

GEORGIA STATE BOARD OF MASSAGE THERAPY
Board Meeting Minutes
Professional Licensing Boards
237 Coliseum Drive, Macon, GA
Friday, October 28, 2016 - 9:00 a.m.

The Georgia Board of Massage Therapy met on Friday, October 28, 2016. The following members were present:

Board Members Present

Craig Knowles, Board Chair
Jennifer Clay, Vice Chair
Pam Nichols, Board Member

Administrative Staff Present

Adrienne Price, Executive Director
Michelle Foster, Board Support Specialist
Kathy Osier, Licensing Supervisor

Board Members Absent

None.

Attorney General's Office Present

Betsy Cohen, Assistant Attorney General

Visitors Present

- 1) Vonda Hendrickson
- 2) Anita Brown
- 3) Judy LeFave, AMTA GA Chapter Government Relations Chair
- 4) Dante Tobias
- 5) Joey Bunn
- 6) Stan Jones, AMTA GA Chapter
- 7) Michaela Underwood
- 8) Jamie Talluto
- 9) Toni Roberts

Call to Order Mr. Knowles established that a quorum of three was present and called the meeting to order at 9:05 a.m.

OPEN SESSION

Agenda

Ms. Nichols motioned, Ms. Clay seconded and the Board voted unanimously in favor of the motion to accept the agenda as presented.

Open Session Minutes:

September 9, 2016 Board Meeting Minutes

Ms. Nichols motioned, Ms. Clay seconded and the Board voted unanimously in favor of the motion to approve the September 9, 2016 open session minutes as amended to correct grammatical errors.

Licenses to Ratify: September 2, 2016 – October 21, 2016

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to ratify the licenses by application and by reinstatement which were issued in accordance with Board Rules and Policies between Board meetings.

Correspondence - Deborah Ashley - Grandfathering in as a MT

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to notify the writer that presently there is no grandfather clause in the statute; however, if the writer wishes for the Board to consider waiving or varying any of the current requirements for licensure, the writer must first submit an application to the board for consideration along with a petition for rule waiver or variance.

Correspondence - Lori Dunn – 70% Rule

Ms. Nichols motioned, Ms. Clay seconded and the Board voted unanimously in favor of the motion to notify the writer that the "70% Rule" has always been the Board's policy. Board Rule 345-4-.02 Continuing Education Hours. Amended. was previously amended to include the policy language and the adoption of the rule revision became effective on September 22, 2015. Additionally, the Board has notified NCBTMB and CE Broker of the rule requirements so that these organizations may assist with educating any NCBTMB Approved Continuing Education Provider; however, it is ultimately the licensee's responsibility to ask the CE Provider if the course meets the policy and rule requirements before arranging to take any course. The amendments to Board Rule BR 345-4-.03 Continuing Education Providers which were adopted on October 28, 2016 will further clarify to licensees and NCBTMB Approved Continuing Education Providers of type of documentation that must be submitted in order for the Board to consider awarding credit

for a continuing education course. The use of CE Broker, Inc. and NCBTMB do not guarantee approval of continuing education as these entities merely assist the Board with the review of the qualifications of CE Providers, some of the course content, and the tracking of continuing education for auditing purposes. Ultimately, it is the Board which determines if a continuing education course will be accepted

Correspondence - Libby Eason

1. Request for Subcommittee on Pending Legislation

Mr. Knowles reports that Ms. Eason is questioning the Board's composition. The Board is appointed by the Governor. The Board and staff have nothing to do with who is appointed. He further indicated that Ms. Katy Sharp from the Governor's Office also responded to this question posed by Ms. Eason. Mr. Knowles remarked that Ms. Eason suggests that there should be bodyworkers represented on the Board. He stated that the Board has already considered this suggestion and there are now two proposed Body Worker seats on the Board within the legislative draft. In other words the seats on the Board will expand from 5 members to 7 members. He reiterated that this is proposed legislation and has not been passed yet and as a result, the Board cannot place any bodyworkers on the Board.

Mr. Knowles stated that in relation to the Board's legislation, Ms. Eason questions if individuals are allowed to comment and provide input? Ms. Eason was informed that there has not been a final draft submitted in order for the public to submit comments.

Mr. Knowles indicated that Ms. Eason further question the reasons the Board has embarked on amending the statute to include bodywork. He explained there have been lots of complaints concerning the public safety of Body Workers which raised concerns that Body Work is not currently regulated in the state. The Board has had ongoing meetings with I.C.E. (U.S. Immigration and Customs Enforcement), the Polaris Project, Homeland Security, etc. regarding how the lack of regulation has hurt these professions. Every agency the Board has met with reports that the inappropriate activities are coming straight from individuals that fall under the Body Work professions.

Mr. Knowles stated that Ms. Eason also questions the Board's intent for regulating educational programs. In response, he stated that the intent of regulating educational programs is because the Board only recognizes Massage Therapy programs. As a result, there are some things the Board cannot do in order to protect public safety. Anyone can make a school look good on paper. Some schools are set up just as a place to teach exam questions and not the practice of massage and non-English speaking test takers are able to pass the exam without a translator. They are being taught licensing questions. They are taught key words. People are hired to go get questions posing as students. We are having issues with schools like this. Are these schools legit? No. These students are not learning what they should be learning in school. They are just learning how to pass a test and that is harmful to the public. He stated that unfortunately NPEC warns the school when they are coming to audit them thus allowing them to fake a decent school and get away with their impropriety.

