

North Carolina Board of Massage & Bodywork Therapy

Open Session Minutes

December 10, 2009

TIME AND PLACE

The North Carolina Board of Massage and Bodywork Therapy met in Open Session in the offices of the Board on December 10, 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 and Mr. Ben Thompson, 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

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 October 15, 2009.

Audit Report

The Board reviewed and approved the annual audit of the Board conducted by Boyce, Furr & Company, LLP for the period ending June 30, 2009.

TREASURER'S REPORT

The treasurer's report was approved as presented.

ADMINISTRATIVE REPORTS

Mr. Wilkins reported:

Proposed Amendments to Rules

Rule .0304, License by Reciprocity, was repealed effective December 1, 2009 due to the amendments to the Practice Act that allow licensure by endorsement.

Rule .0303(e), License Renewal, is recommended for amendment to comply with the directive by the 2009 Legislature that licensing boards grant extensions of time to complete continuing education and renewals for members of the armed services. The Board reviewed and upon motion made, seconded and passed, approved the proposed rule. A public hearing on the proposed rule change will be held today at 11:00 a.m. Public comment ends January 15, 2010. The Board may adopt the rule change at its February 2010 meeting for an effective date of April 1, 2010. Mr. Wilkins reported the Board has historically given deference to persons serving in the armed services.

Status of Amendments to Practice Act

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

Amendments to Board's Guidelines

Upon motion made, seconded, and passed, Guideline 5.4 was added to clarify that licensee's may have up to 27 months to complete their continuing education.

Amendments to Board's Meeting Procedures

The Board considered, discussed and voted on proposed amendments to the Board's Meeting Procedures as follows:

Rule 4. Organizational Meeting and Election of Officers

was amended to add "and approval of the State Ethics Commission".

Rule 8. Presiding Officer was amended to add "The chair shall vote in Board elections".

Rule 25. Elections was amended to change its title and to state "The chair may make a nomination and shall vote in Board elections along with other Board members".

Rule 26. Committees was amended to change its title and to clarify that the Board chair shall appoint committees and the committees shall elect their chair.

Disciplinary Hearings

There is one disciplinary hearing scheduled for 1:00 p.m. today.

Ms. Kennedy reported:

Licensee Report

9,566 licenses have been issued
8,040 licensees are still in good standing

Renewal Report

There were 2406 licensees scheduled to renew by November 1, 2009 and 1725 have renewed. There are also 287 licensees whose licenses expired December 31, 2007 required to renew by December 31, 2009 or they will be required to reapply and 37 have renewed.

COMMITTEE REPORTS

Policy Committee

Ms. Beam reported the Committee met November 12, 2009 as set forth in its written minutes.

Ms. Beam reported the Committee discussed and recommends the Board elect its officers at the Board's June meetings. Upon motion made, seconded, and passed, the Board agreed the election of officers will be held in June.

Ms. Beam reported the Committee reviewed and discussed at length the request by the International Association of Structural Integrators that its examination be accepted by the Board as an entry level examination for structural integrators that would meet the requirements of N.C.G.S. 90-

629(5). The Committee reviewed the additional materials presented and also reviewed the Board's procedure for approving examinations. The Committee discussed the requirements for a person to become educated as a Structural Integrator and compared those requirements with the Practice Act and Rules of the Board regarding the educational requirements for a person to become educated and licensed as a LMBT in North Carolina. The Committee was of the opinion the educational requirements for structural integration are sufficiently different from the educational requirements for massage and bodywork therapy such that it is not appropriate for the Board to accept the IASI Competency Assessment Examination as an entry-level examination for licensure as a LMBT in North Carolina. Upon motion made, seconded, and passed the Board agreed with the recommendation of the Committee and asked that a letter be sent to IASI explaining the Board's position on the issue.

License Standards Committee

Ms. Huffman, Chair, provided minutes of the Committee's October 16, 2009 meetings as follows:

The Committee met from 10:00 a.m. until 3:00 p.m. and considered the following matters:

Approval of Minutes

The Committee approved its minutes of September 1, 2009 by consensus.

1. K. Nicole King

Ms. King appeared 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. The Board is seeking additional information from her school.

2. Sherrill Smith

Ms. Smith appeared 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. The Board agreed to issue Ms. Smith a Conditional License.

3. Zheng Wang

Mr. Wang appeared 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. The Board agreed that Mr. Wang should not be issued a LMBT license due to his criminal

record and evidence he presented that he had practiced in North Carolina without a LMBT license. The Board was also concerned that the evidence presented that showed Mr. Wang was not proficient in the English language.

4. Edward H. Wilson, IV

The Committee is seeking Mr. Wilson's medical records from Thomasville Medical Clinic, High Point Medical Clinic, and from his family physician, Kimberley Nifong. Mr. Wilkins is also to call Ms. Nancy Triplett about her Moral Character Reference and obtain copies of Mr. Wilson's social security disability records. The records have been requested but not received.

5. Adam Scott Jenkins

The Committee reviewed the Conditional License issued to Mr. Jenkins and the Voluntary Dismissal With Prejudice of the lawsuit filed by Mr. Jenkins.

6. Teresa Latendress

The Committee reviewed Mr. Wilkins' September 30, 2009 letter to Ms. Latendress advising her to remove any reference on her webpage to unlicensed massage and bodywork therapists in her business.

7. 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. She was offered a Conditional License which she refused. A Notice of Hearing was sent to her scheduling a hearing for December 10, 2009.

8. Anne K. Caminiti

The Committee considered whether Ms. Caminiti should be issued a license by endorsement. The Committee reviewed (1) her complete work history; (2) her history of her massage and bodywork therapy practice; (3) her nursing license; and (4) her nursing curriculum and transcript. The Committee determined she meets the educational requirements for a LMBT license and a license will be issued to her.

