



NORTH CAROLINA BOARD of MASSAGE AND BODYWORK THERAPY

Mailing Address: PO Box 2539, Raleigh, NC 27602 Phone: 919.546.0050
Location Address: 150 Fayetteville Street Mall, Suite 1900, Raleigh, NC 27601

OPEN SESSION MINUTES

October 21, 2010; 10:00 am – 7:30 pm

Wachovia Capitol Center Building

150 Fayetteville Street, 13th Floor Large Conference Room, Raleigh, NC 27601

"The mission of NCBMBT is to regulate the practice of massage and bodywork therapy in the State of North Carolina to ensure competency, and to protect the public health, safety and welfare."

TIME AND PLACE

The North Carolina Board of Massage and Bodywork Therapy met in Open Session in the offices of the Board on October 21, 2010 at 10:00 a.m.

MEMBERS PRESENT

Ms. Jamie Huffman, Ms. Laura Allen, Ms. Nancy Toner Weinberger, Mr. Kevin Powell, Dr. Edwin Preston, Ms. Candace Frye and Mr. Robby Brown

MEMBERS ABSENT

None

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. Ms. Allen advised she would recuse herself from any discussion or decision regarding the National Certification Board. There being no additional conflict, the agenda was approved.

APPROVAL OF MINUTES

The Board approved its minutes of August 12, 2010.

TREASURER'S REPORT

The treasurer's report was approved as presented.

AUDIT

The audit of the Board's finances for July 1, 2009 through June 30, 2010 was reviewed and approved. Ms. Weinberger reported that she, as treasurer, will review bank reconciliation statements and approve all checks written by the Board office to provide a check and balance recommended in the audit.

ADMINISTRATIVE REPORTS

Mr. Wilkins reported:

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

Rules .0629(9) and .0629(1) are approved and became effective November 1, 2010. Rule .0630 (11), when finally approved, will be in effect February 1, 2011. A public hearing is scheduled on the proposed amendment to Rule .0630 at 11 a.m. today.

Status of Amendments to Practice Act

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

10,509	licenses have been issued
7,208	active licenses

Renewal Report

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. There are 1,229 licensees that have renewed.

COMMITTEE REPORTS

Policy Committee

Ms. Huffman, Chair, reported the Committee met September 17, 2010 as set forth in the Committee's minutes.

Ms. Huffman further reported the Committee recommends that a liaison from the Board attend meetings of the Community College System's massage and bodywork therapy committee. Upon motion made, seconded and passed, the Board agreed that the Board chair or member of the Policy Committee serve as liaison from the Board to attend meetings of the Community College System's massage and bodywork therapy committee.

License Standards Committee

Ms. Huffman, Chair, reported the Committee met August 12, 2010 and August 13, 2010, as set forth in the minutes. Ms. Huffman further reported:

Substance Abuse and Mental Health Issues

Mr. Wilkins reported he had been in contact with representatives of the Board of Nursing to determine what programs the Board of Nursing might have that would assist the Board in identifying, treating, monitoring and resolving licensees with substance abuse or mental health issues. The Board of Nursing is reviewing its ability to provide services to the Board. This matter will remain in this Committee for further discussion when it hears further from the Board of Nursing.

Brian C. McCrimmon

The Committee reviewed Mr. McCrimmon's response regarding his criminal record and agreed that he should be interviewed by the Committee regarding his criminal record and moral character before making a final decision or recommendation.

Theresa Ann Saulter

The Committee reviewed Ms. Saulter's disciplinary record with the Board of Nursing. Ms. Saulter did not provide documentation to show whether her nursing license has been fully re-instated. The Committee asked that she provide documentation to show whether her nursing license has been fully re-instated or provide a statement that she no longer is seeking to have her nursing license re-instated.

Luxor Day Spa

The Committee reviewed: (1) Ms. Kennedy's April 16, 2010 Memorandum regarding a call from Ms. Connie Wilder, Chief of Operations for the North Carolina Board of Cosmetic Arts, regarding a massage given by Minh Ntong Thivu at Luxor Day; (2) the investigative report regarding a massage given by "Mindy" to the investigator at the Luxor Day Spa; (3) Mr. Wilkins' letter to Ms. Connie Wilder requesting that the Board of Cosmetic Arts take action on

the improper practices at Luxor Day Spa; and (4) Ms. Wilder's response that the allegations against the Spa were not within the jurisdiction of the North Carolina Board of Cosmetic Arts.

The Committee agreed a Cease and Desist Order should be sent to Luxor Day Spa regarding allowing unlicensed persons to provide massage and the Spa advertising "massage services" on its doors.

