

Nevada State Board
of Massage Therapists
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Nevada State Board
of Massage Therapists
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BOARD MEMBERS:

Billie Shea
DeAnn Prestidge
Deborah Wenig
Joe Cracraft

Email:

nvmassagebd@state.nv.us

Website:

<http://massagetherapy.nv.gov>

BOARD MEMBERS:

Linda White
Michelle Viesselman
Michael Smith
Sgt. Leonard Lorusso

MINUTES

The Nevada State Board of Massage Therapists (NSBMT) is scheduled to hold its regularly scheduled meeting;

DATE: February 13, 2009

TIME: 9:00 a.m.

LOCATION:

VIDEO CONFERENCE LOCATIONS:

Las Vegas Location

Grant Sawyer State Office Building
Attorney General Conference Room 4500
555 E Washington Ave
Las Vegas, NV

or

Carson City Location

Nevada Department of Justice
Office of The Attorney General
100 North Carson Street
Carson City, NV 89701

The mission of the Nevada State Board of Massage Therapists is to, through licensing and regulating the practice of massage, protect the public health, safety and welfare by ensuring that only qualified competent Massage Therapy Practitioners are licensed in the State of Nevada. It is our goal to balance the needs of the public with those of licensed massage therapists, through development, implementation, enforcement, and continued improvement in the areas of the public with those of Licensed Massage Therapists, through development, implementation, enforcement, and continued improvement in the areas of therapist education, public safety, boundaries, and ethics, in compliance with the highest standards set forth within the massage therapy profession.

Pursuant to NRS 241.030 the Board may close a meeting to consider the character, alleged misconduct, competence or physical or mental health of a person.

Note: * denotes agenda items on which action may be taken
9: 00 a.m.

1. Roll Call/Introduction of Board Members

Meeting called to order at 9:00 a.m. by Board Chairperson, Billie Shea.

Board Members Present: Joe Cracraft, Lenny Lorusso, Billie Shea, Michael Smith, Michelle Viesselman, Deborah Wenig, Linda White.

2. * Discussion/Approval of Board Minutes

a. December 12, 2008

Joe Cracraft asked about the paragraph on page 3 that says “It was also asked what was going regarding the complaint the office received noted in the minutes on page 17? It needs to be clarified to make more sense. Paragraph corrected to read: It was also asked what was going **on** regarding the **anonymous** complaint the office received **of a probation person working after 10:00 p.m.** noted in the minutes on page 17?

Joe Cracraft also pointed out that on page 10 in the first paragraph under Item G. Stephan D. Dahan the first sentence needs to be corrected to add commas and the words in his application. The paragraph has been corrected from Mr. Dahan is before the Board due to criminal history which he did disclose on March 3, 2005 on multiple Burglary charges to read: Mr. Dahan is before the Board due to criminal history, which he did disclose **in his application**, on March 3, 2005 on multiple Burglary charges.

Motion: Michelle Viesselman made a motion to accept the December 12, 2008 Board Meeting Minutes as amended.

Seconded: Joe Cracraft

Motion carried.

3. *Financial Report Discussion/Approval

a. Budget – Year to Date 08/09

Lisa Cooper stated that both offices were painted and art work was purchased for both offices putting us a little over budget for office expenses. Also regarding the Tort Insurance Ms. Cooper was told at the end of 2008 we were going to be charged after originally being told we were not going to be charged for 2007 and 2008.

Joe Cracraft had questions about the background investigation fee and why we have an overage?

Lisa Cooper explained that she was estimating how many background checks would come in and how much money that would be. The difference is it costs us \$75.00 to have the background checks done through the Department of Public Safety, we charge \$125.00 and the \$50.00 difference is attributed to administrative costs to process the background checks.

Joe Cracraft also asked why the difference in office expenses and why we are over budget?

Lisa Cooper explained that along with the painting of both offices and the purchase of art work, computers and other office supplies were purchased for the three inspectors.

There was also a question about the Temporary Services amount in the Budget.

Lisa Cooper explained that she went back and looked at the 2007/2008 budget and we had budgeted \$25,000. She drastically cut the budgeted amount and we went over because of the unforeseen changes in staff thus requiring temporary staff.

Billie Shea explained that all new employees are first brought in on a Temporary Employee Contract and then hired on as permanent.

Deborah Wenig asked if there is a difference between the office and the Board regarding expenses that are going over budgeted amount. Should the expenditure go before the Board first for approval before the purchase is made or were these expenses preapproved?

Lisa Cooper stated the expenses were preapproved at the October Board meeting.

Ms. Wenig asked if all of the equipment was preapproved also?

Ms. Cooper stated there were six items at \$200.00 each for the inspectors.

Billie Shea stated that the money reflected in office expense should maybe have been subcategorized under a different category in the budget.

Joe Cracraft suggested in the future in these cases where we are over budget on an item, to have an asterisk next to the item and explain at the bottom of the page why there was the difference. He also pointed out that on the last page of the budget we are short \$59,000 and asked if that should have been in parenthesis?

Lisa Cooper stated "Yes" we were short and took the \$59,000 out of reserves.

Mr. Cracraft said that we should have a separate balance sheet for the reserves.

Ms. Cooper said that she is currently taking a financial class to help her with the budget. Lisa Cooper and Joe Cracraft will work on the format of the budget.

There was discussion about the economy and how this will affect renewals and new applications.

Lisa Cooper stated we currently have approximately 3,800 licensees and have had 400 people drop off from January 2008-December 2008. It could drop off more this year and we will keep an eye on the numbers.

