

Sunset Public Hearing Questions for
MESSAGE LICENSURE BOARD
Created by Section 63-18-103, *Tennessee Code Annotated*
(Sunset Termination June 2016)

1. Provide a brief introduction to the Massage Licensure Board, including information about its purpose, statutory duties, staff and administrative attachment.

The Massage Licensure Board was created in 1995 by an act of the State Legislature. Its mission is to safeguard the health, safety, and welfare of Tennesseans by ensuring those who practice the profession of massage therapy within this state are qualified. Persons or massage establishments engaged in massage for compensation shall be licensed by the Board. The Board interprets the laws, rules, and regulations to determine the appropriate standards of practice in an effort to ensure the highest degree of professional conduct. The Board is authorized to issue licenses to qualified candidates who have completed appropriate education and successfully completed required examinations. The Board is responsible for the investigation of alleged violations of the Practice Act and rules and is responsible for the discipline of licensees who are found guilty of such violations. The Board determines the minimum curricular and minimum standards for schools of massage therapy and approves such schools.

The administrative staff of the Division of Health Related Boards supports the Board by issuing licenses to those who meet the requirements of the law and rules. Renewal notices are mailed from the Board's administrative office forty-five (45) days prior to the expiration of the license to the current address on record. If a massage therapist has "opted in" to receive electronic notification, an email will be sent to the address provided by the licensee approximately forty-five (45) days prior to the expiration date of the license with a reminder to renew their license. Massage Therapist Licenses can be renewed on-line seventy (70) days prior to expiration. Licensees are responsible for renewing their license on time and keeping the Board apprised of current information. It is a violation of the law and of the board's rules to practice on an expired license.

The Board meets regularly four (4) times per calendar year to conduct administrative business. The seven (7) Board members are appointed by the Governor and serve five (5) year terms. The Board consists of five (5) licensed massage therapists and two (2) citizen members. A quorum of four (4) members is required to conduct business. The meetings are open to the public.

2. Provide a list of current members of the board and explain how membership complies with Section 63-18-103, *Tennessee Code Annotated*. Are there any vacancies on the board and, if so, what is being done to fill those vacancies?

Current Board Members

Ed Bolden, Board President, Licensed Massage Therapist
Marvis A. Burke, Board Secretary, Licensed Massage Therapist
Christi W. Cross, Citizen Member
Bethann K. Easterly, Licensed Massage Therapist
Cynthia R. Jagers, Licensed Massage Therapist
Michael J. Velker, Citizen Member
Julie Wray, Licensed Massage Therapist

There are currently no vacancies on the board.

3. Does the board's membership include public/citizen members? Female members? Members of racial minorities? Members who are 60 years of age or older at the time of his or her appointment?

The board's membership includes two (2) public/citizen members; five (5) female members; one (1) racial minority member; and one (1) member 60 years of age or older.

4. How many times did the board meet in fiscal years 2014 and 2015? How many members were present at each meeting?

Regular board meetings are two days in length.

The Board met five (5) times in fiscal year 2014. One meeting was a one-day emergency meeting with four members physically present and three members joining via teleconference.

Meeting Date	Present Day 1	Present Day 2
August 5 - 6, 2013	7	7
November 4 - 5, 2013	7	7
February 11 - 12, 2014	7	7
May 5 - 6, 2014	6	7
June 10, 2014	7	

The Board met five (5) times in fiscal year 2015. One meeting was a one-day emergency meeting with three members physically present and four members joining via teleconference.

Meeting Date	Present Day 1	Present Day 2
August 11 - 12, 2014	6	6
October 27 - 28, 2014	6	7
February 9 - 10, 2015	7	7
March 30, 2015	7	
May 4 - 5, 2015	6	5

5. What per diem or travel reimbursement do board members receive? How much was paid to board members during fiscal years 2014 and 2015?

Board members receive a per diem of \$100 per day for each day engaged in board business. Members are reimbursed for travel expenses in accordance with the provisions of the comprehensive travel regulations as promulgated by the Department of Finance and Administration.

FY2014 Total Per diem & Travel Expenses: \$19,149.15

FY2015 Total Per diem & Travel Expenses: \$21,784.97

	FY2014	FY2014	FY2015	FY2015
	In-State	Out-of-state	In-State	Out-of-State
Per Diem	\$6,600.00	-	\$ 6,600.00	-
Mileage	\$3,672.58	-	\$ 4,073.02	-
Hotel	\$4,533.82	\$ 550.95	\$ 5,162.19	\$1,013.70
Parking/Baggage/Taxi	-	\$ 27.00	-	\$ 99.66
Registration Fee	-	\$ 250.00	-	\$ 500.00
Meals	\$2,937.00	\$ 248.50	\$ 3,069.50	\$ 392.00
Airfare	-	\$ 329.30	-	\$ 874.90
Total	\$17,743.40	\$1,405.75	\$18,904.71	\$2,880.26

6. What were the board's revenues (by source) and expenditures (by object) for fiscal years 2014 and 2015? Does the board carry a reserve fund balance and, if so, what is the total of that reserve fund balance?

FY2014

Total Expenditures: \$ 535,449.91
Total Revenue: \$ 718,936.25
Current Year Net: \$ 183,486.34
Cumulative Carryover: \$ 986,334.97

FY2015 Projection

Total Expenditures: \$ 681,997.50
Total Revenue: \$ 740,801.04
Current Year Net: \$ 58,803.54
Cumulative Carryover: \$1,045,138.51

A more detailed document can be found in attachment #1

7. Is the board subject to Sunshine law requirements (per Section 8-44-101 et seq., Tennessee Code Annotated) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the board have for informing the public of its meetings and making its minutes available to the public?

