

Nevada State Board
of Massage Therapists
1755 E. Plumb Lane Suite 252
Reno, NV 89502
Phone (775) 688-1888
Fax (775) 786-4264



Nevada State Board
of Massage Therapists
101 Convention Center Drive Suite 830
Las Vegas, NV 89109
Phone (702) 486-2212
Fax (702) 486-3658

BOARD MEMBERS:

Billie Shea
DeAnn Prestidge
Joe Cracraft
Michelle Viesselman

Email:

nvmassagebd@state.nv.us

Website:

<http://massagetherapy.nv.gov>

BOARD MEMBERS:

Michael Smith
Sgt. Leonard Lorusso
Teresa Allemang
Robin Graber

MINUTES

DRAFT

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

DATE: August 21, 2009

TIME: 9:00 a.m.

LOCATION:

VIDEO CONFERENCE LOCATIONS:

Las Vegas Location
Grant Sawyer State Office Building
Office of Governor Gibbons 5100
555 E Washington Ave
Las Vegas, NV

or

Carson City Location
Office of Governor Gibbons
Annex
101 North Carson Street
Carson City, NV

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

Note: Formal Hearing Schedule Item # 2

9:00 a.m.

1. Roll Call /Introduction of Board Members

- a. Introduction of New Board Members (possibly)

Meeting called to order by Board Chairperson Billie Shea at 9:11 a.m.

Board Members Present: Teresa Allemang, Joe Cracraft, Robin Graber, Sgt. Leonard Lorusso, DeAnn Prestidge, Billie Shea, Michael Smith, Michelle Viesselman

Board Members Absent-None.

2. *Formal Hearing

- a. 9:00 – Yan He Baca –Present; Bucky Buchanan,Attorney-at-Law- Present.

Keith Marcher, Senior Deputy Attorney General stated that prior to the meeting he negotiated a Settlement Agreement to propose to the Board. Mr. Marcher is proposing a licensure suspension for 45 days with a \$2,000 fine and \$500.00 for administrative costs.

Billie Shea asked Mr. Buchanan if the Board could get a statement from his client Yan He Baca and that she does understand the terms of the Settlement Agreement and that she is in agreement with them.

Yan He Baca stated that she understands and agrees to the terms of the Settlement Agreement.

Motion: Michelle Viesselman made a motion to accept the Settlement Agreement as presented with a 45 day suspension for Yan He Baca with a \$2,000.00 fine and \$500.00 in administrative costs payable within 45 days.

Seconded: Joe Cracraft

Discussion: Michael Smith asked how long was the therapist licensed before the incident happened?

Ms Baca stated for six years.

Mr. Smith stated that he would like to see licenses revoked for a minimum of six months.

Keith Marcher stated that the minimum time to revoke a license is one year and not more than ten years and that is why a suspension comes into play when we are trying to settle a case.

Lisa Cooper stated that when dealing with these types of cases, our objective is to discipline the licensee. If the discipline does not work and we catch her working without a license again after she is reinstated, voluntary resignation of a license or a full board hearing is what would happen.

Michael Smith would like to see something stiffer. Mr. Smith is tracking the people that are being pulled in for prostitution and he is not too pleased with the numbers. He

understands the economy is not very good, but the reputation of the massage therapists out there is being tarnished and does not feel that the people being caught for the solicitation of prostitution are not seeing strong enough repercussions. Mr. Smith would like to put this item on a future agenda for discussion.

Billie Shea explained to the Board Members that they have the option of voting against the motion if they do not agree with it.

Mr. Smith wanted his opinion known and what is going on with the profession, and in the future, he wants people to be more aware that there are going to be stronger consequences if he is staying on this Board any longer.

Motion carried.

Keith Marcher let Mr. Buchanan know that a Board Order was signed this morning by the Board President and will be sent to him.

- b. 10:00 – Wei Madrigal –Not present. Matthew Pawlowski, Attorney-at-Law.

Mr. Pawlowski believes that they have negotiated a probationary period.

Keith Marcher stated that there was not a probationary period, and that the negotiation in this case is a 90 day licensure suspension with a \$1,000.00 fine and \$500.00 in administrative costs and asked Mr. Pawlowski what he had regarding the agreement.

Mr. Pawlowski stated he had it down for a three month suspension of license with the total of the fine for \$1,500.00.

Mr. Marcher stated that the total that Ms. Madrigal would pay would be the \$1,500.00 broken down of a fine of \$1,000.00 and \$500.00 for Board costs.