It was asked how does the drop off number compares with the new applications we are receiving?

Lisa Cooper stated we are still ahead and have a gain of 300 licensees for January 2008 through December 2008.

Motion: Michelle Viesselman made a motion to approve the budget as amended.

Seconded: Michael Smith

Motion carried.

b. Account Balances –

Lisa Cooper stated that we split up our money in separate accounts. We will be moving the \$90,000 out of Bank of America into City National Bank. Bank of America is a cumbersome bank, we have had many issues with them.

- i. City National Bank – 2/2/09 - Checking/Money Market/Debit Account
- ii. Nevada State Bank – 2/2/09 – Checking: \$90,000.00
- iii. Wachovia – 2/2/09 – Checking \$90,000.00
- iv. Bank of America – 12/31/09 - Checking - \$100.00- Savings – \$90,047.76

Motion: Michelle Viesselman made a motion to approve the account balances as stated.

Seconded: Linda White

Motion carried.

4. * Board Travel/Conferences

a. Massage Therapy Foundation – Seattle, WA May 13 – 15, 2010

Lisa Cooper stated she is going to be doing the budget for next year and wanted to see if anyone wanted to attend this.

Laura Edgar from the NCBTMB (National Certification Board for Therapeutic Massage and Bodywork) explained that this is a fairly new conference and what this group is.

Motion: Michelle Viesselman made a motion to table this and revisit later if the Board needs to.

Seconded: Michael Smith

Motion carried.

b. Federation of State Massage Therapy Boards

Lisa Cooper stated that we received our first year of membership free for the Federation Of State Massage Therapy Boards (FARB). The FARB conference is Oct. 9-11, 2009.

Billie Shea stated that generally the membership has a \$2,500 cap. Ms. Shea stated that FARB will pay for the trip for one delegate to attend the conference.

Motion: Linda White made a motion to continue the membership with FARB at the fee of \$2,500.00.

Seconded: Michelle Viesselman

Keith Marcher pointed out that we did not have this specific item on the agenda for the FARB membership fee. Need to bring item back for future agenda item at a future Board Meeting.

Linda White withdrew her previous motion.
Michelle Viesselman withdrew her previous Second.

Motion: Michelle Viesselman made a motion to table the FARB membership and agenda item for a future Board meeting.

Seconded: Linda White

Motion carried.

c. Update – FARB Meeting- Michelle / Joe

Michelle Viesselman went over a few key points in the eight page report that was in the Board members' packet: 1) Boards get in trouble when members try to promote the profession instead of protecting the public-every regulatory Board's job is to protect the public, 2) All relationships of a Board Member with an applicant/licensee needs to be disclosed, 3) American with Disabilities Act (ADA) need to be aware that this has been amended and broadened deeply-contractees or anyone representing us-can come back on the person, 4) Board is not restricted by any other agencies actions or inactions, we need to be aware of this, 5) Boards cannot be held liable for the actions of a licensee, 6) Licensing can be withheld if the Board feels the education completed does not meet the education requirements set forth by the Board.

Joe Cracraft agreed that we are fortunate we are an independent board and not part of an umbrella board, and we need to stay on top of this.

d. FARB – Attorney Certification Program October 2009

Keith Marcher explained that this is just for Board lawyers-it is intensified on legal issues. He has not attended in four or five years.

Billie Shea asked if there was any chance we can share the cost to send him with another Board?

Mr. Marcher stated that the Pharmacy Board, the Veterinary Board and the Nursing Board might possibly contribute.

Deborah Wenig asked what amount are we looking at?

Mr. Marcher said about \$1,500.00.

Motion: Deborah Wenig made a motion to approve the trip for Keith Marcher to attend the Attorney Certification Program in October 2009 and that the Nevada State Board of Massage Therapists will cover necessary costs and we will consult with other Boards to share the fees.

Seconded: Joe Cracraft

Motion carried.

5. *Formal Hearing

a. 9:00 – Xiang Y. Emde – Agreement

Xiang Emde-Not present. Keith Marcher, Senior Deputy Attorney General, stated that Xiang Emde is a licensee with us, license number is NVMT.1555. Her case no. is NVMT-C-097. Mr. Marcher said we are offering a settlement agreement for a fine. For cases that did not rise to a different level of discipline, we are going for the fine route. Ms. Emde has agreed she has violated her probation by not obtaining job site approval and working under a supervisor. Lisa Cooper and Mr. Marcher looked at the case and did not feel with the evidence, that it was not so serious that we need to revoke or suspend Ms. Emde's license.

Billie Shea stated that we need to educate licensees on probation about employment.

Michael Smith asked about a probation program and if we have one in place?

Lisa Cooper said that we have started a probation orientation program. It is now included on the probation order.

Motion: Michelle Viesselman made a motion to accept the settlement agreement for Xiang Emde.

Seconded: Michael Smith

Motion carried.

b. 10:00 – Na Li – Hearing

Na Li-Present. Alex Young, Interpreter- Present; Bucky Buchanan, Attorney at Law-Present; Susan Culp, Sunshine Reporting Services-Present; Keith Marcher-Present, Senior Deputy Attorney General; Gina Sessions-Present, Chief Deputy Attorney General.