The board is subject to the Sunshine law requirements of T.C.A. 8-44-101 et seq. A public meeting notice is posted to the board's web site by the 15th day of the month proceeding the month of the meeting date as well as posting the information on the Public Participation Calendar. The board's administrative staff attends all meetings and takes minutes. Those minutes are then prepared for review and ratification by the board at its next regularly scheduled meeting. After the minutes are ratified, they are then placed on the board's web site. Additionally, as of January 1, 2015, each board meeting is streamed live so the public can view the meeting as it is actually being held. A video recording of the meeting is available on the department's web site for one month following the meeting. An audio recording of the meeting is also available.

8. Please describe what policies and procedures the board has in place to address potential conflicts of interest by board members, staff and employees.

All board members are educated on the Department of Health's Conflict of Interest Policy and reminded during the course of each meeting of the obligation to strictly adhere to the policy. Board members are required to sign a conflict of interest statement upon appointment or as soon as practical and annually thereafter. It is the responsibility of the board administrator to ensure that the Conflict of Interest Statement is properly and timely signed. Signed copies of the conflict of interest policy are kept on file in the Central Office of Health Related Boards for board members and staff/employees.

A copy of the Conflict of Interest Policy can be found at attachment #2.

9. Does the board have the authority to promulgate rules? If such authority is not granted, does the board feel that authority is needed?

The board has the authority to promulgate rules. Rules have been promulgated under Tenn. Comp. R. & Regs. 0870-01 and 0870-02.

10. Does the board have a website? Is so, please provide the web address. What kind of public information is provided on the website?

The board maintains a web site at: <http://tn.gov/health/topic/ML-board>

Information regarding meeting dates; board members; meeting minutes; applications; statutes, rules, and policies; legislation; complaints; peer assistance; and licensure and educational information is provided on this web site.

11. What were the major accomplishments of the board during fiscal years 2014 and 2015?

The Board is cooperatively working with local, state, and national leaders and state and local law enforcement to eradicate the use of massage as a front for prostitution and the trafficking of human beings. The Board is putting forth a proposed Resolution (please see attached) to help address human

trafficking in the massage profession. This resolution is on the agenda for the upcoming 2015 Annual Federation of State Massage Therapy Boards Conference to be held October 8 – 11, 2015 in Albuquerque, New Mexico. A copy can be found as attachment #3.

The Board is in the process of developing a Request for Proposal to conduct unannounced inspections of massage establishments to help identify those that are not legitimate massage establishments as well as to insure that the required minimum standards are being met.

The Board has created a taskforce to study, develop, and make recommendations for a standardized law and ethics content and core curriculum criteria for initial licensure and continuing education requirements.

The Board is currently engaged in an in-depth review of all rules to address new issues facing the board and the profession.

12. Please describe any reports prepared by the board during fiscal years 2014 and 2015 and specify to whom the reports are sent. Please attach copies of the reports.

There were no reports prepared.

13. How many massage therapists are there in Tennessee? Are they all under the authority of the board? If not, what types of practitioners are not and should they be included under the board's authority?

As of July 31, 2015, there are 4,264 licensed massage therapists in Tennessee. All active licensees are under the authority of the Board.

14. How many massage therapists are there in Tennessee who practice under one of the exemptions found at Section 63-18-110, *Tennessee Code Annotated*?

Unknown. Individuals who are exempt under T.C.A. 63-18-110 are not required to register with the Massage Board or proactively identify themselves as falling under one of the exemptions.

15. How many new licenses and how many renewals did the board issue in fiscal year 2014 and 2015? How does the board ensure that licensees meet all licensure requirements?

	FY2014	FY2015
New Licenses:		
Therapists	691	542
Establishments	274	301
Total	965	843
Renewals:		
Therapists	1,492	1,716
Establishments	568	563
Total	2,060	2,279

All licensure applications and required documentation are reviewed by the Board Administrator and Board Manager to determine all licensure requirements are met and in accordance with current rules and statutes. All applications are ratified by the Board. Any applicant whose licensure application indicates competency issues or other issues regarding their ability to safely practice in the massage profession are required to obtain an evaluation from the contracted peer assistance program and appear before the board for an interview before the issuance of a license.

16. How many licenses were issued under reciprocity as authorized in Section 63-18-112, *Tennessee Code Annotated*? How did the board assure itself that the other state's or country's standards were as stringent as those required in Tennessee?

One (1) license was issued under reciprocity. The administrative staff verifies documentation provided by the applicant. This documentation includes verification documentation submitted directly from other states in which the applicant is or has been licensed and documentation submitted directly from the national certifying body. A copy of the law/rules from the state where reciprocity is requested is provided to the Board. All applications for licensure by reciprocity are reviewed by the Board.

17. How many license applications did the board deny during fiscal years 2014 and 2015? What were the reasons for denial?

FY2014 – Six (6) Massage Therapist Applications Denied

- **1 - Criminal conviction; Unprofessional conduct; Addiction**
- **5 – Fraud/Deceit; Unlicensed practice**

FY2015 – Seven (7) Massage Therapist Applications Denied

- 1 – Incomplete application (Lack of court documentation re: multiple convictions)
- 1 – Conviction for Offering of Prostitution (not eligible for licensure)
- 3 – Fraud/Deceit; Unlicensed practice
- 2 – Unapproved school

Ten (10) Massage Establishment Applications Denied

- Operated Without a License

18. How many licenses did the board revoke, suspend, or annul during fiscal years 2014 and 2015? What were the reasons for any revocations, suspensions or annulments?

