

Louisiana Board of Massage Therapy

Board Meeting – May 21, 2010
LA Board of Massage Therapy
12022 Plank Road
Baton Rouge, LA 70811

Ms. Donker Syversten called the meeting to order at 10:15 AM.

Roll Call – Suzanne Schwing, Keith Thompson, Julianne Menn, Mary Donker Syvertsen, Pam Little, Bruce Evans, Janeth DeBenedetto .

Introduction of new staff – Ms. Rhonda McManus and Ms. Leslie Hill. Mr. Eric Vicnair, CPA, Mr. Kyle Crane, Investigator and Mr. Billy Belsom, board attorney were also present.

Carol Marabella with the Board of Regents introduced herself and her staff to the board.

All board members approved to accept the meeting minutes from the April 26, 2010, meeting.

CIO Report

Mr. Kyle Crane reported that the informal conferences are now being handled over the phone and via email. He stated that this is working out great and eliminating travel to and from the board office. He stated that 100% of the people contacted have made agreements and followed through. Mr. Crane stated that more serious matters are handled in a manner to protect the public interest. More serious issues are conducted face to face, if necessary.

Mr. Crane stated that there have been about 3-4 complaints that need to be inspected and that he is about 3 weeks out from conducting investigations due to the shortage of staff. Mr. Belsom asked if any previous investigations will move forward. Mr. Crane stated that the office was getting back on track.

Treasurers Report

Ms. Jan DeBenedetto stated that she has been working with the board CPA, Mr. Eric Vicknair to get things caught up. The contract with Ms. Mary Sue Stages for the annual legislative audit needs to be considered for this year. The Preferred Telephone contract was up for review. Ms. Menn asked Mr. Vicknair what Ms. Stages did for the board. Mr. Vicknair stated that she would provide the annual review of the board that must be done yearly by the legislative auditor. Ms. Menn asked if she reviewed contracts because the board has paid people who did not have contracts in place over the years. She stated that

she was concerned that information has been missed in the past. Ms. Menn stated that she would like to review her resume and questioned her past work. Ms. Mr. Vicknair stated that the board has only had a review, not an audit. An audit is a more in depth review of the financial status of the office. Mr. Vicknair stated that the legislative auditor sets the standards for reviews and audits. Ms. Stages is under contract for 3 years with the board.

Ms. Donker Syvertsen asked if the board could request a full investigative audit with the legislative auditor and asked who would need to do that. Mr. Vicknair stated that a board member would need to make the request.

Ms. DeBenedetto continued about the contract with Preferred Telephone. Ms. Menn asked how the board had a service agreement with them. This is a service for state phone service. Mr. Crane stated that Preferred Telephone had an off site storage for voicemails which is helpful if there is a power outage. Ms. Menn asked if the staff was happy with the service. Mr. Crane stated that his experience with the company has been positive. Services for work are \$95.00 per hour. Mr. Belsom recommended that the board could review other competitors after the contract ends. Mr. Crane stated that someone had to come to the board because passwords had to be changed manually with employee turnover. He stated that there are few problems with the system. Ms. Schwing motioned to approve the contract with Preferred Telephone. Mr. Evans seconded. The board voted and all approved.

Ms. DeBenedetto qualified whether the board wanted Ms. Stages' resume. Ms. Menn stated that she would like a copy of her resume and a summery of the services provided for the review.

Ms. DeBenedetto addressed the board about per diems. The legislative auditor looks for uniformity with per diem and travel reporting. The board needs to have a system in place. Time and travel sheets need to be completed properly. All agreed and the board will use state travel expense forms for reporting.

CEU Report

Ms. Donker Syvertsen stated that the CEU's were caught up. She asked if someone on the staff could handle CEU approval in house to streamline the process. Ms. DeBenedetto stated that she thought some members didn't like the staff approving CEU's. Ms. Donker Syversten stated that she didn't have a problem when a previous staff member handled this earlier. Ms. DeBenedetto asked if it was in the law that a board member must approve CEU programs and providers. Mr. Belsom stated that this was not on the agenda and needed to be tabled. Ms. Donker Syversten stated that CEU's have to be sent to whomever approves and these documents need to be properly destroyed. Ms. DeBenedetto qualified that only copies are sent to the board member who approves and originals stay in the office. Ms. Donker Syvertsen confirmed that statement.

