



# Oregon

Kate Brown, Governor

## Board of Massage Therapists

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## OBMT Board Meeting Minutes

September 14, 2015

Board Office

### Attendance

#### Board Members:

David Fredrickson, LMT, Chair

Jon Grossart, Vice Chair

Meng Chen, Public Member

Melanie Morin, LMT

Kelley Rothenberger, LMT

Steven Foster-Wexler, LAc, Public Health Member

#### Staff:

Kate Coffey, Executive Director

Bob Ruark, Compliance Manager

Lori Lindley, AAG

**Public:** Jennifer Taylor – Working America; Aneta Molenda – Working America; Eric Polgar-University of Western States; Leah Bowder – AMTA; Natalie Weintraub- AMTA; Lisa Garofalo- Oregon School of Massage; Lazette Harnish, LMT; Erika Baern-East West College.

### Call to order at 9:03am

Fredrickson called the meeting to order at 9:10 am. Roll call was performed. **Chen, Foster-Wexler, Grossart (arrived at 9:25) Morin, Rothenberger** and **Fredrickson** were present, as well as **Coffey**, Executive Director, **Lindley**, AAG, and **Ruark**, Compliance Manager.

Fredrickson asked members of the public to introduce themselves. Public present at this time were:

Jennifer Taylor – Working America; Aneta Molenda – Working America; Eric Polgar-University of Western States; Leah Bowder – AMTA; Natalie Weintraub- AMTA; Lisa Garofalo- Oregon School of Massage; Lazette Harnish, LMT; Erika Baern-East West College.

- 1) **Approve Agenda:** Rothenberger moved to approve the Agenda. **Second the motion: Morin. In favor: Chen, Foster-Wexler, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- 2) **Approve Minutes for July 20, 2015:** Morin moved to amend the minutes to correct dates, numbering, and committee/task force members as Foster-Wexler is the board liaison. Approve the minutes. **Second the motion: Foster-Wexler. In favor: Chen, Fredrickson, Foster-Wexler, Morin and Rothenberger. Opposed: None. Motion carries.**
- 3) **Directors Report:** Coffey updated the board on the Finances for July and August 2015. The board's actual revenue is \$4k less than the revenue projection for the first two months of the 2015-17 biennium. The board underspent expenses by \$4k and the majority of the under expenditure is in the category of Payroll Expenses.

**Coffey** updated the board regarding the 2015-17 biennium pay and benefits for board staff. The DAS approved pay and benefits sent out on September 11, 2014 from Madilyn Zike for Management Service and the SEIU pay and benefits as sent out on July 10, 2015 from George Naughton. These letters delineate that board staff will receive Cost of Living Adjustments in December 2015 and December 2016; maintain the 95%/5% insurance cost share and added the day after Thanksgiving as a paid day off.

**Morin** made a motion to adopt the DAS approved pay and benefits for board staff. **Second the motion: Rothenberger. In favor: Chen, Foster-Wexler, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries**

**Coffey** informed the board that the Governor's Office has reviewed the applications for the public member vacancy and selected an applicant to fill the public member board vacancy. This applicant will go before the September 28, 2015 Senate confirmation hearing.

**Ruark** updated the board on Compliance. The Compliance section received eleven (11) new cases in the past 30 days (Since July Board meeting). There are three contested cases that are pending at the Office of Administrative Hearings. All of these cases have active settlement negotiations occurring.

#### **4) Board Business**

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

- 1. Letter to the Board from the Department of Justice, Lori Lindley, AAG** - information stated that the State of Oregon would represent a board member if they acted within their role and were sued by the FTC or a private organization for alleged violations of the Sherman Act in carrying out their board enforcement duties.

**b) CE Provider Form** – There was discussion among board members and the public. The board decided to move this topic to the November 2015 and instructed **Coffey** to have a discussion with the auditor and bring that information back to the November 2015 board meeting.