FY2014 – Two (2) Massage Therapist Licenses Revoked

- 1 – Sexual Activity; Sexualizing behavior with clients
- 1 – Allegations of inappropriately touching client during massage (Voluntarily Surrender = Revocation)

Five (5) Massage Therapist Licenses Suspended

- 2 – Continuing Education violations
- 1 – Failed to pay child support
- 2 – Failed to pay student loan

FY2015 - Nine (9) Massage Therapist Licenses Revoked

- 3 – Continuing Education violations
- 4 – Test scores invalidated
- 1 – Employed unlicensed individuals; permitted unlicensed practice of massage
- 1 – Inappropriate touching; Sexual relations w/clients (Voluntary Surrender = Revocation)

Two (2) Establishment Licenses Revoked

- 2 - Employed unlicensed individuals; permitted unlicensed practice of massage

Twenty-three (23) Massage Therapist Licenses Suspended

- 11 – Failing to maintain CE hours
- 1 – Criminal convictions; Substance Abuse
- 10 – Failed to pay student loan
- 1 – Failed to pay child support

19. How many complaints did the board investigate during fiscal years 2014 and 2015? How many investigations resulted in some sort of remedial action being taken by the board?

	FY2014	FY2015
Complaints Received:	199	309
Types of Complaints:		
Unlicensed Practice	25	39
Criminal Conviction	7	8
Unprofessional Conduct	137	242
Sexual Activity	1	15
Violation of Board Order	2	1
False Record	0	1
Multiple	24	1
Advertisement	1	0
Care	0	1
Out/State Violation	2	1
Closed w/Letter of Concern (Informal):	0	1
Closed w/Letter of Warning (Informal):	28	30
Closed to OGC (Formal):	110	156
Closed No Action or Pending Court Action:	61	122

20. Describe the process by which the board receive, handles and tracks complaints. Are there written procedures? Are complaints rated by level of seriousness or other priority-handling method? Is a complaint log maintained? At what point is a complaint closed?

The Board receives complaints via the Office of Investigations, which has formal intake, triage, review and investigative processes in place pursuant to written policies and procedures. The workflow requires an intake review and triage by clinical staff who assigns the complaint to a complaint coordinator, or in an emergency, will process the complaint for emergency action. The complaint coordinator manages the complaint through file set-up, electronic entry into a computerized tracking system, and complaint review. The complaint is reviewed by a licensed member of the profession, who is approved by the board, and the Board's attorney, assigned by the Office of General Counsel for the Department of Health ("the review team"). Based on the complaint information, a decision is made to either close the file, or send the file to a field investigator to collect witness statements and documentary evidence. The complaint is assigned a priority code, based on the perceived level of possible harm to the patients and/or public at the time the complaint is reviewed. Upon completion, the investigative file is returned to the complaint coordinator, who will reconvene the review team for a review of the evidence collected. Based upon an application of the law to the evidence collected and the clinical input of the Board's licensed consultant,

the review team will determine whether or not the evidence supports a violation of the statutes and rules and, if so, whether the violation should be processed with an informal and corrective letter of concern or warning, or if warranted, a referral to the Office of General Counsel to pursue formal disciplinary action against the licensee. Based on the foregoing, complaints can be closed at initial review or closed after an investigation has taken place. In either case, the complainant is advised, in writing, of the closure of the complaint.

21. How many administrative fines did the board assess during fiscal years 2014 and 2015? What was the total amount of fines assessed for each fiscal year?

FY2014 – The Board assessed 254 individuals civil penalties in the total amount of \$122,000.00.

FY2015 – The Board assessed 247 individuals civil penalties in the total amount of \$149,425.00.

The majority of the penalties assessed were for Continuing Education (CE) violations and practicing on a lapsed license.

22. How many contested cases did the board hear during fiscal years 2014 and 2015? How many such cases were heard by an administrative law judge and reviewed by the board? Of the cases heard, how many resulted in penalties being dismissed? Reduced? Upheld?

The Board heard four (4) contested case hearings in FY2014 and twenty-three (23) contested case hearings in FY2015. An administrative law judge presides over all contested case hearings and all hearings are held in the presence of the full board.

23. Has the board developed and implemented quantitative performance measures for ensuring it is meeting its goals? (Please answer either yes or no). If the board has developed and implemented quantitative performance measures, answer questions 24 through 31. If the board has not developed quantitative performance measures, proceed directly to question 32.

Yes. The Health Related Boards administrative office has established benchmarks for the processing of initial and renewal applications. The application benchmark for initial applications is one hundred (100) days from the date the application is received in the administrative office to issuance of the license. The application benchmark for renewal applications is fourteen (14) days from receipt of application to issuance of the license.

24. What are your key performance measures for ensuring the board is meeting its goals? Describe so that someone unfamiliar with the program can understand what you are trying to measure and why it is important to the operation of your program.

To promote the mission of the Department of Health which is to protect, promote and improve the health and prosperity of the people in Tennessee. The Health Related Boards' role in that mission is to insure that only the best, most qualified practitioners provide healthcare services in the state. In order to balance that obligation with our desire to provide excellent customer service to healthcare providers, the Health Related Boards has established benchmarks to assure that applications for licensure are received, processed and reviewed in a timely manner. Twice yearly, a benchmark report is prepared and reviewed to determine if board staffs are meeting those benchmarks.

25. What aspect[s] of the program are you measuring?

We are measuring whether or not board administrative staff is processing applications and renewals in a timely manner within the established benchmark timeframes.

26. Who collects relevant data and how is this data collected (e.g., what types information systems and/or software programs are used) and how often is the data collected? List the specific resources (e.g., report, other document, database, customer survey) of the raw data used for the performance measure.

Relevant data is collected twice yearly by the director from reports generated by the licensing system used by the Health Related Boards. It is generated in an Excel spreadsheet.

