

FSMTA Report - Board of Massage Therapy Meeting - October 19-20-21, 2011  
by Maureen Gilbert, FSMTA BOMT Liaison

**The October 19, 2011 Rules Workshop and October 20-21, 2011 General Business Meeting of the Florida Board of Massage Therapy was held at the Holiday Inn & Suites in Tallahassee.**

**Members Present:** Karen Ford LMT- Chair, Bridget Burke-Wammack LMT- Vice Chair, Lydia Nixon LMT, Robert Smallwood LMT, William Stoehs, Consumer Member (excused on 10/19/2011)

**Member Absent:** Lisa Oliver, Consumer Member (excused)

**Staff Present:** Anthony Jusevitch-Executive Director, Paula Mask- Program Operations Administrator.

**Board Counsel:** Lee Ann Gustafson, Esquire - Assistant Attorney General

**Department Prosecuting Attorneys:** Sam DiConcilio, Esq. and Manshi Shah, Esq.

**The Florida State Massage Therapy Association** was represented by Scott Hartsfield-Legislative Chair, Lynn Hupp-Executive Director, Teresa Matthews-Sports Massage Director and Maureen Gilbert-FSMTA/BOMT Liaison. Also two FSMTA Chapter Presidents, James Fritschle-Emerald Coast Chapter and Barbara Brown-Big Bend Chapter along with several members of our local FSMTA Big Bend Chapter. Chapter President George Schwind attended for **American Massage Therapy Association- Florida Chapter (AMTA-FL)**.

**Also represented:** NCBTMB (*National Certification Board for Therapeutic Massage and Bodywork*); FSMTB (*Federation of State Massage Therapy Boards*); AFMTE (*Alliance for Massage Therapy Education*) and FLAME (*Florida Association of Massage Educators*).

**In the audience** were interested therapists and representatives from several Florida Massage Schools - Neal Delaporta, Terri May, Dar Mikula, Jody Stork, Pete Whitridge to name a few. Lively Vo-Tech in Tallahassee has a new Massage Therapy Program, the instructor and the students who will be the first class to graduate were present; *all the students joined FSMTA*. We wish them the best of success.

**To view the Minutes of the October 19, 20 & 21, 2011 BOMT Meetings, please follow this link:**  
**[http://www.doh.state.fl.us/MQA/massage/ma\\_minutes.html](http://www.doh.state.fl.us/MQA/massage/ma_minutes.html)**

*A Few Points of Interest...*

The BOMT three day October Quarterly Meeting took place in Tallahassee on October 19, 20 & 21, 2011.

- Because of the location, many of the DOH/BOMT administrative staff and members of the law enforcement and investigative team attended the meeting along with several representatives from the of the Department of Education. They were introduced and applauded, *very nice to put faces to names*.
- The Board also took a few moments to surprise and honor an outstanding member of BOMT staff - Paula Mask. Anyone who has ever communicated with Paula on BOMT business or personally will agree that she is a delight to know, no matter how many times we pester her ... she is always so pleasant and helpful.
- It was brought to our attention that William F. Stoehs will be stepping down as BOMT Consumer Member after the January quarterly meeting. *Bill will be greatly missed as an active board member*. His term ended 10/31/2010 but he continued to serve waiting for a successor to be appointed, no appointments have been made. Earlier in the year Amy Hagan, LMT resigned leaving a Professional LMT vacancy. Karen Ford, LMT and Bob Smallwood, LMT are up for re-appointment as of 10/31/2011, they are both prepared to continue. The Board of Massage Therapy (BOMT) is made up of seven members; five of which are licensed Massage Therapists. Two members must be lay persons who are not now and who have never been Massage Therapists or members of any closely related profession. Board members are appointed by the Governor and confirmed by the Senate. Perhaps you or someone you know would be interested in serving as a BOMT Member. Two positions need to be filled, one LMT and one Consumer member. Link to the Questionnaire for Gubernatorial Appointments [http://wp.flgov.com/wp-content/uploads/appointments/2011\\_questionnaire.pdf](http://wp.flgov.com/wp-content/uploads/appointments/2011_questionnaire.pdf)

### **About the business of the October meeting...**

This was a lively and productive meeting.

The Rules Workshop on Wednesday was super productive. The list of Rules discussed at this meeting is long. A brief summary ... **Definitions:** several were discussed for clarification- classroom hour, direct supervision, distance learning; **Fees:** all fees will be listed in one rule; **License Display** defined to help law enforcement; **Pro Bono:** new forms and rewording to simplify the process; **Schools:** establishing a pass/fail rate and maintaining for period of time and the penalties for non-compliance, reducing some documentation requirements, electronically sending proof of graduation; **Disciplinary Guidelines:** stiffer fines for fraud.

Several rules have been noticed with the Florida Administrative Weekly, Chapter 64B7.

