

**MINUTES OF
TENNESSEE MASSAGE LICENSURE BOARD**

Date: August 14, 15, 2006

Time: 9:00 a.m. C.S.T.

Location: Millennium Maxwell House Nashville
2025 MetroCenter Blvd.
Nashville TN 37228

August 14, 2006

Members Present: Rebecca Eichel, LMT, Acting Chairperson
Kirsten VandeBerg, LMT
Beverly Chumbley, RN, LMT
Phyllis Salyers, LMT
Juliana Glasgow-Trotman, LMT
Craig Blackwell, Citizen Member
Marilyn Field, Citizen Member
Robbie Bell, Ex-Officio Member

Staff Present: Dianne Birkner, Board Manager
Dale Hill, Board Administrator
Bob Kraemer, Advisory Attorney
Ernie Sykes, Advisory Attorney

A quorum being present, the Board meeting was called to order by Ms. Eichel at 9:05 a.m.

Welcome New Board Member

Ms. Eichel introduced Ms. Phyllis Salyers and welcomed her to the Board. Ms. Salyers is from Kingsport, Tennessee and replaces Mr. Steve Harper on the Board.

Conflict Of Interest

Ms. Bell reviewed the Conflict of Interest Policy with the Board and asked Ms. Salyers to sign a Conflict of Interest statement.

Ms. Bell introduced Mr. Ernie Sykes, Advisory Attorney with the Office of General Counsel. Mr. Sykes has been assigned to the Massage Board and will begin advisory duties early next year.

Minutes

Ms. Chumbley made a motion which was seconded by Ms. Glasgow-Trotman to accept the minutes of the May 8, 9, and June 19, 2006 Board meeting as written. The motion carried.

Investigation/Disciplinary Report

Ms. Lea Phelps presented the Investigative Report which indicates fifteen (15) new complaints have been received from January through June 2006. In the same time period a total of seven-teen (17) complaints have been closed; seven (7) with no action, seven (7) referred to the Office of General Counsel, one (1) with a letter of concern and two (2) pending court action. Four (4) cases were referred to the Screening Panel. There are currently twenty (20) open cases in Investigations.

Rules

Mr. Jerry Kosten presented rules to be sent for a rulemaking hearing on October 25, 2006 regarding reciprocity licensure process, application review and examinations.

Prior to authorizing a rulemaking, and in accordance with Executive Order #38, the Board discussed and considered the economic impact of the proposed rule language to small businesses.

Mr. Blackwell made a motion to authorize a rulemaking hearing. Ms. Chumbley seconded the motion. The motion carried.

Clarification Requests Regarding Rules Section 0870-1-12 (4)(b)1. Relating to Accrediting Organizations

Ms. Birkner explained she has received numerous calls inquiring what is considered to be an equivalent accrediting organization for continuing education such as, the Tennessee Medical Association, Tennessee Physical Therapy Association as well as others. She also informed the Board that staff is receiving multiple complaints regarding course providers, either approved by or claiming to be approved by the NCBTMB, whose correspondence courses are inadequate.

Mr. Kraemer stated his opinion is that it is the licensee's responsibility to ensure the course is in fact approved. He also stated the Board could consider a rule change which would not allow correspondence courses, only lecture type.

Mr. Kosten explained a new rule which is to go into effect August 30, 2006 removes the wording "equivalent accrediting organizations" and changes the current approved organization, National Commission for Certifying Agencies (NCCA) to the National Organization for Competency Assurance (NOCA).

After a lengthy discussion, Mr. Kraemer stated the NCCA is the accreditation organization and suggested the Board could set up defined criteria. Based on discussion by the Board, Mr. Kraemer and Mr. Kosten will prepare a revised draft rule and present it to the Board tomorrow.

Applicant Interviews

Tiffany Tennille Bingham

Ms. Bingham appeared before the Board to give explanation to two convictions of possession of a controlled substance in May 2004 and March 2005. Ms. Smithson of Lighthouse Professional Services advocated for Ms. Bingham. Ms. Chumbley made a motion which was seconded by Ms. Glasgow-Trotman that Ms. Bingham’s license be granted upon receipt of a signed six month contract with Lighthouse. At the end of the six month period Ms. Bingham must petition for an Order of Compliance which, if granted will end the need for her to continue under contract with Lighthouse and she will receive an unencumbered license. The motion carried.

