

DEPARTMENT OF HEALTH
DIVISION OF MEDICAL QUALITY ASSURANCE
BOARD OF MASSAGE THERAPY

DRAFT
MINUTES
GENERAL BUSINESS MEETING
July 28-29, 2011

Hyatt Regency Jacksonville Riverfront
225 Coast Line Drive East
Jacksonville, FL 32202
(904) 588-1234

CALL TO ORDER

1 The meeting was called to order by Ms. Karen Ford, LMT, Chair, approximately 9:05 a.m. Those present
2 for all or part of the meeting included the following:

MEMBERS PRESENT:

Karen Ford, LMT, Chair
Bridget Burke-Wammack, LMT, V-Chair
Lydia Nixon, LMT
Robert Smallwood, LMT
Lisa Oliver, Consumer Member

STAFF PRESENT:

Anthony Jusevitch, Executive Director
Paula Mask, Program Operations Administrator

COURT REPORTER:

Statewide Reporting Services
Office: 904.353.7706

MEMBER ABSENT:

William Stoehs, Consumer Member (Excused)

BOARD COUNSEL:

Lee Ann Gustafson, Esquire

DEPARTMENT PROSECUTING ATTORNEYS:

Sam DiConcilio, Esquire
Manshi Shah, Esquire

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

5 *** Items with an asterisk are untimed items and may be taken up on either day of the meeting.**

6 **THURSDAY, July 28, 2011**

7 ***(Out of Order)***

8 **Tab 63 Legislative Liaison Report – Karen Ford (Addendum; New Item)**

9 **Proposed 2012 Legislation**

- 10 i. Colon Hydrotherapy changes in sections 480.033(3) & (6); 480.041(4)(6),
11 480.044, and 480.046, F.S.
12 ii. Section 480.033(10), (11), & (12) F.S.
13 iii. Section 480.041(1) & (2) F.S.
14 iv. Section 480.042(5) F.S.
15 v. Section 480.043(7)(b) F.S.

Action Taken: After discussion, Ms. Burke-Wammack made a motion to withdraw Chapter 480, F.S., proposed legislative amendments. Mr. Smallwood seconded the motion which carried 5/0.

1 **DISCIPLINARY PROCEEDINGS**

2 **Settlement Agreements**

3 Settlement agreement cases, tabs 3, 8, 9, 11, 12 13, 14, 15, 16, 17, 18, 19, 21 and 24 listed below, were
4 voted on en masse.

5 The respondents were not present nor represented by counsel unless noted under the appropriate tab.
6 Ms. DiConcilio and Ms. Shah represented the Department and presented the cases to the Board,
7 clarifying actual costs in each of the cases.

8 **Tab 3 GINA M. CHIANGI, LMT CASE # 2010-12552 PCP: Harrison & Stoehs**

- 9
 - Reprimand
 - 10 • Pay \$ 500 fine within 180 days of the filed final order
 - 11 • Pay \$ 426.42 costs within 180 days of the filed final order

12 **Tab 8 HOLLIE ROUSH, LMT CASE # 2010-18059 PCP: Harrison & Stoehs**

- 13
 - Reprimand
 - 14 • Pay \$300 fine within 90 days of the filed final order
 - 15 • Pay \$789.03 costs within 90 days of the filed final order

16 **Tab 9 PATRICIA A. COFFMAN, LMT CASE # 2010-11402 PCP: Harrison & Stoehs**

- 17
 - Reprimand
 - 18 • Pay \$700 fine within 90 days of the filed final order
 - 19 • Pay \$957.52 costs within 90 days of the filed final order

20 **Tab 11 CINDIA, INC., D/B/A THE MESSAGE SPA CASE # 2010-14897 PCP: Harrison & Stoehs**
21 **(Addendum; Additional Information)**

- 22
 - Reprimand
 - 23 • Pay \$1,250 fine within 90 days of the filed final order
 - 24 • Pay \$1,159.66 costs within 90 days of the filed final order

25 **Tab 12 SHEAR DIMENSIONS 175, INC. CASE # 2010-12988 PCP: Harrison & Stoehs**

- 26
 - Reprimand
 - 27 • Pay \$300 fine within 30 days of the filed final order
 - 28 • Pay \$1,333.16 costs within 30 days of the filed final order

29 **Tab 13 SANDRA A. OWENS, LMT CASE # 2010-09099 PCP: Harrison & Haynes**

- 30
 - Reprimand
 - 31 • Pay \$300 fine within 90 days of the filed final order
 - 32 • Pay \$405.27 costs within 90 days of the filed final order

33 **Tab 14 THE COMFORT ZONE, A HAND & FOOT SPA CASE # 2010-16926 PCP: Harrison & Stoehs**

- 34
 - Reprimand
 - 35 • Pay \$150 fine within 365 days of the filed final order
 - 36 • Pay \$947.94 costs within 365 days of the filed final order

37 **Tab 15 DAVID M. PACKOUZ, LMT CASE # 2008-22241 PCP: Harrison & Stoehs**

- 38
 - Letter of Concern
 - 39 • Pay \$500 fine within 730 days (2 years) of the filed final order
 - 40 • Pay \$947.94 costs within 730 days (2 years) of the filed final order

1 **Tab 16 GONZALO A. OGLIASTRI, LMT** **CASE # 2010-11587** **PCP: Harrison & Stoehs**

- 2 • Reprimand
- 3 • Pay \$100 fine within 90 days of the filed final order
- 4 • Pay \$930.39 costs within 90 days of the filed final order

5 **Tab 17 WAYNE A. MCKAY, LMT** **CASE # 2010-12840** **PCP: Harrison & Stoehs**

- 6 • Letter of Concern
- 7 • Pay \$250 fine within 365 days of the filed final order
- 8 • Pay \$649.18 costs within 365 days of the filed final order

9 **Tab 18 ALAN C. DURHAM, LMT** **CASE # 2010-17029** **PCP: Harrison & Stoehs**

- 10 • Reprimand
- 11 • Pay \$450 fine within 90 days of the filed final order
- 12 • Pay \$826.24 costs within 90 days of the filed final order

13 **Tab 19 CARLOS R. NAVARRO, LM** **CASE # 2010-03995** **PCP: Harrison & Stoehs**

- 14 • Reprimand
- 15 • Pay \$150 fine within 365 days of the filed final order
- 16 • Pay \$973.09 costs within 365 days of the filed final order

17 **Tab 21 CELIA DAYAMI SORI MIER, L.M.T.** **CASE # 2009-03036** **PCP: Harrison & Haynes**

- 18 • Reprimand
- 19 • Pay \$1,250 fine within 90 days of the filed final order
- 20 • Pay \$1,306.96 costs within 90 days of the filed final order
- 21 • Probation – 1 year – Indirect Supervision of a board –approved monitor and standard
- 22 monitor provisions

23 **Tab 24 MARCIA N. IDELL, LMT** **CASE # 2010-18524** **PCP: Harrison & Stoehs**

- 24 • Reprimand / Suspension until pays \$250 fine and \$122 costs in DOH Citation Final
- 25 Order in case number 2008-04422
- 26 • Pay \$250 fine within 180 days of the filed final order
- 27 • Pay \$332.97 costs within 180 days of the filed final order

28 **Action Taken:** Mr. Smallwood moved to accept the Settlement Agreements as presented for the above

29 listed tabs. Ms. Nixon seconded the motion, which passed 5/0.