Keith Marcher made opening statement. This is a case involving Na LI, licensed massage therapist, NVMT.0994, case #NVMT-C-0817. This case alleges that in March 2007, Na Li was ordered to serve a two year probation term and required to complete certain terms and conditions. She was required to notify the Board within 48 hours of any contact with law enforcement and any change of employment. Ms. Li was arrested for solicitation of prostitution in September 2008 at the Asian Garden Spa in Las Vegas. This conduct violated NRS 640C.700(12) and has violated the terms of probation and is grounds for disciplinary action pursuant to NRS 640C.710.

Bucky Buchanan made his opening statement. He stated that on October 8, 2008, the District Attorney sent a letter to Na Li that they were not filing a formal complaint. When she received that letter, she did not feel she had to let the Board know, there was no criminal activity and did not have to report it to the Board.

Mr. Marcher called Lisa Cooper as a witness.

The court reporter, Susan Culp, swore in Lisa Cooper as a witness.

Keith Marcher stated for the record, moved to have Item 5 b Complaint Notice entered into the record as Exhibit 1. Exhibit 1 admitted.

Mr. Marcher questioned Ms. Cooper. He asked her if she monitors licensees who are on probation?

Ms. Cooper answered "Yes" she monitors licensees who are on probation. Mr. Marcher also asked Ms. Cooper if she has Exhibit 2 and what it is? Ms. Cooper stated that Exhibit 2 is Na Li's Terms of Probation. Keith Marcher moved to have Exhibit 2 entered into the record showing Na Li was placed on probation in March 2007. Exhibit 2 admitted. Exhibit 2 was handed out.

Keith Marcher asked Lisa Cooper if she has Exhibit 3 in front of her and to explain what Exhibit 3 is? Ms. Cooper stated she did have Exhibit 3 and that it is the original Probation Worksheet for Na Li submitted for Asian Garden Spa. Mr. Marcher moved for admission of Exhibit 3-Original Probation Worksheet for Na Li. Exhibit 3 admitted.

Keith Marcher then asked if Ms. Cooper has Exhibit 4 in front of her and what it is? Ms. Cooper stated she has Exhibit 4 and that it is correspondence from the office dated February 13, 2008 notifying Na Li that she was not eligible to work at the Asian Garden Spa. It was sent to her last known address via regular mail. Mr. Marcher moved to have Exhibit 4 entered into the record. Exhibit 4 admitted. Mr. Marcher asked if Ms. Cooper heard anything back from Na Li? Ms. Cooper stated she received another Probation Worksheet with a different massage establishment in March 2008. Ms. Li was approved to work at the new establishment and her restricted license was issued.

Mr. Marcher asked Lisa Cooper if she had Exhibit 5 in front of her and what it is? Ms. Cooper explained that Exhibit 5 was a letter from the records department and the Temporary Custody Record and the Declaration of Arrest. Keith Marcher moved for the admission of Exhibit 5.

Bucky Buchanan objected to having Exhibit 5 admitted as it is putting a declaration of arrest, it is hearsay and not subject to cross examination. He stated that it should have to be done by the officer in person as to testify as to the conditions of the arrest and why Na Li was in that location at that time.

Billie Shea noted the objection by Mr. Buchanan.

Keith Marcher responded by saying that 1) Hearsay is admissible in these types of proceedings and that 2) The record speaks for itself, certified copies are admissible.

Keith Marcher continued questioning Lisa Cooper and clarified that violation of Na Li's probation terms.

Bucky Buchanan cross-examined Lisa Cooper.

Keith Marcher had no re-direct for Lisa Cooper.

Bucky Buchanan redirected to Lisa Cooper.

Bucky Buchanan then questioned Na Li about her arrest.

Keith Marcher questioned Na Li about the arrest.

Bucky Buchanan cross-examined Na Li.

Deann Prestidge and Michelle Viesselman asked questions of Na Li.

Closing statement made by Keith Marcher. Keith Marcher stated that the Board should find Na Li Guilty per NRS 640C.700 (12) and discipline accordingly. Whatever discipline the Board imposes it should become part of the permanent record and charge all costs associate with this hearing and payable within 90 days.

There was discussion of the merits of the case among board members and how much time she has currently served on probation.

Motion: Michelle Viesselman made a motion to find Na Li guilty of violation of NRS 640C.700.

Seconded: DeAnn Prestidge

Discussion on motion-evidence that supports this. Na Li acknowledged the arrest and that it is contact with law enforcement. Ms. Li had sufficient time to support the contact with the police.

Michael Smith stated he has a problem with Na Li not understanding probation terms- she should take extra time to get terms explained.

Motion carried.

Motion: Michelle Viesselman further moved that Na Li does not hold compliance in full regard and revoke her license for not less than two years and be charged the costs of the hearing per NRS 632.400 and to be paid within 90 days.

Seconded: Joe Cracraft

Motion carried.

Deborah Wenig asked if there are any procedures set for the two years?

Michelle Viesselman stated that the original probation was to be for two years. Under the statute, revocation can be 1-10 years.

6. *Petition to Appear

- a. Katherine Pepper – Not Present. Jessie Wadhams-Present, Attorney for Katherine Pepper.

Discuss / Possible Amendment to Katherine Pepper's Order of Probation Issued by the Board August 14, 2007 – Mr. Wadhams who is representing Ms. Pepper, is before you today to request to revisit the supervision on her probation. Ms. Pepper has employment with a chiropractor's office and there isn't another massage therapist to supervise her. She is requesting to have her probation reviewed and term number 7: Respondent must have adequate supervision while at work: A supervisor must be licensed as a Massage Therapist with the Nevada State Board of Massage Therapists.

