

GEORGIA BOARD OF MASSAGE THERAPY
Board Zoom Meeting Minutes
Friday, April 22, 2022 - 9:00 a.m.

The Georgia Board of Massage Therapy met via Zoom meeting on Friday, April 22, 2022. The following members were present:

Board Members Present

Craig Knowles, BAS, LMT, BCTMB, CNMT, Chair
Pam Nichols, LMT, CNMT, HNC, Vice Chair
Jayne Boyles Curry, Consumer Board Member

Administrative Staff Present

Adrienne Price, Executive Director
Michelle Hornaday, Board Support Specialist
Meagan Doss, Complaints/Compliance Analyst

Board Members Absent

No members absent.

Attorney General's Office Present

Melissa Tracy, Assistant Attorney General
Sandra Baily, Assistant Attorney General
Kirsten Daughdril, Senior Assistant Attorney General

Visitors Present

Johanna
Taylor
Rickey Morgan
Michael Reynolds
Tracy Daly, Campus President, Atlanta School of Massage (ASM)
Ashley Hernandez, Government Relations, Federation of State Massage Therapy Boards (FSMTB)
Pat Neri, Georgia Nonpublic Postsecondary Education Commission (GNPEC), Program Manager
Kari Stauder, Student Records, Atlanta School of Massage (ASM)
Pat Hodges, Court Reporter

Call to Order Mr. Knowles established that a quorum was present and called the meeting to order at 9:02 a.m.

OPEN SESSION

Agenda

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

Ms. Nichols motioned, Ms. Curry seconded, and the Board voted unanimously in favor of the motion to enter into Executive Session in accordance with O.C.G.A. §§ 43-1-2 (k); 43-1-19 (h) and 50-14-2 (1) to receive and review information pertaining to applications, pending cases investigative reports and enforcement matters and to receive the Assistant Attorney General's report. Voting in favor of the motion were those present who included Board members: Craig Knowles, Pam Nichols, and Jane Curry.

At the conclusion of Executive Session on Friday, April 22, 2022, 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

Attorney General's Report – M. Tracy

1. MT Rule Review Memo

Ms. Nichols motioned, Ms. Curry seconded and the Board voted unanimously in favor of the motion to post BR 345-1-.01 Definitions, BR 345-4-.02 Continuing Education Hours, BR 345-4-.05 Reinstatement of a License, and BR 345-5-.02 Unprofessional Conduct, plus BR 345-4-.03 Approved Continuing Education Providers, and BR 345-5-.01 Professional Standards, as amended, for a Public Rules Hearing.

The formulation and adoption of these rules does not impose excessive regulatory cost on any licensee; and any cost to comply with the proposed rules cannot be reduced by a less expensive alternative that fully accomplishes the objectives of the statutes.”

It is not legal or feasible to meet the objectives of the statute 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, business and member of the public) in the same manner in the field of Massage Therapy.

Ms. Nichols motioned, Ms. Curry seconded and the Board voted unanimously in favor of the motion to release the Memorandum of Authority from the Attorney General’s Office on the rule discussion.

Ms. Nichols motioned, Ms. Curry seconded and the Board voted unanimously in favor of the motion to refer BR 345-4-.04 Inactive Status back to the Attorney General’s Office for a Memorandum of Authority, and if no objections, vote to post.

a) BR 345-1-.01 Definitions

345-1-.01. Definitions

- (1) "Approved Provider" means a provider of continuing education who has been designated as an "Approved Provider for Continuing Education" by the NCBTMB, or another continuing education ("CE") provider approved by the Board in accordance with board rules.
- (2) “Biennial” or “biennium” means the two (2) year period in which a license is valid.
- (3) “Complementary methods” means techniques that may be used in conjunction with massage therapy.
- (4) “Continuing Education” is any learning activity obtained from a board approved provider on topics related to the scope of practice of massage therapy in the state of Georgia. Continuing education may include supervised in-person or distance learning activities.
- (5) “Distance learning activity” is continuing education provided by a board approved provider that is not physically present.
- (6) "FSMTB" means the Federation of State Massage Therapy Boards.
- (7) “Hands-on instruction” means that a board approved provider directly supervises a student while the student is engaged in the direct application of touch, pressure, movement, and holding to the soft tissue of the body of a person..
- (8) “Hour” means one "clock hour" of education that is no less than fifty (50) minutes of any hour during which a student, applicant or licensee participates in a learning activity in the physical presence of an instructor or in a distance learning activity as designed by a board approved provider.
- (9) “Massage therapy client” means an person who compensates a licensee for massage therapy services. The client-therapist relationship ends 6 months after the last date of service rendered. The term “client” in this definition is synonymous to the term “patient.”
- (10) "MBLEx" means the national Massage & Bodywork Licensing Examination.

