



## **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**

*April 23, 2015; 10:00 a.m. – 3:50 p.m.*

**Wells Fargo Capitol Center Building  
150 Fayetteville Street, 13<sup>th</sup> 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 April 23, 2015 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 Ms. 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. Ms. Harrell recused herself from any discussion regarding Mr. Chappell. There being no additional conflict, the agenda was approved.

### **APPROVAL OF MINUTES**

The Board approved its minutes of February 19, 2015.

### **TREASURER'S REPORT**

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

### **RULE HEARINGS FOR PUBLIC COMMENT**

The Establishment Regulation Rules were sent to the Office of Administrative Hearings and have been published in the NC Register to begin the rules adoption process.

The Joint Legislative Procedure Oversight Committee reviewed the Rules Review Commission report on the final classifications for 21 NCAC 30. The Committee approved the report and the Board is required to readopt Rules .0201 and .0701.

#### **Rule .0201**

The Board held a hearing on Rule .0201 pursuant to House Bill 74, requiring re-adoption of rules designated as 'necessary with substantive public interest'. The Board received written comment but did not receive public comment at the hearing. The Board will complete the rules review process with a projected effective date of August 1, 2015.

#### **Rule .0701**

The Board held a hearing on Rule .0701 pursuant to House Bill 74, requiring re-adoption of rules designated as 'necessary with substantive public interest'. The Board received written comment and public comment at the hearing. The Board will complete the rules review process with a projected effective date of August 1, 2015.

#### **Rule .0702**

The Board held a hearing on Rule .0702, amending the rule to comply with Rule .0701. The Board received written comment and public comment at the hearing. The Board will complete the rules review process with a projected effective date of August 1, 2015.

#### **Rules .1001-.1015**

The Board held a hearing on Rules .1001, .1002, .1003, .1004, .1005, .1006, .1007, .1008, .1009, .1010, .1011, .1012, .1013, .1014 and .1015, licensing massage and bodywork therapy establishments. The Board received written comment and public comment at the hearing. The Board will complete the rules review process with a projected effective date of August 1, 2015.

## **RECESS FOR LUNCH**

The Board recessed for lunch at 12:40 p.m.

## **RETURN TO OPEN SESSION**

The Board returned to Open Session at 1:20 p.m.

## **DISCIPLINARY HEARING**

### **DeVeer Chappell**

The Board conducted a disciplinary hearing regarding allegations Mr. Chappell engaged in inappropriate sexual contact with a client during a massage and bodywork therapy session. Mr. Chappell did not appear for the hearing. The complainant appeared and testified at the hearing.

## **LICENSE STANDARDS COMMITTEE APPEALS**

### **James Bofill**

Mr. Bofill and his attorney appeared before the Board to appeal the decision by the License Standards Committee to deny his application for a license.

### **Meng Zheng**

Ms. Zheng appeared before the Board to appeal the decision by the License Standards Committee to deny her application for a license.

## **ADMINISTRATIVE REPORTS**

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

There are no amendments to the Practice Act scheduled for consideration. The General Assembly is currently in session.

### **Disciplinary Hearings**

One hearing was held today. One hearing was resolved through a signed Consent Order. Three hearings were postponed to the June 4, 2015 meeting.

### **Consent Orders**

Mr. Wilkins informed the Board of complaints filed against Connie Creech, M. Sunshine Davis and Linda Murphey for allegedly practicing massage and bodywork therapy with an expired license and Caihuan Donaghy for obtaining a license to practice massage and bodywork therapy by submitting fraudulent transcripts from a Florida massage school. Consent Orders have been negotiated. The Board agreed to consider the proposed Consent Orders in Closed Session.

Ms. Kirk reported:

### **Licensee Report**

14,698 have been issued  
8,271 active licenses

### **Renewal Report**

There are 4,859 licensees scheduled to renew for the 2015-2016 renewal period. 4,118 therapists have renewed. 3,085 therapists renewed online and 1,033 therapists renewed by mail. The routine Continuing Education Audit letters were mailed February 5, 2015 to 200 therapists who renewed online. The continuing education certificates are due to the Board by March 31, 2015. A reminder email was sent on March 10, 2015. The second request for documentation was emailed to 25 therapists on April 7, 2015 with a deadline of April 20, 2015.

## **COMMITTEE REPORTS**

### **Policy Committee**

Dr. Preston reported the Committee met via conference call on March 25, 2015 and April 14, 2015, and discussed the matters set forth in the minutes of the Committee.

#### **Cease and Desist letters**

Dr. Preston reported the Committee discussed the decision between the Federal Trade Commission and the NC Dental Board. Dr. Preston informed the Board that the Board will no longer mail Cease and Desist Orders to persons practicing massage and bodywork therapy without a license but Mr. Wilkins will draft another letter addressing this issue.

#### **Conference call with Donna Sarvello, VP of Educational Support for NCBTMB**

Dr. Preston reported the Committee met with Donna Sarvello, VP of Educational Support for NCBTMB, via conference call to discuss NCBTMB's school approval process and the contract with New York State.

#### **English Proficiency**

Dr. Preston reported the License Standards Committee of the Board frequently faces with applicants who demonstrate a lack of proficiency in the English language. Dr. Preston informed the Board of options to address this issue, such as (1) amending the Practice Act to include the requirement for English proficiency in NCGS 90-629 Requirements for licensure, (2) developing questions on contraindications for the License Standards Committee to use for applicants who lack proficiency in the English language, and (3) requiring an applicant to take the TOEFL test.

#### **Conference call with Debra Persinger, Executive Director for FSMTB**

Dr. Preston reported the Committee scheduled a conference call with Debra Persinger, Executive Director for FSMTB. There was some confusion about the time of the conference call so the Committee rescheduled the conference call for May 13, 2015.