Administrator/Directors Report

Ms. Birkner presented the report regarding statistical information and license status activity since the last meeting which indicated the following:

<i>THERAPISTS</i>	<i>ESTABLISHMENTS</i>
Active Licensees – 4110	Active Licensees – 1198
Retired Licensees – 430	Retired Licensees –207
Failed to Renew – 1307	Failed to Renew – 227

LICENSE STATUS SINCE LAST MEETING

<i>THERAPISTS</i>	<i>ESTABLISHMENTS</i>
<i>April 2006</i>	<i>April 2006</i>
Newly Licensed – 30	Newly Licensed – 28
Reinstates – 9	Reinstates- 0
Retired- 12	Retired-9
New Applications-15	New Applications-29

<i>THERAPISTS</i>	<i>ESTABLISHMENTS</i>
<i>May 2006</i>	<i>May 2006</i>
Newly Licensed – 23	Newly Licensed – 22
Reinstates – 3	Reinstates- 0
Retired- 11	Retired-16
New Applications-31	New Applications-23

<i>THERAPISTS</i>	<i>ESTABLISHMENTS</i>
<i>June 2006</i>	<i>June 2006</i>
Newly Licensed – 32	Newly Licensed – 21
Reinstates – 1	Reinstates- 2
Retired- 5	Retired-15
New Applications-36	New Applications-22

Ms. Birkner reported that the contracts for the new establishment inspectors had been awarded: Mr. David Scott Baily for Middle TN, Ms. Yolanda Heuser for East TN and Ms. Elaine Hackerman for West TN, however, two of the contracts were being appealed and the inspection process has temporarily halted until the appeal process is complete. Also, staff continues to work with the National Board to obtain examination scores on-line. This is an ongoing process and she will keep the Board updated.

Ms. VandeBerg asked about the school rules pertaining to score reporting. Ms. Birkner explained she and Ms. Chumbley will be meeting to set up guidelines for the consultant and hopes to have everything in place by the beginning of 2007.

Establishment Inspection Report

Ms. Birkner reported there were two hundred ninety-three (293) inspections conducted during the period of April-June 2006.

Four establishments in Middle Tennessee were cited for not having a smoke detector; one was cited for not having a licensed massage therapist employed; and one for not having a copy of the massage therapist’s license on the premise.

Five establishments in East Tennessee were cited for not having a massage therapist employed; one was cited for not having a fire extinguisher; five were cited for not having a smoke detector; four were cited for not having current copies of the massage therapist’s license on the premise; and one was cited for not having the establishment license posted.

One establishment in West Tennessee was cited for not having a massage therapist employed and one for not having a copy of the massage therapist’s license on premise.

Ms. Chumbley asked the cost per inspection. Ms. Birkner explained it is based on the individual contract, if the contracts are awarded as submitted it will be \$71.00 for Middle TN, \$60.00 for East TN and \$78.00 for West TN.

Financial Report

Ms. Bell explained the Board will be using some of the surplus to cover costs associated with the move of the offices and the new computer system. She further explained the cost is based on the

number of licensees from each of the boards and hopes to have an actual dollar amount for the cost of the move by the next meeting.

Lighthouse Professional Services Report

Ms. Smithson requested to defer her report to the next meeting, due to her accountant being ill.

Office of General Counsel Report

Mr. Kraemer reported the following:

1. **Criminal Background Checks and Housekeeping– (05-0095)** These amendments went to rulemaking hearing on April 25, 2005. They were adopted by the Board on August 26, 2005 and were sent to the Attorney General on August 31, 2005. They were signed by the Attorney General and filed with the Secretary of State on March 24, 2006 and became effective on June 7, 2006.
2. **2005 Legislation and Retreat Amendments - (05-1396)** These amendments regarding a wide variety of subject areas generated by discussions at the recent Board retreat and the 2005 legislative session went to rulemaking on October 18, 2005. They were adopted by the Board on December 5, 2005 and were sent to the Attorney General on December 8, 2005. They were signed by the Attorney General and filed with the Secretary of State on June 16, 2006 and become effective on August 30, 2006.
3. **Continuing Education, Board Orders and Establishment Enforcement Amendments (05-1609)** These amendments went to rulemaking hearing on March 3, 2006, They were adopted by the Board on May 8, 2006 and were sent to the Attorney General on May 10, 2006. They are still there.