Old Business

Per Diem Policy – Ms. Menn stated that the board questioned the per diem policy for itself and asked how to proceed. Mr. Belsom stated that this is an internal policy since it doesn't affect the public. The LA Board of Massage Therapy's law allows per diems for board meetings and work pertaining to board business. He stated that the board can set a reasonable amount of time to qualify for the per diem. As long as the time is reasonable, it is legal. It was decided to make a temporary provision. Ms. Schwing motioned a temporary provision of a minimum of 3 hours of board work accrued or in one day will be the amount of time required to receive the per diem. Appropriate documentation must accompany the request. The board voted on the motion and all approved.

Ms. Menn motioned that invoices to the board for per diem must go through an authorization process through the executive director, Ms. Rhonda McManus before the board member is paid. Ms. Schwing seconded. All board members approved.

Hiring Prosecutor/Conflict Counsel

Mr. Belsom stated that the board needed to hire another attorney to work with investigation issues that the board faces. Mr. Belsom recommended Mr. John "Jack" Miller with Kantrow, Spaht, Weaver and Blitzer. Mr. Belsom disclosed to the board that he worked at this law firm several years ago. Mr. Miller's resume was provided to the board members. Mr. Evans motioned to accept this recommendation pending board discussion. Ms. Menn asked what the standard rate would be. Mr. Belsom stated that the fee is \$175.00 based on ten years experience or more. These are rates approved by the Attorney General's Office for a standard contract. Mr. Belsom qualified the attorney's roles for the board for clarification. Mr. Miller addressed the board regarding his experience as an attorney. A motion was made to hire Mr. Miller with the law firm of Kantrow, Spaht, Weaver and Blitzer. The board voted and all members approved.

Complaints of Non- licensed Massage Therapist Policy

Ms. Donker Syversten stated that the laws governing the LA Board of Massage Therapy do not allow the board to investigate non-licensed massage therapists. She suggested that the executive director set a policy for staff to document calls regarding non-licensed massage therapist and report them to the appropriate district attorney. Mr. Evans stated that initiating a policy helps protect the board and the public. He believes that this would still qualify the person for an inspection. Mr. Belsom stated that that is possible and a cease and desist letter can be sent to the person. Perhaps a policy having more than documentation of phone calls is in order. Mr. Belsom agreed and stated that these complaints can be turned over to the district attorney and/or the board can sue in the person in civil court but that the resources would be expensive. Ms. Donker Syversten stated that a policy should be put in place. Mr. Belsom stated that a process is good since in the past files have not been properly documented. He stated that the rules and paperwork tracking need to be followed. Ms. Menn asked if Ms. McManus could have something put together for review by the board. It was determined that a policy would be created internally and given to the board within three weeks.

New Business

On-Line Renewal System and Database Creation

Mr. Kyle Crane reviewed the board's process for license renewal. The board's renewal period is coming soon. All renewal forms are handled by mail which includes two pieces of paper and a check in each envelope. They are opened, processed and then each license must be printed, stamped and sealed by hand before being returned to the therapist. The board's law requires postmarking of renewal forms. Mr. Crane stated that the process is a giant resource sink for the staff. He stated that the renewal process would be smother with an online renewal system. He stated that he felt that many therapists would prefer the online system. Electronic renewals would make the turnaround time for receiving the actual license in hand a lot shorter. It would create an automatic database system quickly. Mr. Crane stated that the board needed to move to a "paper light" environment. Funds would automatically be put in the bank account instead of having checks around the office waiting for deposit. Ms. Menn asked how CEU's would be approved and sent in. Mr. Crane stated that the board could use My Fax as an option. Ms. DeBenedetto stated that everything needs to be sent in at the same time and asked if this database is in our budget. She stated that the board needed to stay within their laws and have all documents postmarked by December 31. Mr. Crane stated that electronic documents have post dates on them. Ms. Menn stated that the LA Medical Board does this. Ms. DeBenedetto qualified that she was not opposed to moving forward but cautioned that the board needs to follow the board rules and regulations. Ms. Menn also mentioned the possibility of changing the renewal date to another anniversary date. This would require changes in the rules and regulations and law. Ms. Donker Syvertsen stated that the start up costs for a database system will save money in the long run. The electronic fax will save paper, ink and loss of paper files. Mr. Evans asked if these electronic documents will have dates on them. Ms. Donker Syvertsen stated that there would be dates. Mr. Evans asked if people could email if they didn't have a fax machine. The answer was yes. Mr. Crane stated that the fax machine would be overused by persons renewing at the last minute. An electronic fax would eliminate paper jams, loss of paper, etc...

