

Minutes
Tennessee Massage Licensure Board
November 7, 2019

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

Location: 665 Mainstream Drive
HRB Conference Center
1st 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

Members Absent: Christy Cross, Public Member

Staff Present: Kimberly Hodge, Board Director 1
Noranda French, Unit 2 Director
Marc Guilford, Office of General Counsel
John Tidwell, HRB Director

The meeting was called to order at 9:00 a.m. by Ms. Marvis Burke, Chairperson. Ms. Burke acknowledged and thanked the therapists, schools, and students present and joining online, and also welcomed the new Board member, Ms. Dee Vickers. 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. Noranda French conducted a roll call to establish a quorum. A quorum was established.

Conflict of Interest – Time: 3:57

After hearing from Ms. Noranda French and Mr. Guilford, the Board members signed their Conflict of Interest Statements.

Approve the minutes from the August 12 and 13, 2019 Board Meeting –Time: 6:08

A motion was made by Dr. Bolden, seconded by Ms. Yarbrough, to approve the minutes from the August 12 and 13, 2019 Board meeting as written. The motion carried.

Discuss and Consider Requests for Continuing Education Waiver – Time: 6:35

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

Receive Reports and/or Requests from the Board Director/Manager

Administrator/Director’s Report –Time: 7:03

This is an Administrative Report from Kimberly Hodge, Board Director. The information contained in this report will keep the Board aware of all essential activity in the Administrative Office as it pertains to licensure for Massage Therapists and Massage Establishments.

STATISTICAL REPORT

As of November 6, 2019 there were 4,476 licensed massage therapists and 1,768 licensed massage establishments.

Following is the license status since the last meeting:

THERAPISTS	ESTABLISHMENTS
August 2019	August 2019
Newly Licensed – 51	Newly Licensed – 19
Reinstate Applications – 5	Reactivation Applications – 4
Retired- 19	Retired – 7
New Applications- 29	New Applications- 26
	Address / Responsible Person Change Application - 11

THERAPISTS	ESTABLISHMENTS
September 2019	September 2019
Newly Licensed – 37	Newly Licensed – 16
Reinstate Applications – 6	Reactivation Applications – 4
Retired- 8	Retired – 4
New Applications- 39	New Applications- 21
	Address / Responsible Person Change Application - 3

THERAPISTS	ESTABLISHMENTS
October 2019	October 2019
Newly Licensed – 43	Newly Licensed – 24
Reinstate Applications – 11	Reactivation Applications – 4
Retired- 13	Retired – 7
New Applications- 30	New Applications - 29
	Address / Responsible Person Change Application - 10

BUDGET/TRAVEL ISSUES

The In-state lodging rate is \$223.00 The In-state meals & incidentals is \$45.75 a day
The standard mileage rate is \$0.47 a mile The Overnight meals & incidentals is \$61.00 a day

Ms. Hodge encouraged all schools to keep their pertinent information updated on the Board’s website through contact with the administrative office, and also spoke briefly about the new ZenDesk system being used by the administrative office. Ms. Hodge stated that the meeting of the Board’s development committee will be deferred to the February 2020 meeting, and at that time the Committee would discuss topics for a rulemaking hearing. She reminded the schools to submit their annual reports, which were due by December 31, 2019. Ms. Hodge introduced Mr. Dominick Russomanno, the Board’s new Licensing Technician, and Ms. DeVita Scott, Reflexology Registry Administrator, who also works with the Board’s administrative office.

Ms. Noranda French stated that going forward; the Board may appoint a Board member to represent the Board at professional associational meetings, but that the association would not be permitted to pay for the Board member’s expenses to attend. Ms. French stated that a staff member would be permitted to accept payment of their expenses as a representative to an associational meeting, since staff members do not have voting privileges on matters coming before the Board. Ms. French stated that this rule is to clear up any appearance of conflict of interest on the part of the Board members, should a matter come before the Board regarding that association.

Mr. John Tidwell introduced Mr. Brent Culberson as the new Assistant Commissioner of Health Licensure and Regulation for the Tennessee Department of Health. Mr. Culberson spoke briefly.

Investigation/Disciplinary Reports – Time: 25:54

This report was brought by Ms. Lori Leonard of the Disciplinary Coordinator’s office. As of January 2019 through October 2019, the Office of Investigation had 96 new complaints opened against massage therapists. Of those new complaints, 9 were for sexual misconduct; 2 for

criminal charges; 1 for malpractice/negligence; 8 for unlicensed practice; 33 for unprofessional conduct; 6 for violation of order; 11 for lapsed license; 3 for criminal conviction; 1 for right to know violation; 15 for continuing education violation; and 7 were outside the investigative scope.

As of January 2019 through October 2019, the Office of Investigation has closed 74 complaints against massage therapists. Of those closed complaints, 4 were closed for insufficient evidence to proceed; 38 were closed and sent on for discipline; 15 complaints closed with no action taken; 4 closed with a letter of concern; and 13 closed with a letter of warning. The Office of Investigation had 61 open complaints against massage therapists as of October 2019.

