

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

Billie Shea  
DeAnn Prestidge  
Deborah Wenig  
Joe Cracraft

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**Email:**

[nvmassagebd@state.nv.us](mailto:nvmassagebd@state.nv.us)

**Website:**

<http://massagetherapy.nv.gov>

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**BOARD MEMBERS:**

Linda White  
Michelle Viesselman  
Michael Smith  
Sgt. Leonard Lorusso

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**MINUTES**

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

**DATE:** April 10, 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 9:10 a.m. by Board Chairman, Billie Shea.

All Board Members Present: Joe Cracraft, Sgt. Leonard Lorusso, DeAnn Prestidge, Billie Shea, Michael Smith, Michelle Viesselman, Deborah Wenig, Linda White.

## 2. \* Discussion/Approval of Board Minutes

- a. February 13, 2009

**Motion:** Joe Cracraft made a motion to approve the minutes of the February 13, 2009 Board Meeting as presented.

**Seconded:** Michelle Viesselman

**Motion carried.**

## 3. \*Financial Report Discussion/Approval

- a. Budget – Year to Date 08/09 Income Statement

Lisa Cooper deferred any questions about the Budget to Board members.

Deborah Wenig questioned why the line item for furniture and fixtures was deleted, it did say \$4,000?

Lisa Cooper stated that we added the \$4,000 to Office and Expense and we deleted the Furniture and Fixtures line item because our accountant does not want us to put anything in Furniture and Fixtures for anything under \$1,000.00.

Deborah Wenig asked Joe Cracraft if he looks over all of the details of these expenses listed in the budget?

Joe Cracraft stated he was not concerned over the movement of the figures into the correct categories.

Ms. Wenig stated that she and Mr. Cracraft had concerns about the overage of this Office and Expense item. Last time the item was shown at \$7,587.78 and this time it is listed at \$7,133.40. Ms. Wenig stated that the overage was due to painting both offices and steam cleaning the carpet. Ms. Wenig went back over the October 24, 2008 minutes and stated that Billie Shea said she would like to see the carpets steam cleaned in the Reno office and paint in the Las Vegas office but that the Board did not vote on these expenses.

Lisa Cooper clarified that the expense for painting the offices (Reno office was only touched up) and steam cleaning the carpets was not the \$7,000 but was actually \$1,500. The \$7,133.40 represents a cumulative total of all items in this category for the fiscal year thus far. Ms. Cooper stated the reason for the difference between the last Year to Date Budget total of the \$7,587.78 and \$7,133.40 was she went back and recategorized some items because there were previous concerns from the Board about making sure items are placed in the correct budget category.

Deborah Wenig asked Keith Marcher if this is standard practice of how boards work with their money?

Keith Marcher stated that generally the Board gives the Executive Director flexibility and someone oversees what she does. Moving around money a little bit here and there is not anything too spectacular. It is not rare that this happens. That is why you have a Budget Item on each Agenda at every Board Meeting.

Ms. Wenig stated that our spending is getting sky high.

Ms. Cooper actually said that the spending has gone down for the Board.

Michelle Viesselman stated that at the last Board Meeting it was discussed that Lisa Cooper would go through and reappportion and make certain that items go into the final category that they should have to begin with and that appears to be what she has done.

Joe Cracraft pointed out that at the last Board meeting it was requested that Lisa Cooper list/explain why there were variances from the budgeted amount on certain line items and that has been done on the budget that was handed out.

**Motion:** Michelle Viesselman made a motion to approve Budget Year to Date 08/09.

**Seconded:** Deborah Wenig

**Motion carried.**

b. Trial Balance

Lisa Cooper explained that the Trial Balance consists of a snapshot of all accounts at the end of March. Ms. Cooper also explained what some of the accounts and balances are.

**Motion:** Michelle Viesselman made a motion to approve the Trial Balance.

**Seconded:** Michael Smith

**Motion carried.**

c. Budget – 09/10 – Working budget

Lisa Cooper explained that there is wiggle room in this budget and expects there to be changes and she made this budget based on the current economic conditions. Ms. Cooper explained that she based these numbers on a 20 percent reduction of massage therapists to 3,200 or 3,300 renewals with 700 new applicants for a total of 4,000 licensees. There are currently approximately 4,100 massage therapists. Ms. Cooper said that we normally have a 10 percent reduction of massage therapists. Ms. Cooper also stated that we are already above what we projected for this fiscal year and we are being conservative with this budget. We have exceeded projected mailing lists requests already as of March 31, 2009. The Temporary License Application fees the first year were above the projected amount and this last year the amount of Temporary License Application fees have been down. Ms. Cooper stated that the figures given reflect a low projection for next year. We do not budget for late fees, license verifications and Duplicate License Affidavits received as these numbers are too hard to project.

Billie Shea asked what are the renewal projections for May and June?

Lisa Cooper said she anticipates that between 1,800-2,200 renewals should come in by the end of this fiscal year.

Billie Shea noted that we could close out the year with an additional \$300,000 based on the renewals that could come in.

DeAnn Prestidge stated there is a concern because of the economy and people are losing their jobs, do we send out a form when a person is expired and also telling them how long they can be expired?

Lisa Cooper stated that the office sends out the first letter approximately 10-15 days after the person has expired letting them know they are expired and what the late fees are. Then a month before they are coming upon one year expired, they are sent out another letter notifying them they will have to renew before the twelve months is up or they will have to apply as a new applicant after they go past twelve months being expired.

Michelle Viesselman asked if each letter contains in it language stating that the person cannot legally practice massage on an expired license?

Lisa Cooper said that since the February 13, 2009 Board Meeting, all correspondence that leaves the office is stamped on the outside with the notice of NRS 640C.910.

Linda White asked about when a person can go on Inactive status?

Ms. Cooper explained that a person must be Active, not Expired to be able to be placed on Inactive status. They can be on Inactive status for up to 12 months but after 12 months they would have to apply as a new applicant. To come off of Inactive status the person would have to pay a \$100.00 reactivation fee plus the \$150.00 application fee. It states in our law under renewal procedures that the person must be Active to be able to place their license on Inactive status.

Lisa Cooper said that under Computer Software, we talked about adding Renewal Forms to our website. It will cut down on postage expenses and cut \$7,000 from this line item. Also, we need to wait on the credit card machine for now because of the 2% charge. It was agreed to take this item out of the budget for next year.

Ms. Cooper explained about the DataCom charges and the new telephone system and expense. At the last Board Meeting, the office was approved to get a new server. New lines had to be run for electricity in the Reno office because staff were getting knocked off of the internet. We could wait another year for the server because we have made some adjustments.

Billie Shea asked if the Datacom/telephone charges were set in stone?

Lisa Cooper said that the amount could go down by \$1,500.00 to \$500.00.

Ms. Cooper went over Dues and Registration: FARB, CLEAR, etc. FARB is approximately \$2,500, CLEAR is \$35.00, CAC is \$40.00 or \$50.00. If we attend conferences sponsored by any of these organizations, we have to pay additional money to send people to the conferences. Ms. Cooper stated we can cut the Educational and Training Seminars by \$5,000.00 .

Billie Shea asked if the Educational and Training Seminars line item covers staff and Board members?

Lisa Cooper said it covers both. Staff is finishing up with their last CLEAR training in the next few weeks and that is where a large amount of the money went. We can cut the amount on this item \$7,000 for next year's budget.

Deborah Wenig said that we could just send one person instead of 2, 3 or 4 people to these conferences.

Lisa Cooper stated if we are going to go to a lean budget, then we will go lean and plan on sending one person to any conferences.

Lisa Cooper went over the Equipment and Rental Repair line item and said that the figure is in line with all of the equipment we have right now and we pay for maintenance contracts on the equipment. There are no electronic needs for the foreseeable future.

Billie Shea asked what the Insurance Expense item is?

Lisa Cooper stated that this is the Tort Fund and it is a fixed number.

Billie Shea asked about Hearing Costs and why we did not have anything budgeted under this item? Ms. Shea asked if the Board pays the hearing costs?

Keith Marcher stated that the person appearing before the Board pays hearing costs if they lose.

Billie Shea recommended that we put \$1,000.00 under this account.

Lisa Cooper went over Office Supplies and Expense. Ms. Cooper stated that we will be sending out a lot more correspondence in the mail and doing much more copying and that is why this amount is high. These numbers are pretty well set in stone.

DeeAnn Prestidge asked if the Board could purchase memory cards and load the Board packets on the cards instead of printing out the Board packets to save on paper?

Lisa Cooper said that we could purchase them if the Board members want to bring and use their own laptops.

Billie Shea asked about the Professional Fees item?

Lisa Cooper stated that has to do with the bookkeeper that we pay. Also, our payroll service is through QuickBooks and that fee is \$200.00 per year. The updates are free through the membership.

Billie Shea asked about the Telephone Charges item?

Lisa Cooper stated that amount has the new server money included and can now be reduced by \$3,000.00.

Lisa Cooper went over the Board Salary line item. Ms. Cooper looked at the first year and second year and what the actual amounts were. That is what the \$30,000 is based on.

Billie Shea recommended that we cut the Board Salary amount by 30 percent.

Deborah Wenig thought that this is a good idea as stated previously.

Billie Shea stated that PERS is a set amount and asked Lisa Cooper for clarification of what the current rate is.

Lisa Cooper verified that PERS is 21 ½ percent of gross income. This amount comes out annually from PERS.

Billie Shea asked Lisa Cooper to explain what Vacation Buyout and Sick Buyout is.

Ms. Cooper stated that there are Vacation Buyout and Sick Buyout options. These are options that State employees have, but it does not necessarily have to be our policy. People that do not take off when they are sick have large balances.

Ms. Shea asked if sick pay is vested benefits?

Lisa Cooper stated that "No" sick pay is not vested benefits, but that vacation is.

Billie Shea asked Ms. Cooper to get her a figure on what the vacation and sick buyout calculations would be. Ms Shea is not concerned with the sick pay buyout, but more concerned with the vacation pay buyout.

Joe Cracraft asked what the Board's employees accrue for vacation time each month?

Lisa Cooper stated they accrue four hours per pay period for a total of eight hours per month. Ms. Cooper said this is actually two hours less than the other State employees receive.

