

**MINUTES
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE
BOARD OF MASSAGE THERAPY
344th General Business Meeting
October 25-26, 2007**

Thursday, October 25, 2007

CALL TO ORDER

The meeting was called to order by Mr. Dave Quiring, LMT, Chair, at 9:00 am. Those present for all or part of the meeting include the following:

MEMBERS PRESENT:

Dave Quiring, LMT, Chair
Lynda Solien-Wolfe, LMT, Vice Chair
Jacqueline Kelly, LMT
Andrea Vala, LMT
Lorena Haynes, LMT
Irene Andriole- Consumer Member

STAFF PRESENT:

Pamela King, Executive Director
Christy Robinson, Program Administrator

BOARD COUNSEL:

Daniel Biggins, Esquire

COURT REPORTER:

Official Reporting Services
954-467-8204

PROSECUTING ATTORNEY:

Allison Dudley, Esquire
Sam DiConcilio, Esquire

OTHERS PRESENT:

Raymond Pomm, MD, PRN

Please note that the meeting minutes reflect the actual order that agenda items were discussed during the meeting and may differ from the agenda outline.

REVIEW OF MINUTES

Tab 1 – Minutes from the July 26-27, 2007 Meeting

Action Taken: Ms. Kelly moved to APPROVE the minutes as corrected by staff on the record. Ms. Vala seconded the motion, which passed unanimously.

DISCIPLINARY CASES

Recommended Order:

Tab 2 - Elham Kharabi-Moghaddam Case #2004-27897

Mr. Kaharabi-Moghaddam was present and represented by Ms. Louises Caro, Esq.

Ms. Dudley represented the department and presented the case to the Board. Ms. Andriole was recused due to participation on the probable cause panel. Allegations of Complaint: 480.046(1)(o) violating a law or rule of the board by violating 450.0489, F.S. engaging or attempting to engage in sexual misconduct in the practice of massage.

Respondent's Exceptions to the Recommended Order:

Exceptions 1-3 – After discussion, Ms. Vala moved to deny exceptions 1-3, based on the fact that these exceptions did not state with particularity the reason for exception to the final order. The motion was seconded by Ms. Kelly and carried unanimously.

Exception 4 – After testimony by both parties, Ms. Vala moved to deny the exception based on the fact that there was competent and substantial evidence to make the finding. The motion was seconded by Ms. Kelly and carried unanimously.

Exception 5 - After testimony by both parties, Ms. Solien-Wolfe moved to deny the exception based on the fact that there was competent and substantial evidence to make the finding. The motion was seconded by Ms. Vala and carried unanimously.

Exception 6 – After testimony by both parties, Ms. Vala moved to deny the exception based on the fact that there was competent and substantial evidence to make the finding. The motion was seconded by Ms. Kelly and carried unanimously.

Exceptions 7 and 8 - After testimony by both parties, Ms. Vala moved to deny the exception based on the fact that there was competent and substantial evidence to make the finding. The motion was seconded by Ms. Kelly and carried unanimously.

Exception 9 - After testimony by both parties, Ms. Vala moved to deny the exception based on the fact that there was competent and substantial evidence to make the finding. The motion was seconded by Ms. Kelly and carried unanimously.

Exception 10 - After testimony by both parties, Ms. Vala moved to deny the exception based on the fact that there was competent and substantial evidence to make the finding. The motion was seconded by Ms. Kelly and carried unanimously.

Exception 11 - After testimony by both parties, Ms. Vala moved to deny the exception based on the fact that there was competent and substantial evidence to make the finding. The motion was seconded by Ms. Kelly and carried unanimously.

Exceptions 12 and 13 - After testimony by both parties, Ms. Vala moved to deny the exception based on the fact that there was competent and substantial evidence to make the finding. The motion was seconded by Ms. Kelly and carried unanimously.

Exception 14 - After testimony by both parties, Ms. Vala moved to deny the exception based on the fact that there was competent and substantial evidence to make the finding. The motion was seconded by Ms. Kelly and carried unanimously.

After discussion, Ms. Vala moved to adopt the findings of fact and conclusions of law as presented in the Recommended Order. .

Action Taken: After discussion, Ms. Solien-Wolfe moved to IMPOSE the following penalty:

- Reprimand
- \$1,000 fine
- Suspension for 6 months
- PRN evaluation prior to reinstatement of license
- 2 years probation with terms to be set after the PRN evaluation and appearance at a board meeting

Ms. Vala seconded the motion, which passed unanimously.

Respondent's Exception 16 was taken up as part of the penalty phase of the case.

Objection to Costs

Action Taken: After hearing testimony for both parties, Ms. Solien-Wolfe moved to access costs in the case at \$11,704.75. The motion was seconded by Ms. Vala and carried unanimously.

DEPARTMENT OF HEALTH REPORT

No Tab - Unlicensed Activity Office Report

Michelle Miller with the unlicensed activity office provided an update to the board on the ULA cases that handled for them last fiscal year. She noted that the ULA office handled the following last fiscal year:

- 159 massage therapist complaints
- 95 arrests
- 48 cease and desist orders
- 22 citations

- 98 Massage establishment complaints
- 18 arrests
- 60 cease and desist orders

LICENSURE REACTIVATION APPEARANCES

Tab 3 - Linda Hoag

Ms. Hoag was present without counsel.

Action Taken: After interviewing Ms. Hoag, a motion was made by Ms. Vala to APPROVE the reactivation of licensure. The motion was seconded by Ms. Solien-Wolfe and carried unanimously.

Tab 4 - Gloria Burneo – Tabled until later in the agenda

REVIEW OF LICENSURE APPLICATIONS

Tab 5 - Thomas Struesel

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss his past history. Dr. Pomm was present and represented PRN.