As of January 2019 through October 2019, the Office of Investigation has opened 46 new complaints against massage establishments. Of those complaints, 1 was for sexual misconduct; 6 for unlicensed practice; 32 for unprofessional conduct; 1 for violation of order; 3 for lapsed license; and 3 outside of the investigative scope.

As of January 2019 through October 2019, the Office of Investigation has closed 34 complaints against massage establishments. Of those complaints, 1 was for insufficient evidence; 11 were closed and sent on for discipline; 14 were closed with no action taken; 3 were closed with letters of concern; and 5 were closed with letters of warning. The Office of Investigation had 33 open complaints against massage establishments as of October 2019.

Financial Report – Time: 30:44

This report was brought by Mr. Butch Jack. Mr. Jack introduced Ms. Maria McCormick, who will be responsible for presenting the Board's financial reports going forward. For Fiscal Year 2019, which ended June 30, 2019, the Board's total revenue was \$719,898.65. The Board's total expenditures were \$837,573.75, which left the Board deficit a total of \$117,675.10. As in the past two years, a sustained increase in legal and investigation costs contributed most to this deficit. It was pointed out that neither of these costs is controlled by the Board.

In response to questions from the Board, Mr. Jack stated that there are still ongoing discussions within the Department of Finance and Administration about whether boards can use their reserve funds from previous years to pay a current year's expenses. Mr. Jack, Mr. Tidwell, Ms. French, Mr. Guilford, and the Board discussed how the Board's budget is projected.

Continuing Education Audit Report – 1:06:44

There was no report on the continuing education audit at this meeting.

Discuss Legislation

There was no new legislation to discuss at this meeting, since the state legislature is not in session.

In response to a question from Ms. Burke, Ms. French stated that no member of the public had signed up to speak on this section of the agenda.

Tennessee Professional Assistance Program Statistical Report Regarding the Peer Assistance Program – 1:07:10

This report was brought by Ms. Kim Hodge, reading out the submitted report on behalf of TnPAP.

As of this meeting, from July 1, 2019 to September 30, 2020, TnPAP was monitoring 5 massage therapists. Of those being monitored, 2 were referred by the Board due to conditional licensing requirements, and 3 were not Board-referred. During this time, 3 massage therapists and 1 massage establishment owner were referred for TnPAP services by the Board's administrative office for arrest history. No agreements were activated during this time. TnPAP discharged 1 massage therapist during this time because they had completed their monitoring.

Ratify Agreed Citations for Continuing Education Violations & Lapsed Licenses – 1:08:56

Agreed Citations for Continuing Education Violations

Stephanie Chermaine Carter, LMT #11349

Ms. Carter agreed to pay a civil penalty totaling \$750.00 for failing to obtain twenty-four (24) hours of continuing education for the cycle of 2017/2018.

Debra S. Gilmore, LMT #1027

Ms. Gilmore agreed to pay a civil penalty totaling \$775.00 for failing to obtain twenty-five (25) hours of continuing education for the cycle of 2015/2016.

Kate Beth Judd, LMT #11878

Ms. Judd agreed to pay a civil penalty totaling \$675.00 for failing to obtain twenty-one (21) hours of continuing education for the cycle of 2017/2018.

Agreed Citations for Lapsed License Practice

Celisa M. Ellis, LMT #7924

Ms. Ellis agreed to pay a civil penalty totaling \$850.00 for practicing massage therapy on a lapsed license for ten (10) months.

Grace Danielle Lewis, LMT #12503

Ms. Lewis agreed to pay a civil penalty totaling \$100.00 for practicing massage therapy on a lapsed license for four (4) months.

Kari Denise Farmer, LMT #9767

Ms. Farmer agreed to pay a civil penalty totaling \$100.00 for practicing massage therapy on a lapsed license for four (4) months.

Mary Christopher Murov, LMT #5578

Ms. Murov agreed to pay a civil penalty totaling \$300.00 for practicing massage therapy on a lapsed license for six (6) months.

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

There was no public comment for this section.

Ratifications of New and Reinstated Licenses for Massage Therapists and Massage Establishments – 1:09:22

Massage Therapists

Abdu Marie Ellen	Hollander Megan Ashley
Akins Alexandria Dominique	Hull Jessica Ashley
Alexander Ebony Tyshell	Johnson Amber Leigh
Alexander Leah Rochelle	Jones Dustin Carson
Antone Jessica Leigh	Kane Anna Katherine
Arnwine Courtney Brianne	Katayama Gabriella Cecelia
Balmforth Stephanie Nicole	Kennedy Haley Caroline
Barber Brandi Sherie	Kennedy Joanne Elaine
Bolthouse Suzanne Field	Laurence Heather Nicole
Boose Jessica Ann	Laxton Rhianon Marie
Bowers Kenneth Thomas	Lewis Jennifer Norton
Boyle Cheyenne Rose	Liverman Morgan Sierra
Brashear Kaitlin Jade	Loyal Ulysses Jay

