

**GEORGIA STATE BOARD OF MASSAGE THERAPY**

**Board Meeting Minutes  
Professional Licensing Boards  
237 Coliseum Drive, Macon, GA  
October 30, 2015 - 9:00A.M**

The Georgia Board of Massage Therapy met on Friday, October 30, 2015. The following members were present:

**Board Members Present**

Craig Knowles, Chair  
Pam Nichols, Board Member  
Trisha Butler, Board Member

**Administrative Staff Present**

Adrienne Price, Executive Director  
Tamara Elliott, Board Support Specialist  
Kathy Osier, Licensing Supervisor

**Attorney General's Office**

Scott Forbes, Assistant Attorney General

**Visitors Present**

Traci Singley, Georgia Career Institute  
Lora Williams, Georgia Career Institute  
Jane Johnson, Self  
Brock Ingmire, FSMTB Government Relations Specialist  
Joey Blound

**Call to Order** Mr. Knowles established that a quorum was present and called the meeting to order at 9:07a.m.

**OPEN SESSION**

**Agenda** Ms. Butler motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to accept the agenda as amended to add the School Cognizant Report.

**Open Session Minutes:**

**1) August 28, 2015 Board Meeting**

Ms. Butler motioned, Mr. Knowles seconded, and the Board voted unanimously in favor of the motion to approve the August 28, 2015 open session minutes as amended to correct the grammatical errors.

**Licenses to Ratify: August 22, 2015 – October 23, 2015**

Ms. Nichols motioned, Ms. Butler seconded, and the Board voted unanimously in favor of the motion to ratify the list of licenses issued August 22, 2015 – October 23, 2015 as presented.

**Discussion BR 345-4-.02 Continuing Education Hours Comments from**

- 1) Jean Robinson, Government Relations Director of Associated Bodywork & Massage Professionals and Jeanne H. Daniels of Integrated Neuromuscular and Oncology Massage Therapy of Atlanta, GA – BR 345-4-.02 Continuing Education Hours Comment
- 2) Laura DeLaNoy, LMT – BR 345-4-.02 Continuing Education Hours Comment

Mr. Knowles prefaced his response to the questions posed by Ms. Robinson and Ms. DeLaNoy by stating that the Board Members read all of the comments submitted in reference to the hearing conducted on BR 345-4-.02 during the August 2015 meeting whether they were addressed publically or not. He noted that the Board Rule Hearings are time oriented and they are scheduled only to address the proposed amendments to the rules which can be identified as verbiage that is either underlined or stricken. The additional Board Rule comments submitted at the last Board Rule hearing were tabled until this meeting. Mr. Knowles explained that the Board did not break any policies or procedures by not the reading all the comments aloud during the meeting because they are addressed to the Board and not the public and the Board did in fact review them. He further stated that he will now take the time to address all of the additional comments that were submitted about BR 345-4-.02 which were not specifically relevant to the language that was amended.

**1) The Public is not certain if the Board addressed all the issues or comments brought forth in the public comments since the Board did not read them aloud and is this consistent with the open meetings act?**

Mr. Knowles explained that the statute requires that the Board consider fully all written and oral comments and that was done. Even though the Board does not discuss the comments before the Board meeting, the Board has access to them to read every single correspondence before the meeting to make sure every single correspondence was considered. Mr. Knowles explained that's why he asked each Board member if they had read them before the Rule Hearing and each one of the Board Members present answered "yes", so therefore the Board did comply with the

requirements of the open meetings act by considering every comment. Mr. Knowles explained as he mentioned before, the comments that weren't discussed during that hearing because they did not have anything to do with the portions of the rule that were being revised, so they were not discussed in the Board hearing.

**2) Why did the Board limit any comments to the revisions of the rule and not address other questions or concerns about other portions of the rule as it is her position that the Notice of Intent does not limit it to just that section?**

Mr. Knowles explained that when the Board Rule was posted, the reading was, "NOTICE OF INTENT TO ADOPT A PROPOSED AMENDMENT TO BOARD RULE 345-4-.02." Mr. Knowles explained that the notice of intent specifically indicated that the purpose of the hearing was just to review the amendments so therefore the Board had to address those parts that were changing and were not required to address those parts that were not.

**3) Why is the Board limiting CE Providers by mandating that they be NCBTMB Providers? Why not other organizations?**

Mr. Knowles explained that the Board is not limiting CE Providers. NCBTMB Approval is only one of those requirements. There are other CE providers out there. There are other CE providers that offer material but the Board has no statutory authority over those organizations. The Board's statute names NCBTMB. Other organizations like AMTA also use NCBTMB providers when they have their CE retreats. Those are the providers that they use and those people need to be NCBTMB approved. Just because someone is NCBTMB approved doesn't mean that the Board will accept them. There are courses that are approved by the NCBTMB through the national organization that are not approved in our state because statutes are different state to state. What is in the scope of practice for Massage Therapy in one state may not be within the scope of practice in another state because we do not have a unified model practice act yet. So until there is an equal statute across all states, it has to be done state by state. So, NCBTMB is not the one all catch all, if you're good with them you're good with the state. That's not how it is. The Board has had many discussions on NCBTMB approved courses that cannot be approved in our state because of the way our state statute is written with some of the exemptions that fall out of the scope of massage therapy practice in Georgia. Ms. Price suggested that Mr. Knowles mention that the Board is not opposed to any other organizations but the Board just hasn't received requests from any other organizations to be considered as a mechanism to approve CE Providers. Mr. Knowles indicated that Ms. Price makes a good point, no other organization has approached the Board asking the Board to consider allowing them to vet continuing education organizations or programs.

