

MINUTES
TENNESSEE MASSAGE LICENSURE BOARD
May 1 & 2, 2023

Time: 9:00 a.m. C.S.T.

Date: May 1-2, 2023

Location: 665 Mainstream Drive
HRB Conference Center
1st Floor, Iris Room
Nashville, TN 37243

Members Present: Dee Vickers, Board Member
William Mullins III, Board Secretary
Virginia P. Yarbrough, Board member
Emily Newberry, Board Member
Marvis Burke, Board Member
Michael Velker, Board Chairman

Staff Present: Noranda French, Unit 2 Director
Tonya Wilkins, Massage Administrative Director
Jessica Turner, Office of General Counsel, Board Attorney

The meeting was called to order at 9:00 a.m. Tonya Wilkins conducted a roll call. All members were present, and a quorum was established.

Minutes

Ms. Yarborough noted the correction of the duplication of the word by in a sentence. Also, there was an error listing Ms. Yarborough as Board Secretary; Mr. Mullins is the Board Secretary. Mr. Mullins made a motion to accept minutes with the noted corrections, seconded by Ms. Vickers, to approve February 6-7, 2023, minutes. The motion carried.

Office of Investigations Report:

Roger Milton presented report below

Massage Therapists:

Reprimand:	10
Probation:	43
Suspension:	28
Revoked/Surrendered:	22
Conditional:	8

Massage Establishments:

Reprimand:	3
Probation:	2
Suspension:	0
Revoked/Surrendered:	6
Conditional:	7

Fiscal Report – No changes

Tennessee Massage Licensure Board	
Analysis of Operating Expenditures and Carryover Balance	
FY2019 Operating Expenditures	\$ 837,573.75
FY2020 Operating Expenditures	\$ 725,310.13
FY2021 Operating Expenditures	\$ 561,341.86
3 Year Average of the Annual Operating Expenditures	\$ 708,075.25
2 Times 3 Year Average of the Annual Operating Expenditures	\$ 1,416,150.50
2021 Cumulative Carryover Balance	\$ 770,932.04
FY2020 Operating Expenditures	\$ 725,310.13
FY2021 Operating Expenditures	\$ 561,341.86
FY2022 Operating Expenditures	\$ 682,127.96
3 Year Average of the Annual Operating Expenditures	\$ 656,259.98
2 Times 3 Year Average of the Annual Operating Expenditures	\$ 1,312,519.97
2022 Cumulative Carryover Balance	\$ 776,850.68
Cumulative carryover does not exceed two times the three-year average of operating expenditures.	

TnPAP Report

Teresa Phillips presented the report as follows:

		Massage Therapist	Establishment
Monitoring		4	0
	Regulatory	1	0
	Non-regulatory	3	0
Referrals:		1	0
Referral Source	MLB Administrative Office	1	0
Referral Reason	Arrest History	1	0
Agreements Entered		2	0
Discharges:		3	0
Discharge Reason	Evaluated; no monitoring recommended	1	0
	Denial of license by board	1	0
	Monitoring completed -- regulatory	1	0

OGC Report

Jessica Turner presented the report as follows:

The Office of General Counsel currently has approximately 45 open cases to the Massage Licensure Board.

Today, there are 3 consent orders for entry and 3 contested final hearing.

Rulemaking:

The reciprocity licensure rule revisions are in the legislative review stage.

Legislation:

Nothing to report.

Administrative Report:

STATISTICAL REPORT - This report runs from January 24th - April 20th, 2023.

As of April 20th, 2023, there were 4,519 licensed massage therapists and 1,643 licensed massage establishments.

This report is running from January 1, 1923, through ratification January 24th, 2023.

Following is the license status since the last meeting.

THERAPISTS	ESTABLISHMENTS
Jan 2023	Jan 2023
Newly Licensed 5	Newly Licensed 11
Reinstate Applications 4	Reinstate Applications 0
Retired 6	Retired 3
New Applications 23	New Applications 6
ran from 24th -31st	ran from 24th -31st

THERAPISTS	ESTABLISHMENTS
Feb 2023	Feb 2023
Newly Licensed 23	Newly Licensed 23
Reinstate Applications 5	Reinstate Applications 3
Retired 14	Retired 6
New Applications 24	New Applications 23
ran from 1st-28th	ran from 1st-28th

THERAPISTS	ESTABLISHMENTS
March 2023	March 2023
Newly Licensed 42	Newly Licensed 27
Reinstate Applications 6	Reinstate Applications 7
Retired 10	Retired 8
New Applications 42	New Applications 28
ran from 1st-30th/31st	ran from 1st-30th/31st

THERAPISTS	ESTABLISHMENTS
April 2023	April 2023
Newly Licensed 28	Newly Licensed 12
Reinstate Applications 9	Reinstate Applications 2
Retired 7	Retired 0
New Applications 31	New Applications 14
ran from 1st-20th	ran from 1st-20th

The Board's internet website is an excellent location to place valuable board information for licensees and applicants. Please visit the Board's website at <https://www.tn.gov/health/health-program-areas/health-professional-boards/ml-board.html> and let us know if you have anything you would like to add under the noteworthy section. In the months of Jan 2023 through April 2023 325 licensees renewed their licenses via the website for a usage rate of 78% and 24 establishments renewed online for a usage rate of 12%. The administrative staff is asking that all Board members get the word out about renewing online and would ask the Board members use this tool to renew their licenses.

