

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 2007

Message from the Board Chair, Susan Beam

The North Carolina Board of Massage and Bodywork Therapy is made up of seven members, five of whom are licensed massage and bodywork therapists. The other two are a public member, someone from the general public with no financial interest in the profession of massage and bodywork, and a physician member. None of us were appointed to this board because of our expertise in regulatory law. We have all experienced a learning curve.

To supplement our hands-on learning and improve our effectiveness in our mission to ensure minimum competency standards and to protect the public health and safety, we recently held a day long training session. We engaged the services of Dale Atkinson, an attorney from the Chicago area who specializes in regulatory law and the functioning of regulatory boards.

Our Board invited the North Carolina Acupuncture Licensing Board to join us. This was done for several reasons. In addition to sharing expenses, we were also able to share experiences. Having questions and comments from both boards expanded the topics and issues covered. The two boards were also able to begin forging a relationship which will increase our ability to address issues related to the overlap of massage and bodywork with acupuncture, which includes Asian bodywork.

Everyone agreed that it was a useful and productive day. We received information on procedural changes to improve our effectiveness and efficiency, advice on policy changes to consider which might enhance our ability to protect the public, and suggestions for setting time frames and using statistical reports to assess the operation of the Board and its members. I am fortunate to serve on this Board with members who give so freely of their time to improve their ability to fulfill our mission more carefully, responsibly, and justly.

STATUS OF AMENDMENTS TO PRACTICE ACT

Legislation (Senate Bill 1314 and House Bill 1426) to amend the Practice Act was introduced into the 2007 Session of the Legislature by the AMTA-NC Chapter. SB 1314 passed the Senate and will be considered by the House during the 2008 legislative session that begins May 13, 2008. The Board and AMTA-NC Chapter have discussed four changes recommended by the Board.

The Board continues to work with the AMTA-NC Chapter on the Board's proposed amendments to SB 1314.

UNLICENSED MASSAGE AND BODYWORK THERAPY IN SHOPPING MALLS

The Board has received 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. However, it

appears that some of the businesses that provide massage and bodywork therapy in shopping malls are still not in compliance

UNLICENSED MASSAGE AND BODYWORK THERAPY IN AIRPORTS

The Board has received complaints about unlicensed persons providing massage to the public in airports. Informational letters, regarding the law and rules requiring that persons who provide massage and bodywork therapy in airports, be licensed by the Board were sent to all major airports in North Carolina. It appears that the businesses that provide massage and bodywork therapy in airports are in compliance.

GIFT CERTIFICATES

The Board has received several complaints from consumers regarding the failure of LMBTs to honor gift certificates. These complaints were resolved by the gift certificates being honored or refunds made. Licensees are reminded to honor gift certificates or provide refunds.

MASSAGE AND BODYWORK THERAPY SCHOOLS NEW SCHOOL RULES

The School Approval Committee met in January and February 2007 to discuss proposed amendments to the school rules (Section .0600). The proposed amendments were approved by the Board, filed with the Office of Administrative Hearings, published in the North Carolina Register, and placed on the Board website. A Public Hearing was held June 21, 2007 and written public comments were received until August 5, 2007. Two substantive comments received were adopted.

The proposed amendments were presented to the Rules Review Commission at its September 2007 meeting and all but five (Rules .0611, .0613, .0614, .0615, and .0619) were approved and became effective October 1, 2007. The five rules not approved in September were approved by the Rules Review Commission on October 18, 2007 and became effective November 1, 2007. Copies of the new school rules were sent to the schools and posted on the Board website.

THE NORTH CAROLINA SCHOOL OF NATURAL HEALING in Asheville filed for Chapter 7 bankruptcy. Prior to filing bankruptcy, a plan was implemented by the school to "teach out" its class of eleven students and to assist six students in its other class to transfer to another school and seek refunds.