Mr. Pawlowski stated that he has full authority to enter into the settlement agreement on behalf of Ms. Madrigal and she accepts those terms.

Motion: Michelle Viesselman made a motion to approve the settlement agreement for Wei Madrigal for a 90 suspension of license with \$1,000.00 fine and \$500.00 for administrative costs.

Seconded: Michael Smith

Motion carried.

Keith Marcher stated that an Order will be sent to Wei Madrigal and to Mr. Pawlowski to finalize everything within a week or so.

- c. 11:00 – Fengxia Han-Not Present.

Keith Marcher stated that this is also a Settlement Agreement. It is case number NVMT-C-0915 and that Ms. Han was represented by an attorney. This agreement is similar to ones that the Board has had in the past. Ms. Han has agreed to go on restricted licensure (probation) with all of the normal terms and conditions and also pay investigative costs of \$250.00 and a fine of \$250.00.

Lisa Cooper stated that Ms. Han was arrested in August 2008 and the Board never found out from Las Vegas Metropolitan Police Department. We found out when she renewed and that she had been working the entire time on her license and has not done anything else to make her come before the Board.

Keith Marcher stated that is why there was no suspension of her license.

Sgt. Leonard Lorusso stated that Fengxia Han was arrested again on May 7, 2009 for Solicitation of Prostitution.

Keith Marcher stated that based on the information presented, it was not reported to him or the Board, so he advised Sgt. Lorusso not to discuss anything else regarding the arrest. Mr. Marcher has not seen anything from the Las Vegas Metro Police Department regarding the latest arrest.

Sgt. Lorusso stated that during the time that this happened, the Record Division was going through an evolution of what they could or could not disclose to the Nevada State Board of Massage Therapists because of the changes with SB 119. Sgt. Lorusso stated that it has been reconciled of what information they can or cannot release to the Board.

Keith Marcher stated if the Board would have had this information, the settlement agreement could be different. The problem is Mr. Marcher has not seen anything from Las Vegas Metropolitan Department, such as the police report, so he does not know if the Board would be moving forward with this case. If the Board is uncomfortable accepting the agreement, then they can just reject the Settlement Agreement. If the Board does do that, then she will continue working without any oversight. If the Board does accept the agreement, he can get the information from the Las Vegas Metropolitan Police Department. Based on the information from Sgt. Lorusso regarding the subsequent arrest that the Board did not know about, Mr. Marcher's recommendation in this case is to reject the settlement agreement because the Board does not know enough right now and the Board can start over with Ms. Han.

Motion: Michelle Viesselman made a motion to reject the Settlement Agreement for Fengxia Han as presented by Keith Marcher.

Seconded: Teresa Allemang

Motion carried.

d. 1:00 -Sheng Zhou-Not present.

Keith Marcher asked if the Las Vegas Metro Police Officer was present.

Las Vegas Vice Detective was sworn in by Barbara J. Johnson, Court Reporter.

Keith Marcher stated the case #NVMT-C-0924 for Sheng Zhou, License #NVMT.705. Mr. Marcher stated that on or about April 28, 2009, Ms. Zhou was employed and/or working in the capacity of a licensed massage therapist at Durango Massage in Las Vegas, Nevada. On or about April 28, 2009, while on shift at Durango Massage, Ms. Zhou performed a massage on an undercover police officer. During the course of the massage, Ms Zhou solicited sexual activity and/or made sexual advances toward the police officer. On or about April 28, 2009, based on the events described, Ms. Zhou was arrested for Solicitation of Prostitution.

Mr. Marcher proceeded to question the Las Vegas Metro Vice Detective.

The Detective was excused.

Mr. Marcher asked the Board to find Sheng Zhou guilty of the allegations in the complaint NRS.640C.700(4)(a) and NRS 640C.700 (9) and if the Board does find Ms. Zhou guilty, to take whatever disciplinary action they deem necessary and if the Board does discipline her, and to charge whatever costs are associated with the hearing.

DeAnn Prestidge asked Sgt. Leonard Lorusso if he had any other information regarding Ms. Zhou.

Sgt. Leonard Lorusso had no other information.

Motion: Michelle Viesselman made a motion to find Sheng Zhou guilty of violation of NRS 640C.700(4)(a) and NRS 640C 700(9).

