

NEW MEXICO MASSAGE THERAPY BOARD

City Hall
200 N. Church Street, Las Cruces
April 19, 2001 – 10:00a.m.

AGENDA

CALL TO ORDER

APPROVAL OF AGENDA

NEXT BOARD MEETING DATE AND PLACE

October 26, 2001 – Taos – 10:00a.m.
Strategic Plan Meeting

RULE HEARING

Title 16 Occupational and Professional Licensing, Chapter 7 Massage Therapists: - - - - -	Page 4
Part 1 General Provisions	
Part 3 Fees	
Part 4 Requirements for Licensure	
Part 5 Requirements for Schools	
Part 6 Requirements for Instructors	
Part 10 Examinations	
Part 11 Continuing Education	
Part 12 License/Registration Renewal	
Part 16 Parental Responsibility Act Compliance	

NEW BUSINESS

A. Action on Rule Hearing - - - - -	Page 5
B. Minutes of 02/09/01 - - - - -	Page 5
C. Visiting Massage Therapy Instructors – Is the sponsor's name, registration number, and designation required to be included in their advertisements? - - - - -	Page 6
D. Attorney General Opinion:	
(1) How a school that teaches massage therapy and plans to grant associate degrees may achieve appropriate certification beyond registration with the NM Massage Therapy Board - - - - -	Page 6
(a) Laun C. Smith – Massage Therapy Training Institute - - - - -	Page 6
E. Proposed Licensure Requirement Statement for Website - - - - -	Page 7
F. Proposed Disclosure Statement for Website - - - - -	Page 7
G. Do These Practices Fall Within the Massage Therapy Scope of Practice? - - - - -	Page 7
(1) Chronic & Acute Soft Tissue Rehabilitation	
(2) Paraffin Dip for hands and feet	
H. Acceptable Method of Payment for Licensure/Re-licensure - - - - -	Page 7

OLD BUSINESS

- A. Attorney General Opinion/Advise Requested:
 - (1) To what extent does the Board have jurisdiction over schools?
(David Lang) - - - - - Page 7
- B. FAQ's – Consumer Protection - - - - - Page 8
- C. Request meeting with Boards that have Scope of Practices that overlap, including: Chiropractic, Acupuncture, Physical Therapy Athletic Trainer, and Cosmetology/Barber (David Lang) - - - - - Page 8
- D. In the Matter of Kelly S. Smith, Massage Therapy Applicant, Case No. 98-09-05, Settlement Agreement - - - - - Page 8
 - (1) Board Decision

ADMINISTRATOR'S REPORT

- A. FY2002 (July 1, 2001 to June 30, 2002) Budget: - - - - - Page 8
 - (1) Budget Request
 - (2) Approved Budget
 - (3) L2000 Module for Renewing Licenses over the Internet
 - (4) Budget Increase from Cash Balance
- B. Efforts to Maintain/Obtain Support Staff: - - - - - Page 8
 - (1) Temporary Position – Approved FY01 Budget
 - (2) PCQ for Term Clerk IV
 - (3) Pharmacy Board - Unnecessary Position
- C. State Jurisprudence Examination Contract- - - - - Page 9
- D. Complaint Process Consumer Guide- - - - - Page 9
- E. Licensure Process - Washington- - - - - Page 9
- F. Board Jurisdiction Over Unlicensed Persons: - - - - - Page 9
 - (1) 1999 Efforts – Board of Thanatopractice
 - (2) SB164 – Real Estate Commission
- G. Liability Insurance: - - - - - Page 9
 - (1) SB805 – Real Estate Commission
- H. Licensure/Registration Statistics (4/00 through 3/01) - - - - - Page 9
 - (1) Issued:
 - (a) 227 – Massage Therapists
 - (b) 190 – Temporary Massage Therapists
 - (c) 19 – Massage Therapy Instructors
 - (2) Pending:
 - (a) 322 – Massage Therapists
 - (b) 36 – Temporary Massage Therapists
 - (c) 2 – Massage Therapy Schools
 - (3) Customer Service Evaluation Form:
 - (a) 25% – Return Rate
 - (b) 2 Complaints – Regarding Jurisprudence Examination
 - (c) 1 Complaint – Complaint was that issuance of initial license took three weeks

