

**GEORGIA BOARD OF MASSAGE THERAPY
MINUTES OF BOARD MEETING
February 27, 2009**

The Georgia Board of Massage Therapy board meeting was held Friday, February 27, 2009, 9:00 a.m., at The Professional Licensing Boards Division offices located at 237 Coliseum Drive, Macon, Georgia.

The following members were present: **Absent:**

Jane H. Johnson, Chairman
Kathy V. Lescak, Vice Chairman
Melony Phillips, Cognizant
Steve Earles

Administrative Staff Present:

Brig Zimmerman, Executive Director, Janet Jackson, Assistant Attorney General, Serena Gadson, Licensure Supervisor, Yvonne LeSane, Licensure Analyst, Dianne Patterson, Administrative Assistant, and Amanda Allen, Board Support Specialist

Ms. Johnson established that a quorum of the Board was present and called the Board meeting to order at 9:10 a.m.

Agenda:

Ms. Lescak motioned, Mr. Earles seconded, and the Board voted to approve the agenda with late agenda items added. None opposed, motion carried.

Minutes:

Mr. Earles motioned, Ms. Lescak seconded, and the Board voted to approve the following Minutes as presented. None opposed, motion carried.

- o December 11, 2008

Public Hearing: Adoption of Proposed Rule Amendments 345-1-.01, 345-3-.02 and 345-4-.01:

No guest attendees present for the Public Rule Hearing

**I. SYNOPSIS OF PROPOSED AMENDMENT TO THE GEORGIA BOARD OF
MESSAGE THERAPY RULES, CHAPTER 345-1, RULE 345-1-.01
DEFINITIONS**

PURPOSE: The purpose of the proposed amendment is to define an additional nationally available exam acceptable to the Board

MAIN FEATURES: The main feature of the proposed amendment is to add a second nationally available exam approved by the Board as one requirement for licensure.

**THE PROPOSED AMENDMENTS TO THE GEORGIA BOARD OF MASSAGE
THERAPY RULES, CHAPTER 345-1 DEFINITIONS.**

NOTE: Underlined text is proposed to be added; lined through text is proposed to be deleted.

345-1-.01 Definitions. Amended.

- (1) Applicant—Any person seeking licensure under this chapter.
- (2) Board—The Georgia Board of Massage Therapy established by this chapter (hereafter: “Board”).
- (3) License—A valid and current certificate of registration issued by the Board.
- (4) Licensee—any person holding a license.
- (5) Massage Therapist—any person who administers massage or massage therapy for compensation.
- (6) Massage Therapy—See O.C.G.A. § 43-24A-3.
- (7) Supervision—For purposes of this chapter "supervised" means the supervisor is physically on site, qualified and immediately available.
- (8) NCBTMB—National Certification Board for Therapeutic Massage & Bodywork.
- (9) NCETM Exam—National Certification Exam for Therapeutic Massage.
- (10) NCETMB Exam—National Certification Exam for Therapeutic Massage & Bodywork.
- (11) Approved Provider (of Continuing Education hours) means one that holds the designation of “Approved Provider for Continuing Education” by the NCBTMB, or other CE provider approved by the board.
- (12) Sexually Oriented Business—For the purposes of the board rules, sexually oriented business shall mean, not inclusively or limited to, a sex parlor, massage parlor, adult bookstore, adult movie theater, adult video store, adult motel, spa alluding to sexual content or services or other commercial business which offer items or services to provide sexual stimulation or gratification to the public.
- (13) Clock Hour—one “clock hour” of continuing education refers to at least fifty (50) minutes of any one clock hour during which a student participates in a learning activity in the physical presence of an instructor, or in a distance learning activity designed by an approved provider.
- (14) Advertise—for the purposes of this chapter of the Board rules, “advertise” shall mean, but is not limited to, any issuance or distribution of any card, sign or other device, or, any allowance or permission of the issuance or distribution of any card, sign or other device to any form of media or placement in any physical entity.

(1) “Advertise” shall mean, but is not limited to, the issuance or distribution of any card, sign or other device, or causing, allowing or permitting the issuance or distribution of any card, sign or other device through or by means of any form of media, electronic or telephonic medium, printed material, public distribution, announcement or placement in any physical building or structure.

(2) “Applicant” means any person seeking licensure under this chapter.

(3) “Approved Provider” (of Continuing Education hours) means a provider that has been designated as an “Approved Provider for Continuing Education” by the NCBTMB, or another continuing education (“CE”) provider approved by the Board.

(4) “Board” means the Georgia Board of Massage Therapy.

