Oregon
John A. Kitzhaber, MD, Governor

Board of Massage Therapists
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OBMT Board Meeting Minutes
September 23, 2013
Board Office

Attendance

Board Members:
David Fredrickson, LMT, Chair
Kelley Rothenberger, LMT
Jon Grossart, LMT
Melanie Morin, LMT
Steven Foster-Wexler, LAc, Public Health Member

Staff:
Kate Coffey, Executive Director
Crystal Quatier, Examination Coordinator
Lori Lindley, AAG

Public: Erika Baern, Todd Pennington, Michael Jordan, Cliff Seretan, Lisa Garofalo

Call to order

Fredrickson called the meeting to order at 9:09 am. Roll call was performed. Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson were present, as well as Kate Coffey, Executive Director, Lori Lindley, Assistant Attorney General and Crystal Quatier, Board staff. Calise and McMillin were excused.

Fredrickson asked each Board member, staff and members of the public to introduce themselves. Public present at this time were Baern, Jordan, Garofalo, Pennington and Seretan.

1) Approve Agenda – Morin moved to approve the agenda. Second the motion: Rothenberger. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.

2) Approve Minutes of July 22, 2013 – Rothenberger moved to approve the minutes. Second the motion: Morin. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.

3) Directors Report

Finances – Coffey reported on the status of the Board budget through August 2013. For the month of August, the Board received $2,000 less revenue than budgeted and spent $4,000 more than budgeted for expenses. To date, for the biennium, the Board has received $9,000 more revenue than was budgeted and has under spent in expenses by approximately $4,000. The majority of the under expenditure is in the areas of computer and Investigative expenses.

Peer Supervision – Coffey updated the Board of the training for the Peer Supervisors that occurred on August 9th at University of Western States. Over forty LMT's were present at the training. The class critique forms indicated most attendees greatly appreciated the class content and found that it was professional. There were fourteen peer supervisor applications received and those applications will be screened and used as needed. The training included alcohol/drug awareness training.

The group requested that additional training be provided to assist the peer supervisors with new tools and to provide a

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forum to share knowledge. Kate proposed additional training in working with professionals who have addictions and ethics protocols. The Board agreed that annual training would be appropriate.

Policy Approval – Coffey presented an attachment of the proposed Continuing Education policy. This policy will clarify the current Continuing Education rules and provide direction to board staff. The Education Committee will continue to work on a proposal for continuing education. The discussion continued between Board Members and additional items were added to the proposed policy. The conclusion is the Education Committee needs to continue working on revisiting the continuing education rules. Morin moved to approve the amended Continuing Education policy. Second the motion: Grossart. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.

The proposed Oregon Practical Examination Cancellation policy was presented. This policy will clarify the process when an applicant needs to cancel their scheduled practical examination and requesting a forwarding of exam fees. The discussion continued between Board Members and recommended adjustments to the policy were made. Grossart moved to approve the amended Oregon Practical Examination Cancellation policy. Second the motion: Foster-Wexler. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.

Strategic Plan – Coffey provided an updated action plans for the strategic plan to reflect the progress of completion of established tasks. Coffey requested the board review the action plan and where it states Board specific board members be assigned those tasks.

Compliance Update – Coffey provided the Board with a Compliance Report from July 1, 2013 through August 30, 2013. The report includes information such as: complaints open at start date (58); active cases at start date (44), number of new complaints received (15); number of cases opened (14); number of complaints closed (3); number of cases closed (12); and number of cases closed with disciplinary action (3).

2013 Audit Report – Coffey provided the Board with the 2013 Financial Audit Review documentation from Valerie A. Wicklund, CPA, LLC. There were 5 findings:

1. Incomplete procedures – Board staff will continue to update desk manuals.
2. Pre-approved Continuing Education Courses – This is a repeat audit finding from two years ago. Is the board going to pre-approve CE courses?
3. Journal Entries – Board staff will create Journal Entry documents instead of modifying the original accounting entry.
4. Credit Card Receipts – The board will ensure all receipts for credit card purchases are received or will cancel the purchasing card.
5. Database modifications for licensing – The database allows modifications of historic entries. Example – A person renews active and is late. The $150 is cashiered as renewal active and notification is sent requesting the late fee. The licensee then decides to renew inactive and the entry is changed to $50 renewal inactive and $100 late fee. The auditor is requesting the database incorporate a mechanism to allow a review of all modified entries.

