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**New Mexico Regulation and Licensing Department**  
**BOARDS AND COMMISSIONS DIVISION**  
**Massage Therapy Board**

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**MASSAGE THERAPY BOARD REGULAR MEETING**  
**Monday, November 26, 2007, 10:00 A.M.**  
**Regulation & Licensing Department, Albuquerque, New Mexico 87113**

**Minutes**

**1. CALL TO ORDER/ROLL CALL/INTRODUCTIONS:**

Kathleen Egenes, Board Chair, called the meeting to order at 10:15 a.m. and a quorum was determined present.

**MEMBERS PRESENT:**

Kathleen Egenes, LMT, RMTI and Chair  
W.D. "Peter" Lane, LMT, RMTI  
Margo Bryson, Public Member  
"C" Quinn Lopez, Esq., Public Member

**MEMBERS ABSENT:**

**OTHERS PRESENT:**

Jackie Holmes, Board Administrator  
Mona Valicenti, Assistant Attorney General  
Pam Barrone, Compliance Section  
**(For others present, refer to sign-in sheet)**

**2. APPROVAL OF AGENDA:**

**MOTION** was made by Mr. Lane to approve the agenda as written, **SECONDED** by Ms. Bryson. **MOTION CARRIED UNANIMOUSLY.**

**3. APPROVAL OF BOARD MINUTES:**

**MOTION** was made by Mr. Lane to approve the minutes from July 20, 2007 as written/amended, **SECONDED** by Ms. Bryson. **MOTION Passed.**

**4. NEXT MEETING DATE:**

The next meeting will be held on Friday, February 29, 2008 in Santa Fe, New Mexico at Regulation & Licensing Department.

**5. OLD BUSINESS:**

- A. Clarification of CE requirements from rules committee.  
This item was tabled and is under advisement by the rules committee. The rules committee will work on providing an answer to this inquiry. Item tabled.
- B. FSMTB – Correspondence and Exam content outline

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Ms. Egenes gave her report at this time. She reported on the Federation of State Massage Therapy Boards' meeting she attended in Orlando, Florida. The Federation has developed an entry level examination, the MBLEX that does not require any massage therapy education. Ms. Egenes stated that she has not seen the exam but that there are some states, like Arkansas, who will use the MBLEX exclusively.

Texas is increasing their requirements for massage therapy licensure and they are probably going to also use the MBLEX in addition to their self exam and practical. Quite a few states are accepting the MBLEX.

Ms. Egenes stated that the New Mexico board needs to decide if it will accept the MBLEX because a rule change would need to be made. Ms. Egenes asked if the board should get something together and send it to the schools.

Mr. Lane addressed the board. He reported that he and Ms. Holmes traveled to Chicago in August to attend the Federation's meeting on the final version of the psychometric evaluation of the exam, which became this licensure exam. Colleagues from around the country attended the meeting. Mr. Lane and Ms. Holmes were impressed with the people they interacted with; with their dedication to creating an entry level licensure exam that actually reflects what students are learning in massage therapy schools. After going through that 3 or 4 day conference and being part of the process of deciding which questions would be included in the exam, Mr. Lane concluded that the Federation's exam is much more in line with the practice of massage therapy and what a student needs to be proficient at an entry level, versus the other exam that's been used for years.

It is interesting to note that in response to the Federation's exam, the National Certification Board has, rather belatedly, endeavored to alter their exam and their organization as a whole to try to compete more favorably with the Federation. Mr. Lane stated that both he and Ms. Holmes were very impressed with the exam and very impressed with the process and the people involved with its creation. Mr. Lane thinks it would be worthwhile to make a rule change to offer the MBLEX as well as the National Certification Board's exam. The student would have a choice, or the board could just do away with the National Certification exam and adopt the MBLEX exclusively.

Ms. Egenes went on to explain that the Federation is not putting the same restrictions on taking their exam as the National Certification Board. The fee is going to be between \$195.00 and \$225.00 and the candidates will not "renew" with the Federation.