Bruno Michael Aldo	Lundquist Jennifer
Cahill Taylor Marie	Marsh Brittany Kandace
Carmichael Brittany Patrice	Mayhew Jill Marie
Carrico Aaron O	McClellan Rookh Analise
Challik Mariel Scott	Mcmanus Lindsey Danielle
Claypool Melissa Ann-Elise	Mcmoore Christine Erica
Clontz Erica Andrea	Melendez Gabriel Alexander
Colwell Louella Austyn	Merka Toni Gail
Cook Amanda Lynn	Morgan Kaytlin Brenea
Crawford Christina Lynn	Mulhern Julie Ann
Davis Makayla Brennae	Myers Misty Rachelle
Dill Bitha Denice	Norris Nissa Ann
Dodd Cameryn Delynn	O'Neill Kim Harris
Edwards Josie Marie	Orszulak Alyssa Christina
Fender Leanna Nicole	Patterson Lawrence Joseph
Fowler Jason Alan	Pingicer Kelly Robin
Fuller Allison Marie	Propst Raeann Michelle Danger
Gentry Jennifer Taylor	Raby Alexis Hope
Hammons Derrick Jacob	Radtke Monica Deanne
Hellstrom Taylor Nicole	Ray Anjelica Rose

Richardson Ashley Noelle	Sutter Ileana Monica
Robertson Monica A	Talbert Lee Gregory
Robinson Mckennah Lauren	Tolliver Afton Lynne
Rush Amanda Travis	Trueba Mackenzie Alizabeth
Rynearson Martin Lynn	Utley Tracy Markham
Sampson Beth Elise	Vaughn Tonia Renee
Samuels Jill Alison	Vinson Kathleen Botts
Sandberg Stacey Eve	Volkmer Jane Anne
Scalf Hannah Pauline	Wassink Samantha Shay
Shockley Beverley Ann	Werner Brooke Ann
Simpson Anna Elizabeth	Westrick Carrah Lynne
Staats Chanelle Elise	Wiley Peggy Jean
Stanton Natasha Anne	Wilson Abigail Jean

Massage Therapist Reinstatements

Andrews Linda Ruth	Knust Valerie E
Collins Glenn Thomas	Murov Mary Christopher

Ellis Celisa M.	Ranz Cherri
Etheridge Jessica E.	Ruther Aja Shea
Farmer Kari Denise	Sing Marian M.
Field Thomas Thornton	Stinson Jessica Ruth
Fisher Charlotte Elin	Todd Linda Kay
Hill Veronica Lee	Verner Kathryn Gingles
Hulbert Stephen George	Wheeler Laurie Michelle
Jordan Michael Grant	

Massage Establishments

615 Pilates	Brandy Becker Bodywork & Massage Therapy
615 Wholistic Massage	Catie Metcalf Massage Therapy
A Healing Foot Touch Llc	Common Ground Massage
Always Dream Spa	Cool Springs Massage Therapy
Annie Classon Lmt	Cypris Bodywork And Wellness
Ascension Wellness & Yoga	Elements Massage - Nashville Green Hills
Beehive Beauty Spa Inc	Embodied Massage Therapy
Benchmark Physical Therapy- N. Peters	Envision Salon & Spa

H & M Studio	Prana Mind-Body Healing
Head To Toe Massage	Reflections Health Spa
Hulsey Wellness Center	Renewed On Main
Idle Repose Massage	Replenishing Me
In Touch Massage Knoxville	Roots Of Wellness
Innate Rejuvenation Llc	Salon Selah
Intellectual Massage Mobile	Serenity Massage
Jennifer Arnold Parsley Lmt	Services By Kim
Knox Massage	Soma Wellness
La Bella Med Spa	Southern Soul Massage
Latania Craig Lmt	Style Bar On 6th Llc
Massage By Denise	T2 Massage And Spa
Massage By Denise	The Lotus Room
Massage By Jennifer	The Realm
Massage Luxe	The Retreat Fountain City Llc
Massage Therapy With Lindsay Bane	The Waystation Inc.
Moon Massage	The Wellness Coach Usa
Music City Massage	Tn Tech University- Campus Recreation
Neuro Therapy Nashville Llc	Total Rejuvenation

Peaceful Streams Wellness Llc	Viola Of Knoxville Llc Dba Old City Med Spa
Pebbles Body & Soul Spa	

Massage Establishment Reinstatements

Blount Memorial Total Rehabilitation At Tellico
Christina Novello Lmt
Genesis Family Healthcare Pllc
Geoff Skene
New Dimensions Integrative Therapies
Serene Yoga And Healing
Shear Faith Salon & Spa
Theresa Walker'S Therapeutic Massage

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

There was no public comment for this section.

Ratify Approved Continuing Education Courses – 1:09:49

Michael Matthews, LMT – Tennessee Massage Law – 2 hours

Michael Matthews, LMT – Ethics – 2 hours

William E. Mullins, LMT – Tennessee Massage Law for License Renewal – 2 hours

William E. Mullins, LMT – Massage Therapy Ethics – 2 hours

William E. Mullins, LMT – Postural Assessment – 4 hours

Beth Sack-Rogers, LMT – Tennessee Law, Rules, and Regulations for Licensed Massage Therapists – 2 hours

Scott Ingell, LMT – Tennessee Ethics – 2 hours

Scott Ingell, LMT – Tennessee Law – 2 hours

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

There was no public comment for this section.