Lisa Cooper stated we had received a letter from Katherine Pepper to appear, the letter had the wrong date when probation should have began, the date should read August 14, 2008.

It was asked why Ms. Pepper was originally put on probation?

Lisa Cooper said Ms. Pepper was originally put on probation for having drug paraphernalia in her car. Ms. Cooper also stated the Probation Worksheet submitted to our office to work for a Chiropractor was denied.

Jessie Wadhams stated Ms. Pepper is not asking for modification of the order of probation-would like us to allow the Chiropractor to be her supervisor. She is asking leniency in interpretation of order of probation.

Keith Marcher stated the Board has a lot of room for discretion in our law. The Board can make it any licensed professional to supervise.

Michelle Viesselman stated we should send the Chiropractor material to have him sign off that he understands what is required of him as her supervisor. We will provide the information as to what the restrictions are and what supervision means and that he is aware we have the right at will to inspect.

Motion: Michelle Viesselman made a motion to amend the probation order for Katherine Pepper to meet certain requirements that the Chiropractor agrees to.

Discussion as to whether Katherine Pepper has been working at all.

Lisa Cooper stated Ms. Pepper has not earned any time off of her probation term yet.

Billie Shea wanted to make it clear that Ms. Pepper's probation term of one year will not start until we have the signed paperwork in the office.

Seconded: Joe Cracraft
Motion carried.

- b. NCBTMB – Jackson Williams , Director of Government Relations, NCBTMB– Present. Laura Edgar, Chief Operating Officer of NCBTMB-Present.

Lisa Cooper stated that the National Board is under new leadership as of 2009, NCBMTB's customer service progress to hear any concerns or questions the board members wish to convey. (Education Criteria – Revisions to Code of Ethics and Standards of Practice)

Jackson Williams stated that the theory behind certification boards is that they may promote a person staying longer in their profession.

Laura Edgar said that if someone goes out and passed their national exam and screws up the NCBTMB would have more of the liability because the person was certified by them.

Billie Shea stated that there is a fear that the exam or competency can be compromised.

Laura Edgar stated that any exam can be compromised, the hardest thing in this profession is that schools do not have to be accredited for massage therapy. Only

40 percent are accredited right now in the United States. There are over 2,200 massage therapy schools in the United States. She also stated that the NCBTMB relies on the police department in Southern California when they bust prostitutes. They will get information that they may have purchased their diploma from XXXX school. The NCBTMB then takes away their school code so the people from that school cannot take the national exam.

Lisa Cooper asked if there is a list of schools that have lost their school codes?

Laura Edgar stated the list of schools is on their website with approved codes. She also stated that the NCBTMB cannot police and oversee the schools, that it is a conflict of interest.

Michelle Viesselman had concerns that it presents a problem for the Nevada State Board of Massage Therapists when the applicant meets the schooling requirements. All boards could get together and say if not an accredited school, then do not accept it. Ms. Viesselman was also told that the test was compromised in certain locations in California.

Laura Edgar said that they do have a very sophisticated forensic approach to test taking. How they answered a question, what they answered, etc. They look for specific patterns: time it takes to answer questions, etc. The NCBTMB did revoke certificates for a group in a certain state. Some states are having NCBTMB send the reports directly.

Ms. Edgar also stated that in 2010, the area of ethics requirement will go from 6% to 12%. Other areas will be going up a little also. Beginning in July 2009, they will be offering the exam in Spanish.

Joe Cracraft asked regarding people who are from Asia, are they taking the test in English?

Laura Edgar answered "Yes" they are taking it in English. She also stated that there are certain security measures in place when a person is taking the test. There are also new requirements for people failing tests, they are requiring more education depending on how many times they have passed the test. Ms. Edgar also stated that the pass rate in Nevada is 67%. She also pointed out they have added more staff and that candidate processing turn around time has decreased from 14-22 days to 1 ½ days.

c. Fidel Bermudez – Not Present.

Lisa Cooper stated that Fidel Bermudez is Requesting to be Granted a "Grandfathering" License Under AB250. Ms. Cooper also stated that she contacted Mr. Bermudez and let him know he will be the third or fourth person to come before the Board for this, there was an issue of his daughter being able to provide transportation to get him to the Board meeting.

Motion: Michelle Viesselman made a motion to deny the grandfathering case for Fidel Bermudez based on the fact that our grandfathering period ended on June 30, 2007 and we have no legal recourse for grandfathering.

Seconded: Joe Cracraft

Motion carried.

- d. David Otto –Not Present. Discuss Possible Changes to Nevada Administrative Codes in Regards to Continuing Education Hours (CEH)

Motion: Linda White made a motion to table David Otto until the next Board meeting.

Seconded: DeAnn Prestidge

Motion carried.

7. *Probation Termination

- a. Kelly Xu – Present. Kirk Kennedy, Attorney-Present.

Lisa Cooper stated that Ms. Xu is before the Board requesting the termination of her probation. She has completed her continuing education requirement, submitted her fingerprints as requested and worked at verifiable establishments for a year. Ms. Cooper recommended that her probation be terminated effective immediately.

Motion: Michelle Viesselman made a motion to terminate Kelly Xu's probation immediately.

Seconded: Linda White

Motion carried.

- b. Yu Fu – Present. Kirk Kennedy, Attorney-Present.

Lisa Cooper stated that Yu Fu is before the Board requesting the termination of her probation. She has completed her continuing education requirement, submitted her fingerprints as requested and worked at verifiable establishments for a year. It is Ms. Cooper's recommendation that her probation be terminated effective immediately.