BUDGET/TRAVEL ISSUES

The In-state lodging rate is \$230.00
mileage rate is \$0.47 a mile

The In-state meals & incidentals is \$59.25 a day
The Overnight meals & incidentals is \$79.00 a day

Ratifications of initials, reinstatements, and closed files.

LMT Newly Licensed

14400 Nancy Jo Castle
 14434 Kimberly Ellis
 14323 Crystal Bauer
 14411 Miller, Susanmarie
 14415 Miles, Elissa
 14442 Clark, Sherri
 14329 Moore, Michael
 14386 Rice, Xiao
 14427 Reed, sandy Sue
 14426 Contreras, Maribel
 14413 Woodall, Lacey
 14446 Castillo, Amy
 14435 Parks, Charla
 14447 Smith, Tricia
 14456 Hernandez, Adela
 14392 Vaughn, Michelle
 14454 McClatchy, Tiffany
 14394 Branham, Mackenzie
 14459 Anderson, Cornelius
 14458 Flaig, Brittany
 14451 Benson, Shaunita
 14397 Finegan, Jason
 14401 Peaden, Jonathan

14438 Mcfarlane, Nicole
 14432 Garbis, Evangelos
 14465 Butler, Sherry'ce
 14439 Alaniz, Jessica
 14464 Kendall, Emily
 14479 Robledo, Sophia
 14476 Leonardson, Arthur
 14468 Wehunt, Alexandra
 14436 Soto, Victoria
 14475 Brown, Sarah
 14480 Browning, Brittant
 14460 Jansinski, Katherine
 14462 Swift, Karol Ann
 14467 Branch, Roderick
 14448 Powell, Jeremy
 14466 Pitts, Mary Jo
 14485 Cannon, Barbbery
 14482 Stewart, Diara
 14478 Highsmith, Kenyetta
 14452 Smeding, Mary
 14488 Almond, Evelyn
 14490 Richardson, Elaine
 14450 Owens, Samantha
 14477 Garner, Margo

14491 Fleming, Sherita
 14472 Flanagan, Mary
 14461 Ball, Susan
 14444 Farmer, Gabriel
 14402 Blake, Emily
 14430 Kelly, Erika
 14422 Cates, Ashley
 14487 Bieber, Jacob
 14469 Stiltner, Austin
 14455 Kilberg, Brystol
 14473 Quasarano, mary
 14441 Vacaliuc, Anna
 14483 Boyd, Kristen
 14406 Washock, Bridget
 14319 Wes, Michelle
 14502 Davis, Hayleigh
 14501 Pruitt, Ashton
 14500 Guarino, Candice
 14424 Garland, Joanne
 14443 Miller, Candace
 14471 Shelby, Katie
 14499 Ellis, Clare
 14504 Utley, Camryn
 14493 Martin, Tanyshka

14495 Wells, Brian
 14425 Hawley, Samantha
 14433 Hulett, Lawrence
 14494 Delaney, Derek
 14391 Coffell, Joshua
 14396 Murphy, Destiny
 14449 Constantino, Jessica
 14389 Crooks, Heather
 14445 Jones, Hannah
 14474 Lopez-Gomez, Daniella
 14510 Johann, Kaitlin
 14481 Liddell, Jonathan
 14514 Grooms, Madison
 14523 Sholtz, Jessica
 14511 McGory, Koran
 14440 Schneider, Sheila
 14496 Willis, Ying
 14489 Biles, Stephanie
 14519 Styles, Amber
 14516 Bible, Megan
 14470 Garr, Kerri
 14506 Zapata, Liz
 14525 Zimin, Konstatine
 14398 Davis, Caleb

6219 Courtney Fair Massage
 23 6220 Movement Shop DBA Elevate Wellness
 6222 Form Bodyworks and Lymphatics
 6214 Foothills Massage
 6187 Wellness Jones, LLC
 6212 IMA FINELADY'S BODY CARE BOUTIQUE
 6223 Master Massage and Spa
 6224 Massage Bliss
 6226 Christy Almond, PTA, LMT
 6191 Nutritional Wellness

6225 Swara Spa LLC
 6221 Elaine Inez Richardson
 6235 The Sweet Sage
 6218 N'Chanted Oasis, LLC
 6230 Knight Family Chiropractic
 6227 Studio Zen Massage
 6210 Selah Spa
 6233 HN Massage
ME Reinstatements
 5671 All People Massage Therapy
 4467 Laura Budd Hodge LMT
 4643 A Touch of Aloha Spa and Lashes

2334 Gina M. Baker, LMT
 5324 Uptown Male Spa and Skincare Center, LLC
 3606 Balanced Body Massage Spa
 5116 Radix Wellness, LLC DBA Sundara
 5159 The Nest A Wellness Retreat
 4658 Neworking
 2769 Chattanooga Orthopaedic INC.
 4383 Delta Groove Yoga, LLC
 5311 Kneads and Knots

