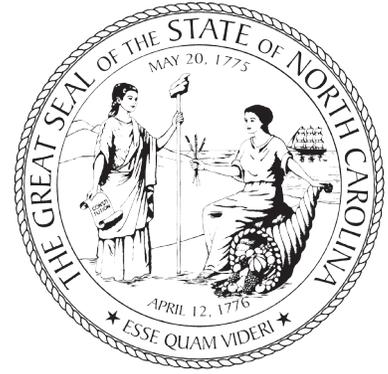


NORTH CAROLINA BOARD of MASSAGE & BODYWORK THERAPY

*Regulating the practice of massage and bodywork therapy,
and its educational institutions, for the protection of the public*



NEWSLETTER

WINTER 2008

Message from the Board Chair, Susan Beam

You will see from the articles in this newsletter that the Board has been hard at work this year, with tasks ranging from practice act and rule changes, to approving an additional credentialing exam for licensure. We have also been working on a new and improved and more user-friendly website which we hope to have operating by the first of the year. We've been busy!

None of this could have been done without help. Our staff assists us with legal advice, research, technical assistance, and managing general office duties. Both the National Certification Board of Therapeutic Massage & Bodywork and the Federation of State Massage Therapy Boards sent representatives to North Carolina to present the Board with information about examinations. Three Board members attended the annual meeting of the Federation of State Massage Therapy Boards where they received both training and opportunity to network with massage regulators from other states. Two other Board members had the opportunity for training and networking at the Citizen Advocacy Center Fall Conference.

Special recognition must go to the American Massage Therapy Association, North Carolina Chapter, (AMTA-NC) and its officers. They have worked tirelessly to bring about

Continued on Pg 3

AMENDMENTS TO THE PRACTICE ACT

Amendments to the Massage and Bodywork Therapy Practice Act were introduced by Senator Janet Cowell in the 2007 Session of the Legislature as SB 1314 at the request of the AMTA-NC Chapter. There followed a two-year period of discussion and cooperation between the Board, representatives from AMTA-NC Chapter, and members of the legislature and legislative committees on the content and passage of the legislation. SB 1314 passed the Senate in 2007, passed the House of Representatives in 2008, and was signed into law by the Governor on August 17, 2008. Some of the primary changes to the Practice Act included:

- (1) Expanding the Declaration of Purpose
- (2) Allowing fees for the approval of schools
- (3) Allowing additional examinations for entry-level licensees
- (4) Requiring criminal record checks of applicants
- (5) Providing for license by endorsement
- (6) Allowing for discipline of schools
- (7) Reducing continuing education hours from 25 to 24

AMENDMENTS TO THE BOARD'S RULES

In 2008 the Board made several changes to its Rules and Regulations. Public hearings were held and public comment was received on each proposed rule. The Rules were then reviewed by the Rules Review Commission and approved. The amendment to Rule .0102 defines generally accepted psychometric principles and standards and became effective September 1, 2008. The amendment to Rule .0201 added a new examination for entry-level licensure and a new Rule .0516 allows massage in body cavities under certain specified circumstances. These rules became effective October 1, 2008. Rule .0626 prohibits student compensation and Rule .0701 reduces the hours of continuing education for renewal from 25 to 24. Both became effective November 1, 2008.

There are currently no Practice Act or rule amendments under consideration by the Board. Copies of the current Practice Act and Rules and Regulations of the Board can be obtained from the Board webpage or by sending a written request to the Board office along with a \$5 money order or certified check.

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NEW EXAMINATION ACCEPTED

Effective September 1, 2008, the North Carolina Board of Massage & Bodywork Therapy began accepting the Massage & Bodywork Licensure Examination (MBLEx) offered by the Federation of State Massage Therapy Boards (FSMTB), of which the North Carolina Board is a member, along with approximately 30 other states. The MBLEx is an entry-level massage licensure exam and is administered by Pearson Vue, the same testing centers that administer the National Certification exams. The MBLEx was created following a job task survey of over 7,500 massage therapists with subject matter chosen by more than 50 experts in the massage and bodywork therapy profession and with input from regulators.

After December 31, 2010, the examinations administered by the National Certification Board will be accepted only for licensure by endorsement from applicants who move to North Carolina from other states. North Carolina will also continue to recognize the Asian Bodywork Examination administered by the NCCAOM.

The primary differences in the MBLEx and the National Certification exams are:

- There are no questions concerning Eastern theory or modalities on the MBLEx
- There are twice as many questions pertaining to professional ethics on the MBLEx
- The MBLEx provides for a test date within 48 hours of receiving an application
- The MBLEx is a licensure examination, not a certification examination
- The member states of FSMTB have ownership of the MBLEx

More information about the MBLEx can be found on the FSMTB website www.fsmtb.org.