Ms. Schwing asked if an electronic postmark would suffice under the board's rules. Postmark is not defined in the law as a United States postmark. Ms. Schwing stated that she agreed with Ms. DeBenedetto regarding the definition of postmark in order to be in compliance with the law. It was decided that Mr. Belsom would look into the definition of postmark to determine if it will meet the board's need. Mr. Evans motioned that the staff be allowed to look into the database system and report back in August. He stated that we must stay within our laws. All board members present approved.

Instructor Renewals

This section of new business was written incorrectly and could not be discussed.

Defibrillator

Mr. Daniel Rice with the Career Technical College in Monroe, stated that in October, 2009, Ms. Kayla Perkins performed an audit of the schools program. Mr. Rice's stated that two classes were omitted from their curriculum. One was a somatic psychology class which was determined by the board to be out of the scope of practice for massage therapists. The other course was to add the defibrillator to the First Aid/CPR course. Mr. Rice stated that Ms. Perkins felt that the defibrillator part of the course was out of a massage therapist's scope of practice. Mr. Rice brought the instructor of the course who is an LPN and is certified by the American Heart Association to teach this course. She printed the Louisiana AED law for the board and asked what the board's concerns are. Ms. Menn asked what this had to do with massage therapy. Ms. Donker Syvertsen stated that the defibrillator was left out of the First Aid/CPR course. Ms. Menn expressed concern and stated that she didn't understand why the defibrillator part of a course was omitted. Now that there are public defibrillators in public places such airplanes and stores. She stated further that it had been added to the First Aid/CPR instruction. She stated that she couldn't understand why Mr. Rice had to seek permission to present the full First Aid/CPR course to his students when it is part of the curriculum approved by the American Red Cross. It was explained to the board that the defibrillator is voice prompted. Ms. Donker Syvertsen stated that the previous administration stated that it was not legal to teach this course but she didn't want to override the previous decision. Ms. DeBenedetto asked if this needed to go to the Board of Regents. Ms. Marabella with the Board of Regents explained the process and stated that the school was asking the board if this course would be acceptable in the massage therapy program. The Board of Regents likes the licensing board to sign off on their programs before approval. She stated that the Board of Regents was not aware that Mr. Rice was not approved for the First Aid/CPR course. Ms. Menn asked Ms. Marabella if the Board of Regents would have a problem with the course. Ms. Marabella stated that they would not. Ms. Menn motioned that the defibrillator part of the standard First Aid/CPR course be approved as part of the curriculum at Career Technical College. Mr. Evans seconded. The board voted and all approved.

Mr. Rice stated that there were other changes made to his courses that he needed approval. However, this is not on the agenda and Mr. Belsom stated that the issue probably needed review. Ms. Menn asked if approval needed to be done by the board. Ms. Marabella stated that the staff could handle these types of issues. Ms. DeBenedetto stated that she liked that suggestion. Ms. Donker Syvertsen asked Mr. Rice to stay after the board meeting and she would look at the curriculum.

Office Cleaning

Ms. Rhonda McManus asked for permission to seek a company to handle the housekeeping in the office. Mr. Evans motioned that Ms. McManus be able to conduct a search for a cleaning service. Ms. Schwing seconded. The board voted and all approved.

Relocation of LSBMT Office

Three office maps were provided to the board members for review. Ms. McManus reviewed the information to relocate. The board currently pays \$1750.00 per month. Total expenses per month in the current office run at approximately \$2900.00. The options currently available to move into run from \$945.00 - \$1300.00. They include the rent cost, electricity, security and cleaning. Currently the board is responsible for paying electricity, security, water and a lawn service. The options to move would decrease the board's expenses in half for what it is currently paying to stay in the current location. The board decided to table the discussion of moving until the new staff could get their bearings.

Educational Standards

Mr. Vernon Smith addressed the board about the educational standards of instructors in the massage therapy schools. He feels that the rules regulating the instructors should be tightened to attract quality instructors who are knowledgeable in their subject matter. The board decided that it would be best to create a sub-committee of individuals to make these determinations. Mr. Evans motioned to give Ms. Donker Syvertsen the authority to approve a committee to look into the matter. The board voted and all members approved.

