



Oregon

John A. Kitzhaber, MD, Governor

Board of Massage Therapists

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BOARD MEETING MINUTES

November 26, 2012

Attendance

Board Members:

David Fredrickson, LMT, Chair
Heather Bennouri, LMT Vice Chair
Melanie Morin, LMT
Kelley Rothenberger, LMT
Kathy Calise, Public Member
Craig McMillin, Public Member
Dr. Carolle Chapman, ND, Public Health Member

Staff:

Kate Coffey, Executive Director
Diana Nott, Compliance Coordinator
Lori Lindley, Assistant Attorney General

Public:

Kirstin Schumaker
Abby Nartker
Adrien Chase
Carol Gray

Janelle Skalla
Dainella Nartker
James Nacey

Pam Pennington
Steve Davis
Angela Holmes

Todd Pennington
Crystal Jensen
Merrill Moore

Call to Order

Fredrickson called the meeting to order at 10:03 am. Role call was performed. **Bennouri, Calise, Chapman, McMillin, Rothenberger and Fredrickson** were present, as well as Kate **Coffey**, Executive Director, Lori **Lindley**, Assistant Attorney General and Diana **Nott**, Board staff. **Morin** arrived later in the meeting.

Fredrickson asked each member of the public to introduce themselves. Present at this time were Carol Gray, Abby Nartker, Dainella Nartker, Janelle Skalla, Kirsten Schumaker, Todd Pennington and Pam Pennington.

- 1) **Approve Agenda – Calise moved** to approve the agenda as presented. **Second the Motion: Bennouri.** In favor: **Bennouri, Calise, Chapman, McMillin, Rothenberger and Fredrickson.** Opposed: **None.** Motion carries.
- 2) **Approve Minutes of October 15, 2012 – Rothenberger moved** to approve the minutes of October 15, 2012 as presented. **Second the Motion: Calise.** In favor: **Bennouri, Calise, Chapman, McMillin, Rothenberger and Fredrickson.** Opposed: **None.** Motion carries.
- 3) **Director's Report –**
 - a) **Finances – Coffey** reported on the status of the Board budget through October 2012. The Board reviewed monthly information as well as biennium to date information. For the month of October, the Board has received \$10,000 more revenue than budgeted; the Board is on budget for expenses; the Board is over budget in the category of computer expenses due to the purchase of the new file server and the quarterly payment to the IT contractor. To date, for the biennium, the Board has received \$33,000 more revenue than was budgeted; has underspent in expenses; and as discussed at prior meetings, the Board is over in the investigation expense category, as the fingerprint fees were not budgeted at the beginning of the biennium. The Board office will be performing some office reconfigurations to create cubicles that are ergonomically correct. This purchase will cost approximately \$7,800 for three adjustable cubicles.

Morin arrived to the meeting at 10:09am.

b) Board Action Log – The Board action log has been updated to reflect the current status of Board items. The Oregon schools are to go through a review process of curriculum now that the Model Curriculum has been approved. There has been some turnover with the Oregon Department of Education. **Coffey** has been in contact with Matthew Barber, who has indicated that the Model Curriculum is a good framework for massage programs. The Database replacement is on hold for the moment. **Coffey** and **Bennouri** will meet to work on future school visit presentations. The scope of work for an exam consultant has been put on hold until the exam task force has convened.

c) Coffey reported that she had submitted a Request for Proposal to receive bids from interested parties for proctoring the Oregon Practical Exam. The contract for the proctoring company was presented to the Board for consideration.

Bennouri moved to award the examiner contract as presented. **Second the motion: Calise. In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger, and Fredrickson. Opposed: None. Motion carries.**

d) Coffey reported that Legislative Concepts 390 (would allow for massage facility licensing) and 796 (would allow for endorsements) have been approved by the Governor's office. In addition, Legislative Concept 603 has been sponsored by the Oregon Military Department and approved by the Governor's Office and would allow for the issuance of temporary licenses to the spouses of military personnel. There was discussion on how this might look and what this might mean to the Board 2013-2015 budget.

e) Coffey also reported HB 2381 modified ORS 182.462 and the Board is now required to submit the 2013-2015 proposed budget to the Governor, President of the Senate, Speaker of the House and the Legislative Fiscal Office by February 1, 2013. The process for the proposed budget will be: Board approval of proposed budget at Board meeting; Send proposed budget to parties mentioned by February 1, 2013; Board reviewed feedback and approved budget at March 2013 Board meeting; Rules hearing for adoption of the 2013-2015 biennial budget at the May 2013 Board meeting. There was discussion on how **Coffey** reached the \$1,740,534 budget amount. **Bennouri moved** to approve this proposed budget to be sent to the parties as required by ORS 182.462. **Second the motion: Calise. In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

f) Compliance Update – **Nott** provided the Board with a Compliance Report from October 1, 2012 through November 15, 2012. The report includes information such as: complaints open at start date (39); active cases at start date (34), number of new complaints received (14); number of cases opened (17); number of complaints closed (1); number of cases closed (14); and number of cases closed with disciplinary action (9).