Lisa Cooper said that she has \$369,000.00 budgeted for Gross Salaries. At this time in 2008, we had five employees we now have eight employees which is why the big difference in this budget item.

Ms. Cooper went over Temporary Services and that she is budgeting \$15,000.00 based on what the need has been over the last few years. Temporary services are used when there is employee turnover or when we are in our busy period and need the extra help. This is the time of year we usually need help with the filing and will have a temporary employee come in to help instead of hiring a new employee.

Deborah Wenig pointed out that with the budget right now it shows \$568,000.00 for Total Salaries and \$767,000.00 for Total Income with a difference of close to \$200,000.00 left over without any changes. Ms. Wenig is interested in seeing what the numbers will be after adjustments are made to this budget.

Billie Shea asked about In-State Travel?

Lisa Cooper stated she has no problem cutting back on In-State travel. She does not anticipate traveling down to Las Vegas as much and will be back to going down there once a month. She will no longer need to go down for the Board meetings in Las Vegas; that is what Lynette is there for.

Billie Shea stated that her In-State travel amount is included in this budgeted amount, but that her In-State travel will be down to almost zero for the next year. Ms. Shea asked Ms. Cooper if she could come up with a figure of what her In-State travel will be for next year.

Lisa Cooper said that she feels the \$7,000.00 budgeted for mileage is going to be low because the inspectors put in for mileage and have to travel to places such as Pahrump and Mesquite. Ms. Cooper will recalculate this and come back with a new figure.

Billie Shea said that would be a good idea considering inspections will be done four times a year.

Deborah Wenig stated she had read the email that Ms. Shea sent out on this, and asked when it was decided that inspections would be done four times a year. She did not remember this being discussed at a Board meeting.

Lisa Cooper said that back when she was first hired it was decided to have our inspection department modeled after the Cosmetology Board who does them quarterly.

Ms. Wenig felt that we need to review this again and that four times a year to inspect for the average massage therapist was too much and maybe there are some areas we need to do this for, but not for everyone.

Lisa Cooper stated that there are areas where it is too far between inspections and it needs to be the same throughout the State, cannot pick and choose who to do inspections on and how many times per each person. It was agreed to reevaluate this at a later date when we have completed more inspections.

Billie Shea asked Keith Marcher if he could get together and discuss with Lisa Cooper any procedure we adopt regarding inspections is within the legal protocol per EEOC, etc.

Billie Shea asked about the Out of State Travel line item.

Lisa Cooper stated that if we are now going to be sending only one person to FARB, CAC, etc. then she will recalculate the figures and bring the number back on a revised budget.

Billie Shea stated that FARB, CAC and FSNTB are essentially important. The Board had already agreed to send Keith Marcher to the FARB meeting in October and the only expense that will come out of next year's budget will be his hotel expense, the other expenses will come out of this year's budget, registration, airfare, etc.

Joe Cracraft had a question about the \$96,000.00 deficit. He understands that the amount will be lower when some of the reductions in the budget are made, but it will not be reduced to zero. Will we be taking the money out of reserves to cover this?

Lisa Cooper stated that “Yes, we will be taking money out of reserves to cover this.”

Mr. Cracraft is concerned that we will be out of reserves in a few years and that we need to make a concentrated effort to reduce that deficit amount.

Billie Shea stated that is why we are reviewing the budget in great detail to reduce costs where we can. We will bring back the revised budget at the June Board Meeting.

d. Account Balances –

i. City National Bank – 4/1/09 - Checking/Money Market/Debit Account

Lisa Cooper stated that the Board was getting charged some fees from City Bank and that is why she needed to move \$50,000.00 over from Bank of America to City Bank. We are thinking of closing the Bank of America Account due to lack of service.

ii. Nevada State Bank – 4/1/09 – Checking: \$90,000.00

iii. Wachovia – 4/1/09 – Checking \$90,000.00

iv. Bank of America – 4/1/09 - Checking - \$100.00- Savings – \$40,256.32

**Motion:** Michael Smith made a motion to approve account balances as presented.

**Seconded:** Linda White

**Motion carried.**

#### 4. Update on SB119

Lisa Cooper stated that she included in the board package all the information that has happened to date on our bill SB 119. On April 6, 2009, SB 119 was passed out of the Senate Labor and Commerce Committee and is now off to the Assembly. Ms. Cooper had one call from a board member with regards to the policy and procedures of our inspection department. Ms. Cooper assured the Board that the procedures followed by our inspection department have been followed to the letter. That process was reviewed in our October 24 meeting. If a Board member would like to review the procedures for inspection we will have that discussion on June 12, 2009.

Billie Shea said that when we went to our lobbyist a while back, he advised us to prioritize what was most important in our bill. The idea of writing exemptions was most favorable to us and we were much in favor of writing the exemptions from the very beginning, but we were told by the Legislature on at least two occasions, that we did not have the authority, nor to exempt, nor to write those exemptions. We actually did draft up some exemption language last year under an NAC, sent that over to the legislature, then sent that over to the Legislative Counsel Bureau and were told subsequently that we did not have the authority to enact that as part of our administrative code. The question has come up this time, does the Board

allow for exemptions? At the last couple of hearings on SB 119, the last one being April 6, 2009, we were told we do not have the authority to exempt. This Board cannot exempt any modality. We are waiting for the legislature to give us some guidance on what we can do and decide what those exemptions can be. We have known for a long time that there was a problem, but we do not have the authority to go out and decide or declare who those exemptions should be or what they should be. If given the ability, we will write those exemptions to the best of our ability. Both AMTA and ABMP have drafted and are promoting exemption language for the profession. Both are well written except for one line: "But are not limited to." This is where we are having the problem. The line: "But not limited to" is in our law. When we have appeared before the Senate and Assembly committees, they do not want to hear this when it comes to this discussion. It is not like the Board has not brought this before the committees, it has. We have been working on this for well over two years, and the Board would love to see some well written exemption language that the legislature would accept.

We had testimony from a man in Las Vegas to exempt the Trager Approach. He did not want to be licensed with massage therapists-he wanted to be kept separate. The Senator asked him if there was a possibility to accept his Trager Certificate and exam, would that be acceptable to this gentleman? He said "No, it was not acceptable he wanted the exemption he did not want to be licensed with the massage therapists." Billie Shea quoted him as saying: "He felt massage therapists were synonymous with prostitution and did not want to be lumped together with them."

Billie Shea next went over the MBLEx. Under our law (under NRS 640C) it clearly dictates that we can accept the NCBTMB or an exam approved by NCCA. When we went to the legislature in 2005, we felt uncomfortable with that and did get some language in that said if NCBTMB did not perform as the State thought was appropriate, then the State could cause to be written or adopt another exam. Ms. Shea is not comfortable going back to NCBTMB saying they are not appropriate right now because, so far, they have not given the Board any reason to.

Ms. Shea also stated that the way the issue with exemptions is going to get changed is through legislation. The Board cannot make the decision to either exempt, exclude, or omit at this time any modality.

Keith Marcher stated that we will not get from the legislation a giant laundry list of exemptions so if SB 119 passes, it is basically a model set up after some of the Boards to give authority for citing ability for unlicensed activity. The reason why this authority is given to the Boards, is because unlicensed activity is a crime, but it is not prosecuted by local jurisdiction because they do not have the resources. With the Nursing Board and the Private Investigator Board it is pretty black and white as far as what scope of practice is. With the Massage Board, there is a large gray area of whether a modality is massage therapy or not. If this bill goes through and an inspector goes into an establishment and someone has their hands on a client and is performing massage without a license, they are going to get a ticket. If it is one of the modalities in the gray area, Mr. Marcher's advice is to bring the issue to the board and discuss if it falls under the Board's jurisdiction. If the Board decides the modality does fall under their jurisdiction, then they would tell the person why their modality falls under their jurisdiction and if the person continues practicing without a license, then they will get a citation. If they do get a citation, there is all kinds of due process attached to this procedure that has been set up before, this is not new. The procedure is if they get a ticket, they can appeal it to the Board. What they do at that point is should a hearing be held to determine if the ticket should be upheld or overturned based on the evidence presented by

both sides. If the Board upholds the citation, the person can appeal to the District Court. From there, they can appeal all the way to the Supreme Court if they want. There is built in due process protection by the ability to appeal all the way to the Supreme Court. The idea behind the bill is to not look for all of these modalities and start giving tickets, but to stop and protect the public and the profession from people we know who are practicing massage without a license, people who say they are not going to get a license or people that are licensed and doing prostitution. The general attempt was to get in line with other Boards, have citing and fining ability and police the profession where it needed to be policed. With all of these modalities, there is going to be some crossover and there will be instances where the inspectors go out and are not sure if a modality is covered under the Board's jurisdiction. The Board can take those on a case by case basis. Mr. Marcher tried to emphasize that the Board is not going to run out with a ticket book and start citing people in the gray areas.

Deborah Wenig thought the Board should take another look at the State of Washington and review their exemption language.

Keith Marcher said that what the Board is going to be left with is considering these gray area modalities on a case by case basis. Massage is not like most professions where the scope of practice is black and white.

Bob Oliver asked "Where is the exemption language in SB 119, his copy does not have it?"

Lisa Cooper stated that the legislature did not give us exemption language in SB 119. The discussion today was an overview of some of the issues involving SB 119.

Billie Shea stated that the discussion today was an overview of some of the issues involving SB 119. Ms. Shea was trying to cover some of the issues from letters she has in front of her. Ms. Shea also stated that SB 119 has a "Do Pass" from the Senate and is crossing houses today.

Deborah Wenig stated that what she got out of the letters from the people regarding SB 119 were they were not so concerned with exemption language as they were with the Board overstepping their authority with citing and Cease and Desist Notices.

Lisa Cooper clarified that no citations have been issued only Cease and Desist Notices which have been approved by the Attorney General's office.

Billie Shea clarified that our bill, SB 119, was modeled after standing Boards and their language.

Lisa Cooper also wanted to make it clear that fines do not stay with the Board, they go into the General Fund.

Billie Shea clarified that this Board is self funded and we get no money from the State, all of the money comes from license fees.

Michelle Viesselman stated since we are on the topic of legislation, she would like legal clarification on should a Board member provide false or erroneous information to the legislature indirectly or through a third party, what potential laws might have been broken and what are the consequences?

