



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

December 11, 2014; 10:00 a.m. – 3:55 p.m.

**Wells Fargo Capitol Center Building
150 Fayetteville Street, 13th Floor Large Conference Room, Raleigh, NC 27601**

"The mission of the 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 December 11, 2014 at 10:00 a.m.

MEMBERS PRESENT

Dr. Edwin Preston, Ms. Renee Hays, Mr. David Bedington, Ms. Dianne Layden, Ms. Holly Foster and Ms. Nancy Harrell

MEMBERS ABSENT

None

OTHERS PRESENT

Mr. Charles Wilkins and Mr. Ben Thompson, Legal Counsel to the Board, Ms. Elizabeth Kirk, Administrative Director and Julia Lancaster, Administrative Assistant.

CHAIR

Dr. Preston

RECORDING SECRETARY

Ms. Kirk

CONFLICT OF INTEREST

Dr. Preston asked if any Board member had any conflict of interest with any item on the meeting's agenda. There being no other potential conflict, the agenda was approved.

APPROVAL OF MINUTES

The Board approved its minutes of October 16, 2014.

TREASURER'S REPORT

The Treasurer's Report was reviewed and approved as presented.

2013-14 FINANCIAL AUDIT

The 2013-14 Financial Audit was reviewed and approved as presented.

ADMINISTRATIVE REPORTS

Mr. Wilkins reported:

New Rules

There are no rules scheduled for review. The Establishment Regulation Rules have been informally reviewed by attorneys at the Rules Review Commission. Additional changes will be made based on the review and will be submitted to the Board for approval before being sent to the Office of Administrative Hearings for publication in the NC Register to begin the rules adoption process. The Joint Legislative Procedure Oversight Committee met to review the Rules Review Commission report on the final classifications for G.S. 150B-21.3A report for 21 NCAC 30 in September 2015. The Committee approved the report and the Board will be required to readopt Rules .0201 and .0701.

Status of Amendments to Practice Act

There are no amendments to the Practice Act scheduled for consideration. The General Assembly is currently out of session but will return for the 2015 legislative session in January 2015.

Disciplinary Hearings

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

Consent Orders

Mr. Wilkins informed the Board of complaints filed against Takara Davis for allegedly practicing massage and bodywork therapy prior to receiving a license, Jaline LaPlante and Judy Ray for advertising with expired licenses and Brad Virgil for allegedly engaging in inappropriate sexual activity during a massage and bodywork therapy session. The complaints may be

resolved with Consent Orders. The Board agreed to consider the proposed Consent Orders in Closed Session.

Ms. Kirk reported:

Licensee Report

14,440 have been issued
8,814 active licenses

Renewal Report

There are 4,859 licensees scheduled to renew for the 2015-2016 renewal period. 771 licenses expired on December 31, 2012 and can be renewed by December 31, 2014. 3,788 therapists have renewed. 2,866 therapists renewed online and 922 therapists renewed by mail. An online renewal reminder email was sent on December 3, 2014.

COMMITTEE REPORTS

Policy Committee

Dr. Preston reported the Committee met December 10, 2014, and discussed the matters set forth in the minutes of the Committee.

Meetings with Coalition of Massage & Bodywork CE Educators and IASI

Dr. Preston reported the Committee with representatives from the Coalition of Massage & Bodywork CE Educators and the International Association of Structural Integrators to discuss further changes to the Rules and Regulations of the Board.

Aroma Touch Technique

Dr. Preston reported the Committee reviewed an email dated October 2, 2014 from Peggy Inch, requesting the Board to review information on "Aroma Touch Technique" and requested confirmation by the Board that "Aroma Touch Technique" is within the scope of practice of massage and bodywork therapy in North Carolina. Upon motion made, seconded and passed, the Board agreed that "Aroma Touch Technique" comes within the definition of massage and bodywork therapy and a therapist practicing "Aroma Touch Technique" is required to be licensed as a LMBT in North Carolina. Further, the LMBT shall be trained and competent to practice "Aroma Touch Technique" and the LMBT's training and competence shall be demonstrated and documented.

