

North Carolina Board of Massage & Bodywork Therapy

Open Session Minutes

April 15, 2010

TIME AND PLACE

The North Carolina Board of Massage and Bodywork Therapy met in Open Session in the offices of the Board on April 15, 2010 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

Ms. Welden

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 February 18, 2010.

TREASURER'S REPORT

The treasurer's report was approved as presented.

ADMINISTRATIVE REPORTS

Mr. Wilkins reported:

Proposed Amendments to Rules

Rule .0303, License Renewal, an 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, has been finalized and was effective April 1, 2010.

New Rules: .0629(9); .0629(10); .0630(11)

Mr. Wilkins reported the rules review process has begun for the three new rules to increase potential students' awareness of the requirement that an applicant for a LMFT license must have good moral character.

Status of Amendments to Practice Act

The "short session" of the 2009 session of the NC General Assembly will reconvene May 12, 2010. There are no amendments to the Practice Act scheduled for consideration.

Amendments to Board's Guidelines

None

Disciplinary Hearings

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

Ms. Kennedy reported:

Licensee Report

9,898 licenses have been issued
8,372 licensees are still in good standing

Renewal Report

There were 2406 licensees scheduled to renew by November 1, 2009 and 2000 have renewed. There were also 111 Letters of Reprimand mailed to therapists for late renewal who renewed between January 1, 2010 and March 24, 2010.

COMMITTEE REPORTS

Policy Committee

Ms. Beam, Chair, reported the Committee met April 7, 2010 as set forth in the written minutes. Ms. Beam further reported:

Payment of Board Member Expenses by FSMTB

The Committee is waiting for a formal opinion from the Ethics Commission. Mr. Wilkins requested the opinion on September 1, 2009 and was told it would be several months before it would be sent. Mr. Wilkins will follow-up with the Ethics Commission.

Disciplinary Actions on Website

Ms. Beam reported the Board's staff is in the process of scanning past primary disciplinary actions taken by the Board for publishing on the Board's website. Past disciplinary actions will go online at the same time to avoid confusion. The process is more than 1/3 complete. Letters of Reprimand for late renewal of a license or non-sufficient funds in renewing a license or for advertising without the therapist's license number or name on the advertisement are not included. Also Cease and Desist Orders and certain Conditional Licenses will not be listed on the website as disciplinary actions taken by the Board.

International Association of Structural Integrators Examination

The Committee reviewed Mr. Wilkins response to the request of the IASI to accept their Certification Examination for Structural Integration (CESI) as an entry level examination that would meet the requirements of N.C.G.S. 90-629(5) as well as the response of the IASI dated February 28, 2010. The Committee also agreed to meet with 2-3 representatives of IASI following the June 17, 2010 Board meeting.

The Committee recommended that structural integration be added to the list of modalities that require a LMBT license.

Upon motion made, seconded and approved, the Board approved that structural integration be added to the list of modalities required for licensure.

Licensure by Endorsement

The Committee agreed to meet with Ed Sansbury to discuss amending the Practice Act in 2011 to close a gap in Licensure by Endorsement A & B. The problem is that neither Licensure by Endorsement A or B

address the issue of an applicant who graduated from a massage therapy school in a state other than NC that has licensure, certification or registration but the applicant did not get licensed, certified or registered in that state and has now applied for a license in NC. Other possible amendments to the Practice Act would be to increase the number of hours of education to qualify for a license and licensing establishments that employ LMBTs.

Video-Conferencing Distance Learning

The Committee considered whether participation by video-conferencing in a continuing education class that is 90% energy work and 10% ethics is distance learning. Prior to discussion, Ms. Weinberger recused herself from the discussion and vote. The Committee reviewed the requirements of Rules .0701 and .0702.

Upon motion made, seconded and passed, the Board agreed that video-conferencing is distance learning.

The Board also discussed the need for more clarity on continuing education certificates to designate whether the courses are in-class or distance learning.

Ms. Beam also reported that a system of random auditing of renewals might be an option for the Board to consider for the future.