The Board can't require schools to send in their records unless there is a complaint or a generalized audit. The Board doesn't have the authority because the Board does not regulate schools. We know of some schools who are fraudulent, and selling transcripts but they were approved by NPEC. If we have regulation of the schools, we have some authority to stop this.

Mr. Knowles explained that there is fraud concerning the applications processes, license renewals, in the schools and in testing. Human trafficking is taking place because of this. Coastal states are having huge problems with this and so are the Polaris Project, I.C.E., local city and county governments. Georgia is adjacent to the coast and being forced onto the frontline of this issue just like California and Florida. Working with Polaris and I.C.E and local authorities, we are finding that it's just been difficult to catch the "big fish." And when caught, prosecutors are charging them with lesser charges so they don't have to be deported because their families or the perpetrator themselves will be killed. There is a huge need to assist the victims. Trying to figure out how we can best help the victims and put a stop to what is happening and endangering the public is what the Board has to focus on.

Mr. Knowles stated that another question posed by Ms. Eason is why is body work treated the same as massage? He stated that they are looking to regulate Body Work as they do massage because Body Work is the manipulating of soft tissue. It's grouped together under one umbrella. Mr. Knowles remarked that in light of all he has stated, what is it that the Board should be looking at? He stated that he feels the Board is doing it and at this point, it's better to offer potential solutions to managing and regulating these issues rather than ignore the problems. Having someone like Ms. Eason, who represents other professions which may be considered bodywork, on the Board, would make the Board more informed if the statute allowed for such.

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to create a Legislative Subcommittee to review the Georgia Massage Therapy Practice Act and identify issues suitable for

legislative review as it relates to the regulatory authority of the Georgia Board of Massage Therapy; gather and evaluate statutory language relative to the practice of massage therapy and the regulation and control of bodywork practitioners, massage therapy educational programs, bodywork educational programs, and massage therapy businesses; and, draft proposed amendments to the Georgia Massage Therapy Practice Act for review by the Board as directed in discussion. The Board will then vote to release a statement of its position relevant to the submission of the draft to the Georgia General Assembly during the 2016-2017 Regular Session.

2. Proposed amendment to Georgia Practice Act

In response to correspondence from Ms. Laurie Pratt, President of the AMTA Georgia Chapter, Mr. Knowles remarked that the Massage Practice Act is not finalized. The draft that was submitted to Office of Secretary of State is only a starting point based upon the illegal activity and potential harm to the public that is being done under the umbrella of Body Work.

Mr. Knowles reported that at the national convention for the Federation of State Massage Therapy Boards, many states were removing exemptions from their laws. The regulation is for the protection of the public and he feels that the one child that is being saved as a result of these amendments to legislation is worth the change.

Mr. Knowles reported that there is a task force in Ohio to combat human trafficking and remarked that regulation has to evolve as the practice evolves, especially when there has been a call for help from local municipalities and the Governor's office. He indicated that Reflexology is still exempt in most states as well as energy work that does not touch the body. Energy work that does not touch the body is not exempt. To the individuals present, Mr. Knowles clarified that structured touch, pressure and movement of the hands, feet and ears is reflexology. He stated that there needs to be a collective effort with the public and with municipal organizations.

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to task members of the subcommittee to the role of further educate the general public, to include legislators, law enforcement, massage therapists and bodyworkers regarding any proposed legislative amendments and the Legislative Subcommittee of the Board is to consist of a maximum of two (2) individuals who are active members of the following groups or organizations:

- 1) Georgia Board of Massage Therapy
- 2) American Massage Therapy Association – Georgia Chapter (AMTA-GA)
- 3) Associated Bodywork & Massage Professionals (ABMP)
- 4) The International Association of Structural Integrators (IASI)

9:30 am Public Rule Hearings

BR 345-4-.03 Continuing Education Providers

SYNOPSIS OF PROPOSED CHANGES TO THE GEORGIA BOARD OF MASSAGE THERAPY CHAPTER 345-4, LICENSE RENEWAL, CONTINUING EDUCATION, INACTIVE STATUS AND REINSTATEMENT OF LICENSE, RULE 345-4-.03, CONTINUING EDUCATION PROVIDERS

Purpose: The purpose of this rule amendment is to update and further define the requirements of acceptable continuing education hours from any entity that is recognized/approved as "Continuing Education Provider" by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB).

Main Features: The amendments further clarify the requirements that must be met in order for the Board to accept documentation of continuing education from a NCBTMB Approved Continuing Education Provider.

DIFFERENCES BETWEEN THE EXISTING RULE AND THE PROPOSED AMENDMENTS TO THE GEORGIA BOARD OF MASSAGE THERAPY CHAPTER 345-4, LICENSE RENEWAL, CONTINUING EDUCATION, INACTIVE STATUS AND REINSTATEMENT OF LICENSE, RULE 345-4-.03, CONTINUING EDUCATION PROVIDERS [Note: underlined text is proposed to be added; lined-through text is proposed to be deleted.]

