

# North Carolina Board of Massage & Bodywork Therapy

## Open Session Minutes

June 17, 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 17, 2010 at 10:00 a.m.

### **MEMBERS PRESENT**

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

### **MEMBERS ABSENT**

Ms. Laura Allen and Mr. Victor Farah

### **OTHERS PRESENT**

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

### **CHAIR**

Ms. Huffman

### **RECORDING SECRETARY**

Ms. Kennedy

### **CONFLICT OF INTEREST**

Ms. Huffman 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 April 15, 2010.

### **TREASURER'S REPORT**

The treasurer's report was approved as presented.

## **ADMINISTRATIVE REPORTS**

Mr. Wilkins reported:

### **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 LMBT license must have good moral character. A public hearing is scheduled for 11 a.m. today. There was a question whether Rule .0630(11) was properly noticed.

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

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

### **Amendments to Board's Guidelines**

None

### **Disciplinary Hearings**

There are two disciplinary hearings scheduled for 1:00 p.m. today.

Ms. Kennedy reported:

### **Licensee Report**

10,115 licenses have been issued  
8,589 licensees are still in good standing

### **Renewal Report**

Renewal packets were mailed June 1, 2010. There are 4,122 licensees scheduled to renew by November 1, 2010. There are 439 licenses that expired December 31, 2008 that are eligible to renew by December 31, 2010.

## **COMMITTEE REPORTS**

### **Policy Committee**

Ms. Beam, Chair, reported the Committee met June 9, 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 September 1, 2009 and was told it would be several months before it would be sent. Mr. Wilkins reported he did follow-up with the Ethics Commission and was advised an opinion in a separate matter is scheduled to be released in a few weeks and should answer our question.

## **Disciplinary Actions on Website**

The trial website should be available for review by the Committee before the August Board meeting.

## **International Association of Structural Integrators Examination**

The Committee will meet with representatives of IASI following the today's Board meeting.

## **Continuing Education Standards**

The Committee considered expanding the current courses accepted for continuing education. During the discussion the Committee considered the current policy of the Board of accepting any continuing education classes offered by an NCBTMB "approved provider". The Committee also reviewed the continuing education requirements of the North Carolina Board of Occupational Therapy. The Committee asked Ms. Beam whether the FSMTB would develop a program to approve providers and courses in continuing education. Ms. Beam advised the Committee the information would have to be requested of the FSMTB.

The Board agreed to request the FSMTB to advise the Board whether it plans to develop a program to approve continuing education providers and continuing education courses.

## **Licensure by Endorsement**

The Committee agreed to meet with Ed Sansbury to discuss amending the Practice Act in 2011 to close the gap in Licensure by Endorsement A & B. Mr. Wilkins will draft a proposed amendment to NCGS 90-630.1, Licensure by endorsement, to address the issue.

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. Ms. Weinberger reminded the Committee of the ongoing process to develop the Body of Knowledge of Massage and Bodywork Therapy and whether that would support increasing the number of hours of education for entry level licensure as a LMBT.

Ms. Beam reminded the Board of the Body of Knowledge webinar scheduled for June 23, 2010 at 7 p.m.

### **Lymphatic Massage of Genital Area**

The Committee considered a question whether lymphatic massage of the genital area was permitted by the Practice Act and Rules. The Committee reviewed NCGS 90-623(d)(1) and Rule .0516 and agreed that lymphatic massage of the genital area was not permitted by the letter or intent of the Practice Act or Rules.

The matter was referred back to the Policy Committee for further consideration.

### **Rossiter System**

The Committee considered whether the Rossiter System is massage and bodywork therapy requiring that a practitioner be a LMBT. Ms. Beam reported on discussions she had with three persons who are familiar with the Rossiter System. The Committee reviewed the material provided and had a full discussion on the issue. The Committee agreed the Rossiter System as described came within the definition of massage and bodywork therapy and that persons practicing the Rossiter System should be licensed by the Board, however, the Committee also recommends that the full Board discuss the issue.

Following a discussion by the Board, and upon motion made, seconded and passed, the Board agreed the Rossiter System is massage and bodywork therapy requiring that a practitioner be a LMBT.

### **License Standards Committee**

No written report.

### **School Approval Committee**

#### **Natural Touch Massage School of Greensboro and Natural Touch Massage School of Hickory**

Natural Touch Massage Schools of Greensboro and Hickory, did not submit school renewal documents to the Board for renewal of school approvals for 2010-2011. The current Board approval for the schools expires June 30, 2010. Ms. Gower turned the schools over to persons familiar with the schools who agreed to "teach out" the current students and have been doing so. The "teach outs" will not be completed by June 30, 2010. Natural Touch Massage School of Greensboro remains in the same location.