2015 Strategic Planning Conference

Dr. Preston reported the Committee reviewed the draft agenda, discussed Board comment to the agenda and agreed to recommend a proposed retreat agenda with three topics: (1) Establishment Regulation rules; (2) 2nd tier of licensure for LMBTs; and (3) long term goals. Upon motion made, seconded and passed, the Board agreed with the Committee's recommendation for agenda

items and agreed to add continuing education as a fourth topic to be discussed at the strategic planning conference.

Complaint filed by Hope Morgan – chiropractic assistants

Dr. Preston reported the Committee reviewed a complaint filed on October 28, 2014 by Hope Morgan, owner of NC Massage School, informing the Board of chiropractic assistants practicing massage and bodywork therapy at Merrimon Chiropractic in Asheville, NC. Upon motion made, seconded and passed, the Board agreed to send a letter to Dr. Michael Fortini, Director of Merrimon Chiropractic, to inform him the Board is aware and concerned that his practice is advertising without a licensed massage and bodywork therapist on staff and his employees may be practicing massage and bodywork therapy without a LMBT license.

Massage Envy Ambassador Program

Dr. Preston reported the Committee reviewed an email dated December 9, 2014 concerning Massage Envy Spa's Ambassador Program. Upon motion made, seconded and passed, the Board agreed to inform all North Carolina Board approved schools that there may be a potential conflict with this program and all schools must be in compliance with the Rules and Regulations of the Board addressing education in curriculum, approval of courses and approval of instructors.

License Standards Committee

Mr. Bedington reported the Committee met December 10, 2014, and discussed the matters set forth in the minutes of the Committee.

Traci Sutton

Ms. Sutton requested to appear before the Board to appeal the decision by the License Standards Committee to deny her application for a license. Ms. Sutton did not appear.

School Approval Committee

Ms. Hays reported the Committee met via conference call on December 8, 2014, and discussed the summaries of four site visits by M&M Consulting and also the schools scheduled to renew in 2015.

Establishment Regulation Committee

No written report.

Communications Committee

Ms. Foster reported the Committee met via conference call on November 10, 2014, and discussed the matters set forth in the minutes of the Committee.

Public Awareness Videos

Ms. Foster reported the Committee discussed the videos on the Board's website and ways to present these videos to the public. The Committee also discussed tracking how many views the website receives on a daily basis. Upon motion made, seconded and passed, the Board agreed to put its efforts into the Board's website by contacting search engines to display the Board's website anytime 'massage', "massage therapy", "bodywork" and/or 'bodywork therapy' is entered in a search engine and to write letters to the editor to help advertise the Board's website.

Facebook page

Ms. Foster reported the Committee discussed the effectiveness and usefulness of the Board's Facebook page. Upon motion made, seconded and passed, the Board agreed to discontinue the Board's Facebook page.

Winter 2014 Newsletter

Ms. Foster reported the Committee discussed the Winter 2014 Newsletter and agreed on articles on human trafficking, NCBTMB/FSMTB MBLEx agreement, online renewals, protocol on how to deal with unlicensed individuals, establishment regulation update and an article by Dr. Preston, Chair of the Board. The other articles included will be prepared by Board staff and will include 2015 Board meeting dates, introduction of new Board members and 2014 disciplinary actions. Upon motion made, seconded and passed, the Board agreed with the Committee's recommendations for the Winter 2014 Newsletter.

Foreign language newspaper ads

Ms. Foster reported the Committee developed an article to publish in select foreign newspapers. The Committee is waiting for Kelly Harrison, Special Agent of Homeland Security Investigations, to provide the names of the newspapers.

