



Oregon

Theodore R. Kulongoski, Governor

Board of Massage Therapists

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BOARD MEETING MINUTES

April 5, 2010

Attendance

Board Members:

Kathy Calise, Public Member, Chair
Heather Bennouri, LMT, Vice Chair
Jeanna Catalano, LMT
Crystal Collier, LMT
David Fredrickson, LMT
Craig McMillin, Public Member
Tim Driscoll, D.C., Public/Health Member

Staff:

Frank Peccia, Interim Executive Director
Mindy Tucker, Director of Compliance
Diana Nott, Enforcement Coordinator
Lori Lindley, Assistant Attorney General

Public: Andrea Weiner Nicholas Chrones Taunie Murray

Call to Order

Calise called the meeting to order at 9:02 am. Role call was performed. Calise, Bennouri, Catalano, Collier, Driscoll, and McMillin were present.

1) **Approve Agenda - Bennouri** move to approve the agenda as presented. **Second the Motion: Driscoll**
In favor: Bennouri, Catalano, Collier, Driscoll, McMillin and Calise. Opposed: None.
Motion carries.

2) **Public Comments** – There was no public in attendance at this time.

3) **Approve minutes of March 8, 2010** – The board reviewed the minutes and noted that additional amendments needed to be made. Board members would get those amendments to Board staff and the minutes will be resubmitted for consideration at the May 2010 Board meeting.

Fredrickson arrived at 9:10 am.

4) Committee Updates

a) **Education/Scope of Practice Committee** – Calise provided the Board with a copy of the May 15, 2009 committee meeting. Nicholas Chrones updated the Board on where that committee last left off. They had been working on a portfolio review process. They had received case studies from the Board staff and would continue to look at developing a draft portfolio review process for Board consideration. Calise indicated that she had previously been the Board liaison to that committee. However, now that she is Board Chair, she is unable to fill that role. She indicated that these meetings typically take place at Oregon School of Massage, Salem campus. Fredrickson volunteered to act as the liaison for this committee. There was some discussion pertaining to the previous meeting's minutes. Bennouri asked how the absence of statutory language allowing acceptance of university level education affects the applicants that the OBMT sees. At this point, because the language is vey

specific about what is acceptable and does not include universities, staff is unable to approve class hours taken in a university setting.

b) Multiple Discipline Task Force – Calise provided Board members with a transcribed directive from the Health & Human Services Committee. This item is to be placed on the May 2010 work session agenda. **Calise** thanked AAG Lindley for having a paralegal transcribe that meeting for the Board. **Bennouri** posed the question, if there is no Board representation at a meeting such as this, how is the Board to know that a directive has been issued? At this point, it is unclear if there was any Board representation at this meeting. **Collier** asked if standard protocol would include formal notification to the Board from the committee. There was much confusion surrounding this directive and communication with the Board. The Board acknowledged that they are now aware of what is required and will address the matter. **McMillin** suggested that the Board make direct contact with the legislators to inform them that the Board was not previously aware of the directive and to seek clarification on any expectations. **McMillin** suggested that the Board may be required to create different licensing requirements for different modalities. **Fredrickson** stated that he has great concern regarding appropriate minimum standards for any modality that has a recognized physiological effect on the body. **Collier** stated that the Multiple Discipline Task Force (MDTF) has done a great deal of work on this type of issue already, but required further direction. **Calise** acknowledged that there are many good people serving on the MDTF, however once this directive came to light the MDTF postponed any future meetings to get clarification on how to move forward. **Calise** will contact Senator Morrisette and try to set up a meeting to discuss the directive and get further instruction on how to move forward. **Collier** indicated that once that meeting with Senator Morrisette has taken place, she would like to be notified of the outcome so that she may forward the information to the MDTF Chair.