Action Taken: After the Board interviewed the applicant, Ms. Haynes moved to grant the license with the following CONDITIONS:

- Prior to licensure, the applicant must sign a PRN contract and remain in compliance with any PRN contract or recommendations upon licensure
- The license shall be restricted from providing “out calls” until he can demonstrate to the Board the ability to practice with skill and safety in that setting.

Ms. Andriole seconded the motion, which passed unanimously.

Tab 6 - John Xavier

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss his past history. Dr. Pomm was present and represented PRN.

Action Taken: After the Board interviewed the applicant, Ms. Vala moved to grant the license with the following CONDITIONS:

- Prior to licensure, the applicant must sign a PRN contract and remain in compliance with any PRN contract or recommendations upon licensure.

Ms. Kelly seconded the motion, which passed unanimously.

Tab 7 - Deborah Murray

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss her past history. Dr. Pomm was present and represented PRN.

Action Taken: After the Board interviewed the applicant, Ms. Vala moved to grant the license with the following CONDITIONS:

- Prior to licensure, the applicant must sign a PRN contract and remain in compliance with any PRN contract or recommendations upon licensure.

Ms. Kelly seconded the motion, which passed unanimously.

Tab 8 - Bettina Stearn

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss her past history. Dr. Pomm was present and represented PRN.

Action Taken: After the Board interviewed the applicant, Ms. Vala moved to grant the license with the following CONDITIONS:

- Prior to licensure, the applicant must sign a PRN contract and remain in compliance with any PRN contract or recommendations upon licensure.

Ms. Kelly seconded the motion, which passed unanimously.

Tab 9 - Christopher Wagner

The applicant was present without counsel, but with his father as a character witness. The applicant was asked to appear before the Board to discuss his past history. Dr. Pomm was present and represented PRN.

Action Taken: After the Board interviewed the applicant, Ms. Solien-Wolfe moved to grant the license with the following CONDITIONS:

- Prior to licensure, the applicant must sign a PRN contract and remain in compliance with any PRN contract or recommendations upon licensure.

Ms. Andriole seconded the motion, which passed with Ms. Vala opposed.

Tab 10 - Monica Caride

The applicant was present without counsel, but with her husband as a character witness. The applicant was asked to appear before the Board to discuss her past history. Dr. Pomm was present and represented PRN.

Action Taken: After the Board interviewed the applicant, Ms. Vala moved to grant the license with the following CONDITIONS:

- Prior to licensure, the applicant must sign a PRN contract and remain in compliance with any PRN contract or recommendations upon licensure.

Ms. Solien-Wolfe seconded the motion, which passed unanimously.

Tab 11 - Anita Munoz

The applicant was not present or represented by counsel.

Action Taken: Ms. Vala moved to require Ms. Munoz's appearance at the next meeting of the Board. Ms. Kelly seconded the motion, which passed unanimously.

Tab 12 - Jermaine Ingram

The applicant was not present or represented by counsel.

Action Taken: Ms. Vala moved to DENY licensure based on Mr. Ingram's failure to appear before the Board. Ms. Kelly seconded the motion, which passed unanimously.

Tab 13 - Kristian Cecchini

The applicant was not present or represented by counsel.

Action Taken: Ms. Vala moved to require Ms. Cecchini's appearance at the next meeting of the Board. Ms. Kelly seconded the motion, which passed unanimously.

Tab 14 - Fawne Ryan

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss her past history. Dr. Pomm was present and represented PRN.

Action Taken: After the Board interviewed the applicant, Ms. Andriole moved to grant the license with the following CONDITIONS:

- Prior to licensure, the applicant must sign a PRN contract and remain in compliance with any PRN contract or recommendations upon licensure.

Ms. Vala seconded the motion, which passed unanimously.

Tab 15 -Miriam Biazar

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss her past history. Dr. Pomm was present and represented PRN.

Action Taken: After the Board interviewed the applicant, Ms. Vala moved to grant the license with the following CONDITIONS:

- Prior to licensure, the applicant must sign a PRN contract and remain in compliance with any PRN contract or recommendations upon licensure.

Ms. Solien-Wolfe seconded the motion, which passed unanimously.

Tab 16 - Brian White

The applicant was not present or represented by counsel.

Action Taken: Ms. Vala moved to required Mr. White's appearance at the next meeting of the Board. Ms. Kelly seconded the motion, which passed unanimously.

Tab 17 - James Repass

The applicant was not present or represented by counsel.

Action Taken: Ms. Vala moved to DENY licensure based on Mr. Repass' failure to appear before the Board and submission of a fraudulent application. Ms. Solien-Wolfe seconded the motion, which passed unanimously.

Tab 18 - Carlos Tabon

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss his past history. Dr. Pomm was present and represented PRN.

Action Taken: After the Board interviewed the applicant, Ms. Solien-Wolfe moved to grant the license with the following CONDITIONS:

- Prior to licensure, the applicant must sign a PRN contract and remain in compliance with any PRN contract or recommendations upon licensure.

Ms. Vala seconded the motion, which passed unanimously.

Tab 19 - David Cross

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss his past history. Dr. Pomm was present and represented PRN.

Action Taken: After the Board interviewed the applicant, Ms. Haynes moved to grant the license with the following CONDITIONS:

- Prior to licensure, the applicant must sign a PRN contract and remain in compliance with any PRN contract or recommendations upon licensure.

Ms. Vala seconded the motion, which passed unanimously.

Tab 20 - Cheryl Baldwin

The applicant was not present or represented by counsel.

Action Taken: After review of the application, Ms. Haynes moved to GRANT licensure. Ms. Vala seconded the motion, which passed unanimously.

