

MINUTES
TENNESSEE MASSAGE LICENSURE BOARD
February 11, 2019

Time: 9:00 a.m. C.S.T.
Location: 665 Mainstream Drive
HRB Conference Center
1st Floor, Iris Room
Nashville, TN 37243

Members Present: Marvis A. Burke, LMT, Chairperson
Cynthia Jagers, LMT, Secretary
Ed Bolden, LMT
Christi Cross, Citizen Member
Bill Mullins, LMT
Michael Velker, Citizen Member
Virginia P. Yarbrough, LMT

Staff Present: Kimberly Hodge, Board Manager
Kimberly Wallace, Unit 3 Director
Marc Guilford, Office of General Counsel

The meeting was called to order at 9:18 a.m. by Ms. Marvis Burke, Chairperson. Ms. Burke welcomed and acknowledged the therapists, schools, and students present and joining online. Ms. Burke stated that the reason the Board exists is to protect the health, welfare, and safety of the people of Tennessee. Prior to conducting business, Kimberly Hodge conducted a roll call to establish a quorum. A quorum was established.

Discussion of Sunset Bill

Mr. Marc Guilford of the Office of General Counsel presented information on the Sunset Bill, SB0161/HB0492 that has been recently introduced in the state legislature. Mr. Guilford stated that the introduction of this bill had largely to do with the Board's finances. Mr. Guilford explained that due to legislation that has already been in effect for many years, each fiscal year, regardless of financial reserves, each board must bring in enough revenue to be self-sufficient for that fiscal year. This existing legislation also states that if a board is in the red for two (2) consecutive years, they will be scheduled for a self-sufficiency hearing with Government Operations (GovOps) during the next legislative session. Mr. Guilford stated that while at the last Board meeting in November of 2018 it was believed that this meeting would take place sometime this summer, the meeting had actually been scheduled for February 25, 2019, at 1:00 p.m. Senator Roberts, who drafted the state senate version of the bill that would sunset the Board by June 30, 2019, has said that this is a precaution intended to spur the Board to take action to make sure it does not run in the red again. Mr. Guilford stated that Ms. French, Ms. Leonard, and Mr. Powell were all present at this meeting to answer any questions the Board might have about the finance, investigations, and legislative aspects of this issue. Mr. Guilford

emphasized that by the end of this meeting, the Board should have a plan to present to GovOps that would show how they plan to not continue operating in the red going forward.

Ms. Noranda French from finance presented the mid-year financial report for the Board. For mid-year Fiscal Year 2019, total direct expenditures were \$198,540.52; total allocated expenditures were \$117,507.18; total overall expenditures came to \$316, 047.70; Board fee revenue came to \$371,858.14; bringing the total current mid-year year net to \$55,810.44.

Ms. French also presented the Board's expenditure reports going back to 2014. Ms. French pointed out that before 2015, before the Board instituted a 100% audit of continuing education, investigations and legal expenses were much lower. In 2015, when the continuing education violations were being processed by investigations and prosecuted by the Office of General Counsel, those expenses increased significantly. Ms. French mentioned that if House Bill 0296 passes, it may reduce the Board's revenue by just over \$27,000.00 this year, and by just over \$28,000.00 next year. Ms. French explained how regular state employee evaluations resulting in an average of 3% raises and increases in benefits cost affects the Board's expenditures. Ms. French also talked about the exploration done by her office and the assistant commissioner's office on how the reserve could be spent. Ms. French referred the Board to T.C.A. 61-1-137 which has language indicating that a Board can use reserves to defray enforcement expenditures. Ms. French stated that up to this time, the financial tracking systems have not been set up to differentiate between advisory costs and enforcement costs. For several months, Ms. French's office worked to create accounting systems and codes, and to train staff on how to use those systems and codes, to be able to track advisory costs and enforcement costs differently for all the health related boards. This system is now in place. The data gleaned from this new system will allow Ms. French to go back to Finance and Administration with information on how much it costs this Board to enforce its Rules and Statutes, and ask that these costs be covered out of the Board's reserve funds. Ms. French noted that there is no guarantee that this request would be approved, since this could be considered a recurring expense and therefore not eligible to be covered by reserves. Ms. French noted that this is an initiative intended to help all boards.

Ms. French presented options for the Board to consider for renewal fee increases. She pointed out that while there is no way to predict how many people will apply to be initially licensed in any one fiscal year, we do know how many current licensees we expect to renew their licenses each year. She stated that since the number of license renewals are reasonably predictable, they are the best fees to raise in order to create a reliable ongoing revenue increase.

Ms. French stated that while decreasing expenditures may sound like an attractive way to get out of the red, the Board had actually been very responsible with their expenditures. The only cuts that would be feasible would be to cut travel to professional conferences, which would adversely impact the Board's knowledge of the profession, or to loosen regulations around Board policies, such as the lapsed license policy for therapists and establishments, which would reduce enforcement costs but at the possible expense of protecting the public.

In response to questions from Dr. Bolden, Ms. French stated that the Board's budget is not voted on by the Board. The Board's yearly budget consists of the revenue that comes in for that year, and the Board's expenditures for that same year are required by statute to fall within that amount.

However, the only expenditure item that the Board is permitted to vote on is travel. Ms. French stated that the Board's travel expenditure is already very small for a Board of its size. Dr. Bolden and Ms. French concurred that the travel expenditure makes up significantly less than one percent of the Board's expenditures. Ms. French stated that the sunset review process is something that happens with all boards, and that two boards, the Board of Medical Examiners and the Board of X-Ray Operators, are currently also under sunset review for operating in the red for more than two years. Ms. French stated that the Board of Medical Examiners, like the Massage Licensure Board, is dealing with an unexpected increase in enforcement costs due to the nationwide opioid crisis. This crisis has significantly increased the Board of Medical Examiners' investigations and legal costs as they strive to enforce their rules and statutes. Dr. Bolden asked if the past two years' trend of increased enforcement costs for the Board could be due to the growth of the profession and the Board's increased focus on enforcing its rules and statutes to protect the health and safety of the people of Tennessee. Ms. French stated that this could very well be accurate, since that is the Board's stated mission. Dr. Bolden and Ms. French concurred that none of the Health Related Boards have any control over the number or type of complaints that are received, or over the process used by investigations to process and investigate those complaints.

In response to a question from Mr. Mullins, Ms. French stated that it is very difficult for a board to assess and collect enough in penalties to cover investigations and legal costs involved in enforcement. Ms. French stated that the estimated costs for investigations are based on the number of licensees. Mr. Guilford stated that as a part of any settlement or contested case that leads to a Board Order, the resulting Order almost always has a provision for the licensee to pay "costs not exceeding" an amount that the Office of General Counsel (OGC) sets, which OGC attempts to calculate to cover all expected costs. However, this is a number which is subject to negotiation as part of a settlement agreement. Mr. Guilford went on to add that not all cases in investigations are sent to the OGC, and not all cases sent to the OGC result in a Board Order. In those cases, costs would not be recoverable. Mr. Guilford stated that as he negotiates the amount for costs, he is mindful that the end result must advance the Board's mission to protect the health and safety of the people of Tennessee, and that at times it may better serve the Board's purpose to not recover costs in order to get a license revoked quicker through an agreement rather than taking the additional time to advance the case to a trial, for example.

In response to questions from Mr. Mullins, Ms. French stated that if the appropriations language stays in the bill, this would be a yearly request presented to the legislature to allow the Board to use funds from the reserve to pay for that year's enforcement costs. Ms. French stated that this fiscal year, starting January 1, 2019, the new accounting system has been in place. Therefore, when the first year-end fiscal reports showing enforcement costs separate from advising costs are available, at that time Ms. French's office will ask the legislature for the Health Related Boards to be allowed to pay their enforcement costs out of their reserves. If this request is approved, Ms. French expects that further yearly requests would also be likely to be approved, as long as the appropriations language allowing it remains in the bill. Ms. French further stated that if this request is approved this year, there is a high likelihood that the Board would be closing in the black for this fiscal year.

In response to questions from Mr. Mullins, Ms. French explained that as money is used out of the reserve, the Board would ideally be replacing that money with revenue during the next fiscal year, which would then be used to pay that year's enforcement costs. Mr. Guilford and Ms. French concurred that this system would not keep costs from increasing, and would not preclude the Board having to increase fees at some point. Mr. Guilford pointed out that regular operating expenses are expected to go up by at least three percent every year, and that the Board's fees had not increased for at least ten (10) years.

In response to questions from Mr. Mullins, Ms. French stated that the request to use reserve funds to pay for enforcement expenditures for this fiscal year will be made in May 2019, and a response from the legislature is expected by August or September 2019.

In response to concerns expressed by Ms. Burke, Ms. French stated that state law requires that every board's expenditures must not exceed its revenues for any fiscal year, and that this is why renewal fee increases are being considered even though the Board has roughly \$912,000.00 in its reserve fund. Ms. French stated that when the Board meets with GovOps, what GovOps is looking for is a plan for the Board to go forward operating in the black. Ms. French stressed that this meeting is not a threat to the profession, simply a chance for the Board to present their plan.

In response to questions from Ms. Cross, Mr. Guilford stated that a fee increase would necessitate a rule making hearing. Mr. Guilford stated that if the Board were to vote for a fee increase at this meeting, it would be possible to have a rule making hearing at the next Board meeting, scheduled for May 13 and 14, 2019. After that hearing, it would be at least three (3) months before any approved fee increase would take effect.

In response to questions from Dr. Bolden, Ms. French stated that the frequency of increasing fees varies among individual boards according to their policies and procedures. Ms. French stated that the Board of Medical Examiners is in the process of a fee increase, and the Board of X-Ray Operators is currently in the red because they have not yet established their fees. Ms. French stated that in the three (3) years she has been in her current position, these are the first boards to increase their fees. Ms. French stated that the only guaranteed option for the Board to increase revenue at this time would be to increase licensure renewal fees.

In response to a question from Ms. Burke, Ms. French stated that she did not have the information to compare renewal fees across the Tennessee Health Related Boards professions, but that she could get that information before the end of the meeting for the Board to review.

In response to a question from Dr. Bolden, Ms. French explained the process used to estimate revenue going forward with different amounts of renewal fee increases. Ms. French discussed unknown numbers, such as how many applications for initial licensure, massage establishment licensure, or retirement of licenses will happen during a fiscal year. Ms. French stated that given the unknowns, it is assumed that the new applicants and the retirements will somewhat cancel out, and therefore the renewals are the most dependable numbers to use for estimates of revenue.