4) Committee Updates

a) Education Committee – Garofalo reported on the August and September Education Committee Meetings. She provided a summary document detailing the tasks that are being worked on and the tasks to continue to work on. Those tasks included reexamining the feedback from the July 2013 Board Meeting regarding keeping the 25-hour Continuing Education (CE) requirement and to provide an approved provider list. In response to the feedback a review of current Continuing Education rules already written was completed and it is recommended a rewrite of the OAR 334-010-0050 to submit at a future Board Meeting for review/approval. The next meeting is scheduled for October 14, 2013. Furthermore, there was continued dialogue between Garfalo and Board Members responding to a

request for answers to the following questions presented in the summary document:

1. Is a proposed Rules Revision an appropriate method to address the tasks given to the Education Committee? Yes, with the exception of a petition for approval for class/method as it opens up for contested hearing cases.
2. Is the ratio of 15 contact/10 non-contact appropriate? Yes.
3. Would the Board consider on-line classes as fulfilling contact hours if the material included a live chat or discussion group? Yes, if there is direct contact with the instructor.

b) Rules Committee – Jordan updated the Board that the committee has finalized the proposed rules and completed the fiscal impact statement. The final draft was submitted to the Board for a vote. The next Rules Committee Meeting will be prior to the November Board Meeting. Rothenberger moved to approve the Rules Committee proposed rules. Second the motion: Morin. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.

c) Practical Exam Task Force Committee – Rothenberger spoke of the current practice of rescoring all failed Practical Examinations and she recommended this practice be discontinued. The purpose of the committee was reviewed and the Board reaffirmed the tasks for the Practical Exam Task Force. Public spoke that there is confusion on the part of individuals taking the exam of what the true intention of the exam is and in the time frame of the exam can their ability to safely practice be tested? At conclusion of the discussion it was decided that staff will discontinue rescoring.

Fredrickson called to take a short break. The time is 10:29 am and resumed at 10:38 am.

Public Comments – Fredrickson provided approval for Garofalo to read from a letter submitted to the Board expressing her concerns that Peter Szucs, Massage Therapy Program Director at University of Western States is a member of the Practical Exam Task Force Committee. The concern is that the University of Western States would receive financial gain from the knowledge he obtains from being on the committee.

Grossart requested that the May 2012 minutes be adjusted to reflect the change from Exam Committee to Exam Task Force.

5) Board Business

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

- The FSMTB is not willing to reconsider an alternate test site in Bend, Oregon. The board is awaiting a response from NCBTMB on the topic.
- Burch is asking for assistance in reinstating his expired license and be granted reciprocity based on his previous licensure status. His request was denied based on the lack of authority to violate rules.
- Fran Moore's letter requesting sliding scale of continuing education based on the length of time as an LMT was forwarded to the Education committee.
- There were also two comments from Stephanie Manriquez – one for the Practical Exam Task Force and for the Education Committee.
- Legal counsel correspondence stating Shiatsu is not an exempt practice. Rothenberger offered Coffey with a recommendation from Sen. Johnson to put correspondence in writing and avoid continued phone calls will intended individual.

b) Legislative Initiatives for 2015 – Coffey asked professional organizations if there is anything they would like for the Board to report in the next long session. The International Association of Structural Integration (IASI) requested a unique licensure designation for Structural Integration Practitioners.

c) Contract Approval – Coffey needs approval for two contracts, Confuzer (IT) and the other is a Personal Service Contract (Examiner).

- Foster-Wexler moved to approve the Confuzer contract. Second the motion: Morin. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.
- Grossart moved to approve the Personal Service contract. Second the motion: Morin. In favor: Foster-

Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.

d) Substance Abuse Assessments – Coffey presented information of additional substance abuse assessments. Coffey recommended that for those cases with multiple drug/alcohol issues be required to provide an assessment. The board would like to see substance abuse assessments for those cases.

e) 2014 OBMT Calendar – Coffey provided a 2014 OBMT Calendar and Rogue Community College in Grants Pass was recommended for the traveling Board Meeting in May 2014. Coffey will inquire with the massage school program director at Rogue Community College if this is acceptable and provide an answer at the November 2013 Meeting.

6) BOARDerline – Coffey indicated the articles intended for the December 2013 BOARDerline are: 1) new rules effective on January 1, 2014; 2) update from the FSMTB Annual Meeting; 3) why we want your email address; 4) purpose of the mid-month courtesy lapsed email; and 5) what electing to be excluded from mailing list means. Foster-Wexler offered to write the article about the FSMTB Annual Meeting. The due date for all articles is the 2nd week of November 2013.

7) Public Comments – Cliff Seretan wanted to commend the Board staff in the manner the staff interacted during the process of applying for licensure. He offered his assistance and support to the board if requested.

Fredrickson called to enter into Executive Session at 11:13 am.

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

The Board returned to Public Session at 2:45 pm.