Litigation:

The Office of General Counsel currently has seven (7) open disciplinary cases pertaining to the Massage Board.

Discussion: Legislation

Public Chapters

560 Limitation of liability for health care services provided during a governor declared emergency except for gross malpractice or willful misconduct. Granted in 30 day increments.

663 Revises The Health Care Consumer Right to Know Act by clarifying that those who provide their home address are authorizing its disclosure.

737 Does away with antiquated “individual” licensure provisions; authorizes the Board to restrict or condition licensure for MT and establishments and to

discipline establishments; authorizes Board to discipline for violation of Board Orders and to discipline LMT working in an unlicensed establishment and provides a reciprocity licensure mechanism for those who graduated from defunct schools or otherwise cannot produce transcripts

973

Creates the offense of Statutory Rape by an Authority Figure and encompasses penetration of a person between the ages of 13 and 18 by a person in a position of trust (specifically listing those who obtain that position by virtue of their legal, professional or occupational status and make it a class C felony for which probation and diversion are not available.

Requests for Continuing Education Waivers/Extensions

Aaron Bradley

Mr. Bradley submitted a letter requesting a waiver of continuing education stating it is beyond his physical capabilities due to medical reasons and limited ability to earn income. Ms. Birkner reported Mr. Bradley requested waivers in 1998 and 1999 which were both denied. A discussion followed relating to the availability of educational course providers which offer services to people with disabilities such as blindness. Ms. Salyers made a motion to deny his request for a waiver based on disability and/or financial capabilities as it is not beyond his ability to obtain continuing education. Ms. Glasgow-Trotman seconded the motion. The motion carried.

Requests for Approval of Continuing Education Courses

Coaching 101: Basic Skills for Professional Enhancement of Massage Therapists-25 hours, offered by Coaching for Wellness, LLC

Ms. VandeBerg reviewed the course and does not feel it applies to massage therapy. Ms. Salyers concurred. Mr. Sykes stated that coaching is not therapy as per the submitted brochure's definition of coaching. Ms. Glasgow-Trotman made a motion to deny this course for continuing education. Ms. Field seconded the motion. The motion carried.

Yoga and the Laws of Nature Reducing Stress and Enhancing Health for the LMT-21 hours, offered by Mary Glesige, LMT

Ms. VandeBerg reviewed the course and due to the nature of the course referred it to the full Board. Ms. Glesige was present to answer any questions the Board might have. Ms. Chumbley made a motion to approve this course for continuing education. Mr. Blackwell seconded the motion. The motion carried.

Ms. Salyers asked why the full Board did not review all courses. Ms. Birkner explained that due to the high volume of requests received, the Board appointed Ms. VandeBerg to review continuing education courses with any questionable courses presented to the Board.

Ratifications

Ms. VandeBerg made a motion to ratify all new and reinstated licenses for massage therapists and massage establishments issued from April 20, 2006 through July 26, 2006. Ms. Salyers seconded the motion. The motion carried.

Massage Therapists

TIMOTHY WYCKOFF ARNOLD
CRYSTAL D AUSTIN
CRYSTAL DAWN BALES
JERRI L BARNARD
KATHIE ANN BAUER
KERRY JEAN BECHT
LORI ANN BELLEFANT
DAVID FORREST BENNETT
BETHANY YVONNE BENSON
ANNA FELL BLAKE
LORI ANNE BOBURCHOCK
NURHAN BOZKURT
MARY RACHAEL BRADLEY
SHERRY MAE BRANDON
AMANDA LYNN BRANNON
JENNIFER M BRIDGES
JODIE MARIE BROCKMAN
TRACY LYNNETTE BRUNNER
NADINE LEIGH CARLSON
KATHERINE PAULETTE CATLETT
BRENDA M CHRISTOPHER
GREGORY ARNOLD COE
KAREN DIANE COLLINS
SALLY MAE COLLINS
CHRISTINE MICHELE CRANTON
MALERIE NICOLE CURL
JAMEZ L DICKERSON
MADISON DILOREN
PATRINKA SUE FERNANDEZ
ERIC C FLOYD
LORRIE M GARCIA
KRISTI DAWN GIBSON
ROBYN ANN GOODSIDE
DEBORAH ANN GREEN
ERIN LEANN HALLETT
KATHRYN ANN HANSEN
ASHTON NICOLE HARRIS
SARAH MELISA HARRIS

