



Oregon

Kate Brown, Governor

Board of Massage Therapists

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OBMT Board Meeting Minutes

November 9, 2015

Board Office

Attendance

Board Members:

David Fredrickson, LMT, Chair
Jon Grossart, Vice Chair
Meng Chen, Public Member
Melanie Morin, LMT
Kelley Rothenberger, LMT
Carol Ann Kirby, Public Member
Steven Foster-Wexler, LAc, Public Health Member

Staff:

Kate Coffey, Executive Director
Ekaette Udosenata-Harruna, Policy Analyst
Lori Lindley, AAG

Public:

Michelle Fajer	Peter Borden	Brock Ingmire	Stacy Delong	Rebekah Gould
Suzanne Yusem	Erika Baem	DeeDee Hoover	Julie Crispin	Debi Mann
Leah Bowder	Emily Wang	Eric Polgar	Sarah Campbell	Kacie Shirley
Veronica Kline	Adela Basayne			

Call to order at 9:03am

Fredrickson called the meeting to order at 9:03 am. Roll call was performed. **Chen, Foster-Wexler, Grossart, Kirby Morin, Rothenberger** and **Fredrickson** were present, as well as **Coffey**, Executive Director, **Lindley**, AAG, and **Udosenata-Harruna**, Policy Analyst.

Fredrickson asked members of the public to introduce themselves. Public present at this time were: **Michelle Fajer, Peter Borden, Brock Ingmire, Stacy Delong, Rebekah Gould, Suzanne Yusem, Erika Baem, DeeDee Hoover, Julie Crispin, Debi Mann, Leah Bowder, Emily Wang, Eric Polgar, Sarah Campbell, Kacie Shirley, Veronica Kline, Adela Basayne.**

- 1) **Approve Agenda:** Morin moved to approve the Agenda. **Second the motion: Foster-Wexler.** In favor: **Chen, Foster-Wexler, Grossart, Kirby, Morin, Rothenberger** and **Fredrickson.** Opposed: **None.** Motion carries.
- 2) **Approve Minutes for September 14, 2015:** **Rothenberger** moved to approve the minutes. **Second the motion: Morin.** In favor: **Chen, Fredrickson, Foster-Wexler, Grossart, Kirby, Morin** and **Rothenberger.** Opposed: **None.** Motion carries.
- 3) **Cultural competency CEU's – Emily Wang** from the Oregon Health Authority (OHA) Office of Equity and Inclusion (OEI)

presented to the Board on cultural competency continuing education requirements. Wang shared with the Board the timeline that the reporting is to commence. She noted that the Board does not have to start reporting until August of 2017. Wang explained that the rules per SB 97 requires health professional licensing boards to report biennially to OEI on cultural competence continuing education participation levels, specifically: The number of regulated health care professionals who completed cultural competence continuing education; The number of audited health care professionals who completed cultural competence continuing education from the OHA approved list; Licensee requirements for participation in cultural competence continuing education, as determined by each board; and The level of reporting. OHA OEI will provide an approved list of cultural competence CE opportunities and will make this list available by spring 2016. The cultural competence CE opportunities list of approved training courses is located at the following website: www.oregon.gov/oha/oei.

4) Healthcare Workforce Reporting Requirement – Stacy Delong, Rebekah Gould and Suzanne Yusem from the Oregon Health Authority (OHA) presented to the board on the workforce demographic reporting required by SB 230. This Bill mandates OHA to create and maintain a healthcare workforce database that will provide information to state agencies and to Legislative Assembly about Oregon's healthcare workforce. Gould went over the proposed questionnaire for the Board. Upon review of the questionnaire and discussion, the board made some recommendation for the restructuring of the questionnaire. OHA will include the Board's recommendation in the questionnaire and return the finish product to the Board for review before implementation date of July 1, 2016. OHA charges each board for the analysis of the data at a rate of \$4 per licensee and OHA will bill the board at the conclusion of each biennium.