- (11) “Licensed healthcare professional” means a person licensed, registered, or certified under Title 43, Chapter 24A and O.C.G.A. § 43-1-33(3) while engaged in the professional or trade practices properly conducted under authority of such other licensing laws, provided that such person shall not use the title of massage therapist.
- (12) "NCBTMB" means National Certification Board for Therapeutic Massage & Bodywork.
- (13) "NCETM" means National Certification Examination for Therapeutic Massage.
- (14) "NCETMB Examination" means National Certification Exam for Therapeutic Massage & Bodywork.
- (15) “Sexual activity” means any verbal and/or nonverbal behavior for the purpose of soliciting, receiving or giving sexual gratification. Sexual activity may include, but is not limited to inappropriate:
- (a) Touch, hugs or body language;
 - (b) Verbal dialogue about sexual preferences, fantasies, or jokes;
 - (c) Verbal or physical flirtatious behavior;
 - (d) Seductive or sexually demeaning gestures; or,
 - (e) Failure to ensure client’s privacy in disrobing or dressing, filming the client without his or her permission;
- (16) “Sexual Misconduct” is unethical and illegal behavior involving sexualizing of, or engagement in, sexualized contact with a client/student/mentee/employee/trainee during or after the professional relationship has ended. This is especially critical due to the power differential in which care providers may use or exploit the trust or influence derived from the professional relationship. Sexual misconduct includes a wide range of sexual activity. The behavior does not have to be coercive to be inappropriate.
- (17) "Supervision" means a qualified massage therapist supervisor is physically on-site and immediately available.
- (18) “Therapeutic Relationship” is the ongoing relationship between a therapist and a client established to support the client’s therapeutic goals. Characteristics of a healthy therapeutic relationship include personal awareness and insight, trust, respect, safety, authenticity, acceptance, empathy, collaborative agreement and the maintenance of personal and professional boundaries.
- (19) “Voluntary Informed Consent” means that a person has:
- (a) The ability and legal authority to make decisions on behalf of oneself or another;
 - (b) Been informed of the scope of massage therapy, to include therapeutic effects, limitations, risks and contraindications and has expressed an ability to comprehend the information; and,

- (c) Verbally or explicitly (in writing), without coercion or duress, exercised his or her right, to accept or deny massage therapy.

Authority: O.C.G.A. §§ 43-1-25, 43-24A-3(9), 43-24A-7(a)(1), 43-24A-8(b)(7), 43-24A-8(b)(6), 43-24A-9(b), 43-24A-14(b), and 43-24-A-20(a) and (b).

b) BR 345-4-.02 Continuing Education Hours

345-4-.02. Continuing Education Hours

- (1) As a condition for renewing his or her license for each biennium, every massage therapist licensed pursuant to Chapter 24A of Title 43 of the Official Code of Georgia Annotated shall be required to complete a minimum of twenty-four (24) continuing education (CE) hours, related to the practice of massage therapy, as codified in O.C.G.A. § 43-24A-3(9), except as otherwise provided for in this chapter. The continuing education course must be provided by an individual who is either approved by NCBTMB, or another continuing education approval agency with standards that are equivalent to NCBTMB, or another state licensing board.
- (a) Only continuing education hours obtained after the issuance of a license may be submitted to meet the requirements for license renewal.
- (b) Of the twenty-four (24) hours of CE required each biennium, twelve (12) of those hours must be derived from courses in which the provider offers hands-on, supervised instruction in the direct application of touch, pressure, movement, and holding to the soft tissue of the body of a person. The remaining twelve (12) hours may also be derived from courses that offer this hands-on supervised instruction or may be from other courses instructing on topics within the scope of massage therapy, practice, to include complementary methods, or any of the modalities listed in O.C.G.A. § 43-24A-19(a)(5 – 8).
- (c) CE hours for renewal must be obtained during the two-year period immediately preceding the license expiration date.
- (d) In order to qualify as “hands-on, supervised instruction” at least seventy percent (70%) of the time spent in the course must consist of hands-on experience or demonstration.
- (e) Hours taken to meet the conditions of a board order may not be used to satisfy continuing education requirements for license renewal.
- (f) Continuing education providers shall not submit continuing education activities and certificates for any of the courses he or she teaches to meet continuing education requirements for license renewal.
- (2) Licensees must maintain documentation of completion of the continuing education activities as required in 345-4-.02 for no less than four (4) years from the date of licensure renewal. Licensees shall be required to produce documentation of the completion of the continuing

education activities for renewal of the license if audited during the renewal process and during any investigation. Failure to provide documentation shall be grounds for the denial of the renewal application or revocation or immediate suspension of the licensure. In order to assist licensees in the maintenance of these records, the Board has adopted CE Broker, Incorporated to serve as the online reporting and recording system for licensees.