Note: NRS 640C.700(4)(a)-Grounds for disciplinary action. The Board may refuse to issue a license to an applicant, or may initiate disciplinary action against a holder of a license, if the applicant or holder of the license: (4) Has engaged in or solicited sexual activity during the course of practicing massage on a person, with or without the consent of the person, including, without limitation, if the applicant or holder of the license: (a) made sexual advances toward the person;

NRS 640C.700(9)-Has in the judgment of the board, engaged in unethical or unprofessional conduct as it relates to the practice of massage therapy.

Michelle Viesselman explained the reason for the motion was because of the undisputed testimony and the licensee did indeed engage in solicitation for sexual purposes and if Ms. Zhou is guilty of that, then she is automatically guilty of unethical and unprofessional behavior because she did this while in the process of a massage.

Seconded: Michael Smith
Motion carried.

Motion: Michael Smith made a motion to revoke Sheng Zhou's license for one year with a \$2,000.00 fine plus \$500.00 in administrative costs for a total of \$2,500.00 payable within 90 days.

Seconded: Michelle Viesselman
Motion carried.

3. *Petition to Appear

- a. Deborah Kahue— Not Present. Review Approval /Denial of CEH.
Ms. Kahue is before the Board due to Continuing Education that was not approved by the chairperson. Ms. Kahue requested to be granted 48 hours of continuing education for American Sign Language I

Billie Shea explained that when approving continuing education, in regards to her decision to not approve, she looks at it if maybe one Board Member may not approve the course and disagree with her decision and that is why she brought this course before the Board for approval. She felt that maybe one Board Member would have

some comment about this course. Ms. Shea is not saying she disapproved the course, but thought it was better to bring it before the Board for review.

Teresa Allemang thought that this course gives Ms. Kahue another avenue of communicating with clients or if she is out speaking or going to other facilities.

Michelle Viesselman believes it is a scope of practice issue. Just because someone studies another language, that does not make it appropriate for continuing education for their massage therapy license.

Billie Shea stated that the Board has in the past approved things for English as a Second Language. For instance, someone took a Spanish course, and made a compelling argument that it was important for their clientele to know Spanish and this could be construed the same way.

Michael Smith stated that he sees that the therapist is trying to expand her base. If a therapist is familiar with another language, that is great. This is like a double edged sword, going out to learn a language to help your business, it is a good business move, but he is at odds about this. Mr. Smith needs something to sway him, if the Board agrees to accept this course and Spanish or if people want to take Tagalog for their client base, then the Board might as well accept those as well and he does not want to set that kind of standard up.

Michelle Viesselman said that it may benefit Ms. Kahue as far as personal enrichment, but feels it is not within the scope of practice for continuing education and would definitely vote against it for continuing education for massage therapy.

Joe Cracraft asked what the possibility would be to approve it for one year for 12 hours?

Billie Shea stated that she did not see where the Board would be limited with this.

Motion: Michelle Viesselman made a motion to reject the American Sign Language I class for Deborah Kahue for continuing education.

Motion does not carry.

Motion: Robin Graber made a motion to accept the American Sign Language I course for Deborah Kahue for only 12 hours of continuing education credit.

Seconded: Teresa Allemang

Discussion: Michael Smith stated that he likes the 12 hours, but is still at odds about this.

All in favor: Tree Allemang, Joe Cracraft, Robin Graber, DeAnn Prestidge, Billie Shea

Opposed: Michael Smith, Michelle Viesselman

Motion carried.

Billie Shea stated that the Board needs to bring this issue before the Board at the October Board Retreat Meeting to discuss language and how the Board will handle this in the future because the Board has approved Spanish courses in the past for massage therapists who have Spanish speaking clients.

Joe Cracraft said that the Board needs to develop criteria for Clinical related and Non-Clinical related continuing education. If the course is Clinical related, then the history would be to give full credit for the course. If the course is Non-Clinical related, then it may only be worth half the credit.

4. *Probation Termination

a. Tryna Apodaca –Present.

Lisa Cooper stated that Ms. Apodaca is before the Board requesting termination from probation. Ms. Apodaca has completed all the requirements set by the Board for her probation. Ms. Cooper recommended that her probation be terminated as of August 31, 2009,

Ms. Apodaca stated that she has worked at Massage Envy going on one full year with no trouble. Ms. Apodaca asked to be taken off of probation. Ms. Apodaca let the Board know that she had also submitted three character reference letters as well as two from co-workers.

Sgt. Leonard Lorusso had no other information to add.

Motion: Michelle Viesselman made a motion to terminate probation for Tryna Apodaca effective August 31, 2009.

Seconded: Michael Smith

Motion carried.