Closed Files

14325 CHOI, ANNIE
 14393 FINEGAN, KIARA ROSE
 14420 HITCH, BRANDY
 14195 LOVE, BONNIE E
 14431 NAN, MING HUA
 14383 PRATT, KIMBERLY ANNE
 14395 RAPER, ELIZABETH LIZZY
 14369 SCROGGINS, HOLLY
 14364 SNIDER, ERIC L
 14418 TANG, SAILIAN
 14336 ZARAGOZA, STEPHANIE

14522 Stepter-Woods, Kiara	13403 Brothers, Crystal	6183 Megan Batey, LMT	6200 Kari Jones LMT
14524 Meiss, Brittny	11328 Metz, Shane	6127 Tina's Therapeutic Touch	6173 The Waterwheel Initiative
14512 Wathen, April	13606 Sanchez, Jefte	6162 I Knead that Massage	6130 Healing Touch
<u>LMT Reinstatements</u>	8540 Thompson, Bradley	6141 Hand and Stone Massage - Brentwood	6204 Spirit Wise Massage
2610 Martin, Kelly	<u>ME Newly Licensed</u>	6143 Hand and Stone Massage - Franklin	6201 Rebecca L Gray LMT
12753 Griggs, Ivie	6151 Niecy's Wellness & Medical Spa	6142 Hand and Stone Massage - Murfreesboro	6198 Speranza Spa LLC
8997 Roberts, Nadine	6164 Raptor Therapy & Bodywork, LLC	6172 Sarah La Rosa Bodywork	6203 The Skin Clinic
11505 Wallace, Laura	6171 Tranquil Garden Spa	6175 Serena Miller LMT	6193 The Science of Beauty
9036 Sunshine, Dana	6180 Revive Massage Therapy	5966 Forget Me Knot, LLC	6197 Nolensville Therapeutic Massage & Reflexology
10764 Andrews, Linda	6169 Massage F.I.T.	6190 Graceful Mending	6208 Colleen Mahan
13107 Bray, Travis	6154 Natural Integrative Therapies	6192 Holistic Health and Healing	6206 Crieve Hall Massage Therapy
12457 Anderson, Deborah	6174 Rosewater Medical Massage, LLC	6167 Sylar Lash LLC	6209 Adela Hernandez Massage Therapy
12565 Colosi, Lisa Ann	6178 Quik Fit 24/7 Greenbrier 2, LLC	6189 Massage By Victoria	6207 Signal Point Massage
12282 Marshall, Brooke	6177 Mary Katherine Lesch	6186 Integration Massage Therapy	6170 Career Beauty College
11332 Steele, Brandon	6176 Jacqueline M Williams	6194 Competitive Edge Massage and Wellness	6166 Cobra Wellness
7077 Westbrook, Wendy	6181 Shaves and Fades Barbershop	6195 Allyn Aesthetics, LLC	6213 Hanna's Therapeutic Spa LLC
12938 Spurgeon, Molly	6159 Jefferson Family Massage and Wellness	6153 Allelon Wellness	6184Carolynn M. Anderson, LMT CMMMP
11233 Savion, Logan	6188 Mending Roots	6185 Clay County LLC	6205 Pristine Massage Inc
11176 Johnson, Rainye	6179 TCAT McMinnville Massage Therapy Clinic	6196 Purple Lotus Massage	6217 Honest Massage
13346 Wren, Rebecca		6199 Tellico Styles, LLC	
6799 Trammell, Ann		6165 Rejuvenate Medspa & Salon	
8192 Crooks, Clachette			
7026 Lee, Sarah			
6272 Rice, Janet			

After review, Mr. Mullins made a motion, to approve the ratification lists as presented, seconded by Ms. Yarbrough, the motion carried.

Agreed Citations:

1. Radix wellness ME 5116 – Mr. Mullins made a motion to accept the agreed order as written. Ms. Burke seconded the motion, none opposed. The motion carried.
2. The Nest A Wellness Retreat ME 5159 – Ms. Yarbrough made a motion to accept the agreed order as written. Ms. Burke seconded the motion, none opposed. The motion carried
3. Colosi, Lisa LMT 12565 – Mr. Mullins made a motion to accept the agreed order as written. Ms. Burke seconded the motion, none opposed. The motion carried.
4. Griggs, Ivie LMT 12753 – Ms. Yarbrough made a motion to accept the order as written. Ms. Burkes seconded the motion, none opposed. The motion carried
5. Hodge, Laura Budd ME 4467/LMT 11044 – Mr. Mullins made a motion to accept the agreed order as written. Ms. Yarbrough seconded the motion, none opposed. The motion carried.
6. Morgan, Lucille Ann LMT 7441 – Mr. Mullins made a motion to accept the agreed order as written. Ms. Burke seconded the motion, none opposed. The motion carried.

