

Minutes  
Tennessee Massage Licensure Board  
February 10 and 11, 2020

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Time: 9:00 a.m. Central Standard Time  
Location: 665 Mainstream Drive  
HRB Conference Center  
1<sup>st</sup> Floor, Iris Room  
Nashville, TN 37243

Members Present: Marvis Burke, LMT, Chairperson  
Dee Vickers, LMT  
Ed Bolden, LMT  
Bill Mullins, LMT  
Virginia P. Yarbrough, LMT  
Michael Velker, Public Member

Staff Present: Kimberly Hodge, Board Manager  
Noranda French, Unit 2 Director  
John Tidwell, HRB Director  
Marc Guilford, Office of General Counsel

The meeting was called to order at 9:03 a.m. by Ms. Marvis Burke, Chairperson. Ms. Burke acknowledged and thanked the therapists, schools, and students present and joining online. Ms. Burke stated that for members of the public who wished to speak at the meeting, they should place their names on the Public Comment Sign In sheet and write down the topic they wished to address, so that Ms. Burke could call on them after the appropriate agenda item. Ms. Burke stated that the reason the Board exists is to protect the health, welfare, and safety of the people of Tennessee. Ms. Kimberly Hodge conducted a roll call to establish a quorum. A quorum was established.

**Receive, Discuss, and/or Update Board on New Business in Administrative Office – Time: 0:0:03**

Ms. Kim Hodge reported to the Board on the progress using the CE Broker and CE registry in the CE audit process. Ms. Hodge also reported that five (5) Tennessee massage schools have

expressed an interest in scheduling a “licensure day” with the administrative staff at their schools.

Mr. Tidwell conducted a roll call of all administrative staff present. All staff members were present in the meeting. – Time: 3:20

**Approve the Minutes from the November 7 and 8, 2019 Board Meetings -Time: 0:3:43:**

A motion was made by Dr. Bolden, seconded by Ms. Yarbrough, to approve the minutes from the November 7 and 8, 2019 Board meeting as written. The motion carried.

**Discuss the Massage Board’s Self-Sufficiency Hearing Before the Joint Government Operations Committee on January 27, 2020 and Take Action if Needed – Time: 0:04:18**

Ms. Noranda French played the video of the Hearing for the Board to see and hear before discussion began. Upon completion of the video, Ms. Burke asked if any members of the public had signed up to comment on this section. Ms. Hodge confirmed that the requestors for comment preferred to defer their comments and questions for the Development Committee. The Board discussed what they had already done to curb expenses; that new and increasing required expenses were not optional; that in spite of the Board’s efforts to find a way to use the reserve funds, that had not been approved by the legislature; and that in order to meet the legislature’s required deadline for self-sufficiency, increasing fees appeared to be necessary. Ms. French spoke to the Board’s administrative office’s efforts to improve communication with the public and to streamline the application process. After much discussion, the Board moved on to the next agenda item.

**Receive Reports and/or Requests from the Board Director/Manager – Time: 1:24:50**

**Administrator/Director’s Report**

This Administrative Report was presented Kimberly Hodge, Board Director. The information contained in this report will keep the Board aware of all essential activity pertaining to licensure for Massage Therapists and Massage Establishments.

**STATISTICAL REPORT**

:

As of February 7, 2020 there were 4,451 licensed massage therapists and 1,733 licensed massage establishments.

Following is the license status since the last meeting:

<b>THERAPISTS</b>	<b>ESTABLISHMENTS</b>
<b>November 2019</b>	<b>November 2019</b>
Newly Licensed – 38	Newly Licensed – 23
Reinstate Applications – 8	Reactivation Applications – 2
Retired- 14	Retired – 12
New Applications- 34	New Applications- 9
	Address / Responsible Person Change Application - 8

<b>THERAPISTS</b>	<b>ESTABLISHMENTS</b>
<b>December 2019</b>	<b>December 2019</b>
Newly Licensed – 27	Newly Licensed – 17
Reinstate Applications – 4	Reactivation Applications – 6
Retired- 12	Retired – 7
New Applications- 33	New Applications- 28
	Address / Responsible Person Change Application - 6

<b>THERAPISTS</b>	<b>ESTABLISHMENTS</b>
<b>January 2020</b>	<b>January 2020</b>
Newly Licensed – 53	Newly Licensed – 27
Reinstate Applications – 11	Reactivation Applications – 4
Retired- 13	Retired – 8
New Applications- 23	New Applications - 24
	Address / Responsible Person Change Application - 2

## **INTERNET**

The Board’s internet website is an excellent location to place valuable board information for licensees and applicants. Please visit the Board’s website at <https://www.tn.gov/health/health-program-areas/health-professional-boards/ml-board.html> and let us know if you have anything you would like to add under the noteworthy section. In January, 100 licensees renewed their licenses via the website for a usage rate of 66%. The administrative staff is asking that all Board members get the word out about renewing online and would ask the Board members use this tool to renew their licenses.