Morin moved to take a five minute break. **Second the motion: Foster-Wexler. In favor: Chen, Foster-Wexler, Kirby, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

5) **Directors Report: Coffey** updated the board on the Budget Status for the 2015-17 Biennium. The Board's actual revenue is \$20k less than the revenue projection for the first four months of the 2015-17 biennium. License renewals and civil penalties are the revenue categories that are significantly under budget. The board underspent expenses by \$20k for the 2015-17 biennium. The majority of the under expenditure is in the Computer Expense category. The board over spent in the following categories: State Assessments – Secretary of State and Risk Mgmt. assessments were paid. Legal Fees – Several Contested Cases. Office Furniture - Office move invoices were paid in the 2015-17 biennium.

The licensing database indicates that the month of October 2015 had 30 fewer active renewals when compared to other months.

Coffey provided the board with the final audit report. The auditor completed the financial review and has indicated the following:

- Adequate internal controls were in place
- Desk manuals need to be developed for the disbursements and budget process
- Ensure banking documents for the investment account are received timely and formally reconcile the account.
- General Journal entries need to be completed for all corrections.
- Update the travel policy to include what travel expenses can be paid for with the US Bank credit card.

The Board's newest public member Kirby and the executive director attended the audit exit conference on October 30, 2015 and generally agree with the audit report and will implement the audit recommendations.

Kirby stated that Adequate internal controls is wording that is frequently utilized by auditors and implies that the internal controls at the board are good.

Coffey updated the board on Compliance. The compliance section received twenty (20) new cases since the September 2015 Board meeting.

There are five (5) contested cases that are pending at the Office of Administrative Hearings and one (1) contested case at the court of appeals. Motions for Summary Determination will be filed for all the cases pending at the Office of Administrative Hearings.

The board solicited a Request for Quote for contractors. This has resulted in three new contract investigators for a total of eight contract investigators. The Compliance Manager and the AAG will be conducting investigator training in the near future.

6) Board Business

a) **Correspondence** – Coffey shared details of correspondence received at the Board office.

1. **Letter to the Board from Miriam German** – Regarding the use of marijuana on clients by massage therapists in the State of Oregon.
2. **Letter to the Board from Julie Crispin** – Urging the board to change the law so that licensees can provide and use topical cannabis on clients at no extra cost to clients.
3. **Letter to the Board from Ryan Gibbons** - Licensee would like a portion of his final order re-written to remove embarrassing wording - the board referred it to AAG Lindley for review.
4. **Letter to the Board from Daniel Akins** – Inquiring as to how to go about obtaining the required ethic, boundaries or communication Continuing Education hours.

b) **CE Provider Certification** –The Board discussed the concept of having a provider list or a registry for CE providers. At the September 2015 board meeting, the Board instructed Coffey to have a discussion with the auditor and bring that information back to the November 2015 board meeting. Coffey noted that the auditor recommended that the board have a CE approval process.

The Board agreed that it does not want to have a registry or pre approval list for Continuing Education providers. The board wants to ensure that they are in compliance with the law in the State of Oregon and the board wants to ensure that the classes taken are in compliance with the board's Continuing Education requirements. By having internal written policy that directs any questions the Board's staff may have on the clarification of a CE course to LMT board members would suffice. The Board assigned Coffey to revise the CE Policy to reflect having an LMT Board member review questionable CE courses.

Morin moved that the board revise the current Continuing Education policy to reflect having LMT Board members review questionable Continuing Education courses. **Second the motion: Grossart. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

c) **2016 Meeting Dates** – The board reviewed the proposed board meeting calendar for 2016 and approved the proposed 2016 Board meeting dates. See the Board's website at <http://www.oregon.gov/OBMT/Pages/meetings.aspx> for the Approved 2016 Board Meeting Dates. They will discuss the traveling board meeting at the January 2016 meeting.

d) **Strategic Action Plans** - Coffey summarized the report provided by Catalysis LLC. The Board agreed to further review the Strategic Action Plans at the traveling Board Meeting and strategic planning session. .