Coffey provided the Board with a sample committee interest packet. The Board had requested a packet to be created for current and future committee members. The packet includes an interest form, a non-disclosure agreement, and information on ethics for public officials. The Board feels that it is very important for committee members to be aware that they are considered to be public officials and as such, they cannot receive any type of financial benefit from their work with the Board. Representing themselves as members of the Board and potentially breaching confidentiality are areas of concern, and **Fredrickson** is interested in creating a formal training process in the future. **Coffey** will put together a PowerPoint presentation and **Calise** will work with her on the project. **Coffey** asked if it was appropriate for schools and continuing education providers to work on the CE task for the Board, given a potential conflict of interest. **Bennouri** asked if the ethics commission could be consulted. **Coffey** indicated that there will be an ethics commission representative to provide training to the Board at the January 2013 Board meeting.

4) Committee Updates

a) Education Committee – **Calise** stated that this committee has been on hiatus and has not met since the last Board meeting.

b) Scope of Practice Committee – **Coffey** reported that this committee has also been on hiatus and has not met since the last Board meeting.

c) Rules Committee – **Bennouri** reported that there had been a Rules Hearing at the Board office prior to the Board meeting that morning. One individual did provide testimony. **Bennouri** found one detail that she wants to take to the rules committee after the first of the year, regarding the hand washing sign.

5) Board Business

a) **Rules Vote – Coffey** reported that there were two comments received, regarding the Rules Hearing held on November 26, 2012 at 9:00 am at the Board office. One comment was from Peter Szucs regarding a name change of Northwest Association of Secondary and Higher Schools to the Northwest Accreditation Commission. It was discovered that their name was changed quite some time ago. Other testimony was pertaining to the internal cavity rule. There was concern voiced over the notification of the Rules Hearing. **AAG Lindley** stated that she reviewed the notification history and determined that the notice was posted to the Board's web site more than once, the notification complied with Oregon Secretary of State notification deadlines and filing notices, deadlines were met, statements were met, the meeting was noticed in the Oregon Bulletin as required, the meeting was noticed by email, the meeting notification was provided to all interested parties as required and the meeting was referenced on meeting agendas and in meeting minutes, which were placed on the Board web site, multiple times. While it was mentioned that the meeting was not noticed in the Board's newsletter, this is not a requirement of the notification laws. As such, she believes all notice requirements have been met. **Coffey** reported that she believes that the concern with the internal cavity rule was concerning the use of gloves and treating all internal cavities the same. **Bennouri** stated that given prior testimony provided to the Board, before the July 1, 2012 implementation, the Board indicated at that time that they would address those issues. The Board can review the rule for amendment and consideration after the first of the year. This implementation would ease current restrictions for written release for witnesses, which others have indicated requires immediate attention. As such, **Bennouri moved** to adopt the rules, effective January 1, 2013. **Second the motion: Morin. In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger, and Fredrickson. Opposed: None. Motion carries.**

334-001-0060

Definitions

- (1) "Advantageous" means in the Board's best interests, as assessed according to the judgment of the Board.
- (2) "Award" means either the act or occurrence of the Board's identification of the Person with whom the Board will enter into a Contract.
- (3) "Barter" means partial or complete trade or exchange of massage or bodywork services for any other type of goods or service other than money.
- (4) "Board" means the State Board of Massage Therapists or its authorized representatives as provided by ORS 687.115.
- (5) "Bodywork" means the use on the human body, for the purpose of, but not limited to, maintaining good health and establishing and maintaining good physical condition of:
 - (a) Pressure, friction, stroking, tapping, kneading, vibration or stretching by manual or mechanical means or gymnastics;
 - (b) Appliances, tools or devices;
 - (c) Topical preparations; or
 - (d) Hot and cold applications.
- (6) "Boundary" means the limits in a professional relationship which create safety based on the needs of the client.
- (7) "Boundary violation" means an alteration or shift in the limits of a professional relationship so that what is allowed in the relationship becomes ambiguous and/or may not be based on the needs of the client.
- (8) "Caring" means acting in a manner in which things, events, people or relationships matter.
- (9) "Certified Class or program" means a class or program that is approved by the Board and is offered:
 - (a) By a person or institution licensed as a career school under ORS 345.010 to 345.450; or
 - (b) By a community college or university approved by the Department of Education; or
 - (c) In another state and licensed or approved by the appropriate agency in that state.
- (10) "Client" means any individual, group of individuals, or organization to whom an LMT provides massage
- (11) "Client vulnerability" means factors which diminish a client's ability to be self-determining.
- (12) "Compensation" means something given or received as payment including but not limited to bartering, tips, monies, donations, or services.
- (13) "Conflict of interest" means any action or decision or recommendation by an LMT at the detriment of a client.
- (14) "Contact hours" means actual hours in class under the instruction of and in the presence of an instructor.