(5) “Clock Hour” means one “clock hour” of continuing education that is no less than fifty (50) minutes of any one clock hour during which a student participates in a learning activity in the

physical presence of an instructor or in a distance learning activity as designed by an approved provider.

(6) “FSMTB” means the Federation of State Massage Therapy Boards.

(7) “License” means a valid and current certificate of registration issued by the Board.

(8) “Licensee” means any person holding a license.

(9) “Massage Therapist” means any person who administers massage or massage therapy for compensation.

(10) “Massage Therapy” has the same meaning as found in O.C.G.A. § 43-24A-3 (8).

(11) “MBLEx Examination” means Massage & Bodywork Licensing Examination that is offered by the FSMTB).

(12) “NCBTMB” means National Certification Board for Therapeutic Massage & Bodywork.

(13) “NCETM Examination” means National Certification Examination for Therapeutic Massage.

(14) “NCETMB Examination” means National Certification Exam for Therapeutic Massage & Bodywork.

(15) Sexually Oriented Business – For the purposes of these rules, sexually oriented business shall mean, by not be limited to, a sex parlor, massage parlor, adult bookstore, adult movie theater, adult video store, adult motel, spa alluding to sexual content or services, or other commercial business which offer items or services to provide sexual stimulation or gratification.

(16) “Supervision” means a qualified massage therapist supervisor is physically on-site and immediately available.

AUTHORITY: O.C.G.A. §§ 43-1-24, 43-1-25, 43-24A-3, 43-24A-7, 43-24A-8, 43-24A-11 and 43-24A-13

At its meeting on February 27, 2009, the Georgia Board of Massage Therapy voted that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.G.C.A. §§ 43-1-24, 43-1-25, 43-24A-3, 43-24A-7, 43-24A-8, 43-24A-11 and 43-24A-13

Additionally, the Board voted that it is not legal or feasible to meet the objectives of O.C.G.A. §§ 43-1-24, 43-1-25, 43-24A-3, 43-24A-7, 43-24A-8, 43-24A-11 and 43-24A-13 to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(a)(3)(A), (B), (C) and (D). The formulation and adoption of this rule will impact every licensee in the same manner and each licensee is independently licensed, owned and operated in the field of massage therapy.

Ms. Lescak motioned, Mr. Earles seconded, and the Board voted to adopt Rule 345-1 Definitions as posted. None opposed, motion carried.

**II. SYNOPSIS OF PROPOSED AMENDMENT TO THE GEORGIA BOARD OF
MESSAGE THERAPY RULES, CHAPTER 345-3, RULE 345-3-.02
APPLICATION FOR LICENSURE POST JULY 1, 2007.**

PURPOSE: The purpose of the proposed rule amendment is add an additional licensure exam approved by the Board.

MAIN FEATURES: The main feature of the proposed rule amendment is to list a second, national licensure exam acceptable to the Board.

NOTE: Underlined text is proposed to be added; lined through text is proposed to be deleted.

**DIFFERENCES BETWEEN THE EXISTING RULE AND THE PROPOSED
AMENDMENT TO THE GEORGIA BOARD OF MESSAGE THERAPY RULES,
CHAPTER 345-3, RULE 345-3-.02(20(f) APPLICATION FOR LICENSURE POST JULY
1, 2007**

NOTE: Underlined text is proposed to be added; lined through text is proposed to be deleted.

Chapter 345-3 APPLICATIONS

345-3-.02 Application for Licensure Post July 1, 2007. Amended.

(1) The applicant for licensure as a massage therapist shall submit an application on a form approved by the Board, and evidence satisfactory to the Board that the applicant:

- (a) is at least 18 years of age; and
- (b) has a high school diploma, GED, or recognized equivalent; and
- (c) is a citizen of the United States or a permanent resident of the United States.

(2) In addition to the information called for on the form, the applicant must also submit the following:

- (a) three (3) references: two (2) professional references from licensed healthcare professionals or instructors from a massage therapy program, and, one (1) personal reference (excluding immediate family). All references must have known the applicant for two (2) years; however, for applicants who have graduated from a massage therapy program within one (1) year of the date of their application, the licensed professional references or instructors must have known the applicant for only a minimum of six (6) months; and
- (b) photograph of the applicant. Only a passport type (3"X 3") photo taken within the past twelve months will be accepted; and
- (c) authorization to perform a criminal background check; and