**4) If the Board insists on differentiating between "hands-on" and all other forms of CE, there should be no additional requirement that 70% of the course include "hands-on" experience/demonstration in order to be categorized as a hands-on course. The Board didn't address this in the hearing. Why was this amended?**

Mr. Knowles explained that this is a policy that has been in effect that is now put into rule. When the Board has audited CE files page by page that was always their policy. Hands on courses can only be considered hands on if 70% of the time you are working on a body. Mr. Knowles provided an example of the course he attended that was advertised as an eight hour hands on course and for only 5 minutes out of the 8 hours did you rub each other hands, yet on the CE it was titled as a hands on course. You must have lecture time so a 12 hour hands on course cannot be 12 hours with a hand on the body because that's impossible. That's where the 70% came from. You should be either working on the body or being worked on. It has always been a Board policy from the beginning. Policies are not always posted to the public because they are how judgements are made to administratively handle certain cases but the Board felt as if this policy should be added to the rule so the public can actually see that 70% that's always been there. You must have a line and it's consistent with NCBTMB and AMTA and other Boards so the 70% is not a magical number that our state board came up with.

**5) ABMP believes that 24 hrs. of CE every two years is excessive and should be changed and all licensees should be exempt from CE for their first renewal. ABMP feels by lessening the hours it would financially impact licensees in a positive way as online CE cost less than hands-on CE. There should be no hands-on requirement. Are these CE requirements helping public protection?**

Mr. Knowles explained that he did a little research and out of the 50 states in our territory 44 states are regulated plus Virgin Islands and Puerto Rico. Out of the 44 states, 22 of the states require 24 hours every 2 years or more. Kentucky renews annually and requires 12 hours every year so they fall into that category as well. Arizona, Delaware, Florida, Georgia, Illinois, Iowa, Kentucky, Louisiana, Maryland, Mississippi, Nebraska, Nevada, New York, North Carolina, North Dakota, Oregon, Pennsylvania, Tennessee, Virginia, Washington, West Virginia, and Wisconsin all require 24 hours or more every 2 years therefore the Board does not feel that the requirement is excessive and that it is right in line with those regulatory boards. In reference to the comment that licensees shouldn't have to have CEs their first renewal, Mr. Knowles clarified that the Board already has a rule in place that if you are getting your license within the last 6 months of the renewal cycle, you do not have to complete CEs. If you are granted a license 6 months to 12 months from the end of the renewal cycle, you only have to complete 12 CE hours and of those 12 hours only 6 hours have to be hands-on. If you are granted a license 12 months and a day,

then the requirement goes to 24 hours of CE. So it's not I got my license in May and now I have to get 24 hours by October because that has never been policy and it has never changed and that's the way it is. Within the last 6 months you will still have to renew but there are no CE requirements due, 6 months and a day to 12 months it's a 12 hour CE requirement with a minimal in-person hands-on 6 CE hours requirement, and 12 months and a day to 24 months it's a 24 hour CE requirement with a 12 hour minimal in-person hands-on requirement. Ms. Price reminded Mr. Knowles that in the rules if someone has graduated and gotten licensed within 1 year of their application date they do not have to do CEs.