BOARD OFFICE CLOSED

The Board office will be closed on the following dates:
Christmas Holiday - December 24, 25 and 26, 2008
New Year's - January 1 and 2, 2008

RENEWING AN EXPIRED LICENSE

CLARIFYING BOARD POLICY ON RENEWING AN EXPIRED LICENSE

A licensee who has allowed a license to expire may reinstate their license within twenty-four (24) months from its expiration date. Depending on when during the 24-month period you choose to reinstate your license, you must complete and submit appropriate continuing education with your renewal application for either one or possibly two renewal periods. Any renewal application submitted after the required submission date of November 1 is considered to be a late renewal and is subject to the \$75 late fee in addition to the renewal fee of \$100. If the time your license was expired includes two renewal periods, you may be required to pay a total of \$350. The licensee will also receive a Letter of Reprimand for failing to renew by the November 1st deadline.

For example, if your license expired December 31, 2006 and you choose to reinstate your license after November 1, 2008, you must complete and submit 25 hours of appropriate continuing education with your application for both the 2007-2008 and the 2009-2010 renewal periods for a total of 50 hours. You must also pay a late renewal fee of \$75 and the renewal fee of \$100 for the 2007-2008 renewal period as well as for the 2009-2010 renewal period for a total of \$350.

A licensee who has allowed a license to remain expired for more than 24 months may not renew their license, but must submit an application for initial licensure and follow the procedure for a first-time applicant meeting all of the requirements existing at that time.

GIFT CERTIFICATES

North Carolina allows an expiration date on gift certificates. However, if you choose to put an expiration date on a gift certificate you sell, you become subject to the laws governing escheat—a word defined as “abandoned property that should be turned over to the State.” The time period for considering a gift certificate to have been “abandoned” is three years after the expiration date. The amount presumed abandoned is valued at 60% of the face value of the gift certificate. Gift certificates with no expiration date are not subject to escheat. A gift certificate that expires before it is used escheats to the State.

What this means to massage therapists is: If you sold a gift certificate with an expiration date on it for \$100, and three years after the expiration date it had not been redeemed, you would be obligated to turn \$60 over to the State treasury as “abandoned property”. You can avoid this by not putting expiration dates on the gift certificates you sell. A gift certificate is not abandoned property when the gift certificate or electronic gift card: (1) conspicuously states that the gift certificate or electronic gift card does not expire; (2) bears no expiration date; or (3) states that a date of expiration printed on the gift certificate is not applicable in North Carolina

You are not obligated to give a refund on a gift certificate in the event the recipient does not want to get a massage, but you are obligated to clearly state what your refund policy is and whether your gift certificates are transferable. For instance, if a gift certificate recipient does not want to receive a massage, you can allow them to pass it on to someone else. If you have a stated cancellation policy, such as “24 hours notice of cancellation or you will be charged for the session,” that policy can apply to gift certificates as well, but take care to have that printed on your gift certificates.

MESSAGE FROM THE BOARD CHAIR

(Continued from Pg 1)

legislative passage of changes to our practice act, committing their financial and human resources to this end. The AMTA-NC represented its membership by working to make licensing regulations fairer to licensees. They also worked with the Board every step of the way to ensure regulations are effective and efficient. AMTA-NC representatives met with the full Board, Board committees, and legal counsel countless times. Many phone calls and emails were exchanged. The AMTA-NC did not give up until all disagreements were resolved. We all agree these changes have improved the practice act in important ways.

On behalf of the North Carolina Board of Massage and Bodywork Therapy, I wish to express our gratitude to the AMTA-NC, and especially President Ed Sansbury, for their cooperation and efforts which successfully brought about the practice act changes. Please read highlights of these changes in this newsletter.

MASSAGE AND BODYWORK THERAPY SCHOOLS

Site visits have resumed at massage and bodywork therapy schools in preparation for the possibility of some schools qualifying for a two-year renewal.

UNLICENSED MASSAGE AND BODYWORK THERAPY IN SHOPPING MALLS

The Board continues to receive complaints about unlicensed persons providing massage to the public in shopping malls. Informational letters regarding the law and rules requiring that persons who provide massage and bodywork therapy in malls be licensed by the Board were sent to all major shopping malls in North Carolina. Cease and Desist Letters have been sent to some malls for flagrant violations. However, it appears that some of the businesses that provide massage and bodywork therapy in shopping malls are still not in compliance.