Mr. Lopez stated that a huge issue the Board has had to deal with is that when a student takes the National Certification Board's exam and passes it, there has been some confusion on the part of the student. They seem to think that they automatically can apply for licensure in the state of New Mexico and that because they passed the exam, they should be granted a license. The Federation is trying to get away from that and give more power to each individual state that licenses massage therapist by saying "no, we're not guaranteeing that you're going to get a license just because you passed the Federation entry level exam. You're still going to have to comply with the criteria required in whichever state you want to practice."

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Ms. Egenes stated that she didn't think that the Board should eliminate the National Certification Board's exam. She thinks that we should have an option; the MBLEX should be included.

The chair recognized Don Schiff of Stonecircle Massage. Mr. Schiff commented that he did not have a problem with the lack of hour requirement to take the MBLEX. He thinks that including a specific number of hours was on the agenda of one of the massage therapy associations to get states to come up to that level of their licensing. It seems that the MBLEX is based on competencies rather than "butt hours" (sitting in class). This is a wonderful trend. Mr. Schiff suggested that the Board also look at accepting the NCCAOM exam as well; it is also a psychometrically valid exam. The Board would have to consider whether it actually fits what massage therapy is, but of course, students would have to take the courses that New Mexico requires in order to get a license. Mr. Schiff went on to say that giving more options in licensing exams is a good idea and there are people who have the education that fits the NCCAOM exam better than the NCBTMB or presumably the MBLEX.

Ms. Bryson asked if Mr. Lane or Ms. Holmes actually saw one of the MBLEX exams. Mr. Lane explained that he participated in the process of actually writing exam questions and in the final process of choosing which exam questions would be on this particular exam. The Federation will use different versions of the exam, and it focuses primarily on massage, not oriental medicine like some of the previous NCE exams.

Ms. Egenes reported that in the Federation's attempt to create this an excellent exam, Pierson will do the implementation; the students will go to one their testing centers and will know the outcome of their efforts right away. The exam results will automatically go to the states.

Mr. Lane made a **MOTION** that the Board of Massage Therapy adopt the MBLEX licensure exam in addition to the NCE examination and the Board move with the greatest haste to amend the rules and regulations to allow that to occur at the Board's earliest opportunity. **The Motion was SECONDED** by Ms. Bryson. **MOTION Passed.**

### **6. NEW BUSINESS:**

#### A. Letter from Alexandra Bruehl

Ms. Holmes explained that Ms. Bruehl was fined \$5,000.00 by the massage therapy board for practicing without a license. Ms. Bruehl paid the fine, but then heard from several colleagues that the massage therapy board can only fine up to \$1,000.00. She wrote a letter to the board requesting reconsideration or a refund.

Ms. Valicenti stated that Ms. Bruehl was represented by an attorney and she entered into a settlement agreement; it's a contract, even though she's correct, the ULA does allow for a \$1,000 per violation penalty. She entered into a contract; she signed off on it and she paid the fine. Ms. Valicenti thinks it is a done deal. The time to negotiate was before the settlement agreement was signed, not a year later.

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Ms. Bryson remembered the Bruehl case and the fact that Alexandra billed an insurance company as well as practiced massage without a license. Ms. Bryson commented that it smacked of fraud. She thinks that the \$5,000 fine was in order.

Ms. Valicenti confirmed that if the Board was not going to make any change to its original decision, a motion was not needed. The Board is satisfied with the settlement agreement in the Bruehl case.

### B. Letter from Pamela Glissen, LMT #5489

The Board Chair explained that Ms. Glissen wrote the board a letter asking for more time to renew her license. She is a new licensee and didn't understand the renewal requirement ( the 16 hours of CE) needed to be done by her in order to renew her license, as she was not yet licensed for 2 years. Ms. Glissen had surgery and has been out of work.

Mr. Lane addressed the board stating that he did sympathized with Ms. Glissen's situation, however if the Board starts making exceptions for one therapist, it could get caught up in this vicious cycle of having to make an exception for every person who comes along. Mr. Lane thinks that for the betterment of the industry as a whole that it is best for the board to just stick to its rules and laws and not make any exceptions.