- (a) Licensees and applicants shall incur no costs from CE Broker, Incorporated for use of basic reporting and recording services.
- (b) Every licensee or applicant subject to the rules of the Board shall be deemed to have given consent to the Board and its representatives to access their continuing education records retained within the online database for the purposes of auditing and verifying completion of the Board's continuing education requirements. Such licensee or applicant waives any objections to the admissibility of the record and/or any continuing education documentation introduced in any proceeding or hearing before the Board.
- (c) Documentation of completed continuing education hours which the Board deems to be acceptable proof or verification of completion shall include, but not be limited to, the following:

 - 1. Attendance and participation at a live presentation such as a workshop, seminar, conference or direct hands- on client care educational program: A certificate of completion or similar documentation that includes a massage therapist license number and the approved provider's number, if applicable, or official seal of approval, signed or verified by a program official, and a program or course description including sponsor, course title, date, program objective/learning outcomes, content description, agenda or schedule.
 - 2. Lectures and Multi-Media Courses: For lectures, a certificate of completion, or similar documentation, including a massage therapist license number and the approved provider's number, if applicable, or official seal of approval, signed or verified by a program official, and a program description including sponsor, course title, date, program objective/learning outcomes, content description, agenda or schedule. Multi-Media courses shall require the successful completion and submission of a written post experience examination to evaluate material retention. Multi-Media courses include, but are not limited to, audio, audiovisual, closed circuit television, and internet courses.
 - 3. Correspondence Courses: A certificate of completion or similar documentation, including a massage therapist license number and the approved provider's number, if applicable, or official seal of approval, signed or verified by a program official and a program description including sponsor, course title, date, program objective/learning outcomes, content description, agenda or schedule.
 - 4. Formal self-study, viewing of video in a professional setting, satellite broadcasts, or computer learning activities. Documentation must include:

- (i) Verified instructional time by the course sponsor, a certificate of completion or similar documentation that is signed or verified by program official; and,
 - (ii) A program description including sponsor, course title, date, program objective or learning outcomes, and description of program content.
- (4) If the license was issued within the first year of the biennium, the licensee is required to complete 24 hours of continuing education as defined in paragraph one (1) subparagraphs (a) through (e) of this rule in order to renew the license.
- (5) If the license was issued within the second year of the biennium, the licensee is required to complete 12 hours of continuing education to renew the license.
- (a) 6 of the total 12 CE Hours must include direct hands-on supervised instruction; and,
 - (b) The remaining 6 CE Hours may include direct hands-on supervised instruction or other approved massage therapy activities compliant with paragraph (1) of this rule.

Authority: 43-1-25, 43-24A-3(9), 43-24A-7(a)(1), 43-24A-14(b), 43-24-A-20(a) and (b).

c) **BR 345-4-.03 Approved Continuing Education Providers**

345-4-.03. Approved Continuing Education Providers

- (1) The Board only accepts coursework from Continuing Education Providers who:
- (a) Had a current, unencumbered National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) Continuing Education Provider Number, was approved by another continuing education approval agency with standards equivalent to NCBTMB, or was approved by a state licensing board at the time that the course was provided.
 - (b) Holds an unencumbered license(s) to practice as a massage therapist or other healthcare professional at the time that the course is to be offered;
 - (c) Offers continuing education courses that are related to the scope of practice of massage therapy as defined in O.C.G.A. § 43-24A-3(9) which may include structured touch, pressure, movement, complimentary methods.
 - (i) Courses that only contain modalities that touch the body will be considered hands-on hours.
 - (ii) Courses that contain modalities that do not touch the body will only count towards non-hands on hours.
- (2) A provider is only authorized to teach those courses which appear on the list of courses her or she is approved to teach by NCBTMB or equivalent agency. On the date of completion for each continuing education course, the provider must provide a certificate of completion. Certificates of completion must include the following:

- (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 Approved Provider's name;
- (g) The location or site of the course, i.e., Home Study, Self-Study, Internet, Webinar, WebEx, or the physical address where the live 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.

Authority: O.C.G.A. §§ 43-1-25, 43-24A-3(9), 43-24A-7(a)(1), 43-24A-7(b)(9), 43-24A-20(a) and (b).

d) BR 345-5-.01 Professional Standards

345-5-.01. Professional Standards

(1) General Guidelines or Standards: The licensed Georgia Massage Therapist shall:

- (a) Provide a treatment environment that meets all legal requirements for health and safety;
- (b) Use standard precautions to insure professional hygienic practices and maintain a level of personal hygiene appropriate for practitioners in the therapeutic setting;
- (c) Obtain voluntary and informed consent from the client prior to initiating the session;
- (d) Conduct an accurate needs assessment, develop a plan of care with the client, and update the plan as needed;
- (e) Use appropriate draping while providing massage therapy;
- (f) Be knowledgeable of the minimum standard of practice of massage therapy;
- (g) List the massage therapy license number on all business cards, brochures, advertisements.