In reference to eliminating the hands-on requirement, Mr. Knowles explained that this profession is a hands-on profession and service provided to the public. You didn't get to go through school without hands on requirements and you need to make sure your skills are present. You can do all hands-on if you choose, but the only restriction is that only 4 hours of a CPR course can be used as hands-on within a renewal. The Board still feels that this is a needed requirement for anyone that is going to be providing a hands-on service to the public. The hands-on requirement requires that the instructor is physically present and not the "I watched a webinar and completed hands-on" experience. Hands-on is a lot more than just a touch of the body and the Board does not feel that this requirement is a burden or places any additional limitations on the hands on classes, as long as it falls within the scope of practice. People misunderstand what regulatory boards are for. People think that regulatory boards are here to promote their profession and to help them achieve their goal as being the best massage therapist ever and that is not the job of a regulatory board. We are not here to promote an individual's profession. If you're good, you're going to be busy; if you're not then you will be twirling your thumbs. The Regulatory Board is here for public protection and not the promotion of a profession. We make policies, rules and then there's statute to protect the public. Yes it affects all licensees but it's there for the protection of the public and that's why it's done. There's so many people reading websites and going to Facebook and different blogs for their information and that's not how you get your information. If you want to know then you submit questions to the Board or come to the meetings to get additional information. Regarding the financial impact of the CE requirements, Mr. Knowles clarified that it was addressed at the last Board meeting during the hearing when Cindy Farrar made the comment about financial impact on the licensee by using CE Broker. Mr. Knowles explained at that time that there isn't a financial impact one. It does not cost the licensee a dime to use CE Broker. There are options that they can pay for if they choose but you do not have to. All you have to do is set up the account, download CEs and you're done. If you're audited you have to turn in your CEs anyway so this is going to a database, to hold your CEs. If you choose, you can pay \$39.99 per year to have the digital copies stored and then you don't have to worry about paper copies. The rule requires you to keep all of your CEs for 3 or 4 years. You are supposed to keep them. If you happen to get audited and you have had a license since 2011 and there's been a complaint against you, you can be audited for all of those CEs so you have to keep them. CE Broker is a way to store all of your CEs and not have to worry about losing them. CE Broker is an option, you don't have to use the paid options but the account is free and there is no financial impact. Mr. Knowles indicated that the Board was considering going to a 100 percent audit, and although the exact percentage is not currently available, he can tell those present that from the hundreds of files that have been reviewed for reinstatement over the last 3 years, a very high percentage of them checked 'yes' to having their CEs and when they were audited they did not have them and that's a problem. Everybody is going to have to submit their CEs before they can renew that's just how it is. The Board wants to make sure the laws and rules related to CE is being followed and that's why this route, at the moment, has been chosen and if something better comes along that is more user friendly and free, the Board is always willing to look into it as an option as well.

**6) Why is this rule being implemented in the middle of a renewal cycle?**

Mr. Knowles clarified again that the rule is not changing when the renewal cycle is, or how many hours are required or what is required or the date the hours are do. Licensees are supposed to have a paper copy of proof of CEs in hand, when they walk out of the CE class. NCBTMB requirements are, no matter what, if that licensee sat in your class, you are required to give them a paper copy of their certificate of attendance and participation. Some organizations that pay for the courses have been known to hold a licensee's CE hostage and that practice is illegal. At any rate, that part of the rule requirements did not change and compliance with that part of the rule should not pose a problem to any licensee. The only thing that changed is now licensees are going to download those CE certificates before they renew. Instead of sticking it in a file, you are scanning it into CE Broker. The Board wanted it to start November 1<sup>st</sup> of last year but things happened and it was pushed back. Now licensees have a year to start a free account with CE Broker and load their certificates. Starting November 1, 2016 the Board wants all CE providers to load their rosters. If they don't, they won't be approved in CE Broker because they won't be recognized by the Board. Ms. Price clarified that it will not penalize the licensee if the Board opts to no longer accept that CE Provider as long as that individual has taken that course from that CE Provider before the date the Board voted not to recognize courses from that provider. The Board will still accept the CE from that individual, it will just be from that point forward the course from that provider wouldn't be accepted. Ms. Price also explained that with regard to the new 70 percent requirement for hands on courses, those individuals who have taken classes that were not 70 percent hands-on prior to the date the rule became effective, the Board will not go back and say that the class wasn't 70 percent so they're not going to accept it simply because licensees have already taken it before the rule went into effect. As a result, the Board can't penalize people for what they did prior to the rule

becoming effective. Now the rule is effective going forward licensees will need to make sure that the hands-on course is at least 70 percent hands-on.

7) **The Board did not address NCBTMB's correspondence about ensuring appropriate utilization of an assigned code and that it is not to be misconstrued as a mechanism for entry-level licensing purposes. FSMTB is concerned that the Board delegating its authority to a non-accrediting body?**

NCBTMB is not the Boards only filter, but it's a filter. The Board reviews every single document whether it is NCBTMB or NPEC approved or not. In our statutes and rules, applicants must have graduated from a program with an assigned school code. The Board also uses NPEC as a filter. Then the Board reviews the program. So there have been multiple eyes reviewing them. The Board does not have statutory authority over schools. The Board can only recognize the programs in our state but we cannot approve a school. The Board does not have the authority to walk into a school and audit them so the Board has to have some other type of mechanism to review the programs and vet these schools to determine if it's a legit program, that the student did not buy the transcripts, and that the programs are not hurting the public. Ms. Nichols mentioned that some schools have accreditation committees and asked if the Board can use those? Mr. Knowles noted that the Board does not have statute authority over those committees either because they are not written in the statute but NCBTMB or NPEC is noted within the Board's statute so the Board can rely on them as part of the process of recognizing programs. There were programs approved by NCBTMB or NPEC that the Board had to unrecognized because the Board found things within their application audit or doing an investigation and shared that information with NCBTMB and NPEC so they too could remove them if they chose. Ms. Price added that the only time the Board can send an investigator into the school and perform an on-site audit is when a complaint is submitted against the school from the public.