7. Rufener, Danielle Marie LMT 4274 – Ms. Burke made a motion to accept the agreed order as written. Ms. Yarbrough seconded the motion, none opposed. The motion carried.
8. Fadiel, Emma LMT 14384 – Mr. Mullins made a motion to accept the agreed order as written. Ms. Burke seconded the motion, none opposed. The motion carried.
9. Rouse, Jennifer LMT 7484 – Mr. Mullins made a motion to accept the agreed order as written. Ms. Burke seconded the motion, none opposed. The motion carried.
10. Wampler, LMT 14228 – Ms. Yarbrough made a motion to accept the agreed order as written. Ms. Burke seconded the motion, none opposed. The motion carried.
11. Owens, Alicia LMT 14073 – Ms. Yarbrough made a motion to accept the agreed order as written. Ms. Burke seconded the motion, none opposed. The motion carried.
12. Brown, Melissa LMT 10204 – Mr. Mullins made a motion to accept the agreed order as written. Ms. Burke seconded the motion, none opposed. The motion carried.
13. Dean, Robin LMT 10459 – Mr. Mullins made a motion to accept the agreed order as written. Ms. Vickers seconded the motion, none opposed. The motion carried.

Review, ratify, discuss, and approve/deny continuing education courses:

After review and discussion by the Board, a motion was made by Ms. Vickers, seconded by Ms. Yarbrough, to approve the following courses. The motion carried.

- A. Wanda Sharber – TN Law Application (in person) – TN 10123-17
- B. Michael Matthews – Chair Massage 4 hours (in person) – TN010123-18
- C. Michael Matthews – Introduction to hands on Energy Therapy (in person) – TN10123-19
- D. Michael Matthews – TN Massage Law (in person) – TN10123-20

Consent Orders:

Daniel Shays LLC – After discussion Ms. Vickers made a motion to accept the order as written. Ms. Yarbrough seconded the motion, none opposed. The motion carried.

Leanne McAllister – After discussion Mr. Mullins made a motion to accept the order as written. Ms. Vickers seconded the motion, none opposed. The motion carried.

Hayley Nelson – After discussion Ms. Vickers made a motion to accept the order as written. Ms. Burke seconded the motion, none opposed. The motion carried.

Latoshia Towns – After discussion Ms. Vickers made a motion to accept the order as written. Ms. Newberry seconded the motion, none opposed. The motion carried.

Public comment:

Mindy Oldham and Steve Summers made comment concerning public chapter 357. Board members and board attorney had discussion. Further discussion is expected to occur at the rulemaking meeting.

Adjourn:

The board meeting was adjourned at 10:37 a.m.

Any board business not concluded on Monday May 1, 2023, was conducted on Tuesday May 2, 2023

Tennessee Massage Licensure Board

May 2nd, 2023.

To watch or listen to the meeting online, please click on the link below:

<https://tdh.streamingvideo.tn.gov/Mediasite/Play/f61caaeb4ed94e41a32ed32b22df1cf81d>

Time: 9:00 am Central Standard Time

Location: 665 Mainstream Drive

HRB Conference Central

1st Floor, Iris Room

Nashville, TN 37243

Members Present: Michael Velker, Public Member, Chairperson

Dee Vickers, LMT

Emily Newberry, LMT

William Mullins, LMT

Virginia P. Yarbrough, LMT

Marvis Burke, LMT

Staff Present: Noranda French, Unit 2 Director

Tonya Wilkins, Board Administrative Director

Rhonda Webb- Stewart, Office of General Counsel

May 2nd, 2023 - Judge Steve Darnell

Court Reporter Jennifer Ailes

Tim Peters, Attorney for the State

Ms. Wilkins conducted a roll call. All board members were present. A quorum was established.

Agreed Order

Melinda Moore, LMT 9332 (0:05:00)

Ms. Webb Stewart presented the agreed order for Melinda Moore. Ms. Vickers motioned to accept the order as presented. Ms. Yarbrough seconded the motion. None opposed and the motion carried.

Consent Order

Lucky Massage, ME 5670 (0:11:00)

Ms. Webb Stewart presented the consent order for Lucky Massage. Ms. Yarbrough motioned to accept the order as presented. Ms. Newberry seconded the motion. With none opposed, the motion carried.

Contested Cases

Kayla Kinsey (0:19:00)

Ms. Burke was not present for this matter. A quorum was established. Ms. Kinsey was not present. Mr. Mullins motioned to proceed with the case in default. Ms. Newberry seconded the motion. With none opposed, the motion carried. Tim Peters presented an opening statement to the board and Judge. The board reviewed exhibits provided by Peters. Peters presented closing comments. Mr. Mullins motioned to accept the modified proposed order and findings of fact as presented. Ms. Yarbrough seconded the motion. None opposed, the motion carried. Mr. Mullins motioned to accept the conclusions of law as written. Ms. Yarbrough seconded the motion, and with none opposed, the motion carried. Ms. Yarbrough motioned to accept the discipline proposed by the order. Ms. Vickers seconded. Mr. Mullins opposed and motioned to amend the discipline to include the completion of 2021 and 2022's continuing education hours, and to extend the probation to three years. All accepted the amendment, and the motion carried. Mr. Mullins motioned to accept the policy statement as read into the record. Ms. Newberry seconded the motion, and with none opposed, the motion carried. After much discussion, Mr. Mullins motioned to amend section nine of the proposed order. Ms. Yarbrough seconded, and with none opposed, the motion carried.

