



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 1910, Raleigh, NC 27601

OPEN SESSION MINUTES

August 20, 2020; 10:00 a.m. – 5:05 p.m.; 6:00 p.m.

August 21, 2020; 9:00 a.m. – 3:30 p.m.; 5:15 p.m. – 5:30 p.m.

**Wells Fargo Capitol Center Building
Via Conference Call**

"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 virtually via Webex in Open Session on August 20, 2020 at 10:00 a.m.

MEMBERS PRESENT

Ms. Nancy Harrell, Ms. Kim Turk, Ms. Kay Warren, Ms. Ella Price, Ms. Rachael Goolsby, Mr. Steve Green and Mr. Robert Reeves

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 Arnette, Assistant Administrative Director

CHAIR

Ms. Harrell, Chair

RECORDING SECRETARY

Ms. Kirk

STEVE GREEN

Ms. Harrell welcomed Mr. Steve Green as the new establishment owner member of the Board appointed by Governor Roy Cooper. Ms. Harrell administered the Oath of Office to Mr. Green.

CONFLICT OF INTEREST

Ms. Harrell asked if any Board member had any conflict of interest with any item on the meeting's agenda. Mr. Reeves recused himself from discussion of Southeastern Institute and Mr. Green recused himself from discussions of Nicolas Durette, JonClaude Harris and Jeisson Chaves. There being no additional conflict, the agenda was approved.

APPROVAL OF MINUTES

The Board approved its minutes of June 18, 2020.

TREASURER'S REPORT

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

ADMINISTRATIVE REPORTS

Rules

a. Rule .0636 – Update from Rules Review Commission

The Board reviewed the final version of the adoption of Rule .0636 approved by the Rules Review Commission on July 16, 2020 for an effective date of July 24, 2020.

b. Rule .0704 – hearing scheduled for 1:00 p.m.

The Board will hold a public hearing at 1 p.m. to receive public comments on temporary Rule .0704.

c. Rule .0804 – hearing scheduled for 1:00 p.m.

The hearing was canceled because the Board agreed to withdraw Rule .0804, Waiver or Extension, from the rule-making process and not move forward with the temporary rule. The emergency rule was adopted by the Rules Review Commission on June 29 and will expire September 13. Board staff will notify the Rules Review Commission and interested parties of its decision.

Status of Amendments to Practice Act

There is a pending amendment to the Practice Act regarding fees.

Disciplinary Hearings

Mr. Wilkins informed the Board of a proposed Letter of Reprimand and Consent Order regarding: Kristina Zachary for failing to conduct her business affairs with integrity and failing

to refuse any gifts from her massage and bodywork therapy client; Brandyn Miller for engaging in inappropriate conduct while receiving massages and engaging in inappropriate draping and contact with clients during massage and bodywork therapy sessions. There are seven hearings scheduled for today and tomorrow for Michael Becker, Jill Bernthisal, Natasha Bryant, Jeisson Chaves, Nicolas Durette, JonClaude Harris and Ryan Robinson.

Ms. Kirk reported:

Licensee Report

19,031 have been issued
9,549 active licenses

Renewal Report

There are 5,384 licensees scheduled to renew for the 2021-2022 renewal period. 726 licenses expired on December 31, 2018 and can renew by December 31, 2020. License renewal information was sent by email in July. Ms. Kirk informed the Board that the new continuing education opportunities were added to the continuing education system and LMBTs may use those opportunities to renew their license this renewal period and future renewals.

COMMITTEE REPORTS

Policy Committee

Ms. Harrell reported the Committee met August 19, 2020 and discussed the matters set forth in the minutes of the Committee.

Continuing Education

Mass email regarding new CE rules

The Committee discussed the changes set forth in Section .0700 of the Rules and Regulations of the Board which became effective on November 15, 2019. The Committee reviewed a mass email that was sent to all LMBTs regarding notification of the additional continuing education opportunities for the 2020-21 and future renewal periods.

FSMTB

a. Massage Therapy Licensing Database (MTLD) program

The Committee discussed the MTLD program and recommended that Board staff invite DEG to review the database process in the Board office.

b. Email from Gabrielle Bennett regarding CE approval

The Committee discussed the email from Gabrielle Bennett regarding whether the NCBMBT accepts CEs provided by FSMTB. The Committee agreed to respond and request additional information regarding the FSMTB CE registry to begin the CE contract process. The Board agreed with the Committee's recommendation.

IASI contract

The Committee reviewed a letter dated July 2, 2020 from Ms. Harrell to Beth Burgin and Jason Sager following review of the proposed continuing education contract. The Committee is waiting for a response from IASI on the Committee's requests.