Rebekah Ann Saylor

The Committee met with Ms. Saylor to discuss her past criminal record. The Committee also met with her therapist Teresa Tinklenberg. The Committee agrees that Ms. Saylor may be granted a Conditional License on the condition that she agrees to provide copies of her criminal record with her next two license renewals.

Heather Barefoot

The Committee met with Ms. Barefoot to discuss her past criminal record. The Committee also met with her mother Betty Barefoot. The Committee asked that Ms. Barefoot provide additional information to address inconsistencies between the statements made by Ms. Barefoot and statements made by her mother.

NCBTMB School Compliance, Sanctions and Revocations

The Committee reviewed a report for NCBTMB regarding schools it had suspended or revoked. Ms. Allen advised the Committee that the NCBTMB will not allow a student who graduates from a school whose school code the NCBTMB has suspended or revoked to take the NCBTMB examinations. Applicants for a North Carolina license have graduated from several schools on the list, however, the applicants had taken and passed the NCBTMB exam so it is presumed the applicant had graduated from the school prior to the school having its school code suspended or revoked. There also seems to be a need to carefully review any applicant from the listed schools as well as any applicant from the listed schools who take and pass the MBLEX offered by the FSMTB. Ms. Kennedy will be advised of the Committee's discussion.

School Approval Committee

Ms. Weinberger, Chair, reported the Committee met August 25, 2010 as set forth in the minutes.

Ms. Weinberger further reported:

Power Point Presentation for Use by Schools

The Committee agreed the presentation needed some preliminary slides to be better understood by prospective students. The Committee is in the process of preparing those additional slides for consideration. Ms. Weinberger will upload the presentation for the Board to review. It was also agreed that schools cannot change the presentation but must present it in its entirety.

Increase Educational Standards

The Committee discussed the requirement of 90-629(4) that specifies that an applicant for a license must have "completed a training program consisting of a minimum of 500 in-class hours

of supervised instruction at a Board-approved school". The Committee reviewed the history of this requirement, the Body of Knowledge project, other states, COMTA and the possibility of a survey of the schools.

Curriculum Hours in Proprietary Schools

Mr. Wilkins was asked to inquire whether M&M Consulting can provide a list of the current curricula of the schools to determine what courses are being taught in addition to the core curriculum.

The Committee had previously agreed that a separate form for collecting curriculum data from schools should be developed and asked that M&M Consulting prepare a draft form for the Committee to review.

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

Mr. Wilkins reported that both Natural Touch Massage Schools of Greensboro and Hickory have completed the "teach out" of their students and that most of them had taken their entry level exams and have been licensed. It appears the "teach outs" were completed as planned.

Distance Learning

In relation to distance learning, the Committee discussed the requirement of 90-629(4) that specifies that an applicant for a license must have "completed a training program consisting of a minimum of 500 in-class hours of supervised instruction at a Board-approved school". The 500 in-class requirement does not allow for distance learning in the core curriculum but distance learning may be used if the school program is in excess of 500 hours. It was agreed questions regarding this issue should be contained in the survey to schools being developed.

Clinic Hours In School Curriculum

The Committee reviewed Rules .0620(3) and .0620(2)(f) regarding use of students in school clinics. Mr. Wilkins was asked to request that M&M Consulting provide a chart showing the number of hours in clinic compared with the number of hours in the school's program. It was also agreed to include a question about this in the school survey, if necessary.

Student Compensation Prohibited

The Committee reviewed Rule .0626 and discussed prior decisions by the Board regarding student compensation. It was agreed student compensation would continue to be decided on a case-by-case basis.

NCBTMB Examination Sunset

The Committee discussed the decision of the Board to stop accepting the NCBTMB examinations after December 31, 2010. Ms. Allen recused herself from the discussion. The remainder of the Committee agreed the issue should be placed on the Board's agenda for October.

Accreditation by USDOE of Board's School Approval Process

The Committee discussed the possibility and advisability of the Board being accredited by the US Department of Education. After gathering more information on this issue, the Committee determined this was not possible.

Establishment Regulation Committee

Mr. Powell, Chair, reported the Committee met August 13, 2010 as set forth in the minutes.

Massage Establishment Regulation

The Committee reviewed the Florida statute that authorized the Florida Massage Board to regulate establishments. The Committee also reviewed applications for a massage therapy establishment license from Florida, Hawaii, Missouri and Nebraska, states that currently license massage therapy establishments. The Committee also reviewed Rule .0513 that provides facility requirements for LMBTs.

A primary concern is the definition of "massage therapy establishment". The Committee does not believe the definition should include LMBTs but should include establishments that offer massage therapy services that are not owned or operated by LMBTs.

The Committee reviewed a draft of an amendment to the North Carolina Practice Act to allow the Board to regulate establishments. Mr. Wilkins will draft a definition of "massage therapy establishment" for the Committee to consider. The Committee plans to meet with representatives of AMTA-NC Chapter to review a draft of an amendment to the Practice Act that would define "massage therapy establishment" and provide for licensure by the Board of such entities.

