

“Board Beat”

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The 350th General Business Meeting of the Florida Board of Massage Therapy was held on January 29, 2009 at the Embassy Suites Hotel in Jacksonville, Florida.

Board members present included: Dave Quiring LMT, Chair; Lynda Solien-Wolfe, LMT, Vice Chair; Andrea Vala, LMT; Lorena Haynes LMT. Christy Robinson, Program Operations Administrator; Paula Mask, Program Operations Administrator; and Kaye Howerton, Executive Director represented the Board staff. Board counsel for this meeting was Allison Dudley, Esquire.

The Florida State Massage Therapy Association was represented by Maureen Gilbert (President) and Lynn Hupp (Executive Director). Jackie Kincaid (President) represented the American Massage Therapy Association (Florida Chapter). Representatives, including instructors and/or owners, of several massage therapy schools were also present.

According to Board Counsel, the NCBTMB and the state are in negotiations concerning the challenge issued by the NCBTMB regarding the licensing test(s). No further communications about this issue will be forthcoming until it is settled.

There were absolutely no new disciplinary cases heard [except voluntary relinquishments], since there were not enough Board members present for a quorum for most of the cases. Only cases where probable cause was waived could be heard. Four voluntary relinquishments were approved.

Two history applicants were required to attend the next meeting. All of the remaining history applicants were issued their license either unencumbered or with the condition they have an evaluation by Professional Resource Network (PRN) and follow PRN's recommendations.

Several history applicants for establishments were required to attend the next meeting, and the others were issued their establishment license conditionally, to be issued upon payment of fines [for operating an unlicensed massage establishment].

The Board clarified the Establishment License requirement at Hotels, which requires an establishment license anywhere massage services are provided on the hotel's premises, except for the client's room. If massage services are provided poolside, in cabanas, at the beachfront of the hotel, or anywhere else on the hotel's premises, except for the client's assigned room, the hotel must have an establishment license.

480.046 Grounds for disciplinary action by the board (1)(n) paraphrased ...**may provide massage services, excluding colonic irrigation, at the residence of a client, at the office of the client, at a sports event, at a convention, or at a trade show.** When a person is staying at a hotel, their room is considered to be their residence, so the exemption applies.

Let's don't forget that your license expires this year on August 31, 2009. In order to renew that license, you must meet the continuing education requirements as listed in 64B7-28.009, Florida Administrative Code (FAC). For many of you, this may be the first time that you have to actually attend a "live" class in order to fulfill this requirement. In the past, therapists could take all of their continuing education requirements on-line or through home-study courses.

Not this year!!

Both the FSMTA and AMTA have reminded their members of this new requirement. Rule 64B7-28.009 (2)(a) [F.A.C.] states: At least 12 continuing education hours shall be relevant to and focus on massage therapy techniques, which may include history of massage therapy, human anatomy, physiology, kinesiology, and/or pathology. **As of September 1, 2007, 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.

The other required 12 hours of continuing education, as well as the HIV/AIDS course, can be taken on-line or by home-study. Of course, therapists may take all of their courses in a live classroom setting, if they desire, but **at least 12 continuing education hours are required to be taken in the live classroom setting.**

If you know any therapists who are not members of either association, be kind and remind them of this new requirement for renewing their license.

Lynda Solien-Wolfe was elected as the new Chairman of the Board and Lorena Haynes was elected as the Vice-Chair of the Board. This was not exactly a surprise, since according to Florida Statute 480.035 (4), The board shall, in the month of January, elect from its number a chair and a vice chair. This means that the board was required to elect a new chair and vice-chair at this meeting, and Ms. Solien-Wolfe and Ms Haynes were the only board members present that were eligible for the positions. The other two members present have already served their terms and are expecting that this will be their last board meeting.

This brings up an important dilemma our profession is facing. The current Governor has not appointed any new board members, even though the terms for most current members have expired. Need a refresher?

Florida Statute 480.035 (1) states that: The Board of Massage Therapy is created within the department. That board shall consist of seven members, who shall be appointed by the Governor and whose function it shall be to carry out the provisions of this act.

That means that only the Governor can appoint new members.

Florida Statute 480.035 (2) states: Five members of the board shall be licensed massage therapists and shall have been engaged in the practice of massage for not less than 5 consecutive years prior to the date of appointment to the board. The Governor shall appoint each member for a term of 4 years. Two members of the board shall be laypersons. Each board member shall be a high school graduate or shall have received a graduate equivalency diploma. Each board member shall be a citizen of the United States and a resident of this state for not less than 5 years. The appointments will be subject to confirmation by the Senate.

Florida Statute 480.035 (3) states: The Governor may at time fill vacancies on the board for the remainder of unexpired terms. Each member of the board shall hold over after the expiration of her or his term until his or her successor has been duly appointed and qualified. **No board member shall serve more than two terms, whether full or partial.**

Currently, we do not have any active consumer/layperson members on the board. Ms. Irene Andriole has filled that position previously for many years, but the second layperson position has been vacant for a long time. Ms. Andriole has already fulfilled her time/term(s). Is this a “Catch-22”? The statute says no board member shall serve more than 2 terms (4 years per term), but it also says that each member shall hold over after the expiration of their term until the Governor appoints their replacement. Dave Quiring has also served 8 years.

We hope that by the next meeting of the Board (April 23 – 24) there will have been appointments made to fill all seven Board positions. The Governor’s Appointments Office has received several applications for BOMT positions. We shall see what transpires.

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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