Natural Touch Massage Schools of Hickory has changed locations. The persons doing the "teach outs" have taken possession of the records and plan to provide the "teach outs" with the same curriculum, faculty and, in one instance, location.

The Committee recommended that the schools be issued temporary operating approval for a period of 180 days beginning July 1, 2010, provided the schools complete an application for school approval prior to June 30, 2010. Based on the information provided, the Committee is of the opinion the schools are likely to qualify for approval under Section .0600 after ownership of the schools is changed. The Committee agreed to recommend the temporary operating authority to the Board on the condition that the conditions for the temporary operating authority are met by the schools.

If the schools cannot meet the requirements to be granted temporary approval, the Committee approved the "teach outs", as proposed and agreed to recommend the "teach outs" to the Board.

Upon motion made, seconded and passed the Board agreed that Natural Touch Massage School of Greensboro and Natural Touch Massage School of Hickory be issued temporary operating approval for a period of 180 days beginning July 1, 2010, provided the schools complete an application for school approval prior to June 30, 2010.

Ms. Weinberger reminded the Board that the Body of Knowledge project is in process and suggested that the Board wait until that is complete before further discussing increasing the educational requirements for entry level massage and bodywork therapy training.

Ms. Weinberger reported the cost of M&M Consulting preparing for, conducting and reporting of interviews with new school directors would be approximately \$500. Schools with new directors would be offered the option of having a site visit or a director interview. If a director interview is chosen, that would not take the place of the regularly scheduled site visit.

Upon motion made, seconded and passed the Board agreed schools that elect to have new school directors interviewed in lieu of a site visit shall pay \$500.

The following schools were approved for a one year renewal:

Kneaded Energy School of Massage  
Asheville School of Massage & Yoga  
College of Wilmington  
ECPI College of Technology  
The Healing Arts & Massage School  
Living Arts Institute  
The Medical Arts Massage School

Miller-Motte College of Greenville  
North Carolina School of Advanced Bodywork  
Privai Academy

The following schools were approved for a two year renewal:

Miller-Motte College of Cary  
Therapeutic Massage Training Institute

The Board received attestation letters from 17 community college massage and bodywork therapy programs.

### **Kneaded Energy Massage School**

Ms. Weinberger reported the Committee reviewed correspondence from the Director of Education and the owners of Kneaded Energy Massage School regarding an incident that occurred on February 13, 2010 when an owner of the school sent a student to perform a couples massage at a hotel without disclosing to the client that the person providing the massage was a student and charging full price for the massage and an incident that occurred on February 14, 2010 when an owner of the school performed a couples massage at the school clinic without disclosing to the client that the person providing the massage was a student and charging full price for the massage. The program director and the owners reported the incidents to the Board and the owners met with the Administrative Director and Legal Counsel to discuss the incidents. The owners took appropriate remedial action after the incidents occurred and reported the remedial action taken to the Board. Based on the admitted evidence presented, Mr. Wilkins offered Consent Orders to Kneaded Energy Massage School and to the owners of the school.

### **Jurisprudence Examination Committee**

No written report.

### **Communications Committee**

No written report.

### **Licensing Boards Coordination Committee**

No written report.

### **Public Hearing on New Rules: .0629(9); .0629(10); .0630(11)**

Mr. Wilkins reviewed the three proposed new rules to increase potential students' awareness of the requirement that an applicant for a LMBT license

must have good moral character. No one appeared to speak against the proposed rules. One person spoke in favor of the rules.

### **James Barbour**

Mr. Barbour spoke and offered witnesses in support of his request that the Board reconsider its former decision and grant him a license to practice massage and bodywork therapy. The Board agreed to take the matter under advisement in Closed Session.

## **NEW BUSINESS**

### **NCBTMB**

The Board reviewed the request of Mr. Paul Lindamood to appear before the Board in August on behalf of the NCBTMB. The Board agreed to his request and agreed to provide up to 10 minutes on the August agenda to hear from Mr. Lindamood.

### **FSMTB**

The Board reviewed a suggestion from Ms. Debra Persinger that FSMTB have a meeting with North Carolina schools of massage and bodywork therapy. The Board agreed that Ms. Persinger may contact the schools to determine interest in a meeting.

The Board also agreed to participate in a pilot program with FSMTB regarding the tracking of disciplinary actions taken by massage and bodywork therapy boards across the nation.

### **Public information campaign**

The Board discussed and agreed that the Communications Committee develop a public awareness campaign for the Board. Board members should submit any suggestions to the Committee as soon as possible. Ms. Beam suggested that a line item for public information be added to the budget.