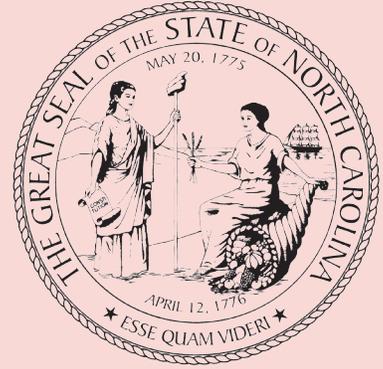
Based on previous Board opinions, the following modalities* require a North Carolina Board of Massage and Bodywork Therapy license and the licensee must be trained and competent to administer the modality and such competency must have been demonstrated and documented:

1. Acupressure
2. Bowen Technique
3. Bowtech Technique
4. Craniosacral Therapy
5. Cupping
6. Endermologie
7. Endermology
8. Hot Stone Massage
9. Hydrotherapy
10. Infant Massage (unless exempt under NCGS 90-624)
11. Kiatsu
12. Lymph Star Pro Machine
13. Lymphatic Drainage Machine
14. Neurostructural Intergration Technique
15. Phytobiadermie Vacuum Suction Massage
16. Pregnancy Massage
17. Rolfing
18. Shiatsu
19. Synergie AMS Device
20. Thai Yoga Massage
21. Theraflex System
22. Watsu

** This list is updated periodically as the Board reviews modalities*

TRADING MASSAGE IS “OTHER CONSIDERATION”

The Board received a complaint about a person practicing massage and bodywork therapy without a license. The person replied that he was only trading massages and not receiving a fee. The Practice Act in 90-622(5) defines the practice of massage and bodywork therapy as “the application of massage and bodywork therapy to any person for a fee or other consideration”. The Board determined that trading massages is considered to be “other consideration”, except between students in massage school. Therefore, a person (other than a student) must be licensed as a LMBT in order to trade massage and bodywork therapy services with another person.



Official Newsletter
of the
NORTH CAROLINA BOARD of
MASSAGE & BODYWORK
THERAPY

POST OFFICE BOX 2539
RALEIGH, NC 27602

Phone: 919-546-0050
Fax: 919-833-1059
email: admin@bmbt.org
web: www.bmbt.org

Offices located at the
Wachovia Capitol Center
150 Fayetteville Street
Suite 1900
Raleigh, NC 27601

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CLIENT CONFIDENTIALITY

(Rule .0505)

When a LMBT has a client who makes an inappropriate sexual request during a massage session, the LMBT may not alert other LMBTs of the client's behavior. The LMBT should not disclose the identity of the client to anyone, including other LMBTs, for to do so would violate the provisions of Rule .0505(1) that requires LMBTs to maintain the confidentiality of all client information. The only exceptions would be if the client gave written permission for the disclosure, or disclosure is required by law or by court order. A LMBT may obtain written permission for such a disclosure through language in the client intake form used by the LMBT.

www.bmbt.org

CONTINUING EDUCATION HOURS REQUIRED FOR LI- CENSE RENEWAL

The 2008 amendments to the Practice Act became effective August 18, 2008 when Governor Easley signed the legislation into law. One of the amendments reduced the hours of continuing education a licensee will need to renew their license from 25 to 24. The reduction to 24 hours of continuing education begins January 1, 2009 and will be for those licensees renewing for 2010-2011 and thereafter.

MOVED?

CHANGED JOBS?

Rule 21 NCAC 30 .0403 requires that all licensees notify the Board in writing of any changes of trade name, mailing address, telephone number or primary place of business within thirty (30) days of the change. The "Notification of Change" form is available at the website at www.bmbt.org. Changes will also be accepted by email to admin@bmbt.org.

Please note that all address changes must be in writing. Board staff is prohibited from accepting oral changes of address.

LICENSURE BY ENDORSEMENT

The 2008 amendments to the Practice Act provide another way for a person to become licensed as a LMBT in North Carolina. In addition to the requirements for licensure set forth in N.C.G.S. 90-629, Licensure by Endorsement provides as follows:

§ 90-630.1 Licensure by endorsement.

(a) The Board may issue a license to a practitioner who is duly licensed, certified, or registered as a massage and bodywork therapist under the laws of another jurisdiction. The practitioner shall be eligible for licensure by endorsement if all of the following qualifications are met:

- (1) The applicant meets the requirements of G.S. 90-629(1), (2), (3) and (6) and submits the required application and fees to the Board.
- (2) The applicant currently holds a valid license, certificate, or registration as a massage and bodywork therapist in another jurisdiction, and that jurisdiction's requirements for licensure, certification, or registration as a massage and bodywork therapist are substantially equivalent to or exceed the requirements for licensure under this Article.
- (3) The applicant is currently a practitioner in good standing, with no disciplinary proceeding or unresolved complaint pending in any jurisdiction at the time a license is to be issued in this State.
- (4) The applicant passes a jurisprudence examination administered by the Board regarding laws and rules adopted by the Board for licensure under this Article.
- (5) The applicant, including applicants credentialed in a foreign country, demonstrates satisfactory proof of proficiency in the English language.