30 **Tab 1 SUN C. PAE, LMT** **CASE # 2010-10753** **PCP: Harrison & Stoehs**

31 Respondent was present without counsel. Her attorney of record is Bryan C. Hugo, Esq. An interpreter,

32 Mr. Sung Moon, was present to assist the respondent. Respondent and interpreter were sworn in by the

33 court reporter. Ms. Shah represented the department.

34 The department filed an administrative complaint alleging a violation of section 480.046(1)(c), F.S. Ms.

35 DiConcilio presented the recommended settlement agreement:

- 36 • Reprimand
- 37 • Pay \$1,000 fine within 180 days of the filed final order
- 38 • Pay \$2,206 costs within 180 days of the filed final order
- 39 • Probation – 2 years – Indirect Supervision of a board approved monitor
 - 40 ○ Monitor appear at first meeting following commencement of the probation
 - 41 ○ Respondent appear at meeting where agreement is considered

42 **Action Taken:** Ms. Burke-Wammack moved to accept the Settlement Agreement as presented and **to**

43 **include:** 1) monthly reports by the respondent and monitor, and 2) the board chair approve the monitor.

44 Ms. Oliver seconded the motion, which passed 3/2 with Ms. Nixon and Mr. Smallwood opposing the

45 motion.

1 **Tab 6 XUE YAN ZHOU, LMT** **CASE # 2009-21336** **PCP: Harrison & Stoehs**

2 Respondent was present with counsel, Murray B. Silverstein, Esq. Respondent was also accompanied by
3 Xue Mei Wang, a court interpreter. Respondent and interpreter were sworn in by the court reporter. Ms.
4 DiConcilio represented the department.

5 The department filed an administrative complaint alleging a violation of section 480.046(1)(c), F.S. Ms.
6 DiConcilio presented the recommended settlement agreement:

- 7 • Reprimand
- 8 • Pay \$1,000 fine within 180 days of the filed final order
- 9 • Pay \$1,659.10 costs within 180 days of the filed final order
- 10 • Probation – 1 year – Indirect Supervision of a board approved monitor
- 11 ○ Monitor appear at first meeting following commencement of the probation

12 **Action Taken:** Mr. Smallwood moved to accept the Settlement Agreement as presented and **to include:**
13 1) monthly reports by the respondent and monitor, and 2) the board chair approve the monitor. Ms.
14 Burke-Wammack seconded the motion, which passed 5/0.

15 **Tab 7 LI CHENG, LMT** **CASE # 2009-21338** **PCP: Harrison & Stoehs**

16 Respondent was present with counsel, Murray B. Silverstein, Esq. Respondent was also accompanied by
17 Xue Mei Wang, a court interpreter. Respondent and interpreter were sworn in by the court reporter. Ms.
18 DiConcilio represented the department.

19 The department filed an administrative complaint alleging a violation of section 480.046(1)(c), F.S. Ms.
20 DiConcilio presented the recommended settlement agreement:

- 21 • Reprimand
- 22 • Pay \$1,000 fine within 180 days of the filed final order
- 23 • Pay \$1,644.88 costs within 180 days of the filed final order
- 24 • Probation – 2 years – Indirect Supervision of a board approved monitor
- 25 ○ Monitor appear at first meeting following commencement of the probation
- 26 ○ Respondent appear at meeting where agreement is considered

27 **Action Taken:** Ms. Burke-Wammack moved to accept the Settlement Agreement as presented and **to**
28 **include:** 1) monthly reports by the respondent and monitor, and 2) the board chair approve the monitor.
29 Mr. Smallwood seconded the motion, which passed 5/0.

30 **Tab 10 JOHN P. CAMPANELLI, LMT** **CASE # 2010-18385** **PCP: Harrison & Stoehs**

31 Respondent was present without counsel. Respondent was sworn in by the court reporter. Ms. DiConcilio
32 represented the department.

33 The department filed an administrative complaint alleging a violation of sections 480.046(1)(n),
34 480.046(1)(o), and 480.047(1)(b), F.S. Ms. DiConcilio presented the recommended settlement
35 agreement:

- 36 • Reprimand
- 37 • Pay \$500 fine within 90 days of the filed final order
- 38 • Pay \$701.54 costs within 90 days of the filed final order

39 **Action Taken:** Ms. Burke-Wammack moved to accept the Settlement Agreement with **amendment** to
40 pay fine and costs within 365 days (1 year). Ms. Ford seconded the motion, which passed 5/0.

1 **Tab 2 IDA EZMERALDA MARI, LMT** **CASE # 2008-04909** **PCP: Harrison & Haynes**

2 Respondent was not present nor represented by counsel. Ms. Shah represented the department.

3 The department filed an administrative complaint alleging a violation of sections 480.046(1)(o),
4 456.065(2)(d)3., 480.047(1)(b), 480.043(1), and 480.047(1)(c), F.S. Ms. Shah presented the
5 recommended settlement agreement:

- 6 • Dismiss Counts II and III in the administrative complaint
- 7 • Reprimand
- 8 • Pay \$ 100 fine within 365 days of the filed final order
- 9 • Pay \$ 741.10 costs within 365 days of the filed final order

10 **Action taken:** Mr. Smallwood moved to accept the Settlement Agreement. Ms. Ford seconded the
11 motion, which passed 5/0.

12
13 **Tab 4 JANICE PIPGRASS, LMT** **CASE # 2010-18811** **PCP: Harrison & Stoehs**

14 Respondent was not present nor represented by counsel. Ms. Shah represented the department.

15 The department filed an administrative complaint alleging a violation of sections 480.046(1)(o) and
16 456.072(1)(q), F.S. Ms. Shah presented the recommended settlement agreement:

- 17 • Reprimand/Suspension until complies with Citation Final Order entered in DOH Case
18 # 2010-09092 – completes continuing education; pays \$250 fine and \$122 costs
- 19 • Pay \$ 250 fine within 365 days of the filed final order
- 20 • Pay \$ 344.47 costs within 365 days of the filed final order

21 **Action Taken:** Mr. Smallwood moved to accept the Settlement Agreement as presented. Ms. Ford
22 seconded the motion, which passed 5/0.

23
24 **(Break)**

25 **Tab 23 WORLD THERAPY, LLC, A/K/A NATURAL THERAPY** **CASE # 2009-21332**
26 **PCP: Harrison & Stoehs**

27 Respondent was present without counsel. An interpreter, Mr. Chang Quing Wei, was present to assist the
28 respondent. Respondent and interpreter were sworn in by the court reporter. Ms. DiConcilio represented
29 the department.