Keith Marcher stated there could possibly be a violation and that you would need to prove that the person did this.

Michelle Viesselman would like a guideline with parameters for the future for Board members to follow.

Keith Marcher also said that Board members should not engage in a conversation with a licensee one on one and give advice or an opinion. They need to advise the person to bring the matter before the Board.

## **5. \* Discussion on Exemptions/Scope of Practice for Massage Therapy as defined in NRS 640C.060.**

Lisa Cooper stated that this is included into the meeting due to the continued issue we are having with what is "Massage?" Ms. Cooper has been given very little direction by the Board as a whole, but has received a lot of input from Board Members. The Board needs to have this discussion and give the staff a clear directive. Currently, we are inspecting all establishments and anything that is advertised as massage or LMT that is not currently licensed with us, we are issuing a Cease and Desist Notice. Ms. Cooper expects this conversation to continue over several board meetings and not be defined in one shot. Ms. Cooper went over the handouts she included with this item number. Ms. Cooper said the staff is looking for some guidance and direction with this issue.

DeAnn Prestidge asked Ms. Cooper if we have run into many Reiki practitioners that are advertising as an LMT or have LMT on their cards?

Lisa Cooper stated that she knows of one Reiki practitioner who had LMT on their wall.

Rebecca Wagoner stated that she has seen it on their cards, signs, etc. She sees it every day.

Keith Marcher stated whether or not the bill passes, if we are out inspecting, there is a specific statute on point that says if they are not licensed, they cannot hold themselves out to be a licensed massage therapist (LMT). Mr. Marcher's advice is to not immediately give them a ticket, but let them know there is a statute and that you cannot be practicing, issue them a Cease and Desist Notice. Then go back three or four weeks later and see if it is done and then cite them if they are still advertising as a LMT. Mr. Marcher said to make sure and put things in writing and cite the statute.

Billie Shea asked Mr. Marcher if our Cease and Desist Notice is too stearn?

Mr. Marcher stated "No", he has read the notice and it is fine. In fact, there is a provision at the end of the notice that says if the person receiving the notice does not agree with it to call us and we will discuss it or they can come to a Board meeting to talk about it. This is not a gray area, it is black and white. A person cannot advertise that they are a licensed massage therapist when they are not, there is a specific statute regarding this. There are some professions that are exempt from our law: Nurses, Chiropractors, etc. A nurse or chiropractor can practice massage within their scope of practice. If they advertise on a sign for example as an LMT, they will be issued a Cease and Desist Notice.

Lisa Cooper wanted to make a statement for the record: “Mr. Marcher stated that if a Registered Nurse is practicing massage and is advertising it on their wall they are not allowed to do that, they can only practice massage within their scope of practice.

Mr. Marcher stated that this principle applies to all of the professions that are listed as exempt in our law.

## 6. \* Board Travel/Conferences

- a. Federation of State Massage Therapy Boards – Discussion and vote to become a paying member of this organization.

Lisa Cooper stated that this was tabled from our February meeting. In light of the budget that we are trying to slim down is this still a consideration? Ms. Cooper said that the federation will be present at the next Board meeting.

- b. Attend the Federation of State Massage Therapy Boards Annual Conference October 9-11, 2009

**Motion:** Michelle Viesselman made a motion to table the federation topics items 6a and 6b and bring back to the June 12, 2009 Board meeting.

**Seconded:** Joe Cracraft

**Motion carried.**

- c. Citizen Advocacy Center (CAC) Attending meeting in Orlando, FL October 28, 29 and 30, 2009- Does the 2009/2010 budget allow us to make this travel?

Lisa Cooper stated we are a member of this group.

Joe Cracraft stated that he and Lisa Cooper went to this meeting a few years ago in Seattle, Washington and thought it was a good conference. If we do participate, Mr. Cracraft said he would pay his own lodging fees to attend as his daughter lives in Orlando, Florida and he can stay with her.

**Motion:** Michelle Viesselman made a motion to table Item 6c until the June 12, 2009 Board Meeting.

**Seconded:** Joe Cracraft

**Motion carried.**

- d. Council on Licensure, Enforcement and Regulation (CLEAR) Attending Executive Leadership Program for Regulators; September 10-12 2009 Denver, Colorado

Lisa Cooper stated she is not going to attend this now.

## 7. \*Formal Hearing

- a. 10:00 am – Cindy Chen

Cindy Chen-Present; Bucky Buchanan-Attorney at Law-Present; Keith Marcher-Senior Deputy Attorney General-Present; Gina Sessions, Chief Deputy Attorney General-Present.

Bucky Buchanan stated he just had a long conversation with Ms. Chen this morning and if the Board is willing to offer the settlement agreement that was offered on February 26, 2009, she would be willing to accept the settlement agreement and waive the formal hearing.

Keith Marcher would like a few minutes with court counsel to discuss this first. He spoke to court counsel, Gina Sessions, Chief Deputy Attorney General, and turned it over to her.

Gina Sessions stated what the terms are for the settlement agreement: A 90 day suspension , one year probation with the standard terms and conditions, a \$500.00 fine and \$500.00 for investigative fees.

Bucky Buchanan acknowledged that this was correct.

Ms. Sessions asked Mr. Buchanan if someone has explained these terms and conditions to his client, Cindy Chen?

Mr. Buchanan answered "Yes" that he has explained the terms and conditions to Ms. Chen and she has agreed to accept them.

Ms. Sessions asked Mr. Buchanan if Ms. Chen understands by accepting the settlement agreement that she has agreed to waive her right to a formal hearing and waives her right to appeal the judgement?

Mr. Buchanan answered "Yes, that Ms. Chen waives any rights to an appeal the judgement and waives any cross-examination of any witnesses they may have had."

Gina Sessions stated that instead of having a written settlement agreement, we have placed the settlement agreement on the record based on the terms of the settlement.

**Motion:** Michelle Viesselman made a motion to accept the settlement offer for Cindy Chen.

**Seconded:** Linda White

**Motion carried.**

Keith Marcher will put this in the form of a board order and will send it to Mr. Buchanan to forward on to his client.

b. Li Jun Shen – Not present. Agreement For Fine

Keith Marcher stated this is a settlement agreement for fine in the matter of Li Jun Shen which is included in the Board members' packets. In this case, it was decided to offer a fine based on what the facts of the case were and we deviated from the typical suspension/probation. As seen in the complaint, Ms. Shen was arrested for solicitation and unlawful touch. Mr. Marcher asked the Board to accept the agreement presented in their packets.

**Motion:** Michelle Viesselman made a motion to accept the settlement agreement for LiJun Shen as presented.

**Seconded:** Linda White  
**Motion carried.**

- c. Mei Qin Zhao – Not present. Agreement For Suspension/Probation

Keith Marcher stated that the Board members should have the agreement for suspension/probation in their Board packets. Mr. Marcher said that this is a typical settlement agreement when someone is arrested for solicitation: A 90 day licensure suspension and a one year probation and a fine.

**Motion:** Michelle Viesselman made a motion to approve settlement agreement for Me Qin Zhao as presented.

**Seconded:** Joe Cracraft  
**Motion carried.**

## 8. \*Petition to Appear

- a. Beatrice Basil-Nelson – Present. Discuss/Possible approval of Chakra Class for Continuing Credit Hours

Lisa Cooper stated that Ms. Basil-Nelson is before the Board to discuss the approval /denial of her Continuing Education for a Chakra class that was submitted to the office. Ms. Cooper went over the Board procedure for approving continuing education that does not fall under our policies for accepted Continuing Education Hours courses. The Board has appointed one person who reviews the continuing education that is submitted and if they do not feel completely comfortable signing off on a particular course then it is not approved and sent back with a letter to the licensee letting them know they have the option of taking another continuing education course or they can Petition the Board to have their continuing education course reviewed.

DeAnn Prestidge recused herself because she knows Ms. Basil-Nelson.

Beatrice Basil-Nelson explained that she has been doing massage therapy for 12 years and is nationally certified and State licensed. Ms. Basil-Nelson has worked for seven years for MGM and provides treatment trainings for massage therapists there. She explained what Chak-Rock-Ology is.

Michelle Viesselman asked “ How many hours the course is?”

Ms. Basil-Nelson said “16 hours, it consists of two eight hour days.”

Joe Cracraft asked for an explanation of the process of the treatment and what is involved.

Beatrice Basil-Nelson stated that the guest is asked to pick out a gemstone. There are seven stones related to Chakra colors. According to the stone they pick, it will determine the massage routine that will be done on them.

**Motion:** Michael Smith made a motion to approve Chak-Rock-Ology as a continuing education class offered by Beatrice Basil-Nelson.

**Seconded:** Linda White

Billie Shea asked Ms. Basil-Nelson to send back the original application with a sample certificate as we need to keep it on file.

Michelle Viesselman wanted to clarify that the 16 hours is not including lunch breaks.

Ms. Basil-Nelson stated it is 16 hours of class time.

**Motion carried.**

- b. Catherine Laws – Present. Rolf Laws, Husband-Present. Discuss/Possible approval of the following classes for Continuing Credit Hours: Hot Stone Massage, Reiki and Reflexology classes.

Billie Shea and DeAnn Prestidge recused themselves.

Michelle Viesselman-Vice Chairman, presided over this item.

Lisa Cooper explained that Ms. Laws is before the Board to discuss the approval/denial of her Continuing Education classes for Hot Stone Massage, Reiki and Reflexology. Ms. Cooper included an incident report for the Board's review and a letter that was sent to us by a current licensee that took Ms. Law's class and verified that she did not take a 12 hour class. Ms. Laws is requesting that she be approved for the continuing education classes that she submitted to the Board.

Joe Cracraft asked in the incident report that was in their packets, in the discussion, the hours presented do not end up adding up to 12?

Ms. Cooper said that was correct.

Michelle Viesselman stated that in addition to the class not being 12 hours, that it was her understanding that Ms. Laws misrepresented herself as being already certified by the State of Nevada and by the NCBTMB when she provided the class that was complained about. Ms. Viesselman asked "Am I correct in that assumption?"

Ms. Cooper answered "You are."