Tab 21 - Christopher Mangano

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss his past history. Dr. Pomm was present and represented PRN.

Action Taken: After the Board interviewed the applicant, Ms. Vala moved to GRANT licensure. Ms. Solien-Wolfe seconded the motion, which passed with Mr. Quiring and Ms. Haynes opposed.

Tab 22 - George Ferris

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss his past history. Dr. Pomm was present and represented PRN.

Break due to fire alarm

Tab 22 - George Ferris (cont.)

Action Taken: After the Board interviewed the applicant, Ms. Solien-Wolfe moved to grant the license with the following CONDITIONS:

- Prior to licensure, the applicant must sign a PRN contract and remain in compliance with any PRN contract or recommendations upon licensure.

Ms. Vala seconded the motion, which passed with Ms. Haynes opposed.

Tab 23 - Donald Ashley

The applicant was not present or represented by counsel.

Action Taken: After review of the application, Ms. Haynes moved to GRANT licensure. Ms. Vala seconded the motion, which passed unanimously.

Tab 24 - Lindsay Brandenburg

The applicant was present without counsel. The applicant's father was present as a character witness. The applicant was asked to appear before the Board to discuss his past history.

Action Taken: After the Board interviewed the applicant, Ms. Vala moved to GRANT licensure. Ms. Solien-Wolfe seconded the motion, which passed with Ms. Haynes opposed.

Tab 25 - Kenneth Young

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss his past history.

Action Taken: After the Board interviewed the applicant, Ms. Haynes moved to GRANT licensure. Ms. Vala seconded the motion, which passed unanimously.

Tab 26 - Jennifer Lawall

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss her past history.

Action Taken: After the Board interviewed the applicant, Ms. Solien-Wolfe moved to GRANT licensure. Ms. Andriole seconded the motion, which passed unanimously.

Tab 27 - Anthony Spano

The applicant was present without counsel. The applicant's wife was present as a character witness. The applicant was asked to appear before the Board to discuss his past history.

Action Taken: After the Board interviewed the applicant, Ms. Vala moved to GRANT licensure. Ms. Andriole seconded the motion, which passed unanimously.

Tab 28 - Rosa Escobar-Tejeda

The applicant was present without counsel. Ms. Pelar Solis was present to interpret for the applicant. The applicant was asked to appear before the Board to discuss her past history.

Action Taken: After the Board interviewed the applicant, Ms. Solien-Wolfe moved to GRANT licensure with the following condition:

- Prior to licensure, the applicant must pay a \$200.00 unlicensed activity fine

Ms. Andriole seconded the motion, which passed unanimously.

Tab 29 - Jessie De La Pena

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss his past history.

Action Taken: After the Board interviewed the applicant, Ms. Vala moved to GRANT licensure. Ms. Haynes seconded the motion, which passed unanimously.

Tab 30 - Sheena Shin

The applicant was not present or represented by counsel.

Action Taken: Ms. Vala moved to required Ms. Shin's appearance at the next meeting of the Board. Ms. Kelly seconded the motion, which passed unanimously.

LICENSURE REACTIVATION APPEARANCES (cont.)

Tab 4 - Gloria Burneo

Ms. Burneo was present without counsel.

Action Taken: After interviewing Ms. Burneo, a motion was made by Ms. Solien-Wolfe to APPROVE the reactivation of licensure. The motion was seconded by Ms. Andriole and carried unanimously.

REVIEW OF LICENSURE APPLICATIONS (cont.)

Tab 101 - Monica Cardwell

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss her past history.

Action Taken: After the Board interviewed the applicant, Ms. Vala moved to GRANT licensure. Ms. Solien-Wolfe seconded the motion, which passed unanimously.

Tab 102 - Joyce Krishack

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss her past history.

Action Taken: After the Board interviewed the applicant, Ms. Solien-Wolfe moved to grant licensure with the following CONDITIONS:

- Prior to licensure, the applicant must sign a PRN contract and remain in compliance with any PRN contract or recommendations upon licensure.

Ms. Andriole seconded the motion, which passed unanimously.

Break for Lunch 1:35 p.m. – 2:07 p.m.

REVIEW OF ESTABLISHMENT APPLICATIONS

Tab 31 - Acreage Physical Therapy

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss operating an establishment without a license.

Action Taken: After the Board interviewed the applicant, Ms. Solien-Wolfe moved to grant licensure with the following CONDITIONS:

- \$100 fine

Ms. Kelly seconded the motion, which passed unanimously.

Tab 32 - Advanced Therapy Center, Inc.

A representative of the applicant was present with Lawrence Metsch, Esq. The applicant was asked to appear before the Board to discuss operating a massage establishment without a license.

Action Taken: After the Board interviewed the applicant, Ms. Solien-Wolfe moved to grant licensure with the following CONDITIONS:

- Payment of a \$650.00 unlicensed activity fine within 60 days of the Final Order

Ms. Kelly seconded the motion, which passed unanimously.

Tab 33 - Chiropractic Associates of Lake Worth

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss his past history.

Action Taken: After the Board interviewed the applicant, Ms. Solien-Wolfe moved to grant licensure. Ms. Kelly seconded the motion, which passed unanimously.

Tab 34 - Cend Systems d/b/a A-Nu-U Holistic Center)

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss her past history.

Action Taken: After the Board interviewed the applicant, Ms. Solien-Wolfe moved to grant licensure. Ms. Vala seconded the motion, which passed unanimously.

Tab 35 - Darrow Family Chiropractic, LLC

The applicant was present with Henry Rubenstien, Esq. The applicant was asked to appear before the Board to discuss operating a massage establishment without a license.