(2) Legal and Ethical Requirements: The licensee must comply with all the legal requirements in applicable jurisdictions regulating the profession of therapeutic massage and bodywork to include but not limited to:

- (a) Obeying all local, state, and federal laws;
- (b) Maintaining accurate and truthful records;
- (c) Reporting to the Georgia Board of Massage Therapy any felony conviction, in any jurisdiction, within ten days of the conviction;

(3) Confidentiality: The licensee shall respect the confidentiality of client information and safeguard all records by:

- (a) Protecting the confidentiality of the client's identity and information in all conversations, advertisements, and any and all other matters unless disclosure of identifiable information is requested by the client in writing, is medically necessary, or is required by law;
- (b) Protecting the interests of clients who are minors or clients who are unable to give voluntary and informed consent by obtaining prior written permission from a legal guardian;
- (c) Following all state and federal guidelines regarding the collection and disposal of client information.

(4) Business Practices: The licensee shall practice with honesty, integrity, and lawfulness in the business of massage and bodywork by:

- (a) Providing a physical setting that meets all applicable legal requirements for health and safety;
- (b) Maintaining adequate and customary liability insurance in accordance with statutory requirements;
- (c) Maintaining records for each client session;
- (d) Accurately and truthfully informing the public of services the licensee is legally qualified to perform;
- (e) Honestly representing all professional qualifications and affiliations;
- (f) Avoiding conflicts of interest;
- (g) Advertising in a manner that is not misleading to the public or alluding to sexual activity in the operation or on the premises of a massage therapy business;

(h) Notifying the Board, electronically or on forms approved by the Board, of any changes in the following information within thirty (30) days of such change:

1. Physical address;
2. Mailing address;
3. Email address;
4. Telephone number(s); and,
5. Legal Name Change. Name change requests must be accompanied by legally certified documentation reflecting the change.

(5) **Roles and Boundaries:** The licensee shall adhere to ethical boundaries and perform the professional roles designed to protect both the client and the licensee, and safeguard the therapeutic value of the relationship by:

- (a) Respecting the client's right to refuse the therapeutic session or any part of the therapeutic session;
- (b) Refraining from practicing under the influence of alcohol, drugs, or any illegal substances (with the exception of a prescribed dosage of prescription medication which does not impair the licensee);

(6) **Prevention of Sexual Misconduct and Inappropriate Touch:** The licensee shall refrain from any behavior that sexualizes, or appears to sexualize, the client/therapist relationship. The Licensee recognizes the intimacy of the therapeutic relationship may activate practitioner and/or client needs and/or desires that weaken boundaries which may lead to sexualizing the therapeutic relationship. As a result, the Licensee shall:

- (a) Refrain from participating in a sexual relationship or sexual conduct with the client, whether consensual or otherwise, from the beginning of the client/therapist relationship and for a minimum of six (6) months after the termination of the client/therapist relationship, unless an ongoing current sexual relationship existed prior to the date the therapeutic relationship began. In the case of a pre-existing ongoing sexual relationship, providing therapeutic massage and bodywork on such a person is discouraged, but may be done with informed consent which acknowledges the power differential in a therapeutic relationship and the complexities of dual relationships;
- (b) In the event the client initiates sexual behavior, interrupt therapy to clarify the purpose of the therapeutic session. Provided that the client's initial sexual behavior ceases, the Licensee may, at his or her discretion, take action to terminate or continue the session. The Licensee shall terminate the session if the sexual conduct continues;

(c) With the exception of a pre-existing ongoing sexual relationship, as set forth in (a), recognize that sexual activity with clients, students, employees, supervisees, mentees, trainees, or anyone else with whom a power differential exists, is prohibited even if consensual;

(d) Not touch the genitalia;

(e) Only provide therapeutic breast, gluteal and inner thigh massages:

1. As indicated in the plan of care;

2. After receiving informed voluntary written consent; and,

3. Only if the licensee is permitted to do so under state law.

Authority: O.C.G.A. §§ 43-1-2(k), 43-1-19(a)(10), 43-1-25, 43-1-27, 43-24A-7(a)(1), and 43-24A-7(b)(6), (9), 43-24A-8(b)(8), 43-24A-14(c), 43-24A-15(a)(15), and 43-24A-15(b)(2) .

e) **BR 345-5-.02 Unprofessional Conduct**

345-5-.02. Unprofessional Conduct

(1) Unprofessional conduct shall include, but not be limited to, the following:

- (a) Failing to comply with requirements for professional continuing education;
- (b) Performing any act which knowingly aids, assists, procures, advises or encourages an unlicensed person to practice massage therapy.
- (c) Failing to display the license certificate or a photocopy thereof in an appropriate and public manner at each location at which he or she practices;
- (d) Violation of, or noncompliance with, any of the following:
 - 1. Recognized Professional Standards of Practice in Board Rule 345-5-.01;
 - 2. A statute, law, or any rule or regulation of this state, any other state, the professional licensing board regulating the business or profession licensed under this title, the United States, or any other lawful authority without regard to whether the violation is criminally punishable when such statute, law, or rule or regulation relates to or in part regulates the practice of a massage therapy;
 - 3. Any Order of the Board previously entered by the board in a disciplinary hearing, consent decree, or license reinstatement.
- (e) Failing to accurately reflect in the client's record the assessment, care, treatment, and other services offered or provided, to include but not limited to client referrals to other licensed healthcare providers, unless disclosure or release of such confidential information is requested by the client in writing or is required by law.
- (f) Knowingly making misleading, deceptive, untrue or fraudulent representations in an application for licensure, reinstatement, or licensure renewal filed with the board, in a document pertaining to the practice of massage therapy, the filing of any insurance claim, or in any document in connection therewith.

