

“Board Beat”

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The 355th General Business Meeting of the Florida Board of Massage Therapy was held on July 30-31, 2009 at the Marriott Tampa Airport, Tampa, Florida.

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

Chelisa Kirkland, Paula Mask and Kaye Howerton, Executive Director, represented the Board staff. Board counsel for this meeting was Allison Dudley, Esquire. Prosecuting attorney, Sam DeConcilio, Esquire was also present.

There were 10 informal hearings originally scheduled, but two were continued to the October 2009 meeting. One therapist was fined for false advertising, one was disciplined for failing to provide proof of required CEs from 2005, four had discipline related to practicing at an unlicensed establishment, one therapist's individual license and their related establishment licenses were revoked. Although the fines were fairly low, [except for the 2 revoked licenses] most ranging from \$100 to \$250, the costs involved averaged well over \$1,000 each.

There were 14 settlement agreements scheduled. The Board accepted 13 of the settlement agreements and rejected one.

All of the voluntary relinquishments were approved.

There were 21 Determination of Waivers heard. These are cases where the therapist waived their rights to a formal hearing by failing to respond within 21 days. Two therapists were found to be unable to practice safely [both failed to comply with their PRN contract] and had their licenses suspended.

Four licenses were revoked, two for sexual activity/misconduct, one for fraudulent renewal of a license [paying with a bad check], and one for violating a final order of the Board [his license was already suspended].

One licensee was suspended for violating a final order of the Board [failure to pay previous disciplinary fine and costs]. Two licensees were suspended for failing to provide proof of CE requirements.

Several therapists received reprimands or letters of concern for various violations.

Since massage establishment licenses should have been renewed by August 31, 2009, all therapists working for an establishment or in an establishment should make sure the license on the wall shows the new 2011 expiration date.

Chapter 64B7-28.008 Display of Licenses: (3) The owner of each massage establishment shall conspicuously display a current establishment license issued by the Department on the premises.

Don't take anybody else's word that there is a current and valid massage establishment license at the location. Look for yourself! Check to see that the name of the business exactly matches the name on the license. Check to ensure that the address on the license exactly matches the address of the location where you

plan to offer your services. Check to see that the license is not expired (there is absolutely no “grace period” for expired licenses).

Even if you previously worked for a business and are returning after a brief time away, check the license again. A copy of the massage establishment license is not acceptable, it must be the original. Remember, it must be a “massage establishment license” issued by the Florida Department of Health and the Florida Board of Massage Therapy. Absolutely no other establishment license or any other license can take the place of this license.

Of course, the therapist must also post their license, or a copy of their license (copies of individual massage therapists are acceptable), in a conspicuous place at the location.

Chapter 64B7-28.008 Display of licenses (1) : Each licensed practitioner shall conspicuously display a current license issued by the Department, or photocopy thereof, at each location at which he or she practices.

I implore all schools to make sure their instructors get this across to their students, since it is such a frequent violation. Of course, students should be exposed to all the statutes pertaining to massage therapy (Chapters 480 and 456) as well as the rules of the Board (64B7 F.A.C.) Licensed massage therapists should review their laws and rules regularly, since we tend to forget things we haven’t studied for awhile and the **rules do change**.

Only one of the massage therapist applicants had their application denied. One was postponed until the next meeting.

Five therapists were successful in their petition for variance or waiver. Four therapists had their petitions denied.

There will be a rules workshop concerning Patient Intake Records at the October 29-30 2009 meeting. The workshop will start at 1:00 PM on Wednesday (October 28).

The MBLex is finally in effect in Florida. Massage students and graduates can now take this test, which does not contain questions about Chinese medicine/modalities.

Kaye Howerton reported on the new statute (SB 1986) that went into effect July 1, 2009. Sections 24, 25 and 26 apply to the Department of Health. This will affect any licensee that was licensed on July 1, 2009, and licensee renewals in the future (anytime after July 1, 2009) This bill may have a big impact for Florida therapists who renew their licenses this year, as well as new applicants and students currently still in massage school.

Please see this bill (Senate Bill 1986 online at www.flsenate.gov).

The following is taken from a letter sent to Massage Therapy Schools by the Board of Massage Therapy. Please make your students aware of this law.

Pursuant to Section 456.0635, Florida Statutes, you are being notified that effective July 1, 2009, health care boards or the department shall refuse to issue a license, certificate or registration and shall refuse to admit a candidate for examination if the applicant has been:

1. Convicted or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under chapters 409, 817, or 893, Florida statutes; or 21 U.S.C. ss. 801-970 or 42 Y.S.C. ss 1395-1396,

unless the sentence and any probation or pleas ended more than 15 years prior to the date of the application.

2. Terminated for cause from Florida Medicaid Program (unless the applicant has been in good standing for the most recent five years.

3. Terminated for cause by any other State Medicaid Program or the Medicare Program (unless the termination was at least 20 years prior to the date of the application and the applicant has been in good standing with the program for the most recent five years).

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!”

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