5. * Application Review

a. Kristal J. Wyatt –Not present. Agreement for Fine

Keith Marcher explained that Agreement for Fines are either for New Applicants that were caught working without a current valid Massage Therapist License and that prompted them to submit an application to the Board. The Agreement for Fine is also for licensees that have expired and were caught working on an expired license. The agreements for this meeting are essentially all the same, they are a form of discipline that gets the person's attention with a nominal fine, but the Board needs to do one applicant at a time. We fine them and get them in the system and get them licensed and hopefully we will not have any more problems in this regard. Mr. Marcher stated that if this continues to be a trend, he and Ms. Cooper have talked about increasing the amounts of the fines to be more of an attention grabber. It is just like a settlement agreement, in that the Board either accepts it or rejects it. Mr. Marcher's recommendation is to accept the Agreement unless there is an arrest we do not know about.

Lisa Cooper explained that the administrative procedure is that when an application is administratively complete, the applicant is sent an Agreement for Fine with a letter explaining their options and they need to let the office know what they want to do. They can have a Formal Hearing or if they want to, then they sign the Agreement for Fine. Once the applicant has signed the Agreement and it is received in the office, their license is issued and they are put on a future Board Meeting Agenda. Ms. Cooper explained because the staff is finding so many unlicensed people and it is a lot of work, that the fines have been increased, we are now giving them a \$200.00 fine plus \$50.00

administrative costs. The Board sends the State \$200.00 and the Board keeps the \$50.00.

DeAnn Prestidge asked how long do they have to pay the fine and what happens if they do not pay the fine?

Keith Marcher stated they have 90 days from the date the Board accepted the Agreement. If they do not pay on time, they will be brought back before the Board for violation of the agreement and a letter will be sent to them letting them know that.

Lisa Cooper stated that once the Agreement is approved by the Board and signed by the Board chairperson, she sends out a letter that states to please contact the Board office within 15 days to make payment arrangements or to tell us you are going to pay the fine in full and when.

Lisa Cooper stated that Ms. Wyatt was caught working without a massage therapist license.

Motion: Michelle Viesselman made a motion to accept the Agreement for Fine for Kristal J. Wyatt.

Seconded: Teresa Allemang

Motion carried.

b. Anjeanette Carr – Not present. Agreement for Fine

Lisa Cooper stated that Ms. Carr was caught working without a license.

Motion: Michelle Viesselman made a motion to accept the Agreement for Fine for Anjeanette Carr

Seconded: DeAnn Prestidge

Motion carried.

Teresa Allemang asked the Board what it actually costs to do the investigative work; the paperwork, etc. to get these people licensed?

Lisa Cooper stated that the \$50.00 the Board gets to keep does not even cover the costs associated with catching people working without a license. Ms. Cooper is not sure and would need to figure out the total costs regarding how long the Inspector spends writing the Cease and Desist paperwork. Once their application is complete, then the office sends out information to them. Ms. Cooper has the process streamlined since we first started doing this. Ms. Cooper figures that administrative costs may be around \$100.00.

Ms. Allemang felt that the Board needs to increase the fines to \$300.00, \$200.00 for the fine and \$100.00 for administrative costs. Ms. Allemang says that there is no excuse to work without a license.

Michael Smith would like to place this item on the Agenda for the October Retreat Board Meeting to further discuss fine amounts.

c. Danielle Carey Not present-Agreement for Fine

Motion: DeAnn Prestidge made a motion to accept Agreement for Fine for Danielle Carey.

Seconded: Michelle Viesselman

Michael Smith asked why this fine is payable within six months and what is the difference between this one and the others?

Lisa Cooper stated that the original person that started this was given six months. This was the second Agreement for Fine that the office has done, and then Ms. Cooper realized that the six months was not going to work and the time frame has now been changed to 90 days.

Motion carried.

- d. Sunny Cockerline – Not present. Agreement for Fine

Motion: Teresa Allemang made a motion to accept Agreement for Fine for Sunny Cockerline

Seconded: Robin Graber

Motion carried.

- e. Annie Thornton – Not present. Agreement for Fine

Motion: Teresa Allemang made a motion to accept Agreement for Fine for Annie Thornton.

Seconded: Robin Graber

Motion carried.

- f. Susan Nicaise –Not present. Agreement for Fine

Motion: Robin Graber made a motion to accept Agreement for Fine for Susan Nicaise.

Seconded: Teresa Allemang

Motion carried.