KELLY SUZANNE HAVER
MELISSA MICHELLE HIGHT
RENEE LYNN HORTON
JESSICA CHRISTINE HUMPHREY
SARAH GERMAINE JARECKI
JONATHON EDWARD JASZCZ
LYNDSIE BROOKE JOHNSON
PATRICIA LYNN JOHNSON
ERIN COLLEEN KENNEDY
GENA ANN KENNEDY
JULIE MICHELLE KING
DONNA R KIRK
CHARLESY RENEE LAMANCE
KRISTY BETH LAWRENCE
KAROL L LYSTER-DISHER
HOLLY REBECCA MARSHALL
ANGELA DUFALA MARTIN
DENISE MARIE MARTIN
JENNIFER MCBRIDE
AMY E MCCURRY
TABITHA LOUISE MINIARD
ANGELA KAYE MOUNTAIN
JENNIFER JANELLE MURREY
TERA MAE NARDI
IRENA PALAUGARIOVA
JENNIFER LAUREN PIKE
RAYMOND JONATHAN PIPKIN
BILLIE JO POOLER
LORRI LEE POWELL
CHRISTINA ROCHELLE RAE
DIANE MARIE RICE
MELISSA DAWN ROBERTS
WALTER CARL GEORGE SCHNEIDER
JR
DAMITA EYRE SHAW
JENNIFER RENE A SHELTON
JAMES KEITH SLAYTON
CHRISTA DAWN SMOTHERMAN

BRYAN DAVID STONE
JANE L TAYLOR
TABITHA RHEA TAYLOR
JENNIFER LEA TIMMONS
YOLANDA TINKER
SHARON LYNN TREADWELL
JARED ELLIS TUTT
RANDALL SCOTT VANDIVER

MATILDA ALICE VORE
CHERRI LEE WALKER
KIMBERLY MICHELLE WANINGER
ELIZABETH GRACE WARD
REBECCA CLAIRE WHITNEL
RALPH GERALD WICKLUND
POLLY R WILEY

Massage Therapist Reinstated

CHRISTY LEANNE BARKLEY
KELLI ANNE BELL
REBECCA HOPE BRAFFORD
DEBRA LEE DUNN
ROB GLENN GARNER, III
REBECCA DAWN HATLEY
PAULA KAY KEEFE
PAUL JOEL KELLY
JESSICA RIDDLE MCDONUGH
COLLEEN FRANCIS SAULS
JASON ADAM SUTTON
NATASHA ANNETTE THOMPSON
MATHEW D. VOLKERT
SANNON M. WEBB
SHERI DIANE WILLARD

Massage Establishments

A BETTER PLACE
A GOLDEN TOUCH SPA
A NU U CONCEPT
ANDERSON CHIROPRACTIC AND WELLNESS CENTER
ANGEL'S VIEW L.L.C. DBA MAKE ME OVER SALON AND DAY SPA
APPALACHIAN CHRISTIAN VILLAGE
BALLISTIC HAIR
BEACH HOUSE SALON
BEAUTIFUL BALLOONS/HANDS-ON HEALING MASSAGE
BELMONT HEALING ARTS CENTER
BROOKVIEW DAY SPA
BUTTERMILK SKY L.L.C.
CASE THERAPEUTIC MASSAGE
CHASITY SNOWDEN LMT
COLOUR BAR AND SPA
DANIELLE R. DAIGLE
DIANA FLOWERS

