

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

SPRING 2003

MESSAGE FROM THE BOARD CHAIR, ROBERT M. WARD

A NOTE OF GRATITUDE

I would like to begin by thanking the first chair of the Board, Rick Rosen, for the countless hours he has devoted to the Board's work.



Also, I would like to express my gratitude to Vice Chair, Candace Frye for her pioneering work in the development of

the school approval process, to Terrie Bellairs for her committee work and service as Treasurer, to Board Members, Daisy Millett, Wayne Saville, and Dr. Scott Sanitate for their work on the Board's Committees, to former Board Members, Cheryl Shew, Maria Spuller, and Dr. Elizabeth Gamble for their service on the Board, and last but not least in any respect, to Charles Wilkins as Legal Counsel to the Board, and his staff for their invaluable legal assistance and administrative support.

I extend a special thanks to the massage and bodywork therapists, school owners, directors and administrators and all others who

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The Board's First Four Years

A look back at the collaborative efforts

By Rick Rosen, Board Member

From grueling, irritating, confusing, exasperating... to inspiring, rewarding, educational, affirming... the experience of getting this Board up and running has spanned the full range. For those of you who have wondered what it's taken to accomplish this task, we offer a snapshot view of the first four years of the Board's process. To help you get "in the mood," imagine that you're a part of the following scenario:

You've just been assigned to work with a group of seven people who have never before worked together. Your mission is to create a new governmental regulatory agency, as directed by a state law which was recently passed. Your group has to elect officers, hire staff, secure office space and equipment, create policy and procedures, and obtain names and addresses of the people throughout the state who are supposed to be regulated. You will not be paid for your time, which will have to be fit in around your existing full-time job and other responsibilities. This is just for starters.

There are no other state agencies to help you in this process. You're under a tight timeframe, there are a lot of individuals and organizations who are watching every step you take, and there are many special interests which want to influence the outcome of the process. Many of the people who will be under your authority don't want to be regulat-

ed, and there are dozens of different ways that these practitioners describe themselves and what they do. And by the way, there is no "How To" manual or easy software templates to guide you—and no startup money to fund this endeavor. A zero budget.

While this may sound like a script from a bad "Reality TV" program, it was the actual starting point that the newly appointed members of the Board faced in the early part of 1999. We gathered information from whomever we could... looked at the laws from other states which regulated massage therapy... examined all of the practice acts and rules for the other health care professions in North Carolina. We gnashed our teeth and had endless hours of discussions.

One thing you should know about occupational licensing in NC is that all professional regulatory boards are self-funded and are not housed within any other department of state government. At the same time, they are established by laws enacted by the General Assembly, and must operate strictly within those
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Message from the Chair
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have attended our meetings over the last several years. Their questions and comments at these meetings have provided insights and suggestions that have been beneficial in the Board's efforts to respond to the issues and tasks faced by the Board.

BEGINNINGS – THE PRACTICE ACT

Considerable progress has been made since the enactment of the North Carolina Massage and Bodywork Therapy Practice Act in 1998 (hereafter called the *Practice Act*). As you all are aware, the Practice Act provides general provisions relating to the governance and regulation of the practice of massage and bodywork therapy. Included among the Practice Act's broad mandates are the initial licensure and renewal requirements, continuing education provisions, the powers, rulemaking and disciplinary authority of the Board, and provisions for approval of massage and bodywork therapy schools.

To implement the Practice Act, the Board immediately set about its responsibilities and has worked very diligently since its first meeting in Spring of 1999 to carry out the provisions of this Act. In this first newsletter, I thought you would like to know what the Board has been doing on your behalf.

BOARD ACCOMPLISHMENTS

Among its activities and accomplishments have been the adoption of the Rules and Regulations; the adoption of the Guidelines; the administration of the

application process for the licensure of massage and bodywork therapists; the implementation of approval procedures for massage and bodywork therapy schools; and most recently the publication of this newsletter. A brief comment about each is in order:

The Rules and Regulations. The purpose of the Rules is to implement the provisions of the Practice Act as contained in Chapter 90, Article 36 of the NC General Statutes. These Rules include the requirements for licensure, business practice guidelines, standards of professional conduct, procedures for school approval, requirements for continuing education, procedures for the rulemaking process and remedies available to the Board for responding to complaints and addressing disciplinary matters. The Board has worked conscientiously to produce a set of Rules that not only carry out the letter of the law contained in the Practice Act but the spirit of the law in its overall purpose to protect the citizens of the State of North Carolina, by licensing only those massage and bodywork therapists who are qualified to further this objective.