Communications Committee

Ms. Weinberger, Chair, reported the Committee met September 23, 2010 as set forth in the minutes.

Ms. Weinberger further reported:

Public Education Campaign

The Committee discussed ideas for the public education campaign. The Committee agreed the primary message the Board should seek to send to the public is: "If you are getting a massage the therapist must be licensed." Ways to send this message were discussed and it was agreed (1) the Board's webpage should have a separate Public Section that provides basic information about massage and bodywork therapy in terms and in a manner that is non-technical, easy to understand, and easy to find; (2) the Board should not be involved in Social Media Networks, such as YouTube or Facebook as this would not be professional; and (3) the Committee should meet with a knowledgeable person, such as Jill Hammergren, to discuss the feasibility of using press releases and ads in newspapers, internet, TV, radio or billboards.

Ms. Huffman suggested that the Committee continue to consider using You Tube as a possible public education campaign tool as its content and use are different than other social networking sites. The budget for the public education campaign is \$20,000.

December 2010 Newsletter

The December newsletter is being prepared and a draft should be available for review by the December Board meeting.

Jurisprudence Examination Committee

Mr. Wilkins reported that he and Ms. Weinberger had been working on the questions for the Jurisprudence Learning Exercise and that a memorandum of the status of the exercise with all 59 questions and instructions will be provided to the Board today for review and comment by November 22, 2010.

Licensing Boards Coordination Committee

No written report.

OLD BUSINESS

FSMTB Conference

Ms. Huffman and Mr. Powell reported on the FSMTB conference they recently attended and passed out some meeting materials. A more detailed written report will follow. Highlights of the conference included: communicating and sharing with other member boards; learning of the progress of the Federation; obtaining written resources and data for reference; licensure vs. certification; MBLEx history; Federation database that is available to member boards and needs populating with data; development of a Model Practice Act; reports on Florida and California fraudulent schools; distance learning; approving continuing education content and instructors; definition of massage therapy; and regulation or exemption of modalities.

Ms. Huffman and Mr. Powell both thought attending the conference was most beneficial and encouraged other Board members to try and attend in 2011.

Upon motion made, seconded and passed, the Board agreed to cooperate with the Federation in populating with Board data the various databases being developed by the Federation.

Public Hearing on Rule .0630(20)

Following proper notice, the Board conducted a public hearing on its proposed amendment to Rule .0630 by adding a new subsection (20). No one appeared or spoke during the Public Hearing. The proposed amendment to Rule .0630 will be presented to the Rules Review Commission for further review.

FARB Forum

Ms. Huffman reported several Board members had expressed interest in attending the FARB forum in New Orleans and for those interested to confirm with her their continued plan to attend. She reminded anyone attending conferences that they must submit pre-approval forms prior to booking flights or making reservations and that they are responsible for booking their travel. However, Ms. Kennedy is

registering and paying for the FARB conference for Mr. Powell, Mr. Thompson, Ms. Allen, Ms. Huffman and Ms. Weinberger to try and secure a lower rate for the five attendees.

CAC Conference

Dr. Preston is planning to attend the Citizens Advocacy Council conference in Washington, D.C. on November 11 and 12, 2010 as a representative of the Board.

Strategic Planning Session

Ms. Huffman announced the 2011 Strategic Planning Session is scheduled for Friday, January 21 and Saturday, January 22, 2011 at the Rizzo Center in Chapel Hill.

FSMTB

Ms. Susan Beam, treasurer of FSMTB, announced the Federation is moving forward with a task force on the possibility of establishing a program for approving continuing education providers and continuing education courses.

NCBTMB

The NCBTMB is investigating schools to see if they are legitimate and are not havens for human trafficking, prostitution or diplomas for sale. If problems are found, the NCBTMB can suspend or revoke the school's "code." The Board reviewed a report from the NCBTMB of schools whose codes had been suspended or revoked.

Association of Structural Integrators

Ms. Marsha Presnell-Jennette addressed the Board regarding her written request to the Board and a possible change to the Practice Act to allow the Board to license structural integrators and accept the ASI entry level examination.

Vapocoolant device

The Board discussed the request by Gebauer Company that the Board determine whether certain Class I Medical Devices known as vapocoolant sprays manufactured by Gebauer Company are proper to be used by LMBTs. Following a review of the materials on the subject and a report by Ms. Candace Frye, the Board was of the opinion that two vapocoolant devices manufactured or sold by Gebauer known as "Spray and Stretch" and "Instant Ice", are proper for LMBTs to use so long as the LMBT is trained to use the device.