Catherine Laws stated that she received an email on February 17, 2009 from Lisa Cooper denying her application for continuing education hours. Ms. Laws stated she is new to continuing education. Before she submitted everything, she called the Board office and her husband Rolf Laws is her witness, she spoke directly to Shannon to make sure they were doing everything legal. Ms. Laws said she was told by Shannon that she could teach continuing education without being a provider but that she could also apply with the Board to be an approved continuing education provider. She also stated that she was told by Shannon that she could go ahead and send out fliers advertising the continuing education course even though she had not been approved by the Board yet as an approved provider with them. Ms. Laws then said they found out they broke all of the rules of the State Board and received several emails from Lisa Cooper and her application was denied. Ms. Laws said

that Lisa Cooper then told her about a person calling the Board who took the course complaining that the course was only eight hours and not the twelve hours as it was being presented as. A few days later they went to the Governor's office and talked to Annalyn Carrillo. Ms. Carrillo contacted the State Board and spoke to Lisa Cooper regarding the situation. Ms. Cooper explained to Ms. Carrillo about the discrepancy in the hours advertised for the class verses what a person that took the class reported it as being. Ms. Laws stated her course involves watching a video and some hands on training. Ms. Laws said that they follow all of the rules of NCBTMB and wanted to make sure they were on the same page as the State Board. She felt that this started with a misunderstanding with Shannon from the beginning by getting the wrong explanation of what they had to do and not receiving any guideline from the beginning to become a continuing education provider. Ms. Laws was upset she was not told she had to be an approved provider to teach a continuing education class.

Michelle Viesselman clarified that anyone can teach a continuing education class, but it does not mean that they will be accepted by the State.

Rolf Laws stated that the material Catherine Laws teaches is approved material by the NCBTMB meaning the videos are nationally approved as well as the manuals. The students are given an examination at the end of the session and then they are given a Certificate of Achievement once they have passed the hands-on training. The hands-on training that Ms. Laws does is very extensive and is approximately four hours and then a discussion period ensues after the hands-on training. Mr. Laws stated that obviously this could not be done in a four hour period

Deborah Wenig wanted to know what the Board's guidelines are to be approved to teach continuing education?

Lisa Cooper stated that the person must be a licensed massage therapist for a minimum of two years.

Deborah Wenig stated that the disconnect seems to be that the course was advertised as a twelve hour course but is actually four hours of time.

Ms. Cooper said that the office originally received a complaint over the telephone that somebody is giving 12 hours of continuing education for only four hours of time. After an investigation, in the documentation presented to the Board, it was found that for 12 hours of credit the actual time for the class is ten hours, but the advertising that was sent out by Ms. Laws states 12 hours of continuing education credit/same day.

Michelle Viesselman has a problem that there is evidence that they have engaged in fraud and she has real problems with the fact that for an onsite, theoretically hands-on class, so much time is associated with video viewing. Ms. Viesselman finds this very disturbing as a Board member and also as a continuing education provider herself with many years experience.

Mr. Laws stated that they may not have been as clear as they should have been regarding the advertising, but when someone calls inquiring about the class they are given the Certificate of Completion on the same day they complete the class and

they are told it is a two day class. Hours of operation are 8:00 a.m.-6:00 p. m. or 6:30 p.m. , as they try and accommodate the student's schedule.

Michelle Viesselman asked other than the 12 hours six months ago, what other qualifications does Ms. Laws has to be teaching Prenatal?

Ms. Laws stated that she has five years of schooling in Texas.

**Motion:** Michael Smith made a motion to table this item until Catherine Laws can supply the board with further clarification and information.

**Seconded:** Deborah Wenig

Discussion: Mr. Laws asked if Catherine Laws will receive a letter in writing requesting what further information is needed?

Michelle Viesselman said that Lisa Cooper will be contacting Ms. Laws and that does not necessarily mean that it will be approved, but will take it to the next step for review at a future Board meeting.

**Motion carried.**

- c. Sandor Emil Kovesi –Present, Dave Mason, Friend from the Las Vegas Country Club.

Lisa Cooper stated that Mr. Kovesi is before the Board requesting to be granted a License under AB 250 Section 56 the “grandfathering” .

Mr. Kovesi publicly apologized to Jenny Schofield, Inspector for the Nevada State Board of Massage Therapists for making her feel uncomfortable when she did her inspection with him. Mr. Kovesi asked Lisa Cooper if she had received his fax?

Ms. Cooper did and the Board packets were already copied and sent out when she received it so she handed out the information to the Board members at the Carson City location and Mr. Kovesi gave a copy to Sgt. Lenny Loruso at the Las Vegas location.

Billie Shea stated that the handout was letters of recommendation regarding Mr. Kovesi.

Mr. Kovesi stated that he has worked for 22 years at the Las Vegas Country Club. He works in the basement and never knew the law had changed and had never read any legal notice in the newspaper or received anything in the mail regarding the change in licensing for massage therapists. On February 23, 2009 he was inspected by Ms. Schofield and found to be practicing without a massage license and had to stop working and taking clients.

Billie Shea asked Mr. Kovesi when was the last time he held a valid massage license?

Mr. Kovesi stated that the last license he held was from 1980 from Clark County.

Ms. Shea asked Mr. Kovesi when was the last time he renewed that license?

Mr. Kovesi said in 1980, he did not know he had to renew his license, he said it had no expiration date.

Ms. Shea said that is where the problem lies, that Mr. Kovesi never renewed his license with Clark County and that is why he never received notification of the change in the law regarding licensing and the grandfathering process. Ms. Shea stated that the law is very specific and that grandfathering stopped in June 2007.

Michelle Viesselman stated that the Board has had several cases come before them that missed the grandfathering period and the Board does not have the legal right to grandfather anyone in.

Mr. Mason stated that through that whole period, the Las Vegas Country Club would receive all notifications of business licensing renewals including the massage business licensing renewal from Clark County and all business licenses have been kept up to date. It is unfortunate that Mr. Kovesi did not receive notification of the grandfathering process and was left out.

Michelle Viesselman asked if Mr. Kovesi qualifies to apply as a New Applicant?

Lisa Cooper said that she has talked to Mr. Kovesi at length regarding the application process.

Billie Shea stated that while the Board is sympathetic to Mr. Kovesi's situation, it does not have the authority to grant him a license under the grandfathering clause and needs to discuss what steps he needs to take to get the licensing process going.

Lisa Cooper asked Mr. Kovesi if he has signed up to take the NESL through the NCBTMB?

Ms. Kovesi stated he had received the materials from the NCBTMB, but was hoping he would get approved by the Board for a license.

Ms. Cooper stated that the last time she spoke with Mr. Kovesi she had begged with him to not stop that process. Ms. Cooper explained that he can take the National Exam under the NESL option and then come before the Board for a portfolio review, that is his option.

It was also brought up if Mr. Kovesi could apply for a Temporary License once he passes the test and submits his application?

Ms. Cooper stated that with a Temporary License, the person must be supervised by a supervisor and Mr. Kovesi is the only massage therapist on site. The Board cannot make any decision regarding a Temporary License without an application being submitted and reviewed.

Sgt. Lenny Lorusso asked if the office has received a current application and if Mr. Kovesi has answered "Yes" to any of the screening questions in Section 7? Sgt. Lorusso wants the Board to be aware that when he ran a scope report it shows a

registered person, not sure if that is a typo, but wanted to make the Board aware of this and that the Board might want to get the application before they decide anything regarding a Temporary License.

Lisa Cooper stated that no application has been received in the office.

**Motion:** Michelle Viesselman made a motion to deny the request by Sandor Kovesi to be granted a license under AB 250, Section 56, "Grandfathering."

**Seconded:** DeAnn Prestidge

**Motion Carried.**

Billie Shea advised Mr. Kovesi and Mr. Mason to contact Lisa Cooper to get the application process started.

## 9. \*Probation Termination

- a. Jiahong Yao – Present; Kirk Kennedy, Attorney-At-Law, Present; Rachel Chen, Interpreter-Present.

Lisa Cooper stated that Ms. Yao is before the Board to have her probation terminated. She has complied with her continuing education hours and submitted fingerprints as requested. The compliance sheets verify that she was employed at the location she was approved to work at. Lisa Cooper recommended that her probation be terminated effective immediately.

Kirk Kennedy stated that Ms. Yao has had no problems while on probation and recommended that the Board terminate her probation.

**Motion:** Michelle Viesselman made a motion to terminate probation effective immediately.

**Seconded:** Michael Smith

**Motion carried.**

- b. Aijun Sun – Present; Bucky Buchanan, Attorney-at-Law.

Lisa Cooper stated that Ms. Sun is before the Board to have her probation terminated. She has complied with her continuing education hours and submitted fingerprints as requested. The compliance sheets verify that she was employed at the location she was approved to work at. Ms. Cooper recommended that her probation be terminated effective April 30, 2009.

Bucky Buchanan asked the Board to terminate the probation of Aijun Sun as she has met all of the terms of her probation.

**Motion:** Michelle Viesselman made a motion to terminate Aijun Sun's probation effective April 30, 2009.

**Seconded:** Michael Smith

**Motion carried.**

- c. Xiaoyu Jia – Present; Bucky Buchanan, Attorney-at-Law-Present.

Lisa Cooper stated Ms. Jia is before the Board to have her probation terminated. She has complied with her continuing education hours and submitted fingerprints as requested. The compliance sheets verify that she was employed at the location she was approved to work at. Ms. Cooper's recommendation is that her probation be terminated effective April 30, 2009.

Bucky Buchanan asked that the Board approve Xiaoyu Jia's probation as she has complied with all terms of her probation.

**Motion:** Michelle Viesselman made a motion to approve termination of probation of Xiaoyu Jia effective April 30, 2009.

**Seconded:** Linda White

**Motion carried.**

d. Gui Fang Guo – Not Present.

Lisa Cooper stated that Ms. Guo's request to have her probation terminated is before the Board. She has complied with her continuing education hours and submitted her fingerprints as requested. Unfortunately, the compliance sheets did not show her employed at the establishment she listed. We received her income tax that was submitted with her 1099 via fax after the board packages were complete. Ms. Cooper handed out the tax statement to the Board members. Staff inspected the establishment three different times and she was not working there. Ms. Cooper is not recommending termination of probation. Ms. Cooper leaves the decision completely up to the Board.