The Guidelines. The Guidelines are instructional, interpretative aids to be used in the implementation of the Rules. The Guidelines are helpful in responding to the frequent questions posed to the Board. The Guidelines are more flexible, are not as difficult to change as a Rule, and may be adopted by the Board on an as-needed basis. However, the Guidelines are only adopted by the Board after a thorough study and upon recommendations made by the appropriate committee of the Board.

The Licensure Procedure. Little needs to be said because most of you are quite familiar with this process. As you might imagine, the processing of over 3600 initial applications has been a significant task for the Board and its staff. At this writing, many of you have just undergone the Board's first licensure renewal

process. I congratulate those of you who have successfully completed this renewal.

School Approval. The authority for the regulation of massage and bodywork therapy schools was originally vested in the North Carolina Community College System. While there are too many details to recount in these comments, your Board, nonetheless, assumed this very daunting task. I am happy to report that this process, while initially challenging because of the Board's lack of experience in school approval processes and scant financial resources to dedicate to this task, is now running quite smoothly with our experienced team of consultants assisting the School Approval Committee with this important function.

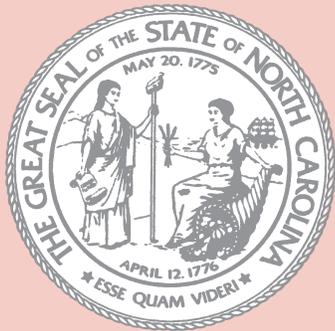
The Newsletter. This is our inaugural newsletter. Our Newsletter, along with our website, will aid the Board and our staff in communicating with therapists and others interested in the profession of massage and bodywork therapy. I am excited and pleased that we are now being able to offer this channel of communication. As with any such endeavor, what is presented in our Newsletter will undoubtedly change over time just as the makeup of the Board will change. It is my hope that it will present to you useful, interesting and meaningful material that may in some way benefit you personally and professionally.

CLOSING COMMENTS

I believe that the Board has worked hard and has made considerable progress toward implementing the mandates of the Practice Act. I am convinced the Board's efforts have furthered the establishment and the recognition of the massage and bodywork therapy profession. Finally, I consider it a privilege to serve as Chair of the Board, and I will dedicate my service in this position to the promotion of the profession of massage and bodywork therapy, with the overall goal of safely providing this health care service to the citizens of the State of North Carolina.

AN IMPORTANT REMINDER:

It is every licensee's ethical responsibility to inform the Board of any violation of the Practice Act or Rules and Regulations. Reporting such activity assists the Board in carrying out its mission of public protection.



**Official Newsletter
of the**

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

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F R E Q U E N T L Y A S K E D **QUESTIONS**

This will be a regular feature of the Board Newsletter. If you have a question regarding the laws and rules, standards of practice, code of ethics, license renewal, or other topics related to your work as a Licensed Massage and Bodywork Therapist, please direct it in writing to the Board Office.

The questions here are among the most common ones posed to the Board over the past year:

Is there a specific requirement of ethics courses for my license renewal?

No. The Board's requirements for continuing education, as set forth in Rule .0701 and Guideline 5.2, do not include requirements for any specific type of coursework. There is some confusion between the recertification process of the National Certification Board for Therapeutic Massage & Bodywork—which does have such an ethics course requirement—and North Carolina's standard for license renewal, which does not.

How many hours of "distance learning" can I apply towards my license renewal?

Rule .0701 states that you may apply a maximum of 12 hours of courses taken by home study within a two year licensure period. These courses must be delivered by an approved continuing education provider.

The deadline for submitting my renewal application is November 1, but my license doesn't expire until December 31. Why the difference?