Sgt. Lenny Lorusso questioned why Ms. Fu has a work card that says spa attendant from March 13, 2008? He is curious why the work card says : Spa Attendant.

Kirk Kennedy stated that she may have had the work card before the State took over.

Motion: Michelle Viesselman made a motion to terminate Yu Fu's probation on the recommended date by Lisa Cooper.

Seconded: Michael Smith

Motion carried.

- c. Ru Li Sun-Present. Bucky Buchanan, Attorney-at-Law- Present, Na Jie Tian, Ru Li Sun's Daughter-Present.

Lisa Cooper stated that Ru Li Sun is before the Board requesting the termination of her probation. She has completed her continuing education requirement, submitted her fingerprints as requested and worked at verifiable establishments for a year. It is Ms. Cooper's recommendation that her probation be terminated effective immediately.

Motion: Linda White made a motion to terminate probation of Ru Li Sun immediately.

Seconded: Michael Smith

Motion carried.

8. *Application Review

- a. Licenses Approved and Authorized by the Chairperson

Motion: Michael Smith made a motion to approve licenses as presented.

Seconded: Michelle Viesselman

Motion carried.

- b. Review Application of Wu Guo for Approval, Denial or Other Administrative Action Pursuant to NRS 640C.400.4. Wu Guo-Present.

Mr. Guo is before the Board from a previous meeting in October which the Board requested an investigation done on his school. The outcome of the investigation is that he had completed a reflexology course which his school had given him 250 hours of credit for prior to the beginning of his massage therapy course. At the October meeting, he was before the Board due to disciplinary proceedings instituted against him. The City of Las Vegas business license inspection department discovered Mr. Guo performing a back massage with a reflexology license. His reflexology license was revoked and the business license was revoked as well. He is requesting a license under NRS 640C.400.4

There was discussion about whether the NCBTMB accepted the 250 hours as part of the massage schooling enabling Mr. Guo to take the National Exam.

Michelle Viesselman asked Mr. Guo where he has been working and if he has been doing massage?

Mr. Guo stated that he has not been doing massage, he has been doing home decoration.

Michelle Viesselman did point out that Wu Guo was caught practicing massage without a license.

Mr. Guo was asked where he will be working, for himself or for someone else?

Wu Guo stated that he will be working for someone else.

Motion: Michelle Viesselman made a motion to grant Wu Guo a probationary license for one year with the following probation restrictions: #1,2,4,6,8,10,11, and 12.

Seconded: Michael Smith

Discussion was held among Board members about the Reflexology 250 hours and if it was acceptable as part of the required 500 hrs for a massage program.

In Favor: DeAnn Prestidge, Billie Shea, Michael Smith, Michelle Viesselman, Deborah Wenig, Linda White.

Opposed: Joe Cracraft.

Motion carried.

- c. Review Application of Christina A. Remington for Approval, Denial or Other Administrative Action Pursuant to NRS 640C.700.3.

Christina Remington-Present.

Lisa Cooper stated that Ms. Remington is before the Board due to criminal history found on her background check that she did not disclose on her application. Ms. Remington was arrested 7/3/04 and charged with assault and battery on a family member. The disposition is as follows: pled guilty to the charge, was on probation for 24 months and if the probation was completed with no incidents, the charge would be dismissed. The FBI report did not reflect dismissal. She is requesting a license under NRS 640.400.

Christina Remington stated it was a bad time in her life.

Billie Shea asked Ms. Remington where she went to school?

Ms. Remington said that she attended school in Virginia.

Michael Smith asked Ms. Remington why she had not disclosed the arrest?

Ms. Remington said that she thought it had been dismissed.

Motion: Michael Smith made a motion to approve license without restrictions.

Seconded: Linda White

Motion carried.

- d. Review Application of Heather Williams for Approval, Denial or Other Administrative Action Pursuant to NRS 640C.700.3. Heather Williams-Present.

Lisa Cooper stated that Ms. Williams is before the Board due to criminal history found on her background check that she did not disclose on her application. Ms. Williams was arrested for petty theft 3/11/06. Also Ms. Williams was found working in a chiropractor office without a license under the Chiropractic Board or a valid massage license. The disposition of the case is as follows: dismissed after probation. She is requesting a license under NRS 640C.400.

Billie Shea asked Ms. Williams where she went to school and when she graduated?

Heather Williams stated that she went to school in Santa Clarita, California and that she graduated on October 10, 2006.

Billie Shea asked for a timeline with her application.

Lisa Cooper said that her application was received in the office on September 10, 2008 and she was given a Cease and Desist Notice on October 21, 2008.

Ms. Williams explained that she did not answer "Yes" about the arrest on her application because she was a minor and was under the assumption she did not

have to answer “Yes” to that question. She was told by the Chiropractor that she would be working under his license and did not know she was doing anything illegal.

Sgt. Lenny Lorusso asked Ms. Williams what the probation was for?

Ms. Williams answered that it was for the petty theft charge.

Michelle Viesselman is confused that Ms. Williams applied for a massage therapist license so she knew she should have a license to perform massage.

Ms. Williams thought she was legally working under the chiropractor’s license.

Motion: Michelle Viesselman made a motion to grant Heather Williams a probationary license for one year with the following probation restrictions: #1, 4, 8, 10, 11, 12 and Ms. Williams is responsible for administrative fees as they incur for probation compliance.