30 The department filed an administrative complaint alleging a violation of sections 480.046(1)(o), and
31 480.0485, F.S., and rule 64B7-26.010(1), (2), (3) and (4), F.A.C. Ms. DiConcilio presented the
32 recommended settlement agreement:

- 33 • Reprimand
- 34 • Pay \$3,500 fine within 30 days of the filed final order
- 35 • Pay \$1,546.53 costs within 30 days of the filed final order
- 36 • 2 years probation
 - 37 ○ DOH make 8 unannounced inspections, once each quarter and pay \$100 for
38 each quarterly probation inspection

39 **Action Taken:** Mr. Smallwood moved to accept the Settlement Agreement as presented. Ms. Oliver
40 seconded the motion, which passed 5/0.

41 **Tab 5 PAMELA M. LAURIA, LMT** **CASE # 2010-16918** **PCP: Harrison & Stoehs**
42 **WITHDRAWN**

1 **Tab 20 SOUTHSIDE SPA AND TAN, LLC CASE # 2010-16858 PCP: Harrison & Stoehs**

2 Respondent was not present nor represented by counsel. Ms. DiConcilio represented the department.

3 The department filed an administrative complaint alleging a violation of sections 480.046(1)(o), F.S., and
4 rule 64B7-26.010(1), (2), (3) & (4), F.A.C. Ms. DiConcilio presented the recommended settlement
5 agreement:

- 6 • Reprimand
- 7 • Pay \$1,250 fine within 90 days of the filed final order
- 8 • Pay \$1,246.24 costs within 90 days of the filed final order
- 9 • Probation – 1 year
- 10 ○ DOH make 4 unannounced inspections, once each quarter and pay \$100 for
- 11 each quarterly probation inspection

12 **Action Taken:** Ms. Ford moved to reject the Settlement Agreement as presented. Ms. Burke-Wammack
13 seconded the motion, which passed 5/0.

14 There was no counter-offer by the board. Ms. DiConcilio withdrew the case and will proceed with
15 appropriate administrative proceedings.

16 **Tab 22 CAROL JEAN DUGAY-VANADOE, LMT CASE # 2010-18507 PCP: Harrison & Stoehs**

17 Respondent was not present nor represented by counsel. Ms. DiConcilio represented the department.

18 The department filed an administrative complaint alleging a violation of section 480.046(1)(k), F.S. Ms.
19 DiConcilio presented the recommended settlement agreement:

- 20 • Reprimand / Suspension until pays \$250 fine and \$346.23 costs in DOH case
- 21 number 2008-20739
- 22 • Pay \$250 fine within 90 days of the filed final order
- 23 • Pay \$231.08 costs within 90 days of the filed final order

24 **Action Taken:** Ms. Burke-Wammack moved to accept the Settlement Agreement as presented. Mr.
25 Smallwood seconded the motion, which passed 5/0.

26 The board office will contact the respondent regarding her letter on page 1824 of the agenda concerning
27 renewal and an extension to comply with the continuing education requirements.

28 *(Out of order)*

29 **Informal Hearings**

30 **Tab 42 TANYA B. BOUFFARD, LMT CASE # 2010-05695 PCP: Harrison & Stoehs**

31 Respondent was present without counsel, and was sworn in by the court reporter. Ms. DiConcilio
32 represented the Department and presented the case to the Board.

33 The Department filed an administrative complaint alleging a violation of sections 480.046(1)(o) and
34 456.072(1)(h), F.S.

35 Mr. Smallwood moved to adopt the material facts as alleged in the Administrative Complaint are not in
36 dispute and to adopt the allegations of fact in the administrative complaint as the Board's conclusions of
37 fact in this proceeding. Ms. Ford seconded the motion which carried 5/0.

1 Respondent addressed the Board and gave an account of the events surrounding the material facts of the
2 complaint.

3 After a five minute break, Ms. DiConcilio advised the board that following discussion with Ms. Bouffard,
4 she did not plan to practice massage therapy in the future and would agree to voluntarily relinquish her
5 license.

6 Ms. Bouffard agreed under oath that each party will bear their own costs and fees concerning this
7 disciplinary matter; it does not preclude her from applying for licensure in the future; and she waives any
8 right to the District Court of Appeal.

9 **Action Taken:** Ms. Ford moved to accept the voluntary relinquishment of her license. Ms. Burke-
10 Wammack seconded the motion which carried 5/0.

11 **Voluntary Relinquishments**

12 Voluntary Relinquishment cases, tabs 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, and 36 listed below, were
13 voted on en masse.

14 Respondents were not present nor represented by counsel. Ms. DiConcilio and Ms. Shah represented the
15 Department.

16	Tab 25 DUSTIE L. GRAHAM, LMT	CASE # 2010-09084	PCP: Harrison & Stoehs
17	Tab 26 ROYAL THERAPY CENTER, INC.	CASE # 2011-03354	PCP: Waived
18	Tab 27 COURTNEY S. BRADEN, LMT	CASE # 2010-09083	PCP: Harrison & Stoehs
19	Tab 29 DRAGON'S DEN DAY SPA, INC.	CASE # 2010-10759	PCP: Harrison & Stoehs
20	Tab 30 ASAHI ORIENT	CASE # 2010-16772	PCP: Harrison & Stoehs
21	Tab 31 GARY ELLWYN FOSTER, LMT	CASE # 2008-14258	PCP: Harrison & Haynes
22	Tab 32 JAMES R. WINTERS, LMT	CASE # 2010-01936	PCP: Harrison & Stoehs
23	Tab 33 GULF COAST THERAPY &	CASE # 2011-03454	PCP: Waived
24	REHABILITATION CENTER, INC.		
25	Tab 34 DAVID MUNOZ, LMT	CASE #s 2011-02468 & 2010-18169	PCP: Harrison & Stoehs
26	Tab 35 PAULINA BUCAR, LMT	CASE # 2010-07590	PCP: Harrison & Stoehs
27	Tab 36 T and A DIAGNOSTIC CENTER, INC.	CASE # 2007-23627	PCP: Waived

28 **Action Taken:** Mr. Smallwood moved to accept the voluntary relinquishment of licensure for tabs 25, 26,
29 27, 29, 30, 31, 32, 33, 34, 35, and 36. Ms. Burke-Wammack seconded the motion which passed 5/0.

30 **Tab 28 SHIN-INN THERAPY** **CASE # 2007-23533** **PCP: Harrison & Stoehs**

31 Respondent was not present nor represented by counsel. Ms. Shah represented the Department.

32 **Action Taken:** After discussion, Mr. Smallwood moved to accept the voluntary relinquishment. Ms.
33 Burke-Wammack seconded the motion which passed 5/0.