Rule 345-4-.03 Continuing Education Providers

(1) The Georgia Board of Massage Therapy does not pre-approve continuing education courses or programs at this time. The Board will accept continuing education hours from any entity who is recognized/approved as a "Continuing Education Provider" by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) provided that the hours are related to the scope of practice of massage therapy as defined in O.C.G.A. § 43-24A. Continuing

Education Providers recognized by the NCBTMB may be located by contacting the NCBTMB directly or by searching their website, www.ncbtmb.org.

(2) In order for the Board to accept documentation of continuing education from a NCBTMB Approved Continuing Education Provider, the following requirements must be met:

(a) The provider must have had a current, unencumbered, NCBTMB approved provider number at the time the continuing education course was administered;

(b) The name/title of the course listed on the certificate of completion must be present on the list of courses that NCBTMB has authorized that CE Provider to teach under the associated approved provider number;

(c) On the date of completion for each course, the provider must provide a certificate of completion to each student/attendee who successfully completed all of the course requirements; and,

(d) The provider must record course credit information of CE Broker within seven (7) days of completion of the course for all class attendees which hold a license and have provided consent to release such information to CE Broker.

(e) The provider must have entered information relevant to the program or course to include but not limited to a description, program objective/learning outcomes, content description, and agenda or schedule into CE Broker.

(3) In addition to the above requirements, all CE certificates of completion must include the following information:

(a) The name of the attendee and their license number;

(b) The complete name/title of the course;

(c) The date(s) the attendee took and completed the course;

(d) The number of continuing education hours awarded for the course;

(e) The printed name and signature of the instructor for the course;

(f) The NCBTMB Approved Provider Name, Provider Number and expiration date;

(g) The location or site of the course, i.e. Home Study, Self-Study, Internet, Webinar, WebEx, or physical address where the course was taught; and,

(h) If the course is being submitted to meet the direct hands-on supervised instruction requirement, the certificate must denote that it is a hands-on course. In order for the course to receive hands-on credit, 70% of the course must include direct application of touch, pressure, movement, and holding to the soft tissue of the body.

(4) Providers who fail to report the CEs in accordance with this policy will be removed from the list of approved NCBTMB providers for this state and reported to NCBTMB for noncompliance.

(5) A licensee may not claim any CE hours which do not match corresponding course credit information recorded in CE Broker.

Authority: O.C.G.A. § Secs. 43-24A-20

Written Comments Received

No written comments were received

Public Comments Received

No public comments were received or offered during the hearing.

Ms. Nichols motioned, Ms. Clay seconded and the Board voted unanimously in favor of the motion to adopt the proposed amendment as posted.

Ms. Clay motioned, Ms. Nichols 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, business or corporation and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative.

Ms. Clay motioned, Ms. Nichols 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

Discussion – Laurie Pratt, LMT, President AMTA – GA

1. Multi Ordinance Review

Judy LeFave indicated that she is present and may speak on behalf of Ms. Laurie Pratt and the AMTA Georgia Chapter. She remarked that Alpharetta, Duluth, Fairburn, Atlanta, Dunwoody, Norcross, Kennesaw, Forsyth and Warner Robins are the cities that the AMTA has reviewed for discriminatory rules. The issue is that a lot of these city/county governments have not updated their language within their ordinances since Massage Therapy went into law. The terminology is a mess. It's very difficult to get a business license in these cities. Alpharetta just changed their law terminology in April. And now they are putting Roundup on the whole yard to pull up a few weeds. The cities see that these measures are what is required to get rid of human trafficking.

Ms. LeFave stated that the AMTA Georgia Chapter like adding the Body Workers to the legislation. We know it's not our job to figure out the nuances of Body Work and will leave that to the work of the Board but feel that it is paramount for the Massage Therapy profession to get away from the terms "masseur," "masseur," "massage parlor." We call it a massage business to get away from a bar reputation. This entails a huge educational process. She stated that she lives in John's Creek. John's Creek has been zoned to death for any ability to practice. There are concerned groups of citizens that stay in councilmen's ears and they don't know the scope of practice or that Massage Therapists are even licensed in the first place. The scope of practice they list is inconsistent.

Ms. LeFave states that in some cities and counties, Massage Therapists must now be bonded and have to get the city manager's permission to open a business. Massage Therapists can't be within 300 feet of a church, school or day care or from a certain street. This is why more people will have to go underground because getting a business license as a Massage Therapist is too difficult. The AMTA Georgia Chapter has been looking to change this for a while.

Ms. Lefave reported that now employees for the Massage Therapists are being required to have a work permits, plus the business can only be open if the Massage Therapist is there. The therapist can't go to lunch or leave for any reason even though they have a receptionist. There are also limiting the number of establishments that can practice Massage Therapy, human trafficking posters must be posted and Massage Therapists are being required to be listed under the adult entertainment section in the Yellow Pages. The Polaris Project wants bathroom posters about human trafficking and local governments are "feeing" the licensees to death. The local city governments don't see Massage Therapists under the health care umbrella. She further remarked that some are requiring an extra set of fingerprinting and background checks. They don't see massage therapists as health care practitioners.

Ms. Price remarked that there are still many massage therapists in the profession who don't feel Massage Therapists should be under that umbrella. They don't want to be treated as such and as a result, the profession needs to get on the same page about that issue.