Ms. Hodge noted that although it is not directly reflected in the report, the administrative office has seen a significant increase in chiropractic offices not renewing their massage establishment licenses as a result of the May 2019 passage of legislation that no longer requires chiropractic offices to hold a massage establishment license in order to offer services of licensed massage therapists at their offices.

## **Investigation/Disciplinary Reports – Time: 1:26:50**

These reports were brought by Lori Leonard of the Disciplinary Coordinator's office.

Ms. Leonard stated that the Disciplinary Coordinator's office was currently monitoring 23 licensees. There were 70 licensees whose license was on probation; 39 under suspension; 20 under revocation; and 3 under child support discipline. Ms. Leonard noted that about a third of massage therapists currently under reprimand were for CE violations; and 32 out of 39 therapists currently on probation are for CE violations. Ms. Leonard stated that these numbers seem to show an ongoing continuing education violation issue with the licensees. Ms. Leonard stated that the Disciplinary Coordinator's office is currently monitoring 31 massage establishments.

In response to a question from the Board, Ms. Leonard stated that she would get information to Ms. French about how much money has been paid and how much is still owed on civil penalties attached to the discipline noted in the reports.

In response to further questions from the Board, Ms. Leonard and Mr. Guilford gave an overview of the complaints and investigation process, and how the Office of Investigations and Office of General Counsel interacts with local and state law enforcement regarding complaints that may need to be investigated by outside agencies. Mr. Guilford discussed what an advantage it is from a regulatory aspect to have good relationships with outside law enforcement agencies. Ms. Leonard stated that she would check to see if any investigators had ever gone out to investigate a massage related issue strictly on behalf of local or state law enforcement, not where there was a massage license that could be disciplined.

Ms. Leonard stated that from January to December of 2019, the Office of Investigations has opened 101 new complaints on massage therapists. During this time, the office has closed 114 complaints, some of which carried over from 2018. Of those complaints that were closed, 7 were closed for insufficient evidence to investigate; 54 closed and sent to Office of General Counsel for formal discipline; 29 closed with no action; 4 closed with a letter of concern; and 20 closed with a letter of warning.

At the end of 2019, the office was investigating 30 open complaints. Ms. Leonard stated that of the newly opened complaints against massage therapists, 1 was for substance abuse; 11 for sexual misconduct; 2 for criminal charges; 1 for malpractice/negligence; 7 for unlicensed practice; 35 for unprofessional conduct; 6 for violation of Board order; 11 for lapsed license; 3 for criminal conviction; 1 for Right to Know violation; 15 for continuing education violation; and 7 fell outside the investigative scope.

For January and February of 2020, the office had 5 new complaints opened against massage therapists, no closed complaints, and as of February 2020, 30 open complaints. Of the new

complaints, 2 were for sexual misconduct; 2 for unprofessional conduct; and 1 for mental and/or physical impairment.

During 2019, the Office of Investigations opened 71 new complaints against massage establishments. Of those complaints, 1 was for sexual misconduct; 6 for unlicensed practice; 54 for unprofessional conduct; 1 violation of Board order; 3 lapsed licenses; and 6 outside of investigative scope.

During this time, the Office of Investigations closed 50 complaints against massage establishments. Of those closed, 3 were closed with insufficient evidence to formally discipline; 14 closed and sent to the Office of General Counsel for formal discipline; 25 with no action; 3 with a letter of concern; and 5 with a letter of warning. At the end of 2019, the Office of Investigations had 47 open complaints against massage establishments.

For the year 2020, at the time of this meeting the Office of Investigations had opened 5 new complaints against massage establishments, and there were 47 open complaints being reviewed and investigated. Of the 5 new complaints, 1 was for sexual misconduct; 1 for unlicensed practice; 1 for unprofessional conduct; and 2 for lapsed licenses.

**Financial Report – Time: 1:47:14**

This report was brought by Mr. Butch Jack.

Tennessee Massage Licensure Board	
Analysis of Operating Expenditures and Carryover Balance	
FY2016 Operating Expenditures	\$596,821.34
FY2017 Operating Expenditures	\$857,127.72
FY2018 Operating Expenditures	<u>\$752,593.55</u>
3 Year Average of Annual Operating Expenditures	\$735,514.20
2 Times the 3 Year Average of Operating Expenditures	\$1,471,028.40
2018 Cumulative Carryover Balance	\$912,042.60

FY2017 Operating Expenditures	\$857,127.72
FY2018 Operating Expenditures	\$752,593.55
FY2019 Operating Expenditures	<u>\$837,573.75</u>
3 Year Average of Annual Operating Expenditures	\$815,765.01
2 Times the 3 Year Average of Operating Expenditures	\$1,631,530.02
2019 Cumulative Carryover Balance	\$794,367.50

Cumulative carryover does not exceed two times the three year average of operating expenditures.