**c) 2016 Meeting Dates** – The board reviewed the proposed board meeting calendar for 2016 and moved this topic to the November 2015 board meeting.

**d) Strategic Action Plans** - **Coffey** summarized the report provided by Catalysis LLC. The following action items were discussed and assigned:

- Develop an effective relationship with State of Oregon – outreach to new policy advisor
- Board Member Handbook – Grossart
- Recusal Policy – Lindley
- API Community and the API outreach – Chen & Ruark
- Insurance Rules or Recommendations – Foster-Wexler
- Tiered approach for LMT's – Should there be a lesser license with a lower scope of practice. The board removed tiered licensure from the 2015-17 action plan.
- Removal of Practical Exam – Forwarded to Rules Hearing in November 2015.

**Morin** made a motion for a break; **Second the motion: Rothenberger. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

**e) FSMTB Meeting** - The board discussed the upcoming FSMTB meeting in October 2015. Those who are attending are; Morin – Delegate, Coffey, Cheng, Fredrickson, and Rothenberger.

## 5) Committee/Task Force Updates

**a) Insurance Task Force** - The board asked Lindley to research and provide what other State Massage Boards have for Insurance Billing. The board assigned the Insurance Task Force the task of comparing the OBMT rules to other State Massage Boards and/or other Oregon Health Boards for insurance billing rules and determine if there is a need for the development of rules or policies on Insurance Billing.

The recommendation was for **Foster-Wexler** to contact John Combe regarding chairing the committee and the board recommended that Christa Rodriguez become an Insurance Task Force member.

**b) Rules Committee** – The board discussed the proposed rules to increase the hours to 625 hours for initial education and the removal of the Oregon Practical Exam.

### 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:
- No action;
  - Reversal of a failing score; or
  - Suspension of a failing score and opportunity for the applicant to retake the practical examination.

### 334-010-0015

#### Licensure

- An applicant for ~~an initial license~~ *licensure* or renewal of a license must complete, in its entirety, an original application furnished by the Board.
- 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.
- All applications for licensure must be accompanied by proof of current certification in cardiopulmonary resuscitation (CPR).
- An applicant must provide written explanation and copies of all related documentation as requested by the board if:
  - 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;
  - Applicant has surrendered a massage license or other professional license in any state or jurisdiction of the United States or foreign country;
  - 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;
  - Applicant has abused or been treated for the abuse of alcohol, controlled or mind altering substances; or
  - 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.
- 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.***
  - ~~If an applicant does not apply within one year, the applicant must retake the practical examination.~~
  - ~~At the time of re-examination, the applicant must meet all current licensing requirements and submit original documents as required by the Board.~~
- 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.
- 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.
- 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.
- 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.
- 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.~~

### 334-010-0033

#### 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.~~

Morin made to motion to accept the rules as amended and send to a Rules Hearing: Second the motion: Grossart. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.

6) **BOARDerline Topics** – Coffey updated the Board on the BOARDerline topics. Outgoing Board Member Article – Calise; New Rules effective January 1, 2016 – Coffey; FSMTB Meeting – Morin; New Board Member Article – New public member; What is Interactive Distance Learning – Lisa Barck-Garofalo; PSU Study – Link to website where it is posted.

7) **Public Comments** – Opportunity for the public to address the Board

Public present:

**Jennifer Taylor** of Working America introduced themselves and stated that Working America is trying to improve the working conditions with LMT's. Working American will have a formal launch of their efforts in October 2015 in Portland, Oregon.

**Lisa Barck-Garofalo** – Oregon School of Massage – Thank you for moving the CEU rules to a rules hearing.

**Erika Baern** – East West College, asked that **Morin** request the FSMTB to provide MBLEx preparation materials.

**Eric Polgar** – Requested that **Morin** not accept the answer from the FSMTB of “we are lookin into it” when she asks the question of the FSMTB.

