



Oregon

Theodore R. Kulongoski, Governor

Board of Massage Therapists

748 Hawthorne Ave NE

Salem, OR 97301

Phone: (503) 365-8657

Fax: (503) 385-4465

www.oregon.gov/OBMT

BOARD MEETING MINUTES

May 15, 2009

Attendance

Board Members:

Jordan Barton, LMT, Chair
Kathy Calise, Public Member, Vice Chair
Jeanna Catalano, LMT
Crystal Collier, LMT
Heather Bennouri, LMT
Craig McMillin, Public Member
Tim Driscoll, DC, Public Health Member

Staff:

Patty Glenn, Executive Director
Diana Nott, Enforcement Coordinator

Public: Kyle Martin, AAG Leah Bowder Nathan Nordstrom Jean Robinsons
Paul Parker Neal Delaporta Paul Lindamood John Combe

Call to Order -

Barton called the meeting to order at 1:05pm. Role call was performed. **Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin** were in attendance.

1) Approve Agenda – Calise moved to approve the agenda. **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin. Opposed: None. Motion carries.**

2) Approve Minutes of April 17-18, 2009 – Bennouri moved to approve the minutes as amended. **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin. Opposed: None. Motion carries.**

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.

The Board entered into Executive Session at 1:12pm and returned to Public Session at 2:15pm.

Bennouri moved to amend the agenda to change 4b to read as case number 770 instead of case number 768. **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin. Opposed: None. Motion carries.**

3) Executive Session

- a) Law Enforcement – 192.660(2)(k)
- b) 192.660(2)(f)
- c) 192.660(2)(i)
- d) NCB Exam Review – 192.501(4)

4) **Action on Executive Session Items**

a) **Case 737 – Collier moved** to issue a Notice of Proposed Action to Revoke Licensee’s Massage License. **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin.**

Opposed: None. Motion carries.

b) **Case 770 – Catalano moved** to issue a Notice of Proposed Action to suspend Licensee’s massage license for failure to comply with settlement agreement, until he comes into full compliance with the existing Board Order, including but not limited to payment of all civil penalties assessed under the order. **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin.**

Opposed: None. Motion carries.

5) **Law Enforcement Action**

a) **Case 1-02-181 (Mark Fultz)- McMillin moved** to table it to request the attorney to submit with the request to vacate, a response to the Notice of March 20, 2003 **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin. Opposed: None. Motion carries.**

b) **Case 668 (John Goertzen) – Driscoll moved** to issue a Notice of Proposed Action for 24 violations of ORS 687.021(1), practicing massage without a license, for a total civil penalty of \$16,500. **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin.**

Opposed: None. Motion carries.

c) **Case 759 (Bethany Flerchinger) – McMillin moved** to issue a Notice of Proposed Action for 1 violation of ORS 687.021(2)(a), unlicensed advertisement of massage and 1 violation of ORS 687.021(1), unlicensed practice of massage, for a total civil penalty of \$1,500. **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin. Opposed: None. Motion carries.**

d) **Case 778 (Carolyn Busse) - Calise moved** to issue a Notice of Proposed Action for 16 violations of ors 687.021(2)(a), unlicensed advertising of massage and 1 violation of ORS 687.021(1), unlicensed practice of massage, for a total civil penalty of \$12,500. **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin. Opposed: None. Motion carries.**

e) **Case 783 (Rhiannon Miller) – Catalano moved** to issue a Notice of Proposed Action for 21 violations of ORS 687.021(2)(a), unlicensed advertisement of massage, for a total civil penalty of \$15,000 and issue an injunction against Respondent. **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin. Opposed: None. Motion carries.**

f) **Case 788 (Douglas Armstrong) – Calise moved** to issue a Notice of Proposed Action for 5 violations of ORS 687.021(2)(a), unlicensed advertisement of massage, for a total civil penalty of \$4,500. **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin.**

Opposed: None. Motion carries.

g) **Closed Case Report – Bennouri moved** to accept the closed case report as presented. **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin. Opposed: None. Motion carries.**

<u>Case No. 580</u>	<u>Cristy Carlson</u>
Allegation: Unlicensed Practice	Closed: Unable to substantiate