Seconded: DeAnn Prestidge

Motion carried.

9. * Renewal Review

- a. Review Renewal of Marthann B. Brown for Approval, Denial or Other Administrative Action Pursuant to NRS 640C.700. Marthann B. Brown-Present.

Lisa Cooper stated that Ms. Brown is before the Board due to working in a chiropractor’s office without a CAM or a current massage license. Ms. Brown’s license expired September 1, 2008. She was issued a Cease and Desist. She then complied with our request and submitted her renewal application for review. She is requesting to be granted a license under NRS 640C.500.

Marthann Brown stated that during the time her license expired, she had a lot going on: she got married, her grandfather died and she moved. Ms. Brown takes full responsibility for her actions. In September, 2008 she was getting all of her paperwork together and then realized she needed 12 continuing education hours. She said that her school, Nevada Career Institute, told her she could work under a Chiropractor without a current massage therapist license.

Billie Shea replied that it has never been allowed to practice massage therapy in a chiropractor’s office without a proper license and that it is Ms. Brown’s responsibility to know the law. Ms. Shea asked Ms. Brown what did she tell the Chiropractor when he hired her in October 2008?

Ms. Brown replied that she told him she was in the process of renewing, but did not have the money. She lost her previous job with another Chiropractor’s office with Dr. Colucci because her license had expired.

Motion: Michelle Viesselman made a motion to grant Marthann Brown a one year probation license with the following probation terms: #1, 4, 8, 10, 11, and 12.

Seconded: Joe Cracraft

Motion carried.

- b. Review Renewal of Billee Burchett for Approval, Denial or Other Administrative Action Pursuant to NRS 640C.700.

Billee Burchett-Present; Michelle Quevedo-Present; Stephen Osborne, Attorney at Law-Present .

Billie Shea, Board Chairman, stated that the Board will hear Items 9b and 9c together as the attorney, Stephen Osborne is representing both Billie Burchett and Michelle Quevedo.

Lisa Cooper stated that Ms. Burchette and Ms. Quevedo are before the Board due to working in a massage establishment without a current massage license. Ms. Burchett's license and Michelle Quevedo's licenses expired July 1, 2008. They submitted their renewals on Aug 6, 2008 and their renewals were returned due to their CEH's. They then resubmitted their renewals on September 8, 2008 which were also returned due to CEH's. They were found working on February 2, 2009 by our Inspector Rebecca Wagoner. They were issued a Cease & Desist. Ms. Burchett and Ms. Quevedo complied with all requests and submitted their renewal forms on February 6, 2009. They are requesting to be granted a license under NRS 640C.500.

Attorney, Stephen Osborne, made an opening statement on behalf of Billie Burchett and Michelle Quevedo that both have been working in the massage profession 19 and 14 years respectively. They have never had a problem with their licenses. Mr. Osborne passed out a packet of information that details the timeline of their renewal paperwork. They will do a joint presentation as they are business partners and took the same continuing education courses.

Billee Burchett and Michelle Quevedo introduced themselves. They submitted their renewals originally in July 2008 with the \$150.00 renewal fee with and late fee of \$25.00. Would like to give a timeline of how they got to this point. She stated that in pages 3 and 4 of the packet the continuing education certificates are approved by the American Massage Therapy Association (AMTA) and the ABMP.

Michelle Quevedo explained the content of the continuing education courses they took and that their forms were returned back to them because they had been denied. She said a letter was sent to them from the Nevada State Board of Massage Therapists office giving them two options: they could petition the Board to appear for denial or 2) they could take other continuing education courses. They then called the office and were told they had a year to complete them and would be charged a \$25.00 late fee for each month late after they expired. Billee Burchett stated she asked "Is there anything else they need to do and was told "No" by someone in the office. Ms. Quevedo stated that nowhere in the documents they received had it told them to stop working or they would have immediately. On February 3, 2009 they stopped working after receiving the Cease and Desist Notice and signed up online to take continuing education courses. Michelle Quevedo stated they wish to apologize to the Board for any miscommunication or misunderstanding on their part.

Billie Shea asked when their renewal forms were first sent in with the late fees?

Lisa Cooper responded that every piece of paper received in the office is date stamped. The first time the office received their renewal paperwork was in August 2008.

Billie Shea then asked what was the letter dated July 15, 2008 that was mailed to both Billee Burchett and Michelle Quevedo?

Lisa Cooper said that a letter dated July 15, 2008 was sent to each massage therapist notifying them when their license had expired and the letter states that it is a misdemeanor to practice massage without a current license.

Both Billee Burchett and Michelle Quevedo were shown the copy of the letter and said they had never received it.

Lori Patterson asked them If it was mailed to the correct address and they both stated "Yes."

Deborah Wenig wanted to clarify that when someone is calling the office-they are talking to the office and not to the Board. Ms. Wenig stated that the letter was signed: "Nevada State Board of Massage Therapists", but the administrative office is not the Board. She stated that this is the first time the Board has looked at any of this.

Billie Shea clarified that it is her job and she has been appointed by the Board to review the continuing education certificates that come in with the renewals and to determine if they meet the continuing education criteria set forth by the Board. If it does not meet the criteria, Ms. Shea directs the office to mail a denial letter to the licensee. A letter was mailed dated September 12, 2008 to both Billee Burchett and Michelle Quevedo denying the course submitted and giving both the option of 1) Petition to appear before the Board for review or 2) Take another continuing education course. Ms. Shea also stated that both Billee Burchett and Michelle Quevedo had ample opportunity to bring the denied course before the Board for approval but chose not to do so, or take another continuing education course.

