

# MASSAGE THERAPY BOARD

200 N. Church Street  
Las Cruces, New Mexico  
April 16, 2004 – 10:00a.m.

## AGENDA

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**PROPOSED DATE(s) & PLACE(s) OF NEXT MEETING(s)** Page 3

August 20, 2004 – Santa Fe – 10:00 a.m.  
November 19, 2004 – Albuquerque – 10:00 a.m.

### NEW BUSINESS – ACTION ITEMS

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- B. State Farm Mutual Automobile Insurance Co. – CPT Codes Page 3
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- D. Laun Smith – Massage Therapy Institute: Page 4
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**EXECUTIVE SESSION pursuant to § 10-15-1.H (1) and (3) of the Open Meetings Act** Page 6

- A. Complaints
  - 1. Case No. 04-02-003
  - 2. Case No. 04-03-008
- B. Matters Related to the Issuance, Suspension, Renewal, or Revocation of Licenses:
  - 1. Case No. 02-01-02 – Default Order
  - 2. Case No. 02-11-20
  - 3. Case No. 02-04-03

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# MASSAGE THERAPY BOARD

200 N. Church Street  
Las Cruces, New Mexico  
April 16, 2004 – 10:00a.m.

## MINUTES

**MEMBERS PRESENT:** Kathleen McCafferty, Chair  
Edward Kaul  
Quinn Lopez

**MEMBERS ABSENT:** W.D."Peter" Lane, Vice-Chair  
Randy Barnes

**OTHERS PRESENT:** Geraldine Mascarenas, Program Manager  
Mona Valicenti, Assistant AG, Civil

**GUESTS:** See Attached Sign-in Sheet **(Attachment 1)**

## CALL TO ORDER

Kathleen McCafferty called the meeting to order at 9:00 a.m. A quorum was present with at least one member being a public member.

## APPROVAL OF AGENDA

MOTION was made by Quinn Lopez, SECONDED by Edward Kaul, to accept the agenda as presented. MOTION CARRIED UNANIMOUSLY.

## PROPOSED DATE(s) & PLACE(s) OF NEXT MEETING(s)

August 20, 2004 – Santa Fe – 10:00 a.m.  
November 19, 2004 – Albuquerque – 10:00 a.m.

## NEW BUSINESS – ACTION ITEMS

### A. Minutes of 1/29/04

MOTION was made by Edward Kaul, SECONDED by Quinn Lopez, to approve the minutes of January 29, 2004 as presented. MOTION CARRIED UNANIMOUSLY.

### B. State Farm Mutual Automobile Insurance Co. – CPT Codes **(Attachment 2)**

Kathleen McCafferty presented a description of the CPT codes in question.

It was the consensus of the Board for the Board Administrator to send a letter to the insurance company, notifying them that the Board cannot take a position as to whether or not certain CPT codes fall under the scope of practice of massage therapy, which would in essence result in the Board taking a blanket position, and the Board is not prepared to take such a position. It was the consensus of the Board to instead refer the insurance company to the statute and rules that outline the scope of practice of massage therapy.

### C. Los Ranchos de Albuquerque, Ordinance 84 **(Attachment 3)**

It was the consensus of the Board for the Board Administrator to send a letter to Donald Gillmore notifying him that 61-12C-22 provides that a county or municipality may regulate

persons licensed pursuant to the Massage Therapy Practice Act, and that such regulation shall not be inconsistent with the provisions of the Massage Therapy Practice Act. In addition; and therefore, the Board has no authority to require Los Ranchos de Albuquerque to change their requirements.

**D. Laun Smith – Massage Therapy Institute: (Attachment 4)**

**1. Concerns About RMTI (school-based) Standards**

Mr. Smith expressed concern that the current standards for becoming a school-based Registered Massage Therapy Instructor are determined by a minimum of two years of time spent being a Licensed Massage Therapist plus 50 hours of non-specific training and not based on the qualifications or skills.

It was the consensus of the Board that the rules require practical skill standards as opposed to knowledge based on education only, because “hands-on” practice has been determined to be the measuring tool used to establish competence. Therefore, therefore the Board is not looking at changing the practical skill standard requirements. However, the Board is looking at changes to the specific training required for registration and at establishing requirements for schools pertaining to Assistant Massage Therapy Instructors.