In response to questions from the Board, Mr. Jack and Ms. French explained that the hoped-for interdepartmental agreement with Finance and Administration did not happen because even after Ms. Noranda and Mr. Jack had made a reporting change to differentiate legal advisory and enforcement costs in the State's Edison time reporting system, Finance and Administration chose not to interpret the relevant law to allow Health Related Boards to use surplus carryover funds to pay for enforcement costs.

In response to questions from the Board, Mr. Guilford explained that the increase in legal costs over the years from 2015 and 2016 to the present was originally tied to an increase in continuing education cases being brought before the Board due to an increase to one hundred percent CE audit, and continued due to increasing complaints being investigated and then prosecuted. Mr. Jack explained how the Board was billed by the Office of General Counsel for legal services. Mr. Guilford explained about how case costs are assessed and billed.

**Continuing Education Audit Report**

There was no continuing education audit report presented at this meeting.

**Discuss Legislation - Time: 2:35:55**

Mr. Guilford stated that no bills had been filed for this legislative session that is specifically about massage. He said since the filing deadline had passed, unless an unrelated bill gets amended to include something about the massage practice act, there would be no legislation this year affecting the Board directly. However, some pending legislation may affect procedures for Health Related Boards' rulemaking.

**Tennessee Professional Assistance Program Statistical Report Regarding the Peer Assistance Program – Time: 2:38:00**

This report was brought by Mr. Mike Harkreader of TnPAP.

<b>ACTIVITY REPORT</b>		July 1, 2019–December 30, 2020	
		Massage Therapist	Establishment
<b>Monitoring</b>		3	0
<b>Participation Type</b>			
	Regulatory	1	0
	Non-regulatory	2	0
<b>Referral</b>		8	1
<b>Referral Source</b>	MLB administrative office	8	1
<b>Referral Reason</b>	Arrest History	8	1
<b>Agreements Activated</b>		2	0
<b>Discharge</b>		5	0
<b>Discharge Reason</b>			
	Agreement completed	3	0
	Evaluated; declined recommendations	2	0
	Evaluated; no MA	2	0
	Monitoring non-compliance	1	0

The Board had no questions for Mr. Harkreader at this time.

**Ratify Agreed Citations for Continuing Education Violations & Lapsed Licenses – Time: 2:39:18**

**Continuing Education Violations**

**Ashley Marie Carter, LMT #10976**

Ms. Carter agreed to pay a civil penalty totaling \$450.00 for failing to obtain twelve (12) hours of continuing education for the cycle of 2017/2018

**Tamera Danel Watkins, LMT #10488**

Ms. Watkins agreed to pay a civil penalty totaling \$350.00 for failing to obtain eight (8) hours of continuing education for the cycle of 2017/2018.

**Lapsed Licenses**

**Brad Resse – Hillwood Country Club, ME #4250**

Mr. Resse agreed to pay a civil penalty totaling \$400.00 for operating a massage establishment on a lapsed license for seven (7) months.

**Amy Beth Sherman, LMT #10358**

Ms. Sherman agreed to pay a civil penalty totaling \$600.00 for practicing massage on a lapsed license for nine (9) months.

**Dana Ann Tumlin, LMT #4768**

Ms. Tumlin agreed to pay a civil penalty totaling \$600.00 for practicing massage on a lapsed license for nine (9) months.

A motion was made by Dr. Bolden, seconded by Mr. Mullins, to ratify the agreed citations for continuing education violations and lapsed licenses. The motion carried.

**Ratifications – Time: 2:39:48**



## New Licenses

### Massage Therapists

Adams Melissa Dawn	Carnahan Marsha M
Antari Ibrahim A	Charles Georgina Cheryl
Bagwell James Brandon	Clark Julie Breann
Barnett Emily Michelle	Cochran Belinda Ruth
Barrera Blanca	Colbert Alexis R
Breeding Mckinsey Tyler	Conwell Ishmael Khalfani
Broyles Matthew Ryan	Courtney Deandre Lavelle

Covington Brian Christopher	Mitchell Tiffany Rosemary
Crouch Miranda Renee	Mogan Robert Sebastian
Damocles Arlene Cambil	Nelson Haley Lauren
Daniel Caitlin Griffith	Newton Laura K
Davis Christina Danielle	O'Quinn Christina Marie
De Cloux Jessica Rose	Pemberton Caroline Russell
Edwards Kasheena Tajaveda	Petska Amelia Anne
Entin Jacqueline Spencer	Phipps Lindsey Joy
Fazio Alexandria Michelle	Porter Robin Dawn
Fite Sheryl Lynne	Priest Nikolas Forest
Fletcher Diane Elizabeth	Ramsey Samuel Alexander
Ford Diane Lucille	Sallee Jason Robert
Fowler Elizabeth Jordan	Samson Lisa Marie
Franklin Sharunda Nicole	Sexton Thomas Paul Jr
Gabriel Kristi M	Shelton Kelisha Brooke
Gentry Tara Marie	Shi Yanling
Gilliam Amber Nichole	Shugerman Shelly Ann
Griffieth Katrina Michelle	Simmons Jessica Lynne
Grizzell Leslie Ann	Singleton Jayda Patrice
Gunter Carla Anne	Smith Logan Adam
Hall Pamela Lea	Truss Christopher Allen-Mitchell
Harms Krista Lyn	Van Hoey Sarah
Harris Laurel Elaine	Whitehouse Dustin Dayne
Hayden Samantha Lynn	Williams Jacqueline Marie
Hines Elisa Lee	Williams Lonnie Patrick
Horner Sara Anne	Wolfersberger Angelica Joy
Jones Sabrina Marie	Zills Amy Patricia
Jones Sri Aroni	