License Standards Committee

Ms. Huffman, Chair, provided minutes of the Committee's February 18, 2010 meetings as follows:

The Committee met from 2:00 p.m. until 3:40 p.m. and considered the following matters:

Procedure for Reviewing Applications with Moral Character/Criminal Record Issues

The Committee approved its procedure for reviewing applications with moral character or criminal record issues.

Acupuncture Board

The Committee discussed approaching the Acupuncture Board regarding the complaint received about Ms. Andrea Ford, an acupuncturist, advertising and presumably practicing massage and bodywork therapy modalities.

Ms. Huffman, Chair, provided minutes of the Committee's April 14, 2010

meetings as follows:

Suk Byun Bang

The Committee reviewed Mr. Bang's Application for Licensure, particularly his criminal record, and agreed to request that he meet with the Committee and bring detailed copies of his alcohol treatment records before it makes a decision.

Photograph on License and Webpage

The Committee discussed the Board's information technology consultant's quote and comments regarding placing a licensee's photograph on their license and on the webpage. The Committee agreed not to recommend the Board proceed with placing a licensee's photograph on their license or on the webpage at this time.

Conditional License and Disciplinary Information on Webpage

Mr. Wilkins reported the Board is in the process of placing past disciplinary actions on the Board's webpage.

Acupuncture Board

The Committee agreed to revisit this issue following its meeting with representatives of the Board of Cosmetic Arts.

James A. Barbour

The Committee reviewed Mr. Barbour's Application for Licensure and particularly the details surrounding the previous revocation of his license by the Board. The Committee agreed to recommend to the Board that Mr. Barbour's application be denied at this time.

Upon motion made, seconded and passed, the Board agreed that Mr. Barbour should not be issued a LMBT license at this time.

Mr. Wilkins will send a letter to Mr. Barbour stating the Board's decision and advise him he will have the opportunity to come before the Board for an informal hearing or appeal the decision if he chooses.

Brian C McCrimmon

The Committee reviewed Mr. McCrimmon's Application for Licensure, particularly his criminal record, and agreed to request that he meet with the Committee and bring detailed copies of his alcohol treatment records before it makes a decision.

School Approval Committee

Site Visit Protocol

Ms. Weinberger reported the Committee agreed: (1) schools should receive a site visit every three years unless the school has problems or unresolved issues with the SAC or Board; (2) a school should receive a site visit whenever it changes its location; (3) when a new program director is hired an interview will be scheduled with the new director at the Board office; (4) a site visit will be scheduled if necessary to confirm that a school has complied with a requirement of the SAC or Board; and (5) a school library may include technology but there must be actual tangible learning resources and not just access to the internet.

The Board discussed and agreed with the Committee's recommendation that new program directors come to the Board office to be interviewed by M&M Consulting. Two new program directors have already taken part in this interview process. The Committee will contact M&M consulting to discuss the fee for the interview process and will report back to the Board.

Jurisprudence Examination Committee

Ms. Weinberger reported she had sent out exam questions for Board Members to evaluate. The Committee has received input from each board member. There will be more discussion in Committee and at the next Board meeting about the questions, the format and the process.

Communications Committee

Ms. Beam discussed the possibility of educating the public about massage and bodywork therapy through letters to the editor. This will be discussed further by the Committee.

Licensing Boards Coordination Committee

The committee met February 18, 2010 from 1:30 p.m. until 2:25 p.m. and considered the following matters:

Andrea Ford

The Committee recommended the complaint against Ms. Ford, regarding allegations that as a licensed acupuncturist in North Carolina she advertises and holds herself out as providing chair

massage, Swedish massage, deep tissue massage, acupressure, hot stone massage and lymphatic massage, be referred to the LSC.

Authority of NCBMBT

The Committee discussed the authority of the Board to send a cease and desist order to a licensee of another profession who is practicing or advertising massage or bodywork therapy.