<u>Case No. 601</u>	<u>Valerie J Martini</u>
Allegation: Sexual Impropriety	Closed: Revoked

Case No. 686 Michael Carter
Allegation: Non-compliance with an Existing Board Order **Closed:** Final Default Order

Case No. 723 Dara Heath
Allegation: Unlicensed Practice **Closed:** Stipulated Agreement Issued

Case No. 732 Samatha Timmins
Allegation: Unlicensed Practice **Closed:** Final Default Order

Case No. 746 Qyinn Unknown
Allegation: Unlicensed Practice **Closed:** Respondent unreachable

Case No. 747 Hollylove Unknown
Allegation: Unlicensed Practice **Closed:** Respondent unreachable

Case No. 748
Allegation: No license number in ad **Closed:** compliance met

Case No. 766
Allegation: No license number in ad **Closed:** compliance met

Case No. 774
Allegation: Not license number in ad **Closed:** compliance met

Case No. 776 Brandy Unknown
Allegation: Unlicensed Practice **Closed:** Respondent Unreachable

Case No. 782
Allegation: Unprofessional Conduct **Closed:** No Violation Found

6) NCBTMB Presentation – Paul Lindamood introduced himself, Neal Delaporta and Paul Parker. He thanked the Board for the opportunity to present today and stated that the goal in coming before the Board today is to try to persuade the Board to accept, again, the NCB exams as one of the options for the State of Oregon.

Lindamood, Delaporta and Parker presented various aspects of the organization to the Board. During the presentation they talked about how they felt that the NCB sets the highest standards in the field that it's used in 33 states, that both the TM and the TMB exams are NCAA accredited and that the organization is a 501c6 non-profit. They further explained that the organization has created a taskforce that is looking at specialty and advanced certifications.

They talked about eligibility criteria for the TM and the TMB options and explained that the purpose of examination is to measure entry-level knowledge. They explained that they perform a Job Task Analysis every 5 years or so as an industry standard and talked about how a question gets on the exams.

They went on to discuss their continuing education program and requirements for recertification. **Glenn** commented on the fact that the Board has received opposing feedback from NCBTMB regarding whether they would accept the ethics classes or other CE classes taught by the board and asked for clarification on whether or not an ethics course offered by the State Board would be accepted by the NCBTMB. Delaporta explained how staffs interpretation could result in either a yes or a no answer, but the bottom line is that yes, the NCBTMB will accept a Board provided ethics class as continuing education. **Glenn** will send something in writing just to get clarity on the matter for Oregon certificant holders.

Calise asked what has been done to improve NCB's customer service for applicants.. **Lindamood** explained how the organization outgrew itself and how customer service suffered. The application process has gone from being a 6-8 week process to a 2 – 2.5 week process. **Calise** asked how they streamlined processes to accomplish such a change. **Parker** explained that a lot of past processes had been outsourced and they were able to take more control and improve processes by bringing those tasks back in-house.

Bennouri stated that a lot of what was being explained sounded different than entry-level competency. She questioned if they were asking for the Board to accept the exam or require certification. **Calise** also stated that her understanding was that certification went beyond entry-level competency; that certification was an assurance that someone has a higher level of training as opposed to someone just out of school. **Delaporta** expressed that it is possible to achieve excellence at entry level with certification and stated that the massage profession didn't choose the medical model, where licensure is used as a base and certification delineates advanced training.

Bennouri asked if there was a way for schools or states to get results on how applicants are doing in each category of the exam. It was explained that there is a process in place to allow that to happen. **Bennouri** went on to ask what control and input do states have into the exam and into the system. It was explained that the input solicited comes from practitioners only, not from state agencies or anyone outside of the body of practitioners; no other entity has input. If stakeholders have concerns they provide that information to staff, which then passes that information on to the Board.

Parker asked what the concern was with regard to lack of input. **Bennouri** expressed her concern over the test not being fit for entry-level competency because it may weigh heavily towards one modality, or that the organization later partners with an outside group and the exam weighs heavy towards that group. It was explained that specialty certifications would alleviate those concerns. It was also explained how their accreditation could be at risk if such a scenario were to happen.

Catalano asked how many applications, under the old system, became lost. The response was that enough happened with the old system that it was decided not to be done in that manner any more. It was further stated that losing items wasn't really the issue, taking time was the issue.