Jordan Rachel Dea
Kiesling Ashley Lynn
Latessa Amy
Leach Kayla Marie
Lee Julia Marie
Lindfield Tiffany Marie
Logan Jessica Paige
Malcom Hanna Marie
Mayes Austin Tyler
Mccarthy Molly Ryan
Metz Taylor Elise

**Massage Establishments**

24 Massage & Bodywork	Meraki Massage & Wellness
8107 Massage	Nurture Health And Wellness Llc
A Touch Of A Feather	Peaceful Waters
Akyaysay Massage	Pure Bliss Therapeutic Massage
Amara Wellness & Spa	Relache Spa At Gaylord Opryland
Amy Aromatherapy Massage Spa Llc	Renew Therapeutic Massaage Llc
Asian Massage Studio	River Of Life Health And Wellness
Be Blessed	Shear Structure Salon & Spa
Body In Balance Massage Therapy Llc	Silver Springs Massage Therapy
Body Psyche Soul Wellness Center	South Knoxville Holistic Massage
Caribbean Sun	The Avacyn Company
Carrah Westrick Lmt	The Healer'S Touch Llc
Champalou Spa	The Muscle Medic
Comfort Creek Vitality	Therapeutic Massage Effects
Courtney Browning Massage Therapy	Tranquil Garden
Daryl Nash	Wake Foot Sanctuary
Dc Bodywork	Wellness At The Abbey
Donelson Massage Center Llc	Why Knot Bodyworks
Feet Retreat	You Relax... I Massage
Germantown Day Spa	
Hands For Health- Julie Mulhern	
Hands Of Faith Massage Therapy	
Healing Hands Massage And Wellness	
Healing Hands Tn Llc	
Hybrid Massage	
J. B. Reiki & Massage	

Jill Samuels Massage And Bodywork
Julu Hairspa Llc
Kathy Ahweh
Kayla Cunningham Lmt
Lauren Ashley Salon
Little Massage Trailer Llc
Massage By Dominique
Massage By Donna Lee
Massage By Selena
Massage Loft
Massage Therapy

### **Reinstatements/Reactivations**

#### **Massage Therapists**

Banks Michael Allen
Benton Christina Michelle
Blake Valencia Celia
Covington Valencia Lanae
Craig Brittany Amanda
Doran Shelisa Faye
Frame Marlene Marie
Gallimore Sandra Nicole
Jones Tammy Michelle
Lewis Grace Danielle
Maccagnone Darrin Thomas
Marsee Pamela Gayle
Mccracken Rachel Elizabeth
Mcelhose Shannon Jean
Parker Annalisa Irene
Reed Tara Renee
Roper Shanta Nicole
Sherman Amy Beth
Spears Kenneth Lebron
Suter Amber Ellen
Tumlin Dana Ann
Waggoner Synthia Brooke

#### **Massage Establishments**

Chattz Massage Inc Dba Massage Heights
Cooper Chiropractic Center
Hillwood Country Club
Linda'S Salon And Spa

A motion was made by Dr. Bolden, seconded by Mr. Mullins, to ratify the approval of all new and reinstated or reactivated massage therapists and massage establishment licenses. The motion carried.

**Ratify Approved Continuing Education Courses – Time: 2:40:15**

A motion was made by Dr. Bolden, seconded by Ms. Vickers, to ratify the approved continuing education courses. The motion carried.

**Review Board Correspondence – Time: 2:40:43**

There was no Board correspondence to be reviewed at this meeting.

**Applicant Interviews – Time: 2:41:10**

Ms. Burke introduced and thanked Ms. Jiao Hoggard for being present to interpret for the applicants who had requested an interpreter. Ms. Burke confirmed that Ms. Hoggard was able to communicate with those applicants. Ms. Burke also reminded the Board members to allow time for the interpreter to communicate with the applicant during interviews.