The Board Office needs adequate time to review and process renewal applications, and to send licensees their renewed credentials before the license actually expires. This ensures that licensees remain in good standing on a continuous basis, as required by the law.

There are also instances where renewal applications lack proper documentation, or courses submitted may not meet the subject matter requirements for continuing education. Submitting the

renewal application 60 days prior to license expiration gives the licensee time to correct any deficiencies in the application and remain in good standing.

What happens to my license fees?

This is a "self-funded" regulatory program. All costs involved with operating the Board and carrying out the licensure program—including expenses for office space and equipment, professional staff, legal fees, phone, postage, printing and mailing—come exclusively from fees collected for this purpose. No State, County or Municipal money may be provided to support this program. As well, Board members are not paid for their time in service to the Board.

Operating a licensing board in full compliance with today's governmental regulations is an expensive proposition.

I'm a Reiki practitioner. Do I have to get licensed by the Board?

Pursuant to Section 90-624 of the Practice Act, two categories of activities are designated to be exempt from licensure requirements: 1) the practice of movement education, and 2) the practice of techniques that are specifically intended to affect the human energy field. The Board has clarified the criteria for these exemptions in Rule .0203, and has identified specific practices considered exempt in Guidelines 1.10 and 1.11.

The exempt movement practices are: Alexander Technique, Body-Mind Centering, Feldenkrais Method, and Trager Psychophysical Integration. The exempt energy-based techniques are: Healing Touch, Jin Shin, Medical QiGong, Polarity Therapy, Reflexology, Reiki, Specialized Kinesiology, and Therapeutic Touch.

LMBT's may utilize any of these techniques in their practices, as long as they have appropriate training and experience. However, practitioners who are exempt from licensure may not utilize the term *massage and bodywork therapy*—or any derivation thereof—to promote or describe their work.

Disciplinary Actions of the Board

from January 2000 – January 2003

Enforcement of the Laws and Rules for massage and bodywork therapy in North Carolina is at the center of the Board's mission. 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 over the past three years:

Actions regarding MASSAGE AND BODYWORK THERAPISTS:

LETTERS OF CAUTION

There have been THIRTY TWO (32) Letters of Caution issued to therapists for various violations of the Practice Act and/or Rules.

LETTERS OF REPRIMAND

There have been TWELVE (12) Letters of Reprimand issued to therapists for failure to timely become licensed, practicing without a current license, making payment to the Board with insufficient funds or other violations.

CEASE AND DESIST ORDERS

There have been TWENTY SEVEN (27) Cease and Desist Orders served on persons who were advertising illegally or were practicing massage and bodywork therapy in North Carolina after April 1, 2000 without a valid North Carolina license. Orders have been sent to:

2001

Penny Ashby, Greenville
Rebecca Britt, Fayetteville
Sandy Firestone, Murphy
Delores Harris, Greenville
Kenneth Marasco, Murphy
Lorraine Messmer, Raleigh
Nydia Nazal, Greensboro
Elisa Scano, Winston Salem
Barbara Schulz, N. Topsail Bch.
Tamala Teague, Murphy
Ken Wheeler, Cashiers
Jeffrey Wyatt, Wilmington

2002

Elise Abraham, Winder, GA
Deborah Avalos, Troutman
Mauro Avalos, Troutman
Theresa Barton, Havelock
Ana Birkland, Lake Lure
Body Beautiful Day Spa,
Morehead City
William Cimiluca, Wilmington
Seung O. Kim, Charlotte
Gretchen Langslet, Chapel Hill
Heather Pizasnyski, Statesville
Nicholas Principe, Durham
Michael Thonissen, Charlotte
Kathryn Tutt, Greensboro
Walter Ward, Greensboro
Sophia Wilson, Greensboro

CONSENT ORDERS

JAMES NAGEL (License #1108) of Guilford County entered into a Consent Order with the Board on October 18, 2001. Mr. Nagel's license to practice massage and bodywork therapy in North Carolina was revoked, however, the revocation was suspended and he was placed on probation for FIVE (5) years on certain conditions. Mr. Nagel was disciplined for criminal charges (controlled substance) that were violations of the Practice Act and Rules. He remains on probation and is complying with the terms of his probation. Mr. Nagel plead guilty in Guilford County Superior Court to substance abuse charges and was given a suspended sentence.

