



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 15, 2015; 10:00 a.m. – 3:45 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 October 15, 2015 at 10:00 a.m.

MEMBERS PRESENT

Ms. Renee Hays, Ms. Dianne Layden, Ms. Holly Foster and Ms. Nancy Harrell

MEMBERS ABSENT

Dr. Ed Preston

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

Ms. Foster

RECORDING SECRETARY

Ms. Kirk

CONFLICT OF INTEREST

Ms. Foster 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 August 20, 2015.

TREASURER'S REPORT

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

ADMINISTRATIVE REPORTS

Rules

The Establishment Regulation Rules were sent to the Office of Administrative Hearings and have been published in the NC Register. A public hearing was held and the rules were submitted to begin the permanent rule-making 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 was required to readopt Rules .0201 and .0701.

The Rules Review Commission attorneys reviewed the rules following the approval of the Board at the June 4, 2015 Board meeting and suggested several changes. The Policy Committee met to review the suggested changes made by the Rules Review Commission attorneys and objection letters submitted to the Rules Review Commission. The Board approved the changes to the rules at its August 20, 2015 meeting. The rules were reviewed at the Rules Review Commission at their September 17, 2015 meeting.

Rule .0201

The Rules Review Commission approved Rule .0201 at their September 17, 2015 meeting and the Rule was effective October 1, 2015.

Rule .0701

The Rules Review Commission approved Rule .0701 at their September 17, 2015 meeting and the Rule was effective October 1, 2015.

Rule .0702

The Rules Review Commission objected to Rule .0702 at their September 17, 2015 meeting due to the Board making a substantial change to the rule following publication. The rule will be reviewed by the Rules Review Commission at their October 15, 2015 meeting.

Rules .1001-.1015

The Rules Review Commission objected to Rules .1001-.1015 at their September 17, 2015 meeting due to lack of statutory authority. The Board agreed to table the establishment regulation rules, at this time.

Status of Amendments to Practice Act

There are no amendments to the Practice Act scheduled for consideration. The General Assembly is currently not in session but is scheduled to return April 25, 2016.

Disciplinary Hearings

There is one hearing scheduled today.

Consent Orders

Mr. Wilkins informed the Board of complaints filed against William Bloom for engaging in inappropriate sexual activity during a massage and bodywork therapy session and against Candida Grogg for practicing with an expired license. Consent Orders have been signed by both. The Board agreed to consider the proposed Consent Orders in Closed Session.

Ms. Kirk reported:

Licensee Report

15,137 have been issued
8,781 active licenses

Renewal Report

There are 3,757 licensees scheduled to renew for the 2016-2017 renewal period. 570 licenses expired on December 31, 2013 and can renew by December 31, 2015. 505 therapists have renewed. 348 therapists renewed online and 157 therapists renewed by mail. An online renewal reminder email was sent on October 6, 2015.

COMMITTEE REPORTS

Policy Committee

Ms. Foster reported the Committee met October 14, 2015, and discussed the matters set forth in the minutes of the Committee.

Update on Establishment Regulation rules

Ms. Foster reported the Committee discussed the decision of the Rules Review Commission to object to Rules .1001-.1015 at their September 17, 2015 meeting. The Committee recommended and the Board agreed not to pursue the establishment regulation rules with the Rules Review Commission.

Continuing Education

Ms. Foster reported the Committee reviewed and discussed drafting language for a continuing education contract. Ms. Foster informed the Board the Committee will continue to work on the contract and present draft language at a future Board meeting.

License Standards Committee

Ms. Layden reported the Committee met August 21, 2015, and discussed the matters set forth in the minutes of the Committee.

Gillian Cunningham

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

Zhe Li

Ms. Li appeared before the Board to appeal the decision by the License Standards Committee to require her complete the TOEFL examination.

Noelle Preston

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

Antonia Visconti

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

School Approval Committee

The Committee has not met since the last Board meeting. Mr. Wilkins reported the Center for Massage and Natural Health has submitted an application for school approval for change of ownership. Mr. Wilkins recommended the Board grant the school a temporary approval for 180 days pursuant to Rule .0631. Mr. Wilkins advised the Board that under the circumstances Ms. Foster and Ms. Harrell, being school Program Directors, would not have to recuse themselves. Upon motion made, seconded and passed, the Board agreed to grant a temporary approval for a period of up to 180 days for the Center for Massage and Natural Health.

Communications Committee

Ms. Harrell reported the Committee met October 5, 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 that Board staff contacted the translating company to request they contact the foreign newspapers regarding the cost of putting the article in the different newspapers.

Web Developer

Ms. Harrell reported the Committee discussed contacting a web developer for more access to the Board's website for all internet enabled devices (phones, tablets, laptops and desktops). The Committee will be meeting with Devin Lushbaugh, IT contractor for the Board, on November 16, 2015 via conference call.