Action Taken: After the Board interviewed the applicant, Ms. Solien-Wolfe moved to grant licensure with the following CONDITIONS:

- \$1100 fine to be paid in 30 days of the Final Order

Ms. Vala seconded the motion, which passed unanimously.

Tabs 36 and 37 -Flynn Clinic, Inc. – 2 locations

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss operating a massage establishment without a license.

Action Taken: After the Board interviewed the applicant, Ms. Vala moved to grant licensure with the following CONDITIONS:

- \$100 fine

Ms. Solien-Wolfe seconded the motion, which passed unanimously.

DISCIPLINARY CASES

Informal Hearings:

Tab 51 – Logan Fisher, LMT – Case #2006-21654 - Bonita Springs, FL

The respondent was present. Dr. Raymond Pomm was present representing PRN. Ms. Diconcillio represented the department and presented the case to the Board. Ms. Andriole was recused due to participation on the probable cause panel. Allegations of Complaint: violating 480.046(1)(o), (g), and 456.072(1)(hh).

After discussion, Ms. Vala moved to adopt the findings of fact and conclusions of law as presented. The motion was seconded by Ms. Kelly and carried unanimously.

After discussion, Ms. Vala moved to adopt the materials in the case into the record. The motion was seconded by Ms. Kelly and carried unanimously.

Action Taken: After discussion, Ms. Kelly moved to IMPOSE the following penalty:

- Suspension of license until PRN indicates the licensee is safe to practice
- 1368.54 in costs to be paid in 9 months.

Ms. Haynes seconded the motion, which passed unanimously.

REVIEW OF ESTABLISHMENT APPLICATIONS (cont.)

Tab 38 - Health Care Massage Therapy

Mr. William Beck and Ms. Sue Cherry were present without counsel. The applicant was asked to appear before the Board to discuss operating a massage establishment without a license.

Action Taken: After the Board interviewed the applicant, Ms. Vala moved to grant licensure with the following CONDITIONS:

- \$100 fine

Ms. Kelly seconded the motion, which passed unanimously.

Note: the fine was paid at the meeting.

Tab 40 - Pierre Day Spa

The applicant was not present or represented by counsel.

Action Taken: Ms. Vala moved to DENY licensure based on the owner's failure to appear before the Board. Ms. Kelly seconded the motion, which passed unanimously.

Tab 42 - Synergy Medical Rehab, LLC– Withdrawn from Agenda- Granted Continuance

Tab 43 Multicare, LLC - Withdrawn from Agenda- Granted Continuance

Tab 44 - Total Health Fitness, PA

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss operating a massage establishment without a license.

Action Taken: After the Board interviewed the applicant, Ms. Kelly moved to grant licensure with the following CONDITIONS:

- \$250 fine

Ms. Vala seconded the motion, which passed unanimously.

DISCIPLINARY CASES (cont.)

Informal Hearings:

Tab 49 – Marcia Perez-Woode, LMT Case #2006-28744

Ms. Perez-Woode was present without counsel.

Ms. Diconcillio represented the department and presented the case to the Board. Ms. Andriole was recused due to participation on the probable cause panel. Allegations of Complaint: violating 480.046(1)(o).

After discussion, Ms. Vala moved to adopt the findings of fact and conclusions of law as presented. The motion was seconded by Ms. Kelly and carried unanimously.

After discussion, Ms. Vala moved to adopt the materials in the case into the record. The motion was seconded by Ms. Kelly and carried unanimously.

Action Taken: After discussion, Ms. Vala moved to IMPOSE the following penalty:

- \$250 fine
- \$717.44 in costs
- Completion of continuing education required for the biennium missed.

Ms. Kelly seconded the motion, which passed unanimously.

Tab 50 - Claudia P. Monroy, LMT - Case #2007-02135 - Withdrawn from Agenda- Granted Continuance

Settlement Agreements:

Tab 51A – Luca Giovanelli, LMT Case # 2005-60949

The respondent was not present but represented by Andrew Cassas, Esq.

Ms. Diconcillio represented the department and presented the case to the Board. Ms. Andriole was recused due to participation on the probable cause panel. Allegations of Complaint: violating 480.046(1)(o), (u), and (i).

After much discussion, Ms. Haynes moved to REJECT the settlement agreement. The motion was seconded by Ms. Solien-Wolfe. After further discussion the motion was withdrawn.

Action Taken: After additional discussion, Ms. Haynes moved to offer a counter-stipulation to include: All of the requirements of the settlement agreement with the addition of 1-year probation – with a monitor to be approved by the Chair; quarterly reports from the monitor and completion of a sexual boundaries course.

Case tabled to allow Mr. Cassas to discuss the offer with his client.

Tab 52 - Gurujivan Singh Khalsa, LMT Case #2004-31350

The respondent was present without counsel.

Ms. Diconcillio represented the department and presented the case to the Board. Ms. Andriole was recused due to participation on the probable cause panel. Allegations of Complaint: violating 480.046(1)(o) and 456.06(2)(d)(3)

Action Taken: After much discussion, Ms. Solien-Wolfe moved to offer an AMENDED settlement agreement to include the following penalty:

- \$650 fine to be paid in 1-year
- \$1144.59 in costs to be paid in 1-year
- Reprimand

The motion was seconded by Ms. Kelly and carried unanimously.

Both parties accepted the counter offer.

Tabs 54-57 and Tabs 61 – 62

The respondents in the following cases were not present or represented by counsel.

Ms. Diconcillio represented the department and noted the costs for each case separately. Ms. Andriole was recused due to participation on the probable cause panel.

Action Taken: After discussion, Ms. Vala moved to ACCEPT the Settlement Agreements for tabs 54-57 and tabs 61-62 with costs as stated on the record. The motion was seconded by Ms. Haynes and carried unanimously.