34	Tab 37 CAROL ST. JAMES, LMT	CASE # 2009-15523	PCP: Smallwood & Stoehs
35		CASE # 2010-18629	PCP: Harrison & Stoehs

36 Respondent was not present nor represented by counsel. Ms. DiConcilio represented the Department.
37 Mr. Smallwood was recused due to participation on the probable cause panel.

38 **Action Taken:** Ms. Burke-Wammack moved to accept the voluntary relinquishment. Ms. Oliver seconded
39 the motion which passed 4/0.

1 **Determination of Waiver**

2 **Tab 38 WEI YONG XU, LMT** **CASE # 2010-03897** **PCP: Harrison & Stoehs**

3 Respondent was not present nor represented by counsel. Ms. Shah represented the department and
4 presented the case to the Board and advised the respondent had waived the right to a formal hearing.

5 The department filed an administrative complaint alleging a violation of section 480.046(1)(n), F.S.

6 Mr. Smallwood moved to find that the respondent was properly served and waived their rights to a
7 hearing as to the material issues of fact by not filing a response. Ms. Nixon seconded the motion which
8 carried 5/0.

9 Mr. Smallwood moved to adopt the material facts as alleged in the administrative complaint are not in
10 dispute and to adopt the allegations of fact in the administrative complaint as the Board's conclusions of
11 fact in this proceeding. Ms. Nixon seconded the motion which carried 5/0.

12 Ms. Ford moved to adopt the allegations of law in the administrative complaint as the Board's conclusions
13 of law in this proceeding. Ms. Burke-Wammack seconded the motion which carried 5/0.

14 Mr. Smallwood moved to adopt the materials and any addendum materials into evidence in this
15 proceeding. Ms. Nixon seconded the motion which carried 5/0.

16 **Action Taken:** After discussion Mr. Smallwood moved to IMPOSE the following penalty:

- 17 • Reprimand
- 18 • Pay \$100 fine within 180 days of the filed final order

19 Ms. Nixon seconded the motion, which passed 5/0.

20 **Action Taken:** Ms. Ford moved to IMPOSE the following penalty:

- 21 • Pay \$1,063.78 costs within 180 days of the filed final order

22 Mr. Smallwood seconded the motion, which passed 5/0.

23 **Tab 39 ROMY CODADA, LMT** **CASE # 2010-10487** **PCP: Harrison & Stoehs**

24 Respondent was not present, nor represented by counsel. Ms. DiConcilio represented the department
25 and presented the case to the Board and advised the respondent had waived the right to a formal
26 hearing.

27 The department filed an administrative complaint alleging a violation of section 480.046(1)(k), F.S.

28 Ms. Oliver moved to find that the respondent was properly served and waived their rights to a hearing as
29 to the material issues of fact by not filing a response. Ms. Burke-Wammack seconded the motion which
30 carried 5/0.

31 Ms. Oliver moved to adopt the material facts as alleged in the administrative complaint are not in dispute
32 and to adopt the allegations of fact and law in the administrative complaint as the Board's conclusions of
33 fact and law in this proceeding; and to adopt the materials and any addendum materials into evidence in
34 this proceeding. Ms. Nixon seconded the motion which carried 5/0.

35 **Action Taken:** After discussion Ms. Nixon moved to IMPOSE the following penalty:

- 36 • Suspension
- 37 • Pay \$250 fine within 30 days of the filed final order
- 38 • Pay \$803.39 costs within 30 days of the filed final order

1 Ms. Burke-Wammack seconded the motion. Additional discussion was held. Motion died.

2 **Action Taken:** Ms. Ford made a motion to suspend Respondent's license until all fines and costs are
3 paid in case # 2008-13540 and this case. Ms. Burke-Wammack seconded the motion which carried 5/0.

4 **Tab 40 SHONTAVIA V. CURRY, LMT CASE # 2009-20813 PCP: Smallwood & Stoehs**

5 Respondent was not present nor represented by counsel. Ms. DiConcilio represented the department and
6 presented the case to the Board and advised the respondent had waived the right to a formal hearing. Mr.
7 Smallwood was recused due to participation on the probable cause panel.

8 The department filed an administrative complaint alleging a violation of section 480.046(1)(n), 480.0485,
9 480.046(1)(o), 480.046(1)(d), 456.065(2)(d)3., and 480.046(1)(i), F.S., and rule 64B7-26.010(1), (2), (3)
10 and (4), F.A.C.

11 Ms. Burke-Wammack moved to find that the respondent was properly served and waived their rights to a
12 hearing as to the material issues of fact by not filing a response. Ms. Nixon seconded the motion which
13 carried 4/0.

14 Ms. Ford moved to adopt the material facts as alleged in the administrative complaint are not in dispute
15 and to adopt the allegations of fact and law in the administrative complaint as the Board's conclusions of
16 fact and law in this proceeding; and to adopt the materials and any addendum materials into evidence in
17 this proceeding. Ms. Burke-Wammack seconded the motion which carried 4/0.

18 **Action Taken:** After discussion Ms. Ford moved to IMPOSE the following penalty:

- 19 • Reprimand, Revocation based on having practiced on a delinquent license and
20 failure to respond to the administrative complaint
- 21 • Pay \$4,450 fine within 30 days of the filed final order
- 22 • Pay \$2,274.24 costs within 30 days of the filed final order

23 Ms. Nixon seconded the motion, which passed 4/0.

24 **Tab 41 HOWELL ROLAND, JR., LMT CASE # 2010-10490 PCP: Harrison & Stoehs**

25 Respondent was not present nor represented by counsel. Ms. DiConcilio represented the department and
26 presented the case to the Board and advised the respondent had waived the right to a formal hearing.

27 The department filed an administrative complaint alleging a violation of section 480.046(1)(k), F.S.

28 Ms. Burke-Wammack moved to find that the respondent was properly served and waived their rights to a
29 hearing as to the material issues of fact by not filing a response. Mr. Smallwood seconded the motion
30 which carried 5/0.

31 Ms. Burke-Wammack moved to adopt the material facts as alleged in the administrative complaint are not
32 in dispute and to adopt the allegations of fact and law in the administrative complaint as the Board's
33 conclusions of fact and law in this proceeding; and to adopt the materials and any addendum materials
34 into evidence in this proceeding. Ms. Oliver seconded the motion which carried 5/0.