FOR YOUR INFORMATION

- A. FARB Report (Pauline Mares) - - - - - Page 10

COMMITTEE REPORT/BOARD ACTION

- A. Inspections of Schools and Businesses (David Lang) - - - - - Page 10
- B. Rules Committee (Larry Suzuki) - - - - - Page 10
 - (1) General Area of competency for examination for Initial Licensure
- C. Education & Licensing & Examination Compliance (Sharon White) - - - - Page 10
 - (1) Baldrige, Amy (Massage Therapy Licensure)
- D. Breast Massage (Sharon White) - - - - - Page 10
- E. Complaints (David Lang) - - - - - Page 11
 - (1) Complaint made available to Respondent
- F. Statute (Gene Henley) - - - - - Page 11
 - (1) HB393 – Massage Therapy Exemptions (Signed 4/2/01, Ch. 121)
 - (2) SB329 – Enacting the Alternative Health Care Client Bill of Rights Act (Tabled Indefinitely)

EXECUTIVE SESSION pursuant to § 10-15-1.H (1) and (3) - - - - - Page 12

- A. Complaints
- B. Matters Related to the Issuance, Suspension, Renewal, or Revocation of Licenses
- C. Pending or Threatened Litigation

BOARD ACTION ON EXECUTIVE SESSION ITEMS- - - - - Page 12

- A. Complaints
- B. Matters Related to the Issuance, Suspension, Renewal, or Revocation of Licenses
- C. Pending or Threatened Litigation

ADJOURNMENT- - - - - Page 12

NEW MEXICO MASSAGE THERAPY BOARD

City Hall
200 N. Church Street, Las Cruces
April 19, 2001 – 10:00a.m.

MINUTES

MEMBERS PRESENT: Sharon D. White, Chair
David Lang, Massage Therapist
W.D. 'Peter' Lane, Massage Therapist
Gene V. Henley, Public Member
Larry C. Suzuki, Public Member

OTHERS PRESENT: Geraldine Mascarenas, Administrator
Juanita Vigil, Administrative Assistant
Patrick Simpson, Assistant AG

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

CALL TO ORDER

Chair Sharon White called the meeting to order at 10:01a.m. A quorum was present with at least one member being a public member.

APPROVAL OF AGENDA

MOTION was made by David Lang, SECONDED by Larry Suzuki, to accept the agenda with the following amendment:

Change next Board Meeting date to August 10, 2001 at 10:00a.m. in Albuquerque.

MOTION CARRIED UNANIMOUSLY.

MOTION was made by Gene Henley, seconded by David Lang, to move from Old Business item D "In the Matter of Kelly S. Smith, Massage Therapy Applicant, Case No. 98-09-05, Settlement Agreement, (1) Board Decision", to New Business following item C "Visiting Massage Therapy Instructors – Is the sponsor's name, registration number, and designation required to be included in their advertisements?". MOTION CARRIED UNANIMOUSLY.

NEXT BOARD MEETING DATE AND PLACE

August 10, 2001 – Albuquerque – 10:00a.m.
August 10, 2001 - Strategic Plan Meeting
October 26, 2001 – Taos – 10:00a.m.

RULE HEARING (Attachment 2)

Title 16 Occupational and Professional Licensing, Chapter 7 Massage Therapists:

- Part 1 General Provisions
- Part 3 Fees
- Part 4 Requirements for Licensure
- Part 5 Requirements for Schools
- Part 6 Requirements for Instructors
- Part 10 Examinations
- Part 11 Continuing Education
- Part 12 License/Registration Renewal
- Part 16 Parental Responsibility Act Compliance

Refer to transcript on Rule Hearing for testimony.

