

**North Carolina Board of Massage & Bodywork Therapy**  
**Open Session Minutes**  
**October 15, 2009**

**TIME AND PLACE**

The North Carolina Board of Massage and Bodywork Therapy met in Open Session in the offices of the Board on October 15, 2009 at 10:00 a.m.

**MEMBERS PRESENT**

Ms. Susan Beam, Dr. Raphael Orenstein, Ms. Laura Allen, Ms. Jaime Huffman, Ms. Nancy Toner Weinberger, Mr. Victor Farah and Mr. Kevin Powell

**MEMBERS ABSENT**

None

**OTHERS PRESENT**

Mr. Charles Wilkins, Legal Counsel to the Board, and Ms. Bonnie Kennedy, Administrative Director and Ms. Elizabeth Welden, Assistant Administrative Director.

**CHAIR**

Mr. Farah

**RECORDING SECRETARY**

Mr. Wilkins

**RE-INTRODUCTION OF NEW BOARD MEMBER KEVIN POWELL**

Mr. Farah again welcomed Mr. Kevin Powell to the Board. Mr. Powell was appointed by Joe Hackney, Speaker of the North Carolina House of Representatives, to a three year term beginning July 1, 2009. Mr. Powell's appointment was approved by the State Ethics Commission on September 1, 2009 and his appointment was effective that date.

**CONFLICT OF INTEREST**

Mr. Farah 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.

## **APPROVAL OF MINUTES**

The Board approved its minutes of August 20, 2009.

## **TREASURER'S REPORT**

The treasurer's report was approved as presented.

## **ADMINISTRATIVE REPORTS**

Mr. Wilkins reported:

### **Proposed Amendments to Rules**

Rule .0602(4) to define "college" was approved by the Rules Review Commission and became effective August 1, 2009.

### **Status of Amendments to Practice Act**

The 2009 session of the NC General Assembly adjourned July 22, 2009 and will reconvene May 2010.

### **Licensees in the US Armed Forces**

The 2009 General Assembly passed House Bill 1411 that provided that licensees in the US Armed Forces may have their continuing education, renewal fees, and other conditions required to maintain their license postponed or waived, provided they have been granted an extension of time to file their US tax return pursuant to G.S. 105-249.2. To comply with the statute, the Board, upon motion made, seconded and passed, amended Rule .0303 to add section (d) that provides:

- (e) Members of the armed forces whose licenses are in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return are granted that same extension of time to pay the license renewal fee and to complete the continuing education requirement prescribed in Rule 21 NCAC 30 .0700. A copy of military orders or the extension approval by the Internal Revenue Service must be furnished to the Board. If approved, continuing education acquired during this extended time period shall not be utilized for future renewal purposes.

### **License by Reciprocity**

The 2009 General Assembly repealed N.C.G.S. 90-630, Reciprocity. To

conform the Board's Rules to the statute, the Board, upon motion made, seconded and passed, agreed that Rule .0304, License by Reciprocity, shall be repealed.

### **Guideline 2.2, Scope of Reciprocity**

The 2009 General Assembly repealed N.C.G.S. 90-630, Reciprocity. To conform the Board's Guidelines to the statute, the Board, upon motion made, seconded and passed, agreed that Guideline 2.2, Scope of reciprocity provision, is repealed.

### **Amendments to Board's Meeting Procedures**

Proposed amendments to the Board's Meeting Procedures to clarify the role of the Board Chair in the election of officers were referred to the Policy Committee.

### **Disciplinary Hearings**

There are no disciplinary hearings scheduled for today.

Ms. Kennedy reported:

### **Licensee Report**

9,376 licenses have been issued  
7,850 licensees are still in good standing  
420 licensees have renewed

### **Renewal Report**

There are 2406 licensees scheduled to renew by November 1, 2009. There are also 287 licensees whose licenses expired December 31, 2007 who must renew by December 31, 2009 or they will be required to reapply.