Virginia College

Virginia College is in the process of becoming a new school providing massage therapy classes in Baton Rouge. The board needs to approve the curriculum. Mr. Evans motioned that the executive director should review the curriculum and make sure that it meets the board's standards. Ms. Marabella stated that that is all the board needs to do and that the Board of Regents will review them further on their end. She explained how she as worked with Virginia College on the process and asked them to contact the board. Ms. Schwing seconded the motion from Mr. Evans. The board voted and all approved. It was decided that the executive director would review the curriculum for Virginia College and send them a letter letting them know if it meets the board's standards.

Budget Approval

Ms. DeBenedetto stated that she and Mr. Vicknair have reviewed the budget and they suggest creating a finance committee to review the budget. She asked if the budget needed to be amended or changed due to the changes in staff and possible changes due to the possibility of moving and other possible changes discussed today. Mr. Vicknair stated that the budget was created in December 2009, but needs to be reviewed to reflect the changes and benefits with LASERS that haven't been done. Ms. Donker Syvertsen asked if employees can start getting paycheck stubs. Mr. Vicknair said he would look into that. Ms. DeBenedetto stated that a special meeting would need to occur in June to give the board time to review the budget, meet and get everything adjusted. Mr. Vicknair stated that the budget needed to be approved about a week before June 30. The board decided to just have a special meeting in order to approve the budget. The board decided to meet on June 18, 2010 at 10:00 AM.

US Career Institute in Colorado

The US Career Institute in Colorado is an online program. The board has had a request by an individual to see if the board will accept the online course to meet the educational requirements to obtain a Louisiana license. The board gave this assignment to Mr. Billy Belsom. It will be re-visited at the August board meeting.

Public Comment

Members of the public were given two two minute turns to speak.

Ms. Donna Landry, former board member read a prepared statement. She started by reviewing the boards objective to regulate the massage therapy profession and protect the public. She stated that she felt the board was not transitioning well. She then read hypothetical comments to the board. For example, What if our board members were not in good standing when they were put on the board? What if the board members had a personal agenda? What if the office was shut down? What if hearings were not held? What if a board dismissed an entire staff? What if board members were predominately from one professional organization? What if there were a monopoly on the board and some members were included/excluded from making decisions? What if some board members met privately to discuss board business? What if lawyers in the office are dismissed? Who would know the law? What if the new board is a covert political board? Ms. Landry stated that she felt an overt political board is better because you can see it. What if a board disposes of staff every time a new board is appointed? She stated that there is no job security. Ms. Landry's time ran out. The board asked Ms. Landry what her point was. Ms. Landry stated that if this occurring, who is protecting the public.

Mr. Vernon Smith began by addressing individual board members and complementing them. He then read from an article in the Times Picayune. While choosing certain sentences from the article, Ms. Menn asked that he read the whole article and stated that the article had inaccuracies. Mr. Smith then addressed Ms. Schwing, Ms. Menn and Mr. Thompson stating that he would personally do whatever he can to prevent them from being seated on the board. If he could prevent one of the three of them from being on the board then he would consider himself successful. Mr. Vernon accused the board chairman, Ms. Donker Syvertsen and Ms. Hill of facilitating appointments that disenfranchise the AOBTA and continue to disenfranchise their two board members. Mr. Vernon then told Ms. Hill that he hoped she would be able to find more gainful employment elsewhere and that he has stayed within the boundaries of what his attorney has advised that he could say.

Mr. Terry Hurd stated that he is the third former board member to say the same thing today. He stated that the board was secretive and that there is more than one board. He stated that the board is making progress but that correct information needs to be available to therapists. He recommended that the board shouldn't waive CEU's during a hurricane.

Ms. Randall Wagley stated that he felt this was a good board and that what we are seeing is just sour grapes because these people use to be board members and are no longer in control.

Ms. Lola Summers stated that this is the finest board she has seen in her 10 years attending board meetings.

Mr. Vernon Smith stated that he doesn't object to the board members. Heated words were exchanged regarding the board in the audience. Ms. Donker Syvertsen banged the gavel asking for order. Ms. Little motioned to adjourn, Mr. Evans seconded. The meeting was adjourned at 1:15 PM with a request to call the police.