

North Carolina Board of Massage & Bodywork Therapy
Open Session Minutes
February 15, 2007

TIME AND PLACE

The North Carolina Board of Massage and Bodywork Therapy met in Open Session in the Offices of the Board on February 15, 2007 at 10:00 a.m.

MEMBERS PRESENT

Ms. Susan Beam, Dr. Raphael Orenstein, Ms. Jean Middleswarth, Ms. Nancy Toner Weinberger, Ms. Laura Allen, and Ms. Jaime Huffman.

MEMBERS ABSENT

None

OTHERS PRESENT

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

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 conflict, the agenda was approved.

RESIGNATION OF MR. GAMMON

Ms. Beam reported that Mr. Richard Gammon, public member of the Board, had resigned, effective January 11, 2007, due to concerns over the information required to be disclosed by Board members pursuant to the new "Statement of Economic Interest" forms sent out by the North Carolina Board of Ethics.

ELECTION OF VICE-CHAIR

Ms. Beam called for the election of a new vice-chair. Upon motion made, seconded and passed Ms. Middleswarth was nominated and elected vice-chair.

APPROVAL OF MINUTES

The Board approved the minutes of December 14, 2006, as amended, and the minutes of the Special Board meeting of January 25, 2007.

TREASURER'S REPORT

The treasurer's report was approved as presented.

ADMINISTRATIVE REPORTS

Mr. Wilkins reported:

Proposed Amendments to Rules

The School Approval Committee has completed its review of Rules Section .0600 and will make a report later in the meeting.

Status of Amendments to Practice Act

Mr. Wilkins reported that the 2007 Session of the Legislature has convened. Mr. Sansbury has sent a draft of proposed legislation to be introduced to amend the Practice Act. The Board has reviewed the proposed legislation and is in agreement with adding a provision about removing any reference to massage from the Adult Entertainment statutes. The Board would also like to amend the Practice Act to provide for staggered terms for Board members. Ms. Weinberger questioned whether the Practice Act should be amended to clarify restrictions on massage in below-the-waist body cavities and to make the definition of adult entertainment more general. Ms. Beam reminded the Board that the massage in body cavities issue is being considered by the Policy Committee and that a recommendation has not yet been presented to the Board.

Upon motion made, seconded and passed the Board agreed that a provision for staggered terms for Board members should be included in the amendments to the Practice Act. The Board will continue to work with the AMTA-NC Chapter on proposed amendments to the Practice Act.

Disciplinary Hearings

Mr. Wilkins reported that one disciplinary hearing is scheduled for today.

Ms. Kennedy reported:

Licensee Report

6901 licenses have been issued
5475 licensees are still in good standing

Renewal Report

3257 licensees scheduled to renew for December 31, 2006
2660 licensees have renewed thus far

COMMITTEE REPORTS

Policy Committee

No report.

License Standards Committee

The Committee met in the conference of the Board on January 25, 2007. All members were present.

The Committee considered three individual files as set forth in its minutes.

School Approval Committee

Ms. Weinberger, Chair, reported Committee met on January 11, 2007 and February 7, 2007, primarily to discuss proposed amendments to Rule .0600. She also reported the Consent Order entered into between the Board and the Healing Arts and Massage School is progressing and the school is coming into compliance with the Board's rules.

Ms. Weinberger also reported the Committee reviewed a complaint and accompanying documentation regarding TMMO. The complaint led to a discussion of the term "incidentally" found in N.C.G.S. 90-624(3). The Committee was of the opinion that an out of state, "approved provider" teaching a continuing education course in North Carolina to North Carolina licensed massage and bodywork therapists are "incidentally" in North Carolina and are exempt from the requirement that they obtain a North Carolina massage and bodywork

therapy license.

Ms. Weinberger also reported the Committee had completed its work on the .0600 Rules regarding Massage and Bodywork Therapy Schools. The Rules have been presented to and reviewed by the Board. Upon motion made, seconded and passed the Board adopted the proposed amendments to Rule .0600, as contained in Version #10, and agreed that the proposed amendments shall be presented informally to the Rules Review Commission and, if no substantive changes are made by the Rules Review Commission, the Rules shall be presented to the Office of Administrative Hearings for publication in the North Carolina Register to begin the formal rules review process.

Communications Committee

Ms. Allen, Chair, reported the Newsletter did go out in early January 2007. There is no scheduled date for the next newsletter at this time.

Licensing Boards Coordination Committee

Ms. Huffman, Chair, reported the Committee met January 25, 2007 and discussed issues contained in the minutes of that meeting. She further stated the Committee plans to meet today.

OLD BUSINESS

Letter of Reprimand for Late Renewal

The Committee reviewed a revised letter of reprimand for late renewals presented by Ms. Middleswarth. Upon motion made, seconded and passed the Board adopted the revised letter of reprimand for late renewals.

Federation of State Massage Therapy Boards

Ms. Weinberger expressed concern about a portion of the minutes of the Annual Meeting of the Federation of State Massage Therapy Boards that listed issues the FSMTB would like to discuss. Ms. Beam said she attended the meeting and reassured Ms. Weinberger about the intent of the statement in the minutes.

Modalities/Techniques Requiring License

The Board considered whether it would be confusing to therapists or the general public to list on the Board's webpage modalities or techniques the Board has determined require a massage and bodywork therapy license since there are many other modalities and

techniques being used by therapists that the Board has not considered. The Board agreed the modalities and techniques the Board has determined require a massage and bodywork therapy license should be listed on the Board's webpage.

North Carolina Board of Ethics

Ms. Beam announced she had appointed Mr. Wilkins to replace Mr. Gammon as the Board's liaison to the North Carolina Board of Ethics.

Board Education Retreat

Ms. Beam reported she is continuing discussion with the Acupuncture and Chiropractic Boards about the possibility of the Boards receiving training from Mr. Dale Atkinson, an attorney from Chicago, however it is questionable whether the Chiropractic Board wishes to participate. It was suggested the Board consider inviting other professions to participate.

NEW BUSINESS

NCBTMB 2007 Job Task Analysis

Ms. Beam announced the NCBTMB has asked the Board to submit up to two suggested names of persons who might be chosen to assist the NCBTMB in reviewing the results of its 2007 Job Task Analysis. Ms. Beam asked Ms. Middleswarth, and other Board members, to consider whether their name can be submitted and to let her know.

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 11:30 a.m.

RETURN TO OPEN SESSION

The Board returned to Open Session at 12:40 p.m.

DISCIPLINARY HEARINGS

Emanuel Faur HEARING

The Board conducted a disciplinary hearing regarding allegations that Mr. Faur provided inadequate draping and engaged in prohibited

sexual activity with a co-employee during a massage session.

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 4:30 p.m.

RETURN TO OPEN SESSION

The Board returned to Open Session at 5:00 p.m.

Emanuel Faur Hearing

The Board reported it had reviewed the evidence regarding whether Mr. Faur provided inadequate draping and engaged in prohibited sexual activity with a co-employee during a massage session. The Board agreed that Mr. Faur engaged in prohibited sexual activity with a co-employee during a massage session. An Order shall be entered revoking Mr. Faur's expired license and assessing a civil penalty of \$500 and costs of \$500.

ADJOURNMENT

Upon motion duly made, seconded and passed, the meeting was adjourned at 5:10 p.m.

Ms. Susan Beam, Chair

Dr. Raphael Orenstein, Treasurer