35 **Action Taken:** After discussion Ms. Burke-Wammack moved to IMPOSE the following penalty:

- 36 • Revocation based on length of time since he violated the final order, payment was
37 due February 25, 2010; failure to respond to the administrative complaint; and license
38 is delinquent and will go null and void on 8/31/11.
- 39 • Pay \$250 fine within 30 days of the filed final order
- 40 • Pay \$898.76 costs within 30 days of the filed final order

1 Mr. Smallwood seconded the motion, which passed 5/0.

2 **Tab 44 HEALTHY ALTERNATIVES DAY SPA & WELLNESS CENTER CASE # 2010-07914**
3 **WITHDRAWN PCP: Harrison & Stoehs**

4 **PROSECUTOR'S REPORT**

5 **Tab 84 Year Old Case Report as of June 27, 2011 (Addendum; New Item)**

6 Ms. DiConcilio reported the following information on the Year Old Case Report as of June 27, 2011:

7 <u>Year</u>	<u># of Cases</u>
8 2007	8
9 2008	15
10 2009	21
11 2010	48

12 ***REVIEW AND APPROVAL OF MINUTES**

13 **Tab 58 April 21-22, 2011, General Business Meeting**

14 **Action Taken:** Mr. Smallwood made a motion to approve the minutes with the following correction:

- 15
 - Page 10, line 37 - Ms. Burke-Wammack noted the fine had been paid.

16 Ms. Burke-Wammack seconded the motion which passed 5/0.

17 **Tab 2 May 23, 2011, Rules Discussion Conference Call**

18 **Action Taken:** Mr. Smallwood made a motion to approve the minutes and Ms. Oliver seconded the
19 motion which carried 5/0.

20 *For the record, Ms. Burke-Wammack wanted the minutes to reflect under the legislative proposal for
21 section 480.043 that she did not agree with removing language regarding inspection.

22 **Tab 3 June 13, 2011, General Business Conference Call**

23 Ms. Oliver made a motion to approve the minutes with the following corrections:

- 24
 - Page 4, line 10 - correct "provider" to "provided"
 - 25 • Page 4, line 17 – correct vote to 4/1 with Ms. Ford opposing the motion.

26 Ms. Ford seconded the motion which carried unanimously 5/0.

27 **Tab 89 July 11, 2011, General Business Meeting Conference Call (Addendum; New Item)**

28 Ms. Burke-Wammack made a motion to approve the minutes and Mr. Smallwood seconded the motion
29 which carried unanimously 5/0.

30 *(The board recessed for lunch and reconvened approximately 1:50 p.m.)*

1 ***REPORTS**

2 **Tab 61 Board Chair Report – Karen Ford**

3 Ms. Ford commented with a favorable report regarding the FSMTA convention and the Education
4 Summit.

5 Suggestions were made by Mr. Smallwood and Ms. Burke-Wammack for next year's convention to take a
6 laptop to the meeting to better assist attendees with information and perhaps a banner.

7 **Tab 62 Public Relations Liaison Report - Karen Ford**

8 Ms. Ford advised she had recently conducted a laws and rules continuing education course in her area
9 which met with a favorable response. She encouraged other board members to do the same in their
10 areas.

11 **Tab 64 Vice Chair Report – Bridget K. Burke-Wammack**

12 No report.

13 **Tab 65 Rules Liaison Report – Bridget Burke-Wammack**

14 Ms. Burke-Wammack there would be a rules workshop on rules at the October meeting. Mr. Jusevitch
15 clarified only rules where the board needs public comment will be addressed at the rules workshop
16 meeting on October 19, 2011.

17 Ms. Burke-Wammack suggested since the board will not move forward with Chapter 480, F.S.,
18 amendments, that members will need to amend their rules that followed the amendments for Chapter
19 480, F.S., and resubmit their rules.

20 **Board Counsel's Report – Lee Ann Gustafson**

21 **Tab 66 Rules 64B7-29.001; 64B7-29.002; 64B7-29.005; and 64B7-29.007, F.A.C.**

22 Ms. Gustafson advised the citation on the rulemaking authority and law implemented was incorrect and
23 should have referenced section 480.041(5)(b) instead of (4)(b). A request for technical changes was sent
24 to JAPC.

25 **Tab 67 Rules 64B7-27.014 and 64B7-27.015, F.A.C.**

26 **Rule 64B7-27.014** - Ms. Gustafson advised the citation on the rulemaking authority and law implement
27 was incorrect and should have referenced section 456.025(10) instead of section 456.027(7), F.S. A
28 request for technical change was sent to JAPC.

29 **Rule 64B7-27.015** - Rule 64B7-27.006, effective September 19, 2010, reduced the biennial renewal fee
30 from \$150 to \$100. Section 456.036(7), F.S., states the delinquency fee shall not exceed the biennial
31 renewal fee. The delinquency fee is \$150 and should be reduced to \$100.

32 **Action Taken:** Ms. Burke-Wammack moved to reduce the delinquent fee to \$100. Ms. Oliver seconded
33 the motion which carried 5/0.

34 Mr. Smallwood requested Ms. Gustafson to furnish the board with the list of rules approved by OFARR.
35 Ms. Gustafson stated she will have the list of rules ready for the October meeting.

1 **Executive Director's Report – Anthony Jusevitch**

2 **Tab 68 Ratification of Licensure - Massage Therapists** 3/22/2011 – 6/28/2011

3 **Action taken:** Mr. Smallwood moved to ratify the approved massage therapist licensure list. Ms. Burke-
4 Wammack seconded the motion which carried unanimously 5/0.

5 Mr. Smallwood requested to add an “apprentice” column and also to add “endorsement”. Mr. Jusevitch
6 will request revisions for the ratification report.

7 Mr. Jusevitch advised a pilot project has been implemented for massage therapy establishments applying
8 for licensure in the North Florida region. The day the office receives the application and before application
9 is reviewed, staff flags the establishment for inspection. This should shorten the timeframe for licensure.

10 **Tab 90 Exam Candidates from Other States (Addendum; New Item)**

11 Mr. Jusevitch had sent an email to the board members regarding the Transfer of Credit Form (TOC) and
12 possible elimination of the form.

13 Excerpts from his email:

- 14 1. Every state requires at least 500 hours of massage education
- 15 2. There has never been a study of any kind, indicating the appropriate number of hours, or the
16 appropriate classes that should be offered in a massage program
- 17 3. Does the Board have the authority to grant delegation to Florida approved programs to determine
18 the appropriate education?
- 19 4. Currently we rely on the author of the TOC to make sure the program from another state is
20 approved by the massage authority in that state. Eliminating the TOC would require Board staff to
21 verify the authenticity of the massage program.
- 22 5. If the exam is the test to prove “minimum competency to practice massage” then why would the
23 transcripts need to be reviewed if they passed one of the approved exams other than to
24 determine they graduated from a program approved by the appropriate entity in their state?
- 25 6. Could there be a conflict of interest with a Florida approved program reviewing a program from
26 another state to determine if the applicant needs to take any additional education?
- 27 7. The overwhelming majority of missing educational requirements for an applicant who is applying
28 by exam and has graduated from a program in another state is the HIV/AIDS, Laws and Rules,
29 and Medical Errors courses. Now that these are available online is it in the best interest of the
30 applicant to route them through a Board approved program?

31 Ms. Gustafson referred the board to section 480.033(9), F.S., and rules 64B7-32.003, F.A.C. She further
32 recommended repeal of rule 64B7-32.004, F.A.C. Additionally, Mr. Jusevitch referred the board to the
33 Commission on Independent Education rule 6E-1.032(f), F.A.C.