Mr. Knowles indicated that these issues are part of the reason why the statute needs to be updated and the subcommittee can be used to continue to try and educate others about the law. He stated that there is a law on the books now that requires someone to have a license if they are going to open a business but a lot of city and county governments do not follow that law or are not aware of it. Ms. Price reported that she as well as the Division Director and the Executive Director of the Cosmetology and Barber Board have on more than one occasion met with the Georgia Association of Business Tax Officials to educate them on this very issue and will continue to do so as often as we can.

2. Proposed Amendments to Practice Act

Ms. LeFave reported that the AMTA Georgia Chapter have met with Representative Sharon Cooper, Chair of the Health and Human Services Committee and with Senator Renee Unterman. They say to ask for everything we need and want to elevate our profession. She states that she feels the proposed amendment to the practice act will be the document which tries to pull it all together; to bring everyone together. She indicated that after meeting with their Board in Wisconsin last week, AMTA Georgia Chapter have been given permission to do whatever the Board wants to do. They are approved to do what it takes to get this passed including meeting with a subcommittee. They want to walk along with the Board on this process. The time frame to get this into the next legislative session is crucial. They're right here, just like the Body Workers are, to be involved with changes that help the profession. She asked if the proposed amendment is on track for this legislative session.

Ms. Price remarked that the Board has garnered some support from the Secretary Kemp's legislative team. There has not been any additional feedback as to whether or not it will be carried by his office during the upcoming session. She stated that it probably will not now that it's October going into November. Getting a final good draft to go to the legislature to slip in will be very tight and as a result she is optimistic at this point. Ms. Price further remarked that last minute stuff happens in the legislatures all the time so it could happen.

Ms. LeFave stated that it was one of their goals to get this in. She stated that the AMTA Georgia Chapter can send a newer copy of the proposed legislation electronically to give the Board because they further revised it to remove the terms "and/or" and they feel that the most current version bridges the gap between what the states do and what's done on the local and city level.

Ms. Price remarked that there will be some conflict with regard to the language they wish to propose about the business tax and the local requirements as it relates licensure. It may prove difficult to include satisfactory language on how to direct the local governments on how to handle Massage Therapists and their businesses. She stated that she has been working with the Georgia Association of Business Tax Officials to assist them with identifying the current differences between massage therapy and all the exemptions in the law.

Mr. Knowles stated that the Board's latest draft changed the definitions as far as taxation in that they took the terminology and added it one section down.

Ms. LeFave remarked that the practice act is a state wide Georgia Law and they are trying to stop this discrimination because it's unlawful. In the City of Milton, a Massage Therapist is required to work under an M.D., D.O., Chiropractor, or Physical Therapist to practice. Columbia County has a \$650 zoning fee. Lawrenceville has a \$1500 fee. She stated that working on a subcommittee has a two-fold benefit as it relates to educating law enforcement and the community. The Police are putting people arrested for prostitution in these businesses right back on the street and the code enforcement guy in my county is having to deal with the illegal activity the best way they can. It's difficult for everyone involved.

Ms. LeFave stated that she took packets of information related to what Massage Therapy is all about to local authorities. There was an article in the Journal of American Medicine saying massage is better for your back pain than a pill. Ms. Anita Brown remarked that Massage Therapy is such a rich and diverse profession and Massage Therapists can do non-medical work and not be a prostitute.

In closing of the discussion, Mr. Knowles stated that the Massage Therapy schools are not doing their job in properly educating and screening students about the medical, holistic and therapeutic benefits of massage therapy and instead seems to want to maintain the profession under the "spa" umbrella. Not enough Massage Therapists realize that no matter what they call it, massage therapists are doing rehabilitation. People are not being educated that they are doing health care. Relaxation is healthcare. What is the number one benefit of Massage – increase in circulation and lymphatic flow. That is Health Care.

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to refer the drafts of proposed amendments to the practice act to the legislative subcommittee for further review.

Discussion – False Advertisement RE GA Approval of CE

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to direct staff to place a listing of continuing education courses that are unapproved in the FAQs on the Board's website and inform the writer that CE Broker and NCBTMB have been notified that Qi Revolution courses are not accepted as hands on continuing education hours.

Discussion – Inactive Status

Ms. Price informed the Board that presently, the Board does not have a policy in place to allow the staff to administratively process inactive status applications. Additionally, the Board Rule regarding Inactive Status does not state when the period that the Board will not consider inactive applications will end and as a result, board staff is not certain how to direct applicants for inactive status who submit their applications after November 1st of the even numbered year. Ms. Price requested that the Board consider clarifying the intent of the Board as it relates to the inactive status rule and procedures for the current biennium as well as for future renewal cycles.

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to allow the staff to administratively approve an application for inactive status for the 2014-2016 biennium only if:

- 1) The application is received in the Board office and postmarked prior to November 1st;
- 2) The license meets the requirements of Board Rule 345-4-.04; and,
- 3) The license meets the requirements as outlined in Board Policies A1 and A2.

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to adopt Board Policy A11 as well as amend Board Rule 345-4-.04(1) as follows:

POLICY A11

The Board staff may administratively approve an application for inactive status if:

- 1) The application is postmarked as received in the Board office on or before October 31st of even numbers years;
- 2) The license meets the requirements of Board Rule 345-4-.04; and,
- 3) The license meets the requirements as outlined in Board Policies A1 and A2.