Dr. Bolden and Ms. French concurred that it is completely out of the Board's control how many complaints are lodged, how many new applications are received, how many renewals are

received, how many complaints move forward to the OGC, and how many investigations are pursued. Dr. Bolden stated that in spite of this, the Board is still charged with the mission to protect the health, safety, and welfare of the people of Tennessee. He stated that the landscape of the profession has changed to involve more frequent fraud in the licensure process, frequently involving fraudulent massage schools; an increase in sexual assaults; and an increase in evident precursors of human trafficking. Dr. Bolden stated that these issues had not been evident in the licensure of the massage profession ten years or even five years ago, but are a regular part of the issues this Board deals with today. Dr. Bolden stated his concern that the public is not aware of these issues, the fact that there have been no fee increases for at least ten years, and the limited fiscal choices the Board has available to finance its mission. Dr. Bolden stated that under these circumstances, the fact that the Board has only run in the red for two years out of the past ten is a sign of the Board's fiscal responsibility. Ms. French concurred.

Ms. Cross stated that while the opioid crisis gets a lot of attention as a huge health issue, human trafficking is also a large public health issue. Ms. Cross stated that this is an issue that the Board has dealt with extensively in Tennessee and on a national level with Board members and administrative staff serving on boards and committees in national organizations that are concerned with this issue as it impacts the massage profession. Ms. Cross added that she did not want the number of complaints and investigations to go down, because those complaints bring important issues to the Board's notice. Dr. Bolden added that the Board's mission extends to protecting the massage therapists themselves, in keeping illegitimate practitioners from doing damage to the profession.

Mr. Velker spoke about the possibility of cutting travel costs, instituting an automatic annual three percent fee increase, and having the massage establishment license renewal fees be increased more than the massage therapist license renewal fees, on the theory that the establishments are businesses that benefit from the massage therapists' labor and therefore should pay more in fees.

In response to questions from Mr. Velker, Mr. Guilford stated that if the bill passes and the Board is sunset, the Board will begin to go through the established wind-down procedures. Mr. Guilford stated that since he has not himself observed a board go through this process, he is unclear on the exact process. Mr. Guilford stated that Senator Roberts, who has supported this bill, has made statements to the effect that the worst case scenario would be that the Board will be sunset, the current Board membership will be dissolved, licensure will go on, and a new Board membership will be constituted. Mr. Guilford emphasized that this was a public statement from Senator Roberts that it was not his intent to deregulate the massage profession, only that if this Board could not get the fiscal issues resolved, that this Board should be dissolved and a new Board put in its place. Mr. Guilford stated that the possibilities, should this bill pass, include new legislation next year regarding massage regulation, and the possibility that Tennessee could have a certification program instead of a licensure board. Mr. Guilford stated that certification programs are usually less costly to run, and that they have less oversight of a profession.

Mr. Powell from the legislative liaison office stated that there are too many variables in play to predict what the legislature will do with this bill. In response to a question from Mr. Velker, Mr. Powell stated that this hearing will result in a recommendation to the legislature from the

committee, and that the bill itself will go through the usual process for a bill, and will not reach the floor for a vote for some time. In response to comments from Ms. Cross about how unlikely the worst case scenario was to happen, Mr. Powell agreed that it was unlikely, and that the main concern would be how to keep the Board functioning in the black going forward.

Dr. Bolden and Mr. Powell discussed that citizens are welcome to contact their elected representatives about their thoughts on having the Board continue. Mr. Powell emphasized that respectful contact is always appreciated, and is more effective.

Mr. Powell stated that if the Board presents a plan that is acceptable to the committee, the most likely outcome will be that the committee will add an amendment to the bill extending the sunset date out a year, which would give the Board time to make any proposed changes. In this case, there would be another meeting next year to show the committee that things had progressed in an appropriate fashion. Ms. Cross emphasized that a financial review is a normal process for a board.

Mr. Mullins stated that he would be in favor of Mr. Velker's idea of increasing the massage establishment renewal fee significantly, even up to doubling the current fee. Mr. Mullins and Ms. Cross discussed the possibility of increasing the percentage of licensees audited for continuing education as a way to increase revenue. Ms. Cross pointed out that in the past when the Board has increased the audit percentage, the legal expenditures have also increased. Dr. Bolden pointed out that this would leave the Board with increased legal expenditures, and the fees from any audit related discipline would go directly into the reserve, which at the present time cannot be accessed to pay those increased expenditures. Dr. Bolden also pointed out that most massage establishments are owned by massage therapists, so if the establishment renewal fees are doubled, that would still impact many massage therapists. Dr. Bolden and Mr. Mullins also discussed the fact that in many establishments owned by therapists, the owner is the only massage therapist. Dr. Bolden stated that the recent law requiring the initial application fee to be waived for low income applicants will have some impact on fee based revenue. Mr. Velker asked if the massage schools paid any kind of annual fee for operating in Tennessee, and Dr. Bolden stated that there is an annual fee that schools pay to Tennessee Higher Education Commission.

In response to a question from Ms. Hodge, Mr. Guilford stated that if the Board votes to increase fees but decides on a different solution before the rule making hearing, the Board may choose not to increase fees or to change the amount of the increase.

Ms. Hodge reported to the Board that after research into the matter through statistics kept by the Federation of State Massage Therapy Boards (FSMTB), it is true that across all states that regulate massage there has been an increase in enforcement expenses due to matters such as unlicensed practice, fraud in licensure application, sexual assault, and other related issues.

In response to a question from Dr. Bolden about what our licensees can do to lower enforcement costs, Mr. Guilford stated that fewer violations of the practice act would decrease but not eliminate investigations and legal costs, since all complaints are investigated, even the ones that

do not result in any discipline. Mr. Guilford stated that no board has zero expenditures in investigations and legal expenses.

In response to a question from Mr. Velker, Mr. Guilford explained that sunset review is a regular process for all boards and many agencies. Mr. Guilford stated that in 2016, the Board had a regular sunset review in which the Board explained to the legislature the need for this Board to continue existing, and at that time a bill was passed setting the next sunset review for 2020. Mr. Guilford stated that since the current situation includes a self-sufficiency hearing, he would expect the new sunset date to be set for one year instead of the usual four to six years, so that the legislature can check in to see how well the Board's plan for self-sufficiency is going. Mr. Guilford stated that having a sunset date is not at all unusual. Mr. Powell stated that the Department of Health itself had its sunset date this year, and that there is currently a bill in consideration to extend that date. Mr. Powell concurred that this is a normal procedure that many government entities go through regularly. Mr. Powell stated that if the legislature approves of the self-sufficiency plan presented by the Board in the upcoming hearing, they will most likely make an amendment to the bill changing the sunset date to sometime in the future instead of this year.

Mr. Guilford introduced the following members of the public who had requested to speak to the Board:

Mr. Steve Sommers of Cumberland Institute of Holistic Therapies

Mr. Sommers thanked the Board for receiving public comments today. He stated that he remembered a time in the past when renewal fees were much higher than they are today, that those fees were in the \$280's. Mr. Sommers also reiterated what had been discussed by the Board earlier, that many massage establishment licenses were owned by massage therapists, and that many of those had only themselves as therapists under their establishment license. Mr. Sommers expressed concern about the financial impact that a steep increase in establishment license renewal fees would have on these therapists.

Ms. Christine Cooper, Manager of Legislative and Regulatory Affairs for the A.M.T.A.

Ms. Cooper stated that according to statistics collected by the A.M.T.A., the national average for initial licensure fees is \$162.00, and for licensure renewals is \$116.00. She also expressed concern about how significantly raising the massage establishment renewal fees may adversely affect massage therapists who own massage establishment licenses, and stated that A.M.T.A. would not support such an increase.

Ms. Cooper also asked if the TnPAP grant money was voted on by the Board. Dr. Bolden responded that this is a contract that is negotiated outside of the Board. Ms. Cooper asked how many members benefit from TnPAP's services, how much the Board really uses it, and whether it is a reasonable expense, considering how much is spent. Ms. Cross spoke to the fact that the Board uses this program to make sure applicants and licensees are safe to practice, and that she did not think the Board would be willing to vote against continuing the program. Mr. Guilford stated that there was a competitive bidding process used to award that grant. Ms. French stated

that in the competitive bidding process, the best practice is usually to award the contract to the low bidder. Ms. French stated that the grant provides up to \$140,000.00 annually for the Board to use on these services, but that the Board has not utilized the full amount in any year. Ms. French stated that this amount is actually quite low for a Board of this size. Ms. French stated that the Board does vote on whether to require individuals who appear before the Board to complete a TnPAP evaluation. Ms. French reiterated Ms. Cross's point that this program is a way for the Board to make sure their licensees are safe to practice, thus safeguarding the health and safety of the public, and also making sure that licensees are getting any necessary rehabilitative care.

Ms. Cooper asked if the Board was charging a significant amount for initial or random inspections of massage establishments. Mr. Velker said no. Ms. Cooper stated that she felt that curtailing travel expenses would show an effort on the Board's part to be fiscally responsible.

Mr. Charles West, LMT

Mr. West stated that the reserve funds came from several years of fees paid for massage establishment inspections that were never done. He expressed concern about how much establishments would be paying for inspections when the Board starts doing them again. Mr. West presented hypothetical estimates of how much paying an inspector would cost per establishment. Mr. West stated that at one time there had been a fee paid to the Board by their approved schools. Dr. Bolden responded that there had been an initial fee, but never a recurring fee for massage schools to pay to the Board. Dr. Bolden stated that the reinstatements of establishment inspections are currently in contract negotiations which are out of the Board's control. Dr. Bolden stated that there must be a contract in place before inspections can begin again, and that paying for inspections was an expense to be considered.

Mr. Steve Sommers of Cumberland Institute of Holistic Therapies

Mr. Sommers suggested that the Board use CE Broker instead of the existing audit structure to cut down on the investigative costs involved in continuing education audits. Ms. French responded that if the Board chose to use CE Broker that would require a contract for which the Board would have to make funds available. In addition, any violations detected by CE Broker would still have to go through the investigations disciplinary process and if necessary, to OGC for legal action.