Receive Board Correspondence – 1:10:40

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

Applicant Interviews – 1:12:00

Ms. Burke introduced and thanked Ms. Jiao Hoggard, who was at this meeting to translate for the Board's Mandarin-speaking applicants. Ms. Burke confirmed that Ms. Hoggard had established that she could communicate with the Mandarin-speaking applicants.

Xiao Hui Meng – 1:12:27

Ms. Meng applied for a massage therapist license, and was present at this meeting with her counsel to answer the Board's concerns about her application. The Board was concerned that Ms. Meng's previous application for licensure had been denied at the Board's October 2016 meeting due to not meeting educational requirements; discrepancies in her current application, including Santa Ana Beauty College listed as the massage school she attended but Washington College listed on her MBLEx exam score; and that Ms. Meng had applied for a massage therapist license in California and was denied that license, but did not disclose this on her first or second application. There was no public comment for this section. The Board heard from Ms. Meng, Ms. Meng's counsel, Ms. Hodge, and Mr. Guilford. After much discussion, a motion was made by Mr. Velker, seconded by Ms. Yarbrough to deny Ms. Meng's application for licensure as a massage therapist. The motion carried.

The Board took a brief break. When the Board reconvened, Ms. Hodge conducted a rollcall. All the Board members had returned, and a quorum was re-established.

Ruby Renee Simms, MT – 2:35

Ms. Simms had applied to reinstate her retired massage therapist license, and was present at this meeting with her counsel, Mr. Mark Freeman, to answer the Board's concerns about her application. The Board review of this application had been deferred from the August 2019 meeting to allow for scheduling of a witness. The Board was concerned that Ms. Simms had been arrested for prostitution due to offering to perform a sex act of manual stimulation to an undercover police officer, but the case had been dismissed. The officer, Detective Day of the Murfreesboro Police Department, was present to speak to the Board at this meeting about his observations about the incident that led to the prostitution charges. Mr. Guilford stated that the charge was not at issue, just the question of inappropriate conduct during the practice of massage.

Mr. Freeman stated that information about the dismissed charge is confidential and cannot legally be divulged, since the charge had been expunged. Mr. Freeman further stated that he and Ms. Simms planned to prosecute Detective Day if he gave any information about that incident. A motion was made by Mr. Velker, seconded by Dr. Bolden, to defer Ms. Simms' applicant interview to the February 2020 Board meeting to allow time for Detective Day to obtain legal advice about what he can legally disclose to the Board. The motion carried.

JianPing Li – Daily Spa – 2:46

Ms. Li had applied for a massage establishment license for Daily Spa 165 Belvedere Drive N, Gallatin, TN 37066, and was present at this meeting to answer the Board's concerns about her application. The Board was concerned that although the application was received October 14, 2019, the file was incomplete because the criminal background check results had not been received by the administrative office by the time of the pre-board meeting on October 21, 2019. Ms. Hodge confirmed that as of the date of the meeting, no results had been received. The Board was further concerned because although Ms. Li was not a licensed massage therapist, her letters of recommendation indicate that she has been practicing massage for several years. Ms. Li stated on her application that she had owned Peace Massage at 714 Nashville Pike, Suite 2, Gallatin, TN 37066. This was an establishment where unlicensed individuals had been practicing massage, and was at the time of this meeting the subject of a case in the Office of General Counsel. The Board heard from Mr. Guilford, Ms. Li, and Ms. Yolanda Braden, who was an investigator in the Office of Investigations for Health Related Boards.

Ms. Braden stated that she and Marcelena Robinson investigated Peace Massage on June 6, 2019. Ms. Braden stated that there were two massage therapist license certificates posted, but neither therapist was present. Ms. Braden stated that there were four individuals present: Ms. Li, Ms. Duan, Ms. Zhang, and Ms. Liu. Ms. Braden stated that although Ms. Duan and Ms. Liu were licensed as reflexologists, none of the individuals were licensed as massage therapists. Ms. Braden stated that Ms. Robinson saw Ms. Zhang performing massage on a client. Ms. Braden submitted a copy of pages of an appointment book she found at the establishment which showed massage appointments booked with unlicensed individuals. Ms. Braden stated that they used the Department's telephone translation service to speak with Ms. Li and the individuals who were present at the establishment.

After some discussion, a motion was made by Mr. Velker, seconded by Mr. Mullins, to deny Ms. Li's application for a massage establishment license. After some further discussion, and hearing from Mr. David Clark of Gallatin, Tennessee, the motion carried.