Lisa Cooper also stated that the renewal forms are mailed out at least 60 days prior to expiring, usually they are mailed out 90 day prior to expiration. Renewal instructions are mailed out with the renewal form that states per NRS.640C.910 (2)(a) If a person's license to practice massage therapy pursuant to this chapter has expired or has been suspended or revoked by the Board, the person shall not: (a) Engage in the practice of massage therapy.

Michelle Viesselman stated that both Billee Burchett and Michelle Quevedo have both been practicing without a current license.

Keith Marcher stated that he believed that this is a case where Ms. Burchett and Ms. Quevedo did not read the renewal instructions and misunderstood the conversation over the phone. It seems there was a misunderstanding about being able to work on an expired license and serious miscommunication, not on the Board's part, everything was done that needed to be done. Maybe for the future, put in bold letters that licensees cannot work on an expired license. Mr. Marcher stated the options for the Board are to: 1) Deny renewal application and do not let them work, 2) Approve renewal and sanction Billee Burchett and Michelle Quevedo for unlicensed activity, or 3) Let them go.

Mr. Marcher's recommendation is to either let Ms. Burchett and Ms. Quevedo go or potentially consider a renewal with a fine to get their attention that this does not happen again.

Deborah Wenig asked how much in late fees had they already paid?

Lisa Cooper stated to the Board to not encompass late fees together with a fine. Late fees are separate from a fine.

Linda White asked both Ms. Burchett and Ms. Quevedo why the two did not go into the office in person to take care of this? This all could have been resolved had that had happened.

Billee Burchett and Michelle Quevedo said they understand completely and felt confident after the telephone conversation that they had a year.

Stephen Osborne stated that as soon as they received the Cease and Desist Notice that they both stopped practicing and cancelled all their appointments. Both have already lost a considerable amount of money and provided late fees already.

Keith Marcher recommended a minimal or nominal fine that would be appropriate.

Deborah Wenig did not feel that they needed to be fined, that both have stepped up to the plate and have everything paid.

Michelle Viesselman disagreed. She feels there needs to be a token penalty for practicing without a license.

Motion: Michelle Viesselman made a motion to renew Billee Burchett and Michelle Quevedo's licenses with a fine of \$25.00 each for practicing without a license.

Seconded: Michael Smith

Motion carried.

- c. Review Renewal of Michelle Quevedo for Approval, Denial or Other Administrative Action Pursuant to NRS 640C.700.

Minutes are under Item 9b.

10.* Review/Discussion of California Investigations

Lisa Cooper referred Board members to their packets for the report on the investigation.

Discussion held among the Board about the results of the investigation.

Billie Shea stated that the Board is having a problem with California schools, and not sure how to deal with it. She asked Mr. Marcher if the Board has any options regarding accepting transcripts from California schools? One state has said that they will not accept any California school transcripts at all.

Keith Marcher advised the Board that they can take each application on a case by case or school by school basis, if the applicant has completed a massage therapy program in

California and really scrutinize all information. The Board can use the information obtained from the investigation.

Lisa Cooper asked Mr. Marcher if an applicant comes before the Board-can the Board ask pertinent questions (with an interpreter present if needed) regarding the practice of massage therapy? Is that legal?

Mr. Marcher answered that the Board can ask general questions related to their general knowledge of the profession to test their competence.

Michelle Viesselman asked if a school has failed to demonstrate they have a massage program, could we put a message on our website that we will not accept transcripts from their school for this reason?

Billie Shea said that if we receive applications from California schools, that we should have them come before the Board for an application review.

All Board members were in agreement with this and from now on, any applicant that has attended a massage therapy program in California will have to appear before the Board for an application review.

Discussion held regarding ideas about how to further investigate the schools listed in the report.

Deborah Wenig asked if the schools do not meet our education criteria can we not accept those schools?

The Board said that "Yes" we do not have to accept them.

Keith Marcher said that the Board might consider doing some regulations regarding laying out minimum educational criteria for educational institutions and they must meet it or the Board will not accept those schools. Mr. Marcher asked if other states are facing this same issue?

Lisa Cooper stated that Texas is not allowing anyone from California schools and that Oregon is not allowing anyone from California schools unless they go through a Portfolio Review because of the sundowning of Postsecondary Education in California.

Michelle Viesselman said that once the Board starts taking a stand and begins turning away schools of questionable character, we will start seeing a lot less applicants from these schools and a higher level of compliance with our educational criteria.

11. *Office Improvements

a. Printer for Card License

Lisa Cooper went over the handout in the Board packet. We are going to redesign the license and then send the card to the printer. Ms. Cooper went over the different companies and quotes to get the card printer. For security features, the card with the custom hologram would be best. All are dual sided printers-can still put the

probation terms on the back of probation licenses. Quote #1 is best because we can change the hologram.

Deborah Wenig asked if this offers the ability to have the person come into the office and have their picture taken?

Lisa Cooper stated that the camera could be purchased separately for this option.

Motion: Joe Cracraft made a motion to purchase the Build a Badge machine for \$6,330.00 plus shipping fee.

Seconded: Michelle Viesselman

Motion carried.

b. T1 Line Reno to Las Vegas

Lisa Cooper stated that we will need a router for both the Las Vegas and Reno locations. It will cost \$25.85 to install the line and \$257.00 a month. Security is compromised if we do not get the T1 line because we need to get on the backbone. Only way we can get on the backbone is to have the T1 line. Our current monthly charge for DSL is \$178.77. Total cost of the T1 line a month will be \$372.05 for a difference of \$193.00. The total installation cost for the T1 line will be \$7,168.76.