Tab 54 - Simon Tankhelson, LMT Case #2007-07089

Allegations: Violating 480.046(1)(n)
 Penalty: \$100 fine
 \$1,227.69 costs

Tab 55 - Center of Healing Arts Case #2007-00854

Allegations: Violating 480.046(1)(e), (o), and (j) and 480.047(1)(c)
 Penalty: Reprimand;
 \$1,250.00 fine
 \$ 822.71 costs

Tab 56 - Charles Thissen, LMT Case #2006-36572

Allegations: Violating 480.046(1)(o), (a), and 456.072(h)
 Penalty: \$100 fine
 \$1,347.33 costs

Tab 57 - Lloyd Carpenter, LMT Case #2006-37794

Allegations: Violating 480.046(1)(n), (o), and 480.0465
Penalty: Reprimand
 \$100 Fine
 \$744.95 in costs

Tab 61 - Holly A. Anderson, LMT Case #2006-18522

Allegations: Violating 480.046(1)(n)
Penalty: Reprimand
 \$100 Fine
 \$693.78

Tab 62 - Priority Fitness & Rehabilitation, Inc. Case # 2006-30920

Allegations: Violating 480.046(1)(e) and (j)
Penalty: Reprimand
 \$1250.00 Fine
 \$1315.61 in Costs

Tab 53 - Aloha Therapeutic Case #2006-14034

The respondent was not present or represented by counsel.

Ms. Diconcillio represented the department and presented the case to the Board. Ms. Andriole was recused due to participation on the probable cause panel. Allegations of Complaint: violating 480.046(1)(o), (e), (j) and 480.047(1)(c).

Action Taken: After much discussion, Ms. Haynes moved to REJECT the settlement agreement. The motion was seconded by Mr. Quiring and carried with Ms. Solien-Wolfe and Ms. Kelly opposed.

Tab 59 - The Velvet Touch Case #2004-28743

The respondent was not present or represented by counsel.

Ms. Diconcillio represented the department and presented the case to the Board. Ms. Andriole was recused due to participation on the probable cause panel. Allegations of Complaint: violating 480.046(1)(o) and 480.0485.

After much discussion, Ms. Haynes moved to REJECT the settlement agreement. The motion was seconded by Ms. Solien-Wolfe and carried unanimously.

Action Taken: After additional discussion, Ms. Haynes moved to offer a COUNTER SETTLEMENT to be accepted or rejected with in 30 days of filing of the Final Order. The counter offer includes the following penalty:

- Probation for one-year, to include four unannounced inspections
- Reprimand
- \$3,200 Fine
- \$ 1871.77 in costs

The motion was seconded by Mr. Quiring and carried unanimously.

Tab 58 - Norma Rutledge, LMT Case #2004-28747

The respondent was not present or represented by counsel.

Ms. Diconcillio represented the department and presented the case to the Board. Ms. Andriole was recused due to participation on the probable cause panel. Allegations of Complaint: 480.046(1)(o), 480.0485, 456.072(1)(u), and 456.063(1).

Action Taken: After much discussion, Ms. Haynes moved to REJECT the settlement agreement. The motion was seconded by Ms. Vala and carried unanimously.

Tab 60 - Steve Preddie, LMT Case #2005-55295

The respondent was not present or represented by counsel.

Ms. Diconcillio represented the department and presented the case to the Board. Ms. Andriole was recused due to participation on the probable cause panel. Allegations of Complaint: violating 480.046(1)(n), (o), (c) (i), 456.072(1)(a) and 480.043(1).

Action Taken: After much discussion, Ms. Haynes moved to REJECT the settlement agreement. The motion was seconded by Ms. Vala and carried unanimously.

Action Taken: After additional discussion, Ms. Vala moved to offer a COUNTER SETTLEMENT to be accepted or rejected with in 30 days of filing of the Final Order. The counter offer includes the following penalty:

- Prohibition from teaching Florida Laws and Rules Course in any setting.
- Reprimand
- \$2,100 Fine

- \$1659.45 in costs

The motion was seconded by Ms. Haynes and carried unanimously.

Tab 63 - Pieter D. Kemp, LMT Case #2006-22928

The respondent was not present or represented by counsel.

Ms. Diconcillio represented the department and presented the case to the Board. Ms. Andriole was recused due to participation on the probable cause panel. Allegations of Complaint: violating 480.046(1)(o) and 456.072(1)(w).

Action Taken: After discussion, Ms. Haynes moved to ACCEPT the Settlement Agreement which includes:

- Reprimand
- \$500 fine
- \$1923.18 in costs

The motion was seconded by Ms. Vala and carried unanimously.

Hearing for Determination of Waiver/Default:

Tab 65- Jose Mercado, LMT Case #2006-28198

The respondent was not present or represented by counsel. The complainant in the case was present and provided testimony to the board.

Ms. Diconcillio represented the department and presented the case to the Board. Ms. Andriole was recused due to participation on the probable cause panel. Allegations of Complaint: violating 480.046(1)(o), 480.0485, and 456.035(1) - 2006.

After discussion, Ms. Vala moved to adopt the findings of fact and conclusions of law as presented in the case. The motion was seconded by Ms. Kelly and carried unanimously. After further discussion, Ms. Vala moved to adopt the materials of the case into the record. The motion was seconded and carried unanimously

Action Taken: After discussion, Ms. Vala moved to IMPOSE the following penalty:

- Revocation of licensure
- \$2250.00 fine
- \$3588.52 in costs

Ms. Kelly seconded the motion, which passed unanimously.

Tab 64- Aurora Therapy Case #2006-42660

The respondent was not present or represented by counsel.