**Motion:** Michelle Viesselman made a motion to not approve the termination of probation for Gui Fang Guo and that she be informed that she has the option to resubmit a Termination of Probation request with the appropriate proof showing she did work where she stated and completed her terms of probation.

**Seconded:** Joe Cracraft

**Motion carried.**

## 10. \*Application Review

a. Licenses Approved and Authorized by the Chairperson

Michael Smith asked if the format has been changed for the report? Mr. Smith likes to have the city and state listed so he can see where they are from.

Lisa Cooper said she will make sure to have that information on future license reports.

**Motion:** DeAnn Prestidge made a motion to approve the licenses presented as authorized by the Chairperson.

**Seconded:** Michelle Viesselman

**Motion carried.**

b. Review Application of Jesica R. Michels for Approval, Denial or Other Administrative Action Pursuant to NRS 640C.400.4.

Jesica Michels-Present.

Lisa Cooper stated that Ms. Michels is before the Board due to her transcripts were submitted from two different schools and we were unable to obtain a Certificate of Completion from either school. She is requesting to be granted a license under NRS 640C.400.

Ms. Michels explained that she went to Nevada School of Massage Therapy for one year and ended up dropping out and moved to Oregon where she continued her education at the Oregon School of Massage Therapy. She stated that she took the required classes to graduate and graduated from there on June 13, 2008.

Billie Shea asked why the school is reluctant to give the Board a Certificate of Completion?

A discussion was held about Ms. Michels failing some of her course work.

Michelle Viesselman asked Ms. Michels if she is certified anywhere and has she completed any program at any massage school?

Ms Michels said she completed the course in Oregon.

Ms. Viesselman said that according to the school in Oregon she is not complete.

Ms. Michels stated she does not have a Certificate of Completion from the massage school in Oregon or any massage school.

Ms. Viesselman asked if Ms. Michels has applied for licensure in Oregon?

Ms. Michels stated "No."

**Motion:** Michelle Viesselman made a motion to deny the application for Jessica R. Michels as she has not completed a program in massage therapy and does not qualify for licensure.

**Seconded:** Michael Smith

Discussion held about Ms. Michels' failing two clinical classes and did not make up all of the clinical hours. One hundred twenty clinical hours was needed to complete the massage program and Ms. Michels did not meet that requirement.

Billie Shea pointed out that our law states that you must have completed a course in massage therapy to qualify for licensure. Ms. Shea stated that Ms. Michels next course of action would be to go back and complete the courses she has failed and to get a Certificate of Completion where she could then reapply to get her massage license.

**Motion carried.**

- c. Review Application of Pamela T. Merritt for Approval, Denial or Other Administrative Action Pursuant to NRS 640C.400.4.

Pamela T. Merritt-Present.

Lisa Cooper stated that Ms. Merritt is before the Board due to her transcripts that were submitted from her school were handwritten. We did receive a Certificate of Completion, but were unable to obtain transcripts that were not hand written. She is requesting a license under NRS 640C.420. Ms. Cooper stated that there are some issues in Louisiana with school transcripts because of Hurricane Katrina.

Joe Cracraft asked if NCBTMB keeps a copy of their transcripts?

Ms. Cooper stated that NCBTMB archives documents and are unable to reproduce these transcripts.

Ms. Merritt has with her today an affidavit from the owner of that school explaining why she did not computerize her records until after Ms. Merritt completed her training. It was faxed to Ms. Merritt this week.

Billie Shea asked Ms. Merritt if she is currently licensed in Louisiana?

Ms. Merritt answered "Yes, that she is currently licensed in Louisiana and is nationally certified."

Michelle Viesselman asked Ms. Merritt how long has she been licensed in Louisiana?

Ms. Merritt stated since 2001 when she completed her training.

Ms. Viesselman had one question regarding the Certified Statement from State Licensing Authority from Louisiana, they marked that Ms. Merritt has been involved in disciplinary action.

Ms. Merritt said that there was one license renewal where Louisiana received her renewal late and she went before the Board and was fined.

**Motion:** Michelle Viesselman made a motion to approve Pamela Merritt's application without restrictions.

**Seconded:** Michael Smith

**Motion carried.**

- d. Review Application of Aubrey Engelby for Approval, Denial or Other Administrative Action Pursuant to NRS 640C.910.(1).

Aubrey Engelby-Present, Susan Money, Attorney-At-Law-Present.

Lisa Cooper stated that Ms. Engelby is before the Board due to practicing massage without a license while her application was being processed. The office received Ms. Engelby's application on May 16, 2008. On August 8, 2008, we received notification from the Department of Public Safety that Ms. Engelby's fingerprints were rejected. Ms. Engelby moved and did not update the office with her address and we did not receive the prints back in our office. Therefore, we were under the assumption that she had received the information. On September 9, 2008, Ms. Engelby was found working at the Sahara – Destinations Spa as a Massage Therapist/ Aesthetician. It was at that time that she resubmitted her fingerprint cards which were rejected once again and we sent a letter stating as such. We did not

hear from Ms. Engelby until November 26, 2008. By the time that we were able to get everything into our office and put Ms. Engelby's file together, it was too late to get her on the February Board meeting. She is requesting a license under NRS 640C.400

Ms. Money stated that Ms. Engelby was under the mistaken impression that after she graduated from school and passed her national exam that she could work under the owner's license at Destinations Spa at the Sahara. The owner was also the owner of the school she graduated from. Ms. Engelby has not engaged in any practice of massage since the Cease and Desist Notice was issued. This was an absolute mistake and Ms. Engelby is very sorry for that and wanted to know how she could proceed in getting her license.

Michelle Viesselman asked Ms. Engelby how long had she practiced without a license?

Ms. Money stated mid-June 2008.

DeAnn Prestidge was concerned has Ms. Engelby had been practicing since June and stated she did not know she needed a license when her application was received in the office on May 16, 2008.

Ms. Money stated that Ms. Engelby thought she was working under the license of the spa.

**Motion:** Deborah Wenig made a motion to grant Aubrey Engelby a license without restrictions.

**Seconded:** Linda White

**In favor:** Billie Shea, Deborah Wenig, Linda White

**Opposed:** Joe Cracraft, DeAnn Prestidge, Michael Smith, DeAnn Prestidge.

**Motion denied.**

Discussion was held about why Ms. Engelby is before the Board and it is due to the fact that she was caught working without a current massage therapist license which falls under unlicensed activity.

**Motion:** Linda White made a motion to grant Aubrey Engelby a license with an administrative fine of \$100.00.

**Seconded:** Michelle Viesselman

**Motion carried.**

Ms. Engelby was instructed to contact Lisa Cooper to pay the fine.

- e. Review Application of James Wolfrey for Approval, Denial or Other Administrative Action Pursuant to NRS 640C.910.(1).

James Wolfrey-Present

Lisa Cooper stated that Mr. Wolfrey is before the Board due to working while unlicensed and also because of criminal history. On December 11, 2008, Mr. Wolfrey was issued a Cease and Desist Notice due to working as a massage therapist in Winnemucca without a license. Mr. Wolfrey was arrested on

11/19/2006 for possession of a dangerous weapon 1<sup>st</sup> offense and Possession of 1 ounce or less of Marijuana. Formal charges were not filed against Mr. Wolfrey. He is requesting to be granted a license under NRS 640C.400.

Mr. Wolfrey stated that he sent in his fingerprint cards to the office and they were received on October 8, 2008. Shortly after he graduated, he got a job at Healing Touch in Winnemucca, Nevada. The way everything was worded, he misunderstood that he could work under their license. He thought he could work under the owner's business license of the establishment. Mr. Wolfrey stated that the arrest in 2006 was a bad time in his life and said that it was something that will never happen again. He made a mistake and after he got out of jail he went to massage school and graduated.

Michelle Viesselman wanted clarification from Mr. Wolfrey about the letter that was submitted with his application stating that charges were not filed, but it was left open that they could be filed at a later date if they wished to.

Mr. Wolfrey was under the impression that they had a year and one day to file charges if they want.

Sgt. Lenny Lorusso was asked for clarification on this.

Sgt. Lorusso stated that it is up to the district attorney's office to do what they want. Sgt. Lorusso asked Mr. Wolfrey that he was arrested in 2006 and stated that would never happen again. Then on May 27, 2007, Mr. Wolfrey received a citation and could he explain this?

Mr. Wolfrey explained that he does not do those things anymore, that he has moved from Las Vegas, has paid his fines and has moved on. He has been living with his parents since he received the Cease and Desist Notice and would really like to get back to work.

Joe Cracraft asked Sgt. Lorusso what the citation was for?

Sgt. Lorusso stated it was for Possession of Medical Marijuana, PCS Less Than An Ounce and Possession of Narcotics Paraphernalia which means to him that he is still continuing doing what he was doing prior.

Sgt. Lorusso asked Mr. Wolfrey what happened with the charges from May 27, 2007?

Mr. Wolfrey said that he paid the fines

Michelle Viesselman asked Mr. Wolfrey if he is involved in any kind of narcotics or substance abuse program?

Mr. Wolfrey stated "No."

Billie Shea asked Mr. Wolfrey if the people that own the place in Winnemucca are they licensed massage therapists?

Mr. Wolfrey said "Yes and their names are David and Paula Copeland."

**Motion:** Michelle Viesselman made a motion that the Board grant James Wolfrey a license with the provision that respondent is required to be evaluated by a drug and alcohol counselor at his own expense and pay a \$100.00 fine. If the evaluation comes back that Mr. Wolfrey needs treatment, he will have to come back and appear before the Board.

**Seconded:** Michael Smith

**Motion carried.**

Lisa Cooper will send Mr. Wolfrey information on where he can go to get evaluated in 7-10 business days.

- f. Review Application of Aaron Eckles for Approval, Denial or Other Administrative Action Pursuant to NRS 640C.700.3.

Aaron Eckles-Present

Lisa Cooper stated that Mr. Eckles is before the Board due to several arrests. He is requesting to be granted a license under NRS 640C.400.