(d) the proper fee – see fee schedule; and

(e) official school transcript, **in original sealed envelope** , by the applicant’s school or program, of successful completion (graduation) of a board-recognized massage therapy education program consisting of a minimum of five-hundred (500) hours of course and clinical work in accordance with Board rule 345-8; and

(f) official verification from ~~the~~ NCBTMB (National Certification Board for Therapeutic Massage and Bodywork) or FSMTB (Federation of State Massage Therapy Boards) showing applicant has passed the NCBTMB National Certification Exam for Therapeutic Massage (NCETM) or ~~the~~ National Certification Exam for Therapeutic Massage & Bodywork (NCETMB), or, the FSMTB Massage & Bodywork Licensing Exam (MBLEx), or an exam deemed equivalent or equal to the NCE or FSMTB exam by the Board.

Authority O.C.G.A. §§ 43-1-10, 43-1-24, 43-1-25, 43-24A-3, 43-24A-7, 43-24A-8, 43-24A-10, 43-24A-11 and 43-24A-13

At its meeting on February 27, 2009, the Georgia Board of Massage Therapy voted that the formulation and adoption of this proposed rule amendment does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule amendment cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.G.C.A. §§ 43-1-10, 43-1-24, 43-1-25, 43-24A-3, 43-24A-7, 43-24A-8, 43-24A-10, 43-24A-11 and 43-24A-13

Additionally, the Board voted that it is not legal or feasible to meet the objectives of O.C.G.A. §§ 43-1-10, 43-1-24, 43-1-25, 43-24A-3, 43-24A-7, 43-24A-8, 43-24A-10, 43-24A-11 and 43-24A-10 to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(a)(3)(A), (B), (C) and (D). The formulation and adoption of this proposed rule amendment will impact every licensee in the same manner and each licensee is independently licensed, owned and operated in the field of massage therapy.

Ms. Lescak motioned Mr. Earles seconded, and the Board voted to adopt Rule 345-3 Application for Licensure Post July 01, 2007 as posted. None opposed, motion carried.

III. SYNOPSIS OF PROPOSED AMENDMENT TO THE GEORGIA BOARD OF MASSAGE THERAPY RULES, CHAPTER 345-4, RULE 345-4-.01(2) LICENSE RENEWAL, RULE 345-4-.02 CONTINUING EDUCATION HOURS

PURPOSE: The purpose of the proposed amendment is to define an additional nationally available exam acceptable to the Board

MAIN FEATURES: The main feature of the proposed amendment is to add a second nationally available exam approved by the Board as one requirement for licensure.

THE PROPOSED AMENDMENTS TO THE GEORGIA BOARD OF MASSAGE THERAPY RULES, CHAPTER 345-4, RULE 345-4-.02 CONTINUING EDUCATION HOURS

NOTE: Underlined text is proposed to be added; lined through text is proposed to be deleted.

345-4-.02 Continuing Education Hours. Amended.

(1) Every massage therapist licensed pursuant to this chapter shall be required to complete a minimum of twenty-four (24) continuing education (CE) hours through an approved provider related to the practice of massage therapy as a condition for renewing his or her license for each biennium renewal expiration date except as otherwise provided for in this chapter.

- a. 12 of the total 24 CE Hours must include direct hands-on supervised instruction; and
- b. The remaining 12 CE Hours may include direct hands on supervised instruction or other massage therapy related CE hours

(2) ~~A listing of courses and/or providers, not all inclusive, which have been pre-approved by the Board as acceptable course hours toward the continuing education requirements of the Board, may be available on the board's website or from the board office. Approved providers for Continuing Education may be found on the National Certification Board for Therapeutic Massage and Bodywork website at www.ncbtmb.org. Licensees do not have to be nationally certified by NCBTMB to access the NCBTMB continuing education providers. The Board only accepts those Continuing Education Providers assigned a provider code number by NCBTMB.~~

(3) The Board may consider a waiver or variance of the requirement of CE hours for licensees who can provide acceptable proof of a verifiable illness, disability or hardship that substantially affected their ability to obtain the required CE hours during the prior biennium renewal period through submission to the board of a completed, signed waiver/variance request form *prior* to the biennium renewal expiration date of October 31st of every even numbered year.

(4) An applicant who is licensed **during the second year** of the biennium renewal period shall only be required to provide 12 hours of continuing education (CE) hours through an approved provider for that renewal period.

- a. 6 of the total 12 CE Hours must include direct hands-on supervised instruction; and
- b. The remaining 6 CE Hours may include direct hands on supervised instruction or other massage therapy related CE hours

(5) An applicant having graduated from a Board recognized approved massage therapy education program within one year of their application date shall be exempt from continuing education requirements for their initial biennium renewal period only.