Peccia asked of the intent of the directive. It was explained the current statutory definition of massage encompasses a wide variety of modalities. Some parties believe that their modality should not be classified as massage or some parties do not wish to be regulated to the degree that massage therapists are regulated. Some practitioners do not even like their field of practice to be considered a modality, as they feel it should be a stand-alone profession. The scope of practice for massage in Oregon is quite broad and that has caused some entities to approach the legislative body for exemptions. **McMillin** acknowledged that the legislative body has gotten overwhelmed with a variety of scope of practice concerns from multiple professions, and they would like to find a way to resolve those issues.

c) All-Schools Meeting – Historically, the Board has facilitated an all-schools meeting that was held twice per year. At the March 8, 2010 Board meeting, it was determined that the Board would not be able to take on that obligation at this time. As a result, the schools have discussed facilitating that meeting themselves. **Bennouri** commended the schools for taking this on. **Calise** requested that staff members Diana Nott and Kathryn Watson be in attendance at that meeting. There is no officially recognized chair person or facilitator for this meeting. It is presumed that it will be a round-table format. **Calise** and **Fredrickson** will also be in attendance, as representatives for their respective schools. The meeting is planned for June 4, 2010 at Lane Community College Downtown Center, 1059 Willamette Street.

d) Rules Committee – This committee has not been active for quite some time. It was suggested that this committee reactivate to address the previously mentioned issue surrounding the acceptance of university level education. There was discussion on appropriate time frames for filing a legislative concept. It was asked if this matter had to go to the Rules Committee, given the desire to resolve the matter as quickly as possible and being under deadlines for filing a legislative concept. The Board would like to have the statute modified as such: ORS 687.011(2)(c) By a university as approved by the Oregon University System; or d) In another state and licensed

or approved by the appropriate agency in that state. **McMillin** suggested that the Board contact the Chair of the Rules Committee to see if they have any issues or concerns with, in the interest of time, moving forward with a legislative concept without prior review by the Rules Committee. If there are no concerns, then the Board should move forward accordingly.

5) **Directors Report –**

a) **Finances – Peccia** was out of the office and was unable to prepare a financial statement for the Board at this time.

b) **Moss-Adams Audit Report – Peccia** provided the Board with a copy of the audit management letter received from Moss-Adams. The letter indicates that the auditors identified one instance of a material weakness and two significant deficiencies in internal control. One area of deficiency noted was that the OBMT was not preparing financial statements in accordance with Generally Accepted Accounting Procedures (GAAP). **Peccia** acknowledged that the OBMT is not currently preparing financial statements in accordance with GAAP. He is consulting with other members of the Semi-Independent Boards/Agencies group who face the same issue in order to arrive at a cost-effective solution that will allow compliance. A second deficiency was noted in the length of time that it took to reconcile some bank statements. **Peccia** agreed with the auditor's assessment and indicated that steps have been taken to have a monthly reconciliation initiated. Furthermore, the Board will receive a copy of the reconciliation each month. Finally, one area of weakness noted by the audit team was pertaining to internal controls and segregation of duties. It was recommended that the management of the Board model a monthly financial oversight reporting routine that is utilized by other semi-independent agencies. **Peccia** responded that financial statements were to become a standard Board agenda item. The monthly statements, reconciliation, and significant agreements will be part of that reporting. In addition, fiscal duties have been assigned to multiple staff members to improve internal control.

Peccia also explained that **Quatier**, who has prior experience with the Oregon Department of Human Services (DHS), has been assigned as the staff member taking care of internal payroll issues. Payroll is ultimately handled by an outside entity at a cost of less than \$100 per month, and **Peccia** is satisfied with their performance.

Peccia reported that **Tucker** has resigned from her position and will be moving on. She will be working through this week to wrap up various items. This will create some opportunities for reevaluation of what level of responsibility or effort goes into compliance. It needs to be determined what level of staffing is required for that area and how the Board wants to approach it. This matter needs to be discussed in greater detail at the May work session. **Peccia** is currently speaking with one of the contract investigators that may be a good temporary person to continue with current processes until it is determined how best to proceed. **Peccia** acknowledged that with **Tucker's** skill level, the Board was able to elevate the level of involvement in more complex cases, but that involvement comes at a cost. In May, the Board can expect to see statistics on the number of complaints that come into the Board and what a typical case might look like. **Tucker's** current salary is above the typical pay scale that the state pays an investigator or compliance officer. Does the Board wish to continue such a level of involvement or do they wish to scale back? **Peccia** will speak with other agencies to see what their staffing needs looks like, as policy choices will need to be made regarding the appropriate level of staffing.

McMillin indicated that **Peccia** should move forward with his own design, as the Board is not educated to that degree in the internal needs of the office. The Board will rely on **Peccia** to put together a design, rather than waiting for a new Executive Director to handle it.

AAG Lindley cautioned the Board in comparing the OBMT to other health regulatory Boards, as the OBMT has many nuances that are not consistent with other Boards, particularly in handling unlicensed practice cases. It would be her recommendation that the Board look at statistics on the types of cases and the complexities of those cases.

