

“Board Beat”

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The 357th General Business Meeting of the Board of Massage Therapy was held on October 29 – 30, 2009 at the Hyatt Regency Orlando Airport in Orlando, Florida.

Board members present included Lynda Solien-Wolfe, LMT, Chair; Lorena Haynes, LMT, Vice Chair; Robert Smallwood, LMT; Karen Ford, LMT; Bridget Burke-Wammack, LMT; Consumer Member Irene Andriole; and Consumer Member William Stoehs. Board staff included Kaye Howerton, Executive Director and Paula Mask, Program Operations Administrator. Allison Dudley, Esquire served as Board Counsel. Sam DeConcilio served as the Department’s Prosecuting Attorney.

The Board’s Thursday and Friday meeting was preceded by a Rules Development Workshop on Wednesday. The Board expressed that some of the problems with the existing Rules include redundancy, poor grammar and the need to read them over and over again to understand.

The Rules Workshop

Rules discussed during the Wednesday Rules workshop included:

- 64B7-25.001 Examination Requirements
- 64B7-28.009 Continuing Education
- 64B7-31.001 Colonic Irrigation
- 64B7-32.003 Minimum Requirements for Board of Massage Therapy Approval

64B7-32.003 Minimum Requirements for Board of Massage Therapy Approval

The Board began the workshop by focusing on 64B7-32.003 Minimum Requirements for Board of Massage Therapy Approval. The Board voted to approve changing the title of the Rule to Minimum Requirements for Board Approved Massage Schools. This new title more clearly describes the contents of the Rule. The Board spent roughly two hours discussing the Rule and possible changes.

The Board felt the following issues needed to be addressed through Rule changes:

- Some LMTs apparently graduate from school not realizing or understanding how the Laws and Rules apply to them in their day to day practice.
- The possibilities of distance education programs require that the Board determine how many of the 500 hours are hands-on and how many could be completed through distance education.
- Some schools have an unacceptable, exam pass rate of only 20 or 30 percent.
- Endorsement candidates who are otherwise qualified have a difficult time completing the requirement of courses in Florida Laws and Rules, ethics, medical errors and HIV/AIDS.
- Student clinics, particularly when off-site, need special consideration. Numerous topics involving student clinics were addressed. These include health history intake forms, supervision, and proof of liability insurance, compensation and ensuring that recipients of massage understand that they are being massaged by a student.

The Board voted to alter the section of the Rule that describes the breakdown of the 500 hours. The language they voted to approve is shown below:

Anatomy and Physiology	150
Basic Massage Theory, History and Clinical Practicum (Minimum 125 hours of practicum)	225
Allied Modalities	76
Business	15
Theory and Practice of Hydrotherapy	15
Florida Laws and Rules (Statutes 456, 480 and Rule Chapter 64B7)	10
Professional Ethics	4
HIV/AIDS	3
Medical Errors	2

In regard to schools with unacceptable pass rates, Board members asked Board counsel whether or not the Board has the authority to rescind approval of a school. Board counsel responded that rather than rescinding approval the Board could notify a school that their graduates would no longer be accepted as applicants for licensure.

64B7-25.001 Examination Requirements

The **Spanish exam** will be delayed a little longer. The language for the Rule still needs to be developed. The Board counsel stated that the proposed language will be prepared and brought before the Board at the January, 2010 meeting.

64B7-28.009 Continuing Education

This Rule is being addressed in an attempt to simplify, clarify and basically clean it up. There are some small changes that could be made. As an example the Rule has outdated language stating that all continuing education requirements may be met by correspondence/home study courses. The Board is considering adding language regarding the HIV/AIDS requirement. The current Rule does not mention the requirement because it is not a continuing education requirement. HIV/AIDS is a renewal requirement prescribed by the Department rather than a continuing education requirement created by the Board. The subject of webinars was discussed and considered. A webinar is a form of distance education. In an attempt to reduce the number of licensees filing petitions for waiver or variance in relation to the continuing education Rule the Board is considering adding language that will describe hardships that allow a licensee to be exempt from all or part of the requirement. As an example some licensees have requested exemption from the requirement of 12, live, classroom hours due to a medical condition. The Board did not vote to approve any new language for this Rule.