34 **Action taken:** Mr. Smallwood made a motion to repeal rule 64B7-32.004, F.A.C. Motion was seconded
35 by Ms. Burke-Wammack and carried 5/0.

36 The board **tabled** further discussion of this matter to Friday’s agenda.

37 **Continuing Education Liaison Report – Bob Smallwood**

38 **Tab 69 Approved CE Providers** 3/22/2011 – 6/28/2011

39 **Action taken:** Ms. Burke-Wammack moved to ratify the continuing education providers and instructors.
40 Ms. Oliver seconded the motion which carried 5/0.

1 **Tab 70 Approved Pro Bono Requests 3/22/2011 – 6/28/2011**

2 **Action Taken:** Motion made and seconded to ratify the pro bono requests which carried 5/0.

3 **School Liaison Report - Bob Smallwood**

4 **Tab 71 Approved Schools 4/01/2011 – 6/29/2011**

5 **Action Taken:** Ms. Ford made a motion to ratify the list of approved schools as presented. Ms. Oliver
6 seconded the motion which carried 5/0.

7 **Budget Liaison Report – Lisa Oliver**

8 **Tab 72 Board of Massage Therapy Cash Balance Report for 9 months ending March 31, 2011**

9 Ms. Oliver presented the Cash Balance Report for 9 months ending March 31, 2011.

10 **Tab 73 Colon Hydrotherapy Liaison Report -**

11 No report.

12 **Tab 74 Probable Cause Panel Report – William Stoehs**

13 Ms. Mask read Mr. Stoehs' report into the record due to his absence.

14 **May 5** an Emergency PCP found Probable Cause in four (4) cases and Reasonable Cause subpoena in
15 one (1) case.

16 **June 23** an Emergency PCP found Probable Cause in one (1) case and Letter of Guidance in (1) case.

17 **July 7** the Probable Cause Panel considered six (6) Reconsideration cases; 44 Administrative
18 Complaints; 19 Closing Orders; and seven (7) letters of guidance.

19 **Tab 75 Unlicensed Activity Report – Lydia Nixon**

20 No report.

21 *(The board recessed approximately 3:40 p.m.)*

FRIDAY, July 29, 2011

1 The meeting was called to order by Ms. Karen Ford, LMT, Chair, approximately 9:00 a.m. Those present
2 for all or part of the meeting included the following:

MEMBERS PRESENT:

Karen Ford, LMT, Chair
Bridget Burke-Wammack, LMT, V-Chair
Lydia Nixon, LMT
Robert Smallwood, LMT
Lisa Oliver, Consumer Member

STAFF PRESENT:

Anthony Jusevitch, Executive Director
Paula Mask, Program Operations Administrator

COURT REPORTER:

Statewide Reporting Services
Office: 904.353.7706

MEMBER ABSENT:

William Stoehs, Consumer Member (Excused)

BOARD COUNSEL:

Lee Ann Gustafson, Esquire

DEPARTMENT PROSECUTING ATTORNEYS:

Sam DiConcilio, Esquire
Manshi Shah, Esquire

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

5 * Items with an asterisk are untimed items and may be taken up on either day of the meeting.

6 **ADMINISTRATIVE PROCEEDINGS**

7 **Compliance and Probation Review**

8 **Tab 56 Shawn L. Thomas (Addendum; Additional Information) Q4 Monitor Report**

9 Mr. Thomas was present with his monitor, Teresa Matthews. Due to probation requirement he was
10 required to appear at the board meeting prior to the expiration of the period of probation. Probation is
11 scheduled to end one year from the date of issuance of his license, September 9, 2010.

12 **Action Taken:** Ms. Ford moved to recognize that Mr. Thomas complied with the final appearance before
13 the board approved his termination of probation. Ms. Oliver seconded the motion which **failed** 2/2 with
14 Ms. Nixon and Ms. Burke-Wammack opposing the motion. (Mr. Smallwood was out of the room.)

15 **Additional Action Taken:** Ms. Ford moved to approve his final appearance before the board which was
16 seconded by Ms. Burke-Wammack and carried 4/0 (Mr. Smallwood was out of the room.)

17 The board tabled this discussion until Mr. Smallwood was able to rejoin the meeting.

18 **Tab 45 Sean Balkwill – REQUIRED**

19 Applicant was present without counsel and was sworn in by the court reporter.

20 Applicant was present for telephonic meeting on June 13, 2011. Applicant's application file did not contain
21 all of the information related to the applicant's criminal history. The board requested the applicant provide
22 the board office with all the criminal history documents and continued the application review until its next
23 meeting (July).

1 **Action Taken:** After discussion, Ms. Ford moved to grant the license with the condition to obtain a PRN
2 evaluation to determine if the applicant is safe to practice and accept the recommendation of PRN and if
3 recommended for contract and licensure, the Executive Director may issue the license based on PRN's
4 recommendation. Ms. Burke-Wammack seconded the motion, which passed 4/0. (Mr. Smallwood was
5 out of the room.)

6 **Tab 46 Sharon Bruce – REQUIRED – (Addendum; Additional Information) -**

7 Applicant was present without counsel and was sworn in by the court reporter. Applicant was not present
8 for the telephonic meeting on June 13, 2011 when applicant's file was presented to the board. The board
9 voted to require the applicant to appear before the board to answer questions regarding her background
10 history.

11 **Action Taken:** After discussion, Ms. Burke-Wammack moved to grant the license with probation until her
12 court probation is terminated and to delegate to the Executive Director the authority to lift the probation
13 when appropriate court documents are furnished to the board office. Ms. Ford seconded the motion which
14 passed 4/0. (Mr. Smallwood was out of the room.)

15 **Tab 47 Juan Dominguez – exam**

16 Applicant was present without counsel and was sworn in by the court reporter.

17 **Action Taken:** After discussion, Ms. Burke-Wammack moved to grant the license unencumbered.
18 Ms. Nixon seconded the motion, which passed 4/0. (Mr. Smallwood was out of room.)

19 **Tab 50 Austin J. Myszkowski – REQUIRED**

20 Applicant was present without counsel and was sworn in by the court reporter. Applicant was not present
21 for the January 2011 board meeting, March 14, 2011 telephonic meeting or the April 2011 board meeting
22 when applicant's file was presented to the board. The board voted to continue the matter and require his
23 personal appearance at the July meeting.

24 **Action Taken:** After discussion, Mr. Smallwood moved to grant the license unencumbered. Ms. Ford
25 seconded the motion, which passed 5/0.

26 **Tab 52 Jessie Ray – exam**

27 Applicant was present without counsel and was sworn in by the court reporter.

28 **Action Taken:** After discussion, Ms. Burke-Wammack moved to grant the license with the condition to
29 obtain a PRN evaluation to determine if the applicant is safe to practice and accept the recommendation
30 of PRN and if recommended for contract and licensure, the Executive Director may issue the license
31 based on PRN's recommendation. Ms. Nixon seconded the motion, which passed 5/0.