A list of licenses placed in an active status between board meetings in accordance with the rules and policies of the Board, will be ratified by the Board at their next scheduled meeting.

Rule 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. The Board will consider Applications for Inactive Status for applications postmarked in the Board office on December 1st through October 31st of every even numbered year. Applications for Inactive Status request will not be considered if postmarked in the Board office on or after November 1st through November 31st 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, is the subject of active disciplinary proceedings or has a sanction in effect may not transfer the license to an inactive status while the sanctions are in effect.
- (4) Licensees who wish to reactivate their massage therapy license shall request in writing submit an Application to Reactivate Licensure 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~~ (52) years or less, the 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 (52) years, the 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.

Ms. Nichols motioned, Ms. Clay seconded and the Board voted unanimously in favor of the motion to refer Board Rule 345-4-.04 as presented to the Attorney General's Office for a memorandum of authority and if passed, vote to post.

Ms. Clay motioned, Ms. Nichols 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, business or corporation and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative.

Ms. Clay motioned, Ms. Nichols 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.

Petition for Rule Waiver

1. BR 345-4-.02(4) - Annette Bennett - MT010295

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to deny the petition for waiver of Board Rule 345-4-.02(4) due to insufficient evidence to substantiate a hardship and refer licensee to the statute regarding inactive status.

Petition for Rule Variance

1. BR 345-4-.02(1)(a) - Patty Wruble - MT004737

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to table a decision pending receipt of documentation from her physician to include medical diagnosis, prognosis and a statement regarding the petitioner's ability to practice with reasonable skill and safety as well as if there should be any limitations on practice. Such documentation is to be submitted within 30 days of receipt of notice. If the Cognizant Board Member reviews and approves the documentation, allow individual to complete all of her CE online by 12/31/2016. If individual is unable to provide the requested information or Cognizant Board Member does not approve documentation deny petition for rule variance.

2. BR 345-3-.02(2)(c) - Jamie Talluto – 2627322

Ms. Clay motioned, Mr. Knowles seconded and the Board voted unanimously in favor of the motion to accept the documentation provided as evidence of meeting the education requirements and grant the rule variance. Ms. Nichols recused herself from the vote.

Southern Regional Technical College Massage Externship - Michaela Underwood

Ms. Underwood asked the Board if a Georgia licensed massage therapist may be considered a supervisor as long as they are recognized by the Board and if the supervisor can be at different sites in order to develop their massage externship program. Mr. Knowles referred Ms. Underwood to the Board Rule 345-8-.01 and 345-8-.02 regarding on-site and faculty requirements. He further informed Ms. Underwood that any change to their basic, primary massage education program must first be approved by NCBTMB and NPEC, then submitted to the Board for approval. Mr. Knowles stated that programs may always offer more than what the Board is required but it all must meet the approval of all three entities.

Ms. Nichols motioned, Ms. Clay seconded and the Board voted unanimously in favor of the motion to deny the request to add the Massage Externship citing that supervised clinical must be done on-site, on campus.

Education Report – C. Knowles

1. Virginia College - Columbus - Notice of Program Closure on 06/19/2015

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to withdraw recognition effective June 19, 2016.

2. Everest Institute - Jonesboro - Notice of Program Closure on 04/15/2016

Ms. Nichols motioned, Ms. Clay seconded and the Board voted unanimously in favor of the motion to withdraw recognition effective April 15, 2016.

3. Everest Institute – Norcross – No Program Director and Expired NPEC

Ms. Nichols motioned, Ms. Clay seconded and the Board voted unanimously in favor of the motion to withdraw recognition effective June 20, 2016.

4. International School of Skin, Nail care and Massage Therapy

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to table discussion until the next Board meeting.

5. Georgia Christian University

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to table discussion pending a full report of findings from the NPEC onsite visit.

FSMTB Annual Meeting Update - Pam Nichols and Craig Knowles

Pam Nichols stated it was a great honor to represent the Board at the Federation of State Massage Therapy Boards (FSMTB) annual meeting and that she took this responsibility very seriously. She reported that the attorney for the Federation said that some states need to watch their terminology within their rules and policies. For example, refrain from requiring the respondent to attend "AA" but instead require them to attend "a program" specific to their need. She reported the Federation said that all states should reassess their applications and only ask what is needed for licensure.

Ms. Nichols continued that it was highly recommended that the Georgia Board of Massage Therapy meet regularly with other Massage Therapy State Boards to see what works and what doesn't and it was suggested that the Board needs to ask for pardons and expungements as well as convictions and arrests on their applications.

Concerning reporting on the MBLEx, Ms. Nichols said that the annual meeting covered the need for further education for those who failed the MBLEx. Mr. Knowles remarked that this was because if someone fails the MBLEx five times, they obviously didn't meet all the requirements of their massage therapy program. He questioned, where would you find CEs for the MBLEx? And where would applicants go to prepare? The Federation was saying they needed CEs and not more schooling. He reported that the resolution on this topic did not pass.

