



Oregon

Kate Brown, Governor

Board of Massage Therapists

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RULES COMMITTEE MEETING

August 10, 2015

OBMT Office

Attendance

Committee Members:

Kathy Calise, Chair

Steve Davis, LMT

Todd Pennington, LMT

Eric Polgar, LMT – By Phone

Barb Pickle, LMT

Carol Gray, LMT (Absent)

Board Members & Staff:

Meng Chen, Board Liaison

Kate Coffey, Executive Director

Absent: Carol Gray

Public: None

Call to Order - Calise called the meeting to order at 9:05 am.

Introductions – Present today are **Kathy Calise, Meng Chen, Barb Pickle, Todd Pennington, Steve Davis, and Eric Polgar** by phone; Board staff **Kate Coffey**.

Rule Assignments:

Review Proposed Rules Effective January 1, 2016

Removal of Oregon Practical Exam

Implementation of SB 298 – Minimum Education Hours from 500 hours to 625 hours

Implementation of SB 230 – Requires OBMT to submit licensee demographic info. to the Oregon Health Authority

The Rules Committee discussed the rules listed below and agreed that the verbiage for the proposed rules will be sent to the board for approval.

The following versions of the Rules will be sent to the September 10, 2015 Board meeting for further review and approval and a Rules hearing will be scheduled. (~~strike through~~ represents deletions, **bold** represent new additions):

PROCEDURAL RULES

334-001-0060

Definitions

25) "Indorsement" means:

(a) The process of evaluating and recognizing the credentials of a person licensed in Oregon in another health care specialty that includes in its scope of practice, acts defined as massage ~~or~~.

(b) ~~The process of evaluating and recognizing the credentials of a massage or bodywork practitioner authorized to practice massage or bodywork in another jurisdiction.~~

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334-010-0005
Applications

- (3) Applicants for ~~examination~~ **Licensure** must submit the following with their application:
- (a) A copy of a valid government issued photo identification. This identification could be a valid driver's license, a current U.S. passport, immigration/naturalization papers, or a valid state identification card;
 - (b) An official certificate or transcript from the administering institutions, instructors, or programs showing successful completion of study and practice in the required subject matter and hours required by the Board.
 - (A) Official copies of transcripts or certificates presented to the Board in an envelope sealed by the program or institution and verified as sealed may be accepted directly from the applicant.
 - (B) If a program or institution granting credit is no longer in business, the Board must accept for review a copy of a certificate of completion, transcript or diploma in the required subject matter and hours. The Board may require additional information to verify the authenticity of such documents.
 - (i) Transcripts or certificates directly received from other states massage licensing boards will be accepted.
- 4) Transcripts must include a minimum of ~~500~~ **625** hours of certified classes. The ~~500~~ **625** hours must include the knowledge and skills identified in OAR 334-010-0047 competencies and must be comprised of:
- (a) A minimum of 200 hours of Anatomy & Physiology, Pathology, and Kinesiology; and
 - (b) A minimum of 300 hours of Massage Theory and Practical Application, Clinical Practice, Business Development, Communication and Ethics, and Sanitation. Hydrotherapy may be included as part of the 300 hours.
 - (c) *The additional 125 hours can be in Anatomy & Physiology, Pathology, Kinesiology, Massage or Bodywork Theory and Practical Application, Clinical Practice, Business Development, Communication, Ethics, Sanitation or Hydrotherapy.*
 - (~~e~~) (d) Hours can be calculated in clock hours or equivalent credit hours from an institution that substantially complies with the definition of credit hours in 34 CFR 600.2.
- 5) *Applicants who apply for licensure on or before December 31, 2015 with a minimum of 500 hours of certified classes and do not take and pass the Oregon practical exam within 60 days of the date of their application must apply as a new applicant.*
- (~~5~~) (6) If for any reason an applicant does not appear to be qualified for ~~admission to take the examination~~ **licensure**, the applicant must be so notified and invited to submit additional evidence that he/she is entitled to have his/her case considered ~~or to be admitted to examination~~ **for licensure**.

334-010-0009
Credentialing Review

- (1) The Board may grant a license to applicants who are or have legally practiced massage and/or bodywork **a minimum of 3 years of continuous licensure** after successful completion of the ~~practical and~~ jurisprudence examinations, the written examination and upon a credentialing review.
- (a) Credentialing review must be submitted on the approved Board of Massage forms (Credentialing Review), submitted with official transcripts and/or certificates as proof of completion.
 - (A) Of the 200 Anatomy & Physiology, Pathology and Kinesiology hours required, 120 hours minimum must be from certified class instruction. Of the 200 hours required, up to 80 contact hours of prior continuing education in subject areas may apply.

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- (i) Official Transcripts or Certificates of Completion must be documented on the approved Board of Massage form: Credentialing Review.
 - (B) Of the 300 Massage Theory and Practical Application, Clinical Practice, Business Development, Communication and Ethics, and Sanitation hours required, 140 hours minimum must be from certified class instruction. Of the 300 hours required up to 120 contact hours of prior continuing education in subject areas may apply. Of the 300 hours required, up to 40 hours of practical work experience may apply.
 - (C) *The additional 125 hours can be in Anatomy & Physiology, Pathology, Kinesiology, Massage or Bodywork Theory and Practical Application, Clinical Practice, Business Development, Communication, Ethics, Sanitation or Hydrotherapy. Of the 125 hours required, up to 75 contact hours of prior continuing education in subject areas may apply.*
- (i) Practical Work Experience must be documented on the approved Board of Massage form.