**FenLing Li – Relax Massage – Time: 2:42:00**

Ms. Li had applied for a massage establishment license for Relax Massage at 300 Pleasant Grove Road, Suite 333, Mount Juliet, TN 37122, and was present at this meeting. The Board's concerns include that Ms. Li stated on her application that no one else had completed it, but the signature and handwriting on the application appear to be completely different; that Ms. Li has the same email address as the current establishment owner, Ms. Xiao Zhu; and that Ms. Zhu wrote a recommendation letter for Ms. Li. The Board heard from Ms. Li, Ms. French, and Mr. Guilford. In response to questions from the Board, Ms. Li stated that she did not read, speak, and write English fluently as she stated on her application, but that she used a translation app on her phone. She also stated that she did not know her current residential address, although she had lived there for two years. She stated that the address on her Tennessee driver's license was her work address. Ms. Li stated that she and Ms. Zhu knew each other because Ms. Li contacted her and they became friends, and that they had known each other for a few months. In response to questions from the Board, Mr. Guilford stated that while his office did not have any complaints against the currently operating establishment, they did have a case pending against

the current owner of that establishment, Ms. Zhu, about things that happened at another establishment that Ms. Zhu owned. In response to questions from the Board, Ms. Li stated that she had someone else help her complete the application form. Upon further questioning, Ms. Li stated that she completed the application completely on her own. Then she stated that a friend from the restaurant where she worked helped her complete the application. She stated that she had signed the application herself.

After much discussion, a motion was made by Dr. Bolden, seconded by Mr. Mullins, to approve Ms. Li's application for a massage establishment license contingent upon Ms. Li submitting a new, corrected application form with honest answers to all questions and a new \$95.00 application fee. The motion carried.

### **Julie Lynn Riffle – Time: 3:18:17**

Ms. Riffle had applied for a massage therapist license and had requested the Board to interview her because her application was short fifty-five (55) classroom hours from the core curriculum of an approved massage school of Related Subjects, and this kept her from meeting the educational requirements for licensure as a massage therapist in Tennessee. Ms. Riffle asked that the Board license her anyway based upon her licensure in another state and her continuing education hours. The Board heard from Ms. Riffle, Ms. French, and Mr. Guilford. Dr. Bolden spoke from his experience reviewing massage transcripts for the Board, and stated that he felt Ms. Riffle's transcript met the educational requirements.

A motion was made by Dr. Bolden, seconded by Mr. Velker, to approve Ms. Riffle's application for a massage therapist license. The motion carried.

The Board broke for lunch at 12:35 p.m.

The Board reconvened at 1:15 p.m. with all Board members, Mr. Guilford, Ms. French, and Ms. Hodge present.

### **Ruby Renee Simms**

Per Ms. Simms' attorney's request, Ms. Simms' interview was deferred to the May 2020 Board meeting.

### **Shantell Renee McCormick (TnPAP)**

Per Ms. McCormick's request, Ms. McCormick's interview was deferred to the May 2020 Board meeting.

**Rachel L. Webb – In the Spalight – Time: 4:05:48**

Ms. Webb applied for a massage establishment license for In the Spalight at 101 Southwood Drive, Dickson, TN 37055, and was present at this meeting. The Board's concerns included: records show that Ms. Webb applied for an establishment license on September 19, 2019, and an establishment license was held at the location up until February 2018 by Jennifer Osborne, a former massage therapist at the establishment. No new establishment license was held after Ms. Osborne's departure, but advertisements show that massage services continued to be provided by Allison Mancuso beginning September 1, 2018. The business has been offering massage without a massage establishment license since February 2018 until September 2019. Ms. Webb stated that she was unaware that an establishment license must be held at the location separate from the massage therapist's license. Once she was aware, she submitted her application to the Board office.

The Board heard from Ms. Webb, Ms. Hodge, and Mr. Guilford. After some discussion, a motion was made by Mr. Velker, to approve Ms. Webb's application for a massage establishment license. After further discussion, Mr. Velker withdrew his motion. A motion was then made by Mr. Mullins, seconded by Ms. Yarbrough, to approve a conditional license with a \$1,000.00 civil penalty. The motion carried, with Dr. Bolden abstaining. A motion was made by Mr. Velker, seconded by Ms. Vickers, to require that the civil penalty be paid before issuing the license. The motion carried.

**Lynn W. Osgood – Private Edition – Time: 4:41:37**

Ms. Lynn W. Osgood is the owner of Private Edition at 4009 Hillsboro Road, Suite 101, Nashville, Tennessee, 37215, and submitted an Establishment license application to our office on 01/16/2020. Ms. Osgood was present at this meeting. The Board's concerns include: The Board's records show that an Establishment license was held up until April 2011 by Linda D. Roberts, who is also a principal owner of the corporation Therapy Systems, Inc. Andy Bogle was the Massage Therapist when the previous license was active, and Ms. Adrienne Kelley was the Massage Therapist following Mr. Bogle's departure in 2011. Advertisements show that services were continued to be provided by Adrienne Kelley until the date of the application for Establishment licensure by Ms. Osgood. The business has been offering massage without an Establishment license from April 2011 until December 2019.

The Board heard from Ms. Osgood, Ms. Hodge, Mr. Guilford, Ms. Maj Lis Nash of Mind Body Institute, and Ms. Mindy Oldham. After some discussion, a motion was made by Mr. Velker, seconded by Dr. Bolden, to approve a conditional license with a civil penalty of \$7,500.00. A motion was made by Mr. Velker, seconded by Ms. Yarbrough, to amend his motion to include that although the license would issue immediately, Ms. Osgood would have 6 months to pay the civil penalty in full. The amended motion carried.