### **Board Meeting Dates**

Dates for the Board to meet in 2010 are:

February 18  
April 15  
June 17  
August 12  
October 21  
December 9

Board members discussed changing election of officers to June of each year. The discussion also included members voting for the positions

to be filled just before they left the Board; Board member terms ending June 30; whether the Board chair should be able to vote and/or nominate; and amendments to the Board Meeting Procedures and Guidelines, if necessary. The Chair referred the matter to the Policy Committee.

## **COMMITTEE REPORTS**

### **Policy Committee**

Ms. Beam reported that the Committee did not meet since August but will meet before the December Board meeting.

### **License Standards Committee**

Ms. Huffman, Chair, provided minutes of the Committee's September 1, 2009 meetings as follows:

The Committee approved its minutes of July 15, 2009 by consensus.

#### **K. Nicole King**

The Committee reviewed Mr. Wilkins' letter to Ms. King advising her she may appear before the Board on October 15, 2009 regarding the Committee's recommendation that her application for a license should be denied for lack of moral character.

#### **Sherrill Smith**

The Committee reviewed Mr. Wilkins' letter to Ms. Smith advising her she may appear before the Board on October 15, 2009 regarding the Committee's recommendation that her application for a license should be denied for lack of moral character.

#### **Gregg Leslie Steinberger**

The Committee reviewed Mr. Steinberger's Conditional License to which he had consented.

#### **Zheng Wang**

The Committee reviewed Mr. Wilkins' letter to Mr. Wang advising him he may appear before the Board on October 15, 2009 regarding the Committee's recommendation that his application for a license should be denied for lack of moral character.

## **Edward H. Wilson, IV**

The Committee interviewed Mr. Wilson regarding his application file and criminal record to determine if the Committee will issue him a Conditional License or recommend that his license application be denied for lack of moral character. The Committee agreed it needed additional information from Mr. Wilson before it could make a decision or recommendation and asked that Mr. Wilson sign releases authorizing the Committee to obtain his medical records from Thomasville Medical Clinic, High Point Medical Clinic, and from his family physician, Kimberley Nifong. The Committee also asked that Mr. Wilkins call Ms. Nancy Triplett about her Moral Character Reference and obtain copies of his social security disability records.

## **Wendell Spencer Manning**

The Committee interviewed Mr. Manning regarding his application file and criminal record to determine if the Committee will issue him a Conditional License or recommend that his license application be denied for lack of moral character. The Committee was of the opinion that Mr. Manning appeared to be rehabilitated from his past criminal behavior and should be issued a Conditional License upon the following conditions: (1) not violate the criminal laws of North Carolina or any other state or the Practice Act or Rules of the Board during the term of his initial license and one renewal period; (2) report to the Board in writing within 30 days any criminal or civil infraction; (3) provide an updated criminal record check in any county in which he has lived during the term of his initial and second licensure period; and (4) demonstrate to the Committee no abuse of drugs or alcohol by meeting with the Committee when requested, agreeing to random drug screens, and by agreeing to obtain a substance abuse assessment from a provider of the Committee's choice no more than every six months during his initial license period and no more than every twelve months during his first license renewal period.

## **John C. Williford**

The Committee interviewed Mr. Williford regarding his application file and criminal record to determine if the Committee will issue him a Conditional License or recommend that his license application be denied for lack of moral character. The Committee was of the opinion that Mr. Williford appeared to be rehabilitated from his past criminal behavior and should be issued a Conditional License upon the following conditions: (1) not violate the criminal laws of North Carolina or any other state or the Practice Act or Rules of the Board during the term of his initial license and one renewal period; (2) report to the Board in writing within 30 days any criminal or civil

infraction; (3) for his first renewal, provide an updated criminal record check in any county in which he has lived during the term of his initial licensure period; and (4) maintain his abstinence and continue his self-help programs and demonstrate to the Committee no abuse of drugs or alcohol by meeting with the Committee when requested, agreeing to random drug screens, and by agreeing to obtain a substance abuse assessment from a provider of the Committee's choice, if requested.