Chooi-Ping Wan (JoJo) – XHALE Massage Therapy – 3:25

Ms. Wan applied for a massage establishment license for XHALE Massage Therapy at 6906 Kingston Pike, Suite 102, Knoxville, TN 37919, and was present at this meeting to answer the

Board's concerns about her application. The Board was concerned that Ms. Wan, a licensed massage therapist, had owned and practiced at an unlicensed establishment since December 2017. The Board heard from Ms. Hodge, Mr. Guilford, and Ms. Wan. After some discussion, a motion was made by Mr. Velker, seconded by Yarbrough, to approve a conditional massage establishment license for Ms. Wan based upon establishing a payment plan for civil penalties totaling \$3,300.00 for a licensed massage therapist operating an unlicensed massage establishment for 14 months. A friendly amendment to the motion was made by Mr. Mullins to establish a deadline of 12 months for payment in full of the civil penalty. The amendment was accepted by Mr. Velker. After some discussion, Mr. Velker amended his motion, seconded by Ms. Yarbrough, to approve a conditional massage establishment license for Ms. Wan based upon payment of \$3,300.00 within 18 months for a licensed massage therapist operating an unlicensed massage establishment for 14 months. The motion carried with Dr. Bolden abstaining.

Natasha D. Garrett – 3:50

Ms. Garrett applied for a massage therapist license, and was not present at this meeting to answer the Board's concerns about her application. This applicant interview was deferred from the August 2019 Board meeting to allow time for Ms. Garrett to get her massage school to provide additional clarification about her education. The documents previously received conflicted so significantly that the Board was unable to determine whether Ms. Garrett met the educational requirements for licensure. A motion was made by Mr. Velker, seconded by Mr. Mullins, to proceed in default with the application. The motion carried. A motion was then made by Mr. Velker, seconded by Ms. Yarbrough, to deny Ms. Garrett's application for a massage therapist license in the absence of any clarifying educational documentation. The motion carried.

The Board broke for lunch. When the Board reconvened, a roll call was conducted by Ms. Hodge. All the Board members had returned, and a quorum was re-established.

Travis Wayne Bray – 5:30

Mr. Bray applied for a massage therapist license, and was present to answer the Board's concerns about his application. The Board was concerned that Mr. Bray had multiple charges on his criminal background check; therefore the administrative office had referred him to TnPAP for evaluation. Mr. Bray was evaluated by TnPAP, declined TnPAP assistance, and requested to have his interview with the Board without that assistance. Ms. Burke recused herself from hearing Mr. Bray's application because she had been one of Mr. Bray's massage school instructors. Ms. Burke turned the position of Board Chair over to Mr. Velker for the duration of the hearing of Mr. Bray's application. The Board heard from Mr. Bray, Mr. Harkreader of TnPAP, and Mr. Guilford.

The Board took a brief break. When the Board reconvened, a roll call was conducted by Ms. Hodge. All the Board members had returned, and a quorum was re-established.

A motion was made by Ms. Vickers, seconded by Mr. Mullins, to approve a conditional massage therapist license for Mr. Bray. The motion carried.

Krista Lyn Harms – 6:06

Ms. Harms applied for a massage therapist license and was present at this meeting to answer the Board's concerns about her application. The Board was concerned that after being referred to TnPAP by the administrative office as a result of convictions on her criminal background check for her first application in 2017, TnPAP recommended that Ms. Harms not be considered safe to practice until after she had completed a ASAM Level 2.1 intensive outpatient treatment program and signed a monitoring agreement with TnPAP. Ms. Harms did not wish to comply with TnPAP's recommendations, since she previously completed a treatment program in another state. Ms. Harms did continue to drink alcohol after completing that treatment program. The Board gave Ms. Harms an opportunity for a second evaluation, which she scheduled but then cancelled, telling TnPAP that she was not going to pursue getting her Tennessee massage therapist license at that time. The Board was also concerned that Ms. Harms was denied a registered nurse license in Illinois due to forging the signature of the nursing school's president to show that she had completed the nursing educational program so that she could take the nursing licensing exam, when in fact Ms. Harms had been academically dismissed from the school. The Board denied Ms. Harms' previous application in November 2017 when she did not follow through with TnPAP's recommendations. Ms. Harms' current application was received in April 2019 and she appeared for an interview before the Board in August of 2019, when her application was deferred to the November 2019 meeting to allow time for Ms. Harms to follow through with TnPAP and to obtain further documentation to explain her denial of her nursing license in Illinois.

The Board heard from Ms. Harms, Ms. Hodge, and Mr. Guilford. The Board also heard from Mr. Harkreader of TnPAP about Ms. Harms' most recent evaluation with TnPAP. After some discussion, a motion was made by Mr. Velker, seconded by Dr. Bolden, to approve a conditional massage therapist license for Ms. Harms, with the condition that she execute the recommended six-month monitoring agreement with TnPAP before the license can be issued, and that she remain compliant with that agreement. The motion carried.

Justin Rubio – Donelson Massage Center – 6:39

Mr. Rubio applied for a massage establishment license for Donelson Massage Center 2334 Lebanon Pike, Nashville, TN 37214, and was present at this meeting to address the Board's concerns about his application. The Board was concerned about the convictions in Mr. Rubio's criminal background check, and Mr. Rubio had gone to TnPAP on his own, knowing that this would be a concern for the Board. The Board heard from Mr. Rubio, Ms. Hodge, Mr. Guilford, and Mr. Harkreader from TnPAP. After some discussion, a motion was made by Dr. Bolden,

seconded Ms. Yarbrough, to approve Mr. Rubio's application for a massage establishment license. The motion carried.