The board took a brief break

Joanne Harmon (1:24:00)

Ms. Harmon was not present. Mr. Mullins motioned to proceed with the case in default. Ms. Newberry seconded the motion. With none opposed, the motion carried. Ms. Turner presented the case, notice of charges, and proposed order. Mr. Mullins motioned to accept the findings of fact as written. Ms. Vickers seconded the motion, none opposed, the motion carried. Ms. Vickers motioned to accept the conclusion of law as written. Ms. Yarbrough seconded the motion, none opposed, the motion carried. Mr. Mullins motioned to accept the proposed discipline. Ms. Burke seconded the motion and with none opposed, the motion carried. Mr. Mullins motioned to accept the policy statement as written. Ms. Burke seconded the motion, none opposed, the motion carried.

FINAL ORDER

This matter came to be heard before the Tennessee Massage Licensure Board ("Board") on May 2, 2023, pursuant to a Notice of Charges issued against Respondent by the Division of Health-Related Boards of the Tennessee Department of Health ("State"). Presiding at the hearing was the Honorable Judge Steve Darnell appointed by the Tennessee Secretary of State, Administrative Procedures Division. The State was represented by Jessica L. Turner, Senior

Associate General Counsel. Respondent was not present and was not represented by counsel. Counsel for the State made a motion pursuant to Tennessee Code Annotated Section (TENN. CODE ANN. §) 4-5-309 to find the Respondent in default. In support of its motion, the State introduced evidence that Respondent was informed of the hearing date and time by certified mail and by first class mail at Respondent's address of record that Respondent was required to keep up to date by law, as well as by email. By majority vote, the Board GRANTED the State's motion to find the Respondent in DEFAULT and to conduct the proceeding without the participation of the Respondent.

After consideration of the testimony, the documentary evidence, and the record as a whole, the Board finds as follows:

FINDINGS OF FACT

1. Respondent has been at all times pertinent hereto licensed by the Board as a massage therapist in the State of Tennessee, having been granted license number 4522 on about March 30, 2004, which currently has an expiration date of March 31, 2024.
2. Respondent failed to obtain twenty-four (24) approved hours of continuing education in the 2017/2018 continuing education cycle.
3. When Respondent's license was renewed following the continuing education cycle listed in paragraph 2, Respondent falsely indicated that Respondent had completed all required continuing education for that continuing education cycle.
4. Respondent has previously been disciplined for failure to obtain required continuing education.

CONCLUSIONS OF LAW

The findings of fact above are sufficient to establish that grounds for discipline of Respondent's massage therapist license exist. Specifically, Respondent has violated the following statutes or rules which are part of the provisions of the massage practice act, (TENN. CODE ANN. § 63-18-101, et seq.) for which disciplinary action before and by the Board is authorized:

5. The facts in paragraphs two (2) and three (3) constitute a violation of TENN. CODE ANN. § 63-18-108:
 - (1) Is guilty of fraud in the practice of massage or fraud or deceit in the licensee's admission to the practice of massage.
 - (7) Has violated any of the provisions of this part or any substantive rule promulgated under the authority of this part.
6. The facts alleged in paragraphs two (2) and three (3) constitute a violation of TENN. COMP.R. & REGS 0870-01-.12(1)1: All licensees must complete twenty-five (25) hours of continuing education every two (2) calendar years, as a prerequisite to licensure renewal. The first two-year cycle for continuing education ran from January 1, 2003, to December 31, 2004, and shall continue on two-year cycles thereafter.
7. The facts in paragraphs two (2) and three (3) constitute a violation of TENN. COMP. R. & REGS 0870-01-.12(8):

(a) Any massage therapist, massage establishment owner, or massage establishment responsible person who fails to obtain the required continuing education hours or who falsely attests to attendance and/or completion of the required hours of continuing education may be subject to disciplinary action pursuant to T.C.A. § 63-18-108.

8. The facts in paragraphs two (2) through four (4) constitute a violation of TENN. COMP.R. & REGS 0870-01-.19(1):(f) Consistently maintain and improve professional knowledge and competence, striving for professional excellence through regular assessment of personal and professional strengths and weaknesses and through continued education training[.]

ORDER

THEREFORE, in consideration of the above Findings of Fact and Conclusions of Law, it is ORDERED, ADJUDGED, and DECREED as follows:

9. Respondent's license is hereby SUSPENDED beginning the effective date of this order.

10. The suspension of Respondent's license shall continue, and Respondent may not reinstate Respondent's license until Respondent:

1 The Rules were amended in 2017 and now require only 24 hours, the Rules in effect for the cycle in question required 25 hours. The quoted language comes from the rules in effect at the time in question.

a. Submits evidence of having completed a total of at least thirty (30) hours of continuing education, all of which will count only toward the 2017/2018 cycle. These hours include a total of six penalty hours to account for Respondent's failure to timely complete the required continuing education hours in 2017/2018.

b. These hours are in addition to the continuing education hours required to maintain a massage therapist license in Tennessee.

c. These hours must include two (2) hours pertaining to "Tennessee statutes and rules concerning massage therapists and establishments" (Rule 0870-01-.12(1)(6)) and two (2) hours pertaining to "the management of practicing massage therapy, professional ethics or substance abuse" (Rule 0870-01-.12(1)(c)).

d. No more than eight (8) of these hours may be completed in a "multi-media format."