Authority: O.C.G.A. §§ 43-1-25, 43-24A-7(a)(1), 43-24A-7(b)(9), 43-24A-14(a), 43-24A-15(d)(2), 43-24A-21, 43-24A-17, and 43-1-19(a)(2), (7), and (8).

d) **BR 345-4-.04 Inactive Status**

Rule 345-4-.04. Inactive Status

(1) Prior to the license expiration date licensees may request by application that their active license to practice as a massage therapist in Georgia be placed on inactive status. There is no fee to apply for inactive status. Applications for Inactive Status will not be considered if the

license is no longer in an active status and the application is date stamped in the Board office on or after November 1st of every even numbered year.

- (2) An individual whose license status is inactive shall not practice as a massage therapist within the state of Georgia.
- (3) Licensees who wish to reactivate their massage therapy license shall submit a complete application for reactivation of licensure to the Board.
- (4) If a license has been inactive in Georgia for a period less than five (5) years, the licensee must meet the requirements for reinstatement pursuant to Rule 345-4-.05(3)(d)(1) and (4 through 6).
- (5) If a license has been inactive in Georgia for a period of five (5) years or more, the licensee must meet the requirements for reinstatement pursuant to Rule 345-4-.05(3)(d)(2)(ii) and (4 through 6).

e) **BR 345-4-.05. Reinstatement of a License.**

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

- (1) An applicant who was issued a license under the grandfather provision referenced in O.C.G.A. § 43-24A-19(a)(9) may not reinstate the license unless the applicant meets the current requirements for licensure.
- (2) Reinstatement of a revoked or lapsed license that was not issued under the grandfather provision referenced in O.C.G.A. § 43-24A-19(a)(9) is within the discretion of the Board.
- (3) 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 or permanent resident of the United States or can demonstrate lawful presence in the United States; and,
 - (b) Has provided evidence of current liability insurance coverage as required in Code Section 43-24A-8.
 - (c) 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).
 - (d) If the license has been revoked or lapsed for:
 - 1. Less than five (5) years, the applicant must meet the requirements of Rule 345-3-.02 and submit 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 was received by the board, or thereafter; or,

2. Five (5) years or more, the applicant must meet the requirements of Rule 345-3-.02; and,

(i) Submit evidence of completion of twenty-four (24) hours of Board approved continuing education, in accordance with Board Rule 345-4-.02, which was obtained within one (1) year of the date of the reinstatement application was received by the board, or thereafter; and,

(ii) Verification of having passed the MBLEx or other board approved exam within twelve (12) months of the date the reinstatement application is received by the board, or thereafter.

(4) 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.

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

(6) The Board may require additional verification of any requirements or credentials as the Board may deem necessary to include but not limited to applicants for reinstatement meeting all requirements outlined O.C.G.A. 43-24A-8.

Authority: O.C.G.A. §§ 43-1-25, 43-24A-3(9), and 43-24A-14(b).

2. AG MEMO MT210119

Ms. Curry motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to refer to the Attorney General's Office for a Memorandum of Advice.

Ms. Nichols motioned, Ms. Curry seconded and the Board voted unanimously in favor of the motion to accept the Attorney General's Report as presented.

Executive Session Minutes

1. February 18, 2022 Executive Session Zoom Meeting Minutes

2. March 18, 2022 Executive Session Investigative Committee Zoom Meeting Minutes

Ms. Curry motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to approve the February 18, 2022 Executive Session Zoom Meeting minutes and the March 18, 2022 Executive Session Investigative Committee Zoom Meeting Minutes as presented.

Scheduled Board Appointments

9:30 a.m. Applicant 2931012

Ms. Nichols motioned, Ms. Curry seconded and the Board voted unanimously in favor of the motion to refer to the Attorney General's Office for a Public Consent Agreement with terms and conditions as discussed in Executive Session.

10:00 a.m. Applicant 2998614

Ms. Curry motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to rescind the previous motion to deny and table pending response from another jurisdiction.

10:30 a.m. Applicant 2959416

Ms. Nichols motioned, Ms. Curry seconded and the Board voted unanimously in favor of the motion to table execution of the previous decision pending receipt of additional information. Must receive information for review within 60 days. If not received, uphold the previous decision.