A motion was made by Ms. Cross, seconded by Mr. Mullins, to adopt the fee increases in column 2 of Ms. French's proposed fee increase chart, which would increase the renewal fees for therapist licenses and establishment licenses by \$50.00 each. This would increase the therapist renewal fee to \$245.00 and the establishment renewal fee to \$195.00. In response to a question from Dr. Bolden, Ms. French stated that in order to keep up with expected increases every year, if the legislature does not approve the use of the reserve fund to pay enforcement expenditures, the Board may not see the full effect of this increase in revenue until 2021, and that year the Board could potentially close in the black. Ms. French stated that there are too many variables involved in enforcement, including number of complaints and time spent investigating them, to predict at what point the Board might have to raise fees again using any of the scenarios they

were considering at this meeting. Ms. French stated that by the Board's August meeting her office should have a better idea of whether the ask for the enforcement expenditures has a good chance of passing, and that for this reason the Board might choose to hold off making a final decision on the amount of fee increases until then. Ms. French recommended being ready to present a plan A and plan B to the legislature this month, letting them know that the Board is ready to exercise one of these options, depending on whether the reserve fund becomes available to pay enforcement expenditures, to come back into the black. After much discussion, Ms. Cross's motion was called to the vote, and the motion failed. A motion was made by Mr. Velker to change the renewal fees to \$200.00 for therapists and \$250.00 for the establishments. After more discussion, Ms. French stated that she would be willing to run the numbers to see what the minimum increase would have to be to have a larger increase on the establishments still bring the Board back into the black. Mr. Velker withdrew his motion pending receipt of that information from Ms. French.

Minutes

Upon review of the minutes from the November 5 and 6, 2018 Massage Licensure Board meeting, a motion was made by Dr. Bolden, seconded by Ms. Cross, to approve the minutes as written. The motion carried.

Ms. Burke introduced Ms. Jiao Hoggard, the interpreter for the applicant interviews. Ms. Hoggard confirmed that she was able to communicate effectively with all the applicants that requested an interpreter. Ms. Burke reminded the Board members to allow time for translation.

Applicant Interviews

Joshua and Stacey Morter, LMT – Morter Family Chiropractic, PLLC

Mr. and Ms. Morter applied for a massage establishment license for Morter Family Chiropractic, PLLC, at 221 Castlewood Drive, Suite C, Murfreesboro, TN 37127, and were present at this meeting to answer concerns that they had checked "no" to the question on the Ownership and Proceeds Disclosure that asked if they had ever been convicted. A 2002 Public Intoxication charge came back on their criminal background check. Mr. Morter stated that this was an oversight on their part, that they did not notice the part where this question covered misdemeanors. A motion was made by Ms. Cross, seconded by Mr. Velker, to approve Mr. and Ms. Morter's application for a massage establishment license. The motion carried.

Alexander Robison, LMT – Nashville Body Works

Mr. Robison applied for a massage establishment license for Nashville Body Works at 410 Central Avenue, Nashville, TN 37211, and was present at this meeting to answer concerns that he had marked "no" to the question on the Ownership and Proceeds Disclosure that asked if he had ever been convicted. A 2010 charge of DUI that had been pled down to Reckless Driving came back on his criminal background check. Mr. Robison stated that he answered "no" because he thought his lawyer had had this charge expunged on his behalf. A motion was made by Ms. Jagers, seconded by Ms. Yarbrough, to approve Mr. Robison's application for a massage establishment license. The motion carried.

Shellie C. Anderson

Ms. Anderson applied for a massage therapist license, and was present at this meeting. Ms. Burke noted that there was a note in the file from TnPAP that Ms. Anderson could be considered for a conditional license as long as she remained compliant with TnPAP's recommendations. Ms. Anderson stated that she had entered into a one year monitoring agreement with TnPAP. A motion was made by Dr. Bolden, seconded by Ms. Cross, to approve Ms. Anderson's application for a massage therapist license. After some discussion, an amendment to this motion was made by Ms. Cross and accepted by Dr. Bolden to grant this as a conditional license, conditional on Ms. Anderson staying compliant with and completing the requirements of the TnPAP monitoring agreement she had signed. The amended motion carried.

Maggie Chen

Ms. Chen applied for a massage therapist license, and was present at this meeting. The translator, Ms. Jiao Hoggard, translated the Board's questions about Ms. Chen's application for a massage therapist license. The Board's concerns about this application included that Ms. Chen had completed her massage education from Rosel School in Illinois; Ms. Chen did not report being licensed as a nail technician in Illinois; Ms. Chen's Illinois massage therapist license was disciplined in 2012 for aiding and abetting unlicensed massage practice; and Ms. Chen marked "no" to questions 6 and 7, and to question 9 regarding having been convicted of a crime other than a minor traffic offense. Ms. Burke asked Ms. Chen if she could read, write, or speak English. Ms. Chen stated that she knew some English, but her English was not very good. Ms. Chen stated that she has been working in a clinic in Illinois for ten years, and wanted to move to Tennessee for the warmer climate. In response to questions from Mr. Guilford, she stated that she did not think that her Illinois massage therapist license had been disciplined. She stated that in 2012, while she was working in Illinois, she hired a massage therapist who was from Florida, and told him he could work for two weeks, and if customers like him, he could stay. Ms. Chen said that during this time, the establishment was investigated. Ms. Chen stated that the only problem that was found was that she had knowingly hired someone who was not licensed in her state to practice massage in her establishment. As a result, Ms. Chen states that she was sent legal documents, went to court, was required to pay a fine, and her Illinois massage therapist license was reprimanded. Ms. Chen stated that she answered "no" to the questions about being convicted and her license being reprimanded because her English is not good, so she misunderstood the questions. Ms. Chen stated she wanted to work in a clinic in Tennessee, just like she did in Chicago. Ms. Chen stated she did not want to run an establishment in Tennessee, just to work as a massage therapist. Ms. Chen stated that she did understand that a person cannot work as a massage therapist in Tennessee for any time without having a Tennessee massage therapist license.

Ms. Kimberly Hodge stated that the massage school Ms. Chen had attended, Rosel, had been closed around 2015 and required to send all documentation to the Illinois Department of Education. Ms. Hodge pointed out that there was a transcript in the application file that had come directly from the school itself, which was no longer supposed to be operating at all. Ms. Hodge pointed out discrepancies in the transcript sent from the school and the one sent from the Illinois Department of Education.

In response to questions from Mr. Velker, Ms. Chen stated that she did not remember anything about the unlicensed person from California that she hired, since it had been a long time ago. Mr. Velker and Dr. Bolden pointed out that she had written a letter for her application file telling about hiring an

unlicensed person from California, but today she had been talking about an unlicensed person from Florida. In response to questions from Ms. Cross, Ms. Chen stated that she was able to pass the NCBTMB exam in spite of having limited English because she had gone to massage school and studied hard for eight months. Ms. Chen stated that she went to massage school during 2010 and 2011, and that although the required hours to complete the program were 650, she completed more hours because she had to retake classes due to having limited English.

After some discussion, a motion was made by Ms. Cross, seconded by Dr. Bolden, to deny Ms. Chen's application for a massage therapist license based on 63-18-108 (1) and (12). After more discussion, the motion carried. In response to a question from Mr. Guilford, Ms. Cross clarified that the grounds for denial in her motion included out of state discipline and untrue statements.

Tingsuan Lee

Ms. Lee applied for a massage therapist license, and was present at this meeting to answer concerns including: Ms. Lee was denied a massage therapist license at the February 2017 Board meeting due to having completed her massage education at an unapproved massage school, but has since completed an approved massage education program at Tennessee School of Therapeutic Massage in Knoxville, TN; Ms. Lee marked "no" to a question on her application that asked if the applicant has ever been denied licensure; Ms. Lee currently held a reflexologist license, and needs to correct her application to reflect this and pay an additional \$95.00 fee. The interpreter, Ms. Jiao Hoggard, was available to translate for Ms. Lee as needed, per Ms. Lee's request. Ms. Lee stated in English that she can understand most English. After hearing from Ms. Lee about her completion of massage school in Colorado, passing the MBLEx in Tennessee, and going back to complete another massage program in Tennessee, a motion was made by Ms. Cross, seconded by Mr. Velker, to approve Ms. Lee's application for a massage therapist license upon her completion of a corrected application and payment of the \$95.00 fee. The motion carried.

Yumin Wu

Mr. Wu applied for a massage therapist license, and was present at this meeting to answer concerns including: the massage school transcript that was submitted for Mr. Wu came from a school that was determined to be a transcript mill; on his application, Mr. Wu marked "no" to understanding the Board's Rules; and Mr. Wu's MBLEx scores have been invalidated by the Federation of State Massage Therapy Boards (FSMTB). The translator, Ms. Jiao Hoggard, translated the Board's questions about Mr. Wu's application for a massage therapist license. In response to a question from Ms. Burke, Mr. Wu stated that he can read, speak, write and understand a little English. Mr. Wu stated that it has been a year since he applied for this license, and it still hasn't been approved. Mr. Wu stated that he already submitted all the extra material. Dr. Bolden clarified that Mr. Wu's MBLEx scores have been invalidated, and that the school his transcript came from is not an approved school. A motion was made by Dr. Bolden, seconded by Ms. Cross, to deny Mr. Wu's application for a massage therapist license. The motion carried.

Zhanqing Wang

Ms. Wang applied for a massage therapist license, and was present at this meeting to answer concerns including: a letter from the NCBTMB about the massage school Ms. Wang attended, Academy of Oriental Therapy (AOT), stating that the education from this school cannot be verified due to several discrepancies in the AOT documentation in transcripts, including falsification of

documentation, and that AOT's massage program does not meet the NCBTMB's curriculum guidelines; and that the NCBTMB revoked the assigned school code for AOT. The translator, Ms. Jiao Hoggard, translated the Board's questions about Ms. Wang's application for a massage therapist license. In response to a question from Ms. Burke, Ms. Wang stated that she can read, write, speak and understand English a little bit. Ms. Wang stated that she is looking forward to getting her application approved, and that she was currently working in Florida. In response to a question from Ms. Cross, Ms. Wang stated that she passed the MBLEx in spite of her limited English by going to massage school full time, studying really hard, and memorizing everything the teacher taught. Dr. Bolden pointed out that in the letter from the NCBTMB, several courses that AOT initially described as in-classroom were later admitted to be online courses. In response to a questions from Dr. Bolden, Ms. Wang stated that she was unsure how many of the courses she completed at AOT were online. Ms. Wang also stated that her massage school was completed a long time ago, and did not remember which or how many courses were online. Dr. Bolden pointed out that Tennessee does not accept any online education towards initial licensure. A motion was made by Ms. Cross, seconded by Ms. Yarbrough, to deny Ms. Wang's application for licensure as a massage therapist based on not meeting educational requirements for licensure. After some discussion, the motion carried.