Grossart moved for a modification of the agenda to move public forum up to item "E" to give the public an opportunity to comment on the matter of Cannabis/THC Infused Products Draft Policy; **Second the motion: Rothenberger. In favor: Chen, Foster-Wexler, Grossart, Kirby, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

e) **Cannabis/THC Infused Products Draft Policy**

Crispin – Inquired if the Board has a policy in place to address the use of cannabis as a topical application on clients by massage therapists in their practice. Crispin noted that the law with regards to the usage of cannabis is vague. Based on her research, she has found that Topical application of cannabis has no psychotropic effect on clients. She has conducted her research and has found that, there is no negative effect from the application of oil infused with cannabis. Crispin noted that the effects that she found were the same as that of “bio freeze” amongst others. Crispin concluded that more research needs to be done and LMTs needs to be educated on the matter.

Lindley – recommended that if the Board wants to adopt the policy on cannabis/THC infused product, such policy needs to be taken to the AG office to gather input and approval before implementation. Lindley further noted that the recommendation would be for the board to have a general policy on the matter that more closely follows the boards Administrative Rules and list cannabis as an example. The board agreed with the AAG recommendation and decided to send the THC policy to DOJ for review as there is an entire DOJ section looking at all the proposed policies/rules regarding THC.

f) Database Application – Coffey updated the board on the status of the database. Coffey noted that the accounting board, optometry board, architects board and the appraiser board are also interested in utilizing the Elite software as a licensing database. Coffey noted that the estimated cost will be \$37,000 with the majority of the cost being the monthly maintenance and DAS hosting of the server.

Rothenberger moved for the Board to move forward with procuring the Elite Licensing Database; **Second the motion: Morin. In favor: Chen, Foster-Wexler, Grossart, Kirby, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

Kirby left the meeting at 11:50 a.m.

g) FSMTB Meeting - The Board discussed the October 2015 FSMTB meeting. **Morin** updated the board on some of the highlights of the October 2015 FSMTB meeting. **Morin** was particularly excited on the fact that the FSMTB is going to make available a study guide for those taking the MBLEX in 2016.

7) Committee/Task Force Updates

a) Rules Committee – The board discussed the proposed rules to increase the hours to 625 hours for initial education, removal of the Oregon Practical Exam, increasing licensing Fees to \$155, and increasing application Fees to \$100.

The board received public comment from Campbell – in regards to her support for the abolishment of the practical exam as this hinders great massage therapists from obtaining a license. Campbell further proposed that the board reduce the cost of licensure and look into reducing the gap between the times a student graduate from school to the time it takes to obtain a license.

The proposed rules are as follows:

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.~~

334-010-0005**Applications**

- (1) All applications for ~~examinations~~, licensure, inactive status, renewal, temporary permit, or a facility permit must be made on forms provided by the Board. Only applications that are completed and on Board approved forms, without alterations, must be accepted for filing and review by the Board.
- (2) All applications made to the Board must be accompanied by the required fee.
- (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.***
 - ~~(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) 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**.
- 6) ***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.***

334-010-0009**Credentialing Review**

- (1) The Board may grant a license to applicants who are or have legally practiced massage and/or bodywork **for a minimum of the previous 3 years** 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.
 - (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.
 - ~~(i) Practical Work Experience must be documented on the approved Board of Massage form.~~
- (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.***

334-010-0010

Examination Practical Exam for Indorsement

- (1) The ~~LMT~~ examination must be held at least twice annually or as requested.
- (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.~~
- ~~(65)~~ 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.
- ~~(76)~~ 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.
- ~~(87)~~ 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.

- (98) 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.
- (109) All examinations are given in the English language.
- (110) 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 Practical Exam for Indorsement Appeal Process

- (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;

- (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:
- Current licensing fee;
 - Any applicable late fees;
 - Proof of current certification in cardiopulmonary resuscitation (CPR);
 - Proof of 25 hours of continuing education; and
 - 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.~~

334-010-0017

Lapsed License

- The massage therapist license is considered lapsed if an individual fails to complete the renewal process prior to the expiration of license.
- During the lapsed status, no such person shall practice massage in the State of Oregon.
- An applicant whose license is lapsed may return to active status by including the following with the completed application.