DIXON CENTER OF CHIROPRACTIC
DORIS'S MASSAGE THERAPY
ESSENTIAL BALANCE AND HARMONY
ESSENTIAL CARE MORNING POINTE
FACES ETC, LLC
G.O.A.L. MASSAGE THERAPY
GARDE BIEN SPA SALON
GOULD'S DAY SPA AND SALON HOUSTON LEVEE
GRACE HEALING THERAPIES
HEART OF JOY MASSAGE THERAPY
HIGHER OCTAVE BODYWORK
J. MORGAN INC., D/B/A SALON AZURE
JESSICA E. HOUGH
KAREN A. SILVERS
KATHRYN CRAIG, LMT
KERRY BECHT PHYSICAL THERAPY AND MASSAGE
KNEADFUL TOUCH, LLC
KRISTEN MCKENNEY, L.M.T.
L.A. TAN
LIME LITE MASSAGE THERAPY
LINDA'S SALON AND SPA
MASSAGE ENVY OF TENNESSEE, LLC
MEMPHIS JEWISH COMMUNITY CENTER
MOLLY'S MASSAGE
MT. JULIET CHIROPRACTIC
NAIL EXPERTS LLC DBA BALISIMO NAILS AND DAY SPA
NEW ATTITUDE FITNESS CENTER
OCEANS SALON AND DAY SPA L.L.C.
ON THE SPOT
RAYMA EWING
ROOTS SALON AND DAY SPA
ROSS THE BOSS AND CO #5
ROYAL TOUCH THERAPEUTIC MASSAGE LLC
RUSSIAN THERAPEUTIC MASSAGE
SCHRODER CHIROPRACTIC
SIGNATURE SALON AND SPA
ST. THOMAS HOSPITAL-WELLNESS CENTER
STATE OF FRANKLIN HEALTHCARE ASSOC DBA FAMILY PHYSICIANS OF J C
STUDIO SOMA
SUSAN M. ERICKSON, LMT
TASHAYOD CLINIC FOR COMPLEMENTARY CARE (LLC)
TENDER TOUCH MASSAGE
THE NATURAL PATH THERAPEUTIC MASSAGE
THE SHEAR TOUCH
THE SPRINGS SPA AND SALON
TLC

TOTAL IMAGE SALON
TOTAL TOUCH MASSAGE THERAPY
TOWNE AND COUNTRY MASSAGE AND BODYWORK
TRANQUIL HAVEN SPA
WELLNESS WAY CHIROPRACTIC, L.L.C.
WEST NASHVILLE HEALING ARTS STUDIO

Massage Establishments Reinstated

DOOR TO FREEDOM
NICHOLSON'S MASSAGE AND BODYWORKS
WILLOW WINDS MASSAGE CENTER

Continuing Education Courses

Mr. Blackwell made a motion to ratify the following continuing education courses:

- a. Seated Massage-8 hours-Charles West
- b. Acupressure and more for Stress-6 hours-Charles West
- c. Tennessee Law for Massage Therapists-2 hours-Ed D. Bolden
- d. Ethics for Massage Therapists-2 hours-Ed D. Bolden
- e. Ethical Considerations in Making the Right Decisions-2 hours-Vicki Goodwin
- f. Level I Introduction to Medical QiGong-32 hours-J. Michael Wood

Ms. VandeBerg seconded the motion. The motion carried.

Conduct Election of Officers

Ms. Salyers made a motion to nominate Rebecca Eichel to serve as Chair of the Board for the remainder of the term vacated by Mr. Steve Harper. Ms. Field seconded the motion. Ms. Chumbley made a motion to close nominations by acclamation, Ms. Field seconded the motion. The motion carried. Ms. Eichel will serve as Chair through February 2007.

Mr. Blackwell made a motion to nominate Kirsten VandeBerg to serve as Secretary of the Board for the remainder of the term now vacated by Ms. Rebecca Eichel. Ms. Chumbley seconded the motion. Ms. Field made a motion to close nominations by acclamation, Ms. Salyers seconded the motion. The motion carried. Ms. VandeBerg will serve as Secretary through February 2007.

Appoint Delegate to Attend the Federation of State Massage Therapy Boards Annual Meeting

A motion was made by Ms. VandeBerg to appoint Ms. Eichel as the delegate and Ms. Salyers as the non delegate. Ms. Chumbley seconded the motion. The motion carried.

Mr. Blackwell left the meeting at 3:30.