Changes to 64B7-31.001 Colonic Irrigation

The Board voted to approve the proposed language for Rule 64B7-31.001. The changes are as follows:

- The words colonic irrigation will be replaced with the words colon hydro therapy.
- Language regarding the new exam was also placed within the Rule.

The new exam is the National Board for Colon Hydro Therapy Certification Examination (NBCHT).

Apprenticeship Changes & Changes to Applications

The Board is working on changing applications. There are no changes yet. Some will be simple changes such as the application for licensure no longer requesting a driver's license number. The apprenticeship application indicates that the massage establishment has to have one of the following: a sauna, whirlpool, steam room or steam cabinet. There is no requirement that an establishment training an apprentice have such equipment, consequently the Board voted to remove this language from the application. Eventually there will be changes in the applications that reflect the arrival of Statute 456.0635. This report will keep you informed of changes in the hope that you will not submit an outdated application.

Senate Bill 1986 and the New Statute 456.0635

Senate Bill 1986 led to the creation of Statute 456.0635. In accordance with 456.0635 the Board advised a history applicant at the meeting that he would not be granted a license. Among other concerns, this Statute disallows licensure for any applicant with a history related to narcotics if the sentence or probation or any pleas occurred during a fifteen year period from the date of their licensure application. Aside from problems with narcotics the Statute also addresses Medicaid and Medicare fraud. The Board expressed that they do not yet know how 456.0635 will affect current licensees as the Department is developing that policy now. The list of felonies described in the Statute is so long and varied that they cannot be listed here. Licensees and massage school students with a criminal history should carefully review the statute. The statute can be located here

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0456/SEC0635.HTM&Title=->2009->Ch0456->Section%200635#0456.0635

House Bill 139 Negates Licensure Examination

The Board went on record to not support this Bill. This Bill proposes deletion of the current requirement of passing a licensure exam for applicants who complete a course of study at a Board approved massage school that is accredited by an accrediting agency recognized by the United States Department of Education. **The Board gave the following reasons for opposing this Bill:**

- No person should be granted a license without passing an exam.
- Public safety can only be guaranteed through licensure examination.
- Some schools currently have an unacceptable exam pass rate.
- A conflict of interest would exist if school owners are involved with determining who is granted a license.

A Request for Declaratory Statement

Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances, according to Chapter 120, Section

120/565(1) Florida Statutes. A chiropractor requested a declaratory statement in regard to two concerns:

- Can a massage therapist delegate their work to an unlicensed person if the massage therapist then supervises the work that person performs?
- Does the massage therapist's scope of practice include utilizing a mechanical, intersegmental, traction table?

An intersegmental, traction table has rollers just beneath its surface. The patient lies in a supine position and the rollers lift portions of their back from the table surface. This elongates the spine and stretches muscles and ligaments. Both of these questions can be answered by looking at the definition of massage therapy in 480.033.

480.033 Definitions

(3) "Massage" means the manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.

In regard to the first question the Board declared that **a massage therapist cannot delegate their work to and supervise an unlicensed person**. That person would be performing massage therapy and would need to be licensed. In regard to the scope of practice question the Board declared that **utilizing a mechanical, intersegmental, traction table does fall within the massage therapy scope of practice**. The Board noted however that the massage therapist must have proper training before utilizing the table. The exact language of the declaratory statements was not available at the time of the meeting. Board staff said they would provide the exact language as soon as it is available, look for it in my next report.

Miscellaneous

In other news Kaye Howerton, executive director, reported that there are currently about **30,000 licensees**. Information regarding unlicensed activity reveals that **66% of unlicensed health care activity in the state of Florida involves massage therapy**.

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Disclaimer: The information contained in this article is not taken from the official BOMT meeting minutes but from notes taken by an AMTA, Florida Chapter member.