### **Adam Scott Jenkins**

The Committee reviewed Mr. Wilkins' August 21, 2009 letter to Ms. Stanford, the proposed Conditional License offered to Mr. Jenkins, and Ms. Stanford's response dated August 31, 2009. The Committee agreed to amend item 4 of the Conditional License to add to the first sentence the following: "...by meeting with the License Standards Committee when requested, by agreeing to random alcohol and drug screens, and by agreeing to a substance abuse assessment by a person or entity of the Committee's choice no more than once every six months during your first license period and no more than once every twelve months during your second license period." The second sentence of item 4 will be deleted.

### **Anne K. Caminiti**

The Committee considered whether Ms. Caminiti should be issued a license by endorsement. The Committee asked that she provide (1) her complete work history; (2) her history of her massage and bodywork therapy practice; (3) her nursing license; (4) her nursing curriculum and transcript; (5) her esthetician license; and (6) her esthetician curriculum and transcript so the Committee can determine if she meets the educational requirements for a LMBT license.

### **Nicole DeBiase**

The Committee reviewed Ms. DeBiase's application file and her correspondence with the Board office. It appears she has been practicing massage therapy in North Carolina at Massage Envy (May 2008 through July 2009) and Modern Spa (June 2006 through November 2007) without a LMBT license. The Committee was of the opinion she should be offered a Conditional License provided she pay a civil penalty of \$1000 and costs of \$500 and agree to the regular terms for a Conditional License.

The Committee was also concerned that Modern Spa and Massage Envy allowed an unlicensed therapist to be employed and asked that a Cease and Desist Order be sent to each of those businesses who employed Ms. DeBiase.

## **YMCA Therapist**

The Committee reviewed a letter from J. Stewart Butler, III regarding issuance of a license to a massage therapist who had been employed at the YMCA in Fayetteville, NC for many years. Mr. Wilkins responded to Mr. Butler's letter advising that the time for "grandfathering in" had passed and further advising it is doubtful the therapist could meet the current requirements for a license without further education and training.

## **Kathryn Rankin**

The Committee reviewed Ms. Rankin's statement that her nursing license had been restored and she was seeking a LMFT license. The Committee agreed she should be sent an application.

## **Brett Lee Rodgers**

The Committee reviewed a complaint against Mr. Rodgers by a client who alleged his privacy and confidentiality were violated when Mr. Rodgers called the client's employer to complain about the client posting a negative review on Google of Mr. Rodgers massage therapy services the client had received. Mr. Rodgers admitted in his response to the complaint that he had wrongfully called the client's employer about the negative review and apologized for his mistake. The Committee agreed Mr. Rodgers actions violated Rule .0505(1) and recommended that Mr. Rodgers be offered a Letter of Reprimand by Consent with a civil penalty of \$250.

## **Review Board's Procedure When Denying A License**

The Committee reviewed the procedure proposed for the Board to follow when denying an applicant a license. Ms. Huffman has provided additional written comments. The Committee generally agreed with the procedure but will not make a recommendation to the Board until the procedure is finalized.

## **Time Allotted for Interviews**

The Committee agreed 1 ½ hours should be allotted between interviews of applicants in the future.

## **School Approval Committee**

Ms. Weinberger reported the Committee met on October 13, 2009 as set forth in the minutes below:

## **North Carolina School of Advanced Bodywork**

NCSAB has agreed the sign in front of its school building would be changed to state the correct name of the approved school. The school is in the process of making that change. The change has been delayed due to the contractor's schedule and inclement weather.

## **Accepting NCBTMB Examination**

Guideline 1.8.1(a) provides the Board will accept the NCBTMB examination from any applicant who has passed the exam on or before December 31, 2010. The Committee discussed whether/when this guideline would be reviewed by the Board.