HELP YOUR BOARD EDUCATE THE PUBLIC ABOUT MASSAGE

The following article may be submitted to any reputable newspaper in North Carolina for reprinting. You may want to ask your local paper or magazine to print it when you run an ad, or when an article you have authored about massage is to be published. *The Practice of Massage and Bodywork in North Carolina* is intended to educate the public about massage and to support North Carolina Licensed Massage and Bodywork Therapists. The only condition for reprinting is that the article be reproduced in its entirety without any changes. Before going to print, please have your newspaper editor send an e-mail to admin@bmbt.org stating that they understand that this article has been approved by the *NC Board of Massage and Bodywork Therapy* for publication so long as it is reproduced in its entirety and no changes are made. The Board will then grant permission for printing the article, and can also provide the article to the newspaper in electronic format.

THE PRACTICE OF MASSAGE AND BODYWORK IN NORTH CAROLINA

In November 1998 the practice of massage and bodywork became a licensed profession by law in North Carolina. The law, commonly referred to as the Practice Act, mandated that anyone who practices massage or bodywork therapy in North Carolina shall obtain a license to practice, and shall renew that license once every two years in order to continue to practice. Massage therapists and bodyworkers gained the official title of Licensed Massage and Bodywork Therapist, abbreviated LMBT. Individuals in private practice are required by law to display their North Carolina license to practice in their office, and to include their LMBT license number with all their advertising.

The law established the *North Carolina Board of Massage and Bodywork Therapy* to create and enforce rules that would support the Practice Act and protect the public. The Board, which maintains an office in Raleigh, meets six times per year to conduct business and to adjudicate hearings. The Board also maintains a website, www.bmbt.org, which includes a list of all current LMBTs, professional standards for LMBTs, instructions for filing a complaint, and other useful documents.

Licensed Massage and Bodywork Therapists are required to graduate from a minimum 500-hour program of study, which includes anatomy and physiology, pathology, massage technique theory and practice, ethics, basic business practices, and somatic psychology. Many schools customize their program of study with additional hours in specialized techniques, or through a special focus, such as medical massage, or spa massage. Continuing education is required for license renewal.

Due to NC rules and regulations, here are some things that your massage therapist cannot do:

1. Massage clients without breasts and private body parts covered.
2. Engage in sexual activity with a client.
3. Diagnose illness or disease, or prescribe medications or supplements.
4. Give care that is beyond the scope of practice of a LMBT, such as perform chiropractic adjustments, or use electrical stimulation or ultrasound.
5. Disclose confidential client information, unless the client consents or it is required by court order.
6. Give a massage while under the influence of alcohol or drugs.
7. Misrepresent their level of training or expertise in a specific massage technique they propose to use in a session.

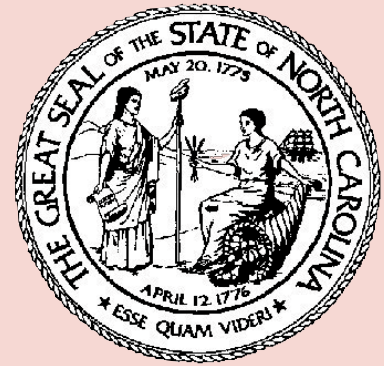
Before your first session, a LMBT is required to interview you to be certain no contraindications for massage therapy exist and then obtain your written consent. Should your treatment needs be beyond the defined scope of practice of a LMBT, the therapist will refer you to another healthcare professional, such as a medical doctor, chiropractor, or physical therapist.

The *North Carolina Board of Massage and Bodywork Therapy* is a resource for the public. If you feel that your health or safety has been endangered by a LMBT, please contact the Board so that steps may be taken to prevent further endangerment to the public. It is especially important to stop unlicensed people from presenting themselves to the public as trained and qualified massage and bodywork therapists. Unlicensed "massage therapists" are breaking the law. LMBTs licensed in North Carolina are qualified, competent professionals and have earned the right to the public trust. You can support them by reporting unlicensed practitioners to the *North Carolina Board of Massage and Bodywork Therapy*.