Ms. Curry motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to enter into Executive Session in accordance with O.C.G.A. §§ 43-1-2 (k); 43-1-19 (h) and 50-14-2 (1) to receive and review information pertaining to applications, pending cases investigative reports and enforcement matters and to receive the Assistant Attorney General's report. Voting in favor of the motion were those present who included Board members: Craig Knowles, Pam Nichols, and Jane Curry.

At the conclusion of Executive Session on Friday, April 22, 2022, 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

11:00 Agency Review of Initial Decision – Rickey Morgan, II MT011407

Ms. Nichols motioned, Ms. Curry seconded and the Board voted unanimously in favor of the motion that the additional information submitted by the Respondent is inadmissible.

Ms. Nichols motioned, Ms. Curry seconded and the Board voted unanimously in favor of the motion for the Board to go into Executive Session to deliberate in accordance with O.C.G.A. §§ 43-1-2 (k); 43-1-19 (h) and 50-14-2 (1) on the Agency Review of Initial Decision.

Sandra Baily left the meeting at 11:37 a.m.

Upon declaring the Agency Review of Initial Decision is open, Ms. Nichols motioned, Ms. Curry seconded and the Board voted unanimously in favor of the motion to adopt the Findings of Fact and the Conclusions of Law as set forth in the Initial Decision, and to adopt the February 25, 2022 decision of Administrative Law Judge Shakara M. Barnes to revoke.

The Agency Review adjourned at 11:46 a.m.

Kirsten Daughdril left the meeting at 11:46 a.m.

Ms. Curry motioned, Ms. Nichols seconded, and the Board voted unanimously in favor of the motion to enter into Executive Session in accordance with O.C.G.A. §§ 43-1-2 (k); 43-1-19 (h) and 50-14-2 (1) to receive and review information pertaining to applications, pending cases investigative reports and enforcement matters and to receive the Assistant Attorney General's report. Voting in favor of the motion were those present who included Board members: Craig Knowles, Pam Nichols, and Jane Curry.

At the conclusion of Executive Session on Friday, April 22, 2022, 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

Legal Services MEMO – Cases for Ratification

Ms. Curry motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to accept the orders for the following cases upon receipt.

1. MT220145
2. MT220149
3. MT220147

Investigative Committee Summary Report – P. Nichols

Ms. Nichols motioned, Ms. Curry seconded and the Board voted unanimously in favor of the motion to accept the Investigative Committee Summary Report as presented:

- | | |
|-----------------|---|
| MT190086 | Close with a Letter of Concern regarding compliance with B.R. 345-10-.02. |
| MT190089 | Close the case. |
| MT190104 | Close the case. Refer to law enforcement for prosecution. |
| MT190113 | Close the case. |
| MT190116 | Refer Respondent 1 to the Attorney General's Office for a Public Consent Order and reprimand with terms and conditions as discussed and a \$3000 fine for aiding and abetting unlicensed practice and failure to notify the Board of an address change. Fine to be paid within 90 days of the docket date of the order. Refer Respondents 2-6, to the Attorney General's Office for a Cease and Desist Order. |
| MT190123 | Close the case. |
| MT200048 | Refer to Investigations as discussed. |
| MT210116 | Close the case. |
| MT220017 | Accept the Voluntary Cease and Desist Order. Refer to the Georgia State Board of Cosmetology and Barbers. Refer to the Georgia Board of Dentistry. |
| MT220032 | Close the case due to lack of information. |
| MT220039 | Refer to Investigations to obtain evidence as discussed. |
| MT220042 | Accept the Voluntary Cease and Desist Order. |
| MT220045 | Close the case. |
| MT220091 | Refer to Investigations to obtain evidence as discussed. |
| MT150098 | Rescind the previous motion and accept the Public Consent Order and public reprimand with a fine of \$500 for false attestation on 2020 renewal application. |

Miscellaneous Executive Discussion - MT220066

The Board accepts the correspondence relevant to this case as information.

Applications for Board Review

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

Arrests

- | | |
|--------------------------|--|
| Applicant 3007213 | Refer to Legal Services for a Public Consent Agreement for Reinstatement of Licensure with a reprimand and fine of \$500.00 for unlicensed practice from October 31, 2020 through March 10, 2022. Fine to be paid prior to issuance of license. Flag for CE Audit. |
| Applicant 2996317 | Refer to Legal Services for a Public Consent Agreement for Licensure with a reprimand and fine of \$500.00 for failure to disclose an arrest on application for licensure. Fine to be paid prior to issuance of license. Flag for CE Audit. |
| Applicant 3002281 | Schedule Applicant Interview. |
| Applicant 2991295 | Refer to Legal Services for a Public Consent Agreement for Reinstatement of Licensure with a reprimand and fine of \$500.00 for failure to disclose an arrest on reinstatement application. Fine to be paid prior to issuance of license. Flag for CE Audit. |
| Applicant 3011166 | Issue the license. |
| Applicant 2969391 | Restore application. Accept name change. Issue license with a Letter of Concern for failure to disclose 1993 arrest. |
| Applicant 2997441 | Refer to Legal Services for Public Consent Agreement with a fine of \$500 for failure to disclose an arrest on the application for licensure. Fine to be paid prior to issuance of license. Flag for CE Audit. |
| Applicant 3013316 | Schedule Applicant Interview. |
| Applicant 3007589 | Issue the license. |
| Applicant 3006339 | Issue the license. |
| Applicant 2984652 | Refer to the Attorney General's Office for a Public Consent Agreement for Licensure to include probation to run concurrent with criminal probation. |