Aaron Eckles stated that he would like the opportunity to pay back his student loan. He would like to practice massage therapy legally with the public and will help him provide more money to his family. Mr. Eckles stated he has never been arrested for any sexual offenses, selling drugs and has never been convicted of a felony. He stated he was arrested years ago for things he highly regrets and has been rehabilitated through programs and counseling. He is trying to better himself and would like to receive his license to practice massage therapy.

Billie Shea asked Mr. Eckles when was the last time he was arrested?

Mr. Eckles stated that he was picked up because someone stole his identification and used it to pick up a false prescription. He went to court to explain what happened and was told to plead No Contest and they would dismiss the case. That arrest was about six months ago.

Sgt. Lorusso asked Mr. Eckles if he is currently on probation?

Mr. Eckles answered "No."

Sgt. Lorusso stated that some of the arrests are for the same offenses: DUI, alcohol related offenses, weapons offenses, etc. It shows a lack of judgement and irresponsibility and a reservation by the Board of issuing a license. Most recent arrest was for December 17, 2008 for DUI/Second Offense. Sgt. Lorusso asked Mr. Eckles to explain some of this as the same habits are occurring over and over.

Mr. Eckles said he has had bad luck with these situations and stated he has been arrested for stupid reasons and a lot of them have not even been his fault.

Sgt. Lorusso asked Mr. Eckles about the arrest for shooting into a structure.

Mr. Eckles stated that he dropped the firearm causing it to shoot the wall and he just took the charge.

Sgt. Lorusso addressed the Board that it seems like Mr. Eckles has the same offenses over and over: Minor consumption/Alcohol, Open Container, DUI, It seems that Mr. Eckles has an issue with alcohol and some type of substance abuse problem.

Michael Smith asked Mr. Eckles if anyone has notified him of any probation he might be on?

Mr. Eckles answered "No".

Michael Smith asked Mr. Eckles if he has any California Probation that he is aware of?

Mr. Eckles stated "It is not probation but that it is community service."

Michael Smith asked Mr. Eckles of the name of the program he is working for?

Mr. Eckles said "That it is Community Service Work Labor program."

Michael Smith asked Mr. Eckles how long he has been working for them?

Mr. Eckles said "For three months."

Joe Cracraft asked Mr. Eckles if he is or ever been involved in drug or alcohol counseling.

Mr. Eckles answered "Yes, he has been."

Joe Cracraft asked Mr. Eckles if he is currently in a drug or alcohol program.

Mr. Eckles answered "No."

Michelle Viesselman wanted to reiterate and asked Mr. Eckles if he was currently on probation in California?

Mr. Eckles answered "No."

Billie Shea read from documentation submitted with the application: Case #TBA044240-Defendant Mr. Eckles, Granted January 16, 2009 due to expire January 16, 2012 and read off the terms of the probation and was under Court Order to not be Driving Under the Influence and just broke that order in December 2008.

Michelle Viesselman asked Mr. Eckles "So, it is your position that you are just the victim of unfortunate circumstances and hold no responsibility for your actions?"

Mr. Eckles answered " A lot of situations, ma'am."

**Motion:** Michelle Viesselman made a motion to deny license for Aaron Eckles based on a history of criminal activity and presenting a clear and present danger to the public and also on the basis of providing false information to the Board.

**Seconded:** Michael Smith

**Motion carried.****11. \* Renewal Review**

- a. Review Renewal of Patricia Patton for Approval, Denial or Other Administrative Action Pursuant to NRS 640C.700.

Patricia Patton-Present.

Keith Marcher stated that Ms. Patton did not renew on time and was practicing on an expired license. She was caught practicing without a license, and then got her renewal packet together. Ms. Patton obtained a lawyer and the settlement agreement was negotiated with the lawyer. Ms. Patton has been offered an Agreement for a Fine. The Agreement is included in the Board Members' packets. Mr. Marcher has the signed copy of the Agreement and asked the Board to accept the Agreement.

**Motion:** Michelle Viesselman made a motion to accept the agreement as presented for Patricia Patton.

**Seconded:** Linda White

**Motion carried.**

**12. \*Office Improvements**

- a. Telephone System Reno to Las Vegas - Budget !

Lisa Cooper stated that the telephone system has been postponed and will have to wait another year.

**13. \*Inspection Department**

- a. Inspections Completed

Lisa Cooper said the Inspection Report is in the Board members' packets for review.

**Motion:** Michelle Viesselman made a motion to accept the Inspection Report as presented.

**Seconded:** Michael Smith

**Motion carried.**

- b. Re-Inspections Completed
- c. Unlicensed Activity
- d. Complaints Given to Board Members

**14. Update on Local Jurisdiction**

- a. Las Vegas Metro Police

Lisa Cooper stated that the Board is working with the Las Vegas Metro Police Department because, apparently there is a whole section of complaints that do not

get to us from the Sexual Assault Department. We only get complaints from Vice. Sgt. Lorusso is working on getting us contacts regarding sexual assaults and any other crime that should be brought before our Board that would be a violation of our mission statement. As of now, our Board does not get notified.

Michelle Viesselman asked if we get information of other crimes that are engaged in during the course of massage?

Sgt. Lorusso is working on a mechanism to get this fixed and to notify the Board of any other crime that should be brought before the Board that would violate the Board's mission statement.

b. City of Las Vegas Business Licensing

Lisa Cooper stated they are status quo, nothing to report.

c. Clark County Business Licensing

Lisa Cooper stated that on March 3, 2009 Clark County passed their ordinance regarding their codes. In Clark County, Health Cards are no longer required and also outcall cross gender massage is no longer restricted.

d. Southern Nevada Health Department

There was nothing new to report, no update given.

e. City of Mesquite

Lisa Cooper reported that the City of Mesquite is going to be passing their codes next Tuesday and they requested someone from the Board be there so she will be going down there for that. They adopted the codes similar to Clark County and took the requirement out of the regulations to have a Health Card.

**15. \*NAC's to go to Workshop**

Lisa Cooper explained that in the handout in the Board members' packets are some of the items previously discussed that the Board would like to work on for the NAC's. There is some sample language that needs to be worked on. Ms. Cooper stated that regarding the Education item, she has found some resources available to work on education.

a. School/Education Curriculum

b. Hepatitis Shots/TB Shots and Other Communicable Diseases

A discussion was held regarding this item and it was agreed to not add this section to the NAC's.

c. Dress Code

Deborah Wenig stated we should take the word "chest" out and leave the word "breast" in the proposed language.

- e. Draping
- f. Living Conditions
- g. Laundry Facility
- h. Massage Table Defined
- i. Notify the Board of Address Change
- j. Notify the Board of Detainment by Law Enforcement within 48 Hours
- h. Clean Linen storage

Deborah Wenig said that the Board discussed Correction of Section 17 at the Board Meeting in Virginia City. We need to change the language regarding: “of storing in a plastic container.” The language needs to be changed to read: “Sealed in a plastic container on a shelf or in an enclosed environment.” We need to add language and clarify storing cleaning products separate from linens.

Keith Marcher explained how the process works to approve new NAC’s. Once the Legislative session is finished the Board will do a mockup of the regulations, send them to the Legislative Counsel Bureau and then the Board will hold public hearings. They may have to go back to LCB for revisions. It is a long process.

Lisa Cooper stated that Board members need to give her any sample language they might want to see for any of the areas listed above or she will go out and find language for these areas and use that language.

It was decided that Michelle Viesselman, Bob Oliver and Joe Cracraft will work on School and Curriculum language for the NAC’s.

**Motion:** Michelle Viesselman made a motion to accept the NAC’s for future consideration as they come up.

**Seconded:** Michael Smith

**Motion carried.**

#### **16. \* Discussion and approval on Danka buyout – acceptance of Xerox contract**

Lisa Cooper stated that she has had many issues with our Danka machine. Danka was recently bought out by Hughes-Callahan. Shortly after we signed our contract with them, they closed the Reno regional office and they only had one repair man in our area and half of the time he could not fix our machine. We had so many problems copying the packets for the last Board meeting that we almost had to go to Kinkos to copy the packets and that was the last straw. Ms. Cooper got a bid for another contract and was able to have Xerox buy out the Danka contract which was a considerable amount because the copy machines were so new. Ms. Cooper stated the lease contract with Xerox is for 60 months.

**Motion:** Michelle Viesselman made a motion to accept the contract with Xerox.

**Seconded:** Linda White

**Motion carried.**

## 17. Public Comments

Billie Shea clarified that during public comment people are allowed approximately three minutes. The Board members cannot engage in discussion with you, the only thing they can do is take notes about their comments and send back to staff.

Gina Sessions clarified that Board members can engage in a conversation during public comment but cannot take action.

Ms. Shea also stated if the Board needs to bring something back before them it has to be put on the Agenda for a future Board agenda item.

Jean Robinson-Government Relations Director, Associated Bodywork & Massage Professionals. Ms. Robinson stated first that she is disappointed that Public Comment was taken out of order on the agenda. Ms. Robinson met with some local massage therapists last night over some Cease and Desist Orders they had received and sometimes with inconsistencies and frustrating experiences with the Board. She has some concerns over SB119. Ms. Robinson's biggest concern is over the exemption language. There is a kind of disconnect of who thinks they are regulated over who the Board thinks they are regulating in return. Ms. Robinson also felt that the Nevada State Board of Massage Therapists should adopt the MBLEx exam. She felt because of the tactics that NCBTMB (National Certification Board for Therapeutic Massage and Bodywork) have used in other states, the Board should not continue to rely on them.

Billie Shea and Joe Cracraft asked for clarification of what tactics Ms. Robinson was referring to?

Ms. Robinson stated that the NCBTMB is sending misinformation to government offices, senate committees, and certificate holders etc. and is basically lying, not exactly telling the truth. This has been costly in other states to go back and clean up the lies.

Ms. Shea stated that NCBTMB has been very proactive this year.

Ms. Robinson also has a lot of concerns about due process issues with SB 119. Ms. Robinson feels SB 119 is an unbridled expansion of authority and increased responsibility with overzealous enforcement. Ms. Robinson feels that SB 119 is solely focused on prostitutes and this Board regulates massage therapists. She feels it is a complete disconnect that massage therapists should be paying for law enforcement activities against prostitutes. Ms. Robinson's printed statement has been entered into the record of the minutes.

