

North Carolina Board of Massage & Bodywork Therapy
Open Session Minutes
December 13, 2007

TIME AND PLACE

The North Carolina Board of Massage and Bodywork Therapy met in Open Session in the Offices of the Board on December 13, 2007 at 10:00 a.m.

MEMBERS PRESENT

Ms. Susan Beam, Dr. Raphael Orenstein, Ms. Jean Middleswarth, Ms. Nancy Toner Weinberger, and Victor Farah.

MEMBERS ABSENT

Ms. Laura Allen and Ms. Jaime Huffman.

OTHERS PRESENT

Mr. Charles Wilkins and Mr. Ben Thompson, Legal Counsel to the Board, and Ms. Bonnie Kennedy, Administrative Director

CHAIR

Ms. Beam

RECORDING SECRETARY

Ms. Kennedy

CONFLICT OF INTEREST

Ms. Beam asked if any Board member had any conflict of interest with any item on the meeting's agenda. There being no other conflict, the agenda was approved.

APPROVAL OF MINUTES

The Board approved the minutes of October 18, 2007.

TREASURER'S REPORT

The treasurer's report was approved as presented.

ADMINISTRATIVE REPORTS

Mr. Wilkins reported:

Proposed Amendments to Rules

The proposed amendments to the Board's .0600 rules were approved by the Rules Review Commission at its September and October meetings.

Status of Amendments to Practice Act

SB 1314 to amend the Practice Act has passed the Senate and will be considered by the House during the 2008 legislative session. The Board will continue to work with the AMTA-NC Chapter on the Board's concerns in the current version of the Practice Act.

Disciplinary Hearings

Mr. Wilkins reported that the two disciplinary hearings scheduled for today have been resolved by Consent Orders.

Ms. Kennedy reported:

Licensee Report

7668 licenses have been issued
6242 licensees are still in good standing

Renewal Report

1935 licensees scheduled to renew for December 31, 2007
291 licenses that expired December 31, 2005 can also be renewed
1410 have renewed as of December 12, 2007

COMMITTEE REPORTS

Policy Committee

Ms. Beam reported on the Committee's meetings of November 14 and December 3, 2007 as follows:

Massage in Body Cavities

The Committee continued its discussion regarding whether North Carolina should allow massage in body cavities and, if so, under what conditions. Ms. Beam reported on the lack of formalized training apparently available for therapists in this area and other states.

The Committee agreed there might be some circumstances where massage in body cavities could be beneficial to a person and did not want to completely prohibit massage in body cavities in North Carolina as being outside the scope of massage and bodywork therapy but, if allowed, to do so only under specific conditions.

The Committee has been considering this issue for several months and is of the opinion that a Rule should be adopted addressing the issue of whether and, if so, under what circumstances a LMBT is allowed to perform massage in the anus or vagina of a client. The following is the Rule the Committee recommends be considered:

SECTION .0500 – STANDARDS OF PROFESSIONAL CONDUCT

.0516 TREATMENT IN BODY CAVITIES

A LMBT may perform massage and bodywork therapy inside the vaginal or anal cavities of a client, provided the LMBT, prior to the massage or bodywork therapy, complies with each of the following requirements:

(1) obtains written and signed consent from the client for massage and bodywork therapy treatment inside the client's vaginal or anal cavities. The consent states the client has been advised the client has the right to have another person, who is provided either by client or therapist, present in the room while the treatment is being performed. The client signs a consent indicating whether client accepts treatment with a third person present or treatment with only the therapist and the client present.

(2) the massage and bodywork therapy treatment is performed in conformance with Rule .0509,

(3) the LMBT is competent to perform massage and bodywork therapy inside the vaginal or anal cavities of the client,

(4) a written prescription or order has been received from a licensed medical doctor prescribing or ordering the specific massage and bodywork therapy treatment.

Following discussion about definitions of the terms "competent" and "medical doctor", a motion was made, seconded and passed adopting the recommendation of the Committee and directing that the proposed rule be submitted to the Rules Review Commission for an informal review.

Acuscen Modality for Massage Therapy

The Committee reviewed an email asking whether Acuscen, identified as a small hand-held device that uses electrical signals to stimulate the immune system, would be within the scope of practice of massage and bodywork therapy. The Committee reviewed the information

provided about Acuscen and agreed the definitions applicable to massage and bodywork therapy contained in NCGS 90-622, particularly NCGS 90-622(5), specifically state the practice of massage and bodywork therapy does not include electrical stimulation and therefore the use of the device used in Acuscen would not be within the scope of practice of massage and bodywork therapy.