NEW BUSINESS

A. Action on Rule Hearing

MOTION was made by Larry Suzuki, SECONDED by Larry Suzuki, to adopt the following Rules with the noted changes:

Part 1 General Provisions, as presented, with no changes.

Part 3 Fees, as presented, with no changes.

Part 4 Requirements for Licensure, as presented, with no changes.

Part 5 Requirements for Schools, as presented with no changes.

Part 6 Requirements for Instructors, as presented, with no changes.

Part 10 Examinations, as presented, with no changes.

Part 11 Continuing Education, on page 11-2, third to last line, change "ISTORY" to "HISTORY".

Part 12 License/Registration Renewal, on page 12-4, 16.7.12.10, A(1), add "October 31st" after "on or before".

Part 16 Parental Responsibility Act Compliance, as presented, with no changes.

MOTION CARRIED WITH Sharon White OPPOSING.

B. Minutes of 02/09/01

MOTION was made by David Lang, SECONDED by Gene Henley, to accept the minutes of 02/09/01 with the following amendment:

Under "Approval of Agenda" replace "Larry Suzuki" with "Gene Henley".

MOTION CARRIED UNANIMOUSLY.

C. Visiting Massage Therapy Instructors – Is the sponsor’s name, registration number, and designation required to be included in their advertisements?

Geraldine Mascarenas stated that the rules and/or Massage Therapy Practice Act do not address advertising for Visiting Massage Therapy Instructors. Geraldine Mascarenas recommended adding the requirement that the Sponsor’s (Massage Therapy School or Massage Therapy Instructor) name and registration information be added to the Professional Conduct rule, specifically under the “Representation of Services” section that currently has the advertising provisions. Geraldine Mascarenas further recommended sectioning off the advertising requirements from the “Representation of Services” section of the rule into a section devoted exclusively to advertising. Geraldine Mascarenas asked that this matter be referred to the Rules Committee.

Wanita Thompson with Mesilla Valley School of Therapeutic Arts stated that it is her understanding that the Visiting Massage Therapy Instructor Exemption provision is limited to instructors coming into New Mexico to teach at Registered Massage Therapy Schools and not for Continuing Education purposes. Wanita Thompson further expressed that the Board does not have jurisdiction over continuing education providers.

Geraldine Mascarenas stated that the Visiting Massage Therapy Instructor Exemption provision rule, specifically Part 16.7.6.10, C.(2), refers to “registrant” and the intent when the rule was passed was to include both Massage Therapy Schools and Massage Therapy Instructors.

Chair Sharon White referred this matter to the Rules Committee.

D. Attorney General Opinion: (Attachment 3a)

- (1) How a school that teaches massage therapy and plans to grant associate degrees may achieve appropriate certification beyond registration with the NM Massage Therapy Board**
 - (a) Laun C. Smith – Massage Therapy Training Institute (Attachment 3b)**

Laun Smith, with Massage Therapy Training Institute of New Mexico stated that the Board needs to be proactive in working toward obtaining jurisdiction in granting associate degree programs for massage therapy training schools.

Wanita Thompson, with Mesilla Valley School of Therapeutic Arts stated that the solution to granting accreditation for degree granting programs is simple. See (Attachment 4) provided by Wanita Thompson outlining the process she believes will accomplish what Laun Smith is attempting to do.

Wanita Thompson asked Assistant Attorney General, Patrick Simpson, if the Massage Therapy Board has the authority to approve massage therapy programs that offer a curriculum that is beyond 650 hours, which is the minimum requirement by Statute and Rule. Assistant Attorney General Patrick Simpson stated that it is within the Board’s authority to approve massage therapy training programs that offer a curriculum that is beyond 650 hours, further stating that the Board is not limited to only the 650-hour minimum requirement.