- (a) Payment of the current fee for activation of the license;
 - (b) Payment of the licensing fee applicable for the period of the lapsed license;
 - (c) Late fee payment;
 - (d) Proof of 25 hours of continuing education for each biennium the license was lapsed and for the current licensing period;
 - (e) **Verification of 4 contact hours in Ethics.**
 - (f) ~~(e)~~ Proof of current certification in cardiopulmonary resuscitation (CPR);
 - (g) ~~(f)~~ A statement indicating whether the applicant has engaged in the practice of massage and bodywork in another jurisdiction during the period of lapsed status; and
 - (h) ~~(g)~~ Applicants must submit a completed fingerprint card **or electronic fingerprints** for criminal background check.
- (4) All information required for restoring a lapsed license must be received within 3 years of the date of lapsing. Thereafter, one must apply as a new applicant.
- (5) **Continuing Education is not required if this is your first subsequent renewal after receipt of your initial license.**

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.~~

334-010-0050

Continuing Education

- (1) The intent of Continuing Education is to protect the public by maintaining **knowledge and skills of massage and/or bodywork**. ~~and enhancing competencies as defined in OAR 334-010-0047.~~ Each licensee must complete 25 hours of continuing education ~~in the competencies~~ each renewal period. **The continuing education hours must be from the following topics:**
- (A) **Massage and bodywork techniques;**
 - (B) **Use of thermal modalities, topical preparations, mechanical assistive; devices/appliances;**
 - (C) **Stretching and gymnastics that lengthen and shorten soft tissues;**
 - (D) **Posture and movement assessment;**
 - (E) **Massage and bodywork business practices;**

- (F) Anatomy and physiology of the human body;
- (G) Kinesiology of the human body;
- (H) Pathology of the human body;
- (I) Professional Ethics, Boundaries and/or Communication;
- (J) Cultural competency
- (K) Body mechanics;
- (L) Somatic education;
- (M) CPR/First Aid;

(a) At renewal time, each licensee must sign and submit a Board supplied CE form indicating they have completed 25 hours of continuing education. The Board may require proof of CE hours.

~~(a) At least 12 contact hours of continuing education training or Board approved activities (Board or Committee meeting/Peer Supervisor/Examiner of Practical Exam/Board Investigator).~~

~~(b) The remaining 13 hours may be contact hours or in areas as defined on the Board supplied CE form.~~

~~(2) The continuing education requirement does not apply to a licensee's first license renewal.~~

~~(3) Continuing education must be completed within the renewal period. Contact hours taken and submitted during renewal in excess of the total number required may only be carried over to the next subsequent renewal period.~~

~~—(a) First renewal CE are not required to be submitted at the time of renewal, CE may be submitted with second renewal.~~

~~(4) Continuing education records must be maintained by each licensee for a minimum of five years.~~

~~(5) If the Board finds indications of fraud or falsification of records, investigative action must be instituted. Findings may result in disciplinary action up to and including revocation of the licensee's license.~~

~~(6) Failure to complete continuing education hours by the time of renewal may result in revocation, suspension and/or denial of a license. Licensee has 30 days from date of notification of non-compliance to come into compliance. Failure to be in compliance may result in discipline of the license to practice massage.~~

~~(7) Continuing education must be in areas related to the practice of massage or bodywork including theory, research, technique or business development.~~

(b) Of the 25 hours, at least 15 must be contact hours of continuing education training or Board approved activities. At least 4 contact hours must be in Professional Ethics, Boundaries and/or Communication. The remaining 10 of 25 hours maybe contact or noncontact hours.