MT Programs

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

- | | |
|--------------------------|--------------------------------|
| Applicant 2855340 | Approve address change. |
| Applicant 2963628 | Approve and issue the license. |
| Applicant 2855288 | Renew the license. |

Renewal

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

Applicant 1728696 Allow the licensee to withdraw the renewal application. Should the licensee attempt to reinstate the Board will review the violation.

Transcript Review

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

Applicant 3001113 Deny based on failure to meet educational requirements [O.C.G.A. § 43-24A-8 and Board Rule BR 345-8-.01 & BR 345-8-.03].

Applicant 3008515 Issue the license.

Applicant 3006333 Issue the license.

OPEN SESSION

Open Session Minutes

- 1. February 18, 2022 Open Session Zoom Meeting Minutes**
- 2. March 18, 2022 Open Session Investigative Committee Zoom Meeting Minutes**

Ms. Curry motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to approve the February 18, 2022 Open Session Zoom Meeting minutes, and the March 18, 2022 Open Session Investigative Committee Zoom Meeting minutes as presented.

Licenses to Ratify: February 11, 2022 – April 1, 2022

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

Discussion – National Certification Board for Therapeutic Massage and Bodywork (NCBTMB)

- 1. 03-01-22 Approved Provider Disciplinary Actions by State**
- 2. 03-01-22 Certificant Disciplinary Actions by State**
- 3. 03-01-22 School Compliance Report**
- 4. 04-01-22 Approved Provider Disciplinary Actions by State**
- 5. 04-01-22 Certificant Disciplinary Actions by State**
- 6. 04-01-22 School Compliance Report**

The Board accepts the correspondence in reference to NCBTMB, as information.

Federation of State Massage Therapy Boards (FSMTB)

- 1. Initiating Litigation to Protect the MBLEx**
- 2. In-Touch E-Newsletter April 2022**

Mr. Knowles noted that the newsletter references the Job Task Analysis (JTA) Survey and he explained that it seeks to ensure that the Massage & Bodywork Licensing Exam (MBLEx®) reflects current practice. A further referenced the Sexual Harassment Survey from FSMTB which follows the JTA. He stated the public and Board Members are welcome to complete the survey, noting that FSMTB needs input from massage therapists in all states for these nationwide surveys.

Mr. Knowles also indicated that Ms. Curry is the Board Member Delegate for the FSBPT Annual Meeting in South Carolina in October. He asked that the Board Members consider if they have any resolutions they would like to submit to FSMTB and be prepared to discuss the recommendations during the June 10, 2022 meeting so that Ms. Curry can address those motions on behalf of the Georgia Board. He concluded that the FSMTB Member Board Executive Director Summit will be May 4-6, 2022 in Tampa, Florida and Adrienne Price, Executive Director will be present on behalf of the Board.

The Board accepts the correspondence in reference to FSMTB, as information.

Petitions for Rule Variance

1. BR 345-8-.03(6)(a) Faith Dent

Ms. Nichols motioned, Ms. Curry seconded and the Board voted unanimously in favor of the motion to grant the petition for variance of BR 345-8-.03(6)(a) based on sufficient evidence to substantiate a substantial hardship.

2. BR 345-4-.02 Giselle Toran_MT000858

Ms. Curry motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to grant the petition for variance of BR 345-4-.02 for the current biennium only based on sufficient evidence to substantiate a substantial hardship.

3. BR 345-8-.01(a)(b) Akilah Teifel

Ms. Nichols motioned, Ms. Curry seconded and the Board voted unanimously in favor of the motion to grant the petition for variance of BR 345-8-.01(a)(b) based on sufficient evidence to substantiate a substantial hardship. Notify the petitioner that their educational program does not comply with BR 345-8-.03(6)(a) and as a result, the petitioner may want to consider submitting another petition with that rule reference for consideration by the Board.

4. BR 345-4-.05 Jennifer Mary Clifford

- a) Written Comment from Eric Chommanard
- b) Written Comment from JoAnn Thyne
- c) Written Comment from Mindy Jewett

Ms. Curry motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to grant the petition for variance of BR 345-.05 based on sufficient evidence to substantiate a substantial hardship.

Petitions for Rule Waiver

1. BR 345-4-.05 La Tandra Scott Frazier MT008897

Ms. Nichols motioned, Ms. Curry seconded and the Board voted unanimously in favor of the motion to deny the petition to waive BR 345-4-.05 as the Board does not have the authority to waive a statutory requirement.