REVOCATIONS

The following therapists had their licenses to practice massage and bodywork therapy in North Carolina REVOKED for the reasons stated:

JOSE MANUEL VIERA (License #1771): Following a formal hearing before the Board on April 10, 2002, the license of Mr. Viera of Wake County was immediately revoked for (1) filing a false application for licensure with the Board by failing to fully disclose his past criminal history, (2) performing inappropriate sexual activities upon a client during a massage session, and (3) failing to provide appropriate draping of his client to assure her safety, comfort and privacy. Mr. Viera did not appeal the Order of the Board.

EDMOND OBREGON (License #1924): Following a formal hearing before the Board on March 25, 2002, the license of Mr. Obregon of Wake County was immediately revoked for (1) initiating and engaging in sexual activity with a client during a massage session, (2) failing to provide draping and treatment in a way that assures the safety, comfort and privacy of his client, (3) failing to obtain informed consent from his client before changing his treatment, (4) attempting to provide services to his client for which he was untrained to perform, (5) failing to refer his client to an appropriate health care provider. Mr. Obregon appealed the Board's Order to the Superior Court of Wake County. On January 8, 2003 an Order was entered by the Superior Court affirming the Order of the Board revoking Mr. Obregon's license. Mr. Obregon did not appeal the Order of the Superior Court and his license was revoked.

VOLUNTARY SURRENDER OF LICENSE

JOHN PETER HOPPERGER (License #1272): A formal hearing was scheduled before the Board for May 22, 2002 on a

complaint that Mr. Hopperger of Wake County engaged in a sexual activity with a client during a massage session. The hearing was continued (postponed) at the request of Mr. Hopperger on the condition that he voluntarily surrender his license to practice massage and bodywork therapy in North Carolina pending the hearing. Mr. Hopperger voluntarily surrendered his license on May 20, 2002. Pending a formal hearing or Consent Order, the voluntary surrender of Mr. Hopperger's license does not constitute a Disciplinary Action. Mr. Hopperger was also convicted in Wake County Superior Court of sexual offenses relating to the same incident.

The following licenses were REVOKED for failure of the therapist to comply with the terms of their Conditional Licenses:

- Mickey Alley, Lake Junaluska
- Tony Beecher, Winston Salem
- Opal Brown, Shelby
- Rebekah Craig, Hickory
- James Dorsey, Fort Mill, SC
- Molly Hall, Wrightsville Beach
- Alvin Harnishfeger, Asheville
- Dorothea Janney, Chapel Hill
- Homer Lacey, Asheville
- Gretchen Langslet, Chapel Hill
- Julie Rakestraw, Greenville
- Billie Robbins, Charlotte
- Rand Shelburn, Wilmington
- Tyler Tooke, Charlotte

Actions regarding MASSAGE AND BODYWORK SCHOOLS:

PROBATIONARY STATUS

On April 18, 2002, the following schools were placed on PROBATION until June 30, 2002 for failure to timely submit their 2002 Application for Renewal of School Approval:

- COASTAL CAROLINA INSTITUTE,
Wilmington, NC
- GLORIA'S ASTHENIC THERAPY SCHOOL & CLINIC,
Fayetteville, NC
- NATURAL TOUCH SCHOOL OF MASSAGE,
Greensboro, NC

REVOCATION OF APPROVAL

GLORIA'S ASTHENIC THERAPY SCHOOL & CLINIC, Fayetteville, NC. Board approval for this school to conduct a massage and bodywork therapy program was REVOKED January 28, 2003, by Consent Order, for failure to comply with the Rules and Regulations of the Board in the operation of the school.

FOR YOUR INFORMATION

Board Meetings and Public Comment

The Board meets every other month in Raleigh. Meetings are open to the public and begin at 10:00am. The Board Chair is the presiding officer., and is responsible for conducting meetings.