27. How is the actual performance measure calculated? If a specific mathematical formula is used, provide it. If possible, provide the calculations and supporting documentation detailing your process for arriving at the actual performance measure.

The Health Related Boards has established benchmarks to assure that applications for licensure and renewal are received, processed and reviewed in a timely manner.

28. Is the reported performance measure result a real number or an estimate? If an estimate, explain why it is necessary to use an estimate. If an estimate, is the performance measure result recalculated, revised, and formally reported once the data for an actual calculation is available?

The reported performance measure is a real number.

29. Who reviews the performance measures and associated data/calculations? Describe any process to verify that the measure and calculations are appropriate and accurate.

The benchmark report is reviewed by the Director of the Health Related Boards and forwarded to the Assistant Commissioner for the Health Related Boards.

30. Are there written procedures related to collecting the data or calculating and reviewing/verifying the performance measure? Provide copies of any procedures.

Yes. Please see attached document #4 from the Health Related Boards Administrative Policies and Procedures Manual.

31. Describe any concerns about the board's performance measures and any changes or improvements you think need to be made in the process.

There are no concerns at this time.

32. Provide an explanation of any items related to the board that may require legislative attention, including your proposed legislative changes.

There are no legislative issues at this time.

33. Should the board be continued? To what extent and in what ways would the absence of the board affect the public health, safety, or welfare of the citizens of the State of Tennessee?

Yes, the Massage Licensure Board should be continued. Because there is a significant risk to the public for unsafe practice ranging from providing services outside the scope of practice to sexual exploitation of persons seeking legitimate massage services, the absence of the board would mean that no regulation and/or enforcement of best practices would exist to ensure public safety. It is important for consumers to be able to verify the licensure and discipline history of those from whom they are seeking health care services.

34. Please list all board programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

The Board does not receive federal financial assistance.

If the board does receive federal assistance, please answer questions 35 through 42. If the board does not receive federal assistance, proceed directly to question 41.

35. Does the board prepare a Title VI plan? If yes, please provide a copy of the most recent plan.

36. Does the board have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.
37. To which state or federal agency (if any) does the board report concerning Title VI? Please describe the information your board submits to the state or federal government and/or provide a copy of the most recent report submitted.
38. Describe the board's actions to ensure that association staff and clients/program participants understand the requirements of Title VI.
39. Describe the board's actions to ensure it is meeting Title VI requirements. Specifically, describe any board monitoring or tracking activities related to Title VI, and how frequently these activities occur.
40. Please describe the board's procedures for handling Title VI complaints. Has the board received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).
41. Please provide a breakdown of current board staff by title, ethnicity, and gender.

POSITION	RACE	GENDER
Director	Caucasian	Female
Mananger	African-American	Female
Administrator	Caucasian	Female
Licensing Tech	Caucasian	Female

42. Please list all board contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

Grant Contract (Competitive Selection)

Contractor: Tennessee Nurses Foundation, Inc.
Contract Period: June 1, 2015 – May 31, 2020
Contract Amount: \$700,000.00 Total for 5 Years (\$140,000/yr.)
Service: Peer Assistance Program
Service Description: A program of prevention, referral and monitoring services for massage therapists and applicants who are impaired, abuse alcohol or other drugs, or are at risk of such abuse. Services include educational services, pre-licensure evaluation of chemical impairment or convictions, reporting and support. Information about the business owner is unknown.

Tennessee Massage Licensure Board
Actual Revenue and Expenditures thru December 31, 2014
and Projection for Fiscal Year Ending June 30, 2015

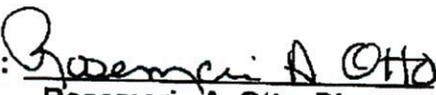
<u>Acct Code</u>	<u>Description</u>	<u>thru Dec. 31, 2014</u>	<u>FY 2015 Projection</u>	<u>FY 2014</u>	<u>FY 2013</u>	<u>FY 2012</u>	<u>FY 2011</u>
701	Salaries & Wages	69,525.89	\$139,051.78	\$119,143.23	\$116,456.06	\$110,892.46	\$107,214.13
70102	Longevity	3,400.00	\$6,800.00	\$3,956.94	\$9,432.15	\$9,544.00	\$9,108.95
70104	Overtime	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
702	Employee Benefits	35,766.94	\$71,533.88	\$57,879.76	\$46,110.01	\$49,865.26	\$47,699.25
	Payroll Expenditures (701-702)	\$108,692.83	\$217,385.66	\$180,979.93	\$171,998.22	\$170,301.72	\$164,022.33
703	Travel	\$11,150.71	\$18,700.00	\$12,075.69	\$11,346.30	\$10,330.60	\$6,010.03
704	Printing & Duplicating	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
705	Utilities & Fuel	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
706	Communications	\$9,493.49	\$17,846.00	\$13,803.58	\$14,515.05	\$19,576.15	\$12,756.43
707	Maintenance & Repairs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
708	Prof. Svc. & Dues	\$3,833.09	\$6,521.00	\$6,786.96	\$5,609.11	\$5,940.80	\$47,027.76
709	Supplies & Materials	\$0.00	\$200.00	\$0.00	\$0.00	\$318.39	\$0.00
710	Rentals & Insurance	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
711	Motor Vehicle Ops.	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
712	Awards & Indemnities	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
713	Grants & Subsidies	\$62,550.00	\$137,500.00	\$115,450.00	\$98,175.00	\$98,175.00	\$93,500.00
714	Unclassified	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
715	Stores for Resale	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
716	Equipment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
717	Land	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
718	Buildings	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
721	Training of State Employees	\$1,450.00	\$2,500.00	\$0.00	\$0.00	\$0.00	\$0.00
722	Computer Related Items	\$0.00	\$0.00	\$0.00	\$500.00	\$1,000.00	\$1,350.00
725	State Prof. Svcs.	\$14,842.03	\$29,500.00	\$23,752.95	\$19,288.19	\$17,872.27	\$2,164.98
	Total Other Expenditures (703-725)	\$103,319.32	\$212,787.00	\$171,869.18	\$149,433.65	\$156,815.37	\$181,558.36
	Total Direct Expenditures	\$212,012.15	\$430,152.66	\$352,849.11	\$321,431.87	\$327,117.09	\$345,580.69
	Allocated Expenditures						
	Administration	\$26,337.74	\$71,762.84	\$74,058.18	\$60,326.31	\$71,272.24	\$81,394.62
	Investigations	\$36,050.75	\$72,101.49	\$55,842.78	\$64,329.07	\$38,717.24	\$31,536.20
	Legal	\$77,791.99	\$103,463.30	\$47,990.50	\$34,015.23	\$21,208.01	\$25,974.61
	Cash Office	\$2,258.61	\$4,517.22	\$4,709.34	\$5,341.90	\$5,222.77	\$5,641.04
	Total Allocated Expenditures	\$142,439.08	\$251,844.84	\$182,600.80	\$164,012.51	\$136,420.26	\$144,546.47
	Total Expenditures	\$354,451.23	\$681,997.50	\$535,449.91	\$485,444.38	\$463,537.35	\$490,127.16
	Board Fee Revenue	\$372,442.26	\$740,801.04	\$718,936.25	\$856,717.50	\$742,702.30	\$672,704.57
	Projected Current Year Net		\$58,803.54	\$183,486.34	\$371,273.12	\$279,164.95	\$182,577.41
	Projected Cumulative Carryover		\$1,045,138.51	\$986,334.97	\$802,848.63	\$431,575.51	\$152,410.56