2. BR 345-4-.05(2)(c)(ii) Christine Johnson

Ms. Curry motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to grant the petition to waive BR 345-4-.05(2)(c)(ii) based on sufficient evidence to substantiate a substantial hardship.

3. BR 345-8-.01(q) Elena Borovskikh

Ms. Nichols motioned, Ms. Curry seconded and the Board voted unanimously in favor of the motion to deny the petition to waive BR 345-8-.01(q) based on insufficient evidence to substantiate a substantial hardship as the rule

cited is not relevant to the request. May resubmit petition with the correct rule reference and provide clarity regarding the request to include documentation and detailed explanations.

4. BR 345-3-.02(c) Marisa Oakes

Ms. Curry motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to deny the petition to waive BR 345-4-.02(c) as the Board does not have the authority to waive a statutory requirement. Additionally, the rule cited is not relevant to the request. May resubmit petition with the correct rule reference and provide clarity regarding the request to include documentation and detailed explanations.

5. BR 345-4-.05(c)(ii) Carrie Leigh Ollis

Ms. Nichols motioned, Ms. Curry seconded and the Board voted unanimously in favor of the motion to grant the petition to waive BR 345-4-.05(c)(ii) based on sufficient evidence to substantiate a substantial hardship.

6. BR 345-4-.05 Jennifer Conner

Ms. Curry motioned, Ms. Nichols seconded and the Board voted unanimously in favor of the motion to grant the petition to waive BR 345-4-.02(4) based on sufficient evidence to substantiate a substantial hardship.

7. BR 345-8-.03 Jessica Thompson

Ms. Nichols motioned, Ms. Curry seconded and the Board voted unanimously in favor of the motion to grant the petition to waive BR 345-8-.03 based on sufficient evidence to substantiate a substantial hardship.

Board's Chair Report – C. Knowles

Mr. Knowles reiterated the 60-Day Administrative Policy from the Joint Secretary and indicated that some massage therapy educational institutions may not be aware of the new policy which went into effect August 1, 2021. He clarified that applicants must provide the required documents to complete their applications within 60 days of the date of the deficiency letter. If those requested documents are not received, the application will be withdrawn on the date provided in the letter and a new and complete application will be required for the individual seeking licensure. He noted that a copy of the administrative policy on incomplete applications can be found on the Board website in the "Forms" section.

Ms. Nichols motioned, Ms. Curry seconded and the Board voted unanimously in favor of the motion to send notification out to the Board approved massage therapy education institutions schools of this change.

Executive Director's Report – A. Price

The Executive Director's Report presented the Board with statistical data relevant to the processing of applications, the number of licensees, to include massage therapy programs, board meeting statistics, and complaints/compliance matters. In addition, the report addressed the following topic of interest with the Board:

- Board Member Vacancies
- Georgia General Assembly
- Annual Ethics Commission Affidavit of Public Officer Filings
- Compact Legislation Progress

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

Education Report – C. Knowles

1. AMTA Legislative Process

Mr. Knowles provided an update about his liaison duties between the Board and the American Massage Therapy Association (AMTA) by reporting that he has been in communication with AMTA about the amendments to the Georgia Massage Practice Act that the Board would like them to consider presenting to the legislature. He stated that he had hoped to have a report by this meeting. He stated that he sent the information to them on April 21, 2022 and received no response. AMTA did respond to his second email stating they will get back to him, at which time Mr. Knowles said he will update Board.

2. Discussion – Board Rule – BR 345-4-.05. Reinstatement of a License.

Mr. Knowles engaged the Board in a discussion of BR 345-4-.05 Reinstatement of a License and reiterated that the requirements contained are important for public protection regarding the grandfather provision. He explained that after July 1, 2007 the grandfather provision in the Georgia Massage Practice Act was no longer valid. He relayed that reinstatement requirements for those who were grandfathered in must match those of initial licensure and renewal of licensure, which ensures that the Board is applying the same standard to all applications as a matter of public protection.

Ms. Curry agreed that standards should remain consistent for all applicants and licensees and since the rules were written at different times, it is best for all standards to now be equivalent.

Ms. Nichols remarked that the statutory changes regarding continuing education were proposed to ensure that a certain level of education is maintained and licensees continue to sharpen their skill sets resulting in the safe practice of modalities. She states it is particularly crucial when learning new techniques as science and health standards change rapidly, in example public health crisis.

Mr. Knowles concluded that the National Exam (MBLEx®), approved education, and all licensure requirements must be equivalent for everyone.

Adjournment With no further business to be discussed, the meeting was adjourned at 1:43 p.m.

Minutes recorded by: Michelle Hornaday, Board Support Specialist
Minutes reviewed and edited by: Meagan Doss, Licensing Supervisor & Adrienne Price, Executive Director
Minutes approved on: June 10, 2022

CRAIG KNOWLES
BOARD CHAIR

ADRIENNE PRICE
EXECUTIVE DIRECTOR