- (15) "Contract" means an agreement for purchase, lease, rental or other acquisition or sale or other disposal by the Board of Goods or Services.
- (16) "Contract Price" means, as the context requires;
- (a) The maximum payments that the Board will make under a Contract if the Contractor fully performs under the Contract;
 - (b) The maximum not-to-exceed amount of payments specified in the Contract; or
 - (c) The unit prices for Goods and Services set forth in the Contract.
- (17) "Contractor" means the Person with whom the Board enters into a Contract.
- (18) "Critical Reflection" means a process whereby knowledge and action are connected to each other through the application of careful, conscious, deliberate reflection on:
- (a) Personal practice (perceptions, assumptions, motivations, values, behaviors).
 - (b) Assessment and understanding of a situation.
 - (c) Likely or actual consequences or impact of one's actions.
- (19) "Dual Relationship" means any relationship of a personal or business nature with a client that is in addition to or concurrent with a professional relationship in which the LMT is providing or has provided massage or bodywork services to that same client.
- (20) "Ethics" means a system of valued societal beliefs and behaviors that may be used to guide and evaluate conduct to ensure the protection of an individual's person and rights.
- (21) "Emergency" means circumstances that:
- (a) Could not have been reasonably foreseen;
 - (b) Require prompt execution of a Contract to remedy the condition; and
 - (c) The circumstances create a substantial risk of loss or revenue, damage or interruption of services or substantial threat to property, public health, welfare or safety when the circumstances could not have been reasonably foreseen;
- (22) Equivalent Credit Hours: are those credit hours as determined by the respective educational institution or its certified classes or programs
- (23) "Goods and Services" or "Goods or Services" means supplies, equipment, materials and services including Personal Services and any personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto, that the Board is authorized by law to procure.
- (24) "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.
- (25) "Informed consent" means a process wherein clients have knowledge of what will occur, that participation is voluntary, and that the client is competent to give consent.
- (26) "Licensee" means any person holding a license, permit, or certificate issued by this Board; an LMT
- (27) "LMT" means a Licensed Massage Therapist.
- (28) "Massage" or "massage therapy" is defined in ORS 687.011.
- (29) "Offer" means a response to a request for price quote or response to a Solicitation Document.
- (30) "Offeror" means a Person who submits an Offer.
- (31) "Personal power" means recognizing and taking personal responsibility for the inherent power differential between the LMT and the client and recognizing and taking personal responsibility for the impact of professional decisions, actions and behavior on the client.
- (32) "Power differential" means the basic inequality inherent in the professional relationship between an LMT and a client in terms of who has the advantage in the relationship. The LMT is presumed to have the advantage by virtue of the authority which emerges from the role of professional and the vulnerability which is automatically part of the role of client.
- (33) "Practical Work Experience" means experience gained while employed or self-employed providing legal massage/bodywork to the public within the last five (5) years, in another state or jurisdiction.
- (34) "Practice of massage" is defined in ORS 687.011.
- (35) "Professional authority" means the power inherent in the professional role and which is derived from a combination of an LMT's specialized or expert knowledge, societal expectations, stated and unstated client expectations, and an LMT's personal power.
- (36) "Professional relationship" means the relationship established when a LMT contracts with a client, verbally or in writing, to provide any service associated with the practice of massage or bodywork.

- (37) "Professional role" means assuming the demands and responsibilities of professional authority by taking charge of the conditions which create and maintain client safety and trust in the professional-client relationship.
- (38) "Scope" means the range and attributes of the Goods or Services described in the applicable Solicitation Document, or if no Solicitation Document, in the Contract.
- (39) "Solicitation Document" means an Invitation to Bid, Request for Proposal or other document issued to invite Offers from prospective Contractors.
- (40) "Specification" means any description of the physical or functional characteristics or of the nature of Goods or Services, including any requirement for inspecting, testing or preparing Goods or Services for delivery and the quantities of materials to be furnished under a Contract. Specifications generally will state the result to be obtained.
- (41) "Successful Completion" means the written receipt of credit from classes taken at a community college or university or the written receipt of a certificate from a program or private career school.
- (42) "Written" or "Writing" means conventional paper documents, whether handwritten, typewritten or printed, in contrast to spoken words. It also includes electronic transmissions or facsimile documents when required by applicable law or permitted by a Solicitation Document or Contract.