**Public Comments:**

Mr. Joey Blound asked, "If I load my CE certificate on CE Broker and it checks it off, am I to assume that you will recognize it if CE Broker checks it off and is there a limit to the number of certificates that can be loaded?" In response, Mr. Knowles stated that the Board has provided a list of courses to CE Broker that the Board cannot accept, even if it has an NCB number. Ms. Price further explained that individuals can load as many CE certificates they want to load. Not only will CE Broker look at them, but so will the Board in order to determine if the coursework is appropriate to satisfy the requirements. In some cases individuals may receive a notification from the Board asking for additional clarification or information regarding the CE.

Mr. Ingmire asked, "Have you confirmed with NCBTMB that they are able to send in an investigator to do an appropriate audit of the educational institution?" Mr. Knowles answered, "Yes." Mr. Ingmire then asked, "If you utilize NCBTMB assigned school code in addition to the NPEC authorization number, what's the Board's operational procedure for approving public institutions? In response, Mr. Knowles stated that the Board does have procedures in place for programs that cannot get an NPEC number. In example, he stated that there are some massage schools that are very small such as a particular program in Albany that does not enroll any more than 2 students at a time, does not start people every 6 weeks and does not enrolled anyone else until they are done. He stated that this school does not qualify for a NPEC number, so it had to apply for an exemption through NPEC which must be renewed annually. He further remarked that technical schools also cannot obtain an NPEC number and as a result they have to file a waiver for the Board to review on a case by case bases.

Mr. Ingmire asked, "Does the waiver process add any undue time to the processing of the application?" In response Mr. Knowles stated that it does not. He further explained that with or without an NCBTMB and/or NPEC number the Board still reviews every single page of each application because the Board does not delegate authority to NCBTMB or NPEC. Mr. Knowles indicated that this process first includes looking up the NCBTMB and/or NPEC number and notifying the school of the date it will expire and it is up to them to send in the renewed NCBTMB and/or NPEC number or exemption status document prior to their expiration. Secondly, the Board reviews the faculty to ensure they are licensed and/or qualified to teach the courses they are to teach and if they have a disciplinary history. The Board will then review the program to determine if it aligns with the statute requirements and if they have submitted a waiver that the Board will review and vote on. If there the process becomes lengthy, the delay typically falls on the school's end and not the Board's end because the program did not submit all the items required on the application for recognition.

Mr. Ingmire made a clarifying statement that indicating that essentially if anything, the waiver process just adds additional paperwork to the application process. Mr. Knowles responded that the required forms for the waiver process is just a few sheets of paper on which the program indicates which rule they want to waive, why. Ms. Price added that it also asks if the program is willing to propose an alternative for meeting the requirements and upon posting of the petition, the Board has to address with waiver no sooner than 15 days and no more than 60 days max.

Mr. Knowles asked if any members of the Board or the public had any questions, comments or objections about the responses he provided to the inquiries. It was the consensus of the Board that the responses were appropriate. No additional questions were presented by members of the public.

**Discussion – FSMTB** The Board accepts the following FSMTB correspondences as information and congratulated Mr. Knowles for being elected by the delegate assembly to fill one of the 3 Year Term Positions on the FSMTB Board of Directors.

- Annual Meeting Recap
- Elections Update
- In Touch Newsletter

Mr. Knowles explained to the Board that the 3 resolutions submitted by the Board did not get sent or received the way the Board voted to go before the Federation. The Boards three resolutions topics were: adding a limitation on how many times a person can take the exam, having proof of applicant’s attendance to the school before they can take the exam, and going to 90 days in between failing the exam. Unfortunately the three resolutions were packaged into one resolution with three points and did not go before the delegates as it should have. Mr. Knowles felt as the delegate of the Board that it should not go to the floor to be discussed by the delegates in the form that it was in and as a result he made a decision to withdraw the resolution; but, he did discuss some of the points with the delegates. He also reported that the New Jersey Board’s resolution required that an applicant graduate before taking the exam but it was not submitted to the delegates as they voted on it. As a result it was tabled until the next annual meeting as well. He reported that the Board can resubmit the resolutions separately to be considered at the next annual meeting. It was the consensus of the Board that this be done.

Mr. Knowles reported that the following was discussed and/or occurred during his attendance at the FSMTB Annual Meeting:

- There was a luncheon to celebrate the 10th anniversary of FSMTB.
- Mr. Dale Atkinson gave a presentation about the Federal Trade Commission v. North Carolina Dental Board Decision and other topics discussed included professional client boundaries in health care, dual roles and role transference, respecting the code of ethics.
- He reported that the annual meeting in 2016 will be held in Cleveland, OH during the month of October 2016 and in Tampa, Florida September 28-30, 2017.
- The MBLEx study guide will be ready for schools to start purchasing and included a discussion indicating that the national pass rate of first time test takers is currently 70.5 % which is up from 69.5 %.