E. Proposed Licensure Requirement Statement for Website (Attachment 5)

The Board agreed that a positive starting point in providing consumer information is to include a statement in the Board's website stating that licensure for the practice of massage therapy is required in the State of New Mexico. The License Search capability and referral to the Board Office for verification of licensure was also discussed as being a means for consumers to become informed.

The Board therefore accepted the proposed wording with modifications needed to meet New Mexico's requirements.

It was the consensus of the Board to have the statement added to the Board's website.

F. Proposed Disclosure Statement for Website (Attachment 6)

Geraldine Mascarenas stated that more and more people are accessing the Board's website and therefore it would be a good idea to include a disclaimer of warranties statement in the Board's website stating that the Board does not guarantee the accuracy, completeness, timeliness, etc. of the site, including any sites linked to, and that the sites linked to does not constitute or imply endorsement by the Board.

The Board accepted the proposed wording with one modification, which was to replace "view" with "review" on line eight.

It was the consensus of the Board to have the statement added to the Board's website.

G. Do These Practices Fall Within the Massage Therapy Scope of Practice?

- (1) Chronic & Acute Soft Tissue Rehabilitation**
- (2) Paraffin Dip for hands and feet**

It was the consensus of the Board that these practices are within the Massage Therapy Scope of Practice.

H. Acceptable Method of Payment for Licensure/Re-licensure

Gene Henley stated that the administrative process needs to be flexible to meet the requirements of the State financial system, and therefore the Board Administrator needs to have the discretion to make necessary changes as she deems necessary and/or when required.

It was the consensus of the Board that the Board Administrator needs to have the flexibility regarding administrative processes, including acceptable methods of payments, and in doing so, to keep in mind aiming on providing quality customer service.

OLD BUSINESS

A. Attorney General Opinion/Advise Requested:

- (1) To what extent does the Board have jurisdiction over schools?**
(David Lang)

David Lang stated that this matter is to be consolidated with the Inspections of Schools and Businesses Committee.

B. FAQ's – Consumer Protection (Attachment 7)

Chair Sharon White stated that she would work on this subject matter and provide the information to the Board members and Board Administrator as soon as she has a draft.

C. Request meeting with Boards that have Scope of Practices that overlap, including: Chiropractic, Acupuncture, Physical Therapy Athletic Trainer, and Cosmetology/Barber (David Lang)

David Lang stated that when he has a scope of practice question that may overlap with another health care board that he contacts the respective board. David Lang further stated that such a meeting does not seem to be possible.

Assistant Attorney General, Patrick Simpson, stated that if the Board has a scope of practice question it should be referred by the Board to his office for an opinion.

**D. In the Matter of Kelly S. Smith, Massage Therapy Applicant, Case No. 98-09-05, Settlement Agreement
(1) Board Decision**

MOTION was made by David Lang, SECONDED by Gene Henley, to accept Mr. Smith's courses as satisfying the Settlement Agreement in Case No. 98-09-05 entered into by Mr. Smith on June 30, 2000. MOTION CARRIED UNANIMOUSLY.

ADMINISTRATOR'S REPORT

- A. FY2002 (July 1, 2001 to June 30, 2002) Budget: (Attachment 8a – 8d)**
- (1) Budget Request**
 - (2) Approved Budget**
 - (3) L2000 Module for Renewing Licenses over the Internet**
 - (4) Budget Increase from Cash Balance**

This was provided for the Board's information.

- B. Efforts to Maintain/Obtain Support Staff: (Attachment 9a – 9c)**
- (1) Temporary Position – Approved FY01 Budget**
 - (2) PCQ for Term Clerk IV**
 - (3) Pharmacy Board - Unnecessary Position**

Geraldine Mascarenas outlined some of the efforts she had attempted to either retain or obtain staff needed to maintain adequate staffing to meet the needs of the Boards.

Geraldine Mascarenas stated that the new License2000 database is consuming more manpower than she believes the administration was aware it would require, and this is one reason why additional staffing is still needed.

David Lang stated that with inspections of schools and establishments he foresees additional staff will be inevitable.