The Board took a brief break. When the Board reconvened, Ms. Hodge conducted a roll call. All Board members except Dr. Bolden had returned, and a quorum was confirmed.

**Lisa Hatfield – Top Rehab Services, Inc. – Time: 5:23:28**

Ms. Lisa Hatfield is the owner of Top Rehab Services, Inc. at 2110 N. Jackson Street, Tullahoma, TN 37388, and submitted an Establishment license application to our office on 08/22/2019. Ms. Hatfield was present at this meeting. The Board's concerns included: advertisement revealed that the business was offering massage prior to the date of the application. Massage was provided by Massage Therapist Ron Clippard starting in 2001 and Crystal Hale starting in 2004. Ms. Hatfield states that no Massage Therapy was performed under the Rules of the Massage Board; rather the services were given under the Physical Therapy Board Rules as Assistant Personnel.

The Board heard from Ms. Hatfield, Mr. Guilford, Ms. Hodge, and Ms. Mindy Oldham. After much discussion, a motion was made by Mr. Velker, seconded by Dr. Bolden, to approve Ms. Hatfield's application for a massage establishment license. The motion carried.

**Receive Report and/or Requests from the Office of General Counsel – Time: 6:02**

This report was brought by Mr. Marc Guilford. Mr. Guilford stated that he hoped to have one or two consent orders for the board by the second day of the meeting. He stated that OGC was up to about 80 open cases for the Board. Mr. Guilford stated that his office was working internally on preparing for a rulemaking hearing for the Board, perhaps at the Board's next meeting. Mr. Guilford stated that there was no new legislation to discuss at this meeting.

**Receive In-Depth Overview Presentation from Mike Harkreader Regarding the Tennessee Professional Assistance Program – Time: 6:04**

Mr. Harkreader gave a detailed presentation on what the peer assistance program is and how it functions. He discussed what substance abuse is, why it is a problem, how it is diagnosed, and how recommendations are made and carried out. He also discussed the monitoring program, and how TnPAP had experienced the bidding process for the contract.

The Board also heard from Steve Sommers of Cumberland Institute of Holistic Therapies and Ms. Hodge.

**Review, Discuss, and Take Action If Needed Regarding the Peer Assistance Contract That Ends May 31, 2020 – Time: 7:12:33**

The Board heard from Ms. Painter about the process of putting out an RFGP and receiving bids on the contract. She stated that she expected the RFGP to be posted within the next month. Ms. Painter explained the timeline of the process, and confirmed that once the RFGP is formed and posted, the Board has no further input into the process. She stated that the Board did have control of the stated scope of services required.

The Board also heard from Mr. Guilford, Ms. Hodge, and Ms. French. The Board discussed the cost and benefits of having a peer assistance program, and of the Board's current practice of paying for the applicants' initial evaluations and substance screenings. The Board also discussed their responsibility to protect the health and safety of the people of Tennessee, and how a peer assistance program supports that mission.

The Board heard from the following members of the public: Ms. Laura Embleton, Government Relations Director for the Association of Massage and Bodywork Professionals (ABMP), and Christine Hoover with the American Massage Therapy Association (AMTA).

The Board decided to take up this issue after hearing from the development committee on the second day of the meeting.

**Receive and Approve Tennessee Massage School Annual Reports and Discuss Remedial Plan for Schools That Fall Below 70% Passage Rate on the First Attempt of the Approved Licensure Exam – Time: 8:02:18**

Dr. Bolden brought this report about Tennessee massage schools' passage rates during the time frame of July 1, 2018 to July 30, 2019. The Board heard from Ms. Hodge about what other states are doing for remedial plans for schools. The Board heard from Dr. Bolden, Ms. Hodge, Mr. Guilford, Steve Sommers, and Mindy Oldham. After much discussion, a motion was made by Dr. Bolden, seconded by Mr. Mullins, to require all schools that had fallen below the 70% passage rate for a second year in a row to come to the May 2020 Board meeting. The motion carried.

**Discuss and Consider Request for Continuing Education Waivers – Time: 8:25:15**

There were no requests for continuing education waivers to be considered at this meeting.

**Discuss and Take Action If Needed Regarding Rulemaking Hearings, Rule Amendments, and Policies – Time: 8:28:26**

Mr. Guilford stated that he would address this issue after the Development Committee meeting.

**Public Comments and Receive Future Board and Development Committee Agenda Items – Time: 8:29:53**



Ms. Hodge stated that the Development Committee Agenda for this Board meeting was already quite full.