Billie Shea wanted to clarify one issue, that SB 119 is not going after prostitutes, but SB 119 is going after licensed massage therapists that are practicing prostitution or soliciting prostitution. Ms. Shea also stated that the Las Vegas Metro Police Department has a strong enforcement agency that goes after prostitution that the Board has nothing to do with and does not get involved at all.

Deborah Rilea-Licensed Massage Therapist. Ms. Rilea is disappointed that Public Comment was taken out of order of the agenda and stated that there are people coming later who will want to speak.

Billie Shea stated the Board was just trying to accommodate the people in the audience if they did not want to stay through the whole meeting. It was agreed to address Public Comment in the order it was originally listed on the Agenda.

Keith Marcher-Senior Deputy Attorney General, stated with that being said that all the Board has to do regarding Open Meeting Law is have Public Comment stipulated on the agenda and hear the item at the Board's discretion. Mr. Marcher said that is why when the Agenda says the meeting starts at 9:00 a.m., people need to be here at 9:00 a.m.

Tina Marie Wener-Serves on a non-profit board. Ms. Wener respects the challenges of managing the Agenda. She is advocating for people that she knows will be here later if Public Comment and can be heard later.

Kathleen Rogers-Nationally Certified Massage Therapist. Ms. Rogers started reading from her typed statement.

Billie Shea let her know she may not want to give this information to the Board at this time as she has a pending application on file and may be having to appear before the Board regarding that application.

Keith Marcher let Ms. Rogers know she is welcome to make Public Comment, but he let her know that if there are some questions regarding her application and she may have to appear at a future Board meeting, he does not want her comments today to sway the Board one way or another without them having all of the information before them. Ms. Rogers can bring the question about her application to himself and Lisa Cooper. Mr. Marcher let Ms. Rogers know that the Board cannot take action today and the item would have to be placed on a future agenda for the Board .

Ms. Rogers stated that she asked Lisa Cooper to be placed on the February Board Agenda and was denied because she had the Cease and Desist Notice. Ms. Rogers Is confused why her application is not being expedited and the older man previously was being given the option to expedite his application.

Mr. Marcher asked Ms. Rogers if her application is complete?

Lisa Cooper stated that Ms. Roger's application is not complete, her background check results have not come back.

Billie Shea reiterated to Ms. Rogers that the Board is trying to help her and that is why she let Ms. Rogers know she may not want to reveal the facts of her case as she may be appearing before the Board at a later date. Ms. Rogers should not be giving the Board any information regarding her application and to speak in generalities, ask questions and the Board will help her in any way they can.

Lisa Cooper explained to Ms. Rogers that the man being heard prior had not taken the National Exam yet and had urged him to do so. Ms. Cooper had explained the

application process to Ms. Rogers prior to the Board meeting and that once her application is complete she would be able to appear before the Board.

There was discussion held about whether Ms. Rogers would be able to get a Temporary License. Lisa Cooper stated she would not be able to get a Temporary License because our law reads “only if disciplinary proceedings related to his license for practicing massage therapy are not pending.”

Billie Shea stated that the policy is that the office must notice a person at least 30 days prior to the Board meeting they are being noticed to appear at.

Ms. Rogers said that “She is requesting an investigation of this staff’s abusive practices and processes and wished to have this issue on the next agenda for discussion. Ms. Rogers also requested to have her submitted typed statement attached to the minutes for the record.”

Timothy Glenn-Employee, The Spiritual Element in Reno. Mr. Glenn read his typed statement and asked that his statement as submitted be attached to the minutes for the record.

Bridgette Dolgoff-Tenant of The Spiritual Element. Ms. Dolgoff stated that after being removed from the premises of The Spiritual Element, she has retained legal counsel. After she completes her internship at Renown Medical Center, she will be moving her office to California. Ms. Dolgoff is doing citizen lobbying with Jean Hansen and is lobbying hard against SB 119. Ms. Dolgoff said she would like to have reported for the record of the minutes, “Ms. Shea stated today that it was the legislature that would not allow them exemptions and exclusions, that is not true. If you go and look at the minutes from their testimony at the amended thing, they said through their lobbyist, it was the Attorney General’s office that would actually not allow them to have exemptions or exclusions.” Ms. Dolgoff also said “That during that testimony, Maggie Carlton asked them through their lobbyist ,if they would please write a letter of exclusion to the Trager therapist in Las Vegas and they said they would by morning.” Ms. Dolgoff asked those present to go look at that testimony because it is incongruent with testimony and Ms. Shea’s statement today and this is the biggest problem we find that there are lies and they change their story to fit whatever situation they need. Ms. Dolgoff asked that her typed statement as submitted be attached to the minutes for the record.

Billie Shea stated “For the record, the Board had no authority to exempt. Senator Maggie Carlton asked the Board to write a letter for a gentleman to exempt so that he could practice Trager. We have been told repeatedly by the legislature and Senator Carlton, that we have no authority to exempt anything and until the Senate tells us we do; my Attorney General was not in the room, there were two other people in the room, one was our lobbyist and one was the legislative counsel lawyer and they did not give us the freedom to write exemption language.”

Rick Shu-Attorney-at-Law. Maupin, Cox & LeGoy. Mr. Shu stated that he represents one of the members of the audience. He stated that he has a high level of respect for the Board and their commitment to serve the public. Mr. Shu spent eight years on The Commission on Ethics and has an understanding that there are a lot of similarities here. Also, as a lawyer, he represents public entities and several school boards and has sat in Mr. Marcher’s chair. After hearing some of the stories from the people

present today, he does not see the Board having the authority to be doing some of the things they are doing. In particular, subpoenaing business records and issuing the Cease and Desist Notices. Mr. Shu passed out a copy of his memo to the Board and asked that it be entered into the record for the minutes. He reviewed with the Board what his areas of concern are that were listed in the memo. Mr. Shu requested that at the next Board meeting to have a discussion about these practices listed above of the staff and the Executive Director and the legality of it placed on the next Agenda. Mr. Shu said "What we have is a lot of law abiding innocent people operating under a cloak of fear and it really needs to be alleviated."

Patricia Ann Patton-Licensed Massage Therapist. Ms. Patton read from her typed statement and asked that it be entered into the record and attached to the minutes. Ms. Patton also said 'I am requesting an investigation of this staff's abusive practices and processes. Ms. Patton stated that the staff did not send written notification to appear at the Board meeting today in accordance with the NRS codes, she was asked to sign a waiver waiving the advanced notice requirement.

Lisa Cooper clarified that normally when an agreement is done, the Attorney General's office sends the Notice to Appear. Ms. Cooper was following up on Ms. Patton's file and it was discovered that the notice had not been sent by the Attorney General's office and Mr. Marcher then directed Ms. Cooper to send the notice to Ms. Patton. If there is an agreement, the Attorney General's office sends out the notice, if there is not an agreement ,then Ms. Cooper sends out the notice.

Keith Marcher stated that the Board tried to accommodate Ms. Patton and get her on this Agenda to get her case done.

Billie Shea asked Ms. Patton "Did anybody turn off your phone?"

Ms. Patton answered "No."

Ms. Shea responded "I had heard the rumor that your phone had been turned off and she was wondering how that happened?"

Cheryl Blossom-Therapist, Motivational Coach and The Director of The Institute for Inspired Living. Ms. Blossom wishes to file a complaint against the Executive Director and her staff and read from her typed statement. Cheryl Blossom stated "That The Institute for Inspired Living had been shut down by Rebecca Wagoner."

Billie Shea asked Ms. Blossom "Did Ms. Wagoner in fact shut down the Institute and how did Ms. Wagoner do that?"

Ms. Blossom answered "She had no idea, she was just going by the messages that Ms. Wagoner left."

Ms. Shea asked "Was there tape, or was there a sign?"

Ms. Blossom said "That on her way to the institute, she had left her a message saying she had shut down the institute and Ms. Blossom had not arrived yet and had no idea of what was going on."

Ms. Blossom asked to have her submitted typed statement attached to the minutes for the record. Ms. Blossom also requested an investigation of the Executive Director and her staff's abusive practices and processes and wishes to have this issue on the next agenda for discussion.

Billie Shea stated that not many of the people present know, but she had rented a space from Cheryl Blossom for about six months and enjoyed a good relationship with her. When Ms. Shea first interviewed with Ms. Blossom in April 2008, she told Ms. Blossom that she had a sign on her wall that said she was a licensed massage therapist. Ms. Shea told Ms. Blossom that it was against state law to advertise as a massage therapist when she currently was not licensed as one. Ms. Shea told Ms. Blossom at that time who she was and that she was not going to respond in any way to it, but that she did warn Ms. Blossom that advertising as a massage therapist when she truly was not one and that there was an advertisement on the internet.

Ms. Blossom stated she had the sign up when she was a massage therapist and did not know the advertisement was still on the internet.

Ann Lysight-Card Reader, Psychic, Spiritual Healer. Ms. Lysight read from her typed statement and would like the submitted statement attached to the record as part of the minutes. Ms. Lysight would also like to see some sort of action against the staff's unethical way of handling the cease and desist tickets.

Billie Shea clarified that she had told Ms. Lysight more that once that she could practice her Reiki.

Ms Lysight answered: "I know, but I don't do it."

Tod-Dean Brenbarger. He believes the Board is well intentioned and has the best interests of the community at heart and it is possible to do things that are not in the best interest of the people even though they may not mean to. Would like the Board to do what they can to scrap SB 69

Billie Shea stated that SB 69 is not the Nevada State Board of Massage Therapists' bill

Mr. Brenbarger would like the Board to do anything they can to stop any more regulation of massage or alternative modalities and believes that SB 119 is on a dark path. Mr. Brenbarger is disturbed by some of the things he found in SB 119 such as Cutting Off of Telephone Service because he feels it is a violation of the constitution because the person has a contract with the telephone company and the Board is not allowed to interfere with the obligation of the contract which they would be doing.

Billie Shea stated that the bill implies that the Board would approach the Public Utilities Commission and they would investigate and they would take action. The Nevada State Board of Massage Therapists would not have the authority to actually go out and disconnect the telephone, it would have to go through the PUC. Ms. Shea said this part of the bill is aimed at targeting advertising illegal activity in the telephone books, billboards, etc.