James Brandon Bagwell – Live in Harmony Massage Therapy – 7:03

Mr. Bagwell applied for a massage establishment license for Live in Harmony Massage Therapy at 2780 Highway 31 West, White House, TN 37188, and was present to answer the Board's concerns about his application. The Board was concerned that the establishment had been operating without a license from 2015 to 2019, and that Mr. Bagwell had been operating it without a license for five months. Mr. Bagwell completed a Tennessee massage law course in January of 2019, and submitted a massage establishment license application in July of 2019. The Board heard from Mr. Bagwell, Ms. Hodge, and Ms. Maj-Lis Nash. After a brief discussion, a motion was made by Ms. Vickers, seconded by Dr. Bolden, to approve a conditional massage establishment license for Mr. Bagwell, upon payment of civil penalties of \$2,400.00 within 18 months for operating an unlicensed establishment. The motion carried.

Stuart R. Humberg, DC – Massage Clinic – 7:15:11

Dr. Humberg applied for a massage establishment license for Massage Clinic at 7600 Kingston Pike, #1440, Knoxville, TN 37919, and was not present at this meeting to answer the Board's concerns about his application. The Board was concerned that a previous massage establishment license at this location had been revoked for having unlicensed individuals practicing massage; there was a current case in process with the owner of the massage establishment license currently active at the location; and that Dr. Humberg had stated that he was aware of the previous and current issues with this location, and that was why he was taking over the business there at no cost. A motion was made by Dr. Bolden, seconded by Ms. Yarbrough, to proceed in default. The motion carried. The Board heard from Ms. Hodge that Dr. Humberg had requested to withdraw his application, and from Mr. Guilford that to his knowledge, Dr. Humberg was not involved in the case Mr. Guilford's office was pursuing against the current massage establishment license at that location. A motion was made by Mr. Velker, seconded by Dr. Bolden, to allow Dr. Humberg to withdraw his application for a massage establishment license. After some discussion, Dr. Bolden withdrew his second to Mr. Velker's motion. After hearing further from Ms. Hodge, Ms. French, and Mr. Guilford, and after further discussion, Dr. Bolden reinstated his second of Mr. Velker's motion to allow Dr. Humberg to withdraw his application for a massage establishment license. The motion carried.

Jenilee Mann – Champalou Spa -7:26:30

Ms. Mann applied for a massage establishment license for Champalou Spa at 6969 US Highway 70, Bartlett, TN 38133, and was present at this meeting to answer the Board's concerns about her application. The Board was concerned that Ms. Mann's previous application for a massage establishment license at this location had been denied; that the establishment was open and

operating without a license; that the owner had been practicing massage without a license from January 2016 to July 2018; that Ms. Mann had marked “no” on her first application to the question about ever having been convicted, and convictions did appear on her background check; online reviews show that Ms. Mann has been practicing for five (5) years; documentation shows that Ms. Mann did complete the required two (2) hours of Tennessee massage law education. The Board heard from Ms. Mann, Ms. Hodge, and Mr. Guilford. A motion was made by Mr. Velker, seconded by Dr. Bolden, to approve Ms. Mann’s application for a massage establishment license as a conditional license contingent upon paying a civil penalty of \$3,500.00. After much further discussion, Mr. Velker amended his motion to take into account the fact that Ms. Mann had practiced massage without a massage therapist license in her unlicensed establishment, increasing the civil penalty to \$7,000.00, with a first payment of \$3,500 and then allowing 12 months to pay the remaining \$3,500.00. The amended motion was seconded by Dr. Bolden and Ms. Yarbrough. The motion carried. Mr. Guilford clarified that the conditional license would issue upon Ms. Mann signing and returning the conditional license agreement, which he would draw up and mail to her in the next week following the meeting.

Michael Yobe – Amara Wellness Spa – 7:50

Mr. Yobe applied for a massage establishment license for Amara Wellness Spa at 10820 Kingston Pike, Suite 21, Knoxville, TN 37934, and was present to address the Board’s concerns about his application. The Board was concerned that a previous owner of that establishment, Ms. Laura Toole, had been offered a conditional license, paid the fines associated with those conditions, and then decided to no longer offer massage at that establishment and withdrew her acceptance of the conditional license agreement, therefore the license was not issued; also that Mr. Yobe checked “yes” to the question on the application that asked if the establishment had been open before the application was submitted. Mr. Yobe stated that he had purchased the business from his wife, Laura Toole. The Board heard from Mr. Yobe, Mr. Guilford, and Ms. Hodge. After much discussion, a motion was made by Mr. Velker, seconded by Dr. Bolden, to approve Mr. Yobe’s application for a massage establishment license. The motion carried.

Ms. Burke asked Ms. French if there were any requests for public commentary at this time. There were none.