Guozhen Wang

Ms. Wang applied for a massage therapist license, and was present at this meeting to ask the Board to allow her to withdraw her application. A warrant was executed by the Murfreesboro Police Department, Ms. Wang's establishment, Eden Spa, at 1810 Old Fort Parkway, Suite B, Murfreesboro, TN 37129 was raided, and Ms. Wang was arrested and charged with impersonating a licensed massage therapist on January 1, 2019. Ms. Lin, who worked in Eden Spa, wrote a letter of recommendation for Ms. Wang. The interpreter, Ms. Hoggard, stated that Ms. Wang had expressed that she wants to address the Board in English. In response to a question from Ms. Burke, Ms. Wang stated that she can read, write, and speak English. Ms. Wang apologized to the Board for her mistake in practicing massage without a license. Ms. Wang said that since she was licensed as a massage therapist in California, had finished massage school at Nashville School of Massage in August, and had applied for her Tennessee massage therapist license, she thought it was okay to go ahead and practice massage in Tennessee. In response to a question from Dr. Bolden, Ms. Wang said she did not remember being taught at Nashville School of Massage that she could not practice massage without a license. On closer questioning, Ms. Wang admitted that she had taken the five (5) hour Tennessee massage law class at Nashville School of Massage, and that they had taught that she should not work as a massage therapist without a license. Ms. Wang said that two more people were arrested when she was arrested. She said that one of these people did not have a massage therapist license, and that the other person had a reflexology license. She stated that both of them were providing massage. A motion was made by Ms. Cross, seconded by Dr. Bolden, to deny Ms. Wang's request to withdraw her application, and to deny Ms. Wang's application for a massage therapist license. The motion carried.

Ai Qiong Lin, LMT - Eden Spa, Inc.

Ms. Lin applied for a change of address of massage establishment license for Eden Spa, Inc. from 1810 Old Fort Parkway, Suite C, Murfreesboro, TN 37129 to 1612 Memorial Boulevard, Murfreesboro, TN 37130, and was present at this meeting. The Board's concerns included: Ms. Lin was charged with operating an establishment without a license from September 2018 to December 2018. She retired the license shortly after this incident. The business was not sold until December 2018. The name of the spa shows "Lavender Spa" on the door. In September of 2018, Ms. Lin was

arrested for money laundering and having unlicensed individuals working in both establishments, at 1810 Old Fort Parkway, Suite C, Murfreesboro, TN 37129 and at 1612 Memorial Boulevard, Murfreesboro, TN 37130. Ms. Lin's application file includes a letter in which she explains why her establishment is open without a valid establishment license. The translator, Ms. Jiao Hoggard, translated the Board's questions about Ms. Lin's application for a change of address for an establishment license. After hearing from Ms. Lin and from Ms. Hodge, a motion was made by Ms. Cross, seconded by Ms. Yarbrough, to deny Ms. Lin's application for an address change for her massage establishment. The motion carried.

Li Wang, LMT – Rejuvenating Massage

Ms. Wang applied for a massage establishment license for Rejuvenating Massage at 120 Seaboard Lane, Suite A, Franklin, TN 37067, and was present today to answer concerns including that this location has come before the Board twice before as Lucky 7 Healing Center and has been denied and revoked. The Board was concerned that Ms. Wang might be connected to the previous applicants. The translator, Ms. Jiao Hoggard, translated the Board's questions about Ms. Wang's application for a massage establishment license. In response to a question from Ms. Burke, Ms. Wang said she had a copy of her signed lease for that location with her at the meeting. Ms. Wang said that she can read, speak, and write English a little bit. In response to questions from Mr. Guilford, Ms. Wang said that the establishment is not currently open, that she had not worked there under previous owners, and that she did not live with and was not related to any of the previous owners. Mr. Velker questioned why she stated on her application that she was fluent in English, and now stated that she could only read, speak, and write English a little bit. In response to a question from Ms. Cross, Ms. Wang stated that she and a friend completed her application. Ms. Cross pointed out that on the application, Ms. Wang stated that she had completed it herself. After much discussion, a motion was made by Mr. Mullins to approve Ms. Wang's application for a massage establishment license. This motion was not seconded, and the motion failed. After more discussion, Ms. Burke asked Ms. Wang to show the Board the signed lease for the location. Ms. Wang provided a copy of the lease. Mr. Guilford went over the lease with the Board, noting that it showed a series of subleases, and that the person subleasing the location to Ms. Wang was a previous owner of an establishment license at that location, and that this person's establishment license had recently been revoked. In response to questions from Dr. Bolden, Ms. Wang said that she worked in Franklin, and when the store closed, she contacted the landlord, and when she learned that the previous establishment license had been denied, she and her American friend called the landlord. In response to a question from Ms. Hodge, Ms. Wang stated that before she purchased this business, she worked in Top Foot Massage, which was a licensed massage establishment. After some discussion, a motion was made by Dr. Bolden, seconded by Mr. Velker, to approve Ms. Wang's application for a massage establishment license. The motion carried.

Ms. Kim Hodge introduced the new Unit 3 Director, Ms. Kimberly Wallace. The Board welcomed Ms. Wallace.

Ms. French

Ms. French returned to the Board with the information they had requested earlier in the meeting. Ms. French submitted copies of the last fiscal year's documentation, which had been presented to the Board at their November 2018 meeting. She also provided a table showing the renewal fees for several other professions in the Health Related Boards. Ms. French pointed out the medical lab fees, and stated that this board is of similar size to the Massage Licensure Board. According to the table,

the medical laboratory renewal fee is \$1,000.00 per year. Ms. French stated that a bare minimum fee increase would be to leave the massage therapist renewal fee at \$195.00, and raise the massage establishments to \$210.00. She stated that this should put the Board in the black by \$14,155.00 for this year, but this would not guarantee anything for the future fiscal years. Mr. Velker had asked about raising the massage therapist renewal fee to \$200.00 and the massage establishment renewal fee to \$250.00. Ms. French stated that this would lead to the Board's revenue increasing by \$135,018.00, and compared to fiscal year 2018 would be an increase of \$82,723.00. Ms. French stated that a renewal fee increase for massage therapists of \$225.00 and for massage establishments of \$250.00 would increase revenues by \$190,230.00, and compared to fiscal year 2018 would be an increase of \$190,230.00. Ms. French made these calculations in response to a question about how long the Board could go without another fee increase. With these fees, the Board might be able to go longer without a fee increase, but Ms. French pointed out that a significant increase in the Board's variable expenses would also affect this goal, therefore it was still difficult to accurately predict. Ms. French stated that it would take two (2) full fiscal years of data to show results from any fee increase implemented. Mr. Guilford and Ms. French discussed how recent and pending legislation may affect these estimates by reducing revenue in other ways. After some discussion, a motion was made by Mr. Velker, seconded by Ms. Yarbrough, to authorize a rulemaking hearing to increase the renewal fees for massage therapist licenses to \$200.00 and for massage establishments to \$250.00. The motion carried.

Mr. Guilford went over the procedures of making a rulemaking hearing happen by the next Board meeting. Mr. Guilford stated that most of the explanation in the Board's meeting with GovOps will be given by Ms. French, since it relates directly to finance. Mr. Guilford also recommended that at least one (1) Board member be present to answer any questions on behalf of the Board. Ms. Burke and Ms. Cross both agreed to be at the meeting, and Ms. Cross offered to be the official Board representative.

Applicant Interviews

Yanmin Zhang

Ms. Zhang applied for a massage therapist license and was not present at this meeting to answer concerns including: that Ms. Zhang had inconsistent transcripts from her massage school, Academy of Oriental Therapy (AOT); the NCBTMB suspended the school's approval on February 28, 2014, and revoked it on June 4, 2015; Ms. Zhang took the NCBTMB test on January 28, 2015, but her transcripts show her completing her massage program on March 6, 2015. Ms. Hodge stated that Ms. Zhang's husband had called the administrative office on the previous Friday, and asked to withdraw Ms. Zhang's application. Ms. Hodge stated that Ms. Zhang's husband said he did not want to put Ms. Zhang through the interview process. Ms. Hodge told Ms. Zhang's husband that she would present that request to the Board. A motion was made by Ms. Cross, seconded by Mr. Velker, to proceed in default and deny Ms. Zhang's application for a massage therapist license. Ms. Cross clarified that her grounds for denial are fraud in the application process because the transcripts are inconsistent and the NCBTMB test was taken while Ms. Zhang was supposedly in massage school. After a brief discussion, the motion carried.

Yang Yang Sang – Lavender Massage Inc.

Mr. Sang applied for a massage establishment license for Lavender Massage, Inc. at 1612 Memorial Boulevard, Murfreesboro, TN 37129, and was not present at this meeting to answer concerns

including: Mr. Sang had been operating a massage establishment without a license; Ms. Ai Qiong Lin of Eden Spa, Inc. had written a letter of recommendation for Mr. Sang; Ms. Wang and Ms. Lin share the same home address; Mr. Sang's application was notarized in New York; Ms. Allian Chen who worked in the establishment was brought in from New York, had been arrested for prostitution, and had never applied for a massage therapist license in Tennessee; after the Murfreesboro Police Department raided this establishment, Mr. Sang bought the business from Ms. Lin for \$25,000.00. A motion was made by Ms. Cross, seconded by Dr. Bolden, to proceed in default and deny Mr. Sang's application for a massage establishment license. The motion carried.

Chasiti Conroy, LMT – Body Connect

Ms. Conroy applied for a massage establishment license for Body Connect at 140 Belle Forest Circle, Nashville, TN 37221, and was not present at this meeting to answer concerns including: Ms. Conroy has two (2) continuing education violations on her massage therapist license, being short twenty-five (25) hours during the 2009/2010 cycle and five (5) hours during the 2011/2012 cycle; Ms. Conroy has operated a massage establishment without a license, and has had unlicensed individuals providing massage at that establishment; Ms. Conroy has another establishment which has been licensed for some time. A motion was made by Ms. Cross, seconded by Mr. Velker, to proceed in default, to deny Ms. Conroy's application for a massage establishment license, and to have investigations open a case on Ms. Conroy's massage therapist license for operating an unlicensed massage establishment. The motion carried.