334-010-0010

Examination

- (1) ~~The LMT examination must be held at least twice annually.~~
- (2) ~~The applicant will be notified by electronic mail and/or U.S. mail at least two weeks before the scheduled exam, unless otherwise waived by the applicant, of the time and place.~~
- (3) ~~Applicants who have a documented and verifiable emergency may request to have their exam fee apply to a subsequent examination:~~
 - ~~—(a) Applicant has 14 days to submit written documentation of the emergency;~~
 - ~~(b) applicant must sit for the examination within one year of the original date of examination; and~~
 - ~~(c) only one request will be allowed.~~
- (4) ~~Refund of the examination fee may be granted upon written request should the applicant not qualify for the examination. Refunds may also be made for individuals who have a documented and verifiable emergency and are unable to sit for the exam provided the written request and associated documentation are received by the board at least 7 days prior to the exam.~~
- (5) ~~Applicants are required to take and pass a Board approved written exam and the Oregon practical examination, which includes a written test on Oregon statutes and administrative rules.~~
- (6) ~~Failure to Pass: An applicant must pass the practical examination within 24 months of the initial date of application. The Board may require an applicant with 3 or more examination failures to undertake and satisfactorily complete a Board approved remediation plan prior to reapplying for the examination.~~
- (7) ~~Examinee Conduct: An examinee, whose conduct interferes with the testing process or whose behavior violates ethical practices or jeopardizes the safety of another may be dismissed and disqualified from examination. Such conduct includes but is not limited to the following behaviors:~~
 - ~~(a) Giving or receiving examination data, either directly or indirectly,~~
 - ~~(b) Failure to follow written or oral instructions relative to conducting the examination, including termination times and procedures;~~
 - ~~(c) Endangering the life or health of others present~~
 - ~~(d) Introducing unauthorized materials during any portion of the examination;~~
 - ~~(e) Attempting to remove examination materials or notations from the testing site; or~~
 - ~~(f) Violating the credentialing process such as falsifying or misrepresenting educational credentials or other information required for admission to the examination, impersonating an examinee, or having an impersonator take the licensing examination on one's behalf.~~
- (8) ~~Test questions, scoring keys, and other examination data used to administer the qualifying examination are exempt from disclosure under ORS 192.410 to 192.505 as amended.~~

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- ~~(9) The Board may release statistical information regarding examination pass/fail rates by group, type of examination, school, year, and subject area to any interested party.~~
- ~~(10) All examinations are given in the English language.~~
- ~~(11) Applicants with Special Needs: An applicant is presumed to possess sufficient sensory, visual, hearing and psychomotor capabilities to independently perform massage and bodywork skills. An applicant with special needs may apply to the Board for the provision of special conditions to complete the examination:~~
- ~~(a) The Board may require proof, provided by a qualified professional on letterhead, of the nature of the special need and type of special conditions recommended to complete the exam.~~
 - ~~(b) A request for special conditions must be made to the Board in writing at the time of application.~~

334-010-0012

Examination Appeal

- ~~(1) The following appeal process must be utilized to request a Board review of examination results:~~
- ~~(a) A request for appeal must be made by the applicant in writing and must be received in the Board office within thirty days of the date on the letter of notification of examination results sent to the applicant; and~~
 - ~~(b) In the written appeal the applicant must specifically state the reason for the appeal and why the applicant believes the results should be modified. The applicant must identify the specific errors of content, procedure, bias, prejudice or discrimination.~~
- ~~(2) The following appeal process must be utilized to conduct a review of examination results:~~
- ~~(a) During the review, the applicant must be identified only by the applicant's test number.~~
 - ~~(b) The Board's representative must review the examination results including any written materials, audio or video related to the examinations, examiner comments, and information provided by the applicant related to examination results.~~
 - ~~(c) The Board representative(s) must present its findings to the Board in executive session at a regularly scheduled meeting of the Board.~~
 - ~~(d) The Board must not consider oral arguments from the applicant regarding an examination appeal unless the Board determines that further information is required directly from the applicant.~~
 - ~~(e) The Board must make a determination as to whether to grant the appeal and that the determination must become part of the public record.~~
- ~~(3) An appeal may result in:~~
- ~~(a) No action;~~
 - ~~(b) Reversal of a failing score; or~~
 - ~~(c) Suspension of a failing score and opportunity for the applicant to retake the practical examination.~~