32 *(break)*

33 **Tab 54 Vitalina Smirnova – exam**

34 Applicant was present without counsel and was sworn in by the court reporter.

35 **Action Taken:** After discussion, Ms. Burke-Wammack moved to grant the license unencumbered. Mr.
36 Smallwood seconded the motion, which passed 5/0.

1 **Tab 85 Lori Mears – exam – (Addendum; New Item)**

2 Applicant was present without counsel and was sworn in by the court reporter.

3 **Action Taken:** After discussion, Ms. Ford moved to grant the license unencumbered. Ms. Nixon
4 seconded the motion, which passed 5/0.

5 **Tab 86 Rocio Nunez – exam (Addendum; New Item)**

6 Applicant was present without counsel and was sworn in by the court reporter.

7 **Action Taken:** After discussion, Ms. Burke-Wammack moved to grant the license with the condition the
8 applicant submit legal name change documentation to the board office and delegated authority to the
9 Executive Director to lift the condition from her license when appropriate documents are submitted. Mr.
10 Smallwood seconded the motion, which passed 4/1 with Ms. Nixon opposing the motion.

11 **Section 456.0635, F.S., Applicants**

12 **Tab 55 Regino Gonzalez – exam (2nd Addendum; Additional Information)**

13 Applicant was present with his daughter and both were sworn in by the court reporter.

14 Ms. Gustafson advised the board Mr. Gonzalez's application did not fall under section 456.0635, F.S. His
15 certified chiropractic physician assistant's license was revoked for being convicted or found guilty of, or
16 entering a plea of guilty or nolo contendere to, regardless of jurisdiction, to a crime in any jurisdiction that
17 related to the practice or the ability to practice chiropractic medicine; for failing to report to the board
18 within 30 days after he was convicted or had been found guilty of a crime; and for practicing or offering to
19 practice beyond the scope permitted by law.

20 **ACTION TAKEN:** After discussion, Ms. Burke-Wammack moved to approve with the condition he be
21 supervised by a monitor and require both the monitor and the applicant to submit standard quarterly
22 reports. Mr. Smallwood seconded the motion.

23 Additional discussion was held. Ms. Burke-Wammack **included** with her motion to require the applicant to
24 take an insurance billing class for a minimum of 12 live classroom hours and within 6 months of the order.
25 Mr. Smallwood seconded Ms. Burke-Wammack's amendment to the motion. Motion carried 4/1 with Ms.
26 Nixon opposing the motion.

27 *(returned to Tab 56)*

28 **Tab 56 Shawn L. Thomas (Addendum; Additional Information)**

29 Ms. Gustafson advised since Mr. Smallwood had been out of the room when the motion was made to
30 terminate his probation and the vote was a tie vote, the board tabled the discussion until Mr. Smallwood
31 had returned to the room.

32 **Action Taken:** Ms. Ford made a motion to lift his probation effective today, July 29, 2011. Ms. Oliver
33 seconded the motion which carried 3/2 with Ms. Burke-Wammack and Ms. Nixon opposing the motion.

34 **DISCIPLINARY PROCEEDINGS**

35 **Informal Hearings**

3 Respondent was present without counsel, and was sworn in by the court reporter. Ms. DiConcilio
4 represented the Department and presented the case to the Board.

5 The Department filed an administrative complaint alleging a violation of section 480.046(1)(n), F.S., in
6 Count I; sections 480.046(1)(o) and 480.047(1)(b), F.S., in Count II; and sections 480.046(1)(o) and
7 456.035, F.S., in Count III. Ms. DiConcilio requested the board to **dismiss Count III**.

8 **Action Taken:** Ms. Burke-Wammack moved to **dismiss Count III** from the administrative complaint and
9 Ms. Nixon seconded the motion which carried 5/0.

10 Ms. Burke-Wammack moved to adopt the material facts as alleged in the Administrative Complaint are
11 not in dispute and to adopt the allegations of fact in the administrative complaint as the Board's
12 conclusions of fact in this proceeding. Ms. Nixon seconded the motion which carried 5/0.

13 Respondent addressed the Board and gave an account of the events surrounding the material facts of the
14 complaint.

15 Mr. Smallwood moved to adopt the allegations of law in the administrative complaint as the Board's
16 conclusions of law in this proceeding, and to adopt the case materials and any materials in the addendum
17 into evidence as a part of the record in this proceeding. Ms. Nixon seconded the motion which passed
18 5/0.

19 **Action Taken:** After lengthy discussion, Ms. Ford moved to IMPOSE the following penalty:

- 20 • Reprimand
- 21 • Pay \$200.00 fine within 90 days
- 22 • Pay \$252.89 costs within 90 days

23 Ms. Burke-Wammack seconded the motion which passed 5/0.

24 **ADMINISTRATIVE PROCEEDINGS**

25 **Massage Therapist Applicants**

26 **Tab 48 Whitney Ford – exam**

27 Applicant was not present nor represented by counsel.

28 **Action Taken:** Ms. Nixon moved to grant the license unencumbered. Mr. Smallwood seconded the
29 motion, which passed 5/0.

30 **Tab 49 Joycelyn Harrison – exam**

31 Applicant was not present nor represented by counsel.

32 **Action Taken:** Ms. Burke-Wammack moved to require a personal appearance at the next board meeting
33 (conference call or October meeting) and if prior to her appearance she completes her Pre-Trial
34 Intervention (PTI), then staff may license applicant.

35 Ms. Ford seconded the motion, which passed 5/0.

1 **Tab 51 Raquel Rainey - exam**

2 Applicant was not present nor represented by counsel.

3 **Action Taken:** After discussion, Ms. Nixon moved to grant the license unencumbered. Ms. Burke-
4 Wammack seconded the motion, which passed 5/0.

5 **Tab 53 Manuel Rivera – exam**

6 Applicant was not present nor represented by counsel.

7 **Action Taken:** After discussion, Ms. Nixon moved to grant the license unencumbered. Mr. Smallwood
8 seconded the motion, which passed 5/0.

9 **Section 456.0635, F.S. applicants**

10 **Tab 87 Justo Miranda – exam (Addendum; New Item)**

11 Applicant was not present nor represented by counsel.

12 **ACTION TAKEN:** After discussion, Ms. Burke-Wammack moved to deny the application based on
13 applicant is not eligible for licensure pursuant to section 456.0635, F.S. Ms. Nixon seconded the motion,
14 which passed 5/0.

15 **Petitions for Variance and/or Waiver**

16 *(Ms. Oliver left the meeting approximately 11:30 a.m.)*

17 **Tab 88 Rhonda M. Goodall – Re: Rule 64B7-32.002, F.A.C. (Addendum; New Item)**

18 Ms. Goodall was present without counsel and was sworn in by the court reporter.

19 **Action taken:** After a thorough discussion, Ms. Burke-Wammack moved to deny the petition based on
20 evidence that the board has no authority to waive a statute. Motion seconded by Mr. Smallwood and
21 passed 4/0.