Mr. Brenbarger suggested then that language needs to be tightened up so as to not be overly broad such as it is now and not to be used in a malicious or vindictive manner. Also, regarding the section Suspension of a License Without a Prehearing,

he believes the language is too broad in this section. Regarding the section: False and Misleading Statements; there is no definition and the language needs to be tightened up. Mr. Brenbarger thought that section 15 of the NAC's is too particular for legislation and these were personal issues that should be left up to the practitioner and the client.

Ms. Shea stated except where those personal issues come into play regarding the living conditions and people are getting massages on tables that are not strictly being used for massages.

Deborah Wenig pointed out that there will be workshops in the future regarding the NAC's.

Mr. Brenbarger said that Crimes and Due Process were tossed around and this is all Administrative Law usually. Crimes usually fall under Judicial Law. Due Process under Administrative Law and Judicial Law are two completely different things. Under Administrative Law basically you are stripped of your rights and cannot challenge the statute. By making these activities crimes under Administrative Law, you are basically stripping people of their rights. The people did not bring about this bill. Massage Therapists are not killing people and should not be regulated. Mr. Brenbarger feels in this day and age we need to be moving towards freedom, not away from it.

DeAnn Prestidge wanted to state that there have been public members that have been sexually assaulted or injured during the course of a massage by a massage therapist that has not been regulated.

Michelle Viesselman stated that people have been hospitalized due to injury from an unregulated therapist who did not know what they were doing.

Carla Sanders, Licensed Massage Therapist-Did not want to read her statement, but would like it attached to the record as part of the minutes.

Sgt. Lenny Lorusso had to excuse himself from the meeting at 3:15 p.m. to go to work.

Rhonda Gerych-Licensed Massage Therapist. Ms. Gerych read from her typed statement and read the section: "Even though I have heard Ms. Cooper state on several occasions this board does not retaliate against anyone, the experiences lead to another conclusion."

Billie Shea asked Ms. Gerych "What retaliatory actions have occurred as you have made a claim in there, and if it has happened, we need to investigate." Ms. Shea stated that Ms. Gerych needed to be clear here because she is wanting an investigation.

Ms. Gerych answered "That is the word Ms. Cooper used."

Ms. Cooper replied "I was replying because someone said we were retaliating."

Ms. Gerych said "Maybe this statement is incorrect then." Ms. Gerych requested an investigation of this staff's abusive practices and processes and wished to have this issue on the next agenda for discussion. Per NRS 241.0359(d), Ms. Gerych

requested that her oral and submitted typed statements be entered into the record and attached to the minutes.

Billie Shea asked Ms. Gerych "Have you had any personal experience of the type of behavior that you have heard rumors about on the telephone from staff?"

Ms. Gerych answered "Not on the phone, but in person she has."

Billie Shea stated that in conducting an investigation, it is important to get the facts and not have information from rumors. If there is a problem, the Board will look into it.

Herb LaGue-Native Nevadan, has run a Martial Arts School for 40 years. He made the decision a while ago that he wanted to serve others and that is what life is about is serving others. It is very disappointing to get the kind of things he has heard about the things coming off of this Board. Mr. LaGue has heard that there was a very mean attitude with how some of the people present were dealt with. We are here serving people so we need to help people. Mr. LaGue stated "That isn't it in the Board's charter to control prostitution?"

Billie Shea answered "No, not really. We are not the Board of Prostitution. We regulate massage therapy."

Mr. LaGue said that there was some misunderstanding of what the requirements are to get licensed in Nevada now. There was a transitioning of licensing and all of a sudden there was a State license required and felt people should have been notified better. At least, need to talk to the people nicely and have some compassion in your heart.

Billie Shea asked Mr. LaGue if he heard that personally?

Mr. LaGue stated "Yes, but he did not know who it was on the phone." He then asked Kathleen Rogers who it was and stated it was Lisa Cooper. He said he heard the telephone conversation on speaker phone. He stated several people have stated the same thing. He think the Board and staff should have compassion and care about people and correct their mistakes. He is ready to stand with the Board and help them with this service. He stated that there is a single mother who is without work because she misunderstood what the requirements were and that her application is held up because of the background check. He would rather the results go to the attorney's office as he feels the office is mean spirited.

Billie Shea stated if the office is mean spirited then we will make adjustments.

Natividad Delson-Concerned Citizen. Part of her statement has to do with two other people's statements. One of the person's father passed away and they are stuck in traffic and are not going to make it to the meeting. Ms. Delson asked the Board if there statements would be able to be entered into the record of these minutes if they send the statements to the Board.

Billie Shea said "Yes, that would be possible."

Ms. Delson is requesting that greater transparency be made available to massage therapists and the public of the procedures and processes in regards to

Continuing Education Units, licensing, and the definition of massage therapists. Ms. Delson read from her typed statement and requested that an investigation of the staff's abusive practices and processes be on the next Board agenda for discussion. Ms. Delson also asked that her submitted statement be attached to the minutes for the record.

Jan Overbay-License Massage Therapist. Ms. Overbay wanted it to be noted for the record that the two people previously mentioned that were stuck in traffic over the mountain are Michelle Quevedo and Billie Burchett and would like their statements entered into the record. Ms. Overbay proceeded to read from her typed statement. Ms. Overbay is very concerned over the disruptive actions and disrespectful attitude of the inspector, Rebecca Wagoner, when coming into establishments. Ms. Overbay also works at The Spiritual Element and has been affected by this impact when she came in and affected several professionals while inspecting The Spiritual Element itself and it is now needing to close its doors because of loss of revenue.

Billie Shea asked Ms. Overbay "Were you there when she came in?"

Ms. Overbay answered "I was not personally there in that moment, but have an office there."

Ms. Overbay proceeded to read from her typed statement and requested an investigation of the staff's abusive practices and processes and wishes to have this issue on the next agenda for discussion. Ms. Overbay wishes to have her notarized statement attached to the minutes for the record.

Mark Gerych-Licensed Massage Therapist. Mr. Gerych read from his typed statement and asked that his submitted statement be entered into the record and attached to the minutes.

Billie Shea made a statement that the Board will read all of the statements presented and will act accordingly. There are a couple of people who can act to make recommendations and do an investigation. Ms. Shea stated that because her name has been brought up regarding the investigation, she will not be a party to that because she is part of the investigation as well and somebody else on the Board will take that point position and is happy to turn it over. Ms. Shea speaking for the staff, stated that the staff has done an exemplary job. The staff are new at inspecting and are doing the best job that they possibly can. Ms. Shea thinks that because the massage therapists are healers, that they are sensitive people and it may seem a little egregious for staffers to come in and inspect "your" space. Whomever takes on the task of the investigation, will be looking at the staff to take a much gentler approach and maybe complete some more education. We have already planned on doing some more town meetings, possibly every three to four months, so we can have people let us know what is right and what is wrong and how the Board can fix it and so the staff can communicate to them as well. They are not formal meetings and will not be posted like the Board Meeting Agenda, but will be posted on the website and what is legal.

Keith Marcher stated that he has heard a lot back and forth today and works with the staff very closely. Mr. Marcher let those present know that they are welcome to call him at any time with any questions or issues they may have. The Attorney General's office role is to represent the Board as they are their client, the public is not the client

of the Attorney General's office. A lot of people are confused about that and think that the Attorney General's office represents the public, they really represent the State agencies, but do not oversee or supervise them.

Jean Robinson, ABMP-wanted to confirm that there will be an investigation done into the complaints presented today and also because of the blanket statement Billie Shea made today that the staff has done an exemplary job.

Keith Marcher responded to Ms. Robinson and let her know that the Board cannot take any action today relating to any of the public comment made at the Board meeting today, they are precluded from doing that. What can be done, is to agendaize something at the next Board Meeting. He will talk to his supervisor and get her input on this. The Board could agendaize something that would launch an inquiry as to what happened specifically and go from there and figure out who is going to do what.

Joe Cracraft asked if the Board could schedule an earlier meeting in June?

Keith Marcher stated that there is a meeting scheduled for June 12, 2009, but the Board could always call a special meeting but will have to comply with the Open Meeting Law.

Jan Overbay wanted to make sure something was going to be done and appreciated the Board's graciousness in hearing her concerns. Ms. Overbay is very concerned about the treatment and actions towards the massage therapists. Ms. Overbay stated she had called for Keith Marcher before and was passed on to Lisa Cooper and Ms. Cooper while being very nice and gracious, said that her concern could be handled outside of the Board and that concerned her.

Lisa Cooper clarified that Ms. Overbay did have some issues and was not sure if they were issues that could be handled through the office or whether her concerns needed to come before the Board. The original message Ms. Cooper received in her office is that Ms. Overbay called and had some issues and Ms. Cooper did not know what they were.

Lisa Cooper also clarified for the record, that the packages that the Board members received had all of the letters and all of the testimony submitted regarding SB 119.

Jean Robinson asked if Board Packets are posted online?

Lisa Cooper answered "No, the Board Packet is not posted online" but if Ms. Robinson or anyone else would like a Board packet she would provide them with one.

Keith Marcher clarified that the office should have a packet available for the public at the same time when they have disseminated the Board packets to the Board members.

Tine Marie Wener stated that she had asked for a Board Packet which she understood procedurally is usually made available to the attendees. Ms. Wener plans on following up and going to the Reno office to obtain the Board packet from the meeting today.

Billie Shea said that the personal information be redacted as there are addresses, social security number, etc.

Mr. Marcher clarified that personal information has to be redacted and cannot be distributed to the public.

Ms. Wener also stated she is a business consultant and was asked to get involved by many massage therapists, several who were not able to attend the meeting and would like to go on record as saying to this Board that they are generally concerned and not just looking at a room of a small group of people from The Spiritual Element, but there are many people affected here in the local Nevada area and their voices are not being represented. Ms. Wener asked the Board to take this under serious advisement.

## **18. Future Agenda Items**

Deborah Wenig asked Keith Marcher to put something together for an agenda item to address the concerns brought before the Board today.

A discussion was held about the Board and concerned people working together to resolve the issues brought forth at the meeting and for constituents to participate in the process.

## **19. \* Adjournment No later than 4:30 PM**

Meeting adjourned at 3:55 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 three (3) 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