(2) The methods of obtaining continuing education contact hours *shall* include:

- (a) Attendance of courses, seminars, and workshops sponsored, certified by a licensed or accredited massage and bodywork training program;
- (b) Attendance of courses or activities for continuing education offered by a provider recognized by a massage and bodywork professional organization;
- (c) Attendance of courses provided by an accredited institution of higher education if *topics are listed* in OAR 334-010-0050(1)(A-M).
- (d) Attendance of courses, seminars, and workshops **that meet the content requirement of OAR 334-010-0050(1)(A-M).**
- (e) Individual interactive distance learning study courses with subject matter that is listed in OAR 334-010-0050(1)(E-J).
- (f) Courses in cardiopulmonary resuscitation/first aid if taken in the presence of an instructor;
- (g) Providing Board requested peer supervision or Board exam proctoring; One hour of CE contact credit will be given for each meeting/day.
- (h) Attendance at an Oregon Board of Massage Therapists board meeting, board committee meeting, board task force or serving on these committees/task forces. One hour of CE contact credit will be given for each meeting.

(3) The methods of obtaining continuing education non-contact hours shall include:

- (a) Publishing an article relating to massage and bodywork;
- (b) Self-study based on media (i.e. book/video, periodical, *web based*, DVD);

- (c) Courses or lectures on massage and bodywork which a licensee presents. A licensee may receive credit for presenting a course or lecture only one time per renewal period regardless of how many times the licensee presents the course or lecture.
- (4) If the Continuing Education subject matter is not listed under OAR 334-010-0050(1) it will not be accepted for continuing education.
- (5) The Oregon Board of Massage Therapists randomly selects a minimum of 10 percent of received monthly renewals for an audit.
- a. If selected for an audit you will have 30 days to complete the audit form and submit copies (not originals) of your Continuing Education certificates.
 - b. If you fail to provide the requested information to the Board, within the 30 days, the Board may issue discipline per ORS 687.081 and 687.250.
- (6) The continuing education requirement does not apply to a licensee's first license renewal.
- (7) Continuing education must be completed within the renewal period. Contact hours taken and submitted during renewal in excess of the total number required may only be carried over to the next subsequent renewal period.
- (a) First renewal CE are not required to be submitted at the time of renewal, CE taken during the first renewal period may be submitted with second renewal.
- (8) Continuing education records must be maintained by each licensee for a minimum of five years.
- (9) If the Board finds indications of fraud or falsification of records, investigative action shall be taken. Findings may result in disciplinary action up to and including revocation of the licensee's license.
- (10) Failure to complete continuing education hours by the time of renewal may result in revocation, suspension and/or denial of a license. Licensee has 30 days from date of notification of non-compliance to come into compliance. Failure to be in compliance may result in discipline of the license to practice massage.

Grossart move to accept the proposed rules as amended and push the effective date of the Continuing Education section from January 2016 to July 2016: **Second the motion: Rothenberger. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

b) Insurance Task Force -The insurance task force was task with comparing the OBMT rules to other State Massage Boards and/or other Oregon Health Boards for insurance billing rules and determines if there is a need for the development of rules or policies on Insurance Billing. The main push was that the insurance task force by requiring licensees to carry malpractice insurance could be a burden on LMTs. Foster Wexler reached out to Washington and New York regarding the language related to moral turpitude and unprofessional conduct, excessive billing, fraudulent billing. Lindley will fix the language of the recommendation from the task force and bring it back at the January 25, 2016 Board Meeting.

The board asked the AAG to bring to the board the existing statute on insurance and billing to the next board meeting.

1. Policy to advise LMTs about appropriate insurance billing
2. Amend existing rules on professional conduct

8) BOARDerline Fall Issue – The Board discuss the BOARDerline Fall Issue and approve for publication.

9) Recusal Process - If one cannot remain objective, then one should recuse themselves. It is best practice to leave the room in case there is a public record request.

10) Public Comments – Opportunity for the public to address the Board

Baern – expressed that, on behalf of herself, students and graduates would like to thank the Board for listening to the people and making the necessary changes to abolish the practical exam. It is a positive change, especially with the

portability of license. It allows schools to focus on effectively training massage therapists instead of passing an exam.

Basayne – Thanked the board on the thoughtful process to remove the board practical exam.

Hover – Clarified that the Continuing Education portion is not effective until July 2016. Therefore, she is able to continue teaching as long as it is within the content area set forth in Rules. **Hover** further acknowledged that of all the states that she has been licensed in, Oregon State Board of Massage Therapists is well ran and well above most of the states that she has been licensed in.