22 **Tab 57 Sharalee Hoelscher; Petition for Variance and/or Waiver – Rule 64B7-28.001 and 28.009, F.A.C.**

23 Ms. Hoelscher was not present nor represented by counsel. Her petition requested a variance/waiver of
24 rules 64B7-28.001 and 28.009, F.A.C. Petitioner requested a variance as follows: 1) to allow continuing
25 education Petitioner completed at the Rolf Institute to be substituted for twenty (20) hours of the required
26 twenty-four (24) hours of continuing education; and 2) the twenty (20) hours allowed shall include the
27 required 2 hours instruction I professional ethics and the required twelve (12) hours of live classroom
28 instruction. The Rolf Institute is not an approved provider but is accredited by the Commission on
29 Massage Therapy Accreditation (COMPTA).

30 **Action taken:** After discussion, Mr. Smallwood moved to grant her petition accepting the twenty (20)
31 hours as requested. Motion seconded by Ms. Burke-Wammack and passed 4/0.

32 **NEW BUSINESS**

1 **Tab 78 2012 Meeting Dates (Addendum: Additional Information)**

2 The board reviewed the proposed dates and approved by consensus the following meetings:

3 **General Business Meetings**

4 January 26-27, 2012 - Ft. Lauderdale

5 April 19-20, 2012 - Tampa

6 July 25th (afternoon for long range planning) 26th and 27th, 2012 - Orlando

7 October 25-26, 2012 - Naples

8 **Conference Calls**

9 March 12, 2012, Monday – 11:00 a.m.

10 June 11, 2012, Monday – 11:00 a.m.

11 September 10, 2012, Monday – 11:00 a.m.

12 December 10, 2012, Monday – 11:00 a.m.

13 **OLD BUSINESS**

14 **Tab 79 Long-Range Planning Survey Results for the Board of Massage Therapy**

15 Mr. Jusevitch advised there was 100% compliance response rate by the board regarding this survey. The
16 board had a brief discussion regarding the report.

17 **NEW BUSINESS**

18 **Tab 80 Jim King Keep Florida Working Act (Addendum; Additional Information) CS/SB 146**

19 The board answered the following questions regarding this law:

20 Are there any board statutes or rules that disqualify from employment or licensure persons who have
21 been convicted of a crime and have completed any incarceration and restitution to which they have been
22 sentenced for such crime? No

23 Are the disqualifying statutes or rules readily available to prospective employers and licensees? N/A

24 Identify and evaluate alternatives to the disqualifying statutes or rules which protect the health, safety,
25 and welfare of the general public without impeding the gainful employment of ex-offenders. N/A

26 **Action Taken:** Ms. Ford made a motion the Board of Massage Therapy does not have any rules or
27 statutes that would disqualify persons with prior convictions from employment or licensure. Motion
28 seconded by Mr. Smallwood and carried 4/0.

29 Discussion was held regarding schools informing students of section 456.0635, F.S. The Chair requested
30 Mr. Jusevitch to send a letter to schools stating any person with any conviction as listed in section
31 456.0635, F.S., may not be licensed.

32 After additional discussion, the board by consensus, requested the Chair draft a letter to Sen. Joyner and
33 the Governor regarding board's position on section 456.0635, F.S. The Chair will have the draft on the
34 September 12, 2011 conference call for the board's review.

35 *(The board recessed for lunch and reconvened approximately 1:00 p.m.)*

1 **NEW BUSINESS**

2 **Tab 94 Accurate Insurance Billing; submitted by Ms. Bridget Burke-Wammack**
3 **(Addendum; New Item)**

4 Ms. Burke-Wammack presented this information to the board. She requested the board to consider
5 requiring massage therapists if they bill insurance, to complete certified education in insurance billing.

6 Mr. Smallwood advised the task force he is on will begin meeting again in August. He further advised the
7 task force is developing ideas for insurance companies on dealing with insurance fraud and providing
8 information regarding the massage therapist scope of practice and which CPT codes can be billed. The
9 information will assist in combating insurance fraud.

10 After additional discussion, Ms. Ford requested Mr. Smallwood to apprise the board of the task force's
11 developments. She also advised the audience to email the Executive Director should they have
12 comments regarding this matter.

13 *(Continuation of discussion for Tab 90)*

14 **Tab 90 Exam Candidates from Other States (Addendum; New Item)**

15 **Action Taken:** After a lengthy discussion, Ms. Ford made a motion for the board to review the out of state
16 applicants to determine eligibility of licensure. Mr. Smallwood seconded the motion which failed 2/2 with
17 Ms. Burke-Wammack and Ms. Nixon opposing the motion

18 **Final Action Taken:** The board reached a consensus for the board to review all out-of-state exam
19 applications.

(Break)

20 ***RULES DISCUSSION**

21 **Tab 76 Draft of 64B7-26.002 Licensure of Massage Establishments - Mr. Robert Smallwood**

22 The rule was tabled until the October board meeting.

23 **Tab 77 Draft of 64B7-28.009 Continuing Education - Mr. Robert Smallwood**

24
25 Mr. Smallwood will redraft rule to indicate one (1) continuing education hour per month for presentation at
26 the October board meeting
27

- 28
29 **Tab 91 Draft of 64B7-24.001 from Ms. Lydia Nixon (Addendum; New Item)**
30 **Tab 92 Draft of 64B7-28.010 from Ms. Bridget Burke-Wammack (Addendum; New Item)**
31 **Tab 93 Draft of 64B7-28.0096 from Ms. Bridget Burke-Wammack (Addendum; New Item)**
32 **Tab 95 Draft of 64B7-25.0025 from Ms. Karen Ford (2nd Addendum; New Item)**
33 **Tab 96 Draft of 64B7-26.007 from Ms. Karen Ford (2nd Addendum; New Item)**
34 **Tab 97 Draft of 64B7-30.005 from Ms. Karen Ford (2nd Addendum; New Item)**

35 Ms. Gustafson will review each rule and discuss with the appropriate board member prior to the October
36 2011 board meeting.

37 **Action Taken:** Motion made by Ms. Ford to request Lee Ann Gustafson be retained as board counsel
38 and to make request known to Mr. Ed Tellechia, which was seconded and carried 4/0.

- 1 ***INFORMATIONAL**
- 2 (These are all non-voting matters)
- 3 Discussion was not held on tabs 81, 82, and 83.
- 4 **Tab 81 Correspondence; NCBTMB Communication Update**
- 5 **Tab 82 Correspondence from Elaine Stillerman, L.M.T.; Re: Continuing Education**
- 6 **Tab 83 Correspondence from Judith Koch; Re: Continuing Education**

- 7 **The meeting adjourned approximately 4:00 p.m.**