Ms. Huffman also reported that she, as Chair of the Committee, along with Laura Allen, Board member, and Charles Wilkins, Counsel, met April 14, 2010 from 2:00 p.m. to 3:00 p.m. with Lynda Elliott, new Executive Director, and Stefanie Kuzdall, Enforcement Office, representatives of the North Carolina Board of Cosmetic Arts, to discuss issues of mutual interest. They reviewed the July 26, 2004 minutes of a previous meeting between representatives of the two boards. Issues discussed were: (1) teaching massage in Esthetician schools, (2) Cosmetic Arts Practice Act and Rules, (3) Massage and Bodywork Therapy Practice Act and Rules, (4) licensing establishments and (5) estheticians advertising and performing massage.

All parties agreed to work together to educate the public, estheticians, LMBTs, and schools on the parameters and limitations of the Practice Acts and Rules of the two boards and to continue to work together on issues of mutual concern.

NEW BUSINESS

NCBTMB News Release

The Board reviewed and discussed the March 19, 2010 letter from NCBTMB. The Board decided it would not accept the examination followed by "ESP". The issue was referred to the Policy Committee. Mr. Wilkins will respond to the letter from NCBTMB.

FSMTB News and Member Invoice (paid)

Mr. Farah reported Ms. Huffman will be the Board delegate to the FSMTB annual meeting. Mr. Powell is also authorized to attend.

Nicole DeBiase signed Order

Mr. Wilkins reported the Order the Board issued to Ms. DeBiase was served and she has paid all civil penalties and costs associated with the Order.

Public information campaign

The Board discussed and agreed that the Communications Committee develop a public awareness campaign for the Board. The campaign should consider additions to the Board's webpage, public service announcements, free advertising opportunities, press releases, Face Book, Twitter, adding a "Public Information" section to the webpage and other computer based information dissemination.

FARB forum

Ms. Beam reported that we should put the FARB forum on the agenda for the August or October Board meetings and make a decision of whom might attend when the new Board members have been appointed.

Strategic Planning Retreat

The Board agreed the Strategic Planning Retreat objectives should remain on the Board agenda to discuss and to remind the Board of its short and long term goals.

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 11:45 a.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. Heather Canada Lewis practiced massage and bodywork therapy in North Carolina without a current license. Ms. Lewis 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 2:00 p.m.

RETURN TO OPEN SESSION

The Board returned to Open Session at 2:30 p.m.

Heather Canada Lewis

Mr. Farah reported the Board reviewed the evidence presented during Ms. Lewis's hearing and was of the opinion Ms. Lewis had practiced massage and bodywork therapy in North Carolina after her LBMT license had expired as evidenced by her written and verbal statements. The Board Ordered that Ms. Lewis: (1) be issued a Conditional License; (2) be placed on probation for one year; (3) not violate the Practice Act or Rules during probation; (4) in addition to the continued education required to renew her license, she obtain three in-class hours of continued education approved by the Board in North Carolina law, rules and ethics within 6 months from receiving her Conditional License; (5) pay a civil penalty of \$1000 for practicing without a license; (6) pay a 2nd civil penalty of \$500 for filing a false "Practice Disclosure Form" and (7) pay \$500 costs. The Order further provided that she pay \$125 a month with her first payment due on or before May 1st and that her failure to pay monthly payments will result in revocation of her license.

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 2:40 p.m.

Consent Orders

The Board approved Consent Orders for Andrea McKinney and Clifford Henshaw. Ms. Huffman recused herself from the discussion and vote regarding the Consent Order issued to Ms. McKinney.

RETURN TO OPEN SESSION

The Board returned to Open Session at 4:00 p.m.

Email from Paul Lindamood

Ms. Allen reported she received an email from Paul Lindamood, a representative of the NCBTMB, requesting an opportunity to speak to the Board. Ms. Allen will advise Mr. Lindamood to put his question in writing to the Board office.

The Board also discussed the differences between the National Certification exam and the MBLEx exam. The Board voted last year to no longer accept the National Certification exam after December 31, 2010, except from those applying for a license by Endorsement B. The Board discussed whether it should only allow the MBLEx regardless of the applicant's background. The issue will remain on the Board's agenda.

ADJOURNMENT

Upon motion duly made, seconded and passed, the meeting was adjourned at 4:30 p.m.

Mr. Victor Farah, Chair

Dr. Raphael Orenstein, Treasurer