2015 Newsletter

Ms. Harrell reported the Committee discussed developing articles for the 2015 Winter Newsletter. The Committee agreed to include articles on the new Board members, establishment regulation rules, continuing education and the disciplinary actions taken in 2015. The Board agreed to submit additional topics for articles for the newsletter prior to the December Board meeting.

OLD BUSINESS

NC General Assembly Proposed Laws Affecting Licensing Boards

Mr. Wilkins reported on portions of Senate Bill 765 which affects how members are appointed to boards and prohibits licensees from serving as investigators on an occupational licensing board.

2015 Strategic Planning Conference

Ms. Foster reported on the 2015 Strategic Planning Conference held at the Rizzo Conference Center in Chapel Hill, North Carolina, January 30th-31st, 2015. The Board agreed to keep the to-do list as an agenda item for reference for future Board meetings. Board staff has indicated the items that have been completed and will continue to update the to-do list.

CLEAR 2015 meetings

The 2015 CLEAR Annual meeting was held in Boston, Massachusetts, September 17th-19th, 2015. Ms. Layden reported on the annual meeting. The 2016 CLEAR Winter Symposium will be held in Savannah, Georgia, January 6, 2016. The 2017 CLEAR International Congress will be held in Melbourne, Australia. The 2016 CLEAR Annual Educational Conference will be held in Portland, Oregon, September 17th-19th, 2016.

FSMTB 2015 Annual meeting

The 2015 FSMTB Annual meeting was held in Albuquerque, New Mexico, October 8th-10th, 2015. Ms. Layden, Ms. Foster and Mr. Wilkins reported on the annual meeting.

FARB 2016 Annual meetings

The 2016 FARB Forum will be held in Clearwater Beach, Florida, January 28th-31st, 2016. The 2016 FARB Regulatory Law Seminar will be held in Chicago, Illinois, September 29th-October 2nd, 2016. Ms. Kirk agreed to attend the 2016 FARB Forum.

CAC 2015 meeting

The 2015 CAC Annual meeting will be held in Washington, DC, November 12th-13th, 2015.

Responses to questions on informed consent

The Board reviewed and agreed with the response by Mr. Wilkins to Kendra Sanders and Kim Dupre on questions regarding informed consent.

NEW BUSINESS

Election of Treasurer

Upon appropriate nomination and vote, the Board elected Ms. Nancy Harrell to serve as Treasurer.

PUBLIC COMMENT

The Board received comments from the public.

RECESS FOR LUNCH

The Board recessed for lunch at 11:40 p.m.

RETURN TO OPEN SESSION

The Board returned to Open Session at 2:00 p.m.

DISCIPLINARY HEARINGS

Kerry McCoy

The Board conducted a disciplinary hearing regarding allegations Ms. McCoy had violated the conditions of her Conditional License that required that she not violate any law of the State of North Carolina or any other State of during her first licensure period. Ms. McCoy did not appear.

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 2:10 p.m.

RETURN TO OPEN SESSION

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

Gillian Cunningham

The Board reported Ms. Cunningham’s application will be denied and affirmed the decision of the LSC. The Board will allow her to reapply in two years and she will be required to provide evidence of treatment in a recovery program.

Zhe Li

The Board reported Ms. Li will be required to complete the TOEFL examination and affirmed the decision of the LSC.

Noelle Preston

The Board reported Ms. Preston’s application will be denied and affirmed the decision of the LSC.

Antonia Visconti

The Board reported Ms. Visconti’s application will be denied and affirmed the decision of the LSC.

William Bloom

The Board reported Mr. Bloom’s signed Consent Order was approved.

Candida Grogg

The Board reported Ms. Grogg’s signed Consent Order was approved.

Kerry McCoy

Ms. Foster reported the Board reviewed the evidence presented during Ms. McCoy’s hearing and was of the opinion Ms. McCoy violated the conditions of her Conditional License requiring she not violate any law of the State of North Carolina or any other State during her first licensure period. The Board Ordered that Ms. McCoy’s license be revoked and that she pay a civil penalty of \$1000 and costs of \$500. Should she reapply for a license, the Board agreed she provide evidence of not violating any law of the State of North Carolina or any other State and evidence of successful treatment in a recovery program.

TOEIC examination

The Board discussed the TOEIC examination. Upon motion made, seconded and passed, the Board agreed to contract with David Bedington, previous Board member, to complete the TOEIC examination.

ADJOURNMENT

Upon motion duly made, seconded and passed, the meeting was adjourned at 3:45 p.m.

Ms. Holly Foster, Chair

Nancy Harrell, Treasurer