Following discussion, the Board concurred in the opinion of the Committee.

Use of "Medical" by a Massage and Bodywork Therapist

An email from a LMBT asked: If a LMBT takes a course titled "Medical Bodywork", could the LMBT advertise that she does "Medical Bodywork" and use the word "medical". The Committee was of the opinion that there is no definition of "medical" or "Medical Bodywork" in the Practice Act or Rules. Likewise, there is nothing in the Practice Act or Rules that prohibits the use of the terms "Medical Bodywork" or "medical". The Committee recommended that the LMBT review the scope of practice contained in the Practice Act and Rules and also check with the North Carolina Medical Board for its opinion on the use of the terms by a LMBT.

Exemption for Asian Bodyworkers

The Committee considered a request that the Board exempt Asian bodywork therapists from the requirement of a LMBT license to practice in North Carolina since Asian bodywork therapists have their own national examination through NCCAOM and there is sufficient difference between massage and bodywork therapy and Asian bodywork therapy to justify the exemption. After reviewing the request the Board was of the opinion that no change should be made that would exempt Asian bodywork therapists from the requirement of a LMBT license to practice in North Carolina. The Board considered that it has always recognized the Asian bodywork therapy examination as an entry level examination for a LMBT license in North Carolina, that no other entity licenses Asian bodywork therapists in North Carolina, and that the public would be better protected if Asian bodywork therapists continue to be licensed by the Board.

Practice Act Changes

The Committee agreed a meeting should be scheduled with the AMTA-NC Chapter as soon as possible regarding the changes to the Practice Act proposed for the 2008 session of the NC General Assembly. Ms. Beam reported she had sent an email to Mr. Ed Sansbury, President of AMTA-NC Chapter about setting up a meeting.

Licensing/Certification Examinations

The Committee discussed the various licensing exams available for massage and bodywork therapists, the sections of the Practice Act and Rules that authorize acceptance of examinations, and what examinations should be acceptable for obtaining a license in North Carolina. The Committee agreed to recommend to the Board the following amendments to the Board's rules:

.0102 DEFINITIONS

- (9) Generally recognized psychometric principles and standards.
-- Refers to the Standards for Educational and Psychological Testing (1999, American Psychological Association, American Educational Research Association, National Council on Measurement in Education), Principles of Fairness: An Examining Guide for Credentialing Boards (Revised 2002, Council on Licensure, Enforcement, and Regulation, National Organization for Competency Assurance); or its successor standards in the field of psychometrics.
- (10) Classroom hours of supervised instruction. -- Student learning activities in a training program at a Board-approved school that are conducted in the physical presence of an instructor who meets the qualifications of Rule .0612.

.0201 APPLICATION AND SCOPE

- (5) Documentation that the applicant has successfully completed a course of study at a Board-approved school consisting of a minimum of 500 classroom hours of supervised instruction. If the applicant attended a school which is not Board-approved, the Board may elect to review that applicant's educational credentials for approval on a case-by-case basis. At a minimum, the documentation of such training must come from a school which is licensed by the educational licensing authority in the state, territory or country in which it operates, or is exempt by statute. The curriculum must meet or be substantially equivalent to the standards set forth in Rule ~~.0602(a)(3)~~ .0620(2) of this Chapter;
- (6) Documentation that the applicant has achieved a passing score on ~~an examination administered by a certifying agency that has been approved by the National Commission of Certifying Agencies, and documentation that the applicant is a certificant in good standing with such agency;~~ a competency assessment examination administered or approved by the Board that meets generally recognized psychometric principles and standards; and

Following discussion, Ms. Weinberger moved that the words "at a Board-approved school" be deleted from the suggested changes to Rule .0102(10). The motion was seconded and passed. A second

motion was made, seconded, and passed adopting the recommendation of the Committee, as amended, and directing that the proposed rule be submitted to the Rules Review Commission for an informal review.

Schools Affected by 90-631 (b) and (c)

The Committee considered the board's role in the approval of a school or program that is "exempt" pursuant to NCGS 90-631(b) or (c). Mr. Wilkins was asked to review the language of the statute and report back to the Committee.

License Standards Committee

Ms. Middleswarth, Chair, reported that the Committee met October 17, 2007 and briefly reviewed the minutes of that meeting. The Board was referred to the minutes of the meetings. Ms. Weinberger asked that the Board discuss the decision of the Committee that "muscle activation technique" (MAT) comes within the definition of massage and bodywork therapy and a person who practices MAT in North Carolina must be licensed as a massage and bodywork therapist. After further discussion, the issue was referred back to the License Standards Committee for further consideration. Ms. Weinberger was asked to provide input to the Committee about her thoughts and concerns.