Receive Report from the Development Committee Chair Regarding the Committee’s Recommendation from the August 13, 2019 Meeting for CE Broker and CE Registry – 8:22:55

This report was brought by Mr. Mullins. Mr. Mullins stated that after hearing from representatives from both CE Broker and CE Registry, the Committee recommended that the Board consider implementing both programs. The Board heard from Ms. French, Ms. Hodge, and Ms. Maj Lis Nash. After much discussion, a motion was made by Ms. Vickers, seconded by Mr. Velker, to approve CE Broker as an optional system for massage therapists to use to store

their continuing education certificates for the purpose of proving compliance with continuing education requirements. After further discussion, the motion carried.

Discuss and Take Action if Necessary on School Approvals and/or School Program Changes – 8:40

Contatto Wellness Education Center – Beth Sack-Rogers, LMT

A motion was made by Mr. Velker, seconded by Dr. Bolden, to accept the school approval of Contatto Wellness Education Center as submitted. The motion carried.

Gould’s Academy – Dalton Reeves

A motion was made by Mr. Velker, seconded by Ms. Vickers, to accept the school approval of Gould’s Academy as submitted. The motion carried.

Reflections of Health School of Massage, Inc –Marcia Aichel and Tammy Cox

A motion was made by Dr. Bolden, seconded by Ms. Yarbrough, to accept the approval Reflections of Health School of Massage, Inc. as submitted. The motion carried.

Ms. Burke asked Ms. French if there were any requests for public comment at this time. There were none.

Consent Order – 8:45

Matthew Wade Sunshine, LMT #823

Mr. Sunshine was present at this meeting with his counsel, Mr. Joe Costner. The Consent Order would suspend Mr. Sunshine’s massage therapist license. The Board heard from Mr. Guilford, Mr. Costner, and Mr. Sunshine. A motion was made by Dr. Bolden, seconded by Mr. Mullins, to approve the consent order as written. The motion carried.

Public Comment – 9:01

Lisa Wilkenson

Ms. Wilkenson spoke about her experience with taking and failing the MBLEx exam after using the MBLEx study guide to study for the exam. She asked the Board to change the rules to allow licensure of massage therapists without passing an exam. The Board heard from Ms. Hodge about the state law requiring a licensure exam for massage therapists. The Board was unable to take any action on this matter. The Board thanked Ms. Wilkenson for her input.

Ms. Hodge stated that any matters on the agenda that had not been discussed today would be discussed the next day after the contested case hearings. She also reminded the Board that the Development Committee meeting had been postponed to the February 2020 meeting, at which time the Board would also discuss new Rules.

The meeting was adjourned at 6:18 p.m.

Minutes
Tennessee Massage Licensure Board
November 8, 2019

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

<https://web.nowuseeit.tn.gov/Mediasite/Play/4ee2448d5fac459f99e06128dd5a50ff1d>

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

Location: 665 Mainstream Drive
HRB Conference Center
1st 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 9:02 a.m. by Ms. Marvis Burke, Chairperson. Ms. Kimberly Hodge conducted a roll call to establish a quorum. A quorum was established. Judge Joyce Ball introduced herself as the Administrative Judge presiding over the meeting and called for opening statements.

Contested Cases:

Rhonda Britt- 06:00

The State is requesting discipline and civil penalties in accordance to policy for practicing on an expired license for 19 months. Ms. Britt's license expired March 2017. From April 2017 to

October 2018 Ms. Britt practiced on an expired license. She states she found out her license was expired when applying for a Florida license. She stated that she never performed massage without licensure as she always had a physical license present. Ms. Britt has always been up to date on her continuing education. She applied for reinstatement of her TN license September 2018 and was granted in October 2018. Testimony was provided from Ms. Britt and Ms. Kimberly Hodge. The policy statement was changed to add findings of fact, as Ms. Britt neglected to change her address as stated in 0870-01.15 (2) of the rules. The conclusion of law was moved to accept in total by Mr. Bolden and second by Mr. Mullins. The order was moved to accept with amendment for the address change by Mr. Bolden and second by Ms. Yarborough. The order total is for \$2600.00 and probation until all fees are met.

The Contested cases were adjourned at 11:30 by Ms. Burke and a brief recess was taken. When the Board reconvened, a roll call was conducted by Ms. Hodge. Mr. Bolden had recused himself for the remainder of the meeting prior to the break, but all other Board members had returned, and a quorum was re-established.

Consent Orders:

Ashley Brooks, LMT- 02:34:00

Ms. Brooks is being cited for working at Champalou Spa at 6969 US Highway 70, Bartlett, TN 38133 when it was operating on an expired license for 6 months. Ms. Brooks ceased working there once she was aware that the Establishment was not licensed. A motion was made to accept the order for probation of her license and Civil Penalties in the amount of \$600 plus costs; not to exceed \$1000.00. The motion was moved by Mr. Mullins and second by Ms. Vickers. The motion carried.

Elizabeth Somers, LMT- 02:34:45

Ms. Somers worked at an Establishment while its license was expired for 2 years. She did not own the Establishment and the Establishment was licensed when she originally was hired to work there. Ms. Somers did assist in making the Board aware that the Establishment did not have an active license. The proposed order of probation and civil penalties of \$300 plus costs; not to exceed \$1000 was moved to accept by Mr. Mullins and second by Mr. Velker. The motion carried.