Bennouri asked if it would be appropriate to ask staff for input. **Peccia** will be meeting with staff to look at the whole spectrum of how they operate and the level of complexity involved in that operation.

Fredrickson indicated that he would be in favor of putting together recommendations and policies for the new Executive Director to choose.

The Board looks forward to more discussion on this matter in May.

Peccia is working on a SIBA biennial report. That report typically goes out April 1, but it is more likely to get to them by May 1. The report goes to Legislative Fiscal Office, Budget & Management and the Governor's Office.

Internally, staff is working on cooperation and sharing to make sure that things are running smoothly. One item of consideration is the possibility of moving Board meetings to outside of the Board office. For staff working on location on Board meeting days, it can be quite disruptive to their processes. However, it is recognized that there are times when the Board needs staff input into matters. There are a number of facilities that can be used at no cost to the agency. Staff will be looking at other options and providing that information to the Board.

Peccia provided the Board with a report of the 2009 traveling meeting expenses. **Calise** acknowledged that the Board is already scheduled to visit Ashland in May, but may need to reconsider doing two meetings per year. The Board had previously discussed the idea of doing Town Hall meetings, and it was suggested that this may be a more interactive and valuable option for LMTs. **Calise** agrees that the outreach has been good, but questions if it is worth the cost incurred. **McMillin** feels that the Board has made itself accessible and thinks that is invaluable. There was discussion on brainstorming alternative ways to make the Board accessible to other areas of the state without incurring such a high cost in the process. **Fredrickson** offered Ashland Institute of Massage as the meeting location in May and suggested that staff contact Genna Southworth for assistance.

Peccia reported that the Board is getting .05% return on money in the bank. Restrictions on investments were discussed. **Peccia** suggested moving money over to Treasury with the Local Government Investment Pool. This would take the return up to .5%. The Board would still maintain two accounts. One would be a general account consisting of what is needed for normal operations while the rest would be left with Treasury. There are a couple of other steps that need to occur before this can happen, and **Peccia** is working on those.

Bennouri moved to break at 10:38 am. **Second the motion: Driscoll In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. Opposed: None. Motion carries.**

The Board returned from break at 10:50 am.

As there was now a member of the public present, **Calise** asked her to introduce herself to the Board. **Andrea Weiner** is a Guild Certified Feldenkrais Practitioner. She indicated that she has a strong interest in the MDTF. She read a personal interest statement and provided it to the Board for consideration as a member of the MDTF. The Board thanked her for her attendance and interest.

6) **Board Business**

a) **Vote on Stipend Rule** – In March, a hearing was held to allow the adoption of a stipend of \$100 per month. The Board needs to vote on accepting that rule. **Bennouri moved** to adopt the rule allowing the Board members to receive a \$100 per month stipend for every month that they serve as a Board member. **Second the motion: Driscoll** In favor: **Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise.** Opposed: **None.** Motion carries.

Bennouri moved to make the new rule retroactive to March 2010. **Second the motion: Driscoll** In favor: **Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise.** Opposed: **None.** Motion carries.

b) **Board Member Mini-Training: Public Records** – **AAG Lindley** conducted a mini-training session with the Board pertaining to public records law. Samples of public records include Notices of Proposed Action, Final Orders, Settlement Agreements, Consent Orders, etc. Items that are not disclosed under public records law include investigations, portions of licensee files and transcripts. It was noted that the Board may share confidential information with other agencies similar to ours as well as law enforcement, District Attorneys and Department of Justice. Lindley will research recent legislative sessions to provide information on where personal e-mail addresses fall under public records law.

c) **OBMT Participation in the Oregon Legislative Draft Protocol** – **McMillin** reported that this draft protocol has been designed to allow the Board to follow a set procedure when legislative issues arise. This protocol addresses the appropriate avenues for supporting as well as opposing legislative proposals. While the Board does not need to finalize this protocol at this time, it is his suggestion that it be finalized for implementation at the 2011 legislative session. **Fredrickson** indicated that he would be supportive of a Board member mini-training that provides information on how to approach legislators. There was discussion on making contact with individual legislators in each Board member's area and developing those relationships. **McMillin** continued by saying that the Board should have an agreed upon protocol so that any Board member speaking to an entity provides a consistent message. It was suggested that Claudia Black be invited to speak to the Board about such a process or looking to the Oregon Department of Administrative Services (DAS) for assistance. The Board will look to have something lined up for training in June 2010.