There being no further business, Ms. Salyers made a motion to recess. Ms. VandeBerg seconded the motion. The motion carried and the meeting recessed at 3:40 p.m.

**MINUTES OF
TENNESSEE MASSAGE LICENSURE BOARD**

August 15, 2006

Members Present: Rebecca Eichel, LMT, Acting Chairperson
 Kirsten VandeBerg, LMT
 Beverly Chumbley, RN, LMT
 Phyllis B. Salyers, LMT
 Juliana Glasgow-Trotman, LMT
 Craig Blackwell, Citizen Member
 Marilyn Field, Citizen Member
 Robbie Bell, Ex-Officio Member

Staff Present: Dianne Birkner, Board Manager
 Dale Hill, Board Administrator
 Bob Kraemer, Advisory Attorney
 Ernie Sykes, Advisory Attorney

A quorum being present the meeting convened at 9:10 a.m.

Consider Notice of Withdrawal of Amendment 0870-1-.12 (4) (b) 1.

Ms. Glasgow-Trotman made a motion to withdraw Amendment 0870-1-.12 (4) (b) 1. which was to become effective August 30, 2006. Ms. Salyers seconded the motion. Ms. Birkner conducted a roll call vote, all members voted yes.

The discussion continued regarding acceptable continuing education courses. Mr. Blackwell made a motion that courses be in lecture format with a post test. Ms. Field seconded the motion. The motion carried.

Ms. Salyers made a motion which was seconded by Ms. Glasgow-Trotman to send the following rule to rulemaking hearing:

Rule 0870-1-.12 Continuing Education, is amended by deleting paragraph (1), subparagraphs (2) (b) and (4) (a), and part (4) (b) 1. in their entirety and substituting instead the following language, and is further amended by inserting the following language as new part (4) (c) 1. and renumbering the existing parts accordingly, so that as amended, the new paragraph (1), the new subparagraphs (2) (b) and (4) (a), and the new parts (4) (b) 1. and (4) (c) 1. shall read.

- (1) Massage Therapy Continuing Education is considered to be those preplanned/formalized activities with written learning objectives that are directed at developing and enhancing an individual's massage therapy knowledge base, or relevant skills. Except for courses offered to meet the requirements of subparagraph (2) (b), these activities may be presented in any format authorized by subparagraph (4) (d) and part (4) (b) 5. oriented

toward enhancement of massage therapy and for the purpose of accomplishing specific written objectives.

(2) (b) Two (2) hours of the twenty-five (25) hour requirement shall pertain to federal and Tennessee statutes and rules concerning massage therapists and establishments. Providers must comply with all the following before the course can be presented:

1. The provider must submit the course materials for review and approval pursuant to subparagraph (4) (c) of this rule; and
2. The course, including multi-media courses, must be presented in a lecture format with successful completion of a written post experience examination to evaluate material retention; and
3. The provider must submit documentation sufficient to show that the information to be disseminated in the course is accurate and current and is in compliance with paragraph (1) and subparagraph (4) (c) of this rule; and
4. The provider must submit a statement signed by an attorney licensed in Tennessee stating that he or she has reviewed and approved the course materials and information to be disseminated as being accurate and current.

(4) (a) Courses to be offered for credit toward the required continuing education hours must, unless otherwise provided, receive prior approval from the Board. Approval once granted, regardless of whether approval is pursuant to subparagraphs (b) or (c) of this paragraph, is effective only for the continuing education cycle as identified in subparagraph (2) (a) in which they are approved. All courses that have been approved under this rule prior to the effective date of this rule will expire at the end of the continuing education cycle in which the effective date of this rule falls. After that, all courses/hours provided for credit toward meeting the requirements of this rule must be approved either pursuant to part (b) 1. or subparagraph (c) of this paragraph in every continuing education cycle in which they are offered.