McMillin asked that the record reflect all of the e-mails between **Glenn** and the NCBTMB as being part of the board meeting record. **McMillin** expressed how offended he was by the communications coming from the NCBTMB representative. There was discussion between **McMillin** and **Delaporta** regarding the intent of the communications as well as the accusations made by the NCBTMB representative before the Oregon Legislature regarding the alleged financial gain of Executive Director Patty Glenn for her role in the Federation of State Massage Therapy Boards. **Deleporta** indicated they do not believe there any conflicted individuals on the board, he also stated that they do not believe there is any financial gain by Glenn but could not control what was said by an employee.

Bennouri moved to amend the agenda to continue with public comments next, change 8 to Executive Session to review the exam, change number 8 to number 9 for the Director's Report, and defer a, b, c and d for the next meeting with finances potentially on a conference call. Move number 10, committee updates, to next month, move FSMTB Updates to next month, change Board business to discuss the town hall meetings and ethics classes via e-mail, to defer the intra-bodywork policy to next month and change c to a and d to b then adjust the numbering as necessary. **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin. Opposed: None. Motion carries.**

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

Jean Robinson with ABMP spoke. She also provided the Board with a letter. She gave a brief summary of ABMP and went on to explain that the reason she was here today. ABMP had received notification that NCBTMB was trying to get a statute change pushed through which directly names their exam in statute. **Robinson** reminded everyone present that both ABMP and AMTA have endorsed the MBLEx, and that she encourages the Board to stick to their original decision and stay exclusively with the MBLEx.

Nathan Nordstrom spoke saying that he would expect, no matter how many exams are out there, that it be kept limited and in the Board's hands as to what's an acceptable exam and what's not, and that it should not be in the legislature's purview.

The Board re-entered executive session at 4:31pm to review NCBTMB material pursuant to ORS 192.501(4) and returned to public session at 5:41pm.

Calise moved to create a subcommittee to evaluate the National Certification Board of Therapeutic Massage and Bodywork exams and make a recommendation to the Board regarding the NCBTMB's request for acceptance of those exams for purposes of LMT licensure in Oregon. **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin. Opposed: None. Motion carries.**

Driscoll moved to establish the exam review subcommittee of the board with Barton, Bennouri and Driscoll as member of the committee. **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin. Opposed: None. Motion carries.**

8) Directors Report -

a) Finances -

2009-2011 budget – Glenn will meet with **Calise** and **Barton** and defer further discussion to June.

b) 2009 Legislative session – There was a -7 amendment to HB2059 that adds the NCBTMB exam language. **Bennouri** stated that she has objections to naming *any* exam in statute. **McMillin** wants the accusation against the Executive Director taking money from the FSMTB corrected.

Collier moved to take the formal position to oppose the -7 amendment and inform the legislative committee that we've formed a sub-committee to evaluate the NCBTMB exams. **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin. Opposed: None. Motion carries.**

c) Health Related Boards meeting – no report.

d) SIBA update – no report.

9) Committee Updates

- a) **Education Committee** – Tabled to June
- b) **Scope of Practice Committee** – Tabled to June
- c) **Multiple Discipline task force** – Tabled to June

10)FSMTB Updates – No update

11)Board Business –

- a) **Town Hall Meetings & Ethics Classes** – **Glenn** will communicate those dates by e-mail and table the discussion to June
- b) **Intrabody-work Policy** – Tabled to June
- c) **Nursing Board – CAM & Nursing Practice** – The Board was asked to read the policy and get responses back to **Glenn** by end of day Monday. They were asked to pay particular attention to page 5, question 3, regarding massage and advertising.
- d) **Rules Changes for June Hearing** – **Glenn** went over the summary of the Rules that were noticed. **Driscoll moved** to adopt all rules as presented for the hearing in June. **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin. Opposed: None. Motion carries.**

12) Public Forum – Opportunity to share thoughts that pertain to agenda items. No public comments.

13) Announcements – No announcements.

14) Adjourn Meeting - McMillin Moved to adjourn the meeting at 5:55pm. **In favor: Barton, Bennouri, Catalano, Collier, Calise, Driscoll and McMillin. Opposed: None. Motion carries.**