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NEW BOARD MEMBER

N. Victor Farah was appointed by the Governor to serve as the public member of the Board in 2007. After graduating from the University of Michigan in 1976 and Wayne State University Law School in 1981 he became a partner in the Jernigan Law Firm in Raleigh and is a board certified specialist in workers' compensation law and a peer counselor with the NC State Bar Lawyer Assistance Program. He is the president of the Nash County Foundation to Reduce the Use of Drugs. Victor has been interested in and received many forms of massage, bodywork and other healing modalities and hopes that his first-hand experience as a client will provide a beneficial perspective to the Board.



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

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Members of the Board

Susan Beam, LMBT
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Raphael Orenstein, MD
Treasurer
Laura Allen, LMBT
N. Victor Farah, J.D.
Jaime Huffman, LMBT
Nancy Toner Weinberger, LMBT

Board Staff

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Legal Counsel
Benjamin E. Thompson, III, J.D.
Legal Counsel
Bonnie Kennedy
Administrative Director

Barbara Williams
Newsletter Editor

DISCIPLINARY ACTIONS OF THE BOARD

FROM NOVEMBER 2006 THROUGH DECEMBER 2007

The Board is authorized to investigate complaints and take a range of disciplinary actions, as set forth in Section .0900 of the Rules. The following is a summary of such actions taken by the Board from November 2006 through December 2007:

MESSAGE AND BODYWORK THERAPISTS

LETTERS OF REPRIMAND:

There were 710 Letters of Reprimand issued to therapists for late renewal and 17 Letters of Reprimand issued to therapists for Non-Sufficient Funds (bounced checks). The time frame included two renewal periods.

CEASE AND DESIST ORDERS:

There were 14 Cease and Desist Orders served on persons for practicing without a license and one Cease and Desist Order served on a business upon information it was allowing a person to practice massage and bodywork therapy without a North Carolina license.

INDIVIDUALS:

Missy BallewAsheville
Charlotte EmileCharlotte
Denise Greenfield.....Asheville
Shinji Hamada.....Charlotte
Shoshanna Hamburg-DibettaChapel Hill
Midge HopperForest City
Vivian Manduca-MarquezJacksonville
Nelson Martel.....Asheville
Tonya Martin.....Greensboro
Linda K. PerlainAsheville
William RobichauxCharlotte
Arleicha Russell Mooresville
Mary SalamaCharlotte
Rebecca WaltersSouthern Pines

BUSINESSES:

Elements Day Spa.....Kernersville/Retracted
Triad Day SpaGreensboro

CONSENT ORDERS:

Guidelines the Board uses to assess civil penalties in disciplinary cases can be found in the "Documents" section of the Board's webpage.

MICHELLE COCHRANE

A Consent Order was entered into between the Board and Ms. Cochrane, LMBT for her violation of Rule .0505 regarding confidentiality of clients due to a newspaper article about massages she provided to entertainers at the Alltel Pavilion. The Consent Order provided that she (1) take an ethics course for her next renewal that contains materials on therapist/client relationships and confidentiality, (2) that she be placed on probation for one year with the condition that she not violate the Practice Act during the year of probation, and (3) that she pay a civil penalty of \$250.

RONALD ROSS

A hearing was held regarding whether Mr. Ross provided inadequate draping and crossed therapist/client boundaries during a "traded" massage session with a fellow LMBT. The Board considered the evidence presented and agreed that Mr. Ross provided inadequate draping during a "traded" massage session with a LMBT. An Order was entered requiring that Mr. Ross complete an "in class" course in ethics and client/therapist boundaries and assessing a civil penalty of \$500 and costs of \$150.

CONDITIONAL LICENSES:

The License Standards Committee of the Board issued fifty six (56) licenses to persons whose applications showed evidence of past minor criminal behavior, possibility of practicing without a license, or other improper conduct, on the condition that they provide the Board with a recent criminal record search for their next or their next two renewals.