He further stated that there was some discussion of whether or not it was FSMTB’s fiscal responsibility to offer the examination in languages other than English and Spanish.

**Discussion – FTC Staff Guidance on Active Supervision of State Regulatory Boards Controlled by Market Participants and FARB Response**

The Board accepts the correspondence as information.

**Massage Therapy Licensing Database - Brock Ingmire, FSMTB Government Relations Specialist**

Mr. Ingmire addressed the Board with an update on the Massage Therapy Licensing Database affectionately called MTLDA. He indicated that the expected launch date is the first quarter of 2016. Mr. Ingmire mention that the FSMTB will be sending out correspondences within the coming months regarding detailed instructions on how to transfer information to the FSMTB site and to ensure everything is safe and confidential. FSMTB is requesting that the Board work with their attorney to determine whether or not there is any specific information or statutory language that would prohibit the Board from sharing any type of data especially when it comes to confidential information and inform FSMTB as soon as possible. Mr. Knowles asked Mr. Ingmire what the Board would need to transfer information into MTLDA. Mr. Ingmire remarked that FSMTB is working with their vendor DEG on the software that will provide the appropriate mechanism for data transfer. Mr. Ingmire thanked the Board for allowing him an opportunity to speak about the database and asked that if the Board had any additional questions to feel free to contact him or Laura Simmons.

**Open Records Requests**

- 1) **Yjuania Word** Ms. Butler motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to approve the release of the application, license information, and license renewals as requested.

**Petition for Rule Variance – Hector-Gudorf, Melissa**

Ms. Nichols motioned, Ms. Butler seconded and the Board voted unanimously in favor of the motion to deny the request for variance of Board Rule 345-3-.02 (2)(b) due to insufficient evidence to substantiate a hardship.

Ms. Butler motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to request the applicant to provide additional information regarding the Ohio State Massage Exam such as the content outline of the exam and security features for the administration of the exam.

**School Cognizant's Report – C. Knowles** Ms. Butler motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to accept the recommendations of the School Cognizant regarding the applications for and/or review of Board recognition status for the following massage therapy educational programs as presented:

- 1) Georgia Massage Institute The program NPEC status was renewed until October 1, 2016. Grant approval to maintain recognition status.
- 2) Golden Razor Academy of Cosmetology Withdraw board recognition based on a failure to meet the requirements of Board Rule 345-8-.03(1)(e) and (f).
- 3) Southern Regional Technical College Table pending receipt of additional information regarding the number of full and part-time faculty for the program.
- 4) Georgia Christian University Table pending the outcome of the NPEC review.
- 5) Bancroft School of Massage Therapy Table pending receipt and review of a petition for rule waiver or variance relative to the requirements of Board Rule 345-8-.03 and a sample program transcript.
- 6) A Gathering Place Table pending receipt and review of a petition for rule waiver or variance relative to the requirements of Board Rule 345-8-.03.
- 7) Touch of Health School of Reiki Massage The program NPEC status was renewed until July 16, 2016. Grant approval to maintain recognition status.
- 8) Sanford Brown College The program NPEC status was renewed until June 29, 2016. Grant approval to maintain recognition status.
- 9) Columbus Technical College The program submitted a report to the Board indicating that did not submit a list of graduates since they did not have any graduates from November 1, 2013 through October 31, 2014. They also reported that they have graduated six (6) students in 2015 and have temporarily suspended enrollment to the program until such time that they can acquire a new program director.

**Executive Director's Report – A. Price**

Executive Director's report presented the Board with statistical data relevant to the processing of applications and complaints/compliance, and the current CE Tracking System updates. The Board accepted the report as presented.

**Miscellaneous**

**1) 2016 Board Meeting Dates**

Ms. Nichols motioned, Ms. Butler seconded, and the Board voted unanimously in favor of to accept the 2016 Board Meeting Dates as presented.

Massage Therapy 2016 Meeting Dates

Macon, GA	Friday, February 26, 2016	9:00am
Macon, GA	Friday, April 29, 2016	9:00am
Macon, GA	Friday, June 24, 2016	9:00am
Macon, GA	Friday, August 26, 2016	9:00am
Macon, GA	Friday, October 28, 2016	9:00am
Macon, GA	Friday, December 2, 2016	9:00am

**2) Board Rule 345-8-.02 Faculty Requirements**

Ms. Butler motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion for Mr. Knowles to review and revise the language for faculty requirements to further clarify the use of the same instructors for both didactic and clinical coursework within the program.

**Ms. Butler motioned, Ms. Nichols 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. Voting in favor of the motion were those present who included Board members: Mr. Knowles, Ms. Butler, and Ms. Nichols.**

**At the conclusion of Executive Session on Friday, October 30, 2015 Mr. Knowles declared the meeting to be "open" pursuant to the Open and Public Meeting Act O.C.G.A. § 50-14-1 et seq. No votes were taken during executive session.**

**Applicant Interview**

**11:00A.M. D.R.**

Ms. Nichols motioned, Ms. Butler seconded, and the Board voted unanimously in favor of the motion to approve for licensure upon completion of one hundred (100) hours in – anatomy, physiology and kinesiology from a Board Recognized Program within the state of Georgia.