334-010-0027

Exempt Practices

- (1) Practitioners exempt from the Oregon Board of Massage Therapists licensing authority are defined as practitioners who:
- (a) Do not claim expressly or implicitly to be massage therapists and who limit their work to the practice of:
 - (A) Using touch, words and directed movement to deepen awareness of existing patterns of movement and suggest new possibilities of movement, as defined per 687.031(1)(j)(i). Examples include the Feldenkrais Method of Somatic Education as defined on May 16, 2011, by the Feldenkrais Guild® of North America and The Trager® Approach as defined on May 16, 2011, by the United States Trager® Association; or
 - (B) Using minimal touch over specific points on the body to facilitate balance in the nervous system, as defined per 687.031(1)(j)(ii). An example includes Bowenwork® and/or the Bowen Technique as defined on May 16, 2011 by the Bowenwork Academy USA; or
 - (C) Using touch to affect the energy systems or channels of energy of the body, as defined per 687.031(1)(j)(iii). An example includes Polarity Therapy as defined on May 16, 2011 by the American Polarity Therapy Association; and
 - (b) Hold an active certification from a National or International professional organization or credentialing agency that:
 - (A) Requires a minimum level of training specific to their discipline, demonstration of competence and adherence to an approved scope of practice and ethical standards;
 - (B) Maintains disciplinary procedures to ensure adherence to the requirements of the organization or agency; and
 - (c) Provide contact information in the practitioner's place of business for any organization or agency that has certified the practitioner.
- (2) It is the exempt practitioner's responsibility to insure they meet the criteria for being exempt and only practice within their exempt scope of practice. Practitioners may be subject to discipline by the Board if they:
- (a) Refer to themselves or imply they are a massage therapist;
 - (b) Practice outside of the exempt scope of practice;
 - (c) Practice without an active certification from a National or International professional organization or credentialing agency; or
 - (d) Fail to provide contact information in the practitioner's place of business for any organization or agency that has certified the practitioner.
- (3) The State Board of Massage Therapists has the authority to verify a practitioners claimed exemption from licensure of ORS 687 under subsection (1)(j) of section 687.031. Verification may include, but is not limited to, consultation with the practitioners certifying organization or agency.
- (4) Practitioners, Disciplines and/or Organizations seeking to be named in the exemption shall contact the Board of Massage Therapists to request a review.

334-010-0029

Internal Cavity

- (1) An internal cavity massage must be performed using gloves and utilizing universal precautions for communicable disease control.

- (2) Internal Cavities consist of nasal cavities, oral cavities, auricular cavities, anal cavities, and vaginal cavities.
- (3) Prior to performing these special procedures, an LMT must:
 - (a) be able to present evidence of the completion of specialized contact hours as training beyond the minimum competencies, which includes but is not limited to, indications, contraindications, therapeutic treatment techniques, expected outcomes, client safety, client consent, client communication, draping techniques, sanitation, and ethical responsibilities related to internal cavity massage;
 - (b) be able to articulate a therapeutic rationale which is acknowledged by the client; rationale may include a medical prescription and/or permission to consult with the clients health care provider(s);
 - (c) acquire prior written and verbal consent before proceeding;
 - (d) intra-anal and intra-vaginal written consent must include clients' option to accept or decline to provide a witness, in addition to the client and LMT.
- (4) While performing these procedures a LMT must use appropriate draping techniques at all times. Any temporary exposure of the genital area for the purposes of treatment is acceptable only in respect to appropriate procedures for that treatment. Immediately following treatment of the area, the genital area must be covered again.
- (5) Under no circumstances will intravaginal or intra-anal techniques be performed on individuals under 18 years of age.

334-010-0046

Class Certification

- (1) A class or program certified under ORS 687.051 must be offered by:
 - (a) In State Schools:
 - (A) A person or institution licensed as a private vocational school under ORS 345.010 to 345.074 or the equivalent licensing authority of another jurisdiction; or
 - (B) By a community college or university and approved by the Division of Vocational Education or the Department of Education, or the appropriate agency of another jurisdiction; or
 - (C) By a college accredited either by the Northwest Accreditation Commission or a like regional association or by a college in Oregon approved by the Oregon Office of Educational Policy and Planning for the purpose of granting degrees; or
 - (D) Approved by the Board.
 - (b) Out of State Schools:
 - (A) Must be accredited by the governing body where the school is located; or
 - (B) By a college accredited either by the Northwest Accreditation Commission or a like regional association for the purpose of granting degrees.
- (2) In order for a class or program to be approved, the person or institute offering the class or program must apply to the Board. The application packet must contain, but not be limited to:
 - (a) A completed Board application;
 - (b) Verification of content meeting the Model Curriculum;
 - (c) Course descriptions and syllabi;
 - (d) The institution's Code of Ethics and fraternization policy;
 - (e) The method of evaluation to determine the student's successful completion of a class;
 - (f) The attendance requirements for students to successfully complete each class;
 - (g) Minimum qualifications for selecting instructors.
- (3) The authorized representative of the certified class or program must notify the Board at least 60 days prior to any significant changes to information provided in the application process.
- (4) A certified class or program must renew their certification on a regular basis as determined by the Board.
- (5) Certification of the class or program may be revoked by the Board if it is determined that the requirements have not been or are no longer being met.
- (6) Denial or revocation of a class or program certification by the Board, if otherwise not resolved, must be heard by the Board pursuant to ORS 183.411 to 183.497.

