any
indication of how long you stayed in each of those spaces?
MR. FRANCOEUR: Well if I do electric hands, I might spend a little bit more time on that. You know, because if I'm -- especially if I'm sitting behind someone, and I'm going to just like -- like I'm going to -- I want those muscles to -- that adhesion to relax.

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

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

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

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

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

I mean, when I'm doing electric hands, it's usually
about five minutes.

MS. JOHNSON: Any other questions?

MR. BROCHU: I have a question.

MS. JOHNSON: Go ahead.

MR. BROCHU: Mr. Francoeur, did you testify before that you did not do electric hand?

MR. FRANCOEUR: No, I did do electric hands.

MR. BROCHU: Down on the sternum?

MR. FRANCOEUR: Well, I don't know. I can't -- I don't -- I mean, you got to realize, I mean, I've slept since then.

I put down that I used electric hands. Those are sort of quick notes that I take. So I just -- I know that I worked them. But I don't know how low I worked with the electric hands.

I probably did work points along the sternum, but I don't know if I went all the way to the sternum or not. I may have, and maybe that's when she got upset.

But you know, again, I'm just -- I mean, I have to have -- you know, I have to have skin to skin contact, though, for the electrical current to travel through my hand.

MR. BROCHU: Thank you.

[Whereupon parties went off the record.]
MR. FRANCOEUR: Sometimes the leads are sort of big, and for some things, they work really well. But there are times when I am working with TMJ problems, or stuff like that, I will work up in the masseter muscles. I'll work along the temporalis muscles, I work on the scalenes.

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

But it's also my finger points, my fingertips can become -- I can deliver the current to a small point. So I'm -- I don't have to just distribute to this wide area. I can deliver it specifically to a small point, you know. And I can -- I can -- you know, I mean, that's how it works.

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

And the only thing that they can do is force a muscle to contract. So with this system, it starts to feel the same, but to the brain, perception is reality. But as soon as -- you know, I can sort of coach you through the process.
And you -- and you recognize that you actually can move. So sometimes you'll get stuck, and then I'll coach you through -- okay, I need you to turn on this muscle, I need you to turn on that muscle, and just kind of concentrate on lengthening your arm.

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

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

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

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

MR. LOVELACE: We're all more clinically --
more therapy based therapists.

MR. FRANCOEUR: Okay.

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

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

[song is played]

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

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

MS. CARTER: And --

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

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

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

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

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

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

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

MS. PICKERING: Mr. Anderson had a question.

MS. JOHNSON: Okay, go ahead.

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

MS. CARTER: Yes.

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

MS. CARTER: Fifteen years.

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

MS. CARTER: Yes.

MR. ANDERSON: In a professional manner?
MS. CARTER: Yes.

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

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

MR. ANDERSON: And --

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

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

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

MR. ANDERSON: You would generally have some --

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

MR. ANDERSON: For your comfort. So what was your comfort feeling when someone else entered the room
while you were there?

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

MS. JOHNSON: Did you hear --

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

MS. CARTER: No.

MS. JOHNSON: Francoeur's --

MS. CARTER: No.

MS. JOHNSON: Did you hear anybody --

MS. CARTER: No.

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

MS. CARTER: No.

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

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

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

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

MS. JOHNSON: Before or after the massage?
MS. CARTER: After.

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

MR. ANDERSON: No questions.

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

MR. ANDERSON: Yes.

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

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

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

Please just -- you can still be here, but just you can sit through the deliberations. At the conclusion, once they decide on the allegations before them, they will go back on the record, and announce their decision, along with
any action that they take -- that they plan to take with
regard to the allegations.

So we are off the record.

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

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

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

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

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

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

But at this time I would like to ask Mr. John Brochu
whether you know the respondent in this matter, Mr.
Francoeur?
MR. BROCHU: No, I do not.

MS. JOHNSON: All right, Mr. Anderson?

MR. ANDERSON: No, I do not.

MS. JOHNSON: Mr. Lovelace?

MR. LOVELACE: No, I do not.

MS. JOHNSON: And Ms. Tolliver?

MS. TOLLIVER: Yes, I do.

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

MS. TOLLIVER: In a professional manner.

MS. JOHNSON: In a professional manner.

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

MS. TOLLIVER: No.

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

MR. FRANCOEUR: No, I do not.

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

MR. ANDERSON: Do we also have to ask that question of Ms. Pickering?
MS. JOHNSON: Well, you, being the representative of this board -- ideally you would have found this out prior to the hearing, and if you had any concerns, you would have asked Ms. Tolliver to recuse.

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

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

MS. PICKERING: No, I don't.

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

And I'll turn it over to Chairman Anderson.

MR. ANDERSON: So coming out of this, we've made some decisions. We've had discussions. So I am able to hear a motion on the findings.
MS. TOLLIVER: I would like to make a motion in the matter of Jean-Paul Francoeur. Allegations of fact, we have modified to read as -- In the complaint, Jessica Carter alleges that she was in the home office of Jean-Paul Francoeur for the treatment of a shoulder/back injury on March 26, 2018. While there Mr. Francoeur engaged in unprofessional conduct by failing to check in with her comfort level and placing his hand under her sports bra onto her sternum.

MR. ANDERSON: Do I hear a second?

MR. BROCHU: I'll second.

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

MR. LOVELACE: Aye.

MR. ANDERSON: Jessica?

MS. TOLLIVER: Aye.

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

MR. BROCHU: Aye.

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

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

MR. ANDERSON: There's four.
MS. JOHNSON: But I didn't hear you say --
MS. TOLLIVER: You have to vote.
MR. ANDERSON: I have to vote? I get to
vote -- okay, I am in favor of that motion.
MS. JOHNSON: Okay, all right. So the
motion passes by a vote of four to zero. And with respect
to the -- to any imposition of disciplinary action, is there
a motion?
MR. ANDERSON: I'm ready now to entertain a
motion for disciplinary action and/or penalty.
MS. TOLLIVER: I'd like to make a motion in
this matter. We are recommending a penalty of two years
probation, and he must complete a minimum of six continuing
education hours in the subject matter of ethics, before his
license renewal in April of 2020.
MR. ANDERSON: Do I hear a second?
MR. LOVELACE: Seconded by Chris. Okay,
let's take a vote. John.
MR. BROCHU: Yes -- aye.
MR. ANDERSON: Chris.
MR. LOVELACE: Aye.
MR. ANDERSON: Jessica.
MS. TOLLIVER: Aye.
MR. ANDERSON: I also vote yes on this. So
this motion also passes.

MS. JOHNSON: All right, the board has also agreed on the disciplinary action by a vote of four to zero. The board's action today will be reduced to a written order.

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

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

MS. PICKERING: There will.

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

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

MS. JOHNSON: Okay.

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

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

MS. PICKERING: Right.

MS. JOHNSON: So you will know at that point. It will explain what steps you need to take in order
to appeal it to the Department of Health. All right.

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

MS. JOHNSON: Okay.

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

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

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

MR. ANDERSON: Right.

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

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

__________________________
Stephanie G. Branton