REVOICATIONS/SUSPENSIONS:

There have been four licenses revoked or revocation affirmed:

JAMES HARTSFIELD

A hearing was held regarding whether Mr. Hartsfield crossed therapist/client boundaries during a massage session with a female client. The Board considered the evidence presented and agreed that the actions of Mr. Hartsfield in inappropriately touching his client during a massage session constituted unethical conduct and inappropriate sexual activity. An Order was entered revoking the license of Mr. Hartsfield to practice massage and bodywork therapy in the State of North Carolina effective January 25, 2007 and ordering that Mr. Hartsfield surrender his license to practice massage and bodywork therapy in North Carolina to the Board office, pay a civil penalty of one thousand (\$1,000) dollars and costs of fifteen hundred (\$1,500) dollars.

EMANUEL FAUR

A hearing was held regarding whether Mr. Faur provided inadequate draping and engaged in prohibited sexual activity with a female co-employee during a massage session. The Board considered the evidence presented and agreed that Mr. Faur engaged in prohibited sexual activity with a co-employee during a massage session. An Order was entered revoking Mr. Faur's expired license and assessing a civil penalty of \$500 and costs of \$500.

EARL EDISON LUCAS, II

The Board entered into a Consent Order with Mr. Lucas revoking his license, effective December 25, 2007. Mr. Lucas engaged in unethical conduct by performing inappropriate sexual activity upon a female client during a massage session.

DUNG THANH NGUYEN

The Board entered into a Consent Order with Mr. Nguyen revoking his license, effective April 10, 2007. Mr. Nguyen had surrendered his license to the Board pursuant to a guilty plea to criminal assault on a female client during a massage session.

DENIAL OF LICENSE:

The Board denied a license to six (6) applicants due to evidence of lack of good moral character, lack of appropriate education, or substantial evidence of previously practicing without a license.

JOHN PETER HOPPERGER

Mr. Hopperger had applied for a license to practice massage and bodywork therapy. He had previously voluntarily turned in his license due to allegations of prohibited sexual activity with a female client during a massage session. The application was not approved pending a hearing on the allegations of prohibited sexual activity with a client during a massage session. Prior to the hearing, Mr. Hopperger withdrew his application for a license. Mr. Hopperger's license remains expired.

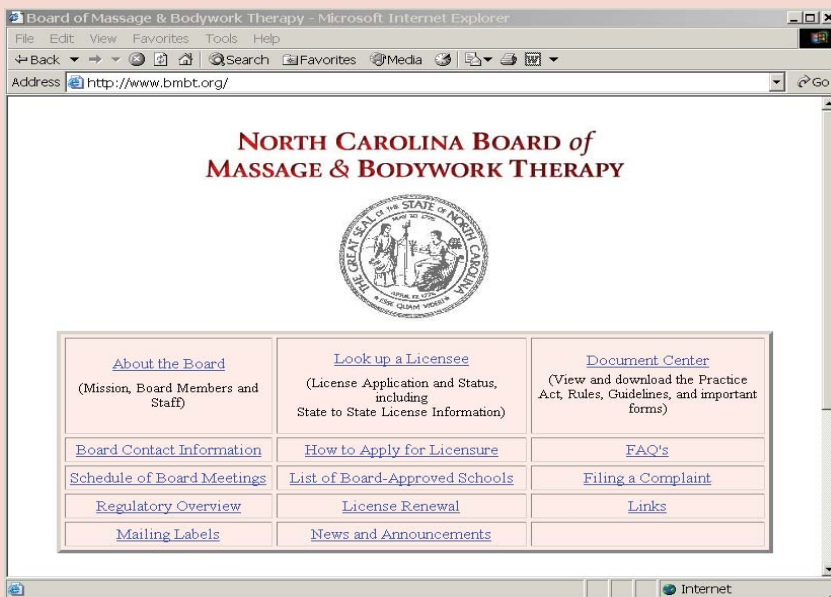
**NORTH CAROLINA BOARD of
MASSAGE & BODYWORK THERAPY**

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www.bmbt.org
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:

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