**Tennessee Department of Health
Division of Health Related Boards
Administrative Policies and Procedures**

Subject: Conflict of Interest

File No: 302.01

Approved by: 
Rosemarie A. Otto, Director

Effective: September 1, 2002
Revised: June 1, 2013

Purpose: To assure that activities of Health Related Boards employees and board members do not conflict or have the appearance of conflicting with the provision of unbiased service to the public.

Policy: All full-time employees and board members of Health Related Boards shall adhere to the Department of Health's and the Health Related Boards' Conflict of Interest Policies (attached).

Procedure:

Employees: All employees will be required to read and sign the Health Related Boards' Conflict of Interest Policy for Employees (Exhibit 1) and the Department's Personnel Confidentiality Statement Form PH-3131 (Exhibit 2) upon initial hire and annually thereafter. A copy of both documents will be provided to each employee each time a signature is required. Signed copies shall be retained in the administrative office of the Division of Health Licensure and Regulation.

Board Members: All Board members will be asked to read and sign the Department's Conflict of Interest Policy for Board Members (Exhibit 3). Board members will be required to read and sign the Conflict of Interest Policy upon initial appointment and annually thereafter. Signed copies will be maintained on file in the Division of Health Licensure and Regulation.

**DEPARTMENT OF HEALTH
CONFLICT OF INTEREST POLICY
EMPLOYEES**

EXHIBIT 1

1. **PURPOSE:** To assure that an employee's activities do not conflict or have the appearance of conflicting with the provision of unbiased service to the public.
2. **APPLICABILITY:** This policy shall apply to all full-time employees of the Tennessee Department of Health.
3. **DEFINITIONS:**
 - A. **CONFLICT OF INTEREST:** a situation in which an employee's activities impair, or give the appearance of impairing, the person's ability to provide full unbiased public service.
 - B. **SUBSTANTIAL FINANCIAL INTEREST:** ownership by an employee or by the employee's spouse of ten percent (10%) or more of the stock of a corporation or ten percent (10%) or more of any other business entity.
 - C. **ORGANIZATIONAL UNIT** – a subdivision designated by the Commissioner of Health for administrative purposes.
4. **CONDUCT WHICH CREATES A CONFLICT OR THE APPEARANCE OF A CONFLICT:**
 - A. An employee shall not engage in any conduct, employment, or other activity which impairs, or gives the appearance of impairing, the person's ability to provide full unbiased public service.
 - B. An employee shall not violate applicable state or federal laws concerning conflict of interest
 - C. An employee shall not knowingly take any action which might prejudice the department's interest in a civil or criminal case.
5. **FINANCIAL INTERESTS:**
 - A. It is a conflict of interest for an employee, who has a public duty to recommend, approve, disapprove, monitor, regulate, investigate, or superintend, in any manner, a contract or other activity, to have a substantial financial interest in a business that does, or seeks to do, business with the employee's organizational unit.
 - B. An employee shall not have a financial interest in an outside entity of such significance that the departmental responsibilities and duties of the employee cannot be rendered in a fair and impartial manner.
 - C. An employee shall not engage in a financial transaction for personal gain relying upon information obtained solely through one's employment.
 - D. An employee shall not receive any compensation from a private source for services which are, or should be, performed as part of one's official duties, except as provided by statute or as approved by the Commissioner.

6. OUTSIDE EMPLOYMENT AND ACTIVITIES:

- A. An employee who has a public duty to recommend, approve, disapprove, monitor, regulate, investigate, or superintend program activities shall not engage in outside employment with an entity that is regulated by the employee's organizational unit.
- B. An employee shall not serve on a board of directors for a non-state agency that is regulated by, or that has or seeks funding from the employee's organizational unit unless the Commissioner deems such to be in the Department's Interest and grants a waiver of this restriction.