Ms. Diconcillio represented the department and presented the case to the Board. Ms. Andriole was recused due to participation on the probable cause panel. Allegations of Complaint: violating 480.046(1)(e), (j), (o) and 480.047(1)(c).

After discussion, Ms. Vala moved to adopt the findings of fact and conclusions of law as presented in the case. The motion was seconded by Ms. Kelly and carried unanimously. After further discussion, Ms. Vala moved to adopt the materials of the case into the record. The motion was seconded and carried unanimously

Action Taken: After discussion, Ms. Vala moved to IMPOSE the following penalty:

- Revocation of licensure
- Reprimand

- \$4750.00 fine
- \$484.97 in costs

Ms. Kelly seconded the motion, which passed unanimously.

Tabs 66-74

The respondents in the following cases were not present or represented by counsel.

Ms. Diconcillio represented the department and noted the Allegation and Recommended Penalty for each case. Ms. Andriole was recused due to participation on the probable cause panel.

After discussion, Ms. Vala moved to adopt the findings of fact and conclusions of law; and to adopt the materials of the cases into evidence. The motion was seconded by Ms. Kelly and carried unanimously.

Action Taken: After discussion, Ms. Kelly moved to IMPOSE the departments recommended penalty as stated in tabs 66-74. The motion was seconded by Ms. Vala and carried unanimously.

Tab 66 - Brad Napolitan, LMT Case #2006-30975

Penalty Imposed:

- Repimand
- \$1,683.94 in costs
- Suspended until appearing before the board to demonstrate the ability to practice with skill and safety, which would include a PRN evaluation

Tab 67 - Naim Steward, LMT Case #2006-29295

Penalty Imposed:

- Repimand
- \$2,091.00 in costs
- Suspended until in compliance with PRN

Tab 68 - Brandi L. Hudson (Acaro), LMT Case #2006-08087

Penalty Imposed:

- Repimand
- \$750.00 fine
- \$466.98 in costs
- Revoke based on the repeated failure to comply with previous final orders

Tab 69 - Laudie Jean-Francois, LMT Case #2006-02575

Penalty Imposed:

- Repimand
- \$450.00 fine
- \$1573.74 in costs

Tab 70 - Georgios Adamopolous, LMT Case #2006-27729

Penalty Imposed:

- Repimand
- \$250.00 fine
- \$1242.42 in costs

Tab 71- LG Investment Group, LLC d/b/a Aries Massage & Spa

Case #2006-21844

Penalty Imposed:

- Reprimand
- \$1250.00 fine
- \$2009.50 in costs
- Suspended until the facility is able to pass an inspection
- Upon reinstatement 1 year probation with monitor and quarterly inspections of the facility

Tab 72 & 73 - Angel Therapy Case #2006-01382 and Case #2004-31068

Penalty Imposed:

- Reprimand
- \$1500.00 fine
- \$721.45 in costs
- Revoke based on repeated unlicensed activity and sexual misconduct cases

Tab 74 - Maria Cheshire, LMT Case #2006-44476**

Penalty Imposed:

- Reprimand
- \$350.00 fine
- \$1888.63 in costs
- Suspended until all fines and costs are paid

Tabs 75-76 - Ms. Solien-Wolfe chaired

The respondents in the following cases were not present or represented by counsel.

Ms. Diconcillio represented the department and noted the Allegation and Recommended Penalty for each case. Mr. Quiring and Ms. Haynes were recused due to participation on the probable cause panel.

After discussion, Ms. Vala moved to adopt the findings of fact and conclusions of law; and to adopt the materials of the cases into evidence. The motion was seconded by Ms. Kelly and carried unanimously.

Action Taken: After discussion, Ms. Kelly moved to IMPOSE the departments recommended penalty as stated in tabs 66-74. The motion was seconded by Ms. Vala and carried unanimously.

Tab 75 - S&D Therapy, Inc. Case #2005-53745

Penalty Imposed:

- Reprimand
- \$3500.00 fine
- \$1896.70 in costs
- Revoke based on prior arrests

Tab 76 - Johnathan Warrick, LMT Case #2005-70366

Penalty Imposed:

- Reprimand
- \$200.00 fine
- \$2021.15 in costs

Voluntary Relinquishments:

Tabs 77 – 80

The respondents in the following cases were not present or represented by counsel.

Ms. Diconcillio represented the department. Ms. Andriole was recused due to participation on the probable cause panel.

After discussion, Ms. Vala moved to accept the Voluntary Relinquishment of licensure for each of the cases. The motion was seconded by Ms. Kelly and carried unanimously.

Tabs 81 - 85

The respondents in the following cases were not present or represented by counsel.

Ms. Diconcillio represented the department.

After discussion, Ms. Kelly moved to accept the Voluntary Relinquishment of licensure for each of the cases. The motion was seconded by Ms. Vala and carried unanimously.

REVIEW OF ESTABLISHMENT APPLICATIONS (cont.)

Tab 39 - Osler Medical Center, Corp. - See Additional information on Friday morning

The applicant was not present or represented by counsel.

Action Taken: After discussion, Ms. Haynes moved to REQUIRE the applicant to appear at the next board meeting. Ms. Kelly seconded the motion, which passed unanimously.

Tab 41 - Skin Deep Spa, Inc.

The applicant was not present or represented by counsel.

Action Taken: After discussion, Ms. Haynes moved to REQUIRE the applicant to appear at the next board meeting. Ms. Kelly seconded the motion, which passed unanimously.

REVIEW OF APPRENTICESHIP APPLICATIONS

Tab 45 - Edward Canhos

The applicant was not present or represented by counsel.