9) Action on Executive Session Items
   a) Case 1574 – Morin 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; and Two violations of ORS 687.021(2)(a), advertising for massage without a license; For a total civil penalty of $3,000. Second the motion: Grossart. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries
   b) Case 1580 – Morin moved to issue 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 $1,000. Second the motion: Rothenberger. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.
   c) Case 1562 – Grossart moved to defer to next Board Meeting. Second the motion: Rothenberger. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.
   d) Case 1582 – Foster-Wexler 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; and One violation of ORS 687.021(2)(6), the use of massage in the business name unless the person providing the massage is licensed; and One violation of ORS 687.021(2)(a), advertising for massage without a license; For a total civil penalty of $3,000. Second the motion: Morin. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.

e) Case 1586 – Morin moved to deny the issuance of an active massage license until the licensee comes into compliance with both board orders. Second the motion: Grossart. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.
f) Case 1588 – Foster-Wexler 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; and One violation of ORS 687.021(2)(a), advertising for massage without a license; For a total civil penalty of $2,000. Second the motion: Morin. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.
g) Case 1587 – Rothenberger moved to issue a Letter of Reprimand and request copy of mental health evaluation. Second the motion: Foster-Wexler. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.
h) Case 1512 – Morin moved to accept the Settlement Agreement that DOJ negotiated. Second the motion: Grossart. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.
i) Case 1578 – Rothenberger moved to issue the applicant a license and request applicant consent to voluntary peer supervision. Second the motion: Morin. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.
j) Case 1579 – Foster-Wexler moved to issue the applicant a license. Second the motion: Rothenberger. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.
k) Case 909 – Morin moved to issue the applicant a license. Second the motion: Grossart. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.
l) Case 1589 – Foster-Wexler 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; and For a total civil penalty of $1000. Second the motion: Rothenberger. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.
m) Case 1585 – Foster-Wexler moved to issue the applicant a license. Second the motion: Grossart. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.
n) Case License Renewal – Rothenberger moved to grant the renewal of the license with no restrictions. Second the motion: Foster-Wexler. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.
o) Case License Renewal – Rothenberger moved to grant the renewal of the license with no restrictions. Second the motion: Foster-Wexler. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.
p) Case 1575 – Morin moved to suspend (Revoke) the LMT's license for: Five violations of OAR 334-040-0010 (21)(B)(i), sexual violation which is sex between the LMT and the client; and For a total civil penalty of $5000. Second the motion: Rothenberger. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.
q) Early release from Peer Supervision – Foster-Wexler moved to accept early release from Peer Supervision. Second the motion: Grossart. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Oppose: None. Motion carries.
r) Executive Session Closed Case Report – Morin moved to accept the executive session closed case report as submitted in Exhibit A. Second the motion: Foster-Wexler. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.

Case No. 1489

Allegation: Other | Closed: Became licensed

Case No. 1560

Allegation: Failure to provide documents to Board | Closed: Board lacks jurisdiction

Case No. 1573
Allegation: Other **Closed:** Board lacks jurisdiction

Case No. 1517
Allegation: Failure to report **Closed:** Compliance met

Case No. 1549
Allegation: Failure to pay child support **Closed:** Compliance met

Case No. 1569
Allegation: No license number in ad **Closed:** Compliance met

Case No. 1570
Allegation: Noncompliance with an existing Board Order **Closed:** Compliance met

Case No. 1505
Allegation: Unprofessional/dishonorable conduct **Closed:** Letter of concern

Case No. 1473
Allegation: Unprofessional/dishonorable conduct **Closed:** Letter of concern

Case No. 1516
Allegation: Unprofessional/dishonorable conduct **Closed:** Letter of concern

Case No. 1539
Allegation: Other **Closed:** No violation found

Case No. 1526
Allegation: Unprofessional/dishonorable conduct **Closed:** No violation found

Case No. 1545
Allegation: Unprofessional/dishonorable conduct **Closed:** No violation found

Case No. 1531
Allegation: Sanitation **Closed:** No violation found

Case No. 1532
Allegation: Sanitation **Closed:** No violation found

Case No. 1533
Allegation: Sanitation **Closed:** No violation found

Case No. 1525
Allegation: Unprofessional/dishonorable conduct **Closed:** Not a board issue

Case No. 1563
Allegation: Unprofessional/dishonorable conduct **Closed:** Unable to substantiate

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10) Public Compliance Action

a) Public Session Closed Case Report – Morin moved to accept the Public Session closed case report as submitted in exhibits 1-6. Second the motion: Grossart. In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries.

Case No. 1444	Rebecca Williams
Allegation: Unprofessional/dishonorable conduct	Closed: Civil penalty assessed and paid
Case No. 1471	Sarah Hoffman
Allegation: Unlicensed practice	Closed: Stipulated agreement issued
Case No. 1514	Kyle Cook
Allegation: Sexual abuse of a client	Closed: Surrendered

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

11) Announcements

Morin requested to be excused from the November 2013 Board Meeting as she would be traveling.

12) Adjourn Meeting – Rothenberger moved to adjourn the meeting. Second the motion: Grossart In favor: Foster-Wexler, Grossart, Morin, Rothenberger and Fredrickson. Opposed: None. Motion carries. The meeting was adjourned at 2:59 pm.

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