## **School Renewal Forms**

The Committee reviewed and approved the school renewal forms to be sent to the schools in December 2009 for those schools required to renew in 2010. It was agreed that schools who are to renew in 2011 will be sent a letter acknowledging the renewal date and confirming they will not be getting a renewal package December 2009 but will get a renewal package in December 2010. Schools are also to be reminded Guideline 1.8.1(a) provides the Board will accept the NCBTMB examination from any applicant who has passed the exam on or before December 31, 2010. The committee agreed that a form should be included in the renewal packet for reporting pass/fail rates on the MBLEx.

## **Community College Attestation Letters**

The Committee reviewed the June 5, 2009 letter from the Community College System office and the 17 attestation letters from community colleges that have massage therapy programs. The community college programs listed are:

- (1) Asheville-Buncombe Technical CC**
- (2) Caldwell CC**
- (3) Carteret CC**
- (4) Central Carolina CC**
- (5) Davidson County CC**



- (6) Forsyth Technical CC
- (7) Gaston College
- (8) Guilford Technical CC (program closed June 09)
- (9) Haywood CC
- (10) Johnston CC
- (11) Lenoir CC
- (12) Pitt CC
- (13) Richmond CC
- (14) Sandhills CC
- (15) South Piedmont CC
- (16) Southwestern CC
- (17) Wake Technical CC

Ms. Beam reported that Southeastern Community College may be operating a massage program even though the college is not listed.

### **Privai Academy**

The application for Board approval from Privai Academy has been received and reviewed by M&M Consulting and a site visit has been conducted. The site visit report by M&M Consulting has been reviewed by Ms. Weinberger. Privai Academy is in compliance and the Committee recommends that it be approved.

Upon motion made, seconded and passed, Privai Academy was approved effective October 15, 2009.

### **School of Communication Arts dba Living Arts Institute**

Pursuant to NC Statute 90-631, "If a massage and bodywork therapy school offers training programs at more than one physical location, each location shall constitute a separate massage and bodywork therapy school". Therefore, it was the opinion of the Committee that Living Arts Institute does not meet the requirements for Board exemption. The Committee met previously with representatives of School of Communication Arts and Living Arts Institute and agreement

was reached whereby the Living Arts Institute would apply for Board approval. The application has been received and reviewed by M&M Consulting and a site visit has been conducted. Living Arts Institute is in compliance and the Committee recommends that it be approved.

Upon motion made, seconded and passed, Living Arts Institute was approved effective October 15, 2009.

### **Guidance for Students with Criminal Records**

The Committee reviewed Rule .0618(c) and Guideline 2.3 as well as the forms used by the License Standards Committee when it reviews applicants with questionable moral character. The Committee agreed potential students and schools need to be aware of the statutes and rules of the Board that relate to students meeting the requirement for licensure of good moral character. Mr. Wilkins will draft a statement for the Board's webpage and for school's catalogs that refer potential students, students and the schools to the appropriate statutes and rules. The issue will remain in the Committee for further discussion at its next meeting.

### **Practice Act and Rules Taught in School Curriculum**

The Committee reviewed Rule .0620(2)(c) that requires schools to provide instruction in 15 hours of professional ethics and North Carolina Practice Act and Rules. The Committee agreed to discuss the sufficiency of this requirement at its next meeting.

### **Jurisprudence Examination Committee**

The Board discussed the current status of development of a jurisprudence exam. After discussion a motion was made, seconded and passed agreeing that an educational exercise on North Carolina Law, Rules and Ethics, similar to the jurisprudence examination offered by the Physical Therapy Board and the jurisprudence examination being developed by the Occupational Therapy Board, would be further investigated by the Committee and a report made at the next Board meeting. Ms. Allen made a report on the number of states that offered jurisprudence examinations and noted that only 7 of the 40 states with licensure offer an examination and that they range from 7 questions in Arkansas, to 20 scenarios in Oregon, to 55 questions in Maryland. She also noted that none of the examinations were psychometrically valid. The Board also agreed that the jurisprudence exercise should be offered to all applicants for a license and not just those applicants from outside North Carolina.