Update on Practice Act changes

The Committee discussed the proposed 2019/2020 changes in the Practice Act regarding fees. The Committee agreed to continue discussion on this topic for the 2021/2022 legislative session.

Clarification and implementation of who is a "sole practitioner"

The Committee reviewed and discussed the definition of "sole practitioner" and agreed to continue discussion on this topic.

Review correspondence from NCRA and ARCB

The Committee reviewed correspondence from NCRA and ARCB and a draft letter in response to their questions. The Committee agreed the letter of response shall be sent to David Henry, Vice President of ARCB.

Request from Donald Oliva, Business Development Executive, at CE Broker

The Committee reviewed an email from Donald Oliva dated August 13, 2020 requesting an opportunity to address the Board regarding CE Broker. The Committee agreed not to utilize the CE Broker program for continuing education due to already having these functions in place. The Board agreed with the Committee's recommendation.

Discuss Rule .0804

The Committee reviewed Rule .0804 and agreed to recommend to the Board that this rule be withdrawn from the rule-making process. The Board agreed with the Committee's recommendation and Ms. Harrell will announce that decision during the hearing before the Board.

Email from Kay Moseley regarding Hypno-massage

The Committee reviewed an email from Kay Moseley dated August 13, 2020 regarding hypno-massage. The Committee agreed that hypnotherapy is not within the scope of practice of massage and bodywork therapy and is not a modality recognized by the Board as appropriate for use by a LMBT. The Board agreed with the Committee's recommendation.

License Standards Committee

Ms. Goolsby reported the Committee met August 19, 2020 and discussed the matters set forth in the minutes of the Committee.

Zhenshu An

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

School Approval Committee

Ms. Turk reported the Committee met July 31, 2020 and discussed the matters set forth in the minutes of the Committee.

Review M&M Virtual Site Visit Proposal

The Committee discussed a proposal from M&M Consulting regarding virtual site visits. The Committee agreed to complete a virtual site visit for one massage and bodywork therapy school and review feedback on the process from M&M Consulting and the school. The Board agreed with the Committee's recommendation.

Review Southeastern Institute's Application for Additional Program

The Committee reviewed and discussed Southeastern Institute's Application for Additional Program and agreed to recommend the Board approve the 740-hour massage and bodywork therapy program. Upon motion made, seconded and passed, the Board agreed to approve the 740-hour massage and bodywork therapy program.

Email from Shannon Manzella regarding Miller-Motte massage therapy programs

The Committee reviewed an email from Shannon Manzella, Manager of Regulator Operations for Ancora Education, regarding a request to temporarily revise the Miller-Motte massage therapy programs to allow students to graduate. The Committee agreed to recommend to the Board that the request to temporarily revise the programs be denied since the Board's Practice Act and Rules and Regulations do not give the Board authority to accept this request without going through the rule-making process with the Rules Review Commission. The Board agreed with the Committee's recommendation.

Communications Committee

No written report

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.

2018 Strategic Planning Conference

Ms. Harrell reported the Board met for a Strategic Planning Conference on January 19-21, 2018 and discussed the matters set forth in the minutes of the conference. The Board will consider a future strategic planning conference in 2021.

CLEAR

a. 2020 Annual meeting

The 2020 Annual Educational Conference will be held in Seattle, Washington, September 23-26, 2020. Ms. Warren agreed to attend and Ms. Goolsby, Ms. Price, Mr. Reeves and Mr. Green requested more information on the annual conference.

b. 2021 International Congress

The 2021 International Congress will be held in Dublin, Ireland, June 23-25, 2021.

FSMTB

a. 2020 Annual meeting

The 2020 FSMTB annual meeting that was supposed be held in Chicago, Illinois, October 15-17, 2020 was cancelled.

b. July and August In Touch Newsletters

The Board reviewed emails dated July 1, 2020 and July 30, 2020, respectively, regarding the July and August “In Touch” newsletters.

Review response to Cindy Osborne regarding CE requirements

The Board reviewed and approved a response from Ms. Kirk to Ms. Osborne regarding CE requirements.

Review response to Sequoya Moore regarding renewal fees

The Board reviewed and approved a response from Ms. Kirk to Ms. Moore regarding renewal fees.

Review response to Suzanne Eller regarding online CEs in 2021

The Board reviewed and approved a response from Ms. Kirk to Ms. Eller regarding online CEs in 2021.

Review response to Jenny Templeman regarding background check

The Board reviewed and approved a response from Ms. Kirk to Ms. Templeman regarding background checks.

NEW BUSINESS

2021 Board Elections

Upon appropriate nomination and vote, the Board elected Ms. Kim Turk to serve as Chair, Robert Reeves to serve as Vice Chair and Rachael Goolsby to serve as Treasurer.