(4) (b) 1. Associations, corporations, or organizations authorized as a provider by the National Certification Board for Therapeutic Massage and Bodywork or the National Commission for Certifying Agencies. Provided however, any provider approved by any organization identified in this part who intends to include in their course the hours necessary to meet the requirements of subparagraph (2) (b) of this rule must also comply with all of the following before those hours can be presented:

- (i) The provider must submit the course materials for those hours for review and approval pursuant to subparagraph (4) (c) of this rule; and

- (ii) Those hours, including multi-media courses, must be presented in a lecture format with successful completion of a written post experience examination to evaluate material retention; and
- (iii) The provider must submit documentation sufficient to show that the information to be disseminated in those hours is accurate and current and is in compliance with paragraphs (1) and subparagraph (4) (c) of this rule; and
- (iv) The provider must submit a statement signed by an attorney licensed in Tennessee stating that he or she has reviewed and approved the materials and information to be disseminated as being accurate and current.

(4) (c) 1. The written learning objectives of the course.

Prior to authorizing the above rulemaking, and in accordance with Executive Order #38, the Board discussed and considered the economic impact of the proposed rule language to small businesses.

Contested Cases

Susan Lynch, LMT

The State was represented by Ms. Elisha Hodge. Ms. Lynch was not present. Judge Steve Darnell presided over the case.

Judge Darnell verbally presented pre hearing motions. Ms. Lynch requested a motion to dismiss/continue. The request was denied. The evening before today's hearing Ms. Lynch requested a motion for a continuance because she was unable to attend due to lack of funds. Ms. Hodge responded and asked the Board to hear the case stating her position that if Ms. Lynch wanted to be here she would have been. Mr. Blackwell made a motion to deny the motion for a continuance. Ms. Field seconded the motion. The motion carried. Judge Darnell directed Ms. Hodge to include Ms. Lynch's motion in the final documents. Ms. Hodge requested to proceed in default. Judge Darnell acknowledged Ms. Lynch received adequate notice of the hearing today. Ms. Salyers made a motion which was seconded by Ms. Glasgow-Trotman to grant the default and to proceed with the case. The motion carried.

Ms. Hodge presented the case against Ms. Lynch, a licensed massage therapist and owner/operator of Blue Ridge School of Massage. The case alleges Ms. Lynch violated T.C.A. Section 63-18-101, et seq. and Rule 0870-1-.01, et seq.

At the conclusion of testimony Mr. Blackwell made a motion to accept as Finding of Fact, Allegations of Fact numbers 10 through 23 as presented. Ms. Salyers seconded the motion. The motion carried.

Ms. Chumbley made a motion to accept as Conclusion of Law, Allegations of Fact numbers 10 through 23 and information presented relating to her conduct in her business. Ms. Salyers seconded the motion. The motion carried.

A motion was made by Ms. Salyers to suspend Ms. Lynch's license for one year, she must complete a program through Lighthouse Professional Services, pay one (1) Type A civil penalty in the amount of \$1000.00 plus cost and the fee must be paid prior to the lifting of suspension. Mr. Blackwell seconded the motion. The motion carried.

Ms. VandeBerg made a motion to accept as the Policy Statement that the Board's action was taken to uphold the law and for the safety and welfare of the public. Ms. Field seconded the motion. The motion carried.

Consent Order

Benjamin Neal, LMT

Ms. Elisha Hodge, Office of General Counsel, presented the Consent Order that stated Mr. Neal practiced massage therapy at Anderson's Chiropractic Health and Wellness Center from approximately June 2003 until June 2006 without an establishment license. Mr. Neal was sent a letter from the Board which notified him he was to obtain an establishment license within thirty (30) days from receipt of the notification. Mr. Neal signed for the letter on February 14, 2006. At no point after receiving notification from the Board did Mr. Neal apply for an establishment license. In the Consent Order, Mr. Neal agrees to pay thirty-six (36) Type B civil penalties in the amount of one hundred dollars (\$100.00) each, for a total of three thousand six hundred dollars (\$3600.00) plus costs which must be paid within thirty (30) days of the date of receipt of the Affidavit of Cost.

Mr. Blackwell made a motion to accept the Consent Order. Ms. Chumbley seconded the motion. The motion carried.

At the conclusion of Board business Ms. Eichel made a statement for the record of how much the Board appreciates former Board member, Mr. Steve Harper and how much he has done for the Board and stated that he will be missed.

There being no further business, Ms. VandeBerg made a motion to adjourn. Mr. Blackwell seconded the motion. The motion carried and the meeting adjourned at 12:27 p.m.

Kirsten VandeBerg, LMT, Secretary