Mr. Velker stated his intent to resign from the Board by the end of this year. Mr. Velker thanked the school directors who attend Board meetings regularly to stay informed. Mr. Velker spoke about how Tennessee is a leader nationally in regulating the massage profession. Mr. Velker thanked Mr. Guilford for his service to the Board, and the other Board members for their service. Ms. Burke said that Mr. Velker is much appreciated and will be missed.

Discuss and Consider Requests for Continuing Education Waivers

Sheileda Kelly, LMT

Ms. Kelly requested a waiver for twenty-four (24) hours of continuing education for the 2017/2018 cycle. Ms. Kelly had a continuing education violation for the cycle of 2011/2012 of four (4) hours total, including the required 2 hours of Tennessee law and 2 hours of ethics. Ms. Kelly made this request due to a health condition. After some discussion, a motion was made by Ms. Cross, seconded by Mr. Velker, to waive fourteen (14) hours of continuing education for the 2017/2018 cycle for Ms. Kelly, excluding the 2 hours of Tennessee Law and 2 hours of ethics. After more discussion, Ms. Cross withdrew her motion and made a motion that the Board waive half of the 24 continuing education hours for the cycle of 2017/2018, and require that the 2 hours of Tennessee law and 2 hours of ethics be completed as part of the un-waived half. There was no second to the motion, and the motion failed. After more discussion, a motion was made by Ms. Cross, seconded by Mr. Velker and Mr. Mullins, to waive half of the 24 continuing education hours for the cycle of 2017/2018, and require that the 2 hours of Tennessee law and 2 hours of ethics be completed as part of the un-waived half. The motion carried.

Aleksandra Ferguson, LMT

Ms. Ferguson requested a waiver for 4 hours, including the 2 hours of Tennessee Law and 2 hours of Ethics, for the 2017/2018 cycle. A motion was made by Mr. Velker, seconded by Ms. Cross, to deny Ms. Ferguson’s request. The motion carried.

Jennifer Miller, LMT

Ms. Miller requested a waiver for 24 hours of continuing education for the cycle of 2017/2018 due to health and financial issues. Ms. Miller had a continuing education violation in the 2009/2010 cycle, with which she was compliant. In the cycle of 2011/2012, the Board waived 1 hour of continuing education for Ms. Miller. A motion was made by Ms. Cross, seconded by Ms. Yarbrough, to deny Ms. Miller’s request for a waiver. The motion carried.

Melanie Sircy, LMT

Ms. Sircy requested a waiver for 20 hours of continuing education not including the 2 hours of Tennessee Law and 2 hours of Ethics for the 2017/2018 cycle due to health reasons. A motion was made by Ms. Cross, seconded by Ms. Yarbrough, to approve Ms. Sircy’s request for a waiver. After some discussion, a motion was made by Ms. Cross, seconded by Dr. Bolden, to ask the administrative office to ask for more information from Ms. Sircy, and to table Ms. Sircy’s waiver request to the next meeting. The motion carried.

Director’s/Manager’s Report

This is an Administrative Report from Kimberly Hodge, Board Director. The information contained in this report will keep the Board aware of all essential activity pertaining to licensure for Massage Therapists and Massage Establishments.

STATISTICAL REPORT

As of February 6, 2019 there were 4,400 licensed massage therapists and 1,766 licensed massage establishments.

Following is the license status since the last meeting:

THERAPISTS	ESTABLISHMENTS
November 2018	November 2018
Newly Licensed – 35	Newly Licensed – 31
Reinstate Applications – 11	Reactivation Applications – 4
Retired- 13	Retired – 7
New Applications- 27	New Applications- 19
	Address Change Application - 4

THERAPISTS	ESTABLISHMENTS
December 2018	December 2018
Newly Licensed – 23	Newly Licensed – 20
Reinstate Applications – 9	Reactivation Applications – 6

Retired- 37	Retired – 7
New Applications- 19	New Applications- 12
	Address Change Application - 6

THERAPISTS	ESTABLISHMENTS
January 2019	January 2019
Newly Licensed – 49	Newly Licensed – 20
Reinstate Applications – 11	Reactivation Applications – 6
Retired- 36	Retired – 11
New Applications- 43	New Applications - 23
	Address Change Application - 5

Investigation/Disciplinary Reports

This report was brought by Ms. Lori Leonard, Disciplinary Coordinator. Investigations is currently monitoring fifty-five massage therapists on probation. Thirty massage therapists are under a Board Order, twenty-nine are on suspension, sixteen are under revocations, and three are suspended due to child support orders. Investigations is currently monitoring twenty-nine massage establishments.

For the year of 2018, the Office of Investigations received a total of one hundred and fifteen complaints for massage therapists. Of those complaints, one was for falsification of records/reports, one for fraud, two for drugs, eight for sexual misconduct, one for advertising, four for criminal charges, sixteen for unlicensed practice, forty-one for unprofessional conduct, seven for violation of Board orders, four for practicing on a lapsed license, three for criminal conviction, and twenty-seven for continuing education violations.

For the year of 2018, the Office of Investigations closed a total of one hundred and fourteen complaints for massage therapists. Of those complaints, one was closed for insufficient evidence to discipline, fifty-seven were closed and sent to the Office of General Counsel for formal discipline, twenty-seven were closed with no action, seven were closed with a letter of concern, and twenty-two were closed with a letter of warning.

At the time of this meeting, the Office of Investigations had a total of 57 complaints open for massage therapists, and had closed no complaints. Eighteen complaints were opened in 2019. Of those complaints, one was for sexual misconduct, one for malpractice/negligence, twelve for unprofessional conduct, 2 for practicing on a lapsed license, one for criminal conviction, and one for right to know violation.

For the year of 2018, the Office of Investigations received a total of forty-five complaints for massage establishments. Of those complaints, two were for sexual misconduct, twenty four for unlicensed practice, sixteen for unprofessional conduct, and three for practicing on a lapsed license.

For the year of 2018, the Office of Investigations closed a total of fifty-four complaints for massage establishments. Of those complaints, twenty-three were closed and sent to the Office of General Counsel for formal discipline, twenty-three closed with no action, four closed with a letter of concern, and four closed with a letter of warning.

At the time of this meeting, the Office of Investigations had a total of thirty-nine complaints open for massage establishments. Eighteen complaints were opened in 2019. Of those complaints, two were for unlicensed practice, fourteen for unprofessional conduct, and two for operating on a lapsed license.

Continuing Education Audit Report

This report was brought by Ms. Kimberly Hodge. From July 2018 to October 2018, a total of seventy massage therapists were audited for continuing education. Of those massage therapists audited, fifty-one were compliant and 19 were non-compliant. This audit period had a 73% compliance rate, and a 27% non-compliant rate. Of those massage therapists that were non-compliant, thirteen were deficient in the required number of continuing education hours, and six failed to contact the compliance unit after receiving the “Second Notice of Audit Letter” via certified mail.

Mr. Guilford stated that he was happy to see only six people had not responded at all to the letters of audit, since non-response had historically caused the most trouble when these cases were referred to the Office of General Counsel.

Discuss Legislation

Two bills have been filed that would specifically impact the Massage Licensure Board, SB0161/HB0492 (sunset) and HB0296/SB0467 (massage establishment license exemption). The Board has already discussed the sunset bill. Mr. Guilford asked the Board to discuss and vote to support or not support the sunset bill, and that decision will be passed on to the legislature. After a brief discussion, a motion was made by Dr. Bolden, seconded by Mr. Mullins, to oppose the passage by the state legislature of SB0161/HB0492 (sunset). After more discussion, the motion carried.

Mr. Guilford discussed the specifics and impact of HB0296/SB0467. Mr. Guilford explained that this bill would mean that medical doctor’s offices, chiropractor’s offices, and osteopathic physician’s offices would not be required to have a massage establishment license in order to have licensed massage therapists providing massage at those offices. A motion was made by Ms. Cross, seconded by Mr. Mullins, to oppose the passage by the state legislature of HB0296/SB0467 (massage establishment license exemption). The motion carried. Several members of the Board voiced their concern that without Board oversight, there would be no way to assure that an establishment was following the Board’s Rules, and that these Rules were put in place to protect the health, welfare, and safety of the people of Tennessee. Dr. Bolden stated that the Rules for massage establishment are not onerous, and that the expense should not be burdensome for someone already practicing as a physician or chiropractor, and that law enforcement has stated that the Board’s ability to inspect helps them to protect the public. Ms. Cross stated that this legislation would open a loophole for human trafficking. Ms. Cross pointed out that massage establishments are sometimes used as a cover for human trafficking, and that the Board’s oversight provides a unique opportunity to provide information to law enforcement to combat human trafficking in Tennessee. Ms. Cross reminded the Board that the state of Tennessee is currently ranked number one in human trafficking in the United States. Mr.

Guilford stated that he will pass on the Board’s concerns to the Board’s legislative liaison. Mr. Guilford explained that while the Department’s legislative liaison lobbies on behalf of the Department of Health and its boards, including the Massage Licensure Board, the Board itself is a part of the executive branch of state government, and as such is prohibited from lobbying for or against legislation. Mr. Guilford stated that professional associations such as the American Massage Therapy Association (AMTA) and their state chapter, Tennessee Massage Therapy Association (TMTA) are permitted to lobby for or against government legislation. Ms. Cross asked Dr. Bolden if the Federation for State Massage Therapy Boards (FSMTB) could become involved in lobbying on this issue in Tennessee. Dr. Bolden stated that the FSMTB could provide information about human trafficking and how it involves the massage profession, but that due to its nonprofit status, the FSMTB cannot lobby for or against legislation. Mr. Guilford further explained that since the Board is a part of the executive branch of state government, the Board’s legislative liaison will take the Board’s position and reasons for that position to the Department’s executive team which includes the Commissioner, and if there is enough support from that team, they can take the Board’s concerns to the Governor’s office. If the Governor agrees that the executive branch should oppose this legislation, then the Governor’s office will lobby against it. In response to a question from Ms. Cross, Mr. Guilford confirmed that each individual Board member, as a citizen of Tennessee, can still express their opinions on any legislation to the legislature as long as they do not hold themselves out as representing the Board itself. Mr. Velker pointed out that loss of revenue from not having those physician’s offices required to be licensed as establishments would most likely result in a need for the Board to increase fees more than already expected, and would then become a hardship on the therapists and the remaining massage establishments that would still be required to hold an establishment license.