C. State Jurisprudence Examination Contract

Geraldine Mascarenas stated that she is attempting to obtain a contract prior to the end of the fiscal year to create the Board's jurisprudence examination to include computerizing the examination.

D. Complaint Process Consumer Guide

Geraldine Mascarenas stated that she plans to present at the next Board meeting a step-by-step process of the complaint and administrative processes involved in resolving complaints.

E. Licensure Process - Washington

Geraldine Mascarenas stated that some information has been obtained from the Washington Massage Therapy Board regarding licensing of massage therapists through the National Certification Board, and she feels that this may be a way to streamline the licensure process.

Geraldine Mascarenas stated that she hopes to have more definite information to present to the Board at the next Board meeting.

Gene Henley stated that this may be a way to free up staff to accomplish things that otherwise cannot be done because of insufficient staffing, and that the administration may be more receptive to this type of effort rather than obtaining additional staffing.

- F. Board Jurisdiction Over Unlicensed Persons:** (Attachment 10a – 10b)
- (1) 1999 Efforts – Board of Thanatopractice**
 - (2) SB164 – Real Estate Commission**

Refer to Committee Report.

- G. Liability Insurance:** (Attachment 11)
- (1) SB805 – Real Estate Commission**

Geraldine Mascarenas stated that SB805 was being provided for informational purposes and that the Board may in the future want to consider an amendment to the Massage Therapy Practice Act if, or when, licensing of medical massage is instituted.

Gene Henley recommended that the Board not pursue seeking a statute amendment, stating that such efforts should be pursued by the massage therapy profession through it's association/coalition, etc.

- H. Licensure/Registration Statistics (4/00 through 3/01)**
- (1) Issued:**
 - (a) 227 – Massage Therapists**
 - (b) 190 – Temporary Massage Therapists**
 - (c) 19 – Massage Therapy Instructors**
 - (2) Pending:**
 - (a) 322 – Massage Therapists**

- (b) 36 – Temporary Massage Therapists
- (c) 2 – Massage Therapy Schools
- (3) Customer Service Evaluation Form:
 - (a) 25% – Return Rate
 - (b) 2 Complaints – Regarding Jurisprudence Examination
 - (c) 1 Complaint – Complaint was that issuance of initial license took three weeks

Geraldine Mascarenas stated that this was provided for informational purposes, further stating that the Board office recently started sending a status letter every three (3) months instead of when the application is due to expire or has expired. Geraldine Mascarenas stated that by doing this, applicants are informed of what is still lacking and also reminds them that they only have one (1) year from the date of receipt of the application in which to fulfill all application requirements. Therefore instead of only receiving the initial status letter and the expiration letter, the Board office is making every effort to communicate to applicants of what is still lacking and reminding them of the application deadline.

FOR YOUR INFORMATION

A. FARB Report (Pauline Mares) (Attachment 12)

Pauline Mares provided a thorough report on what was covered at the FARB Conference.

COMMITTEE REPORT/BOARD ACTION

A. Inspections of Schools and Businesses (David Lang) (Attachment 13)

David Lang stated that he is currently working on inspection reports and communicating with Patrick Simpson, the Board's attorney, regarding jurisdiction over schools. Laun Smith of the audience suggested that the schools be included in the committee to give their ideas on the inspection process.

B. Rules Committee (Larry Suzuki) (1) General Area of competency for examination for Initial Licensure

There was nothing reported on this item.

C. Education & Licensing & Examination Compliance (Sharon White) (1) Baldrige, Amy (Massage Therapy Licensure)

Chair Sharon White stated that this item would be discussed in Executive Session. Refer to "Actions on Executive Session Items"

D. Breast Massage (Sharon White)

Chair Sharon White stated she had nothing to report at this time, but was planning to take an extensive course on Breast Massage in October. David Lang asked Geraldine Mascarenas if there were funds available in order for the Board to pay for this course, because it was the main reason Chair Sharon White was attending. Geraldine Mascarenas stated there were funds available for education.