The Board decided that Ms. Glissen would not be given an additional extension of time to do her continuing education, nor would the Board waive the late fee.

### C. FSMTB letter regarding national database

Ms. Egenes explained that the National Certification Board is developing a national database and wants the Federation to join them. The Federation voted not to join NCBTMB with its database.

### D. NCBTMB News Release-distance education

Mr. Lane asked if the Board were to accept distance education, would the Board need to change the rules. Mr. Lopez responded that if the Board accepted distance education. The board would just have to determine whether its going to accept the on-line courses and how much credit will be given.

## **7. STANDING AGENDA ITEMS – COMMITTEE REPORTS**

A. Chairs Report/ Kathleen Egenes – Gave her report earlier.

B. Rules Committee / Quinn Lopez, Ms. Bryson – Mr. Lopez stated that the rules committee needs to put together a “to do list”. When Geraldine administered the board the rules committee did a comprehensive rule overhaul. When Carmen came in, she made a lot of tweaks to the rules as well, and had discussion items/recommendations for the Board to consider. The committee needs to re-visit that information and them move forward from there.

C. Education, exam & Licensing Compliance committee - No discussion.

D. Complaint Committee / Peter Lane - Discussion to be held in Executive Session.

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### E. Board Administrator's Report

Ms. Holmes reported that the massage therapy board went through renewals in October and that this was the first time since 2000 licensees were able to renew on-line. The on-line renewal process cut down on paperwork but resulted in many more phone calls from licensees needing help renewing on-line. Overall, the process went very smoothly and cut down on paperwork. Ms. Holmes expressed satisfaction with the staff's turn around time on sending out the renewal certificates, which were usually sent out in 2-3 days. Ms. Egenes stated that she was impressed with the turn around time.

The Board office received several complaints about the fact that the renewal application needs to be notarized. Ms. Holmes suggested that if it is not required by law or rule, the notary blurb be taken off the renewal application.

Gina Bandoni, Director of Education at Universal Therapeutic Massage Institute, addressed the board, advising that she is a notary public and stated that she is curious about how people who renew on-line address the notary requirement. Ms. Bandoni commended the board staff on the great job they did in processing the renewals. Ms. Bandoni asked if the notary requirement was necessary. She was bombarded with requests from her CE students to notarize their renewal applications.

Mr. Lopez stated that the rules committee would look at whether the renewal application needs to be notarized. Mr. Lopez asked how many renewals staff processed. Ms. Holmes replied that the staff processed about 1,400 renewal applications.

Ms. Holmes revealed that a couple of licensees took an ethics course with a gentleman who was convicted of fraud and surrendered his license to the Chiropractic Board. She stated that she was not sure if the board should accept the licensees CE, taught by this guy, since he was convicted.

Ms. Valicenti advised the board that if there is nothing in the rule that specifies which credits the board will accept, then the board cannot decide not to accept the credits taught by the gentleman who was convicted.

Don Schiff stated that the problem with continuing education is that the board started out trying to approve providers and it took so much staff time that they did not have time for anything else. It's a problem that there is no easy solution to. The board would probably need 4 or 5 people just to deal with continuing education, or would probably have to say "we're only going to take NCBTMB CE", which nobody wants to do.

Mr. Lopez commented by stating that the superintendent of the Insurance Department appoints a group of agents that are well recognized in the community to meet quarterly and review providers, assign credits, etc. The massage board could appoint professional individuals to serve as a continuing education committee. The board needs to look at the rules and determine how it awards credit now and decide if changes need to be made.