**Harnish** – Is here as her license is under review and called the office one year ago and told them that she was arrested and was told there was not an issue.

**Fredrickson** thanked the members of the public and excused them.

**Fredrickson** called the board into Executive Session at 12:22pm.

#### 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.

- 8) Executive Session
- a. Compliance (192.660(2)(k))

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

#### 9) Action on Executive Session Items

##### Compliance Cases

- i. **Case 1754 – Foster-Wexler moved** to accept the Ruling on Motion for Summary Determination and Final Order as recommended by the Administrative Law Judge 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 \$2,000. **Second the motion: Morin. In favor: Chen, Foster-Wexler, Morin Rothenberger and Fredrickson. Opposed: None. Grossart recused himself. Motion carries**
- ii. **Case 1792 – Morin moved** to close unable to substantiate. **Second the motion: Rothenberger. In favor: Chen, Foster-Wexler, Fredrickson, Grossart, Morin and Rothenberger. Opposed: None. Motion carries.**
- iii. **Case 1798 – Foster-Wexler moved** to issue a notice of proposed action for one violation of OAR 334-040-0010(23)(h) Unprofessional or Dishonorable conduct for 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 of the LMT. For a total civil penalty of \$1,000. **Second the motion: Rothenberger. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- iv. **Case 1793 – Morin moved** to issue a notice of proposed action for one violation of OAR 334-010-0025(4) A licensed massage therapist must not perform or offer to perform any services for clients other than those connected with

giving massage therapy treatments; and one violation of 334-010-0025(9) Massage Therapists are required to include their license number in all advertisements; and one violation of OAR 334-040-0010 (23)(h) Unprofessional or Dishonorable conduct for 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 of the LMT. For a total civil penalty of \$3,000. **Second the motion: Rothenberger. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

- v. **Case 1788 – Morin moved to accept the stipulated agreement and final order negotiated by the board staff. Second the motion: Grossart. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- vi. **Case 1821 – Grossart moved to issue the license with no stipulations. Second the motion: Foster-Wexler. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- vii. **Case 1816 – Foster-Wexler moved to close the case unable to substantiate. Second the motion: Grossart. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- viii. **Case 1823 – Foster-Wexler moved to issue the license with no stipulations. Second the motion: Grossart. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- ix. **Case 1813 – Morin moved to close the case unable to substantiate. Second the motion: Grossart. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- x. **Case 1812 – Morin moved to accept the voluntary surrender of license. Second the motion: Grossart. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xi. **Case 1764 – Morin moved accept the Ruling on Motion for Summary Determination and Final Order as recommended by the Administrative Law Judge for one violation of OAR 334-040-0010(19)(a) failure to furnish any requested papers or documents and One violation of OAR 334-010-0050(1)and (6) completion of Continuing Education for a total civil penalty of \$1,000 and the cost of the disciplinary proceedings. Second the motion: Grossart. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xii. **Case 1819 – Morin moved Accept the Voluntary Surrender of License. Second the motion: Foster-Wexler. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xiii. **Case 1822 – Morin moved to revoke the license for one violation of OAR 334-040-0010(2) failing to cooperate with the board. Second the motion: Rothenberger. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xiv. **Case 1638 – Morin moved Accept the order of dismissal negotiated by the board staff. Second the motion: Rothenberger. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xv. **Case 1794 – Grossart moved Accept the stipulated agreement and final order negotiated by the board staff. Second the motion: Morin. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xvi. **Case 1746 – Grossart 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.**
- xvii. **Case 1789 – Foster-Wexler moved 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.**
- xviii. **Case 1804 – 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 1824 – Morin moved issue a notice of proposed action for one violation of ORS 676.150(3) – A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime shall report the conviction or arrest to the licensee's board within 10 days after conviction or arrest. For a total civil penalty of \$1,000. Second the motion: Rothenberger. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