Gene Henley requested a full report to be presented to the Board upon completion of the course.

MOTION was made by David Lang, SECONDED by W.D. 'Peter' Lane, to send Sharon White to Canada to attend an extensive Breast Massage course, with agreement that a full report is be presented to the Board at the next meeting following the training. MOTION WAS CARRIED UNANIMOUSLY.

E. Complaints (David Lang) (Attachment 14)
(1) Complaint made available to Respondent

Chair Sharon White expressed concern that the respondent is given the name of the complainant, further stating many people do not submit complaints because they do not want their name disclosed.

Patrick Simpson stated that it is the respondents' right to know who is making accusations or complaining against him/her.

Chair Sharon White suggested that the complainants name not be released until the respondent asks for this information to be disclosed.

Geraldine Mascarenas referred the Board to Part 14, Section 10, Subsections F and G, which addresses what should be considered if a complaint is to be shared with the respondent, stating that consideration needs to be taken when disclosure may "impair, impede or compromise the efficacy or integrity of the investigation".

Patrick Simpson stated that Part 14 leave the discretion up to the Complaint Committee to determine when disclosure of the complainant's name to the respondent may impair, impede or compromise the efficacy or integrity of the investigation, and therefore this needs to be done on a case-by-case basis. Patrick Simpson further stated that if the Complaint Committee knows up front that an investigation will not be conducted then the respondent needs to know who is making accusations or complaining against him/her.

F. Statute (Gene Henley)
(1) HB393 – Massage Therapy Exemptions (Signed 4/2/01, Ch. 121)
(2) SB329 – Enacting the Alternative Health Care Client Bill of Rights Act (Tabled Indefinitely)

Gene Henley stated that HB393 regarding Massage Therapy Exemptions passed, he also stated SB329 did not pass and did not get anywhere. Gene Henley further stated that SB164 (Real Estate) went through easily and if the Board is considering a bill similar to SB164 relating to jurisdiction of unlicensed practices that contact should be made soon with Representative Rick Miera, requesting that he carry the bill.

Geraldine Mascarenas suggested that the Board further discuss what statute amendments the Board is interested in pursuing at it's strategic plan meeting in August, stating that she would like the educational requirements outlined in the statute considered for amendment, which will require her to obtain information from other states.

The Board agreed that ideas for statute amendments be shared at the strategic plan meeting scheduled in August.

EXECUTIVE SESSION pursuant to § 10-15-1.H (1) and (3)

MOTION was made by Sharon White, SECONDED by Gene Henley to enter into Executive Session at 4:45p.m. to discuss complaints, matters related to the issuance, suspension, renewal, or revocation of licenses, pending or threatened litigation, pursuant to Section 10-15-1.H (1) and (3) of the Uniform Licensing Act.

The vote was Gene Henley, yes; Larry Suzuki, yes; David Lang, Yes; W.D 'Peter' Lane, yes; and Sharon White, yes. THE MOTION CARRIED UNANIMOUSLY.

BOARD ACTION ON EXECUTIVE SESSION ITEMS

MOTION was made by Larry Suzuki, SECONDED by David Lang, to reconvene back into regular session. MOTION CARRIED UNANIMOUSLY.

Patrick Simpson stated for the record that those items discussed in Executive Session were limited to the items listed in the motion for Executive Session, pursuant to Section 10-15-1.H (1) and (3) of the Uniform Licensing Act.

MOTION was made by Chair Sharon White, SECONDED by Gene Henley, to issue Amy Baldrige a license provided she completes all application requirements. MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

There being no further business before the Board, MOTION was made by Gene Henley, SECONDED by David Lang, to adjourn the meeting.

The meeting was adjourned at 5:03p.m.

SUBMITTED BY:

Geraldine Mascarenas, Administrator

Date

APPROVED ON BEHALF OF THE BOARD BY:

Sharon D. White, Chair

Date