Mr. Guilford stated that the bill-filing deadline for this legislative session has passed, so no new legislation will be filed during this session. However, over five hundred bills were filed within the last two days. Mr. Guilford stated that at the time of this meeting, he has not been notified of any other bills that specifically affect the Massage Licensure Board.

Ratification of New Licenses and Reinstatements/Reactivations for Massage Therapists and Massage Establishments

Massage Therapists

Alt Daniel Christopher	Hamby Ashleigh Nicole
Baker Savannah Leanne	Hardin Abigail Katherine
Bayhi Waraporn	Hensley Wyndy Rebecca
Beels Rachel Allison	Hernandez Jessica Elizabeth
Beh-Zimmer Jennifer Lyn	Hill Connor Ian
Bright Jacqueline	Hill Cori Danielle
Brimeyer Ashly Renee	Hodges Robin Renee
Busbee Mikalyn N	Jenkins Amanda Cara
Butler Anna Joelle	Jones Suzanne
Butler Brent Andrew	Kanter Rachel Irene

Campbell Erin Catherine	Krendel Lotem
Caruba Evalyne Dawn	Lefors Brody
Cates Maegan Alexis	Linnik Yelena Filippovna
Chung Daniel Spencer	Liu Donghai
Clark Molly Bea	Liu Zhixing
Clarke Andrew Jacob	Mauch Meredith Marie
Clay Lisa Jean	Mcginty Lori Gayle
Colbert Mia Ashley	Mcguire Tammera Que
Davenport Wanda Joyce	Mcilrath Tara Courtney
Dejarnette Shannon Lea	Mcvey Jessica Wasilewski
Erman Saavik Alexander	Moore Latisha Shontae
Fitzgerald Rebecca Sue	Mora Felix Elizaga
Foster Cynthia Lane	Morris Mackenzie Shea
Gao Lei	Murphy-Smith La'Von Denise
Gibson Rosemary Sarah	Nunez Cory Thomas
Griggs Ivie M	O'Neal Chantel Renee
Groce-Thomas Kerri Brooke	Oswald Jr. John Edward
Pamplin Stephanie Ann	Rowe Cortney Makala
Parker Ashley L	Scott John Michael
Parker Sheanna Elizabeth	Shreve Bailey Nicole
Patton Kimberly Ann	Soucie Laverna Ann
Perry Kyle Gregory	Spencer Ashleigh Marie
Pritchard Sandra Nancy	Stumbaugh Amanda Christine
Pye Brittany Ann	Sweeny Nathan Gregory
Rakidzich Lydia Rae	Thompson Zachary Adam
Richard Denise Lynn	Thrasher Donna Alicia
Richiez Ana Karina	Ware Keyonis Marie
Rodriguez Maria Elsy	Weithman Hannah Jeanne
Wilson Jamie Lynn	Zhang Lei

Massage Therapists Reinstatements

Best Stephen Charles	Oliver Hailey Haddasa
Bingham Jenna Elizabeth	Penrod Susanna C.
Blackstock Dixie Elizabeth	Pollack Gerald Abraham
Browning Kristi Lynn	Slater Cordero Duante
Cain Parham Mikell	Stewart Tony Robert
Chaney Susan Denise	Thomas Kendra Lenice
Chew Marie Ann	Walker Dorian Edwin
Christie Robert Alan II	Warren April Michelle
Classon Ann Younger	Wei Feng

Cole Janay D.	Welborn Mildred Giovanetti
Combs Amanda Jean	Wilkes Melissa Renae
Fraysier Heather Lee-Ann	Wu Lianji
Goodson Rachel Elizabeth	Mclemore Emily Bliss
Guimaraes Leslie Beth	
Higdon Alisa C.	
Hudson April J	
Jones Jessica Shantay	
Keeton Jennifer Lynn	
Livingston Michelle T.	
Lumphrey Tonya Joy	
Maclaine Laura Ann	
Madison Amber Michelle	
Magloire Abeitha	

Massage Establishments

4k Enterprises Llc DbA The Spa At Leiper'S Fork	Pilates Chattanooga
Advanced Therapy For Complicated Conditions	Poppy & Monroe
Amy D ShofnerLmt	Resilient Associates Llc DbA Resilient Health And Performance
Amy Hibdon	Salient Touch Massage
Bach Therapy	Sassy Styles Boutique & Massage
Blackberry Mountain Club Llc	Sissors Salon And Spa
Blissful Retreat	Spa Visage Llc
Blue Sage Massage And Day Spa	Tai Ji Massage
Broadway Tan	Teri Coombes Lmt Llc
Calming Seas Massage	The Lotus Room Ayurveda Nashville
Chattanooga Holistic Medicine Llc	Tina Maggart Lmt
Cherokee Street Studio	Tmj And Sleep Therapy Centre Of Memphis
Club 29 Fitness Inc. DbA Energy Fitness	Tranquility Spa & Wellness
Dragonfly Therapeutic Massage	Westgate Resorts Ltd
Euphoric Health And Fitness	My Calling Therapy Services
Faces Spa& Unique Boutique	Ns Bodywork
Flying Spa Inc DbA Daily Spa	
Georgia Career Institute	
Green Hills Chiropractic Clinic Llc	
Harrogate Family Health Care Inc DbA Hands Of Time	

Head To Toe
Healing Therapy Massage
Heidi'S Healing Touch
Hermitage Massage Therapy
Integrated Bodywork
Jennifer Wilson
Jessica'S Healing Arts
Just Breathe Massage Therapy
Katherine Stankevich Lmt
Marvelous Massage
Massage By Della
Massage Therapy By Wanda
Metro Copay
Miller-Motte Technical College Chattanooga

Massage Establishments Reactivations

Allure Spa And Salon
Bella Medical Spa Llc
Body Enhancement Center Llc / La Bella
Brown Chiropractic & Rehab
Collart Chiropractic Llc
Deandrea Denton
Family Wellness Massage
Gould'S Day Spa And Salon Houston Levee
Gould'S Poplar Plaza
John Burrell Lmt
Lawrence Bodyworks
Mt Juliet Chiropractic Pc
Nelson Chiropractic Pplc
Soulace
Willing Family Chiropractic

A motion was made by Dr. Bolden, seconded by Mr. Mullins to ratify the approval of new licenses and reinstatements/reactivations for massage therapists and massage establishments. The motion carried.

Tennessee Professional Assistance Program (TnPAP) Statistical Report Regarding the Peer Assistance Program

This report was brought by Ms. Elaine Eaton, Executive Director of TnPAP. Ms. Eaton introduced Ms. Teresa Phillips as the new Associate Executive Director of TnPap. Ms. Eaton stated that Ms.

Phillips has been with TnPAP for one year, and was previously a consultant with the Tennessee Board of Nursing.

From July 1, 2018 to December 31, 2018, TnPAP monitored eight massage therapists and no massage establishment owners. Of those eight, four were monitored by Board order and four were non-regulatory. During this time, TnPAP had one massage therapist referred by the administrative office due to their arrest history. During this time, three massage therapists executed monitoring agreements with TnPAP. During this time, TnPAP discharged nine massage therapists and one massage establishment owner. Two were evaluated and found to need no monitoring agreement; three were evaluated and declined TnPAP's recommendations; two had completed their monitoring agreement; and three were found to be in noncompliance with their monitoring agreements.

From July 1, 2018 to December 31, 2018, the Board's expenditures with TnPAP included \$7,100.00 for toxicology screens, and \$2,110.00 for evaluations. The Board's total TnPAP expenditures came to \$9,210.00.

In response to a question from Mr. Velker, Ms. Eaton stated that as designed by the Board, any licensed massage therapist as well as any applicant for a massage therapist license who has been referred by the Board or the Board's administrative office can get help from TnPAP.

Ratify Agreed Citations for Lapsed Licenses

April Michelle Warren, LMT – 5651

Ms. Warren agreed to pay a civil penalty of \$500.00 for practicing massage therapy on a lapsed license for eight (8) months.

Emily Bliss McLemore, LMT – 9541

Ms. McLemore agreed to pay a civil penalty of \$200.00 for practicing massage therapy on a lapsed license for five (5) months.

Leslie Beth Guimaraes, LMT – 9907

Ms. Guimaraes agreed to pay a civil penalty of \$1,000.00 for practicing massage therapy on a lapsed license for ten (10) months.

Tony R. Stewart, LMT – 10244

Mr. Stewart agreed to pay a civil penalty of \$400.00 for practicing massage therapy on a lapsed license for seven (7) months.

Phillip and David Gould, Owners, Gould's Poplar Plaza - 505

Mr. Phillip and Mr. David Gould agreed to pay a civil penalty of \$600.00 for operating a massage establishment on a lapsed license for nine (9) months.

Nyoka Nelson, D.C., Owner, Nelson Chiropractic, PLLC – 4076

Nyoka Nelson agreed to pay a civil penalty of \$850.00 for operating a massage establishment on a lapsed license for ten (10) months.

Paul Hull, Owner, Soulace – 4508

Mr. Hull agreed to pay a civil penalty of \$300.00 for operating a massage establishment on a lapsed license for six (6) months.

Ratify Agreed Citations for Continuing Education Violations

Mingxue Jin, LMT – 10120

Mingxue Jin agreed to pay a civil penalty of \$775.00 for failing to obtain twenty-five (25) hours of continuing education during the 2015/2016 continuing education cycle.

A motion was made by Dr. Bolden, seconded by Ms. Cross, to ratify the agreed citations for lapsed licenses and continuing education violations. The motion carried.

Ratify Approved Continuing Education Courses

Tina M. McMillan, LMT – “After the Diagnosis: Coping with the Early-to-Mid-Stage Dementia Client in Your Practice” – 5 hours Course #TN013019-04

Tina M. McMillan, LMT – “Aromatherapy 101: It’s Not Just the Smell!” – 4 hours Course #TN013019-05

Pam Dent, LMT – “Tennessee Law” – 2 hours Course #TN013019-06

Vicki Sutherland, LMT – “Tennessee Law Massage Statutes” – 2 hours Course #TN013019-07

Charles West, LMT – “Tennessee Massage Law” – 2 hours Course #TN013019-08

Charles West, LMT – “Tennessee Massage Law(Live Webinar) – 2 hours Course #TN013019-09

Marvis A. Burke, LMT – “Tennessee Law” – 2 hours Course #TN013019-10

A motion was made by Dr. Bolden, seconded by Ms. Cross, to ratify the approved continuing education courses. The motion carried.