d) **Disciplinary Action Matrix** – **Bennouri** believes that having a matrix similar to the one utilized by the Washington Department of Health would help the Board in determining potential action for various violations. She believes it will help the Board provide more consistency in the types of decisions made. There was lengthy discussion on whether Oregon needs such a matrix. The Board requested historical data on Board action and cases against LMTs. There was concern voiced that if a matrix were implemented, then the Board would not have the ability to address aggravating or mitigating circumstances in each case. It was determined that this matter should also be taken to the All-Schools meeting for comments from the schools. Once the historical data and school input has been compiled, the Board will review this item again.

e) **Insurance Billing Information: For May 2010 Work Session** – The Board received information to review for the May 2010 work session. At that time, they will discuss current issues being reported to the Board regarding insurance billing and potential responses to those issues.

f) **Out of State Massage Therapist with Cirque de Soleil** – The Board received a request from a LMT out of Texas, asking for a temporary permit to be able to provide massage services to employees of Cirque de Soleil only, while the show is in Oregon. There was discussion on the current statutory language and consultation with legal counsel on the ability to provide a temporary permit for this circumstance. There was also discussion on taking this matter to the Rules Committee in the future to more clearly address circumstances such as this. **Collier moved** to issue a temporary permit for 60 days, and to waive the temporary license fee and application fee. **Second the motion: Driscoll.** Further discussion ensued and **Collier withdrew** her motion.

McMillin moved to issue a temporary permit with the agreement that the applicant is working exclusively for her employer (Cirque de Soleil) while engaged in a commercial endeavor in the state of Oregon, not to exceed 180 days, and to waive any fees due to these unusual circumstances. **Second the motion: Driscoll In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. Opposed: None. Motion carries.**

g) **Executive Director Hiring Update** – **Calise** provided the Board with information regarding the process for hiring a new Executive Director. She introduced Taunie Murray, who has been hired to assist with HR issues. **Murray** explained the hiring process to the Board, as a specific process is required. The Board has been given a draft of the position description. Any thoughts or input should be returned by April 12, 2010. On April 19, 2010, the Board will hold a telephone conference call to review the materials and take public comment on the recruitment announcement. That call has been scheduled for 3:00 pm and will require at least four Board members to be in attendance to formally approve the announcement. Once the formal approval has taken place, the announcement will be published. A survey is being put together for stakeholders for input on the desired attributes to target for a new Executive Director. Stakeholders will include the Board, staff, the licensee population, professional associations and interested parties. It was noted that there is no charge from DAS to utilize them for this hire. In addition, current Board member or members who have served in the past year are ineligible for the position. The salary range is \$6,045 to \$8,917 per month.

h) **Personnel Policy Manual** – **McMillin moved** to allow **Peccia** and **Murray** the authority to review and modify the current personnel policy manual. **Second the motion: Bennouri In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. Opposed: None. Motion carries.** If there are any substantive changes, **Peccia** will bring it back to the Board for consideration.

i) **Discussion: Clarification on lapsed individuals continuing to practice** – The enforcement staff requested clarification from the Board on how they have been handling lapsed individuals that continue to practice massage after their license has lapsed. There was discussion on the renewal process. Renewals are mailed out approximately five weeks prior to the due date. If an individual fails to renew by the expiration of their license, a letter is issued letting them know that they are lapsed and no longer able to legally practice massage in Oregon. The Board determined that it is appropriate to investigate lapsed individuals that have been reported as continuing to practice while in a lapsed status and to administer appropriate disciplinary action if they are found to be in violation.

j) **Demographics & Quarterly Statistics** – The Board received a demographics and statistics report from the first quarter of 2010. The Board was pleased to see the improvement in practical exam pass rates.

k) **Intra-bodywork Policy** – The Board had reviewed a draft intra-bodywork policy in June 2009. **Calise** provided the Board members with the June 2009 version and asked that any suggestions or comments come back to **Calise** so that the Board may move forward with this item at the May meeting.

l) **Traveling Meeting Discusson** – This item was covered earlier in the meeting.

7) **Public Forum** – No public comments.