334-040-0010

Discipline

The Board may deny, conditionally grant, restrict, suspend or revoke a license, impose probation, reprimand, censure, impose remedial education or corrective actions, and/or impose a civil penalty for any of the following reasons:

- (1) Practicing massage or representing one's self as a massage therapist without a current active license issued by the Board;
- (2) Knowingly or recklessly making any false statement to the Board;

- (3) Suspension or revocation of a license to practice massage in another jurisdiction based upon acts by the licensee similar to acts described in this section;
- (4) Conviction of a crime in this state, or jurisdiction;
- (5) The use of false, deceptive, or misleading advertising, which includes but is not limited to, advertising massage using the term "massage" or any other term that implies a massage technique or method in any private or public communication or publication by a person licensed or not licensed by the Board as a massage therapist;
- (6) Allowing the use of a license by an unlicensed person;
- (7) Presenting as one's own license, the license of another;
- (8) Practicing massage under a false or assumed name without notification to the Board;
- (9) Impersonating another massage therapist;
- (10) Assisting, employing, or permitting an unlicensed person to practice massage;
- (11) Practicing or purporting to practice massage when the license has been revoked or suspended, lapsed or inactive;
- (12) Practicing or offering to practice massage beyond the scope permitted by law;
- (13) The use of intoxicants, drugs, controlled substances, or mind altering substances to such an extent as to impair or potentially impair the licensee's abilities to perform professional duties in a safe manner;
- (14) Practicing massage with a physical or mental impairment that renders the therapist unable or potentially unable to safely conduct the practice of massage;
- (15) Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition as required by rules of the Board;
- (16) Refusing to permit the Board or its representatives to inspect the business premises of the licensee during regular business hours;
- (17) Failing to cooperate with the Board in any licensing action or disciplinary proceeding, including but not limited to:
 - (a) Failure to furnish any requested papers or documents,
 - (b) Failure to provide in writing a full and complete explanation covering the matter contained in the complaint filed with the Board,
 - (c) Failure to respond to subpoenas issued by the Board whether or not the recipient is accused in the proceeding;
- (18) Failing to comply with an order issued by the Board;
- (19) Unprofessional or dishonorable conduct which includes but is not limited to:
 - (a) Any conduct involving inappropriate physical contact or sexual misconduct which includes:
 - (A) Sexual abuse which is conduct which constitutes a violation of any provision of ORS 163.305 through 163.465;
 - (B) Sexual violation which is sex between the LMT and the client, whether initiated by the client or not, engaging in any conduct with a client that is sexual, or may be reasonably interpreted as sexual, including, but not limited to:
 - (i) Sexual intercourse;
 - (ii) Genital to genital contact;
 - (iii) Oral to genital contact; oral to anal contact;
 - (iv) Oral to oral contact except cardiopulmonary resuscitation; touching breasts or genitals or any sexualized body part for any purpose other than appropriate examination or treatment or where the client has refused or withdrawn consent; or
 - (v) Encouraging the client to masturbate in the presence of the LMT or masturbation by the LMT while the client is present.
 - (C) Sexual impropriety which is any behavior, gestures, or expressions that are seductive or sexually demeaning to a client; inappropriate procedures, including, but not limited to,
 - (i) Disrobing or draping practices that reflect a lack of respect for the client's privacy, deliberately watching a client dress or instead of providing privacy for disrobing;
 - (ii) Subjecting a client to an examination in the presence of students, assistants, or other parties without the explicit consent of the client or when consent has been withdrawn;
 - (iii) An examination or touching of genitals;
 - (iv) Inappropriate comments about or to the client, including but not limited to, making sexual comments about a client's body or clothing, making sexualized or sexually-demeaning comments to a client, comments on the client's or LMT's sexual orientation and making a request to date;
 - (v) Initiation by the LMT of conversation regarding the sexual problems, preferences or fantasies of the LMT; or
 - (vi) Kissing.
 - (b) Violating the client's rights of privacy, and confidentiality.