A motion was made by Dr. Bolden, seconded by Mr. Mullins, to adjourn the first day of the Board meeting. The meeting was adjourned. **- Time: 8:30:49**

## TENNESSEE BOARD OF MASSAGE DEVELOPMENT COMMITTEE MEETING

To watch or listen to this meeting online, please click on the link below:

<https://web.nowuseeit.tn.gov/Mediasite/Catalog/Full/98fe21d561e9489487745f0c7da678b221>

Time: 5:51 p.m. Central Standard Time – **Time: 8:43:10**  
Location: 665 Mainstream Drive  
HRB Conference Center  
1<sup>st</sup> Floor, Iris Room  
Nashville, TN 37243

### Members of

Committee Present: Bill Mullins, LMT, Chairperson  
Michael Velker, Public Member  
Virginia P. Yarbrough, LMT

Staff Present: Kimberly Hodge, Board Manager  
Noranda French, Unit 2 Director  
John Tidwell, HRB Director  
Marc Guilford, Office of General Counsel

Mr. Mullins called the meeting to order. Ms. Noranda French conducted a roll call of Board members present. All three Board member committee members were present.

### **Review and Discuss a Plan for the Board to Address Concerns From the Self-Sufficiency Hearing**

#### **Committee Member Discussion**

Ms. Noranda French began the discussion about the peer assistance contract. She presented the information that she had collected regarding a few other boards' cost for peer assistance programs. The committee discussed the possibility of having applicants pay for their own substance screening and/or initial evaluations. The committee heard from Ms. Hodge about the previous peer assistance program, and about the expense of evaluations and substance screens. The committee discussed the possibility of accepting out of contract evaluations, paid for by the applicants. Mr. John Tidwell emphasized that the most important thing about awarding a contract is to make sure that the vendor can perform the scope of services required by the Board, and that a Board-set cap on the cost is not required.

#### **Public Comments**

The committee heard from Mr. Steve Sommers, Dr. Ed Bolden, Marvis Burke, and Mindy Oldham.

After much discussion, the committee resolved to recommend to the Board that they cap the grant for the peer assistance program at \$30,000, and not have the Board pay for any substance screenings or evaluations.

Mr. Mullins began the discussion about the increasing legal and investigation costs. Mr. Guilford stated that the Board might assess more civil penalties, but that this strategy might lead to more costs and less civil penalties as people choose not to settle cases but to go to trial or hearing. He also stated that the Board could choose not to pursue or investigate some possible violations. Mr. Velker stated his concern that the Board could lose credibility by not prosecuting violations.

Ms. French began the discussion of gradually increasing the percentage of licensees audited for continuing education. Mr. Guilford spoke of the difficulties this would cause and the additional expenses that would be incurred in his office.

Mr. Mullins began the discussion of raising the massage therapist license renewal rate to \$225.00, and the use of a tiered system of renewal fees for massage establishment licenses. Ms. Hodge stated that without massage establishment inspections, there is no way to confirm how many tables and therapists are in any establishment.

### **Public Comments**

The Board heard from Marvis Burke, Dee Vickers, and Steve Sommers, and Mindy Oldham.

### **Receive, Review, and Discuss Proposed Language for Massage Board Rule Packet**

No discussion, public comment, or action occurred on this topic at this meeting.

### **Adjournment**

Mr. Mullins adjourned the committee meeting at 7:00 p.m.

Minutes  
Tennessee Massage Licensure Board  
February 11, 2020

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Time: 9:00 a.m. Central Standard Time

Location: 665 Mainstream Drive  
HRB Conference Center  
1<sup>st</sup> Floor, Iris Room  
Nashville, TN 37243

Members Present: Marvis Burke, LMT, Chairperson  
Dee Vickers, LMT  
Ed Bolden, LMT  
Bill Mullins, LMT  
Virginia P. Yarbrough, LMT  
Michael Velker, Public Member

Staff Present: Kimberly Hodge, Board Manager  
Noranda French, Unit 2 Director  
John Tidwell, HRB Director  
Marc Guilford, Office of General Counsel

The Meeting was called to order at 9:13 a. m. by Ms. Marvis Burke, and roll call was held by Ms. Kim Hodge. A quorum was established. Judge Michael Begley presided over the contested case hearings.

**Contested Cases-February 11, 2020**

**Yuanjie Yang-** Ms. Yang was present at this meeting with her counsel, Mr. Joshua Strickland. Ms. Jiao Hoggard, interpreter, was present and sworn in by Judge Begley. Opening statements were made by Mr. Guilford and Mr. Strickland. The consent order, presented by Mr. Guilford, would revoke Ms. Yang's two retired and one active establishment licenses and also suspend her therapist license. The charges state that massage was being performed by unlicensed Massage Therapist and Reflexologist in her establishments. The Department's investigator provided a statement that he/she witnessed a client present and being massaged by an employee at the establishment. The Board heard from Mr. Guilford, Ms. Yang, and Mr. Strickland. A motion was made by Dr. Velker, seconded by Mr. Mullins, to approve the consent order as written. The motion carried. **Time: 10:20**

**Hu Nan-** Mr. Nan was not present. A motion was made by Mr. Bolden, seconded by Ms. Yarbrough to proceed in default. Mr. Nan operated an Establishment without a license and there were non-licensed therapist also working in the establishment. Investigator's statement showed witness to a male entering into a closed room and then emerging a time later and then making a payment for services. The Board heard testimony from Ms. Hodge that Mr. Nan's license expired August 30, 2018. Mr. Guilford proposed an order to revoke Mr. Nan's therapist and establishment licenses and costs assessed not to exceed \$5000. A motion was made by Mr. Bolden and seconded by Mr. Velker to accept the order as written. The motion carried **Time: 01:35:02**

The Board took a brief recess and reconvened at 11:53.