Motion: Michelle Viesselman made a motion to authorize the installation of the T1 line from Reno to Las Vegas and a telephone system from Reno to Las Vegas.

Seconded: Michael Smith

Motion carried.

c. Telephone System Reno to Las Vegas

Lisa Cooper stated that as soon as she gets information on the telephone line she will bring it before the Board. The cost will be substantially smaller than we originally thought it would be.

12. Inspection Department

a. Inspections Completed

Lisa Cooper reported that we have found in Northern Nevada 14 people practicing without a license and two people caught practicing on expired licenses. Ms. Cooper stated that we would be inspecting the Lake Tahoe area in the next few weeks. She also said that people are very angry that they are getting inspected. As the Executive Director, any complaints that anyone may have should be directed to the office. If the concern escalates, then she will bring the item before the Board.

b. Re-Inspections Completed

c. Unlicensed Activity

d. Complaints Given to Board Members

Billie Shea stated that there is a complaint form on the website for anyone to fill out if they have a complaint.

13. Update on Local Jurisdiction

a. Las Vegas Metro Police

Lisa Cooper reported that she and other staff went out with Vice on February 11, 2009. We will start doing night investigations monthly.

Lenny Lorusso said that we will start seeing more arrests coming before the Board.

There was a question where Las Vegas Metro Police Department can go. They can only go to Las Vegas and Clark County.

b. City of Las Vegas Business Licensing

c. Clark County Business Licensing

Clark County will be passing their new regulations on March 3, 2009.

d. Southern Nevada Health Department

Lisa Cooper reported that we have a working relationship with the Southern Nevada Health Department again-there was an issue with an establishment in Southern Nevada. Ms. Cooper spoke to Glenn Savage –officers were at the establishment within 25 minutes. The establishment was cited.

e. City of Mesquite

Lisa Cooper stated that the City of Mesquite is ready to pass their code-it will mirror Clark County.

14. Review of News Releases

a. NCBTMB

b. AMTA

15. *NAC's to go to Workshop

Lisa Cooper gave the Board some information on the NAC's and to look at things we need to continually work on.

Billie Shea stated that we need to be ready to present the NAC's to the Legislative Counsel Bureau next year. This is a good time to put together a few teams to work on these.

a. School/Education Curriculum

Laura Edgar, COO-NCBTMB, stated that there are two types of distance education-doing education online: 1) Partially in-class/partially online 2) Correspondence Course-strictly done through correspondence, they are really teaching themselves.

- b. Hepatitis Shots/TB Shots and Other Communicable Diseases
- c. Dress Code
- e. Draping
- f. Living Conditions
- g. Laundry Facility
- h. Massage Table Defined
- i. Notify the Board of Address Change
- j. Notify the Board of Contact With Law Enforcement Within 48 Hours

16. Future Agenda Items

None.

17. Public Comments

Bob Oliver, Ralston School of Massage: He is getting questions regarding SB 119. He was asked a question about what the licensee has to do with the license as far as posting it and a clarification regarding Display of License?

Lisa Cooper stated that the original must be posted and also that Card must be with the licensee at all times if traveling.

Mr. Oliver also asked about the pending NAC's, why is the Board looking into applicants having immunizations?

Lisa Cooper stated that a Board member had a question about the Hepatitis Shots and Tuberculosis shots. Southern Nevada is requiring it.

Bob Oliver also asked if he could have a copy of the Inspection's Report forwarded to him.

Lisa Cooper will take care of that.

18 * Adjournment

Motion: Michelle Viesselman made a motion to adjourn the meeting.

Seconded: Michael Smith

Motion carried.

Meeting adjourned at 3:45 p.m.

Please note: The State of Nevada Board of Massage Therapists may address agenda items out of sequence to accommodate persons appearing before the Board or to aid in the efficiency or effectiveness of the meeting. The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person. (NRS 241.030)

**Under the Public Comment agenda item, members of the general public may bring matters not appearing on this agenda to the attention of the Board. The Board may discuss the matters, but may not act on the matters at this meeting. If the Board desires, the matters may be placed on a future agenda for action. In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than five (5) minutes.

NOTE: WE WILL MAKE REASONABLE ACCOMMODATIONS FOR MEMBERS OF THE PUBLIC WHO ARE DISABLED AND WISH TO ATTEND THE MEETING. SHOULD SPECIAL ARRANGEMENTS FOR THE MEETING BE NECESSARY, PLEASE NOTIFY THE MASSAGE THERAPY LICENSING BOARD IN WRITING AT 1755 E. Plumb Lane Suite 252, Reno, NV 89502 or CALL LISA COOPER, (775) 688-1888, AS SOON AS POSSIBLE.

The Agenda was posted at the following places:

Grant Sawyer Building, 555 E. Washington Avenue, Las Vegas, NV

Office of the Attorney General, 100 N. Carson Street, Carson City, NV

Office of the Attorney General, 5420 Kietzke Lane Ste 202, Reno, NV

Nevada State Board of Massage Therapists Website

Nevada State Board of Massage Therapists, 1755 E. Plumb Lane Suite 252, Reno, NV 89502

Nevada State Board of Massage Therapists, 101 Convention Center Drive Suite 830,
Las Vegas, NV, 89109