- g. Cindy Graham –Present. Agreement for Fine

Ms. Graham wanted to state her justifications for practicing without a license. Ms. Graham stated she was a week late getting her renewal in and had 100 reasons why she was late. Ms. Graham stated she had to shut her entire business down for nine days and felt like she was fined enough and lost a lot of money, but she does understand. She was late renewing and said it was a very expensive lesson to learn.

Motion: Michael Smith made a motion to accept the Agreement for Fine for Cindy Graham.

Seconded: Joe Cracraft

Motion carried.

- h. Jason Troncale –Not present. Agreement for Fine

Motion: Teresa Allemang made a motion to accept the Agreement for Fine for Jason Troncale.

Seconded: Robin Graber

Motion carried.

i. Charlie Storey – Present. Agreement for Fine

Ms. Storey stated she had just graduated in December 2008 and her school sent her out on this job and she thought she could work under the doctor's license. Ms. Storey said after she was caught working without a license she found out that something was just passed in January and she could not work under the doctor's license.

Billie Shea asked Ms. Storey what school she went to.

Ms. Storey stated the Academy of Healing Arts.

Ms. Shea told Ms. Storey that she might want to contact the school because they are morally responsible if they send graduates of the school out to a job and get them in trouble. Ms. Shea also said that Ms. Storey cannot work under a doctor's license and she must have a massage license to practice massage in the State of Nevada.

Ms. Storey stated that the school now has signs posted that a person cannot practice massage without a current massage license through the State.

Lisa Cooper stated that she has contacted every school at least twice to tell them to stop doing that practice of sending people out to a job without a current massage therapist license from the State and some are listening and some are not.

Motion: Michael Smith made a motion to accept the Agreement for Fine for Charlie Storey.

Seconded: Teresa Allemang

Motion carried.

j. Shellie Kane –Present. Agreement for Fine

Ms. Kane stated that she works for Dr. Nancy Fallon of Fallon Chiropractic. Ms. Kane graduated from a Nevada school in May 2008. Ms. Kane said she was a Teaching Assistant for one quarter up until September 2008. She tried to find a job and up until that point, was still unaware that she needed her own State License. On December 18, 2008 she received a call from her school that the Chiropractor did need a massage therapist as soon as possible and she went over and on the same day received the job. Ms. Kane worked there until she received her Cease and Desist Notice from Jatasha Millikin. Ms. Kane is aware now of her responsibility as a therapist and that she is obeying all laws. She was under the impression since she received the call from her school, that she could practice under the license of the Chiropractor and that it was not even discussed with the chiropractor himself.

Michelle Viesselman stated she is familiar with the program at Ms. Kane's school and asked Ms. Kane what part of the program did she miss to not get the information about the State Licensing Board?

Ms. Kane stated it was not a matter of her missing anything.

Lisa Cooper stated that she has contacted the school multiple times and they continue to do this same practice of sending people out on jobs without checking their licenses.

Ms. Cooper stated that she has subpoenaed the students' records from the school before and the school checks the Board's website for the applicants and there are documents in their file that show they are not licensed and they still do not tell their students that they are in violation of the law. Ms. Cooper has seen it at least four times.

Michelle Viesselman said that in the school program, it clearly states that every massage therapist needs a state license.

Billie Shea said that Ms. Kane should go back to the school to discuss this practice with them.

Motion: Michelle Viesselman made a motion to accept the Agreement for Fine for Shellie Kane.

Seconded: Robin Graber

Motion carried.

Discussion: Teresa Allemang asked if the administrative office has any jurisdiction over the schools?

Lisa Cooper stated "No", but the Board could make a complaint against them with Postsecondary Education.

- k. Review Application of Ping Zhang for Approval, Denial or Other Administrative Action Pursuant to NRS 640C.400 (3). Ping Zhang-Present; Wai Mei Borgel-Court Appointed Interpreter-Present.

Lisa Cooper stated that Ms. Zhang is before the Board due to her education had taken place in California. She requested to be granted a license under NRS 640C.400.

Ms Zhang through her interpreter admitted she had a Driving Under the Influence.

Billie Shea explained that the issue why Ms. Zhang is before the Board, is that she completed her schooling in California and that the Board is not concerned with her DUI. Ms. Shea also explained to her that California does not have a commission overseeing their schools in California and that is why her application is before the Board for Board Review.

The Board reviewed the transcripts for Ms. Zhang and course content and she appeared to have the required schooling for her massage license.

Motion: Michelle Viesselman made a motion to grant a license to Ping Zhang without restrictions.