Receive Report from Office of General Counsel

Litigation:

This report was brought by Mr. Marc Guilford of the Office of General Counsel. The Office of General Counsel at the time of this meeting had about ninety open cases pertaining to the Massage Licensure Board, compared with about seventy cases in August 2018 and about eighty in May 2018. A number of those cases were expected to be resolved at the May 2019 Board meeting by settlement agreement or contested case hearing.

Chancery Court has issued a ruling on the one Massage Licensure Board case that was on appeal before it, upholding the Board’s decision but remanding the matter to the Board to enter a revised final order.

Rulemaking:

At this meeting, the Board authorized a rulemaking hearing to raise fees. The Office of General Counsel also continues to work internally on a possible rule change to require massage therapists to submit documents showing they have complied with the Board's continuing education requirements when they renew their licenses. In May 2019 the Office of General Counsel expects that the Board will discuss this and other potential rule changes.

Consent Orders

Randy Helton, LMT – 11063, Owner, Studio 109 – 3297

Mr. Helton owned and operated Studio 109 at 109 E. Main Street, Morristown, Tennessee 37814. The establishment license for Studio 109 expired in March 2015. Studio 109 continued to advertise massage therapy from at least March 2016 to November 2017. The Consent Order reprimands the establishment license and places it on probation until at least November 30, 2019, pursuant to the Board's policy; and assesses civil penalties totaling \$2,100.00 and the actual and reasonable costs of prosecuting this case not to exceed \$2,000.00. The Order also places Mr. Helton's massage therapist license on probation until all civil penalties and costs are paid in full.

A motion was made by Dr. Bolden, seconded by Ms. Cross, to approve this consent order. The motion carried.

Scott Keith Isaacs, LMT

Mr. Isaacs practiced massage at Salon J and Day Spa currently located at 329 Union Street, Nashville, Tennessee from about July 2015 through March 2017, performing about one hundred massages, while Salon J and Day Spa's establishment license was expired. The Consent Order places Mr. Isaacs' massage therapist license on probation and assesses civil penalties totaling \$210.00 and actual and reasonable costs of investigating and prosecuting this case not to exceed \$1,000.00. The order states that the probation of Mr. Isaacs' massage therapist license will be lifted when all costs and civil penalties are paid in full.

A motion was made by Dr. Bolden, seconded by Ms. Cross, to approve this consent order. The motion carried.

Jillian Ricks, LMT – 9212, Owner, Jillian's Studio – 3452

Ms. Ricks owns and operates Jillian's Studio at 106 B Jane Manor Circle, Soddy Daisy, Tennessee, 37379. The establishment license for Jillian's Studio expired on about December 1, 2015 and remained expired until April 2017, when it was reactivated. Ms. Ricks continued to practice massage therapy at this establishment while its license was expired. Ms. Ricks stated that she did not realize the license had expired, and applied to reactivate it as soon as she realized it had expired. Ms. Ricks is severely visually impaired, and this may have contributed to Ms. Ricks inadvertently allowing her establishment license to lapse. The Consent Order reprimands the establishment license and places it on probation until at least April 30, 2019, and continuing until all fines and civil penalties assessed are paid in full; places Ms. Ricks' massage therapist license on probation until all fines and civil

penalties assessed are paid in full; and assesses civil penalties totaling \$280.00, and the actual and reasonable costs of prosecuting this case, not to exceed \$2,000.00.

A motion was made by Dr. Bolden, seconded by Ms. Yarbrough, to approve this consent order. The motion carried.

Haiyan Fan, LMT – 10728, Owner, Five Stars Massage

Ms. Fan owned and operated Five Stars Massage at 6625 Maynardville Highway, Suite 101, Knoxville, Tennessee, 37918. In about November 2016 at least two unlicensed individuals, Kai Yun Wu and Hai Yan Liu, were practicing massage therapy at Five Stars Massage. At the time the unlicensed individuals were found practicing massage therapy at Five Stars Massage, Ms. Fan was not present. Another individual who was present, Long Ma, LMT - 10729, stated that Ms. Fan was his wife and he was running the establishment for her. The Consent Order places Ms. Fan's massage therapist license on probation for a period of at least three years; recognizes the Five Stars Massage establishment license is expired and that it shall not be reactivated; assesses civil penalties totaling \$2,000.00 and the actual and reasonable costs of investigating and prosecuting this case, not to exceed \$1,000.00.

A motion was made by Ms. Cross, seconded by Dr. Bolden, to approve this consent order. The motion carried.

Noel Dillard, LMT - 6550

Mr. Dillard practiced massage therapy while his massage therapist license was expired from about May 2015 until about August 15, 2017. When he realized his license was expired, he immediately ceased practicing until his license was back in active status. Mr. Dillard's license had never been disciplined. The Consent Order would reprimand Mr. Dillard's massage therapist license and place it on probation until at least April 30, 2019, continuing until all fines and civil penalties are paid in full, assess civil penalties totaling \$2,500.00 and the actual and reasonable costs of prosecuting this case not to exceed \$2,000.00.

A motion was made by Mr. Velker, seconded by Dr. Bolden, to approve this consent order. The motion carried.

Review of Board Correspondence

Rebecca Dennison, LMT

Ms. Dennison asked for clarification from the Board for the definition of "outcalls", and for a clearer definition of an "establishment" that would need an establishment license. Mr. Mullins, Dr. Bolden, Ms. Burke, and Ms. Cross discussed and disagreed on these definitions. Ms. Hodge pointed out that this confusion, and the lack of a strict definition of "recurring", makes it difficult for the administrative office to answer such questions. Dr. Bolden suggested forming a task force to address this issue. Mr. Guilford suggested creating a policy for the short term, and to eventually add those definitions into the Rules. Mr. Guilford also stated that for this to happen, the Board must decide on what definitions it wishes to use. Mr. Scott Sommers of Cumberland Institute of Holistic Therapies spoke about the difficult logistical issues of a massage therapist being able to meet the requirements of a massage establishment license for locations such as hotel lobbies that they may wish to work at

sporadically, at which they have little or no control over sanitary conditions. Mr. Sommers urged the Board to take these issues into account as it decides these definitions.

Ms. Cross nominated Mr. Mullins to head up a task force to study and come up with recommendations for clear definitions of “outcall” and “establishment”. Ms. Hodge pointed out that if the Board chooses to use the criteria of the use of a portable massage table which is not left in the building as an “outcall”, this could apply to any number of locations, including but not limited to hair salons, chiropractic offices, and doctors’ offices. Mr. Charles West described the establishment that he has recently applied for a license for as a “pop up”, and that it is possible he may only be at that location two hours at a time, and not every day. However, since it is not a client’s home so his clients will be coming to him, he applied for an establishment license for that location. A motion was made by Dr. Bolden to appoint Mr. West to the task force on outcalls and establishments. Ms. Hodge reiterated that the lack of a very clear policy was and would continue to be difficult for the administrative office to explain to applicants and licensees. Ms. Hodge recommended that Mr. Guilford be included in conversations about any proposed definitions for outcalls and establishments since the OGC will be responsible for any violations that go through investigations for final discipline. Ms. Burke pointed out that massage therapists that travel to different locations regularly would need an establishment license for each location, and that this might put a difficult financial burden on the therapists. Mr. Mullins stated that he felt that if a therapist goes to a business and only works on employees of that business that should be considered an outcall. Mr. Mullins raised the question of what will be inspected once inspections are started again, and how this would affect therapists who are very mobile. Mr. Guilford mentioned that our Rules already allow for a “mobile massage” establishment, such as a therapist using a van or RV as an establishment. Mr. Velker pointed out that our Rules also have wording about making reasonable efforts at sanitation at temporary locations such as sporting events. Dr. Bolden suggested that the task force consider the creation of a different type of transient establishment license to address the issue of therapists regularly moving between several locations that the therapists have little control over. After much discussion, the Board decided to table further discussion on this issue to a later date.

Wanda Sharber-Miolen – LMT

Ms. Sharber-Miolen retired her license in 2017. She stated that when she retired her license, she had completed the continuing education hours she needed for retiring on December 28, 2017. Her Affidavit of Retirement form did not arrive in the administrative office until January 5, 2018, and was processed on January 10, 2018. The fact that this processing date was in January 2018 instead of December 2017 meant that Ms. Sharber-Miolen was responsible for one additional continuing education hour for the cycle of 2017/2018. Ms. Sharber-Miolen stated that the administrative office did not tell her she had until the end of that cycle to complete that hour. Ms. Hodge pointed out that this is stated in the Board’s Rules, and that the administrative staff regularly communicates that fact to our licensees who retire or consider retiring their licenses. Ms. Sharber-Miolen expressed concern that the policy for proration of continuing education hours for a retired license did not match a policy regarding continuing education required to reinstate a license. Ms. Sharber-Miolen asked that the Board consider retiring a license based upon the date the licensee puts on the Affidavit of Retirement form. Ms. Hodge expressed that going by that policy would be difficult for the administrative office, and provided examples of Affidavits of Retirement that requested the license be retired a year or more before the Affidavit was received in the administrative office. Ms. Burke clarified that the administrative office does work the entire month of December each year, and only closes whenever all state offices close for state or federal holidays. Mr. Guilford stated that the policy Ms. Sharber-Miolen referred to did indeed not match the Rules, because Mr. Guilford made a typo in the Rules

and again in the policy. Mr. Guilford recommended that since the Rules cannot be changed without a rulemaking hearing, the best course of action would be to rescind the policy and simply go by the Rules.

A motion was made by Dr. Bolden, seconded by Ms. Cross, to rescind the policy regarding proration of continuing education for retired massage therapist licenses. The motion carried.

Request for Order Modification

Consent Order

Shu Ling Yang

Ms. Yang appealed the Board's decision to deny her application for a massage therapist license, and the appeal went through Chancery Court. The Court upheld the Board's decision, but sent the order back to the Board for the second sentence in the policy statement to be struck from the order and be replaced by, "Petitioner enrolled in one other massage curriculum approved by the Tennessee Higher Education commission (THEC), but she failed to complete it."