7. **GIFTS AND FAVORS:** An employee shall not accept any item of significant monetary value (e.g., gift, gratuity, favor, entertainment, loan, unusual discount) except usual social and business courtesies (e.g., a meal, box of candy, samples) from a person who has or is seeking to obtain a contractual or other financial relationship with the employee's organizational unit or whose activities are regulated by such.

8. **HONORARIA:** An employee shall not accept honoraria or other compensation for activities which are, or should be, performed as part of one's official duties, except as provided by the Comprehensive Travel Regulations of the Department of Finance and Administration.

9. **ACTION TO RESOLVE A CONFLICT OF INTEREST:** An employee who has a conflict of interest must immediately eliminate such conflict. If an employee's activities give the appearance of a conflict of interest, such activities must be eliminated. If there is uncertainty whether a current or proposed activity is a conflict of interest, an employee should notify the Commissioner in writing of the potential conflict and receive approval for such activity.

10. **VIOLATION OF CONFLICT OF INTEREST:** An employee with a conflict of interest in violation of this policy is subject to disciplinary action in accordance with the Department of Human Resources' rules and regulations. An employee who violates a statutory conflict of interest is also subject to sanctions provided by statute.

CONFLICT OF INTEREST POLICY ACKNOWLEDGEMENT

By signing below, I acknowledge that I have read and agree to comply with the Department of Health's Conflict of Interest Policy for Employees and certify that I shall notify the Division of Health Related Boards immediately in writing if I feel that there may be a conflict of interest in an assignment. I also understand that the release of any confidential information obtained to any unauthorized person is prohibited. Further, to the extent a conflict of interest may exist, I have disclosed same in the space provided below.

DISCLOSURE OF CONFLICT OF INTEREST

I wish to disclose the following conflict. Please provide details about the nature of the conflict in the space provided:

Subject: Conflict of Interest

File No: 302.01

Signature

Supervisor's Signature

Print Name

Print Name

Date

Date

Social Security Number

PH-3131

TENNESSEE DEPARTMENT OF HEALTH

EXHIBIT 2

PERSONNEL CONFIDENTIALITY STATEMENT

By signing below, I acknowledge and understand that, as a State employee of the Tennessee Department of Health or as a County, Contract, or Municipal employee working for the Tennessee Department of Health, I am prohibited from releasing to any unauthorized person any medical information which may come to my attention in the course of my duties.

Moreover, I acknowledge and understand that any breach of confidentiality, patient or otherwise, resulting from my written or verbal release of information or records provides grounds for disciplinary action, which may include my immediate termination as an employee of the department.

DRUG-FREE WORKPLACE

I, as a State employee of the Tennessee Department of Health, or as a County, Contract, or Municipal employee working for the Tennessee Department of Health, hereby certify that I have received a copy of the Tennessee Department of Health's policy regarding the maintenance of a drug-free workplace. I realize that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace or on state property and violation of this policy can subject me to discipline up to and including termination. I realize that as a condition of employment, I must abide by the terms of this policy and will notify the employer of any criminal drug conviction for a violation occurring in the workplace no later than five (5) days after such conviction. I further realize that federal law mandates that the employer communicate this conviction to a federal agency, where appropriate, and I hereby waive any and all claims that may arise for conveying this information to the federal agency. By signing below, I acknowledge that I have agreed to comply with the Drug-Free Workplace Policy of the Tennessee Department of Health.

SEXUAL HARRASSMENT ACKNOWLEDGEMENT

By signing below, I acknowledge that I have read and agree to comply with the Tennessee Department of Health's Personnel Confidentiality Statement.

Signature

Supervisor's Signature

Print Name

Print Name

Date

Date

Social Security Number

PH-3131

RDA N/A

**TENNESSEE DEPARTMENT OF HEALTH
CONFLICT OF INTEREST POLICY
BOARD MEMBERS**

EXHIBIT 3

PURPOSE: To assure that the individual interests of board members do not conflict with their responsibilities to the Board to which they are appointed.

APPLICABILITY: This policy shall apply to all board members.

I. DEFINITIONS:

- A. **CONFLICT OF INTEREST:** A circumstance in which a board member's individual interest impairs or impedes, or gives the appearance of impairing or impeding, his or her ability to make full, unbiased decisions or to provide full, unbiased service to the Board.
- B. **FINANCIAL INTEREST:** Ownership by a board member or a board member's immediate family members of ten percent (10%) or more of the stock of a corporation or ten percent (10%) or more of any other business entity; or a relationship as a director, advisor, or other active participant in the affairs of a party. An office in an educational, professional, religious, charitable, or civic organization is not a financial interest.

II. CONDUCT:

- A. A board member shall not engage in conduct which impairs or impedes, or gives the appearance of impairing, the board member's ability to make full unbiased decisions, or to provide full, unbiased public service to the Board.
- B. A board member shall not knowingly take any action which might prejudice his or her ability, or other members of the board's ability, to make an unbiased decision on any matter in which the board member, or the board member's immediate family members, has a financial interest.
- C. A board member will not willingly participate as an expert witness in a contested case hearing before the Board.
- D. It is a conflict of interest for a board member to vote in a manner involving a party in which the board member, or the board member's immediate family members, holds a financial interest.
- E. A board member shall not accept any item of significant monetary value, except usual social and business courtesies, from a party or provider seeking specific board approval of action.
- F. A board member who is employed by, or has contracted to provide services to, a health care provider seeking specific board approval or action, shall abstain from voting on the board approval or action.
- G. A board member shall not accept honoraria or other compensation for activities which are, or should be, performed as part of one's official duties, except as provided by the Comprehensive Travel Regulation of the Department of Finance and Administration.