### **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 who 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.

## **Election of Officers**

Ms. Huffman called for nominations for election of officers. She also announced the new officers would take office following today's meetings.

Ms. Huffman was nominated for Chair of the Board and was elected by signed, written ballot.

Mr. Powell was nominated for Vice-Chair and was elected by signed, written ballot.

Ms. Weinberger was nominated for Treasurer and was elected by signed, written ballot.

## **PUBLIC COMMENT**

The Board received comments from the public.

## **RECESS**

The Board took a lunch recess from 12:05 p.m. to 1 p.m.

## **RESUME OPEN SESSION**

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

### **Donald Jarboe**

The Board conducted a disciplinary hearing regarding allegations Mr. Donald Jarboe, LMBT violated the Massage and Bodywork Therapy Practice Act and Rules of the Board as evidenced by his conviction of two felonies in 2009. Mr. Jarboe appeared with his attorney and presented evidence. Following the hearing, the Board agreed to deliberate in Closed Session.

### **Dawn Spencer**

The Board conducted a disciplinary hearing regarding allegations Ms. Dawn Spencer violated the Massage and Bodywork Therapy Practice Act and Rules of the Board by practicing without a license. Ms. Spencer was properly notified of the hearing but did not appear. Following the hearing, the Board agreed to deliberate in Closed 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 3:15 p.m.

## **RETURN TO OPEN SESSION**

The Board returned to Open Session at 5:15 p.m.

### **Donald Jarboe**

The Board reported it had entered an Order disciplining Mr. Jarboe for violating the Massage and Bodywork Therapy Practice Act and Rules of the Board as evidenced by his plea of guilty to two felonies in 2009.

### **Dawn Spencer**

The Board reported it had entered an Order denying Ms. Spencer a license and issuing her a cease and desist order for practicing without a license.

### **Andrea McKinney**

The Board reported it had reviewed and approved the proposed Consent Order disciplining Ms. McKinney for practicing without a license.

### **Terry Henderson**

The Board reported it had reviewed and approved the Consent Order entered into by Mr. Henderson for sexual activity with a client during a massage session wherein he agreed that his license is revoked.

### **Cari Ashbaugh**

The Board reported it had reviewed and approved the Consent Order entered into by Ms. Ashbaugh for practicing without a license wherein she agreed to be on probation for three years, obtain continuing education, pay a civil penalty of \$3,000 and costs of \$500.

### **James Barbour**

The Board reported it had reviewed the statements and information provided by Mr. Barbour and his witness during Open Session regarding his request that the Board issue him a massage and bodywork therapy license. The Board was of the opinion that Mr. Barbour should not be issued a license at this time.

### **Howard Anderson**

The Board reported it had reviewed and approved the Consent Order entered into by Mr. Anderson for alleged inappropriate actions with a client during a massage session wherein he agreed to be on probation for one year, obtain continuing education, pay a civil penalty of \$500 and costs of \$250.

## **Kneaded Energy School of Massage**

The Board reported it had reviewed and approved the Consent Order entered into by Mr. Anderson for alleged inappropriate actions with a client during a massage session wherein he agreed to be on probation for one year, obtain continuing education, pay a civil penalty of \$500 and costs of \$250.

## **Shelley Johnson**

The Board reported it had reviewed and approved the Consent Order entered into by Ms. Shelley Johnson, an owner of Kneaded Energy School of Massage, for inappropriate use of a student in the school clinic to provide massage therapy services to a client wherein Ms. Johnson agreed to be on probation for one year, pay a civil penalty of \$500 and costs of \$250.

## **Bill Norman**

The Board reported it had reviewed and approved the Consent Order entered into by Mr. Bill Norman, an owner of Kneaded Energy School of Massage, for inappropriate use of a student at a local hotel to provide massage therapy services to a client wherein Mr. Norman agreed to be on probation for one year, pay a civil penalty of \$1000 and costs of \$250.

## **Heather Canada Lewis**

Ms. Kennedy reported Ms. Lewis had not complied with the terms of her Conditional License. The Board agreed Ms. Lewis should be issued a Notice of Hearing regarding revocation of her license.

## **Board Assignments**

Ms. Huffman discussed various plans regarding a Board training manual, job descriptions of officers and committee chairs, exit interviews with Board members whose term is expiring, and annual review of the Board's contract with Broughton Wilkins Sugg & Thompson PLLC.

## **ADJOURNMENT**

Upon motion duly made, seconded and passed, the meeting was adjourned at 5:35 p.m.

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Ms. Jaime Huffman, Vice Chair

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Nancy Toner Weinberger, Treasurer