The Oregon Board of Massage Therapists will now meet in executive session, pursuant to ORS 192.502(9), 36.224(6), 36.220(1)(a), and OAR 334-001-0051(6). The Board may also consider and discuss in executive session information obtained as part of an investigation of a licensee or applicant, pursuant to ORS192.660(2)(k). The Board may also review, consider, and discuss written legal advice provided by the Department of Justice that is confidential or privileged and exempt from disclosure under ORS192.502(9) and ORS 40.225 and other applicable authority.

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

The Board entered into Executive Session at 12:26 pm per 192.660(2)(i) and returned to Public Session at 12:52 pm.

8) **Executive Session -**

a) **Pending Payment (192.660(2)(i))** – **McMillin moved** to decline to make any further payments for this course and to defer the separate issue of seeking compensation for the unused portion and for monies spent. **Second the motion: Collier** In favor: Catalano, Collier, Driscoll, McMillin and Calise. **Abstained: Bennouri and Fredrickson** **Opposed: None.** Motion carries.

9) **Public Session Enforcement Action**

a) **Case 823 (Joseph Ripplinger)** – **Bennouri moved** to close as Board Lacks Jurisdiction. **Second the motion: McMillin** In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. **Opposed: None.** Motion carries.

b) **Case 945 (Tambri Deharpport)** – **Bennouri moved** to issue a Notice of Proposed Action for one violation of ORS 687.021(1), practicing massage without a license; and seven violations of ORS 687.021(2)(a), advertising for massage without a license; for a total civil penalty of \$7,500 and forward to Adult & Family Services. **Second the motion: Driscoll** In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. **Opposed: None.** Motion carries.

c) **Case 946 (Donna James)** – **McMillin moved** to defer this case to a future meeting pending further investigative efforts. **Second the motion: Bennouri** In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. **Opposed: None.** Motion carries.

d) **Case 960 (Lisa Ritz)** – **McMillin moved** to defer this case to a future meeting pending further investigative efforts. **Second the motion: Collier** In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. **Opposed: None.** Motion carries.

e) **Case 974** (*Chantel McCormick*) – **Bennouri moved** to issue a Notice of Proposed Action for one violation of ORS 687.021(1), purporting to be in the practice of massage without a license; and six violations of ORS 687.021(2)(a), advertising massage without a license; for a total civil penalty of \$6,500 and refer to the Oregon Health Licensing Agency/Cosmetology Board. **Second the motion: Catalano In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. Opposed: None. Motion carries.**

f) **Case 977** (*Danielle Duong, a.k.a. Tiffany*) **Bennouri moved** to issue a Notice of Proposed Action for one violation of ORS 687.021(1), purporting to be in the practice of massage without a license, for a total civil penalty of \$500 and refer to the Oregon Health Licensing Agency/Cosmetology Board. **Second the motion: Driscoll In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. Opposed: None. Motion carries.**

g) **Case 986** (*Maria del Carmen Medrano*) – **Collier moved** to issue a Notice of Proposed Action for one violation of ORS 687.021(1), practicing massage without a license; and thirteen violations of ORS 687.021(2)(a), advertising massage without a license; for a total civil penalty of \$11,500. **Second the motion: Catalano In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. Opposed: None. Motion carries.**

The Board re-entered Executive Session pursuant to ORS 192.660(2)(k), and returned to Public Session at 2:53 pm.

10) Executive Session Enforcement Action

a) **Renewal Applicant AA – Bennouri moved** to revoke LMT's massage license for four violations of ORS 687.081(1)(b), making false representation or statement to the Board in order to induce or prevent action by the Board and four counts of OAR 334-040-0010(2), knowingly and recklessly making a false statement to the Board; for failure to disclose two arrests and two convictions for Driving While Suspended as required at the time of renewal; and issue a civil penalty in the amount of \$3,500. **Second the motion: Driscoll In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. Opposed: None. Motion carries.**

b) **Initial License Applicant AB – Collier moved** to deny licensure pursuant to ORS 687.051(2), an applicant must be a person of good moral character; and 687.081(1), has been convicted of a crime that bears a demonstrable relationship to the practice of massage. **Second the motion: Driscoll. In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. Opposed: None. Motion carries.**