### **Investigation Report**

Ms. Lori Leonard provided a presentation regarding procedures in the Office of Investigations per the Board's request on Monday February 11, 2020. Ms. Leonard's report spans several years of data but, didn't represent the total amount of fees that have been collected by the Massage Board. The report represented licensees that were currently actively paying toward his/her compliance agreement. She informed that Board that once a licensee is in violation of his/her order or if their license expires, then the data is no longer as up to date and the debt is not pursued until reinstatement occurs.

### **Review and Discuss a Plan for the Board to Address Concerns From the Self-Sufficiency Hearing- Time:**

**Steve Sommers: (4:14:30)** Mr. Sommers is in support of tiered fees for Massage Establishments. He is also in support of Massage Therapist renewal fee increasing to \$240.00 as it was in 1996. He states that it is an increase of only \$5.00 monthly.

### **Receive, Review, and Discuss Proposed Language for Massage Board Rule Packet**

#### **Board Member Discussion: (5:49:12)**

Ms. Vickers inquired about a large part of the budget being staff salaries and if decreasing the staff size would assist in reducing spending. Ms. Hodge stated that the Massage Board Administrative staff is composed of three persons and one staff person under the Reflexology Board that is only billed to massage when assisting and processing Establishments.

### **Public Comments**

Comments were made throughout the meeting by Laura Embleton of the ABMP, Mas- Lis Nash of Mind Body Institute

**Peer Assistance: (3:10:00)**

Ms. French presented a Board comparison on the amounts billed to for Peer Assistance from other Boards in HRB to assist in the re-writing of the Peer Assistance contract. After much discussion, it was agreed to cap the cost at \$28,000. A motion was made by Dr. Bolden and seconded by Mr. Velker. The motion carried.

**Audits: (3:13:10)**

Ms. French expressed that we are currently doing audits at a rate of 10% with a compliance rate of 75-80%. She explained that doing 100% audits could be increased gradually so that staff aren't overwhelmed with the increase in work. She also enlightened that moving to 100% will have a diminishing return in future years as therapist become accustomed that audits will occur 100% of the time. This subject will be moved to the August 2020 meeting.

**Inspections/Inspectors: (3:18:03)**

Ms. French presented that based on data from 2016; Inspectors were paid a fee of \$75 per inspection. They were also paid for travel, meals, and lodging. This is the lowest cost for an inspector fee. Ms. French expressed that increasing fees will allow inspectors to be hired and inspections to resume. This expense is pending a full fiscal year of new fees so that a data driven discussion can be made in the future. The Board requested that this discussion be tabled until the Board is operating in the black.

**Fee Increases: (3:19:08)**

Revenue for the Massage Board is generated by the fees of Applications for Massage Therapist and Establishments. A fee increase is necessary in order to generate the revenue necessary to be self-sufficient again. Much discussion was held to propose a tier based fee increase. A motion was made by Ms. Vickers to increase Renewal application fees to \$250.00 for Massage Establishments with 1-5 tables and Establishments with 6 or more will renew biannually at a cost of \$500.00. The motion was seconded by Mr. Mullins and the motion carried.

Mr. Mullins inquired about initial Establishment application fee changes, and after some discussion, made a motion for the application fee of Establishments having 1-5 tables increasing from \$120 to \$195 for a total fee of \$300. Dr. Bolden motioned for an amendment to include the tier of Establishments having 6 or more tables initial application fee increasing to \$295 for a total of \$400. After a brief discussion, Mr. Velker made a motion to adopt the new proposed fee structure into a tier system. Dr. Bolden seconded the motion, and the motion carried.

Discussion was held about increasing the fees for Massage Therapist renewals from \$195 to \$245.00. Dr. Bolden made a motion to accept the massage therapist increase and Mr. Mullins seconded the motion. The motion carried.

The initial fees for Massage Therapist licensure will not be increased at this time.

Dr. Bolden also made a motion to adopt an additional fee to increase the late fee associated with reinstatement for therapist applications and reactivations for establishment applications. The new proposed late fees will be \$150.00 for Massage Therapist and \$200.00 for Massage Establishments. The motion was seconded by Mr. Mullins and carried.

After receiving public comments and a brief discussion by the Board, a motion was made by Mr. Velker, and seconded by Dr. Bolden to increase the CE Approval fee from \$100 to \$300 per Tennessee approved massage course. The motion carried.

**Adjournment:**

The meeting was adjourned at 3:12 PM