(b) The Board may issue a license by endorsement to a practitioner from another state that does not license, certify, or register massage and bodywork therapists if all of the following qualifications are met:

- (1) The applicant meets the requirements of G.S. 90-629(1), (2), (3), and (6) and submits the required application and fees to the Board.
- (2) The applicant has passed a competency assessment examination that meets generally accepted psychometric principles and standards and is approved by the Board.
- (3) The applicant has graduated from a massage and bodywork therapy school that:
 - (i) offers a curriculum that meets or is substantially equivalent to the standards set forth in the Board's criteria for school approval; and
 - (ii) is licensed or approved by the regulatory authority for schools of massage and bodywork therapy in the state, province, territory, or country in which it operates or is exempt by law.

- (4) The applicant is currently a practitioner in good standing, with no disciplinary proceeding or unresolved complaint pending in any jurisdiction at the time a license is to be issued in this State.
- (5) The applicant passes a jurisprudence examination administered by the Board regarding laws and rules adopted by the Board for licensure under this Article.
- (6) The applicant, including an applicant credentialed in a foreign country, demonstrates satisfactory proof of proficiency in the English language.
- (7) Notwithstanding the requirements of subdivisions (2) and (3) of this subsection, the applicant has other credentials, to be reviewed by the Board on a case-by-case basis, that are deemed by the Board to be substantially equivalent to the requirements in subdivisions (2) and (3) of this subsection.

DISCIPLINARY ACTIONS OF THE BOARD

FROM JANUARY 2008 THROUGH NOVEMBER 2008

The Board is authorized to investigate complaints and take a range of disciplinary actions, as set forth in Section .0900 of the Rules.

MASSAGE AND BODYWORK THERAPISTS

REVOCATIONS/SUSPENSIONS:

There were no licenses revoked.

LETTERS OF REPRIMAND:

There were three hundred and three (303) Letters of Reprimand issued to therapists for late renewal and nine (9) Letters of Reprimand issued to therapists for Non-Sufficient Funds (bounced checks).

ORDER

Cindy Barrett – Following a Hearing, the Board determined licensee formed a dual relationship with client/complainant during numerous massage therapy sessions and in personal relationships over several years. Order - License suspended for two years. The first thirty days of the two-year suspension was active and the remainder of the two-year suspension was stayed provided she, within six months from October 20, 2008: (1) complete twelve hours of Board-approved in-person continuing education in ethics, including dual relationships, boundary issues, transference and counter-transference issues, (2) pay a civil penalty of \$1,000, and (3) pay the cost of the court reporter's appearance fee for the hearing.

CEASE AND DESIST ORDERS:

There were thirty three (33) Cease and Desist Orders served on persons for practicing without a LMBT license and nine (9) Cease and Desist Orders served on businesses upon information they were allowing a person to practice massage and bodywork therapy without a North Carolina license.

CONSENT ORDERS

Katherine M. Armbruster - Practiced at XpressSpa at Raleigh Durham Airport without a LMBT license from April 2007 to August 14, 2007. Placed on probation for one year, pay \$1,000 civil penalty, \$200 costs, not violate Practice Act or Rules.

Thomas Joshua Christ – Alleged sexual activity with a client. Placed on probation for one year and must complete an additional 12 hours of continuing education in boundaries, draping and ethics before next renewal, and pay costs of \$527.80.

Zuni A. Kutcher - Practiced without a LMBT license from January 1, 2008 to May 15, 2008. Placed on probation for two years, pay \$300 civil penalty, \$100 costs, not violate Practice Act or Rules.