(See Rule 0870-01-.12(1)(d)).

11. Once Respondent submits documentary evidence demonstrating the continuing education hours required above, Respondent's license shall be placed on PROBATION for a period of three (3) years. During the period of probation, Respondent must submit proof of continuing education compliance by January 30th following a cycle year. For example, if Respondent's license is placed on probation September 1, 2023, Respondent must submit proof of continuing education compliance for the 2023/2024 cycle by January 30, 2025. Respondent is only responsible for submitting proof of continuing education compliance during the period of probation. For example, if Respondent is not placed on probation until 2023, the period of probation will only encompass one (1) complete continuing education cycle (2023/2024) and therefore Respondent will only be responsible for submitting proof of compliance one time.

a. If Respondent has any questions about compliance with this section, Respondent shall contact the disciplinary coordinator within thirty (30) days of the entry of this order. If Respondent does not contact the disciplinary coordinator within thirty (30) days, Respondent will be deemed to fully understand the requirements of this section.

12. Respondent shall pay one (1) Type B Civil Penalty in the amount of three hundred dollars (\$300.00), representing the penalty for falsely certifying on Respondent's license renewal that Respondent had completed the required continuing education, and twenty-four (24) Type C Civil Penalties in the amount of fifty dollars (\$50.00) each, representing one civil penalty per hour that Respondent was deficient, for a total assessment of one-thousand-five hundred dollars (\$1,500.00).

13. Respondent must pay, pursuant to TENN. CODE ANN. § 63-1-144, the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed against the Board by the State in connection with the prosecution of this matter. These costs will be established by an Assessment of Costs prepared and filed by counsel for the State. The maximum amount for the assessment of costs shall be Five Thousand Dollars (\$5,000.00). Within sixty (60) days from Assessment of Costs being sent to Respondent, Respondent must either pay the civil penalties and costs in full OR make arrangements for a payment plan with the Disciplinary Coordinator. If a payment plan is developed, all civil penalties and costs must be paid within one (1) year of the entry of this Order. Civil penalties and costs shall be paid by submitting a certified check, cashier's check, or money order payable to the State of Tennessee to the address below. Respondent's name and this case number must be put on the check or money order to ensure it is applied correctly: 17.49-224298A

14. Proof of continuing education and payment of all fines and costs as required above must be mailed or delivery to:

Office of General Counsel Attn: Disciplinary Coordinator Tennessee Department of Health 665 Mainstream Drive, Second Floor Nashville, Tennessee 37243 or disciplinary.coordinator@tn.gov

POLICY STATEMENT

The Tennessee Massage Licensure Board takes this action in order to protect the health, safety, and welfare of people in Tennessee. The rules require that massage therapists complete continuing education on a regular basis in order to maintain their competence and to keep abreast of changing professional standards. This massage therapist failed to complete the required continuing education during 2017 and 2018. Given Respondent's failure to maintain professional competence by completing the required continuing education, the Board is suspending Respondent license, and will not allow Respondent to reinstate that license, until that continuing education is completed. The civil penalties in this order are also appropriate due to Respondent's failure to comply with the Board's rules.

RECONSIDERATION, ADMINISTRATIVE RELIEF AND JUDICIAL REVIEW

Within fifteen (15) days after the entry of an initial or final order, a party may file a petition to the Board for reconsideration of the Final Order. If no action is taken within twenty

(20) days of filing of the petition with the Board, it is deemed denied. TENN. CODE ANN. § 4-5- 317.

In addition, a party may petition the Board for a stay of the Final Order within seven (7) days after the effective date of the Final Order. TENN. CODE ANN. § 4-5-316.

Finally, a party may seek judicial review by filing a petition for review in the Chancery Court of Davidson County within sixty (60) days after the effective date of the Final Order. A petition for reconsideration does not act to extend the sixty (60) day period; however, if the petition is granted, then the sixty (60) day period is tolled and a new sixty (60) day period commences from the effective date of the Final Order disposing of the petition. TENN. CODE ANN. § 4-5-322.

So ORDERED by the Tennessee Massage Licensure Board this 2nd day of May 2023.

Terry Stubblefield (1:51:00)

Stubblefield was not present. Ms. Yarbrough motions to proceed in default. Ms. Burke seconded, none opposed, the motion carried. Ms. Turner presented the case, notice of chargers, and proposed order. After presenting the proof, Ms. Turner gave a closing statement. Ms. Vickers motioned to accept the findings of fact as presented. Ms. Yarbrough seconded the motion, none opposed, the motion carried. Ms. Yarbrough motioned to accept the conclusion of law as written. Ms. Vickers seconded the motion, none opposed, the motion carried. Ms. Vickers motioned to accept the proposed discipline. Ms. Yarbrough seconded the motion and with none opposed, the

motion carried. Ms. Vickers motioned to accept the policy statement as written. Ms. Newberry seconded the motion, none opposed, the motion carried.