(6) An applicant for reinstatement must show along with their completed application that they have taken the required twenty-four (24) hours of continuing education, in accordance with paragraph 1 of this rule, within one (1) year of the date of their reinstatement application to the board.

(7) Each licensed massage therapist shall maintain records of attendance and supporting documents for continuing education for a period of three (3) years from the date of attendance.

(8) Reporting and Auditing:

(a) Upon applying for license renewal, each massage therapist shall certify to the Board that he/she has completed the continuing educational hours required for license renewal. The method of reporting and auditing continuing education shall be as stated in this Rule.

(b) The Board may direct the staff to audit a percentage of randomly selected active renewing licensees, as determined by the Board, for compliance with continuing education requirements. Documentation of completed continuing education hours which the Board deems to be acceptable proof or verification of completion shall include, but not be limited to, the following:

1. Attendance and participation at a live presentation such as a workshop, seminar, conference or direct hands-on client care educational program: A certificate of completion or similar documentation that includes a massage therapist license number and the approved provider's number, signed or verified by a program official, and a program or course description including sponsor, course title, date, program objective/learning outcomes, content description, agenda or schedule.

2. Lectures and Multi-Media Courses: For lectures, a certificate of completion, or similar documentation, including a massage therapist license number and the approved provider's number, signed or verified by a program official, and a program description including sponsor, course title, date, program objective/learning outcomes, content description, agenda or schedule. Multi-Media courses shall require the successful completion and submission of a written post experience examination to evaluate material retention. Multi-Media courses include, but are not limited to, audio, audiovisual, closed circuit television, and internet courses.

3. Correspondence Courses: A certificate of completion or similar documentation, including a massage therapist license number and the approved provider's number signed or verified by a program official and a program description including sponsor, course title, date, program objective/learning outcomes, content description, agenda or schedule.

4. Formal self study, viewing of videotapes in a professional setting, satellite broadcasts, or computer learning activities. Documentation must include:

(i) Verified instructional time by the course sponsor, a certificate of completion or similar documentation that is signed or verified by program official; and

(ii) A program description including sponsor, course title, date, program objective or learning outcomes, and description of program content.

Authority: O.G.C.A. §§ 43-1-24, 43-1-25, 3-24A-7, 43-24A-14 and 43-24A-20.

At its meeting on February 27, 2009, the Georgia Board of Massage Therapy voted that the formulation and adoption of this rule amendment does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule amendment cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.G.C.A. §§ 43-1-24, 43-1-25, 3-24A-7, 43-24A-14 and 43-24A-20.

Additionally, the Board voted that it is not legal or feasible to meet the objectives of O.G.C.A. §§ 43-1-24, 43-1-25, 3-24A-7, 43-24A-14, and 43-24A-20 to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(a)(3)(A), (B), (C) and (D). The formulation and adoption of this proposed rule amendment will impact every licensee in the same manner and each licensee is independently licensed, owned and operated in the field of massage therapy.

Ms. Lescak motioned, Mr. Earles seconded, and the Board voted to adopt Rule 345-4.02 Continuing Education as posted. None opposed, motion carried.

Executive Director's Report:

1. Mr. Zimmerman informed the Board the he would review the Board's website for updates in response to the discussion during the February 26th meeting;
2. Mr. Zimmerman informed the Board that the newsletter template being created by the SOS has not been finalized;
3. Mr. Zimmerman reviewed a memo regarding other Boards possible statute changes regarding C&D orders and fines issued for unlicensed practice;
4. Mr. Zimmerman requested permission from the Board to provide the contents of an applicants file to the applicant's third party representative for licensure purposes.

Ms. Lescak motioned, Ms. Phillips seconded, and the Board voted to allow Mr. Zimmerman to forward selected contents of the file in accordance with O.C.G.A. § 43-1-2(k) as requested. None opposed, motion carried.

Ms. Lescak motioned, Mr. Earles seconded, and the Board voted to accept the Executive Director's report as presented. None opposed, motion carried.

Ms. Phillips motioned, and Ms. Lescak seconded, and the Board voted to enter into Executive Session in accordance with O.C.G.A. § 43-1-2(k) (1) (2), O.C.G.A. § 50-14-2(1), O.C.G.A. § 43-1-2-(k) (4), O.C.G.A. § 43-1-19 (h) (2) & (4) to receive and review information pertaining to Applications, receive the Cognizant, and Investigation Reports. Voting in favor of the motion were those present who included Board members Earles, Phillips, Lescak, and Johnson.