Individuals:

Patricia Autry.....	Mineral Bluff, GA
Lenora Diane Bonner	Leicester
Catherine B. Clarke	Swannanoa
Mary Dethlefs.....	Wilmington
Thanh Ngoc Doan.....	Graham
Yong Hui Dunn.....	Madisonville
Deliah Faye Fountain	Leicester
Karlei Gabbard	Hendersonville
Lynne Y. Grape	Duck & Corolla
Son Jarkowsky.....	Monroe
Midge Hopper.....	Forest City
“Keri”	Cary
Dan Sim Kim.....	Monroe
Susan Marie Kim.....	Hendersonville
Stacy Laws.....	Marion
Leonard P. Martineau.....	Charlotte
Jennifer Negron	Fort Bragg
Thomas U. Nielsen	Cary
Phuong Hong Nguyen	Whitsett
Yingdan Quan.....	Matthews
Noel Parenti	Winston Salem
Kyong C. Payanis	Charlotte
Katharine Richards	Greensboro
Lisa Louise Roberts	Charlotte
Yanett Salinas	Durham
Stacy Dawn Scott	Asheville
Don Juan Solis.....	Raleigh
“Sydney”.....	Burlington
Ginger Tickle.....	Saluda
Reva Tunnell.....	Leicester
Xiao Hong Wang	Statesville
Min Ye	Monroe
Anna Zhang	Cary

Businesses:

Adam and Eva Day Spa.....	Longwood
Davi Nails.....	Raleigh
H-Relax	Winston Salem
Health First.....	Cary
Hanes Mall	Winston Salem
Magic Touch Massage.....	Franklinton
Ravenhill Medical Day Spa.....	Fayetteville
The Tokyo Spa.....	Longwood
Valeria Salon/Spa/Boutique.....	Huntersville

CONDITIONAL LICENSES:

The License Standards Committee of the Board issued forty seven (47) licenses to persons whose applications showed evidence of past minor criminal behavior, or other improper conduct, on the condition that they provide the Board with an updated criminal record search for one or two of their next renewals.

DENIAL OF LICENSE:

The Board denied a license to four (4) applicants, Edith Marie McKnight, Debra Ann Mink, Cindy Lou Rankin and Carrie Nye Rehkopf, due to lack of appropriate education or not having passed the National Certification Examination. Several of these applicants are now seeking license by endorsement pursuant to N.C.G.S. 90-630.1.

Kelvin Morris - License denied for lack of evidence of good moral character. Board decision upheld by Order of Buncombe County Superior Court Judge on August 6, 2008.

Kathy Rankin – License denied due to revocation of RN license by Board of Nursing. Can reapply when RN license is reinstated and conditions are met. Ms. Rankin did reapply and license was issued.



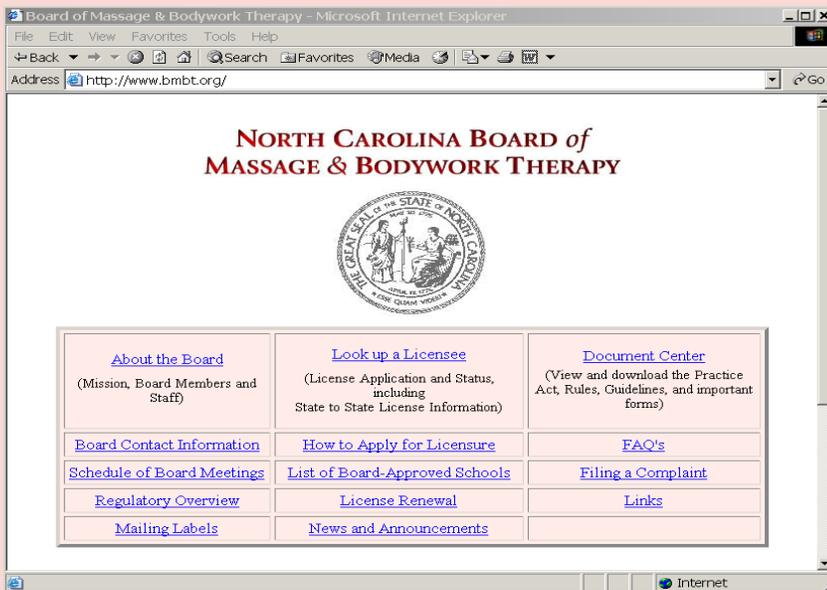
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The Board Website is Your
 Online Source for Information



The website provides an easily accessible source for information on the licensing program and activities of the Board. There are individual pages which give you:

- An overview of the regulatory process
- Contact information for the Board
- List of Board members and professional staff
- Meeting schedule and map to the Board Office
- Information on how to apply for initial licensure
- List of Board-approved schools
- Frequently Asked Questions
- Look up a Licensee - search by last name or license number to verify license status
- How to file a complaint
- Links to other agencies and organizations

A feature, called the DOCUMENT CENTER, is a popular page on the site. From this location, you can view and/or download many of the important documents which are part of the licensing program. These include:

- | | |
|---------------------|--------------------------------------|
| Practice Act | Request Form for Initial Application |
| Rules & Regulations | Application for License Renewal |
| Guidelines | Orientation Handbook - New Licensees |