Seconded: Michael Smith

Motion carried.

- l. Review Application of Lih Shya Lee for Approval, Denial or Other Administrative Action Pursuant to NRS 640C.400 (3). Lih Shya Lee, Present; Vicki Greco, Attorney-at-Law, Present.

Lisa Cooper stated that Ms. Lee is before the Board due to her education taking place in California. Ms. Lee did disclose that she had a previous arrest, but those records have

been dismissed and the records sealed. She requested to be granted a license under NRS 640C.400.

Billie Shea stated that the Board is reviewing Ms. Lee's application as she attended a massage school in California.

Ms. Greco stated that there was a miscommunication and Ms. Lee was supposed to bring an interpreter as her English is not very good and may have to continue the application review at a later time if she is having a hard time understanding. Ms. Greco has tried to contact the school The East West Institute of Hand Therapy to try and get the official school transcripts and was not able to get the official school transcripts because she could not get anyone on the phone. A letter was submitted with Ms. Lee's application stating this. Sometimes their office has called them and it says that the telephone number is "Not in Service" and sometimes they answer. Ms. Greco did send the school a letter requesting the transcripts and it has not been returned.

Joe Cracraft asked if the applicant also has two arrests for Soliciting for Prostitution?

Lisa Cooper stated that the arrests took place in 2007 and Ms. Lee came before the Board and she was denied once and all of those records have been sealed.

Michelle Viesselman stated that the Board needs to have the application administratively complete so that they can evaluate the program and without the transcripts they cannot do that.

Ms. Greco asked if Ms. Lee's application was approved today could she begin work immediately based on that one educational class?

Billie Shea stated that if Ms. Lee's application was approved today, she would not receive her license until 7-10 business days.

Ms. Greco asked the Board if they are not approving the application based on the one class or what she learned,

Billie Shea stated that the problem here is that the Board is asking everyone to submit their transcripts. The Certificate of Completion is a nice thing to hang on the wall, but it does not tell the Board what her educational components were. There have been people that have come before the Board that were not sufficiently trained in the art of massage and that they did not have enough hours in Anatomy and Physiology or Kinesiology or even in hands-on massage. The Board is really at a loss to base a determination on the information provided whether Ms. Lee is suitably trained to be licensed as a massage therapist and the Board really needs the official school transcripts.

Ms. Greco asked if there would be any alternative as they have tried to contact the school on several occasions and not getting any response and what would the Board suggest?

Ms. Shea suggested sending the school a certified letter requesting the transcripts on legal letterhead and that the Board has seen recent graduates from this school.

Ms. Greco asked if she is able to get the transcripts, will Ms. Lee have to wait until the October Board meeting to get her license?

Billie Shea stated that Ms. Lee will be placed on a Board Meeting Agenda as soon as the information is received to complete her application.

Motion: Joe Cracraft made a motion to table the application review for Lih Shya Lee.

Seconded: Michelle Viesselman

Motion carried.

DeAnn Prestidge asked if a California school goes out of business do they have to turn their records over to somebody?

Billie Shea stated "No" but some schools have appointed a custodian of records to keep records and handle records requests from the school.

- m. Review Application of Amber R. Beno for Approval, Denial or Other Administrative Action Pursuant to NRS 640C.700 (1). Amber R. Beno-Not present.

Lisa Cooper stated that Amber Beno has been in contact with the office in the last few weeks saying she would be at the meeting and then called yesterday stating she was not going to be at the meeting. Ms. Beno's application is before the Board due to criminal history that was not disclosed on her application. She was arrested on 7/16/2007 for Battery Domestic Violence with no prior convictions and the case did not result in any charges. There were several charges from California for the years 2004, 2005, 2006 and 2007 and those cases were dismissed, rejected or resulted in no charges filed. She is requesting to be granted a license under NRS 640C.400. Ms. Beno did not necessarily ask us to change the Board Meeting date. Her original request was to change the date, but if we did that, her background check would have expired before the next Board Meeting date and she would have to resubmit new fingerprint cards. We got cut off during the telephone call, we do not know if she was putting money into a pay phone and ran out of money or what. She stated that her phone is missing and she did not give us a telephone number to call her back at.

Sgt. Leonard Lorusso stated that there is some new derogatory information regarding Amber Beno and that she was arrested on August 19, 2009 by the Las Vegas Metropolitan Police Department.