**2. Concerns Discussed at the Last Board Meeting Regarding CE**

Mr. Smith asked the Board to consider requiring new and future Licensed Massage Therapists to maintain their National Certification, which would then provide for the Board to have licensees submit proof of recertification when NCBTMB re-certification is up for renewal every four (4) years. Mr. Smith stated that this would accomplish two (2) objectives: (1) instead of verifying continuing education every two (2) years, it would be done every four (4) years; and (2) this would establish standards that all continuing education workshops or courses are reviewed by the NCBTMB and all courses accepted by NCBTMB must be courses that have been reviewed and approved.

Edward Kaul stated that the national standard for auditing continuing education document is 10%; therefore the Board is well within the national standards.

It was the consensus of the Board that a change to the Massage Therapy Practice Act would not be necessary, but a rule change would be required to incorporate the suggestion. However, the Board has no intentions on changing the two-year continuing education requirement at this time.

**3. Efficacy of RMTI vs. LMT Use in Schools**

Mr. Smith asked the Board to consider changes to the Rules/Statute that would allow for better utilization of Registered Massage Therapy Instructors and Licensed Massage Therapists during the Clinical Practicum portion of the training. Mr. Smith provided an example of the underutilization of Registered Massage Therapy Instructors at his school, stating that during a six (6) month period the students performed over 600 massages and the assistance of the Registered Massage Therapy Instructor was sought for only four (4) cases. He added that this is not a good use of a Registered Massage Therapy Instructor.

It was the consensus of the Board that a statute change to the Massage Therapy Practice Act would be necessary before the Board could promulgate Mr. Smith’s suggestions. The Board agreed that it was not planning to seek changes to the current statutory requirement.

**E. Wanita Thompson – Mesilla Valley School of Therapeutic Arts: (Attachment 5)**  
**1. Research on Massage Therapy Trends Regarding Practice on Minors**

Wanita Thompson from Mesilla Valley School of Therapeutic Arts appeared before the Board and presented and provided data collected from a practice development project that involved students researching a topic entitled “Client Welfare Regarding Massage Therapy and Minors (under 18 years of age)”.

After a lengthy discussion and positions presented from other members of the audience, it was the consensus of the Board to refer this matter to the Rules & Statute Committee.

**F. Richard Casaus – Request for Continuing Education (Attachment 6)**

It was the consensus of the Board to TABLE this matter until the next Board meeting, in order to provide for input from the professional Board members.

**OLD BUSINESS – ACTION ITEMS**

**A. Status – Health Insurance Portability & Accountability ACT (HIPAA)**  
(Kathleen McCafferty) (Attachment 7)

Kathleen McCafferty presented a draft letter to be sent to the Massage Therapy Schools informing them that there are four (4) facets to HIPAA, including privacy and confidentiality, and that although the current emphasis of HIPAA is on electronic transmission of client records, the privacy consideration affects and is applicable to every massage therapy school in New Mexico because each school has an internship program in which health information is obtained from clients.

The Board decided that each member should provide input and that the Board should work on the letter together before it is mailed to the schools.

**B. Status – Massage Therapy Licensure Required? (Geraldine Mascarenas)**

Geraldine Mascarenas reported that she did not yet have a draft letter for the Board to consider.

**C. Consumer-Based Frequently Asked Questions and Answers (Tabled: June 03)**  
(Kathleen McCafferty) (Attachment 8)

Kathleen McCafferty presented a list of questions for the Board to consider.

After a brief discussion the Board referred this matter to the Rules & Statute Committee.

**FOR YOUR INFORMATION**

**A. School Renewal Questions (Attachment 9)**

E-mail with questions about school renewal submitted by a representative of the New Mexico Academy of Healing Arts was provided to the Board for information purposes only. No action was necessary.

**COMMITTEE REPORT – ACTION ITEMS**

**A. Schools & Businesses Inspection Committee**  
**1. Committee Assignment**

It was reemphasized that the Schools & Businesses Inspection Committee would be established when the Compliance Officer position is in place. The development and implementation of a program for the inspection of massage therapy schools and massage therapy establishments is quite involved, and since the Compliance Officer will be enforcing the program, the Compliance Office should be involved in its development.