Ms. Nichols discussed how human trafficking was a hot topic for the meeting. She said she didn't realize the magnitude of the problem of human trafficking. She stated she learned of the need to treat these women more like victims and not like prostitutes. The Federation suggested that when Boards are dealing with those individuals who do not appear to speak or understand good English, they should make up a list of questions to ask them during a board interview that will help the Board identify if they are in trouble or obtained their diploma or certificate by fraud. For example, ask if they have family that would be harmed if they didn't get licensed or ask questions about massage that they should know.

Ms. Price commented that it would be important to know how other states are getting away with asking those questions without appearing to discriminate. She stated that she is aware that Tennessee and possibly Texas brings in people for interviews in this manner but she concedes that there must be some legal loop holes that they have found which enables them to do so.

Ms. Nichols shared that the topic of security was discussed. It was suggested that security be at all board meetings and that a disaster recovery plan be put in place. They suggested that all board information be put on a cloud; all electronic. It was suggested that between midnight and 5 a.m. there be no Massage Therapy businesses open for service. It was suggested that the Board look at how California does their school approvals as a template and it was recommended background checks be required for renewals. She continued that the Board should look at this.

Ms. Price described that this was something she and Mr. Knowles have discussed. Background checks for renewals are not in the statute and would require a statutory change. Every state requires that you must self-report criminal history, but so many licensees do not. She reported that Florida captures arrests by subscribing to Rap-Back through the Federal Government; however, this too would have to be in the statute and would be of some cost to the Board. Mr. Knowles stated that there's no financial hardship to the licensee to have these background checks, if there is no legal impropriety on their part.

Ms. Nichols went on to mention that Continuing Education course providers are getting trademarks. The Federation said the Boards will have to deal with this soon, along with NCBTMB certifications. Ms. Nichols went on to say, at some time in the future this may be an issue for the Board.

Ms. Price said it's important to note that having a trademark would not equate to vetting the business or the courses. The Board would still need to review the courses.

Ms. Nichols reported that the Federation brought up the topics of temporary licenses and the Massage Therapy Boards being able to regulate schools. And she explained that slides are available to Assistant Attorney General Betsy Cohen about the discussion of how citations are recommended instead of Cease & Desist orders. Ms. Price remarked that some Boards in Georgia currently issue citations instead of C&Ds and provided the Cosmetology and Barber Board as an example.

Ms. Nichols said the Federation also discussed the TOEFL being required as well as looking at the North Carolina Board regulation which posed the questions, is our process self-regulating and are we acting in our own self-interest?

Mr. Knowles reported that the Georgia Board's first resolution passed overwhelmingly with only 39 present and 34 voting yes. The vast majority passed the resolution because they want proof of the applicant's education to be received up front by FSMTB, from a state approved program where the school resides. This puts the school in the driver's seat. He stated there was some concerns in states where a student must pass the MBLEx in order to graduate as it would burden those schools whose exit exam was the MBLEx but FSMTB will work with those states. He indicated that with the passing of this resolution, the school is in charge of their own pass rates now. The school is totally in charge.

Mr. Knowles said the second resolution, which would limit the number of attempts one has to pass the MBLEx, did not pass because the delegates felt it was not strict enough. They would have passed it if it had said that applicants had three times, not five times, to take the MBLEx. In the state of Ohio, it is three and done. Three and then go back to school was what the majority preferred.

Mr. Knowles reported that during the FSMTB Annual Meeting, the Board of Directors did not do too many formal resolutions, just discussions of interest in having more security at the beginning of the exam and having an English proficiency mini test before getting access to the MBLEx based on the fact that the learning or use of key words is how the non-English reading test takers are getting through. These individuals can't speak English, can't read English and can't write English, so what is the Federation wanting to do? Not require a full TOEFL, but a fifth grade reading exam right before the exam. If a student can't pass they forfeit the \$195 exam fee and the test turns off. Mr. Knowles said there was a consensus that there should be some sort of question asking if the student will be in danger if they don't pass.

Ms. Nichols stated that if a person fails these few questions they are a possible victim of human trafficking. There needs to be time to get someone to help them immediately. There would need to be access to multiple interpreters. She suggested that maybe some UGA professors, for example, could be used as interpreters.

Mr. Knowles went on to say that this Board should tackle this and not wait for the Federation to include an English proficiency test before the exam. He stated that the Federation exam committee is looking at this but he felt that the Board's resolution verbiage was better than what has been presented thus far.

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to accept the report and discussion made by Board members who attended the FSMTB Annual Meeting.

Board's Chair Report – C. Knowles

None was presented.

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. Ms. Price's report shared August 1, 2016 is when renewals went live and AMTA was notified. September 9, 2016 and October 6, 2016 reminder postcards and emails went out with updated CE Broker requirements. She provided a reminder for Board members to keep track of your CE Broker account for audits. Ms. Price reported that she, along with Division Director Lisa Durden and the ED of the Cosmetology and Barber Board on a regular basis to the Georgia Association of Business Tax Officials to explain specific tenets of Massage Therapy licensure. She reported that she discussed topics such as what is massage, the jurisdiction of the Board, what to look for with human trafficking, the definition of massage therapy and what to report to the Board when they see it.

Ms. Nichols motioned, Ms. Clay seconded and the Board voted unanimously in favor of the motion to accept the Executive Director's Report as presented.