Morin moved to take a short break. **Second the motion: Rothenberger. In favor: Chen, Foster-Wexler, Morin, Grossart, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

Public present: None Present

Fredrickson called the board into Executive Session at 1:15pm.

EXECUTIVE SESSION

The Board may enter into 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 192.501(4) to review test questions, scoring keys and other data used to administer a licensing examination, 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 or applicant by a health professional regulatory Board 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.

11) Executive Session

a. Compliance (192.660(2)(k))

The Board returned to Public Session at 2:53pm.

12) Action on Executive Session Items

Compliance Cases

- i. **Case 1839** – **Morin** moved to deny application for practical examination. **Second the motion: Chen. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries**
- ii. **Case 1829** – **Morin** moved to issue a notice of proposed action for one violation of ORS 687.021(1)(a) Practice Massage without a license and One violation of ORS 687.021(1)(c) Advertising for Massage without a license For a total civil penalty of \$2,000.. **Second the motion: Grossart. In favor: Chen, Foster-Wexler, Fredrickson, Grossart, Morin and Rothenberger. Opposed: None. Motion carries.**
- iii. **Case 1814** – **Rothenberger** moved issue a letter of concern regarding getting inform consent before massage, use of adequate communication and use of proper draping. **Second the motion: Grossart. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- iv. **Case 1830** – **Foster-Wexler** moved to issue a notice of proposed action for one violation of OAR 334-010-0025(8) Failure to display Massage Therapist License for a total civil penalty of \$1000. **Second the motion: Morin. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- v. **Case 1817** – **Foster-Wexler** moved to issue a notice of proposed action for one violation of OAR 334-010-0025(7) Failure to notify Board of change of residence. **Second the motion: Rothenberger. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- vi. **Case 1818** – **Rothenberger** moved to issue a letter of concern regarding Ethics. **Second the motion: Grossart. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

- vii. **Case 1855 – Morin moved** to issue a notice of Proposed Action for One violation of OAR 334-010-0025 (7) Failure to notify Board of Change of Residence for a total civil penalty of \$1000. **Second the motion: Foster-Wexler. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- viii. **Case 1767 – Morin moved** to issue a Notice of Proposed Action (suspension) for One violation of OAR 334-040-0010(19) Failure to cooperate with the Board in any disciplinary proceeding for a total civil penalty of \$1000 and suspend licensee's massage therapists license. **Second the motion: Grossart. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- ix. **Case 1831 – Morin moved** to Issue a Notice of proposed Action for One violation of ORS 687.021(1)(c) Advertising for Massage without a license For a total civil penalty of \$1000. **Second the motion: Grossart. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- x. **Case 1837 – Morin moved** to revoke the license. for: One violation of ORS 687.081(1) (a) violation of a Board Rule; and One violation of OAR 334-040-0010(19)(a) Failure to Cooperate; and One violation of OAR 334-040-0010(20) failing to comply with a board order and issue a civil penalty for \$3000. **Second the motion: Foster-Wexler. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xi. **Case 1778 – Foster-Wexler moved** to accept the stipulated agreement and final order negotiated by the board staff. **Second the motion: Chen. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xii. **Case 1838 – Foster-Wexler moved** to revoke the license for: One violation of ORS 687.081(1)(a)(b) Has violated a Board Rule and Has made false representation to the Board; and One violation of OAR 334-040-0010 (2) Knowingly or Recklessly making a false statement to the Board and Issue a civil penalty of \$2000. **Second the motion: Morin. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xiii. **Case 1834 – Morin moved** to revoke the licensee's Massage Therapists License for: One violation each of ORS 676.150(1)(a)(G)(3) Failure to Report Arrests to the Board; and one violation each of ORS 687.081(1)(a) violation of a Board Rule, (d) is licensed and is habitually intemperate with the use of controlled substances, (f) criminal conviction (j) engages in unprofessional or dishonorable conduct; and One violation of OAR 334-040-0010(6)(23)(f) (g) conviction of a crime, (15) Impair ability by use of intoxicants, (23) Unprofessional Conduct by (f) Conduct or practice that endangers the safety of clients, (g) any conduct that impairs the ability to practice massage. For a total civil penalty of \$3000. **Second the motion: Rothenberger. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xiv. **Case 1754 – Morin moved** to accept the stipulated agreement and final order negotiated by the board staff. **Second the motion: Rothenberger. In favor: Chen, Foster-Wexler, , Morin, Rothenberger, Fredrickson and Grossart recuse himself. Opposed: None. Motion carries.**
- xv. **Case 1841 – Rothenberger moved** to issue a notice of proposed action for: One violation of ORS 687.021(1)(a) practicing massage without a license and One violation of ORS 687.021(1)(c) Advertising for massage without a license for a total civil penalty of \$2000 and issue a letter of concern to his employer. **Second the motion: Chen. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xvi. **Case 1836 – Grossart moved** to issue a notice of proposed action for one violation of ORS 687.021(1)(b) Operating a facility without a Facility Permit. For a total civil penalty of \$1000; and refer to DOJ for civil injection. **Second the motion: Morin. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xvii. **Case 1828 – Morin moved** to dismiss the notice of proposed action issued by the Board on October 13, 2015.. **Second the motion: Grossart. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xviii. **Case 1738 – Foster-Wexler moved** Accept the stipulated agreement and final order negotiated by the board staff. **Second the motion: Rothenberger. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xix. **Case 1843 – Rothenberger moved** to issue a notice of proposed action for one violation of ORS 687.021(1)(b) operating a Facility without a Facility Permit; For a total civil penalty of \$1,000. **Second the motion: Grossart. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