Action Taken: After discussion, Ms. Kelly moved to DENY the apprenticeship applicant based on prior discipline at the facility. Ms. Haynes seconded the motion, which passed unanimously.

REQUEST TO WITHDRAW APPLICATION FOR LICENSURE

Tab 46 - Fitcher Rainwater

The applicant was not present or represented by counsel.

Action Taken: After discussion, Ms. Vala moved to ALLOW the applicant to withdrawal their licensure application. Ms. Kelly seconded the motion, which passed unanimously.

Tab 47 - Shelia Murray

The applicant was not present or represented by counsel.

Action Taken: After discussion, Ms. Kelly moved to ALLOW the applicant to withdrawal their licensure application. Ms. Vala seconded the motion, which passed unanimously.

DISCIPLINARY CASES (cont.)

Informal Hearings (cont.):

The respondent was not present or represented by counsel.

Ms. Diconcillio represented the department and presented the case to the Board. Ms. Andriole was recused due to participation on the probable cause panel. Allegations of Complaint: violating 480.046(1)(kk)

After discussion, Ms. Kelly moved to adopt the findings of fact and conclusions of law as presented. The motion was seconded by Ms. Vala and carried unanimously.

After discussion, Ms. Kelly moved to adopt the materials in the case into the record. The motion was seconded by Ms. Vala and carried unanimously.

Action Taken: After discussion, Ms. Kelly moved to IMPOSE the following penalty:

- Suspension of license until all fines and costs are paid
- \$250 fine
- \$230.68 in costs

Ms. Vala seconded the motion, which passed unanimously.

Adjourned until Friday

FRIDAY, October 26, 2007

REVIEW OF ESTABLISHMENT APPLICATIONS (cont.)

Tab 39 - Osler Medical Center, Corp. (cont.) – Additional Information noted earlier in minutes
The applicant was present with an interpreter but not represented by counsel.

Action Taken: After interviewing the applicant, Ms. Vala moved to GRANT licensure with the following conditions:

- \$100 fine

The motion was seconded by Ms. Kelly and passed unanimously.

RULES WORKSHOP

Tab 87 - Rule Workshop on 64B7-32.003 – Minimum Requirements for Board Approval

Ms. Haynes provided an overview of laws and rules committees concerns about the current rule language. She indicated a need to clarify specific course requirements.

The following individuals provided testimony to the board regarding making changes to this rule:

- Missy Sheldon – Supports updating the rule
- Peggy Smith – Suggests breaking out pathology and business practices
- Dar Makula – Suggests requiring 5-7 hours of laws and rules; requiring medical errors; and changing the term allied modalities to allied studies
- Iris Burman – Suggests requiring a Florida laws and rules examination prior to licensure
- Pat Donahue – Suggests changing allied modalities to allied studies; and allowing distance learning for laws and rules
- Maureen Gilbert – supports updating the rule
- Jody Stork – Suggest requiring medical errors and does not support any type of separate examination for Florida laws and rules

REVIEW OF LICENSURE APPLICATION

Tab 86 - Erin Cummiskey

The applicant was present without counsel. The applicant was asked to appear before the Board to discuss her application. Dr. Pomm was present by telephone and represented PRN. Ms. Renee Alsobrook was present by telephone and represented the Department of Health.

Action Taken: After the Board interviewed the applicant, Ms. Solien-Wolfe moved to grant the license with the following CONDITIONS; based on section 480.045(1)(g), Florida Statutes:

- Prior to licensure, the applicant must complete a PRN evaluation and comply with the requirements of the evaluation.

Ms. Vala seconded the motion, which passed unanimously.

GENERAL BUSINESS / CORRESPONDENCE

Tab 88 - Exam Vendor Update

Ms. King advised the Board that the Department of Health was changing vendors for the Colonic Examination. She noted that the change would not take effect until January, but would only be offered in 5 test sites in Florida.

Tab 90 - Update on NCBTMB Examination Certification

Ms. King advised that the Department had reviewed the examination process and found the format to be statistically sound. She noted that the Department did not review the examination content for meeting the minimum standard for practicing in Florida and that the board would have to make that determination.

Action Taken: After much discussion, Ms. Solien-Wolfe moved to accept the NCETM examination in addition to the NCBTMB examination for licensure. The motion was seconded by Ms. Kelly and carried with Mr. Quiring opposed.

Additional Action Taken: Mr. Biggins noted that this change would have to be adopted into the board's rules. After additional discussion, Ms. Haynes moved to amend rule 64B6-25.001(2) to add the NCETM examination. The motion was seconded by Ms. Vala and carried unanimously.

Tab 91 - Correspondence Re: Licensure in Florida - Informational Only – no action taken.

Tab 92 - Correspondence from Angela Artemik Re: Scope

Ms. Robinson noted that Ms. Artemik was requesting clarification as to whether it was in the scope of practice for a massage therapist to massage body cavities.

Action Taken: The board requested that a letter be sent to Ms. Artemik indicating that it is within the scope of practice for a massage therapist to massage in body cavities if they have been appropriately trained.

Tab 93 - Correspondence from Dar Mikula Re: Scope

Ms. Mikula was present and noted that she was requesting clarification as to whether massage therapist could use class 4 lasers to therapy.

Action Taken: The board requested staff to obtain more information on the types of lasers available and the potential dangers for these lasers.

Tab 94 - Correspondence from Robert Strayer Re: Scope

Ms. Robinson noted that Mr. Strayer was requesting clarification as to whether Pilates and other similar educational modalities were within the scope of massage therapy.

Action Taken: The board requested that a letter be sent to Mr. Strayer indicating that Pilates is not within the scope of massage therapy and that they would need specific information on the other modalities in question in order to appropriately respond to those.