**11:30A.M. D.M.**

The applicant cancelled the interview with the Board. The original decision of the Board is upheld.

**12:00P.M. C.W.**

The applicant did not show for the interview with the Board. Application remains pending until expiration or the applicant appears before the Board and a decision is rendered.

**Cognizant’s Report – Prepared by J. Clay**

Ms. Butler motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to accept the following recommendations made in Executive Session:

- MT150065 Rescind the previous motion and deny renewal of license based on failure to submit the documentation required to renew the license.
- MT150081 Close the case with no action.
- MT150087 Refer to Legal Services for Public Consent Order with a fine of \$250 for unprofessional conduct to be paid within six (6) months in accordance with BR 345-10-.01, and completion of 30 hours in-person, hands- on CE courses from a board approved course in hot stone massage therapy. The respondent is restricted from the performance of hot stone therapy until completion of the CE course and approval by the Board.
- MT150126 Close case, no action.
- MT150128 Refer to Investigations to conduct a Facility inspection, conduct interviews with all of the instructors of record, Interview current students to confirm the instruction being given.
- MT150134 Uphold previous motion and deny request.
- MT150138 Close case, no action.
- MT160003 Withdraw recognition of the program and close the case.
- MT160005 Close case, no action.
- MT160021 Accept the cease and desist orders and close case with a letter of concern to the employee found to be in violation of Board Rule 345-6-.01(2)(d).
- MT160024 Close case, no action.
- MT160026 Close case with letter of concern citing BR 345-6-.01 (2)(i).

**Attorney General’s Report- J. Scott Forbes**

Ms. Nichols motioned, Ms. Butler seconded, and the Board voted unanimously in favor of the motion to accept attorney general’s report as presented.

- 1) MT150114. Ms. Nichols motioned, Ms. Butler seconded, and the Board voted unanimously in favor of the motion to accept the consent order upon receipt.
- 2) Mr. Knowles motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to notify CE Broker that the Board does not accept low level laser therapy and kinesotaping courses.

**Executive Discussions**

- 1) **O.T.B** Ms. Nichols motioned, Ms. Butler seconded, and the Board voted unanimously in favor of the motion to uphold the denial of the application for licensure.

**Request(s) for Reconsideration**

- 1) **M.F.** Ms. Nichols motioned, Ms. Butler seconded, and the Board voted unanimously in favor of the motion to send a letter or response thanking the respondent for the comments and uphold the previous motion.
- 2) **MT140077** Assistant Attorney General Forbes recused himself from the discussion of this case and removed himself from the room. Mr. Forbes was present when the Board called for a vote in this matter. Ms. Butler motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to amend the Public Consent Order to include \$1000 fine to be paid within sixty (60) days from the effective date of order, twelve (12) hours of in person, board approved business ethics coursework, random investigative compliance audits a minimum of every three (3) months for the next two (2) years. The respondent must pay the cost of the investigative compliance audit within thirty (30) days of the date the investigative audit was conducted.

## **Executive Minutes:**

### **1) August 28, 2015 Board Meeting**

Ms. Butler motioned, Mr. Knowles seconded, and the Board voted unanimously in favor of the motion to approve the June 12, 2015 executive session minutes as amended to correct the grammatical errors.

## **Applications for Board Review**

Ms. Butler motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to accept the following recommendations made in Executive Session:

### **Arrests**

- G.B. Refer to Legal Services for a Private Consent Agreement for Licensure with a fine of \$500 for failure to disclose criminal history; Issue the license upon docketing.
- L.B. Issue the license with a letter of concern regarding alcohol.
- M.T.W. Issue the license with a letter of concern regarding drugs.
- K.B. Refer to the Attorney General's Office to issue the license with a Public Consent Agreement to include probation to run concurrent with the criminal probation and include language requiring reports of any violation of the terms of the criminal probation from the probation officer.
- D. C.D. Table a decision on the application pending outcome of investigation and release information to the proper authorities regarding an active warrant.

## **Inactive Status Requests**

M.V.J. Approve the request for inactive status.

## **Provisional Permit**

D.S. Deny the request for a provisional permit based on an incomplete application for failure to provide information regarding the proposed supervisor.