**Reminder:** The approved changes must continue through the rule making process required by law.

“Rulemaking” is defined as the adoption, amendment or repeal of a rule. In its simplest form, rulemaking consists of drafting the rule text, providing notice to the public, accepting public comment and filing the rule for adoption. After all the steps have been followed the information becomes part of the Florida Administrative Code. **The Florida Administrative Code (FAC)** is the filing point for rules promulgated by state regulatory agencies, *e.g. Board of Massage Therapy*; and is the official compilation of administrative rules for the state of Florida. **The Florida Administrative Weekly (FAW)** is the weekly publication which gives the public current information about the status of rules moving through the rulemaking process including proposed rules; emergency rules; and notices of change, corrections and withdrawals. The Weekly also includes notices of agency public meetings, workshops and hearings, and miscellaneous actions required to be published by statute. You may track the progress at <https://www.flrules.org/Default.asp> - a change is not final until it is posted as ‘final’, the chart will reflect the effective date, that date will be added to the history notes at the bottom of each rule. You may then scroll up to rule view and print yourself a copy.

**Informational:** Dr. Judy Rivenbark, Medical Director gave a brief description of the PRN program.

### **Disciplinary & Administrative Proceedings:**

All actions are recorded and listed in the BOMT Minutes found on line at:

[http://www.doh.state.fl.us/MQA/massage/ma\\_minutes.html](http://www.doh.state.fl.us/MQA/massage/ma_minutes.html)

**Massage Therapist Applications-** *these are applicants who have something in their history that the Board needs further clarification on in order to make an informed decision as to whether or not to issue a license.* Many cases are heard at each meeting - most applicants are issued licenses unencumbered, some are denied and others require probation or monitoring. More cases are heard by conference call in between regular quarterly meeting of the Board.

### **Applications relating to Section 456.0635, Florida Statutes, enacted into law by SB1986 (2009)**

Effective July 1, 2009, Section 456.0635, Florida Statutes, **requires** that the BOMT **refuse to** admit a candidate for **examination** and requires that the Departments (DOH) **refuse** to issue a license. If a student has been convicted or plead guilty or nolo contendere, regardless of adjudication, to a felony violation of certain chapters of the Florida Statute: unless the sentence and any probation or pleas ended more than 15 years prior to the application that student may not take the exam. And yet several cases have been placed on the meeting agenda at almost every BOMT meeting. The BOMT must deny the application or recommend that the candidate withdraw their application. If the student withdraws the application, a denial is not shown on their record and they may re-apply when probation is completed. The BOMT has no alternative, it is the law and has been law since July 2009. Who is at fault? Did the students fail to report the felony conviction? Did the school administration fail to ask the question? Did the school administration fail to advise the students that after paying the

schools fees and investing the time at the school that they would not be able to take the exam? I do not know but it is very unfair and heartbreaking when students make a plea to the Board and the Board has no option. Fifteen years is a long time in the life of a young person; from teen to adult many turn their lives around.

The BOMT is very concerned and it was decided on a December 30, 2011 conference call to send strong letters at all approved schools in Florida to remind them of the law and warning that legal action may be necessary. On a positive note regarding this law, there is a Bill before the legislature this session to make a few changes to the existing law. The bill outlines lesser probation period for 3rd degree convictions. This may allow the Board to make exceptions.

Settlement Agreements / Informal Hearings / Determination of Waivers: Fines, costs and disciplinary actions are imposed with these cases. Voluntary relinquishments, suspension, probation or revocation may also occur. All received a reprimand on their license. Fines ranged from \$100 to \$4,450; costs on one case was as high as \$19,273.99. The combination of fines and costs are very expensive... stay within your scope of practice and this will not happen to YOU. Please keep in mind that it is your responsibility to know the rules and laws pertaining to the massage profession. Ignorance of law is no excuse!

### **General Business Meeting Dates - 2012**

[http://www.doh.state.fl.us/MQA/massage/ma\\_meeting.html](http://www.doh.state.fl.us/MQA/massage/ma_meeting.html)

**January 26-27, 2012** - Ft. Lauderdale

**April 19-20, 2012** - Tampa;

**July 25th -26th - 27th, 2012** - Orlando

**October 25-26, 2012** - Naples

BOMT Conference Calls for 2012 will take place at 9:00 on Tuesday mornings. Schedule will be posted on the BOMT website: [http://www.doh.state.fl.us/MQA/massage/ma\\_meeting.html](http://www.doh.state.fl.us/MQA/massage/ma_meeting.html)

***Respectfully submitted by Maureen Gilbert, FSMTA/BOMT Liaison***

Disclaimer: This information is not the official transcript or minutes of the Board of Massage Therapy. The official minutes can be found on the BOMT website at [http://www.doh.state.fl.us/MQA/massage/ma\\_minutes.html](http://www.doh.state.fl.us/MQA/massage/ma_minutes.html)