Miscellaneous Discussions

Mr. Knowles asked about the status regarding the Board's authority to add and/or require a current photo on a license issued by the Board. Ms. Price shared that Scott Forbes, the Board's previous Assistant Attorney General, had conducted research and determined that the Board did have authority to add and/or require a current photo to be added to the license issued by the Board. The picture would only be available for review internally and when the licensee prints their own license, but it will not be available for the public to view. Ms. Price stated that this process would have to be developed internally by the Secretary of State Office and would include a process by which the licensee would have the ability to upload a current picture that would print out on their individual license.

Mr. Knowles acknowledged visitor Ms. Vonda Hendrickson who stated to the Board that she was not in agreement with this and wanted to know if the public would have any input regarding this decision. Ms. Price indicated that she did not know if the public would have input as this is new territory and it will probably take a year or more before the Secretary of State Office would even get to review the process.

Mr. Knowles acknowledged visitor Ms. Michaela Underwood who stated that she informs her students that they will have to undergo a background check when they apply for licensure with the Georgia State Board of Massage. Many of the students are asking her if a DUI would be grounds for denial of their application. Both Mr. Knowles and Ms. Price stated that each application is reviewed on an individual basis and all arrests and relevant information is taken into consideration. Ms. Underwood also asked the Board if it would help the application process if a student came to the Board Meeting. Ms. Price stated that this would not necessarily assist with the application process.

Ms. Nichols motioned, Ms. Clay 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 the Board members: Mr. Knowles, Ms. Clay, and Ms. Nichols.

At the conclusion of the Executive Session of Friday, October 28, 2016, 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.

OPEN SESSION

2:00 pm Personal Appearance – MT160075

Ms. Nichols motioned, Ms. Clay seconded and the Board voted unanimously in favor of the motion to table pending receipt of additional requested information.

Executive Session Minutes

September 9, 2016 Board Meeting Minutes

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to approve the September 9, 2016 executive session minutes as presented.

Attorney General’s Report

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

1. **T.V.T.A.** Accept the Public Consent Order pending receipt of the original.
2. **S.C.** Refer to the Attorney General’s Offices for a Private Consent Agreement for Renewal of Licensure to include a requirement that the respondent continue psychiatric treatment as recommended by the treatment provider for as long as the psychiatrist requires treatment and quarterly employer reports. The respondent may petition to be released from the terms and conditions of the order upon submission of a statement of advocacy from the treating psychiatrist for such release.
3. **B.G.** Refer to Attorney General’s Office for a Public Consent Order for Renewal of Licensure to include a fine of \$10,000 for unprofessional conduct and passage of the Ethics and Boundaries Assessment (EBAS). Conditions of the order are to be satisfied within 90 days of effective date of the order and the respondent may not perform massage on female clients. The respondent may petition to lift the restriction regarding female clients after all conditions are met.
4. **Research Increased MT Business License Fees by Local Municipalities –**
Rescind the previous motion to request the Attorney General’s Office to provide guidance related to this issue.

Cognizant’s Report – J. Clay

Ms. Nichols motioned, Mr. Knowles seconded and the Board voted unanimously in favor of the motion to accept the following Cognizant report as presented:

1. **MT160047** Close the case with no action. If applicant attempts to reapply, the Board will consider the facts of the Case prior to rendering a decision regarding licensure.
2. **MT160070** Refer to Legal Services for a Private Consent Agreement with a fine of \$500.00 for failure to disclose the Cease and Desist Order to the Board on the renewal application.
3. **MT160072** Refer to Legal Services for a Public Consent Order to include a fine of \$1500.00 for practicing beyond the scope of Massage Therapy, unlicensed practice from 11/1/2014 to 06/13/2016, and making a false representation on the reinstatement application by indicating that the respondent did not practice after the license expired. The fine must be paid in full within ninety (90) days of the docket date. Refer the complaint investigation to the Georgia Board of Chiropractic Examiners.
4. **MT160086** Close the case with a Letter of Concern regarding positive drug screen for use of illicit substances.
5. **MT170001** Refer to Legal Services for a Private Consent Agreement with a \$500.00 fine for failure to disclose unlicensed practice on application for licensure.
6. **MT170005** Close the case with a Letter of Concern regarding advertisement as a neuromuscular therapist without a license to practice massage in the state of Georgia
7. **MT170006** Close the case, no action.
8. **MT170011** Table until the next meeting pending additional review of investigative file.

Ratification List of Orders Issued Between Meetings By Policy

Ms. Nichols motioned, Mr. Knowles seconded and the Board voted unanimously in favor of the motion to ratify the list of Private Consent Agreements issued in accordance with Board rules and policies as presented.

Executive Discussions

Ms. Nichols motioned, Ms. Clay seconded and the Board voted unanimously in favor of the motion to accept the following recommendations made in executive session:

1. **MT160050** Refer to Assistant Attorney General Cohen to draft a response in accordance with the Board's direction.
2. **MT150081** Deny request for phone interview.
3. **MT150080** Schedule for appearance at next Board meeting.

Requests for Reconsideration

Ms. Nichols motioned, Ms. Clay seconded and the Board voted unanimously in favor of the motion to accept the following recommendations made in executive session:

1. **R.Z.** Deny request for provisional permit based on failure to disclose denial of licensure on application and previous history with the Board.
3. **L.C.** Table and request that the applicant appear at the next Board meeting.
4. **M.H.** Table and request that the applicant appear at the next Board meeting.
4. **T.L.** Table and request that the applicant appear at the next Board meeting.
5. **S.G.** Uphold the previous motion to deny licensure based upon previous history of submitting fraudulent documentation to the Board and completion of a program not recognized by the Board..