III. DISCLOSURE:

- A. Each board member shall disclose to the Board on a case-by-case basis, any personal relationship, interest or dealings that impairs or impedes, or gives the appearance of impairing or impeding, his or her ability to make full, unbiased decisions on a matter.
- B. For the purposes of contested cases, the Board will be governed by Tennessee Code Annotated Sec. 4-5-302, attached as Exhibit A to this policy.

IV. RECUSAL:

- A. Any board member who has a conflict of interest as defined above must recuse himself/herself from any matter and is prohibited from participating in any discussion or vote on the matter, and shall leave the hearing room during the discussion or vote.
- B. It is improper for any board member having a conflict of interest to attempt to influence another board member at any time, including prior to the discussion on the matter for which the conflict exists.
- C. In business matters, the board chair, with the advice of the advising attorney, shall be the final authority to determine whether a board member must be recused.

CONFLICT OF INTEREST POLICY ACKNOWLEDGEMENT

By signing below, I acknowledge that I have read and agree to comply with the Department of Health's Conflict of Interest Policy for Board Members. Further, to the extent a conflict of interest may exist, I have disclosed same in the space provided below.

DISCLOSURE OF CONFLICT OF INTEREST

I wish to disclose the following conflict. Please provide details about the nature of the conflict in the space provided:

Signature

Print Name

Date



Resolution Form

Title of Resolution: **Resolution on Trafficking in Human Beings**

Member Board/Committee Proposing Resolution: **Tennessee Massage Licensure Board**

WHEREAS, human trafficking is a deplorable violation of the human dignity of its victims; and

WHEREAS, many of the victims of human trafficking are women and children who are forced into sexual exploitation, endure gender-based violence, discrimination, marginalization and underpaid illegal labor; and

WHEREAS, both governmental and non-governmental entities have condemned the practice as being tantamount to modern slavery which should shock the conscience; and

WHEREAS, many victims of this heinous conduct are coerced into prostitution under the guise of performing massage therapy;

THEREFORE BE IT RESOLVED, that the Federation of State Massage Therapy Boards take a decisive and unified stance against human trafficking; and

RESOLVED FURTHER, that Federation of State Massage Boards form a Task Force to Address Human Trafficking in the Massage Profession. The Task Force shall consist of at least one representative from at least five states and shall meet telephonically at least twice.

RESOLVED FURTHER, that the purpose of the Task Force shall be to determine the prevalence and impact of human trafficking on the massage profession and identify areas within the jurisdiction of the Federation of State Massage Therapy Boards to combat it.

RESOLVED FURTHER, that the Task Force shall identify measures that could be pursued by individual member boards to curtail or eliminate human trafficking in the massage profession.

RESOLVED FURTHER, that the Task Force to Address Human Trafficking in the Massage Profession shall report its findings to the Delegate Assembly at the 2016 annual meeting of the Federation of State Massage Therapy Boards.

IMPLEMENTATION PLAN

Fiscal Note Attached, if necessary

EFFECTIVE DATE

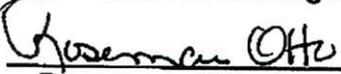


State of Tennessee Department of Health

Division of Health Related Boards Administrative Policies and Procedures

Subject: Application Processing Benchmarks

File No: 106.04

Approved by: 
Rosemarie Otto, Director

Effective Date: May 31, 2013

PURPOSE: To establish fair benchmarks that measures the timeliness of application processing (both initial and renewal) by board administrative staff and, consistency in reviewing and retaining reports relative thereto.

POLICY: It is the policy that staff effectiveness in achieving benchmarks be reviewed on a semi-annual basis. A report shall be prepared by the Director of Health Related Boards and transmitted to the Assistant Commissioner for the Division of Health Licensure and Regulation. Said report shall be retained in the Office of the Director for Health Related Boards for ten (10) years.

PROCEDURES:

A. **Frequency of Report:** Each Unit director shall request that a semi-annual report be prepared twice a year (January 1 through June 30 and July 1 through December 31) the purpose of which is to evaluate the effectiveness of board staff in achieving the benchmarks for application processing set forth below.

B. **Timeliness of Report:** The report must be requested not more than thirty (30) days following the conclusion of the reporting period above.

C. **Content of Report:** Each Unit director must review the report and identify those applications whose processing times exceed the established benchmarks and provide an explanation for application processing times in excess of established benchmarks. The Unit director may utilize administrators for the purpose of preparing a report to the Director of Health Related Boards relative to those applications exceeding established benchmarks.

D. **Reporting Time Frames.** For the *period January 1 through June 30*, the report must be available to the Director of Health Related Boards on or before August 15 and transmitted to the Assistant Commissioner for the Division of Health Licensure and Regulation on or before August 31. For the period *July 1 through December 31*, the report must be available to the Director of Health Related Boards on or before February 15 and transmitted to the Assistant Commissioner for the Division of Health Related Boards on or before February 28.

E. Form of Reports: Computer-generated reports will be prepared for initial and renewal applications. The first report will be prepared by the director of health related boards or his/her designee and contain the profession number and name, the duration of time the application was pending, the number of initial applications over the benchmark and the total number of application approved during the reporting period. The second report, prepared by directors and/or managers, will be in the form of an excel spreadsheet containing the license number, type of application, and a hand-generated note stating the reason for not meeting the established benchmark, when applicable.

F. Transmittal and Retention of Reports: The Director for Health Related Boards is responsible for receiving the individual reports and providing an electronic copy to the Assistant Commissioner for the Division of Health Licensure and Regulation. An electronic copy must be maintained in the Office of the Director of Health Related Boards for at least ten (10) year following the reporting period.

BENCHMARKS:

A. One Hundred Day Benchmark: Except for the boards specifically identified below, all initial applications must be processed within one hundred (100) days from the date the application is date stamped as received in the administrative office until the license is issued.