- (c) Failure to disclose or release information about a client if required by law or on written consent of client.
 - (d) Intentionally harassing, abusing, or intimidating a client either physically or verbally.
 - (e) Any conduct or practice which could endanger the health or safety of a client or the public.
 - (f) Any conduct or practice which impairs the massage therapist's ability to safely and skillfully practice massage.
 - (g) Exercising undue influence on a client, including promotion or sale of services, goods, or appliances in such a manner as to exploit the client for the financial gain or self-gratification of the massage therapist.
 - (h) Routinely practicing in an incompetent manner.
 - (i) Conduct which would also constitute a violation of the Oregon Unlawful Trade Practices Act.
 - (j) Practicing a modality or technique without adequate training or licensure.
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- b) International Association of Structural Integrators Exam Request** – The Board received information in October from IASI regarding the written examination that the organization utilizes, and a request for the Board to accept that exam as one of the written exam options for licensure in the State of Oregon. Kirstin Schumaker was present to answer any questions for the Board. She explained that the written examination is referred to as the Certification Exam for Structural Integration (CESI) from the Certification Board for Structural Integration (CBSI). The CESI was introduced in 2007 and is appropriate for all subgroups within the structural integration community that have completed IASI approved educational programs. Such programs provide a minimum of 750 hours of education, to include 500 hours of in SI theory and practicum, 100 hours in anatomy and physiology and kinesiology, and 250 hours in general bodywork technique, principles and ethics and business practice. If accepted this exam would be utilized as meeting the written portion of the licensure requirement for the State of Oregon. Applicants would still be required to pass the Oregon Practical Exam. **Bennouri moved** to approve the CESI as an accepted exam for the Oregon written examination requirement. **Second the motion: Calise In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- c) Request for Exemption – Breema** – The Board reviewed additional information provided to them regarding the request for exemption for the practice of Breema. The Board discussed the confusion over the practice, as the description seemed similar to Thai massage and it was unclear how Breema was different from massage. The Board requested to have a representative appear and provide a demonstration at a Board meeting. At that time, the Board should also have all submitted documentation to review as well.
- d) Request for Exemption – Ortho-Bionomy** – The Board reviewed additional information provided to them by request, from the Society of Ortho-Bionomy International. Abby Nartker was present to respond to Board inquiries. The Board expressed concern over the public being unable to differentiate between the 503 hour Ortho-Bionomy Practitioner and the Associate level, which requires only 112 hours of training. There was discussion on how to differentiate and where the burden of responsibility lies in providing that differentiation. Nartker inquired if the certificate could include verbiage to indicate that an Associate is not able to practice in Oregon. **Coffey** will collaborate with the Ortho-Bionomy representative and return to the Board in January with verbiage.
- Calise moved** to take a short break. **Second the motion: Morin. In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- e) Draft Candidate Handbook** – **Coffey** and **Bennouri** met and made additional amendments to the candidate handbook after receiving it at the October meeting. The Board received that amended draft for consideration. There were no further suggested changes. **Bennouri moved** to approve the candidate handbook. **Second the motion: Morin. In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- f) Draft Certified School Application** – The Board reviewed an amended draft certified schools application. This application will be placed on the Board web site for interested schools to access. The Rules referenced in the application packet were removed, as the information includes OARs and ORSs. Oregon schools should have the new model curriculum implemented effective July 1, 2013. **Coffey** will send recertification packets to the schools. **Bennouri moved** to accept the certification application. **Second the motion: Morin. In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

- g) **2013 Board Officers** – **Fredrickson** stated that he is interested in continuing as Board chair in 2013. **Bennouri moved** to appoint **Fredrickson** as Board chair for 2013. **Second the motion: Morin. In favor: Bennouri, Calise, Chapman, McMillin, Morin, and Rothenberger. Opposed: None. Abstained: Fredrickson Motion carries. Morin moved** to appoint **Calise** as Vice Chair for 2013. **Second the motion: Bennouri. In favor: Bennouri, Chapman, McMillin, Morin, Rothenberger and Fredrickson. Opposed: None. Abstained: Calise Motion carries.**
- h) **CHP Letter** – The Board received a letter from the CHP group, expressing appreciation for **Fredrickson's** presentation at a recent CE seminar. **Fredrickson** reported that he presented on ethics and boundaries. In the morning there were approximately 110 attendees and in the afternoon there were approximately 90 attendees. At one point, approximately one-quarter of those in attendance were LMTs.
- 6) **BOARDerline** – The Board reviewed current newsletter assignments. **Bennouri** has agreed to provide articles on continuing education for Board meeting attendance, scope of practice, ethics class (to be provided at a later date) and Groupon. **Morin** agreed to provide an article on massage and recent body art. **Fredrickson** will provide an article on the recent FSMTB meeting. **Chapman** stated that she would provide an article on a health related topic as well. She indicated that she had considered two areas of contention that she had noticed in cases before the Board, which she considered as potential topics. Those areas are why there continues to be an association of massage and touch in a non-therapeutic manner and considering individuals from other countries who have been informally trained in massage coming to America. **Coffey** indicated that articles are due the first week of December.
- 7) **Public Comments** – Opportunity for the public to address the Board.