Conference Call-Office of Inspector General

The Board conducted a conference call with Ms. Shawn LaGrua, Inspector General during executive session to discuss the procedures regarding the investigation of complaints.

Applicant Interview:

Ms. Lescak motioned and Mr. Earles seconded and the Board voted to take the following action on the applicant for licensure by Application appearing before Board:

McDonald, Robert

Approved for licensure

Massage Therapy School Report; Conference Call:

The Board conducted a conference call with Mr. Bill Crews, Nonpublic Postsecondary Education Commission during executive session to discuss the amendments made to their Rule 392-5-.07 Authorization of Massage Therapy Schools.

Rule 345-8-.03 Additional Requirements:

In addition to the rules discussed in the Thursday, February 26, 2009 meeting, the Board discussed additional changes to the above rule following the conference call with the director of the Non Public Post Secondary Education Commission.

In addition, the Board's rules committee requests to meet in the Board offices on Friday, March 6, 2009 to finalize and present their recommendations for all rule amendments discussed to the full Board at the scheduled April 3, 2009 meeting.

Ms. Lescak motioned, Ms. Phillips seconded and the Board voted for the rules committee to meet March 6, 2009 to prepare recommendations for all rule amendments discussed for presentation to the full Board for a vote to post the proposed amendments for adoption.

Massage Therapy School Interview:

- A.B.A. - School must reapply as a Board Recognized Massage Therapy Educational Program.

Ms. Lescak motioned, Mr. Earles seconded, and the Board voted to allow A.B.A. to reapply as a Board Recognized Massage Therapy Educational Program.

Enforcement Report:

The following Enforcement cases were given to the Cognizant for review. Investigations provided 5 completed cases for Board review just prior to today's scheduled meeting. Due to time constraints, the Cognizant requested that each of the complaints investigations case synopses be forwarded to her prior to the next Board meeting for her review. Cognizant will present the Enforcement report and her recommendations for any actions to be considered by the Board during the next scheduled Board meeting.

- 32012, 33573, 35430, 35461

Ms. Lescak motioned, Ms. Phillips seconded, and the Board voted to allow the Administrative Staff to forward the synopsis of each case to the Cognizant for review. Cases will be presented to the Board at the next scheduled Board meeting.

Cognizant Report:

Closed Cases:

- 37131, 37437, 37981, 39037, and 39038
- 31607- Signed Voluntary Cease and Desist Order received.

Ms. Lescak motioned, Ms. Phillips seconded, and the Board voted to accept the signed voluntary Cease and Desist order; Case 31607 to be closed.

Cases Referred to the Investigations Division:

- 37606, 37889, 37974, 37975, 37980, 37984, 37986, 38168, 38960, 38970, 38974, 38986, 38988, 39042, 39044, 39045, and 39053

Pending the receipt of additional information from complaint and/or respondent

- 37983, 38167, 38966, 38976, 38985

Investigative Interview Scheduled:

- 39027

Refer complaint case to the Massage Therapy School Advisor:

- 37976

Ms. Lescak motioned, Ms. Phillips seconded, and the Board voted to accept the Cognizant report as presented. None opposed, motion carried.

Attorney General’s Report:

Assistant Attorney General, Ms. Janet Jackson provided the Board with a status report.

Ms. Phillips motioned, Ms. Lescak seconded, and the Board voted to approve the Assistant Attorney General’s report as presented during executive session. None opposed, motion carried.

Investigative Interview – Cognizant and Assistant Attorney General:

T.B. Recommendation: Licensee must apply for reinstatement.

Ms. Lescak motioned, Ms. Phillips seconded, and the Board voted to allow the licensee to apply for reinstatement; In addition, the Reinstatement application must also accompany a signed affidavit. None opposed, motion carried.

Additional Business Discussed:

Ms. Lescak stated that if Mr. Randy Vaughn, Division Director, approves their request to join the FSTMB organization, she would like the Board to consider her as the delegate assigned to attend the scheduled meetings held by FSTMB.

There being no additional business to discuss, Ms. Lescak motioned, Mr. Earles seconded, and the Board voted to adjourn the meeting at 5:00 p.m.

Minutes recorded by:

Amanda Allen, Board Support Specialist

Minutes reviewed and edited by:

Brig Zimmerman, Executive Director

Jane H. Johnson, Chair
Georgia State Board of Massage Therapy

Brig Zimmerman, Executive Director
Professional Licensing Boards Division

These minutes were approved and signed on: _____