B. Exceptions:

1. **Board of Veterinary Examiners.** There is established a benchmark for processing initial applications for licensure for veterinarians of not to exceed three hundred and sixty-five (365) days.

2. **Board of Examiners for Nursing Home Administrators.** There is established a benchmark for processing initial applications for licensure of nursing home administrators of not to exceed seven hundred thirty (730) days.

3. **Board of Social Worker Licensure.** There is established a benchmark for processing initial applications for licensure of social workers of not to exceed five hundred fifty (550) days.

4. **Board of Podiatric Medical Examiners.** There is established a benchmark for processing initial applications for licensure of podiatrists of not to exceed five hundred fifty (550) days.

5. **Board of Professional Counselors, Marital and Family Therapists, and Clinical Pastoral Therapists.** There is established a benchmark for processing initial applications for licensure of professional counselors, marital and family therapists and clinical pastoral therapists of not to exceed seven hundred thirty (730) days.

6. **Board of Alcohol and Drug Abuse Counselors.** There is established a benchmark for processing initial applications for licensure of alcohol and drug abuse counselors of not to exceed five hundred fifty (550) days.

7. **Board of Examiners in Psychology.** There is established a benchmark for processing initial applications for licensure of psychologists of not to exceed three hundred sixty-five (365) days.

8. **Board of Communication Disorders and Sciences' Council for Licensing Hearing Instrument Specialists.** There is established a benchmark for processing initial applications for licensure of hearing instruments specialists of not to exceed seven hundred thirty (730) days.

9. **Board of Dispensing Opticians.** There is established a benchmark for processing initial applications for licensure of dispensing opticians of not to exceed three hundred sixty five (365) days.

10. **Board of Pharmacy.** There is established a benchmark for processing initial applications for licensure of pharmacists of not to exceed one hundred twenty (120) days.

11. **Polysomnography Professional Standards Committee.** There is established a benchmark for processing initial applications for licensure of Polysomnography technologists of not to exceed four hundred fifty-five (455) days.

12. **Genetic Counselors.** There is established a benchmark for processing initial applications for licensure of Polysomnography technologists of not to exceed four hundred fifty-five (455) days.

13. **Board of Nursing.** There is established a benchmark for processing initial applications for licensure by **examination** of registered and practical nurses of not to exceed one thousand twenty-five (1025)days in order to comply with Rule 1000-01-.01(3)(f)2 and 1000-02-.01(3)(f)2 which allow an applicant failing NCLEX three years to qualify by re-examination.

14. **Medical Laboratory Board.** There is established a benchmark for processing Medical Laboratory Facility application of not to exceed two hundred (200) days.

C. **Fourteen Day Benchmark:** Except for the boards specifically identified below, all renewal applications must be processed within fourteen (14) days from the date the renewal application is date stamped as received in the administrative office until the license is renewed.

D. Exceptions:

1. **Veterinary Facilities.** There is established a benchmark for processing of renewal applications for veterinary facilities of not to exceed 90 days.

2. **Certified Animal Control Agencies.** There is established a benchmark for processing of renewal applications for certified animal control agencies of not to exceed 90 days.

3. **Certified Professional Midwifery.** There is established a benchmark for processing of renewal applications for certified professional midwives of not to exceed 50 days.

Number of Allegations per Regions

FY14 July 1, 2013 to June 30, 2014 - Massage Therapist

Regions	July	August	September	October	November	December	January	February	March	April	May	June	Total
West	4	10	0	0	2	0	0	3	3	1	1	4	28
Middle	10	12	2	0	5	1	2	4	9	2	4	4	55
East	16	10	2	2	3	0	4	3	1	2	3	1	47
Out of ST	3	1	0	0	1	0	2	0	1	0	2	0	10
Unknown	0	0	0	0	1	0	0	0	0	0	0	0	1
Total	33	33	4	2	12	1	8	10	14	5	10	9	141

FY14 July 1, 2013 to June 30, 2014 - Massage Facility

Regions	July	August	September	October	November	December	January	February	March	April	May	June	Total
West	0	0	0	0	1	1	1	0	0	0	0	0	3
Middle	3	2	1	0	0	0	1	4	0	5	0	4	20
East	1	0	0	1	1	0	2	1	4	0	0	0	10
Out of ST	0	0	0	0	0	0	0	0	0	0	0	0	0
Unknown	0	0	0	6	0	0	1	0	1	0	0	0	8
Total	4	2	1	7	2	1	5	5	5	5	0	4	41

Number of Allegations per Regions

FY15 July 1, 2014 to June 30, 2015 - Massage Therapist

Regions	July	August	September	October	November	December	January	February	March	April	May	June	Total
West	2	2	3	4	0	27	3	0	0	0	0	0	41
Middle	2	10	7	1	0	62	3	2	7	4	7	0	105
East	1	4	1	6	1	35	2	1	0	2	2	0	55
Out of ST	1	2	0	1	0	18	0	0	0	0	0	0	22
Unknown	0	0	0	0	0	0	2	0	1	1	4	2	10
Total	6	18	11	12	1	142	10	3	8	7	13	2	233

FY15 July 1, 2014 to June 30, 2015 - Massage Facility

Regions	July	August	September	October	November	December	January	February	March	April	May	June	Total
West	1	1	0	0	0	0	0	0	0	1	1	0	4
Middle	2	2	2	0	2	12	2	4	4	2	2	0	34
East	1	1	0	1	2	1	0	1	0	0	0	0	7
Out of ST	0	0	0	0	0	0	0	0	0	0	0	0	0
Unknown	0	1	0	0	0	0	0	0	0	0	0	0	1
Total	4	5	2	1	4	13	2	5	4	3	3	0	46