Carol **Gray** spoke at the rules hearing earlier in the morning and she had a slight concern that her comments were not accurately reflected, so she would like to summarize to the full Board. She is a LMT in active practice and also teaches infant and maternal craniosacral therapy. She also performs internal cavity and pelvic floor work of a craniosacral nature or that level of touch. She stated that she is in favor of draping, gloves and written consent including the witness option, as long as the Board creates that consent form, for pelvic floor cavities only. She favors using gloves but no consent for intra-oral work, and for nasal work, for which draping would be irrelevant. She is against gloves and consent for ears, as the lining of the outer-ear cavity is skin. It is not a mucous membrane and there is absolutely no risk of dangerous body fluid exchange. She indicated that many massage therapists touch the ears and that craniosacral practitioners have techniques that they use where they insert a finger just inside the external auditory meatus; putting on a pair of gloves to touch somebody's ears is kind of stigmatizing in a way and she is really against that.

Fredrickson stated that he would like to respond to **Gray's** comment, as an individual who has received multiple craniosacral treatments, he continues to be in favor of obtaining consent in having anybody work inside of his cranium, whether that be verbal or written consent. **Gray** indicated that she obtains oral consent; she just doesn't get it in writing. She hasn't requested a specific signed consent form, but she speaks at length to the clients about the work that she provides so that they completely understand the work and asks if it is alright if she can touch the client.

Steve **Davis** stated that he is a LMT and yoga teacher and that he was present to observe the proceedings of the Board; he is also a member of the rules committee and education committee. He stated that will be putting his thoughts in writing at a later date.

McMillin stated that he was asked on break to mention that the Board should review the breema web site, particularly regarding positioning.

Chapman stated that as someone who also practices craniosacral therapy, she is in agreement that the use of gloves for treatment in the oral cavity makes sense and that the use of gloves in the aural cavity does not make sense. What she's hearing is that there needs to be definitions in which cavities are being referred to in this rule. That concern will be moved to the rules committee, seeking advice from those practitioners in the field.

The Board entered Executive Session at 11:50 am and returned to Public Session at 3:45 pm.

8) Executive Session

- a) Practical Exam (192.501(4))
- b) Compliance (192.660(2)(k))

The Board will now meet in Executive Session to discuss certain matters on the agenda pursuant to ORS 192.660(2)(f) to consider information or records that are exempt by law from public inspection, ORS 192.660(2)(h) consultation with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed, ORS 192.660(2)(k) to consider information obtained as part of an investigation of a licensee, applicant, or other persons alleged to be practicing in violation of law pursuant to ORS 676.175 and ORS 192.660(2)(i) To review and evaluate the job performance of the Executive Director or staff. Prior to entering into Executive Session, the nature of and authority for holding the Executive Session will be announced.

Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session. At the end of executive session, the Board will return to open session and welcome the audience back into the room.

Coffey provided the Board with the on-line renewal CE form, which has caused confusion for some LMTs and questions for staff. Currently, there is a space to report the hours being claimed for continuing education as well as a space to provide the detail of the CE being claimed. Staff has discovered that some LMTs report CE numbers and information that don't match and they aren't certain how to move forward. After discussion, it was determined to have only the information box only include a statement that 25 hours of CE are required and a minimum of 12 hours must be contact hours.

9) Action on Executive Session Items

- a) **Case 1393 – Bennouri moved** to close the case as no violation found. **Second the motion: Morin.**
In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger and Fredrickson. Opposed: None.
Motion carries.
- b) **Case 1407 – Bennouri moved** to defer this case to the January 2013 meeting, to have the Licensee appear before the Board. **Second the motion: Morin. In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- c) **Case 1411 – McMillin moved** to renew the Licensee's massage license without further stipulations. **Second the motion: Calise. In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- d) **Case 1440 – Calise moved** to ratify the Board Order. **Second the motion: Morin. In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- e) **Case 1441 – Bennouri moved** to issue a Notice of Proposed Action for: one violation of ORS 687.081(1)(i), unprofessional or dishonorable conduct, and OAR 334-040-0010(19)(a)(A)(B)(iv)(C)(i), unprofessional or dishonorable conduct which includes but is not limited to any conduct involving inappropriate physical contact or sexual misconduct which includes: sexual abuse which is conduct which constitutes a violation of any provision of ORS 163.305 through 163.465; sexual violation which is ... engaging in any conduct with a client that is sexual or may be reasonably interpreted as sexual including but not limited to: ... touching breasts or genitals or any sexualized body part for any purpose other than appropriate examination or treatment or where client has refused or withdrawn consent; and sexual impropriety... disrobing or draping practices that reflect a lack of respect for client's privacy; one violation of OAR 334-010-0025(3)(a)(A)(B)(C), a massage therapist must use safe and functional coverage/draping practices during the practice of massage when the client is disrobed; safe and functional draping means: LMT explains, maintains and respects coverage/draping boundaries; client gives informed consent; genitals and gluteal cleft of male and female clients are not exposed and breasts of female clients are not exposed; and OAR 334-010-0025(8), all licensed massage therapists must display their license in a location clearly visible to their clients; for a total civil penalty of \$1,000; and to suspend licensee from providing massage services to female clients for one year. **Second the motion: Rothenberger. In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