Keith Marcher stated that the Board should not deny that application based on the new information and the arrest of August 19, 2009 because the Board does not have all of the facts or all of the details. Mr. Marcher does not think the Board should go forward with Ms. Beno's application and should table it. The Board needs to get all of the information and table it to the next Board Meeting so that the Board can make an informed decision and if Ms. Beno has to go back and get fingerprinted again, then she will have to do that.

Sgt. Leonard Lorusso also added that Ms. Beno is currently wanted by the Henderson Police Department.

Motion: Joe Cracraft made a motion to table the application review for Amber Beno.

Seconded: Michael Smith

Motion carried.

- n. Review Application of Carolyn Hensger for Approval, Denial or Other Administrative Action Pursuant to NRS 640C.700 (3). Carolyn Hensger-Present.

Lisa Cooper stated that Ms. Hensger is before the Board due to criminal history that was disclosed on her record. Ms Hensger has completed the service section of her probation and as long as she stays out of trouble until March of 2010, the case will be dismissed. She requested to be granted a license under NRS 640C.400.

Ms. Hensger stated that she deeply regrets and is ashamed and embarrassed by her actions. Ms. Hensger stated that she completed 48 hours of community service at Opportunity Village and participated in an Anger Management class.

Billie Shea asked Ms. Hensger if she is currently licensed in Arizona?

Ms. Hensger stated that she is currently licensed in Arizona.

Michael Smith asked Ms. Hensger if she has had any disciplinary action against her license in Arizona?

Ms. Hensger stated she did not.

Motion: Michael Smith made a motion to grant Carolyn Hensger a license without restrictions.

Seconded: Joe Cracraft

Discussion-Michelle Viesselman said that she is bothered by the fact that Ms. Hensger is still under a court order until March 2010 and would be more comfortable with a probationary license until that time.

In favor: Teresa Allemang, Joe Cracraft

Opposed: Robin Graber, DeAnn Prestidge, Michael Smith, Billie Shea

Billie Shea stated that we have a problem in dealing with the public in the trust that massage therapists have to gain with them and violence of any sort in any walk of life can cause problems. Therefore, that is why Ms. Shea is opposed to the motion as well.

Motion does not carry.

Motion: Michelle Viesselman made a motion to grant Carolyn Hensger a one year Probationary License with the following probation terms: #1,#4, #6, #8, #11, #12, and #13.

Seconded: Teresa Allemang

Lisa Cooper asked that the motion be amended to include early termination of probation after Ms. Hensger has completed her probation with City of Henderson in March 2010.

Motion amended: To include early termination of probation after Ms. Hensger has completed her probation with the City of Henderson in March 2010.

Amended Motion Seconded: Teresa Allemang

Motion carried.

- o. Review Application of Mario L. Brown for Approval, Denial or Other Administrative Action Pursuant to NRS 640C.700 (3). Mario Brown-Present.

Lisa Cooper stated that Mario Brown is before the Board due to several arrests on his record. He did disclose some of the arrests but not all of them. Ms. Cooper deferred to Lenny for clarification on his criminal history. Mr. Brown requested to be granted a license under NRS 640C.400.

Mr. Brown stated that he thought he submitted all of the information that was necessary as he got all of the information from the downtown area. Mr. Brown stated that from his upbringing he grew up in destitution and has grown up since then. Mr. Brown stated that he graduated from a nationally accredited school and accomplished his national certification. Mr. Brown would like the opportunity to better himself as well as show that he can be a part of the community and do well.

Sgt. Leonard Lorusso showed that Mr. Brown was last arrested in May 2005 and Sgt. Lorusso stated that Mr. Brown had an extensive arrest history before that and asked Mr. Brown what has changed since 2005 until now?

Mr. Brown stated that he is a married man, graduated from school and is working a full time job right now and just actually got a raise. (inaudible on recorder)

Sgt. Lorusso asked Mr. Brown if he has read The Mission Statement of the Nevada State Board of Massage Therapists?

Mr. Brown said that he had.

Sgt. Lorusso stated that the Board's job is to balance the needs of the public and help applicants such as Mr. Brown get their massage therapist license. Upon review of Mr. Brown's record, Sgt. Lorusso stated that Mr. Brown has been arrested numerous times for narcotics and drug paraphernalia, three times when he was 18 years old. Sgt. Lorusso read off the different arrests. Mr. Brown also had arrests for possession of controlled substances and obstructing the police and several felonies. Sgt. Lorusso asked if Mr. Brown was a substance abuser then and if he is still?

Mr. Brown stated he had nothing at all but that and was constantly getting locked up and that he has completed some drug programs. Mr. Brown said that he is married, has a house and cars and wants to be happy.