Eden Spa- 02:41:32

Eden Spa was denied an Establishment license in after the owner and two other persons were for working without a Massage Therapist license. The owner inactivated the Establishment license in August 2019. The proposed order is revocation of the license and costs not to exceed

\$1000.00. A motion was made by Ms. Yarborough and second by Mr. Velker. The motion carried.

Agreed Order:

Peter Peterson, LMT- 02:46:24

Mr. Peterson was disciplined in 2016 by the Chiropractic Board for Continuing Education violations. Mr. Peterson ceased paying his civil penalty which is a violation of a Board Order. The proposed order is to extend his existing probation for 1 year once all fees have been paid. The civil penalty is \$50 per month and costs of \$400.00. The motion was made by Ms. Yarborough and second by Mr. Mullins. The motion carried.

Request for Order Modification-

Salon J and Day Spa- (Joanne York)- 02:49:49

Salon J and Day Spa was previously on a consent order for operating on an expired license during July of 2017 and August 2018. The order was originally civil penalties of \$3600.00 and was lowered to \$1800.00 and sent to Ms. York, who signed and returned the first order. It was brought before the May 2019 meeting to be ratified and when sent to Ms. York she was made aware of the error of signing the wrong order. The correct order of \$1600.00 is being brought before the Board at this time. Motion to accept the modified order was made by Mr. Velker and second by Ms. Yarborough.

Review, discuss, and take action if needed regarding the Peer Assistance Contract that ends May 31, 2020- 03:04:30

After much comments and much discussion by the Board Members about vendors, budget and costs, a special Board Meeting will be held in January 2020 to set a committee to discuss the contract.

The meeting was then adjourned for Ms. Burke for lunch. When the meeting reconvened, roll was called by Ms. Hodge with all members present.

Review, discuss, and approve/deny the Establishment Policy presented to the Board at the August 12, 2019 meeting by the Establishment Task Force- 05:19:23

This matter was carried over from the August 12, 2019 meeting. A draft of the proposed policy by Mr. Guilford was presented to and reviewed by the Board Members. After some discussion about the policy and the modifications including the definition of "Establishment" in the Massage Board rules has 3 parts: 1) fixed/permanent location or mobile vehicle facility; 2) open

and accessible to the general public; and 3) for compensated massage services. **An Establishment is required only if all three parts are met** a motion was made by Mr. Velker to accept the modified policy and second by Ms. Yarborough. The motion carried.

<https://www.tn.gov/content/dam/tn/health/healthprofboards/massage/applications-%26-policies/EstablishmentLicensePolicy.pdf>

Receive reports from Staff and Board Members that attended the 2019 Federation of State Massage Board's Annual Conference- 05:51:00

Correspondence was read by Ms. Burke and comments were made by attendees of the Federation Conference held in Atlanta, GA in October 2019. The correspondence praised the work and operation of Ms. Hodge and the Massage Board. The attendees included Ms. Hodge, Mr. Mullins, and Mr. John Tidwell who all commented their appreciation to be able to attend and experience the learning experience.

Consider and Approve Massage Board Members and/or Staff to attend the 44th Annual Federation of Associations of Regulatory Boards conference on January 23-26, 2020- 05:58:00

After a brief discussion a motion was made by Ms. Burke for Kimberly Hodge to attend the Conference in Colorado Springs, CO on January 23-26, 2020 and second by Mr. Mullins. The motion carried.

Review, discuss, and take action if necessary regarding Tennessee Massage School's remediation plan for MBLEX pass rate of below 70%- 06:05:35

Roane State:

In 2018, Roane State Community College submitted their annual report revealing that their MBLEX pass rate was below 70%. A remediation plan was submitted by the school and reviewed by the Board. After brief discussion, the remediation plan was approved.

Board Member Election- 06:24:34

Ms. Hodge presented the need to choose Massage Board Members to serve for the next term. A motion was made By Mr.Velker and second by Mr.Mullins to elect Ms. Marvis Burke as Chairperson. The motion carried. Mr. Velker was nominated unanimously to serve as Secretary. Ms. Burke motioned and Ms. Vickers seconded it. The motion carried.

Discuss and take action if needed regarding rulemaking hearings, rule amendments, and policies- 06:28:06

There were no items to discuss.

Public Comments and receive future Board and Development Committee agenda items-06:28:50

Ms. Hodge presented the need to choose a backup person to be a part of the Development Committee in case of absence of Ms. Christi Cross for its next meeting in February. The 3 person committee now consists of Mr. Mullins as chair, Ms. Cross, and Ms. Yarborough. Ms. Vickers and Mr. Velker volunteered to become backup persons. Current Rules will be sent to the Committee for review before the next meeting. There were no public comments made.

Additional Information- 06:33:18

Ms. Hodge and Ms. French announced that a meeting date for the Contract Development will be set, and that a quorum must be made in order for the meeting to take place.

The meeting was adjourned by Ms. Burke at 4:36pm.

Minutes Ratified by Board at February 10, 2020 Meeting.