

North Carolina Board of Massage & Bodywork Therapy
Open Session Minutes
June 19, 2008

TIME AND PLACE

The North Carolina Board of Massage and Bodywork Therapy met in Open Session in the Offices of the Board on June 19, 2008 at 10:00 a.m.

MEMBERS PRESENT

Ms. Susan Beam, Dr. Raphael Orenstein, Ms. Jean Middleswarth, Ms. Nancy Toner Weinberger, Ms. Laura Allen and Ms. Jaime Huffman.

MEMBERS ABSENT

Mr. Victor Farah

OTHERS PRESENT

Mr. Charles Wilkins and Mr. Ben Thompson, Legal Counsel to the Board, and Ms. Bonnie Kennedy, Administrative Director

CHAIR

Ms. Beam

RECORDING SECRETARY

Ms. Kennedy

CONFLICT OF INTEREST

Ms. Beam 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 April 17, 2008.

TREASURER'S REPORT

The treasurer's report was approved as presented.

BUDGET 2008-2009

The Board considered the budget proposed for July 1, 2008 through June 30, 2009, as recommended by the Policy Committee. Upon motion made, seconded and passed, the Board adopted its 2008-2009 budget as presented.

ADMINISTRATIVE REPORTS

Mr. Wilkins reported:

Proposed Amendments to Rules

A Public Hearing is scheduled for today at 11 a.m. for amendments to Rule .0626. The period for public comment ends August 4, 2008.

Status of Amendments to Practice Act

The Board continues to work with the AMTA-NC Chapter on the current version of the Practice Act as set forth in a Committee Substitute to Senate Bill 1314 proposed to the House Finance Committee on Tuesday, June 10, 2008. Mr. Wilkins, Ms. Ann Christian, Mr. Ed Sansbury and Mr. Randolph Cloud appeared before the House Finance Committee on Tuesday, June 10, 2008 to respond to questions about SB-1314 from members of the committee. There was no vote taken on the bill. Further consideration of the bill was postponed to a date to be determined.

Disciplinary Hearings

Mr. Wilkins reported that the disciplinary hearing scheduled for today was resolved by Consent Order.

Ms. Kennedy reported:

Licensee Report

8114 licenses have been issued
6588 licensees are still in good standing

Renewal Report

1935 licensees scheduled to renew for December 31, 2007
1616 have renewed and 319 have not renewed

NCBTMB Presentation

Representatives from NCBTMB made a presentation on the current activities of the organization and answered questions from the Board. The

representatives from NCBTMB are scheduled to meet with owners and directors of massage and bodywork therapy schools and programs operating in North Carolina at 1 p.m. today to provide similar information and answer questions.

Public Hearing

The Board interrupted its meeting at 11:10 A.M. to conduct its public hearing on the amendment to Rule .0626. One person spoke during the Public Hearing and that was a question seeking clarification. Following the public hearing the Board continued with its meeting.

COMMITTEE REPORTS

Policy Committee

Ms. Beam reported on the Committee's meeting of June 16, 2008 as follows:

Process for Approving Examinations

The Committee is continuing its work on guidelines for approving examinations accepted by the Board but will not make a final recommendation until the Rules are amended and the Practice Act is finalized.

Rule .0505 Confidentiality Question

The Committee reviewed an email from an LMBT regarding whether an LMBT may alert other LMBTs about a client who makes an inappropriate sexual request during a massage session. The Committee reviewed Rule .0505 and was of the unanimous opinion that 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 that LMBTs 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. The Committee acknowledged an LMBT may obtain written permission through the client intake form used by the LMBT.

Acupressure

The Committee considered whether acupressure is within the scope of practice of massage and bodywork therapy. After reviewing several documents related to acupressure, the Committee was of the unanimous opinion that acupressure does come within the definition of massage and bodywork therapy set forth in N.C.G.S. 90-622 as it is

a system of activity applied to the soft tissues of the human body for therapeutic or relaxation purposes. The Board considered the Committee's recommendation and agreed the practice of acupressure is subject to regulation by the Board. The Board also agreed that a person may practice acupressure if licensed by another professional board in North Carolina that includes acupressure within its scope of practice.

Rules .0102, .0201 and .0516

The Committee reviewed all the written and public comments received by the Board in response to its proposal regarding Rules .0102, .0201 and .0516 and agreed not to change Rules .0102 or .0516. The Committee noted that the changes made to Rules from what was printed in the North Carolina Register were to comply with the requirements of the Rules Review Commission. The Committee agreed that Rule .0201(5), sentence four, should be amended to make sure it includes all massage schools in North Carolina, as follows: "In North Carolina the documentation must come from a proprietary school approved by the Board or a college-based massage program that is exempt from Board approval." The Committee recommends that the Board adopt the change to Rule .0201(5) and that all three rules be submitted to the Rules Review Commission.

Upon motion made, seconded and passed the Board adopted Rules .0102, .0201 as amended, and .0516 and asked that they be presented to the Rules Review Commission for further consideration.

License Standards Committee

No report.