A motion was made by Ms. Cross, seconded by Mr. Mullins, to accept this change to the Board's order. The motion carried.

Discuss and Take Action If Necessary on School Approvals and/or Changes

Daughters of Zion – William and Johnson Career College

Ms. Hodge stated that the person who was scheduled to represent the college at today's Board meeting was in a car accident over the weekend and was unable to attend this meeting, therefore the college asked that the Board defer this interview to the May 2019 Board meeting. A motion was made by Ms. Cross, seconded by Ms. Yarbrough, to defer the Daughters of Zion – William and Johnson Career College interview to the May 2019 Board meeting. The motion carried.

Consider and Approve Board Staff to Attend the 2019 FSMTB Member Board Executive Summit

A motion was made by Mr. Velker, seconded by Ms. Cross, to send Ms. Hodge to this meeting. Dr. Bolden stated that the FSMTB paid all expenses for the meeting. The motion carried.

Review and Discuss the 2018 Annual School Report

Dr. Bolden presented this report. Twenty-four approved Tennessee massage programs operated during the reporting period of July 1, 2017 through June 30, 2018. During this time one school, Miller-Motte Technical College in Clarksville, closed. One program, Daymar Institute, did not send in a report. Three programs, Genesis Career College in Lebanon, Genesis Career College in Nashville, and A Better You Academe of Massage in Chattanooga, are not currently enrolling students for their massage programs. This results in nineteen active approved massage programs in Tennessee. Only one approved massage program is out of Tennessee in Southaven, Mississippi. During the reporting period, six hundred and forty-nine students were enrolled in approved massage programs, and three hundred and forty students graduated from these programs. This shows a fifty-

two percent graduation rate overall. During this time, one hundred and three students withdrew or were dismissed from approved massage programs, showing a sixteen percent withdrawal/dismissal rate. Two hundred and six students remained in the programs, showing a thirty-two percent remaining in programs. During this time, three hundred and fifteen students sat for the MBLEx exam, showing a forty-nine percent of students who sat for this exam. During this reporting period, seven approved massage programs fell below the exam pass rate, as opposed to eleven programs during the 2016-2017 reporting period.

Receive, Review, and Discuss Update from Online Education Curriculum Task Force

Mr. Guilford reported that the task force has met once by phone and corresponded by email to discuss whether Tennessee should accept online education toward initial licensure as a massage therapist. The task force also discussed Tennessee's reciprocity requirements, as this came up in discussing education from approved massage programs outside of Tennessee. Mr. Guilford stated that the task force considered the ELAP report and recommendations. One thing ELAP recommended was an increase in total educational hours required to at least 625 hours. Mr. Guilford stated that in Tennessee, the five hundred hour educational requirement for licensure is specified in law, therefore increasing the total number of educational hours required for licensure would have to be done by changing the statutes, not the Rules. The ELAP report also stated that some online education would be acceptable. The task force considered this recommendation and reviewed what other states are doing about online education. Mr. Guilford stated that the task force recommends that the Board should accept some courses as online education, however, certain classes should never be taught online. The task force deems that face to face and hands on education are too important to these classes to have them taught online. These courses include: Kinesiology; any course that includes hands on instruction; ethics instruction; and Tennessee massage law courses. In accordance with ELAP recommendations and what other states are doing, the task force recommended that no more than forty percent of the student's educational hours should be in online education. Mr. Guilford recommended that if the Board chooses to go forward with these recommendations, it should incorporate them into a Rule change.

Dr. Bolden expressed concern that ethics hours would not be permitted to be taught online, and stated that he feels that ethics coursework can be effectively taught online. Dr. Bolden spoke to his recent experience with an online ethics course. Ms. Maj-Lis Nash of Mind Body Institute in Nashville responded that although ethics taught for continuing education could effectively be taught online because it is basically a refresher course, she felt strongly that the initial ethics education course is more effective taught in person. Ms. Nash emphasized the importance of impressing on new therapists the basic moral code inherent in ethics for the massage profession. Ms. Nash shared that in her experience; in classroom conversation about ethics serves to bring home to the students the reality of putting ethics training into their own practice.

In response to a question from Dr. Bolden, Ms. Nash stated that the task force recommendations would not require a school to offer online education, but allow it as an option. She stated that like Dr. Bolden, she directed a massage education program that she felt would not lend itself to online education, therefore in that program the students would not have the option to take any of those classes online. Dr. Bolden clarified that since his school's kinesiology coursework was taught in a course with anatomy, physiology, and pathology, he was unclear on whether under the task force's recommendations, his program could offer only the kinesiology portion of that course in classroom and allow the students to complete the rest of that coursework in an online setting. Mr. Guilford stated that this is a definitional issue, and this can be dealt with during discussion for new Rules. Dr.

Bolden suggested that perhaps some courses could be broken into lab (hands-on, in classroom) and lecture (in classroom or online) sections to accommodate the hands-on requirement for some subjects while allowing the theory portion to be taught online.

Mr. Guilford expressed that if and when the rule change to allow online education goes into effect, it will put the burden on the schools in state and out of state to show on their transcripts which coursework is completed online and which is completed in classroom. Mr. Guilford stated that this is one reason the task force wanted to be very aware of what was currently happening with online education in other states so that acceptance of educational hours from other states' approved massage education programs would be less difficult. Mr. Guilford recommended that the Board take no action at this time, and allow the task force to meet again to further discuss the issues raised today and present an update at the next Board meeting in May 2019.

Mr. Guilford stated that the task force had also discussed Tennessee's reciprocity route to licensure. Specifically, they discussed the fact that even therapists who have been licensed and in good standing in another state who have completed a program of at least 500 hours are frequently required to go back to massage school to complete more hours because they don't have the required number of hours in either science, massage, related subjects, or ethics as required by Tennessee's current Rules. The task force addressed the question of whether this extra education is really necessary for such a therapist to safely practice in Tennessee. Mr. Guilford pointed out that the hours breakdown is in the Board's Rules but not in state law, so the Board does have the option of changing the Rules. The task force's recommendation was to change the Rules so that a therapist licensed in another state can be licensed in Tennessee without requiring that their educational hours break down into the currently required subject areas. The task force also recommends that under this reciprocity route to licensure, that the therapists have ten hours of ethics either from their original massage program or from an approved Tennessee massage educational program, and that they complete five hours of Tennessee massage law from an approved Tennessee massage educational program. The therapist applying by reciprocity would also be required to have been licensed in the other state for a specific amount of time. The task force discussed anywhere from two years to five years, and settled on a recommendation of three years actively licensed and practicing in another state. The task force also recommended that the Board consider continuing education hours in the required subject areas for those applying for licensure through reciprocity.

Ms. Nash spoke to the difficulty out of state applicants have with getting licensed in Tennessee. She pointed out that under the current Rules, an applicant who has completed a seven hundred hour massage education program in another state and had been licensed and practicing in that state for ten years might still have to go back to school to complete fifty more hours of science education if the transcript from their original school only shows one hundred and fifty hours of the seven hundred were in science. Ms. Nash stated that this can become a serious financial burden on an applicant.

Dr. Bolden asked about how this would affect an applicant who has just completed massage school in another state with different educational requirements, but has not been licensed in another state. Ms. Nash stated that such an applicant would not be eligible for reciprocity since they had not been licensed and practicing in another state for the required amount of time, therefore if their transcript fell short in one of the required subject areas, they would have to complete the missing hours at an approved massage school before they could be licensed.

After some discussion, Mr. Guilford stated that he would take these changes to the reciprocity route to licensure into consideration when preparing proposed changes for a rulemaking hearing.

Discuss Progress of Establishment Inspections

This discussion was deferred to the May 2019 Board meeting.

Receive Reports from Staff and Board Members Who Attended the FARB Annual Meeting

Ms. Burke stated that this year's FARB Annual Meeting was in New Orleans, Louisiana, and that she, Ms. Hodge, and Ms. Yarbrough attended. Ms. Burke thanked the Board for allowing her to be the Board's delegate to this annual meeting. The theme of this year's meeting was what it means to be a regulator. The speakers spoke of cases that had made headlines, and drove home the point of how very necessary regulation is, and to the attributes of professionalism. Ms. Burke shared that there is a national trend towards requiring background checks to assess applicants' moral character.

Ms. Yarbrough thanked the Board for allowing her to attend the meeting as a Board member. She stated that this meeting was different in that a lot of the speakers were attorneys. She observed that regardless of the nature of the profession being discussed, all professions seemed to share similar problems. Ms. Yarbrough said she learned more about how important regulatory issues are.

Ms. Hodge thanked the Board for the opportunity to attend this meeting. She stated that there were three topics in the meeting that made an impression on her. One was that when there is an issue with a regulatory board, it is important to get ahead of it, and that crisis management is very important. Another topic was about the importance of various components of licensure requirements. Ms. Hodge said that the speakers emphasized that the required education and exam, which come before licensure, must be credible to avoid problems with licensure. Ms. Hodge stated that since the profession of massage is relatively new to licensure compared with other professions such as medical doctors and social workers, it is to be expected that not all the kinks have been worked out with regard to education and examination. Ms. Hodge stated that tightening up on education, exam, and the licensure aspect of the profession is needed going forward. A third topic was presented by a gentleman who had completed his thesis on engineering in massage. His thesis compared states who do not require licensure with states that do require licensure. His findings were that people made more money in the profession, and that there were more massage therapists in the states that did require licensure. Ms. Hodge said that this was enlightening to see that regulation seems to actually help the profession.

Dr. Bolden stated that one thing other states tend to do is to have their regulatory Board have a social media presence, such as a Facebook page, that can be used to post about meetings and crisis situations. Ms. Hodge was not with the Board yet when this was discussed in a previous meeting. Mr. Guilford presented the questions of could there be a Board Facebook page, and if so, who should be in charge of it. Ms. Hodge stated that the Board webpage is available with information for the public, and that the Board administrative office does email blasts to keep licensees apprised of important information. Ms. Hodge stated that she does not feel that a Facebook page would be helpful in staying on top of a crisis situation. Ms. Hodge stated that the administrative office frequently knows about a crisis at the same time the professional organizations know about it, since the administrative office has nothing to do with what happens in the legislature and therefore does not monitor it.

A motion was made by Mr. Mullins and Dr. Bolden to adjourn the meeting. The motion carried, and the meeting was adjourned at 5:50 p.m.