## **Reinstatements**

- M.B. Approve the "live" continuing education courses.
- B.B. Issue the license by reinstatement.
- A.C. Refer to Legal Services for a Private Consent Agreement for Reinstatement of Licensure with a fine of \$500 for unlicensed practice from November 2014 to February 2015 to be paid within six months of the docket date. Issue an order with a fine of \$500 to be paid within six months of the docket date for aiding and abetting unlicensed practice to the respondent's employer.
- T.C. Refer to Legal Services for a Private Consent Agreement for Reinstatement of Licensure with a fine of \$750 for unlicensed practice from November 2014 to August 2015 to be paid within six months of the docket date.
- G.N. Refer to Legal Services for a Private Consent Agreement for Reinstatement of Licensure with a fine of \$1900 for unlicensed practice from November 2010 to August 2014 to be paid prior to October 31, 2016.
- A.R. Refer to Legal Services for a Private Consent Agreement for Reinstatement of Licensure with a fine of \$500 for failure to disclose arrest history, and \$200 fine for unlicensed practice from November 2014 to December 2014 to be paid in full prior to April 1, 2016.
- K.U. Deny reinstatement of licensure based on attendance to a school with no NCBTMB School Provider Number in accordance with Board Rule 345-8-.03.
- C.V. Refer to Legal Services for a Private Consent Agreement for Reinstatement of Licensure with a fine of \$1000 for unlicensed practice from November 2012 to September 2015 to be paid prior to October 31, 2016.

## **Transcripts**

- T.R. Grant the request to release the transcripts.
- J.J. Deny licensure based on attendance to a school with no NCBTMB School Provider Number in accordance with Board Rule 345-8-.03.
- J.M. Deny licensure based on attendance to a school with no NCBTMB School Provider Number in accordance with Board Rule 345-8-.03.
- C.Q. Deny licensure based on attendance to a school with no NCBTMB School Provider Number in accordance with Board Rule 345-8-.03.
- Y.W. Deny licensure based on attendance to a school with no NCBTMB School Provider Number in accordance with Board Rule 345-8-.03.
- Y.Z. Deny licensure based on attendance to a school with no NCBTMB School Provider Number in accordance with Board Rule 345-8-.03.

## Miscellaneous

1) Mr. Knowles motioned, Ms. Nichols entered a second and the Board voted unanimously in favor of the motion to request SOS investigator on case MT160003 to speak with the NPEC Investigator in order to provide a verbal summary of the entire investigation since a written summary is not available.

### 2) **Board Rule 345-4-.04 Inactive Status**

Ms. Butler motioned, Mr. Knowles seconded, and the Board voted unanimously in favor of the motion to refer Board Rule 345-4-.04 Inactive Status as presented to the Attorney General's Office for a memorandum of authority and if no objections noted, vote to post.

#### 345-4-.04 Inactive Status

(1) Licensees may request by application only to the Board that their active license to practice as a massage therapist in Georgia be placed on inactive status prior to the license expiration date. Applications for Inactive Status request will not be considered if postmarked on or after November 1st of every even numbered year. There is no fee to apply for inactive status.

(2) An individual whose license status is inactive shall not practice as a massage therapist within the state of Georgia.

(3) An individual whose license is under any investigation or sanction may not transfer to inactive status while the sanctions are in effect.

(4) Licensees shall request in writing to the Board for the reactivation of their massage therapy license.

Reactivation of an inactive status license is within the discretion of the Board. The following requirements must be met:

(a) If a licensee has been on inactive status for less than two (~~5~~) years, applicant must meet the requirements for renewal of licensure pursuant to Rule 345-4-.01, excluding late renewal penalty fee, and all required CE hours must be obtained within one year prior to the date of receipt of the Reactivation Application.

(b) If a licensee has been on inactive status for a period greater than two (~~5~~) years, applicant must meet the requirements for reinstatement pursuant to Rule 345-4-.05.

Cite as Ga. Comp. R. & Regs. r. 345-4-.04

Authority: Authority O.C.G.A. Secs. 43-1-3, 43-1-7, 43-1-10, 43-1-19, 43-1-22, 43-1-24, 43-1-25, 43-24A-3, 43-24A-7, 43-24A-8, 43-24A-10, 43-24A-14, 43-24A-17, 43-24A-20, 50-13-3.

History. Original Rule entitled "Inactive Status" adopted. F. July 5, 2007; eff. July 25, 2007.

Repealed: New Rule of same title adopted. F. Feb. 25, 2008; eff. Mar. 16, 2008.

Repealed: New Rule of same title adopted. F. July 2, 2009; eff. July 22, 2009.

Repealed: New Rule of same title adopted. F. Nov. 3, 2010; eff. Nov. 23, 2010.

Amended: Subparagraphs 345-4-.04(4)(b) was deleted in error when F. Nov. 3, 2010; eff. Nov. 23, 2010 was published. Error was discovered and corrected October 25, 2011.

The Board discussed the economic impact of Board Rule 345-4-.04 upon the licensee. Ms. Butler motioned, Mr. Knowles seconded, and the Board voted unanimously in favor of the motion 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.

Ms. Butler motioned, Mr. Knowles seconded, and the Board voted unanimously in favor of the motion that it is not legal or feasible to meet the objectives of O.C.G.A. §§ 43-1-25, 43-24A-19(2), and 43-24A-3(4) to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(3)(A), (B), (C), and (D). The formulation and adoption of these rules will impact every licensee in the same manner and each licensee is independently licensed in the field of Massage Therapy.