PUBLIC COMMENT

The Board received comments from the public.

RECESS FOR LUNCH

The Board recessed for lunch at 12:00 p.m.

RETURN TO OPEN SESSION

The Board returned to Open Session on August 20, 2020 at 1:00 p.m.

DISCIPLINARY HEARINGS

Nicolas Durette

The Board conducted a disciplinary hearing regarding allegations Mr. Durette engaged in inappropriate sexual activity while providing a massage to a client during a massage and bodywork therapy session. Mr. Durette and his attorney appeared for the hearing.

JonClaude Harris

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

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 on August 20, 2020 at 5:05 p.m.

RETURN TO OPEN SESSION

The Board returned to Open Session on August 20, 2020 at 6:00 p.m.

Nicolas Durette

Ms. Harrell reported the Board reviewed the evidence presented during Mr. Durette's hearing and was of the opinion Mr. Durette engaged in inappropriate sexual activity while providing a massage to a client during a massage and bodywork therapy session. The Board Ordered that Mr. Durette's license be revoked and he pay a civil penalty of \$1000 and disciplinary costs of \$1000.

JonClaude Harris

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

Zhenshu An

Ms. Harrell reported Ms. An's application will be denied due to not meeting the minimum education requirements required by Rule .0620.

Kristina Zachary

Ms. Harrell reported Ms. Zachary's Letter of Reprimand was approved.

Brandyn Miller

Ms. Harrell reported Mr. Miller's Consent Order was approved.

DISCIPLINARY HEARINGS

Jeisson Chaves

The Board conducted a disciplinary hearing regarding allegations Mr. Chaves engaged in inappropriate sexual contact with a client during a massage and bodywork therapy session. Mr. Chaves appeared for the hearing.

Ryan Robinson

The Board conducted a disciplinary hearing regarding allegations Mr. Robinson engaged in inappropriate sexual contact with a client during a massage and bodywork therapy session. Mr. Robinson and his attorney appeared for the hearing.

Michael Becker

The Board conducted a disciplinary hearing regarding allegations Mr. Becker engaged in inappropriate sexual activity while providing a massage to a client during a massage and bodywork therapy session and failed to report any and all criminal charges. Mr. Becker appeared for the hearing.

Natasha Bryant

The Board conducted a disciplinary hearing regarding allegations Ms. Bryant failed to provide in an appropriate and timely manner the required proof of completion for each continuing education course submitted with her 2019 online license renewal. Ms. Bryant appeared for the hearing.

Jill Bernthisel

The Board conducted a disciplinary hearing regarding allegations Ms. Bernthisel failed to provide in an appropriate and timely manner the required proof of completion for each continuing education course submitted with her 2019 online license renewal. Ms. Bernthisel appeared for the hearing.

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 on August 21, 2020 at 3:30 p.m.

RETURN TO OPEN SESSION

The Board returned to Open Session on August 21, 2020 at 5:15 p.m.

Jeisson Chaves

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

Ryan Robinson

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

Michael Becker

Ms. Harrell reported the Board reviewed the evidence presented during Mr. Becker's hearing and was of the opinion Mr. Becker engaged in inappropriate sexual activity while providing a massage to a client during a massage and bodywork therapy session. The Board Ordered that Mr. Becker's license be revoked and he pay a civil penalty of \$1000 and disciplinary costs of \$1000.

Natasha Bryant

Ms. Harrell reported the Board reviewed the evidence presenting during Ms. Bryant's hearing and was of the opinion Ms. Bryant failed to provide the required continuing education in an appropriate and timely manner for her 2019 continuing education audit. The Board Ordered that Ms. Bryant be issued a Letter of Reprimand and she pay a civil penalty of \$100 and disciplinary costs of \$150.

Jill Bernthisel

Ms. Harrell reported the Board reviewed the evidence presenting during Ms. Bernthisel's hearing and was of the opinion Ms. Bernthisel failed to provide the required continuing education in an appropriate and timely manner for her 2019 continuing education audit. The Board Ordered that Ms. Bernthisel be issued a Letter of Reprimand and she pay a civil penalty of \$100 and disciplinary costs of \$150.

2019-20 4th Quarter Legal Services provided by Broughton, Wilkins, Sugg & Thompson, PLLC

Ms. Harrell reported the Board reviewed and approved payment to Broughton Wilkins Sugg & Thompson, PLLC for in court legal services provided in the 4th quarter fiscal year 2019-2020.

ADJOURNMENT

Upon motion duly made, seconded and passed, the August 21, 2020 meeting was adjourned at 5:30 p.m.

Ms. Nancy Harrell, Chair

Ms. Rachael Goolsby, Treasurer