Tab 95 - Correspondence from Karen Ball Re: Continuing Education Exemption

Ms. Robinson reminded the board that this correspondence had been tabled at the last meeting pending the board's decision about whether to continue to grant Ms. Ball's exemption from taking the HIV/AIDS continuing education course.

Action Taken: After discussion, Ms. Haynes moved to no longer exempt Ms. Ball from the HIV/AIDS renewal requirements. The motion was seconded by Ms. Vala and carried unanimously.

Tab 103 - Correspondence from Dianna Fecteau Re: The Feldenkrais Method*

Ms. Robinson advised the board that Ms. Fecteau was requesting clarification as to whether the Feldenkrais Method was considered the practice of massage therapy in Florida.

Action Taken: After much discussion, the board requested that a letter be sent to Ms. Fecteau suggesting that she submit a petition for declaratory statement.

Tab 89 – FSMTB Examination Information

Mr. Quiring noted that the issuance of the FSMTB examination had begun on October 1. He also noted that the examination was being accepted for licensure in Arkansas, Idaho, South Carolina, South Dakota, Texas, Oregon, Tennessee, and Washington. Mr. Quiring also noted that North Carolina, Kentucky, New Mexico, Montana, and New Hampshire were working on getting the legislative changes needed to accept this examination for licensure.

Ms. King noted that Ms. Persinger had advised that the FSMTB had not submitted the examination to the Department for psychometric review, but would be doing so in the near future.

No action taken.

Tab 104 - FSMTB Annual Meeting Update - Lynda Solien-Wolfe

Ms. Solien-Wolfe provided an update of the FSMTB Annual meeting. She specifically noted a change in the bylaws that allowed the board of directors to name the officers and the implementation of a Federation licensure database.

No Tab – National Databanks

Based on Ms. Solien-Wolfe's report, staff requested clarification on how to proceed since the FSMTB had been working with the NCB on a database – but no longer wanted to be part of that process.

Action Taken: After much discussion, it was the consensus of the board for staff to assist only FSMTB with their data base.

Tab 105 - Nominations for the Board Award Recipient

Ms. Solien-Wolfe advised the board that a board award recipient had not been selected for 2007. She nominated the Capitol Clinic for the continued support of the board's efforts to educate the public on massage therapy regulation and benefits. It was the consensus of the board to award the Capitol Clinic with the Board Award.

Tab 106 - Staff Clarification- Completing a Course of Study

Ms. Robinson indicated that staff needed clarification on what the board considered the completion of a course of study.

The consensus of the board was that applicants needed documentation indicating that they had completed the massage therapy course.

Tab 107 -Staff Clarification- Apprenticeship Program

Ms. Robinson indicated that staff needed clarification on allowable payment under an apprenticeship program.

The consensus of the board was:

- Sponsor's can charge for services given by the apprentice.
- Apprentices can not receive payment for massage services provided.
- Apprentices could receive payment for work at the facility outside of training hours.

REPORTS

A. Board Chair Report – Dave Quiring

Tab 96 - History Applicant Report – Informational Only

B. Board Counsel Report – Dan Biggins

Tab 97 - Rules Report

Mr. Biggins provided an update on the status of the board rule changes. He noted the following rules had been updated per the board's request and need to be approved.

- **64B7-25.001** – Ms. Vala moved to approve the rule changes. The motion was seconded by Ms. Kelly and carried unanimously.
- **64B7-25.004** - Ms. Kelly moved to approve the rule changes. The motion was seconded by Ms. Vala and carried unanimously
- **64B7-26.002** - Ms. Kelly moved to approve the rule changes. The motion was seconded by Ms. Vala and carried unanimously

Mr. Biggins noted that the board had a rule workshop on rule 32.003 and that language would be brought back at the next meeting of the board.

A. Board Chair Report – Dave Quiring (cont.)

Mr. Quiring advised the board that Ms. Solien-Wolfe had been selected to be on the FSMTB's media committee.

C. Executive Director's Report – Pamela King – No report

D. Community Relations Liaison Report– Lynda Solien-Wolfe

Tab 108 - Communication Plan

Ms. Solien-Wolfe noted that the communication plan update was in the addendum. She highlighted the presentation done by her and board staff at the Capitol Clinic for Massage Therapy Awareness week; the Department of Health press release; and the upcoming Florida Chiropractic Association meeting.

E. Continuing Education Liaison Report – Lynda Solien-Wolfe

Tab 98 - October 2007 Approved Provider & Course List – Information Only

F. School Liaison Report – Jacqueline Kelly

Tab 99 - October 2007 Approved School & Changes List – Information Only

G. Legislative Liaison Report – Dave Quiring – No report

H. Probable Cause Panel Report – Irene Andriole – No report

I. Budget Liaison Report – Dave Quiring

Tab 100 - Massage Therapy Budget Information – Informational Only

J. Modality Liaison Report – Andrea Vala

Tab 109 - Issued Referred to the Modality Liaison

Ms. Vala provided an overview of the issues she had assisted staff with since the last meeting. There was much discussion as to whether facials are within the scope of massage therapy or not. It was the consensus of the board that massage therapists can do facial massages.

Mr. Quiring left the meeting during the discussion of the regulation of facials; Ms. Solien-Wolfe chaired the remainder of the meeting.

NEW BUSINESS

Ms. Makula noted that the January meeting of the board was scheduled during the same time as the Council of Schools meeting.

After much discussion, it was the consensus of the board to try and reschedule the board meeting for January 17 & 18 if that date was acceptable for Mr. Quiring and Ms. Andriole.

It was also clarified that if for some reason January 17 & 18 would not work, staff should revert back to the original meeting date.

Adjournment – There being no further business of the board the meeting was adjourned at 12:50 p.m.