FINAL ORDER

This matter came to be heard before the Tennessee Massage Licensure Board ("Board") on May 2, 2023, pursuant to a Notice of Charges issued against Respondent by the Division of Health-Related Boards of the Tennessee Department of Health ("State"). Presiding at the hearing was the Honorable Judge Steven Darnell appointed by the Tennessee Secretary of State, Administrative Procedures Division. The State was represented by Jessica L. Turner, Senior Associate General Counsel. Respondent was not present and was not represented by counsel. Counsel for the State made a motion pursuant to Tennessee Code Annotated Section (TENN. CODE ANN. §) 4-5-309 to find the Respondent in default. In support of its motion, the State introduced evidence that Respondent was informed of the hearing date and time by certified mail and by first class mail at Respondent's address of record that Respondent was required to keep up to date by law, as well as by email. By majority vote, the Board GRANTED the State's motion to find the Respondent in DEFAULT and to conduct the proceeding without the participation of the Respondent.

After consideration of the testimony, the documentary evidence, and the record as a whole, the Board finds as follows:

FINDINGS OF FACT

1. Respondent has been at all times pertinent hereto licensed by the Board as a massage therapist in the State of Tennessee, having been granted license number 7357 on about October 8, 2008, which currently has an expiration date of March 31, 2024.
2. Respondent failed to obtain twenty-four (24) approved hours of continuing education in the 2017/2018 continuing education cycle.
3. When Respondent's license was renewed following the continuing education cycle listed in paragraph 2, Respondent falsely indicated that Respondent had completed all required continuing education for that continuing education cycle.
4. Respondent has previously been disciplined for failure to obtain required continuing education during the 2009/2010 cycle.

CONCLUSIONS OF LAW

The findings of fact above are sufficient to establish that grounds for discipline of Respondent's massage therapist license exist. Specifically, Respondent has violated the following statutes or rules which are part of the provisions of the massage practice act, (TENN. CODE ANN. § 63-18-101, et seq.) for which disciplinary action before and by the Board is authorized:

5. The facts in paragraphs two (2) and three (3) constitute a violation of TENN. CODE ANN. § 63-18-108:
 - (1) Is guilty of fraud in the practice of massage or fraud or deceit in the licensee's admission to the practice of massage.
 - (7) Has violated any of the provisions of this part or any substantive rule promulgated under the authority of this part.
6. The facts alleged in paragraphs two (2) and three (3) constitute a violation of TENN. COMP.R. & REGS 0870-01-.12(1)1: All licensees must complete twenty-five (25) hours of continuing education every two (2) calendar years, as a prerequisite to licensure renewal. The first two-year cycle for continuing education ran from January 1, 2003, to December 31, 2004, and shall continue on two-year cycles thereafter.
7. The facts in paragraphs two (2) and three (3) constitute a violation of TENN. COMP. R. & REGS 0870-01-.12(8):

(a) Any massage therapist, massage establishment owner, or massage establishment responsible person who fails to obtain the required continuing education hours or who falsely attests to attendance and/or completion of the required hours of continuing education may be subject to disciplinary action pursuant to T.C.A. § 63-18-108.

8. The facts in paragraphs two (2) through four (4) constitute a violation of TENN. COMP. R. & REGS 0870-01-.19(1):(f) Consistently maintain and improve professional knowledge and competence, striving for professional excellence through regular assessment of personal and professional strengths and weaknesses and through continued education training[.]

ORDER

THEREFORE, in consideration of the above Findings of Fact and Conclusions of Law, it is ORDERED, ADJUDGED, and DECREED as follows:

9. Respondent's license is hereby SUSPENDED beginning the effective date of this order.

10. The suspension of Respondent's license shall continue, and Respondent may not reinstate Respondent's license until Respondent:

1 The Rules were amended in 2017 and now require only 24 hours, the Rules in effect for the cycle in question required 25 hours. The quoted language comes from the rules in effect at the time in question.

a. Submits evidence of having completed a total of at least thirty (30) hours of continuing education, all of which will count only toward the 2017/2018 cycle. These hours include a total of six penalty hours to account for Respondent's failure to timely complete the required continuing education hours in 2017/2018.

b. These hours are in addition to the continuing education hours required to maintain a massage therapist license in Tennessee.

c. These hours must include two (2) hours pertaining to "Tennessee statutes and rules concerning massage therapists and establishments" (Rule 0870-01-.12(1)(b)) and two (2) hours pertaining to "the management of practicing massage therapy, professional ethics, or substance abuse" (Rule 0870-01-.12(1)(c)).

d. No more than eight (8) of these hours may be completed in a "multi-media format."

(See Rule 0870-01-.12(1)(d)).