9. 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. The Committee generally agreed with the procedure but will not make a recommendation to the Board until the procedure is finalized.

10. Availability of NC Law/Rules/Ethics Courses

The Committee discussed whether there were in class courses readily available in North Carolina for licensees or applicants to take on North Carolina law, rules and ethics. The Committee was of the opinion there are classes available.

11. Melissa Jo Girard

The Committee considered whether Ms. Girard should be issued a license by endorsement. The Committee reviewed her massage and bodywork therapy education and determined she does not meet the educational requirements for a LMBT license. She will be advised to attend massage and bodywork therapy school.

12. Mayuko Liquori

The Committee considered whether Ms. Liquori should be issued a license by endorsement. The Committee reviewed (1) her work history; (2) her history of her massage and bodywork therapy practice; (3) her acupuncturist license; (4) her acupuncture and traditional Chinese medicine curriculum and transcript; and determined she meets the educational requirements for a LMBT license and a license will be issued to her.

13. Nhan Thien Bong Nguyen

The Committee reviewed Mr. Nguyen's application file and criminal record and determined the Committee would interview Mr. Nguyen before making a final recommendation or decision.

14. Photo on License

The Committee discussed the possibility of having a licensee's photo appear on their LMBT license. The Committee will check with the Board's webmaster to determine the feasibility and expense of placing a licensee's photo on their LMBT license.

15. Conditional License Information on Webpage

The Committee discussed the possibility of having the requirements and conditions of a Conditional License issued to an applicant appear on the Board's webpage. The Committee will check with the Board's webmaster to determine the feasibility and expense of doing so.

School Approval Committee

Ms. Weinberger reported the Committee had not met since October 13, 2009.

Ms. Weinberger reported that Miller-Motte in Greenville, North Carolina had filed its application for Board approval and that a site visit had been conducted. The site visit report made by M&M Consulting was reviewed by SAC members and found to be satisfactory. Ms. Weinberger moved that Miller-Motte in Greenville be approved. The motion was seconded and passed.

Mr. Wilkins reported that letters had been sent to the eight schools that were granted two-year renewals advising the schools they did not have to file a renewal application for the July 1, 2010 renewal period but would be required to file a renewal application for the July 2, 2011 renewal period. Renewal applications have been sent to the remaining nine previously approved schools and to the five newly approved schools.

Jurisprudence Examination Committee

No report.

Communications Committee

Ms. Beam reported the Newsletter is coming along and hopefully will be mailed before Christmas.

Licensing Boards Coordination Committee

Ms. Huffman reported on the Committee's meeting of October 27, 2009.

It was agreed Ms. Huffman would contact the North Carolina Acupuncture Board regarding advertisements of massage and bodywork therapy modalities by an acupuncturist licensed by the North Carolina Acupuncture Board.

Public Hearing on Rule .0303(e)

The Board conducted its public hearing on proposed Rule .0303(e). The only comment received was that the Board should support licensees serving in the armed forces.

OLD BUSINESS

Strategic Planning Retreat

Mr. Farah and Ms. Huffman reported the strategic planning retreat has been scheduled for January 8-11, 2009 at the Rizzo Conference Center in Chapel Hill to discuss a three to five year plan for the Board. Mr. Dan Cain has agreed to facilitate the conference.

NEW BUSINESS

Federation of State Massage Boards

Ms. Allen reported that Ms. Beam had been re-elected Treasurer of FSMTB. She further reported she was honored to be the Board delegate to the FSMTB and there were thirty boards (of 42 member boards) represented at the most recent FSMTB meeting.

Board Documents

The Board considered how it would like to receive Board and Committee documents. It was agreed Board documents would be scanned and emailed as well as sent in hard copy by mail. Committee documents would be scanned and emailed, however, documents over 3 pages would also be sent in hard copy by mail.

PUBLIC COMMENT

The Board received comments from the public.

ADJOURNMENT

The Board adjourned for lunch at 12:00 p.m.

RETURN TO OPEN SESSION

The Board returned to Open Session at 1:00 p.m.

DISCIPLINARY HEARING

The Board conducted a disciplinary hearing regarding allegations Ms. Nicole DeBiase practiced massage and bodywork therapy in North Carolina before and after she applied for her North Carolina license. Ms. DeBiase appeared and presented evidence.

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 1:30 p.m.

RETURN TO OPEN SESSION

The Board returned to Open Session at 2:15 p.m.

Nicole DeBiase

Mr. Farah reported that the Board reviewed the evidence presented during Ms. DeBiase's hearing and was of the opinion that Ms. DeBiase had practiced massage and bodywork therapy in North Carolina before and after she had applied for a LMBT license as evidenced by her written and verbal statements. The Board Ordered that a Conditional License be issued to Ms. DeBiase on the conditions that she: (1) is placed on probation for one year beginning the date she signs this Consent Order; (2) shall not violate the North Carolina Massage and Bodywork Therapy Practice Act or the Rules of the North Carolina Board of Massage and Bodywork Therapy during her period of probation; (3) shall obtain three in-class hours of continuing education approved by the Board in North Carolina law, rules and ethics within six months from receiving her Conditional License, in addition to the continued education required to renew her license; and (4) shall pay a civil penalty of \$1000 and costs of \$500 during her year of probation at no less than \$125 per month.

ADJOURNMENT

Upon motion duly made, seconded and passed, the meeting was adjourned at 2:20 p.m.

MR. Victor Farah, Chair

Dr. Raphael Orenstein, Treasurer