- f) **Case 1471 – McMillin moved** to issue a Notice of Proposed Action for one violation of ORS 687.021(1), engaging in or purporting to be in the practice of massage without a license, for a total civil penalty of \$500. **Second the motion: Morin. In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- g) **Case 1486 – Calise moved** to issue a Notice of Proposed Action for one violation of ORS 687.041(2), an applicant shall state on the application whether the applicant has ever been arrested for or convicted of a crime exclusive of minor traffic offenses and if so, where and when; and OAR 334-010-0015(2)(c), an applicant must provide written explanation and copies of all related documentation as requested by the Board if applicant has been arrested, charged or convicted of any type of violation of the law, including both misdemeanors and felonies, other than minor traffic infractions, in any state or jurisdiction of the United States or foreign country; for a total civil penalty of \$500. **Second the motion: Morin. In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- h) **Case 1139 – Bennouri moved** to grant the Licensee’s renewal application without further stipulations. **Second the motion: Calise. In favor: Bennouri, Calise, Chapman, McMillin, and Fredrickson. Opposed: None. Abstained: Morin and Rothenberger Motion carries.**
- i) **Case 1487 – Bennouri moved** to grant the Licensee’s renewal application without stipulations. **Second the motion: Calise. In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- j) **Case 1483 – McMillin moved** to grant Licensee’s renewal application with the following stipulations: Licensee shall be considered on probationary status through 12/31/2014, after which the Board shall review his application for renewal to determine if the probationary period shall be extended; Licensee agrees not to engage in any conduct that could or would impact his ability to safely and competently conduct his massage practice, or compromise the health and safety of the clients served; Licensee shall work only at a facility or business that facilitates a group practice setting; Licensee agrees that any time he engages in the practice of massage, it shall be in a manner that facilitates a group practice setting, through 12/31/2014; Licensee shall disclose to his employer, or in the case of other settings, organizer, manager or individual responsible for the event, his stipulations for licensure, through 12/31/2014; Licensee shall be placed on Peer Supervision, at a cost to the Licensee, through 12/31/2014; and Licensee shall execute and deliver to the Board such consents in writing as the Board may require to allow full and confidential disclosure as to any information as to Licensee’s medical, emotional and psychological diagnosis, prognosis or any other information deemed appropriate by the Board regarding said psychological, emotional or medical condition. **Second the motion: Calise. In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- k) **Case 1482 – Calise moved** to grant the applicant’s license to practice without stipulations. **Second the motion: Morin. In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- l) **Case 1489 – McMillin moved** to grant the applicant’s license to practice massage without stipulations. **Second the motion: Morin. In favor: Bennouri, Chapman, McMillin, Morin, Rothenberger and Fredrickson. Abstained: Calise Opposed: None. Motion carries.**
- m) **Executive Session Closed Case Report** – No report for this meeting.
- n) **Practical Exam** – The Board took no action on this matter.

10) Public Session Compliance Action –

- a) **Public Session Closed Case Report** – No report for this meeting.

11) Public Forum – Opportunity to share thoughts that pertain to agenda items – There were no members of the public present.

12) Announcements – **Frederickson** shared that has been invited, and has accepted, to be on the policy committee for the FSMTB.

Bennouri will be traveling to Las Vegas for the FSMTB Model Practice Act Task Force meeting, which will be held December 8-9, 2012. She would also like to submit herself for consideration to be on the OBMT Rules Committee upon completion of her Board tenure. Her final Board meeting will be January 2013. She recommended **McMillin** as the liaison to that committee, as he held that position prior to her joining the Board.

Fredrickson stated that **Coffey's** annual performance evaluation is due in December. He will conduct the review and request information from Board members.

13) Adjourn Meeting – Bennouri moved to adjourn the meeting. **Second the Motion: Morin In favor: Bennouri, Calise, Chapman, McMillin, Morin, Rothenberger and Fredrickson Opposed: None. Motion carries.** The meeting was adjourned at 4:13 pm.

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