Quinn Lopez asked permission from the Board to send a letter to Kathleen O’dea, Boards & Commissions Director, inquiring the status of the Compliance Officer position, and to emphasize the great need for the position. The Board agreed and authorized Mr. Lopez to draft and send the letter to Ms. O’Dea on the Board’s behalf

**B. Rules & Statute Committee (Kathleen McCafferty & Quinn Lopez) (Attachment 10)**  
**1. Rules Timetable**  
**2. Proposed Rules**

Quinn Lopez presented the Statutes & Rules Committee Report for the meeting held on February 20, 2004.

MOTION was made by Quinn Lopez, SECONDED by Edward Kaul, to accept the Rules & Statute Committee Report as presented and to have Geraldine Mascarenas present a draft of the rules at the next Board meeting.

**C. Education, Examination & Licensing Compliance Committee (Randy Barnes & Quinn Lopez)**

There was no activity for the Board to consider.

**D. Complaints Committee (Peter Lane & Edward Kaul) (Attachment 11)**  
**1. Minutes**

Edward Kaul presented the Complaint Committee Report for the meeting held on January 30, 2004.

MOTION was made by Quinn Lopez, SECONDED by Edward Kaul, to accept the Complaint Committee Report as presented.

**EXECUTIVE SESSION pursuant to § 10-15-1.H (1) and (3) of the Open Meetings Act**

MOTION was made by Edward Kaul, SECONDED by Quinn Lopez to enter into Executive Session pursuant to Sections 10-15-1.H (1) and (3) of the Open Meetings Act, to discuss: (1) Complaints; (2) Matters Related to the Issuance, Suspension, Renewal, or Revocation of Licenses; and (3) Pending or Threatened Litigation.

A roll call vote was taken and Edward Kaul, Quinn Lopez, and Kathleen McCafferty voted yes, and the MOTION CARRIED UNANIMOUSLY.

MOTION was made by Edward Kaul, SECONDED by Quinn Lopez, to reconvene back into Regular Session.

The vote was: Edward Kaul, yes; Quinn Lopez, yes; and Kathleen McCafferty, yes.

Chair, Kathleen McCafferty stated for the record that those items discussed in Executive Session were limited to the items listed in the motion for Executive Session. The following action was taken in open session.

## **EXECUTIVE SESSION – ACTION ITEMS**

### **A. Complaints**

#### **1. Case No. 04-02-003**

MOTION was made by Quinn Lopez, SECONDED by Edward Kaul, to refer the case to the Attorney General's Office for the issuance of a Notice of Contemplated Action. MOTION CARRIED UNANIMOUSLY.

#### **2. Case No. 04-03-008**

MOTION was made by Quinn Lopez, SECONDED by Edward Kaul, to refer the case to the Attorney General's Office for the issuance of a Notice of Contemplated Action. MOTION CARRIED UNANIMOUSLY.

### **B. Matters Related to the Issuance, Suspension, Renewal, or Revocation of Licenses:**

#### **1. Case No. 02-01-02 – Default Order**

MOTION was made by Quinn Lopez, SECONDED by Edward Kaul, to accept the Default Order as presented. MOTION CARRIED UNANIMOUSLY.

#### **2. Case No. 02-11-20**

MOTION was made by Quinn Lopez, SECONDED by Edward Kaul, to dismiss the case. MOTION CARRIED UNANIMOUSLY.

#### **3. Case No. 02-04-03**

MOTION was made by Quinn Lopez, SECONDED by Edward Kaul, to grant the licensee thirty (30) additional days to the respondent comply with the Board's Order. MOTION CARRIED UNANIMOUSLY.

## **ADJOURNMENT**

There being no further business before the Board, MOTION was made by Edward Kaul, SECONDED by Quinn Lopez, to adjourn the meeting. The time was 1:10 p.m.

**Submitted by Geraldine Mascarenas, Program Manager**  
**Approved by the Board on August 20, 2004**  
**Accepted by the Board Chair, Kathleen McCafferty on August 20, 2004**