### 3) **Board Rule 345-4-.05 Reinstatement of a License**

Ms. Butler motioned, Mr. Knowles seconded, and the Board voted unanimously in favor of the motion to refer Board Rule 345-4-.05 Reinstatement of a License as presented to the Attorney General's Office for a memorandum of authority and if no objections noted, vote to post.

#### 345-4-.05 Reinstatement of a License

(1) Reinstatement of a revoked or lapsed license is within the discretion of the Board.

(2) An applicant for reinstatement of a revoked or lapsed license must submit a completed application provided by the board, payment of the required fee and evidence satisfactory to the Board that the applicant:

(a) is a citizen of the United States or a permanent resident of the United States; and,

(b) has a satisfactory result from a fingerprint record check report conducted by the Georgia Crime Information Center and the Federal Bureau of Investigation, as determined by the Board. The applicant shall be responsible for

all fees associated with the performance of such background check (see the Fingerprint COGENT-GAPS Instructions on the Board website under the Application Downloads link).

(c) if the license has been revoked or lapsed for **less than five two (52) years**, submission of evidence of completion of twenty-four (24) hours of Board approved continuing education, in accordance with Board Rule 345-4-.02, obtained within one (1) year of the date of the reinstatement application [is received](#);

or,

(d) if the license has been revoked or lapsed for **more than five two (52) years**, submission of evidence of completion of twenty-four (24) hours of Board approved continuing education, in accordance with Board Rule 345-4-.02, obtained within one (1) year of the date of the reinstatement application, **AND**, verification [of a valid exam score on an MBLEx exam which was taken within the twelve \(12\) months preceding the date the application is received by the Board](#).

(3) The continuing education hours used for the reinstatement of a license cannot be used to meet the continuing education hours required for the biennium during which the license was reinstated.

(4) The Board may impose any limits, sanctions, restrictions or other disciplinary actions as a condition of reinstatement it deems necessary.

(5) The Board may require additional verification of any requirements or credentials as the Board may deem necessary.

Cite as Ga. Comp. R. & Regs. R. 345-4-.05

Authority: O.C.G.A. Secs. 43-1-3, 43-1-7, 43-1-10, 43-1-19, 43-1-22, 43-1-24, 43-1-25, 43-24A-3, 43-24A-7, 43-24A-8, 43-24A-10, 43-24A-14, 43-24A-17, 43-24A-20, 50-13-3.

History. Original Rule entitled "Reinstatement of a License" adopted. F. July 5, 2007; eff. July 25, 2007.

Repealed: New Rule of same title adopted. F. Feb. 25, 2008; eff. Mar. 16, 2008.

Repealed: New Rule of same title adopted. F. July 2, 2009; eff. July 22, 2009.

Repealed: New Rule of same title adopted. F. Aug. 31, 2011; eff. Sep. 20, 2011.

Amended: F. Mar. 10, 2015; eff. Mar. 30, 2015.

The Board discussed the economic impact of Board Rule 345-4-.05 upon the licensee. Ms. Butler motioned, Mr. Knowles seconded, and the Board voted unanimously in favor of the motion 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.

Ms. Butler motioned, Mr. Knowles seconded, and the Board voted unanimously in favor of the motion that it is not legal or feasible to meet the objectives of O.C.G.A. §§ 43-1-25, 43-24A-19(2), and 43-24A-3(4) to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(3)(A), (B), (C), and (D). The formulation and adoption of these rules will impact every licensee in the same manner and each licensee is independently licensed in the field of Massage Therapy.

#### 4) Memorandum of Advice Request

Ms. Butler motioned, Mr. Nichols seconded, and the Board voted unanimously in favor of the motion to request a memorandum of advice for the office of the attorney general regarding the authority to add and/or require a current photo on a license issued by the Board.

#### 5) Request for Reconsideration - Marvin M. Rice, Law Office of Marvin Rice, LLC

Ms. Nichols motioned, Ms. Butler seconded, and the Board voted unanimously in favor of the motion to deny the petitioner's request to accept the amended list of Atlanta Beauty and Barber Academy graduates from the class of 2013. The Board upholds the decision that individuals who were not listed on the original list of graduates, provided to the Board upon the withdrawal of recognition status of the massage therapy program at Atlanta Beauty and Barber Academy, will not be eligible for licensure.

**Adjournment** With no further business to be discussed, the meeting was adjourned at 3:14p.m.

**Minutes recorded by:**

Tamara Elliott, Board Support Specialist

**Minutes reviewed and edited by:**

Kathy Osier, Licensing Supervisor & Adrienne Price, Executive Director

**Minutes approved on:**

December 4, 2015

**CRAIG KNOWLES**  
**BOARD CHAIR**

**ADRIENNE PRICE**  
**EXECUTIVE DIRECTOR**