School Approval Committee

Ms. Weinberger reported on the Committee's meeting of June 18, 2008 as follows:

Renewal of Approved Schools

The Committee met with M&M Consulting to review their renewal of school approval summaries of the sixteen currently approved schools for 2008-2009. The Committee also reviewed the applications from the schools and the correspondence between the schools and the Board. Following the Committee's review and after a full discussion with M&M Consulting, the Committee agreed to recommend to the Board that fifteen of the currently approved schools be approved for the period July 1, 2008 through June 30, 2009. The Committee also agreed to recommend to the Board that Natural Touch School of

Massage in Greensboro also be approved but with the condition that it provide to the Board its pass/fail report for 2005-2007. It is noted that Natural Touch School of Greensboro has requested that the pass/fail rate for its students be sent but it has not yet arrived.

Upon motion made, seconded and passed, the Board approved all fifteen currently approved schools for the period July 1, 2008 through June 30, 2009 and further approved Natural Touch School of Massage in Greensboro with the condition that it provide to the Board its pass/fail report for 2005-2007.

Community Colleges

Mr. Wilkins reported that today the Board received a letter from the attorney for the North Carolina Community College System with attestation letters, pursuant to G.S. 90-631(b), from the following fifteen community college massage therapy programs:

- (1) Asheville-Buncombe Technical CC
- (2) Carteret CC
- (3) Davidson County CC
- (4) Gaston College
- (5) Johnston CC
- (6) Pitt CC
- (7) South Piedmont CC
- (8) Wake Technical CC
- (9) Caldwell CC
- (10) Central Carolina CC
- (11) Forsyth Technical CC
- (12) Guilford Technical CC
- (13) Lenoir CC
- (14) Sandhills CC
- (15) Southwestern CC

Criteria for Two-Year Approval of Schools

The Committee considered various possible criteria for the SAC and the Board to evaluate when establishing guidelines on whether to grant a school a two-year renewal. Some criteria the committee decided would indicate a one-year renewal rather than a two-year renewal were:

- (15) Change of ownership
- (16) New Program director
- (17) Excessive faculty turnover in core classes (it is presumed that a turnover rate of 40% or more would be excessive)
- (18) Disciplinary action by the Board
- (19) Failure to comply with the Rules of the Board or the Practice Act.

- (20) Consistent low pass rate on the examination
- (21) Negative surveys from students, graduates, or employer's of graduates

The Committee will continue its development of criteria for the SAC and the Board to evaluate when establishing guidelines on whether to grant a school a two-year renewal.

Site Visits

The Committee reviewed a tentative site visit schedule for approved schools and will consider the site visit schedule again at its next meeting.

Communications Committee

No report.

Licensing Boards Coordination Committee

Ms. Huffman reported on the Committee's meeting of May 14, 2008 as follows:

The Committee discussed its position on whether a North Carolina licensed acupuncturist may advertise and provide massage by virtue of their acupuncture license.

The Committee reviewed the Memorandum prepared by Mr. Wilkins and Mr. Farah and correspondence between Mr. Wilkins and Ms. Manducas Marquez.

Issues to be considered are:

1. acupuncture school curricula
2. massage and bodywork therapy training in acupuncture school
3. requirements to obtain an acupuncture license in North Carolina
4. whether the Board could issue a LMBT license to an acupuncturist who passes the NCOA exam and applies for an LMBT license
5. the Acupuncture Practice Act and Rules
6. the NCBMBT Practice Act and Rules

The Committee adjourned to take part in the conference call between the Committee and representatives of the Acupuncture Board. The conference call with the Acupuncture Board did not resolve the issue.

Ms. Huffman recommended that the Board and the Acupuncture Board submit an agreed upon set of facts to the Attorney General's Office for an opinion as to whether a North Carolina licensed acupuncturist may advertise and provide massage by virtue of her acupuncture license. The Board agreed with the recommendation. Upon motion made,

seconded and passed, the Board agreed that Mr. Wilkins contact the attorney for the Acupuncture Board to see if the Acupuncture Board would like to join with the Board in seeking an opinion from the Attorney General's Office.

OLD BUSINESS

Board Hearing Procedures

The Board asked that the summary of the Board's hearing procedure prepared for the Board be placed on the Board's webpage.

Citizen Advocacy Center-Asheville Meeting

The Board noted that Mr. Farah and Ms. Huffman would attend the Citizen Advocacy Center meeting in Asheville, NC.

NEW BUSINESS

Items 2-5 were reviewed. No further action is necessary.

CLEAR Conference, Anchorage Alaska

The Board discussed the September 2008 CLEAR Conference in Anchorage, Alaska and agreed that Ms. Kennedy would determine if the Board could obtain some of the training materials offered by videotape or disc.

PUBLIC COMMENT

The Board received comments from the public.

CLOSED SESSION

Upon motion duly made, seconded, and passed, and pursuant to NCGS 143-318.11(a)(1) and (3), the Board went into Closed Session at 11:50 a.m.

RETURN TO OPEN SESSION

Change Date of October Board Meeting

The Board returned to Open Session at 3:00 p.m. to announce its October 16, 2008 meeting is changed to October 9, 2008, due to its conflict with the annual meeting of the Federation of State Licensing Boards.

Application for License

Ms. Huffman suggested the Board review its Application for License

pursuant suggestions made by Mr. Dale Atkinson in his presentation to the Board. The matter was referred to the License Standards Committee for further action.

ADJOURNMENT

Upon motion duly made, seconded and passed, the meeting was adjourned at 3:05 p.m.

Ms. Susan Beam, Chair

Dr. Raphael Orenstein, Treasurer