- xx. **Case 1856 – Foster-Wexler moved** to issue a Notice of Proposed Action for: One violation of ORS 687.021 (1)(a) Practicing Massage without a license For a total civil penalty of \$1000. **Second the motion: Morin. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xxi. **Executive Session Closed Case Report – Morin** moved to accept the executive session closed case dated November 9, 2015 containing cases as submitted in Exhibit 1 consisting of 5 pages. **Second the motion: Grossart. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

Case No. 1790**Allegation:** Failure to Pay Child Support**Closed:** Compliance Met**Case No. 1803****Allegation:** Unlicensed Practice**Closed:** Compliance Met**Case No. 1780****Allegation:** Failure to Obtain a Facility Permit Unlicensed Practice**Closed:** Duplicate Case**Case No. 1808****Allegation:** Other**Closed:** License Granted**Case No. 1810****Allegation:** Conviction of a Crime**Closed:** Respondent Unreachable

Fredrickson moved the board meeting back to public session at 2:28

13) Public Compliance Action

- xxii. **Public Session Closed Case Report – Morin** moved to accept the public session closed case dated November 9, 2015 submitted in Exhibit 2 consisting of 4 pages. **Second the motion: Grossart. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

a)

Case No. 1738**Allegation:** CE Audit Failure**Closed:** Civil Penalty Assessed**Case No. 1787****Allegation:** Unlicensed/ Failure to obtain a Facility Permit**Closed:** Civil Penalty Assessed**Case No. 1728****Allegation:** Unlicensed Practice/Advertising**Closed:** Civil Penalty Assessed**Case No. 1736****Allegation:** Unlicensed Practice**Closed:** Civil Penalty Assessed & Paid**Case No. 1800****Allegation:** Unlicensed Practice/Advertising**Closed:** Civil Penalty Assessed & Paid**Case No. 1777**

Allegation: Unprofessional/dishonorable Conduct

Closed: Revoked

Case No. 1742

Allegation: Noncompliance with existing Board Order

Closed: Suspended

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

15) Announcements

Next meeting will be on January 25, 2015 at 9am in Salem, Oregon.

16) Adjourn Meeting – Morin moved to adjourn the meeting. **Second the motion: Chen.** In favor: Calise, Chen, Foster-Wexler, Grossart, Rothenberger and Fredrickson. Opposed: None. **Motion carries.**

The meeting was adjourned at 2:45 pm.