### **Polaris Project**

Dr. Preston reported the Committee discussed their involvement with the Polaris Project, a program focused on disrupting the conditions that allow human trafficking, for assistance on combating human trafficking within the massage and bodywork therapy field.

### **Email for Board members**

The Committee discussed providing Board members specific email addresses used for Board purposes only. Ms. Kirk asked the Board to send her an email if they want a specific email for Board purposes only and IT services will be contacted to develop the email address.

### **License Standards Committee**

Mr. Bedington reported the Committee will be meeting April 24, 2015.

### **School Approval Committee**

Ms. Hays informed the Board the school renewal process was moving along smoothly. The School Approval Committee will be reviewing the 2015-16 school renewal applications and reports from M&M Consulting and will make recommendations to the Board at its June meeting.

### **Communications Committee**

Ms. Harrell reported the Committee met via conference call on March 9, 2015, and discussed the matters set forth in the minutes of the Committee.

### **Foreign language newspaper ads**

Ms. Harrell reported the Committee developed an article to publish in select foreign language newspapers. The Committee communicated with Kelly Harrison, Special Agent of Homeland Security Investigations regarding the article and addresses for appropriate newspapers. Ms. Harrell informed the Board the article was translated into Russian, Traditional Chinese and Korean. It has been recommended a translator be present when presenting this information to the specific newspapers.

### **Google Analytics data**

Ms. Kirk informed the Board of the Google Analytics data produced for the Board's website.

## **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 professional licensing boards. Study recommendations were reported to the Joint Legislative Program Evaluation Committee and the Joint Legislative Administrative Procedure Oversight Committee in December 2014 and January 2015. Mr. Wilkins also reported he has been meeting with a group of attorneys who represent various professional licensing boards to respond to the Program Evaluation Division study and suggest possible legislation. Mr. Wilkins provided the Board with a copy of Senate Bill 469 addressing changes to occupational licensing board reporting requirements.

### **2015 Strategic Planning Conference**

Dr. Preston reported on the 2015 Strategic Planning Conference held at the Rizzo Conference Center in Chapel Hill, North Carolina, January 30<sup>th</sup>-31<sup>st</sup>, 2015. The Board agreed to keep the to-do list as an agenda item for reference for future Board meetings.

### **CLEAR 2015 meetings**

The 2015 CLEAR Annual meeting will be held in Boston, Massachusetts, September 17<sup>th</sup>-19<sup>th</sup>, 2015. The 2015 CLEAR Regional Seminar will be held in Raleigh, North Carolina, April 30<sup>th</sup>, 2015. The 2015 CLEAR International Congress will be held in Amsterdam, June 25<sup>th</sup>-26<sup>th</sup>, 2015. Ms. Layden agreed to attend the annual meeting and regional seminar.

### **FSMTB 2015 Annual meeting**

The 2015 FSMTB Annual meeting will be held in Albuquerque, New Mexico, October 8<sup>th</sup>-10<sup>th</sup>, 2015.

### **FARB 2015/2016 Annual meetings**

The 2015 FARB Regulatory Law Seminar will be held in Denver, Colorado, October 1<sup>st</sup>-4<sup>th</sup>, 2015. The 2016 FARB Forum will be held in Clearwater Beach, Florida, January 28<sup>th</sup>-31<sup>st</sup>, 2016.

### **CAC 2015 meetings**

The 2015 CAC meetings will be held in Washington, DC, June 23<sup>rd</sup>, 2015 and November 12<sup>th</sup>-13<sup>th</sup>, 2015.

## **NEW BUSINESS**

### **FSMTB/NCBTMB Joint Statement**

The Board reviewed the FSMTB/NCBTMB Joint Statement.

### **Email on NCBTMB's Approved Provider Program**

The Board reviewed the email dated March 19, 2015 regarding the NCBTMB's Approved Provider Program.

## **PUBLIC COMMENT**

The Board received comments from the public.

### **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 2:50 p.m.

### **RETURN TO OPEN SESSION**

The Board returned to Open Session at 3:40 p.m.

#### **James Bofill**

The Board reported Mr. Bofill's application will be denied and the decision of the LSC upheld.

#### **Meng Zheng**

The Board reported Ms. Zheng's application will be denied and the decision of the LSC upheld.

#### **Caihuan Donaghy**

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

#### **Connie Creech**

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

#### **M. Sunshine Davis**

Although Ms. Davis has advised the Board she agreed to the proposed Consent Order, it has not been received and was not reviewed by the Board in Closed Session.

#### **DeVeer Chappell**

Dr. Preston reported the Board reviewed the evidence presented during Mr. Chappell's hearing and was of the opinion Mr. Chappell engaged in inappropriate sexual contact with a client during a massage and bodywork therapy session. The Board Ordered that Mr. Chappell's license be revoked and that he pay a civil penalty of \$1000 and costs of \$500.

#### **Board Website**

Mr. Bedington recommended the Board hire a marketing expert to help promote the Board's website. He also recommended the Board create a mobile website for easier access to the Board's website on phones and tablets, create a Board logo specific to the Board and allow LMBTs with websites to link their websites with the Board's website. Mr. Bedington agreed to contact a marketing expert to make a presentation to the Communications Committee.

#### **Rule Amendments**

The Board discussed the rules review process following the public comment period that ends May 15, 2015. Dr. Preston appointed a Rules Review ad Hoc Committee of Ms. Harrell, Mr. Bedington and Ms. Layden to review the written and public comments and to provide a report to the Board at its June 2015 Board meeting.

**ADJOURNMENT**

Upon motion duly made, seconded and passed, the meeting was adjourned at 3:50 p.m.

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Dr. Edwin Preston, Chair

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David Bedington, Treasurer