- xx. Case 1766 – Morin moved to continue with the contested case hearing. **Second the motion: Foster-Wexler. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xxi. Case 1825 – Foster-Wexler moved to Issue a notice of proposed action for one violation of OAR 334-040-0010(19)(a) failure to cooperate with the board by not furnishing any requested paper or documents; and to suspend the licensees massage therapists license until the licensee comes into compliance for a total civil penalty of \$1,000. **Second the motion: Morin. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xxii. Case 1773 – Morin moved 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.**
- xxiii. Case 1769 - Morin moved Accept the stipulated agreement and final order negotiated by the DOJ. **Second the motion: Rothenberger. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xxiv. Case 1815 - Rothenberger moved to issue a letter of concern for injuring a client and using products that are not approved for massage. **Second the motion: Morin. In favor: Chen, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Foster-Wexler recused himself. Motion carries.**
- xxv. Case 1795 - Morin moved to issue a letter encouraging him to take a boundaries class. **Second the motion: Rothenberger. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**
- xxvi. Case 1826 - Morin moved to issue a Notice of Proposed Action for one violation of OAR 334-040-0010(19)(a) failure to cooperate with the board by not furnishing any requested paper or documents; and to suspend the licensees massage therapists license until the licensee comes into compliance. 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.**
- xxvii. Case 1827 - Morin moved to issue a Notice of Proposed Action for one violation of OAR 334-040-0010(19)(a) failure to cooperate with the board by not furnishing any requested paper or documents; and to suspend the licensees massage therapists license until the licensee comes into compliance. 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.**
- xxviii. Case 1828 - Morin moved to issue a Notice of Proposed Action for one violation of OAR 334-040-0010(19)(a) failure to cooperate with the board by not furnishing any requested paper or documents; and to suspend the licensees massage therapists license until the licensee comes into compliance. 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.**
- xxix. Case 1820 – Rothenberger moved to issue a notice of proposed action for revocation of the license for one violation of ORS 687.081(1)(a) violates a rule of the Board and (j) engages in unprofessional or dishonorable conduct. And one violation each of OAR 334-040-010(23) Unprofessional or Dishonorable Conduct (a)(A) violation of ORS 163.415 Sexual Abuse in the Third Degree, (B) sexual violation (iv) touching of breasts or genitals or any sexualized body part (C) Sexual Impropriety (i) draping practices that reflect lack of respect for client privacy. **Second the motion: Foster-Wexler. In favor: Chen, Foster-Wexler, Grossart, Rothenberger and Fredrickson. Opposed: None. Morin recused herself. Motion carries.**
- xxx. Executive Session Closed Case Report – Foster-Wexler moved to accept the executive session closed case dated September 14, 2015 containing cases as submitted in Exhibit 1 consisting of 1 page. **Second the motion: Morin. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

**Case No. 1780****Allegation:** Unlicensed Practice**Closed:** Duplicate Case**Case No. 1790****Allegation:** Failure to Pay Child Support**Closed:** Compliance Met**Case No. 1803****Allegation:** Unlicensed Practice**Closed:** Unfounded

Fredrickson moved the board meeting back to to public session at 3:33

**10) Public Compliance Action**

xxxii. **Public Session Closed Case Report – Foster-Wexler** moved to accept the public session closed case dated September 14, 2015 submitted in Exhibit 2 consisting of 1 page. **Second the motion: Morin. In favor: Chen, Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.**

a)

**Case No. 1742****Allegation:** Noncompliance with a board order**Closed:** Suspended**Case No. 1736****Allegation:** Unlicensed Practice/Advertising**Closed:** Civil Penalty Assessed**Case No. 1728****Allegation:** Unlicensed Practice/Advertising**Closed:** Civil Penalty Assessed

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

**11) Announcements**

**Grossart** requested that we run data on compliance cases that have been to the board more than one time.

Next meeting will be on November 9, 2015 in Salem, Oregon.

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

The meeting was adjourned at 4:59 pm.