11. Once Respondent submits documentary evidence demonstrating the continuing education hours required above, Respondent's license shall be placed on PROBATION for a period of three (3) years. During the period of probation, Respondent must submit proof of continuing education compliance by January 30th following a cycle year. For example, if Respondent's license is placed on probation September 1, 2023, Respondent must submit proof of continuing education compliance for the 2023/2024 cycle by January 30, 2025. Respondent is only responsible for submitting proof of continuing education compliance during the period of probation. For example, if Respondent is not placed on probation until 2023, the period of probation will only encompass one (1) complete continuing education cycle (2023/2024) and therefore Respondent will only be responsible for submitting proof of compliance one time.

a. If Respondent has any questions about compliance with this section, Respondent shall contact the disciplinary coordinator within thirty (30) days of the entry of this order. If Respondent does not contact the disciplinary coordinator within thirty (30) days, Respondent will be deemed to fully understand the requirements of this section.

12. Respondent shall pay one (1) Type B Civil Penalty in the amount of three hundred dollars (\$300.00), representing the penalty for falsely certifying on Respondent's license renewal that Respondent had completed the required continuing education, and twenty-four (24) Type C Civil Penalties in the amount of fifty dollars (\$50.00) each, representing one civil penalty per hour that Respondent was deficient, for a total assessment of one-thousand-five hundred dollars (\$1,500.00).

13. Respondent must pay, pursuant to TENN. CODE ANN. § 63-1-144, the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed against the Board by the State in connection with the prosecution of this matter. These costs will be established by an Assessment of Costs prepared and filed by counsel for the State. The maximum amount for the assessment of costs shall be Five Thousand Dollars (\$5,000.00).

14. Within sixty (60) days from Assessment of Costs being sent to Respondent, Respondent must either pay the civil penalties and costs in full OR make arrangements for a payment plan with the Disciplinary Coordinator. If a payment plan is developed, all civil penalties and costs must be paid within one (1) year of the entry of this Order. Civil penalties and costs shall be paid by submitting a certified check, cashier's check, or money order payable to the State of Tennessee to the address below. Respondent's name and this case number must be put on the check or money order to ensure it is applied correctly: 17.49-224323A.

15. Proof of continuing education and payment of all fines and costs as required above must be mailed or delivery to: Office of General Counsel Attn: Disciplinary Coordinator, Tennessee Department of Health 665 Mainstream Drive, Second Floor Nashville, Tennessee 37243 or disciplinary.coordinator@to.gov

POLICY STATEMENT

The Tennessee Massage Licensure Board takes this action in order to protect the health, safety, and welfare of people in Tennessee. The rules require that massage therapists complete continuing education on a regular basis in order to maintain their competence and to keep abreast of changing professional standards. This massage therapist failed to complete the required continuing education during 2017 and 2018. Given Respondent's failure to maintain professional competence by completing the required continuing education, the Board is suspending Respondent license, and will not allow Respondent to reinstate that license, until that continuing education is completed. The civil penalties in this order are also appropriate due to Respondent's failure to comply with the Board's rules.

RECONSIDERATION, ADMINISTRATIVE RELIEF AND JUDICIAL REVIEW

Within fifteen (15) days after the entry of an initial or final order, a party may file a petition to the Board for reconsideration of the Final Order. If no action is taken within twenty (20) days of filing of the petition with the Board, it is deemed denied. TENN. CODE ANN. § 4-5-317.

In addition, a party may petition the Board for a stay of the Final Order within seven (7) days after the effective date of the Final Order. TENN. CODE ANN. § 4-5-316.

Finally, a party may seek judicial review by filing a petition for review in the Chancery Court of Davidson County within sixty (60) days after the effective date of the Final Order. A petition for reconsideration does not act to extend the sixty (60) day period; however, if the petition is granted, then the sixty (60) day period is tolled and a new sixty (60) day period commences from the effective date of the Final Order disposing of the petition. TENN. CODE ANN. § 4-5-322.

So ORDERED by the Tennessee Massage Licensure Board this 2nd day of May 2023.

Laura McClaine (2:05:00)

The Judge continued this case to the August 14th and 15th, 2023 board meeting.

Agreed order

Jamil Ware (2:19:00)

Mr. Ware was not present. Ms. Burke was not present for this case either. A quorum was still established. Ms. Turner presented the order to the board and Judge. Ms. Vickers motioned to accept the order as written, Ms. Yarbrough seconded the motion. None opposed and the motion carried.

Old and New Business

Ms. French asked the board if they would like to send any of the members to upcoming conferences. Ms. Vickers motioned to authorize the board attorney and Noranda French to travel to the FARB RLS conference on September 21st-23rd. Yarbrough seconded, and none opposed. The motion carried.

Mr. Velker motioned to send Noranda French and Ms. Newberry, with Ms. Yarbrough as an alternate, to the FSMTB conference on September 28th-30th. Mr. Mullins seconded, and none opposed. The motion carried. Mr. Velker motioned to send Tonya Wilkins to the CLEAR conference on September 27th-30th. Ms. Yarbrough seconded the motion, and none opposed. The motion carried.

Mr. Velker adjourned the meeting at 11:39am.