There is a 15-minute period of Public Comment at the end of each meeting; those interested may sign up in person before the start of a meeting. However, persons who have official business to bring before the Board are required to contact the Board in writing at least one month in advance of a meeting. The issues or concerns presented will be evaluated, and placed on the agenda for discussion if deemed appropriate.

The meeting schedule for 2003 is on the following Thursdays: April 17; June 19; August 21; October 16; December 18.

LMBT Advertising Requirements

While many licensees have done a good job in complying with the advertising requirements set forth in Rule .0404, there are a still number of licensees whose advertising fails to meet the standards in one or more ways. As a reminder, here are the three elements you must include in every instance where you promote your practice:

- 1) First and last name
- 2) License number
- 3) Professional designation, displayed either as *LMBT*, or as *Licensed Massage and Bodywork Therapist*.

In the case of a business advertising services on behalf of an LMBT, the same three elements must be included. As an alternative, the business may use the exact phrase: *Services provided by North Carolina Licensed Massage and Bodywork Therapists* if the names and license numbers of each practitioner are not included. Group advertisements or promotional materials which include the services of more than one licensee may also use this alternative phrase.

Licenses Granted and Renewed

Number of Licensees in good standing as of February 26, 2003	3187
Total number of licenses granted by the Board from August 2000-February 26, 2003	3692
Licenses required to renew in 2002 cycle	2583
Licensees who renewed on time	1802
Licensees who renewed late	269
Licensees who did NOT renew	512
Licenses scheduled to renew in 2003 cycle	759
New requests for license applications from December 2002-February 2003	121

statutes. This kind of arrangement is unusual, as most other states' licensing boards are directly funded and operated by their state governments.

What we have in NC is a kind of "quasi-governmental" structure, where professional boards behave like regular state agencies, yet are run more like private enterprises.

Based on these unique (and daunting) challenges, the original Board members decided to seek an "all-inclusive" solution. We were fortunate to find Charles Wilkins, of the Raleigh law firm of Broughton, Wilkins and Sugg, who offered the Board a contract for management and legal services, along with office space and administrative support. Mr. Wilkins had provided a similar package to the NC Board of Occupational Therapy for 15 years, so there was an established track record on which we could rely. He was also willing to take on this fledgling Board with no funds, and pay for the initial operations out of pocket until license fees began to be received.

We got office space in a prestigious location just one block from the State Capitol and an experienced crew to help shepherd this effort. Instead of having to reinvent the wheel, the Board members, working collaboratively with Mr. Wilkins and his staff, were able to establish the infrastructure necessary to begin licensing massage and bodywork therapists in just 18 months from the first meeting of the Board—a short startup time for a new regulatory agency.

What follows is a year-by-year summary of what the Board has accomplished (in approximate chronological order). We offer this to help you understand what it has taken to meet the mandate of public protection set forth by the General Assembly.

Year One - 1999

- Board members appointed by the Governor, Speaker of the House, and President Pro Tempore of the Senate
- First Board meeting held April 27, 1999 at the Siler City Public Library; interim officers elected and decision made to explore an inclusive service contract for Board support and administration; Board committees formed
- Charles Wilkins selected as Legal Counsel to the Board; Broughton, Wilkins & Sugg awarded contract to manage the Board's operations
- Monthly public meetings of the Board begin in May, in the Board's new Raleigh location
- Meeting Procedures adopted to govern how Board meetings are conducted; temporary Rules and Regulations drafted
- Permanent Board officers elected: Board Chair—Rick Rosen, Vice-Chair—Candace Frye, Treasurer—Terrie Bellairs
- Presentation to Board members from the executive director of the State Board of Ethics on the meaning of serving



the public trust, and how to avoid conflicts of interest in the discharge of official duties

- Board informed by the Community College System that it will no longer deal with the licensure of massage schools, placing the full authority for massage school regulation on the Board
- Temporary Rules and Regulations adopted, allowing Board to move forward on developing procedures for licensing of therapists and approval of schools
- Guidelines drafted, to further define Rules and operating procedures