Board email address

Ms. Foster reported the Committee discussed developing an email address for each Board member which would only be used for Board matters. Upon motion made, seconded and passed, the Board agreed to recommend this topic be reviewed by the Policy Committee.

Continuing Education Ad Hoc Committee

Ms. Foster reported the Committee met via conference call on November 2, 2014. The Committee will continue its consideration of changes to Section .0700 of the Rules and Regulations of the Board.

OLD BUSINESS

NC General Assembly Proposed Laws Affecting Licensing Boards

Mr. Wilkins reported on proposed laws pending in the North Carolina General Assembly that may affect licensing boards. Study recommendations will be reported to the Joint Legislative Program Evaluation Committee and the Joint Legislative Administrative Procedure Oversight Committee in December 2014.

FSMTB CE Task Force Meeting Update

Ms. Foster reported the FSMTB CE Task Force work has been completed.

HB74 Rules Review Process

Mr. Wilkins informed the Board the Joint Legislative Procedure Oversight Committee met to review the Rules Review Commission report on the final classifications for G.S. 150B-21.3A report for 21 NCAC 30 in September 2015. The Committee approved 73 of the Board's rules but advised the Board, due to comments from the public, the Board will be required to readopt Rules .0201 and .0701.

NEW BUSINESS

FSMTB Updates from Annual Meeting

The Board reviewed the FSMTB updates from the Annual meeting.

NCBTMB Updates

The Board reviewed informational emails dated November 5 and 11, 2014, regarding recent NCBTMB updates.

PUBLIC COMMENT

The Board received comments from the public.

RECESS FOR LUNCH

The Board recessed for lunch at 12:05 to recognize Mr. Robby Brown and Mr. Josh Herman for their service on the Board.

RETURN TO OPEN SESSION

The Board returned to Open Session at 1:30 p.m.

DISCIPLINARY HEARINGS

Erinn McCrary

The Board conducted a disciplinary hearing regarding allegations Ms. McCrary failed to renew his license in a timely manner resulting in practicing massage and bodywork therapy with an expired license. Ms. McCrary did not appear for the hearing.

James Spivey

The Board conducted a disciplinary hearing regarding allegations Mr. Spivey failed to inquire about a client's intake form which stated to be careful with the client's thumb prior to giving the massage

resulting in pain to the client's thumb during the massage session. Mr. Spivey and complainant appeared and testified.

CLOSED SESSION

Upon motion 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 2:30 p.m.

RETURN TO OPEN SESSION

The Board returned to Open Session at 3:45 p.m.

Chen Zeng

The Board reported Ms. Zeng's license will be issued.

Erinn McCrary

Dr. Preston reported the Board reviewed the evidence presented during Ms. McCrary's hearing and was of the opinion Ms. McCrary failed to renew her license in a timely manner resulting in practicing massage and bodywork therapy with an expired license. The Board entered an Order that Ms. McCrary be granted a Conditional License provided she pay a civil penalty of \$1000 and costs of \$500.

James Spivey

Dr. Preston reported the Board reviewed the evidence presented during Mr. Spivey's hearing and was of the opinion Mr. Spivey failed to review a client's intake form or discuss the intake form with the client prior to the massage and bodywork therapy session. The Board entered an Order that Mr. Spivey obtain additional continuing education, take the Jurisprudence Exam and pay costs of \$300.

Takara Davis

The Board reported Ms. Davis' signed Consent Order was approved.

Jaline LaPlante

The Board reported Ms. LaPlante's signed Consent Order was approved.

Judy Ray

The Board reported Ms. Ray's signed Consent Order was approved.

Brad Virgil

The Board reported Mr. Virgil's signed Consent Order was approved.

Board appointment

The Board discussed recommendations for Ms. Darinda Davis' position as a therapist member on the Board.

ADJOURNMENT

Upon motion duly made, seconded and passed, the meeting was adjourned at 3:55 p.m.

Dr. Edwin Preston, Chair

David Bedington, Treasurer