School Approval Committee

Ms. Weinberger, Chair, reported on the following of several matters considered by the SAC as contained in the minutes of the Committee of December 4, 2007:

Amendments to School Rules

The amendments to the school rules have been approved by the Rules Review Commission. All the school rules, except rules .0611, .0613, .0614, .0615, and .0619, were approved in September and became effective October 1, 2007. Rules .0611, .0613, .0614, .0615, and .0619 were approved in October and became effective November 1, 2007. The Committee asked that copies of the school rules with amendments be sent to the schools and that they also be posted on the Board website.

North Carolina School of Natural Healing

The Committee discussed the closing of the NCSNH in Asheville owned and operated by Ms. Theresa Wilkes. The school filed Chapter 7

bankruptcy on November 16, 2007. Prior to the bankruptcy filing, one class of eleven students completed their training and graduated with a certificate for 555 hours, a reduction in hours of the regular program the school had offered; this accommodation for the teach-out was approved by the SAC and contained all the appropriate course hours as required by NC Board rules. A second class of six students, scheduled to graduate in February 2008, could not complete their training prior to the bankruptcy. The second class of six students has an opportunity to attend another school at a reduced tuition and with some advanced credit.

The Committee discussed the school renewal process, the requirements for a CPA review of financial records, and the circumstances surrounding the closing of NCSNH. Upon a review of the Board's rules regarding school renewals, the Committee was of the opinion that the rules are sufficient to oversee the financial status of the schools and that no changes need to be made to the rules. The Board discussed the possibility of requiring that schools be bonded but was advised the Board does not have the legal authority to require a bond. The Committee agreed that any school with a questionable financial report should have its financial records considered for review by an independent CPA during the school renewal process.

Instructor Qualifications

The Committee reviewed the qualifications of a proposed instructor and determined that the qualifications of the proposed instructor did not comply with Rule .0612. Mr. Wilkins is to advise the proposed instructor of the qualifications she is missing.

Pass/Fail Rates From Schools

The Committee asked Mr. Wilkins to obtain the Pass/Fail rates of North Carolina massage and bodywork therapy schools from the NCBMBT for the past three years. The Board discussed how to obtain these rates and considered the possibility of requesting them in the 2008-2009 Renewal of School Approval applications. The pass/rate report will be further considered by the Committee.

Communications Committee

No report.

Licensing Boards Coordination Committee

No report.

OLD BUSINESS

Board Education Retreat

The Board was in agreement that the training with the Acupuncture Board and Mr. Dale Atkinson was educational, successful, and beneficial to both boards.

Board Seal

Ms. Weinberger reported on her research into what a graphic artist would cost for a professional rendering of a Board logo. She checked with three different possibilities. The fees ranged from \$1000 to \$3600 and depended on whether the Board knew what it wanted or would need creative thinking. Board members expressed concern about the expense and gave further consideration to continuing to use the North Carolina State Seal. Ms. Weinberger was asked to contact Daniel at Technigrafra to determine what he would provide for his quoted price of \$1000.

NEW BUSINESS

Federation of State Massage Therapy Boards (FSMTB)

The Board discussed Ms. Debra Persinger December 11, 2007 Letter to FSMTB Members expressing concern that the NCBTMB may not be able to fulfill its obligations to graduates who wanted to take the NCE in December 2007. The Board discussed the examination process and various perceived problems that might be encountered by graduates seeking to take the exam in December 2007. Also discussed was the possibility of the Board approving the FSMTB examination to provide assistance to graduates who might not be able to take the NCE timely. Board discussion revealed that at this time no unresolved complaints had been brought to the Board office on this matter from students or school directors. The Board agreed not to approve the FSMTB exam at the present time and to wait until the proposed amendments to Rules .0102 and .0201 have been approved. In the meantime, the Board agreed to invite Ms. Persinger to address the Board at its February 2008 meeting about the FSMTB examination. The Board further agreed that a process for approving entry-level examinations of proposed licensees should be developed and the issue was referred to the Policy Committee.

PUBLIC COMMENT

The Board received comments from the public.

CLOSED SESSION

Upon motion duly made, seconded, and passed, and pursuant to NCGS 143-318.11(a)(1) and (3), the Board went into Closed Session at 12:40 p.m.

ADJOURNMENT

The Board returned to Open Session and upon motion duly made, seconded and passed, the meeting was adjourned at 2:25 p.m.

Ms. Susan Beam, Chair

Dr. Raphael Orenstein, Treasurer