Year Two - 2000

- Guidelines formally adopted; committee structure approved
- Database of known massage and bodywork therapy practitioners in NC compiled
- Representatives from groups including Reflexology, Reiki, Trager, and Polarity appear before Board on a number of occasions to request that their modalities be exempt from regulation
- Board's website goes live in May; includes licensing procedures, meeting schedule, complete text of Practice Act and Rules, filing a complaint, etc.
- Public Hearing held on the Rules and Regulations; input given through written and oral comments to Board
- Applications for licensure made available to all practitioners through statewide mailing by the Board
- Application process for initial approval of massage schools approved; orientation workshop held for schools on standards and requirements; first schools granted approval in September
- Board Member Code of Conduct adopted; existing Board officers re-elected
- First set of applicants for licensure of massage and bodywork therapists granted in October
- Board issues statewide press release announcing commencement of licensure process
- Comments on Temporary Rules reviewed; Permanent Rules adopted and sent to NC Rules Review Commission for approval

- Guidelines adopted which specify certain modalities as being exempt from licensure pursuant to the Practice Act
- Approximately 2700 applications received and 1200 licenses granted by year's end

Year Three - 2001

- Initial approvals of massage schools completed
- Permanent Rules approved by NC Rules Review Commission, with exception of school approval rules sent back to Board for more specific language; special Board meeting held with school owners and directors to discuss expanded standards for school approval
- New school approval rules submitted to Rules Review Commission and approved; April 2002 deadline established for compliance by all Board-approved schools
- Strategic planning retreat held in April to establish short and long term goals for Board
- Board begins enforcement of licensure requirements; sends cease and desist letters to those practicing without a valid license; investigates various complaints against licensees and schools
- First cycle of school approval renewals completed in June; site visits of schools begin
- Bob Ward elected Board Chair in August; Vice Chair and Treasurer are re-elected
- Board begins conducting disciplinary actions
- Approximately 2600 licenses granted by year's end

Year Four - 2002

- Information package on license renewal sent out with renewal application to LMBT's with licenses due to expire at the end of 2002
- Board addresses ongoing questions about advertising policies for licensees, continuing education standards,

scope of practice issues

- First formal disciplinary hearings held in March and April (*see complete list of official Board actions on page 4*)
- Four standing committees of the Board reorganized into: Policy, School Approval, Licensure Standards, and Communications
- Renewal of school approvals conducted under the expanded Permanent Rules; 24 schools granted renewal
- Board continues to support licensees in dealing with local government massage ordinances
- Contract signed with M&M Consulting for administration of school approval process, including review of documentation submitted in applications for approval, as well as conducting annual site visits
- Formation of Ad Hoc committee approved to review school approval standards; comprised of Board members and reps from both public and private massage schools
- Enhancements made to Board website (*see below*)
- First cycle of license renewals completed; 2071 licenses successfully renewed
- Approximately 3600 total licenses granted by year's end

As you can see from this list, it's been a very busy time—from the early stages of building the basic structure, then to licensing therapists and approving schools, to enforcing the laws and rules, and more recently, to increasing the level of communication the Board has with its constituents. With this strong foundation now in place, the Board is well positioned to maintain a consistent level of service into the future.

Our goal has been to establish a regulatory program which could support the evolution of the massage and body-work therapy profession in North Carolina, while ensuring that the public is protected. It's truly been a team effort... and a worthwhile endeavor.

www.bmbt.org

The Board Website is Your Online Source for Information

Since it premiered in 2000, the Board website has provided the public with an easily accessible source for information on the licensing program. As more and more people utilize the Internet, the Board is committed to maintaining and improving this resource. The website has individual pages which give you:

- An overview of the regulatory process
- Contact information for the Board
- List of Board members and professional staff
- Board Members' Code of Conduct

- 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 new feature, called the **DOCUMENT CENTER**, was recently added to the site. From this one page, 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>

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NORTH CAROLINA BOARD *of*
MASSAGE & BODYWORK THERAPY

is pleased to bring you this inaugural issue of the
Board Newsletter. It is intended to provide information
to licensees, and all who are interested in the regulation
of massage and bodywork therapy in North Carolina.