Board of Chiropractic Examiners

The Board reviewed an email from Ron Cohn, D.C. requesting that the Board consider accepting chiropractic continuing education courses taken by chiropractic physicians who are also LMBTs and by LMBTs who are working with chiropractic physicians as courses for renewal of their massage and bodywork therapy license. The issue was referred to the Policy Committee to be considered along with the other issues regarding continuing education courses and continuing education providers being considered by the Board.

NEW BUSINESS

2011 Board Meeting Schedule

The Board reviewed and approved its meeting schedule for 2011. It was noted that Ms. Allen will not attend the April meeting and Ms. Weinberger will not attend the June meeting. When the FSMTB meeting date is established the Board may consider changing the date of the October meeting.

Bruising a Healthy Client

The Board considered an email from a school director asking whether bruising a healthy client is considered neglect or incompetence that should be reported to the Board. The Board agreed that bruising during or following a massage or bodywork therapy session is not in and of itself proof the LMBT was negligent or incompetent. However, bruising during or following a massage or bodywork therapy session is some evidence of negligence or incompetence and should raise a concern by the LMBT. The LMBT should investigate with the client the cause and extent of the bruising to determine if the LMBT was negligent or incompetent or whether there was some other cause for the bruising. If it appears the LMBT was negligent or incompetent, the incident should be reported to the Board.

RECESS

The Board took a lunch recess from 12:10 p.m. to 1 p.m.

RESUME OPEN SESSION

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

John Stiner

The Board conducted a disciplinary hearing regarding allegations Mr. Stiner, LMBT violated the Massage and Bodywork Therapy Practice Act and Rules of the Board by engaging in inappropriate conduct with a client during a massage and bodywork therapy session.

Acceptance of NCBTMB Exams after December 31, 2010

The Board reviewed written documents from the FSMTB, the NCBTMB, the Alliance for Massage Therapy Education and the AMTA and received verbal statements from a representative of the FSMTB and a representative of the NCBTMB regarding the Board's Guideline 1.8.4 that limits the Board's acceptance of NCBTMB exams after December 31, 2010. Following a full discussion of the issue and a review of the documents and statements presented, the Board upon motion made, seconded and passed, agreed to amend its Guideline 1.8.4 by deleting the words "who is from a state that does not regulate the practice of massage and bodywork therapy."

PUBLIC COMMENT

The Board received comments from the public.

April Turner

The Board conducted a disciplinary hearing regarding allegations Ms. Turner, LMBT violated the Massage and Bodywork Therapy Practice Act and Rules of the Board by negligently and incompetently massaging a client during a massage and bodywork therapy session causing bruising and injury to the client.

CLOSED SESSION

Upon motion duly made, seconded, and passed, and pursuant to NCGS 143-318.11(a)(1), (3) and (7) as well as NCGS 143-318.18(6), the Board went into Closed Session at 5:30 p.m.

RETURN TO OPEN SESSION

The Board returned to Open Session at 7:30 p.m.

John Stiner

The Board reported it had reviewed the evidence presented during Mr. Stiner's hearing and was of the opinion that Mr. Stiner had violated Rule .0502(2) by failing to deliver treatment to his client that ensured her safety, comfort and privacy. The Board Ordered that Mr. Stiner (1) be placed on probation for two years beginning the day he is served by registered mail with a copy of the Order of the Board; (2) complete an anger management course approved by the Board within six months of being on probation; (3) 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 his period of probation; (4) obtain six in-class hours of continuing education approved by the Board in North Carolina law, rules and ethics, roles, boundaries, and client communication within six months of being on probation, in addition to the continued education required to renew his license; and (5) pay a civil penalty of \$500 and costs of \$250 within six months of being on probation.

April Turner

The Board reported it had reviewed the evidence presented during Ms. Turner's hearing and was of the opinion that Ms. Turner had violated N.C.G.S. 90-633(7), Rule .0502 subsections (1), (2) and (3), and Rule .0503(4) by delivering treatment to his client that caused serious bruising and injury to her buttocks, arms and back. The Board Ordered that Ms. Turner shall (1) have her license suspended for ninety days beginning the day she is served by registered mail with a copy of the Order of the Board (2) be placed on probation for two years beginning the day she is served by registered mail with a copy of the Order of the Board; (3) 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; (4) obtain twenty four in-class hours of continuing education approved by the Board, with six of the hours being in North Carolina law, rules and ethics, roles, boundaries, and client communication, by her license renewal date of November 1, 2011, in addition to the continued education required to renew her license; and (5) pay a civil penalty of \$1000 and costs of \$250 during her period of suspension.

ADJOURNMENT

Upon motion duly made, seconded and passed, the meeting was adjourned at 7:35 p.m.

Ms. Jaime Huffman, Chair

Nancy Toner Weinberger