

## “Board Beat”

*Published in the July/August issue of the Massage Message Magazine*

The 352<sup>nd</sup> General Business Meeting of the Florida Board of Massage Therapy was held April 23-24, 2009 at the Crowne Plaza Universal, Orlando, Florida.

Board members present included: Lynda Solien-Wolfe, LMT, Chair; Lorena Haynes, LMT, Vice chair; Bob Smallwood, LMT; Bridget Burke-Wammack, LMT; Karen Ford, LMT; and William Stoehs and Irene Andriole, consumer members.

Representing the board staff were Kaye Howerton, Executive Director, Paula Mask and Christy Robinson, Program Operations Administrators. Allison Dudley, Esquire, Board Counsel (Assistant Attorney General), and Sam DiConcilio, Esquire, DOH Assistant General Counsel, (prosecuting attorney) were also present.

The board heard two informal hearings. The individual licensed therapist was fined \$450.00 and ordered to pay costs in the amount of \$585.66 violating section 480.046(1)(n), Florida Statutes (2007), which provides that practicing massage at a site, location, or place which is not duly licensed as a massage establishment constitutes grounds for which disciplinary action may be taken by the Board of Massage Therapy. The establishment license at the business where he worked expired, but he continued to practice massage there for approximately 8 months before a current license was obtained. The Board also voted to place a reprimand on his license.

The second informal hearing was an establishment. This business had a delinquent establishment license but continued to offer massage services. The business owner also failed to provide proof of liability insurance during the inspection. There was a fine of \$250 imposed, with costs of \$1,373.30 imposed. The Board also voted to place a reprimand on the license.

There were 38 Settlement agreements presented. These are cases where the prosecuting attorney's office and the therapist or business owner have agreed to terms for the violations. Fines and costs for these agreements were as high as \$5,204.00.

The offenses were varied, and included: being convicted of prostitution; engaging in various insurance fraud practices; failing to report arrests and convictions to the board within 30 days after each conviction; practicing at an unlicensed establishment or operating an unlicensed establishment [27 cases]; obtaining a massage therapist license by fraud [2 cases]; failing a continuing education audit; practicing with an inactive or delinquent license; failing to practice massage with that level of care, skill, and treatment which is recognized by a reasonably prudent massage therapist as being acceptable under similar conditions and circumstances.

There were 11 Voluntary Relinquishments.

18 Determination of Waiver cases were presented. These are cases in which the respondent has been determined to have waived their right to an informal hearing. Five of the cases had fines and costs below \$1,000 [specifically: \$473, \$553, \$661, \$788, and \$873]. Six more cases resulted in fines and costs of \$1,339, \$1,340, \$1,633, \$1,732, \$1,859, and \$1,913. Two cases had fines and costs between \$3,000 and \$4,000.

Two cases had fines and costs over \$6,000. These cases involved working in an unlicensed establishment or operating an unlicensed establishment [4 cases]; sexual act by an unlicensed person; practicing with a delinquent license [2 cases]; violating a final order of the board [4 cases]; sexual misconduct by a licensed person [3 cases]; refusing an annual inspection; failing to comply with PRN [2 cases]; obtaining a license by fraud.

The Board reviewed 13 applicants for licensure. Ten applicants were granted their licenses, either unconditionally or contingent on an evaluation and agreement to terms by PRN, and 2 applicants were denied their license. One was continued until the next meeting.

All massage establishment applications were approved.

There were 5 petitions for variance or waiver. These are requests for a waiver of an existing rule or law. One request was granted, one therapist was asked to appear at the next board meeting and the rest were denied. Most of the petitions asked for a waiver of the continuing education requirement of 12 hours of live courses.

This would be a good time to remind all therapists reading this report that **August 31, 2009, this year, is the expiration date for all massage therapist licenses and all massage establishment licenses.** Ask your boss or establishment owner to send in their renewal fee and paperwork as soon as possible. Do the same for your personal license. Don't wait until the license has expired!

Additionally, **this is the first year that massage therapists are required to have 12 hours of "live" classroom continuing education hours.** These 12 "live classroom hours" must be in massage therapy techniques, which may include history of massage therapy, human anatomy, physiology, kinesiology, and/or pathology. Rule 64B7-28.009(3), F.A.C., states: "...the 12 continuing education hours shall be taken via live classroom instruction which includes hands-on instruction or demonstration, 6 hours of which may be performed as pro bono services pursuant to rule 64B7-28.0095, F.A.C."

CE courses on communications, insurance billing, record keeping, documentation, , massage practice management, HIV/AIDs, Florida laws, ethics, prevention of medical errors may **not be used** to satisfy the 12 hours of "live" classroom hours.

The HIV/AIDS, prevention of medical errors, Florida laws and ethics are still required courses for renewal! They may be taken as home study or on-line and counted as such, but will not count toward the required 12 "live" classroom hours.

Please make sure you take the 12 hours of "live" classroom courses. This has never been required before, so I am hoping therapists do not ignore this new rule, thinking "I've never had to do that before, so I probably don't really need to do it this year". It is required in order to renew your license and the hours must be completed before August 31, 2009!

The Board of Massage accepted a settlement agreement with the National Certification Board concerning the examinations that may be used for Florida licensure. That means that we now have 3 approved tests that can be used for licensure in Florida. The old NCBTMB test can be used and is currently in effect. The NESL is also used for state licensure but not for certification. The NCBTM test is approved, but not yet in effect. The MBLex is approved, but not yet in effect.

Stay well, practice safely within the law, and always remember the following 3 quotes:

“Ignorance of the Law is no excuse!” “Education cures ignorance!” “It is your responsibility to know your Laws!”

Disclaimer: This information is not the official transcript or minutes of the Board of Massage Therapy. The office minutes can be found on the Board’s website at [www.doh.state.fl.us/mqa](http://www.doh.state.fl.us/mqa).

Michael Garcia RN, LMT, is the Chief Academic officer at Alpha School of Massage in Jacksonville, Florida and a Florida approved C. E. provider for Medical Massage and other courses. His e-mail address is [michaellgarcia@comcast.net](mailto:michaellgarcia@comcast.net). (That’s Michaell with 2 L’s)