Applications for Board Review

1. **J.T.** Mr. Knowles motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to refer to the Attorney General's Office for issuance of a Private Consent Agreement for Licensure to include probation for a period of 4 years with quarterly employer, personal and monitoring program reports with random drug screens. Must petition to terminate probation after completion of the four-year term. Ms. Nichols recused herself from the vote.

Arrests

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to accept the following recommendations made in executive session:

1. **P.T.** Notify the applicant that as a condition for consideration of licensure must submit the results of a mental and physical examination along with a statement regarding the applicants ability to practice with reasonable skill and safety.
2. **G.C.** Refer to Legal Services for a Private Consent Agreement for Licensure with a fine of \$500 for failure to disclose arrest history on application.
3. **J.H.** Issue the license with a letter of concern regarding criminal history.

Inactive Status

Ms. Nichols motioned, Ms. Clay seconded and the Board voted unanimously in favor of the motion to accept the following recommendations made in executive session:

1. **A.L.** Approve the request for inactive status.
2. **C.H.** Approve the request for inactive status.
3. **C.B.** Approve the request for inactive status.
4. **E.A.** Approve the request for inactive status.
5. **G.F.** Approve the request for inactive status.
6. **H.P.** Approve the request for inactive status.
7. **I.B.** Approve the request for inactive status.
8. **J.P.** Approve the request for inactive status.
9. **G.J.** Approve the request for inactive status.
10. **J.M.** Approve the request for inactive status.
11. **K.B.** Approve the request for inactive status.
12. **K.M.** Approve the request for inactive status.
13. **K.W.** Approve the request for inactive status.
14. **M.N.** Approve the request for inactive status.
15. **M.B.** Approve the request for inactive status.
16. **M.L.** Approve the request for inactive status.
17. **S.J.** Approve the request for inactive status.
18. **S.A.** Approve the request for inactive status.

- 19. **T.S.** Approve the request for inactive status.
- 20. **T.A.** Approve the request for inactive status.
- 21. **Y.A.** Approve the request for inactive status.

Provisional Permit

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to accept the following recommendation made in executive session:

- 1. **J.S.** Deny the request for a provisional permit based on an unauthorized supervisor in accordance with Board Rule 345-3-.01(2).

Reinstatements

Ms. Nichols motioned, Ms. Clay seconded and the Board voted unanimously in favor of the motion to accept the following recommendations made in executive session:

- 1. **M.K.** Refer to Legal Services for a Private Consent Agreement for Reinstatement of Licensure with a fine of \$500 for unlicensed practice from November 1, 2012 – May 11, 2016.
- 2. **A.L.** Refer to Legal Services for a Private Consent Agreement for Reinstatement of Licensure with a fine of \$500 for failure to disclose arrest history on application.
- 3. **E.P.** Refer to the Attorney General’s Office to determine if grandfather clause relevant to applicant. If eligible for licensure, issue a Private Consent Agreement for Reinstatement of Licensure to include a fine of \$2200 for ULP from 1/01/2012 to present. Fine to be paid before 10/31/2018.

Renewal

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to accept the following recommendation made in executive session:

- 1. **E.M.A.** Refer to Legal Services for a Private Consent Agreement with a fine of \$500 for failure to disclose Cease and Desist Order on renewal application.
- 2. **D.S.** Notify licensee that the aromatherapy course will not count as direct hands-on supervised instruction CE but may be applied towards the other CE hours required.

Transcript Review

Ms. Clay motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to accept the following recommendations made in executive session:

- 1. **E.L.** Deny licensure based on failure to complete an educational program recognized by the Board in accordance with O.C.G.A. § 43-24A-8(6).
- 2. **E.M.** Refer to Legal Services for a Private Consent Agreement for Licensure with fine of \$500 for failure to disclose arrest history on application.
- 3. **D.M.** Table and send request to Florida Board to submit a copy of original application file for further review.
- 4. **M.S.** Deny licensure based on failure to complete an educational program recognized by the Board in accordance with O.C.G.A. § 43-24-8(6) and does not meet minimum educational requirements as outlined in BR 345-8-.01.

Miscellaneous Discussions

Referral of Grandfather Clause Statute - Ms. Clay motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to forward the Board’s Statute, more specifically O.C.G.A. § 43-24A-19(9), to the Attorney General’s Office to provide advice and guidance regarding the limitations and provisions of the “Grandfather Clause” that the Board must consider when licensing or reactivating a license to an applicant who practiced massage prior to July 1, 2015 and does not meet current requirements for licensure.

Adjournment With no further business to be discussed, the meeting was adjourned at 7:47 p.m.

Minutes recorded by: Michelle Foster, Board Support Specialist
Minutes reviewed and edited by: Kathy Osier, Licensing Supervisor & Adrienne Price, Executive Director
Minutes approved on: November 30, 2016

CRAIG KNOWLES
BOARD CHAIR

ADRIENNE PRICE
EXECUTIVE DIRECTOR