Mr. Lopez suggested to Ms. Holmes that there be a standing agenda item, after renewals, to report on the renewal process; how did renewals go; what was the volume; were there any

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glitches? Perhaps licensees can be reminded in advance that 4 hours of ethics are required. The Board needs to know what percentage of licensees renewing present problems. Out of 1,400, what is an acceptable problem rate? The Board needs to figure this out and possibly take some action when the percentage gets too high

### **8. EXECUTIVE SESSION AND ACTION:**

**MOTION** was made by Mr. Lane to go into closed session pursuant to Section 10-15-(H) (1) of the Open Meetings Act to discuss matters related to the issuance, suspension, renewal or revocation and pending or threatened litigation. Items to be discussed in executive session are as follows: James Burnes; Amy Dupree; Claire Hothan; Lynn Jeffrey; Eric Roberts and Erlinda Tom. Disciplinary cases to be discussed in executive session are as follows: 07-03-26; 07-04-17; 07-05-08; 07-05-16; 07-05-22; 07-06-09; 07-06-26 and 07-07-24. The Motion was **SECONDED** by Ms. Bryson.

**(Roll call was taken)**

**MOTION** was made by Ms. Bryson to return to open session. The matters discussed during the closed meeting were limited only to those specified in the motion for closure. **SECONDED** by Mr Lopez. **(Roll call was taken)**

As the chair of the complaint committee Mr. Lane rescued himself from voting on all items discussed during executive session.

A. James Burns - **MOTION** was made by Mr. Lane to approve temporary license. **SECONDED** by Ms. Bryson, **MOTION** carried.

B. Amy Dupree – **MOTION** was made by Ms. Bryson to not accept the Ayurvedic education and that Ms. Dupree be sent a letter advising her that she needs to take some hours in business and hydrotherapy. **SECONDED** by Mr Lane. **MOTION** carried.

C. Claire Hothan - **MOTION** was made by Ms. Bryson to grant the temporary license. **SECONDED** by Mr. Lopez, **MOTION** carried.

D. Lynn Jeffrey – **MOTION** was made by Ms. Bryson to approve licensure. **SECONDED** by Mr. Lopez, **MOTION** carried.

E. Eric Roberts- **MOTION** was made by Ms. Bryson to approve licensure. **SECONDED** by Mr. Lane, **MOTION** carried.

F. Erlinda Tom - **MOTION** was made by Ms. Bryson not to accept nursing degree. Ms. Tom needs to take 40 hours of pathology and some hours of hydrotherapy, **SECONDED** by Mr. Lane, **MOTION** carried.

### **G. Complaints:**

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1. **07-03-26** - **MOTION** was made by Mr. Lopez to issue an NCA, **SECONDED** by Ms. Bryson, **MOTION** carried.

2. **07-04-17**- **MOTION** was made by Ms. Bryson to dismiss, **SECONDED** by Mr. Lopez, **MOTION** carried.

3. **07-05-08** - **MOTION** was made by Ms. Bryson refer this case to the Governor's office, **SECONDED** by Mr. Lopez , **MOTION** carried.

4. **07-05-16** - **MOTION** was made by Ms. Bryson to send a letter to the violators, **SECONDED** by Mr. Lopez. **MOTION** carried.

5. **07-05-22** - **MOTION** was made by Ms. Bryson to dismiss, **SECONDED** by Mr. Lopez. **MOTION** carried.

6. **07-06-09** - **MOTION** was made by Ms. Bryson to table this case, **SECONDED** by Mr. Lopez, **MOTION** carried.

7. **07-06-26** - **MOTION** was made by Ms. Bryson to issue a Pre Settlement Agreement; and a \$500.00 fine, **SECONDED** by Mr. Lopez, **MOTION** carried.

8. **07-07-24** - **MOTION** was made by Ms. Bryson to dismiss, **SECONDED** by Mr. Lopez, **MOTION** Passed.

**9. ADJOURN:**

There being no further business, **MOTION** was made by Ms. Bryson to adjourn the meeting at 12:20 p.m., **SECONDED** by Mr. Lane. **MOTION** carried.

**SUBMITTED BY:** \_\_\_\_\_

**Jackie Holmes**  
**Board Administrator**

**APPROVED BY:** \_\_\_\_\_

**Kathleen Egenes, LMT, RMTI, Board Chair**

**DATE APPROVED:** \_\_\_\_\_