Renewal Applicant AC – McMillin moved to deny the requested waiver of late fees. **Second the motion: Catalano. In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. Opposed: None. Motion carries.**

c) **Initial License Applicant AD – Bennouri moved** to deny licensure pursuant to ORS 687.051(2), an applicant must be a person of good moral character; and 687.081(1), has been convicted of a crime that bears a demonstrable relationship to the practice of massage. **Second the motion: Driscoll. In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. Opposed: None. Motion carries.**

d) **Case 274 – Catalano moved to waive collection of costs and close as compliance met. Second the motion: McMillin. In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. Opposed: None. Motion carries.**

e) **Case 802 – Bennouri moved to issue letter of concern and suggest an ethics and boundaries course. Second the motion: Catalano. In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. Opposed: None. Motion carries.**

f) **Case 875 – Collier moved to revoke LMT's massage license for five violations of OAR 334-040-0010(11), practicing or purporting to be in the practice of massage when license has been revoked or suspended, lapsed or inactive; and one violation of OAR 334-040-0010(18), failure to comply with an order issued by the Board; for a total civil penalty of \$6,000 and seek injunctive relief. Second the motion: Bennouri. In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. Opposed: None. Motion carries.**

g) **Case 880 – Bennouri moved to close as allegations unfounded and issue a warning pertaining to license numbers on advertisements, including business cards. Second the motion: Catalano. In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. Opposed: None. Motion carries.**

h) **Case 927 – Bennouri moved to revoke LMT's massage license for two violations of ORS 687.081(1)(b), making false representation or statement to the Board in order to induce or prevent action by the Board and two counts of OAR 334-040-0010(2), knowingly and recklessly making a false statement to the Board; for failure to disclose an arrest for sex abuse III from November 1, 1999; and issue a civil penalty in the amount of \$1,500. Second the motion: Catalano. In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. Opposed: None. Motion carries.**

i) **Case 989 – Collier moved to revoke LMT's massage license for multiple violations of OAR 334-030-0005(2)(a), a LMT shall be accountable to his or her clients for the quality and effectiveness of care and services for creating the basic conditions and boundaries necessary to foster safety and trust in the client-therapist relationship; OAR 334-040-0010(19)(a)(A)(B)(C), unprofessional conduct, sexual abuse; OAR 334-040-0010(19)(e), any conduct or practice which could endanger the health or safety of the client or public; as well as violating OAR 334-040-0010(14), practicing massage with a physical or mental impairment that renders the therapist unable or potentially unable to safely conduct the practice of massage. Second the motion: Catalano. In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise. Opposed: None. Motion carries.**

The Board reconvened for Executive Session at 3:02 pm and returned to Public Session at 4:18 pm.

j) **Initial License Applicant AE – This individual will have to apply for their initial license before the Board can make a determination on their status.**

k) **Renewal Applicant AF – Bennouri moved to renew the massage license with the following stipulations: that the LMT make quarterly contact with the Board for two years, to end April 1, 2012; the LMT submit to random urinalysis testing, at their own expense, a minimum of every three months for two years and release the results of the urinalysis testing to the Board office compliance department; any failed urinalysis testing could result in further disciplinary action; and any further arrests shall be reported to the Board within ten days of the arrest. Second the motion: Catalano. In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, and Calise. Opposed: None. Abstained: McMillin. Motion carries.**

Discussion: McMillin questioned if a precedent is to be set that all individuals convicted of Driving Under the Influence of Intoxicants (DUI) will have to submit to such stipulations. The Board discussed the issue of consumption of legal vs. illegal substances in making such a determination. The Board also discussed the matter of social expectation and exceptions. **McMillin** indicated that he was interested in finding consistency moving forward. **Fredrickson** would like to see the Board find a balance between consistency and discretion. There was a discussion on the varying levels of impairment and it was determined that the Board needs to review ORS 676.185 for a better understanding of the impaired professionals requirements. There was a discussion on the types of arrest records that need to be forwarded to the Board for consideration. Arrests for crimes against persons, multiple DUI offenses, drug offenses or any issue that may compromise the interest of public safety shall be brought to the Board for consideration.

l) Initial License Applicant AG – This matter has been deferred to extend the applicant the opportunity to come before the Board at the May 2010 or June 2010 Board meeting.

m) Renewal Applicant AH – This item was removed from the agenda.

11) Announcements – There were no announcements.

12) Adjourn Meeting – **Bennouri** moved to adjourn the Board meeting at 4:37 pm. **Second the motion: Driscoll.** **In favor: Bennouri, Catalano, Collier, Driscoll, Fredrickson, McMillin and Calise.** **Opposed: None.** **Motion carries.**