Sgt. Lorusso stated that Mr. Brown is registered for three felonies and one misdemeanor for a sex offender and is required to register at the police department and one of those is Open and Gross Lewdness With a Minor. Sgt. Lorusso stated that on Mr. Brown's application, he has been arrested for three out of the four crimes that would preclude him from getting a license. There are several felonies and Mr. Brown had been arrested for three out of the four things that the Board looks at. Sgt. Lorusso appreciates Mr. Brown getting his life straight, but this is a privileged license and you get what you work for and Mr. Brown is asking for a lot of authority to have that. From the police department's standpoint, Sgt. Lorusso's recommendation is to not grant the license to Mr. Brown because of his history and feels that the massage therapy field is a bad choice for Mr. Brown.

Mr. Brown stated that he put himself through school and paid \$13,000 for this education.

Sgt. Lorusso understands that, but with Mr. Brown's history and number of arrests, he recommends not to grant a license to Mr. Brown.

Michelle Viesselman asked Mr. Brown if his school was aware that he was a registered sex offender?

Mr. Brown stated that he did not disclose that to his school prior to enrolling and completing the massage program.

Michelle Viesselman said that Mr. Brown should have disclosed that to his school before he started the program as they would have told him that the Board has serious issues with a convicted sex offender.

Joe Cracraft asked Mr. Brown what programs he had completed?

Mr. Brown named the programs he has completed. (program names inaudible on recorder)

Sgt. Lorusso asked Mr. Brown if he were given a drug test today, how would he do?

Mr. Brown said that he would be clean as a whistle.

DeAnn Prestidge asked Mr. Brown where he works?

Mr. Brown said at the Nine West Outlet in Primm, Nevada. He drives 100 miles every day to get to work.

Joe Cracraft asked Mr. Brown if he received counseling for the sex offense?

Mr. Brown said that he was on probation for three months and then he got a dishonorable discharge.

Billie Shea asked Mr. Brown what does that mean, she read about the dishonorable discharge in his application and said that is not a good word to put with discharge.

Mr. Brown explained again that he was on probation for three months and then he got arrested again. The District Attorney came up with a deal that he spend two months in jail and then he would get off of probation. All together in that case it was five months and he is still facing the consequences of that.

Billie Shea stated that unfortunately the choices that we make in life follow us for the rest of our lives.

Sgt. Leonard Lorusso asked Keith Marcher if Mr. Brown can come before the Board statutorily per the NRS or NAC and is the Board precluded from allowing that even if they wanted to?

Keith Marcher stated that Mr. Brown's history gives the Board the authority to either accept the application or deny it outright or place conditions on his license. There is no

provision that Mr. Marcher is aware of that does not allow him to apply and come forward and that is what he has done. Mr. Marcher stated that Ms. Viesselman made a good point that if the school would have been more aware of his background, they may have counseled him in regard to the program a little bit more. Now with the application, the Board must decide if they are going to accept, deny or issue him some sort of conditional license.

Motion: Michelle Viesselman made a motion to deny a license for Mario Brown because she feels that the Board in good conscience cannot license a registered sex offender.

Seconded: Robin Graber

Motion carried.

Billie Shea advised Mr. Brown to make sure when he makes his application again, (he could apply immediately) to submit all of the things that he just tried to tell the Board about. Mr. Brown did not tell the Board about these things in this application that was submitted to the Board. Ms. Shea explained that Mr. Brown did not tell the Board that he was working a solid program, and did not give the Board proof that he was doing support things or community service things. Those may or may not help him in the future. The Board is inclined at this time to say no, but he is eligible to make another application

Mr. Brown stated that his class of offense is the lowest class with no stipulations.

6. Public Comments

None.

7. Future Agenda Items

1. Language Classes/What the Board Will Accept or Not Accept.
2. Structure of Discipline/Fines and Fees.
3. Discuss Investigation
4. NAC's in Process
5. Education-What the minimum requirements are regarding California Schools and discuss and come up with a solid plan with California schools (a procedure that everyone is in agreement with)
6. Continuing Education
7. Distance Learning
8. Legislature/re: Professional Guidelines
9. Juris Prudence Exam for Future Applicants
10. Disseminating Information Regarding Board Decisions to Massage Therapists
11. Discuss the Possibility of Requiring English Comprehension

8. * Adjournment No later than 4:30 PM

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

Seconded: Michael Smith

Meeting adjourned at 1:20 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