### **Communications Committee**

Ms. Beam reported the Board will produce a Newsletter by January 2010.

## **Licensing Boards Coordination Committee**

No report.

### **OLD BUSINESS**

The Board acknowledged its review of agenda items 1 and 2.

#### **K. Nicole King**

Ms. King had been advised by the License Standards Committee that it would recommend to the Board that she be denied a license but that she could appear before the Board to present any information she would like the Board to consider when considering the recommendation of the License Standards Committee. Ms. King did appear and offered verbal testimony as well as documentation in support of her application and her moral character.

#### **Zheng Wang**

Mr. Wang had been advised by the License Standards Committee that it would recommend to the Board that he be denied a license but that he could appear before the Board to present any information he would like the Board to consider when considering the recommendation of the License Standards Committee. Mr. Wang did appear with his daughter as his interpreter and offered verbal testimony through his daughter in support of his application and his moral character.

#### **Sherrill Smith**

Ms. Smith had been advised by the License Standards Committee that it would recommend to the Board that she be denied a license but that she could appear before the Board to present any information she would like the Board to consider when considering the recommendation of the License Standards Committee. Ms. Smith did appear and offered verbal testimony as well as documentation in support of her application and her moral character.

### **NEW BUSINESS**

#### **Election of Officers**

Mr. Farah called for nominations for election of Vice Chair. He advised the Board he would not be voting except in the event of a tie.

Ms. Huffman was nominated for Vice Chair of the Board. There were no other nominees. Ms. Huffman was elected Vice Chair by acclamation.

### **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 12:50 p.m.

### **RETURN TO OPEN SESSION**

The Board returned to Open Session at 3:20 p.m.

### **Strategic Planning Retreat**

The Board discussed the possibility of a strategic planning retreat sometime in the near future. It was agreed such a retreat would not occur until January 2010, at the earliest. Ms. Huffman will check on possible places and times to meet and obtain cost estimates from various possible facilities.

### **FSMTB Conference**

Ms. Allen made a verbal and written report on the recent FSMTB conference that she attended as a representative of the Board. Ms. Beam also reported on the conference and advised she had been elected treasurer of FSMTB. Twenty states now accept the MBLEx, a few exclusively.

### **K. Nicole King**

The Board reported that it had reviewed Ms. King's application file, documents presented and had considered her statements to the Board. The Board was of the opinion that it needed additional information regarding her psychological treatment and asked that it be requested. She will also be requested to provide sealed statements from two instructors from her massage and bodywork therapy school attesting to her moral character.

### **Zheng Wang**

The Board reported that it had reviewed Mr. Wang's application file, documents presented and had considered his statements to the Board through his daughter as his interpreter. The Board was of the opinion that Mr. Wang should not be issued a LMBT license at this time. Mr. Wang stated that he had been practicing massage and bodywork therapy at Cary Town Center Mall without a LMBT license. He also had a violation in

Virginia for allowing unlicensed personnel perform massage. Mr. Wang did not graduate from a school approved by the Board and his application was considered as an application for license by endorsement. To obtain a license by endorsement, Mr. Wang is required to demonstrate satisfactory proof of proficiency in the English language. Mr. Wang was unable to demonstrate satisfactory proof of proficiency in the English language.

### **Sherrill Smith**

The Board reported that it had reviewed Ms. Smith's application file, documents presented and had considered her statements to the Board. The Board was of the opinion Ms. Smith had demonstrated evidence of rehabilitation and agreed that she should be issued a Conditional License. The conditions of the Conditional License are: (1) that she consent to random drug screens, (2) that she provide the Board with an updated criminal record every six months during her first licensure period and her first license renewal period, and (3) that she agree that her license will be immediately suspended should she be charged with any crime, except a minor traffic violation, during her first licensure period and her first license renewal period.

### **ADJOURNMENT**

Upon motion duly made, seconded and passed, the meeting was adjourned at 4:20 p.m.

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MR. Victor Farah, Chair

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Dr. Raphael Orenstein, Treasurer