334-010-0015

Licensure

- ~~(1) An applicant for an initial license *licensure* or renewal of a license must complete, in its entirety, an original application furnished by the Board.~~
- ~~(2) An applicant for an initial license and all lapsed and inactive licensees applying for reactivation must submit an electronic fingerprint card for a criminal background check.~~
- ~~(3) All applications for licensure must be accompanied by proof of current certification in cardiopulmonary resuscitation (CPR).~~
- ~~(4) An applicant must provide written explanation and copies of all related documentation as requested by the board if:~~
- ~~(a) Applicant has ever been investigated, disciplined or denied licensure by this agency or any other governmental agency in any state or jurisdiction of the United States or foreign country;~~
 - ~~(b) Applicant has surrendered a massage license or other professional license in any state or jurisdiction of the United States or foreign country;~~

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- (c) Applicant has been arrested, charged or convicted of any type of violation of the law, including both misdemeanors or felonies, other than minor traffic infractions in any state or jurisdiction of the United States or foreign country;
 - (d) Applicant has abused or been treated for the abuse of alcohol, controlled or mind altering substances; or
 - (e) Applicant has suffered from and/or received treatment for a mental, physical or emotional condition, which could impede applicant's ability to safely practice massage.
- (5) Applicants for initial licensure must ~~apply within one year of the successful completion of the practical examination.~~ **have passed a written examination approved by the board unless the applicant is applying through Health Indorsement in which the applicant must have passed a practical examination.**
- ~~(a) If an applicant does not apply within one year, the applicant must retake the practical examination.~~
 - ~~(b) At the time of re-examination, the applicant must meet all current licensing requirements and submit original documents as required by the Board.~~
- (6) Licenses issued expire on the last day of the licensees' birth month of even numbered years for licensees with even numbered birth years and odd numbered years for licensees with odd numbered birth years. Thereafter, licenses may be renewed every other year upon completion of the application requirements. The application must be returned to the Board postmarked no later than the 1st day of the month of expiration. A delinquent fee must be paid if the completed application and all requirements are not received by the due date.
- (7) Applicants for the renewal of an active license must sign a statement verifying completion of a minimum of 25 hours of continuing education. The Board may require proof of the continuing education hours.
- (8) Applications for renewal of an active license must be accompanied by:
- (a) Current licensing fee;
 - (b) Any applicable late fees;
 - (c) Proof of current certification in cardiopulmonary resuscitation (CPR);
 - (d) Proof of 25 hours of continuing education; and
 - (e) Any additional documentation required by the Board.
- (9) All applicants for initial, renewal, or reinstated license must sign a statement verifying that they have read, understand, and must comply with all current Oregon Revised Statutes (ORS 687), Oregon Administrative Rules (OAR 334), and policy statements of the Board.
- (10) Licenses issued by the Board must not be transferable.
- (11) A person licensed by the Board may move to an inactive status by completing the form provided by the Board. Upon payment of the appropriate fee, the applicant will be issued an inactive license. During the period of inactive status, the licensee may not practice massage for compensation in the State of Oregon.
- (12) An application to reactivate an inactive license:
- ~~(a)~~ must be accompanied by:
 - ~~(a)~~(A) Current licensing fee;
 - ~~(b)~~(B) Verification of current cardiopulmonary resuscitation (CPR);
 - ~~(c)~~(C) Verification of 25 hours of continuing education for each biennium or fraction of the biennium the license was inactive, up to 50 hours; and
 - ~~(d)~~(D) Completed fingerprint card for criminal background check.
 - ~~(b) An individual who has been inactive or a combination of lapsed/inactive for 6 consecutive years or greater must, in addition, successfully pass the practical examination.~~

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334-010-0033

Fees

- (1) The fees are:
 - (a) \$100 per biennial renewal for initial license;
 - (b) \$50 per biennial renewal for initial license under 12 months;
 - (c) ~~\$150~~ **\$155** per biennial renewal for active license;
 - (d) \$50 per biennial renewal for inactive license;
 - (e) \$25 per week, up to a maximum of \$100, for any late renewal;
 - (f) ~~\$50~~ **\$100** for exam/endorsement application processing;
 - (g) \$150 for each practical examination;
 - (h) \$100 for mailing list;
 - (i) \$10 for license reprint;
 - (j) \$10 for license verification;
 - (k) \$250 Credentialing Review;
 - (l) Current Oregon State Police Criminal Background Check Fee;
 - (m) \$50 initial facility permit;
 - (n) \$250 facility permit transfer;
 - (o) \$10 facility permit reprint and
 - (p) other administrative fees as allowed by law.
- (2) Application and licensure fees are not refundable
- (3) ~~Examination fees are refunded only when requested in writing and either:~~
 - ~~(a) the applicant is unqualified by Oregon statutes, or~~
 - ~~(b) applicant requests refund postmarked at least 7 days prior to the exam.~~

There was discussion among the committee members that the \$5 fee per licensee, to send the required demographic information to the Oregon Health Authority would cost the board \$35,000 per biennium. It was felt that this fee would require the licensing fee to be raised \$5 per licensee.

There was discussion that the application fee should be raised to \$100 as the body of work to review applications to determine if they qualify for licensure would still need to be done. If the fee is not raised then there would be a \$67k budget deficit. All new applicants would only have to pay \$100 instead of the \$200 (\$150 practical exam fee and \$50 application fee) they are now currently paying. This would result in a decrease of \$100 for all new applicants.