



# 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](http://www.oregon.gov/OBMT)

## BOARD MEETING MINUTES

October 19, 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

#### Staff:

Patty Glenn, Executive Director  
Diana Nott, Enforcement Coordinator  
Mindy Tucker, Director of Compliance

**Public:** Glenath Moyle      Michael Jordan      Diana Vitells

### Call to Order

**Calise** called the meeting to order at 9:06 am. Role call was performed. **Bennouri, Catalano, Collier, McMillin and Calise** were present. **Barton** was attending by telephone. **Driscoll** was excused.

**1) Approve Agenda - McMillin moved** to amend the agenda to put Executive Session after item number 11, public comments. **In favor: Barton, Bennouri, Catalano, Collier, McMillin and Calise.** **Opposed: None.** **Motion carries.**

### 2) Public Comments –

**Diana Vitells** with the American Society for Alexander Technique was present and interested in the Multiple Discipline Task Force; she was in attendance at the meeting to see what she could learn. **Glenath Moyle** asked where the Board is headed with the Special Session coming up. Does the Board have a plan and are they going to share it with the community? She stated that LMTs in Oregon need direction from the Board. She referenced a document that the Board may be interested in regarding regulated professions in Oregon. **Glenn** indicated that she had recently received the document and had copies for the Board. **McMillin** stated that the public needs to get involved. He said they should contact their Senator and Representative and stay on top of it. He explained with political tensions the profession needs to promote the cause and to not expect the Board to do so. He further stated that the profession needs to come forward and be a voice for this cause. Schools need to be the voice for their students, professional associations need to be the voice for their members and insurance companies need to stand up for the validity of the profession in a health care industry. **Moyle** said that she understands, but that the LMTs need to know what the Board wants. **McMillin** explained that the Board is not an advocacy agency as we work at the direction of the legislature. We can't promote our own self worth, as it looks self-serving. The Board needs the help of others. He stated that there's no question that the Board members don't want this Board to die as they believe it serves the public's best interest, but the validation needs to come from the outside. **Barton** agrees with what **McMillin** is saying. He said that there has been outreach to lawmakers and other Executive Directors to try to navigate the problem by what limited means that we can. It is his hope to educate LMTs and the legislature on the value that the Board has and the good that the Board does.

**Michael Jordan** stated that he was just observing today's meeting.

**3) Approve minutes of August 21-22, 2009** – The board reviewed the revised minutes and approved them with a couple minor verbiage changes. **McMillin moved** to approve the minutes as amended. **In favor: Barton, Bennouri, Catalano, Collier, McMillin and Calise. Opposed: None. Motion carries.**

**Approve minutes of September 18, 2009** – Minor change to word order was made pertaining to case 848. **Collier moved** to approve the minutes as amended. **In favor: Barton, Bennouri, Catalano, Collier, McMillin and Calise. Opposed: None. Motion carries.**

#### **4) Director's Report**

**a) Yearly Stats** – The Board received a report regarding current statistics with the licensing population. **Bennouri** asked for a more detailed statistic report and suggested that it come to the Board on a quarterly basis. She would like to see breakdown by modality, age and location. There was also a discussion on posting the pass/fail rates to the web site. **Glenn** said that this is something that is being planned on. **Collier** thinks that the statistical information may be valuable to the Multiple Discipline Task Force to have as well. It was decided that a more detailed statistics report will be provided to the Board on a quarterly basis.

#### **b) Finances -**

**i) 2007-2009** – **Glenn** reported on the meeting with the accountant. The Board reviewed the Profit and Loss (P&L) for 2007/2009 biennium.

**ii) 2009-2011** – **Glenn** reviewed current year to date financials with the Board. Everything is trending well.

**iii) Biennial Audit Update** – The audit has been postponed until November 12 and 13, 2009.

**c) Health-Related Boards** – The Board was provided with a copy of the meeting minutes. **Glenn** reported that it was fairly productive and that the group was working on draft rules for the mandate on the peer review process for enforcement. **Glenn** stated Tucker may participate in future meetings.

**d) SIBA Update** – Next meeting is in November. The Board still needs to make a final determination on the contract with Steven Kafoury.

#### **e) Legislative Update -**

**i) HB2345** – The Board was provided with additional information regarding HB2345. This bill addresses the diversion programs for health regulatory boards. The memo does reflect a deadline of May 13, 2010, when the Board would have to confirm participation in the program. Board members asked how this will impact us if we choose not to participate. They would like more understanding before making a decision. **Glenn** reported that the impact to the OBMT is unclear at this time, more information is needed regarding what the program would look like, what the associated costs are and other such questions that have yet to be answered. **Glenn** will report back to the Board as more information becomes available.

**ii) HB2059** – This is the mandatory reporting bill that requires health care professionals to report violations of any other health care professional and also has a self-reporting piece, pertaining to violations of the law. The reporting professional would report directly to the violating professional's licensing board. There are a couple of issues that still require clarification regarding appropriate reporting and HIPAA concerns. The law will go into effect January 1, 2010, and it will be addressed in the next BOARDerline newsletter.

#### **f) Misc. Update –**

**Glenn** updated the board on the new per diem rate which took effect October 1, 2009. Mileage has not changed.

**Glenn** provided a recent press release regarding a local chiropractor that the Oregon Board of Chiropractic Examiners has taken action against.

**Glenn** reported on recent contact from Department of Education regarding an investigation into Portland Beauty School. Staff reviewed the transcripts for the three individuals on file. One is active, one is lapsed and the third is an inactive applicant. The information on the two that have obtained their licenses appears to be valid. Both licensees had very high practical exam scores. **Glenn** gave assurances that the format of the practical exam makes it extremely difficult to cheat. Should the third individual re-apply, their information will be more closely reviewed.

**Glenn** reported that the discussion from the August Board meeting pertaining to stipends is still being researched. Most agencies appear to allow for \$30 per day. **Glenn** also requested information on the number of meetings held per year by other boards. Consolidated information will be provided at the November meeting.

#### **4) Committee Updates -**

**a) Education Committee/ Scope of Practice Committee** - Staff is coordinating with Nick Chrones to set the next meeting date.

**b) Exam Committee** – This committee is not meeting at this time.

**c) Multiple Discipline Task Force – Collier** reported on a conference call that she had with **Glenn** and discussed various areas that the committee might look at. **Collier** is the Board liaison for this task force. **Glenn** has a list of parties that have shown interest in this task force. The challenge will be in creating a committee with such broad interests and allowing participation while keeping it a manageable size. The expectation is to have this committee meet before the November Board meeting. **Bennouri** stated that in the interest of being inclusive, the various associations and groups should be informed that this process has begun and provide the opportunity for participation. **McMillin** expressed that this is a matter that requires more immediate action and in the interest of time, the Board should begin the outreach process right away.

#### **5) FSMTB Updates –**

**a) Annual Meeting Report – C. McMillin, delegate – McMillin** reported that he felt that the meeting was extremely well run. An item of priority appeared to be the development of a database. He reported that he strongly urged the FSMTB not to ask state boards for exclusivity of the MBLEx because it puts them in a precarious situation. He did suggest marketing through the schools. There was a very good comment period in the meeting. New Board members were elected. Next year the meeting is to be held in Puerto Rico.

#### **6) Board Business**

**a) Disciplinary Guidelines – WA DoH** – The Board was provided with the most recent document utilized by the Washington Department of Health. This is a single-source document that addresses background checks and arrest records issues for both licensure and renewal. **Bennouri** expressed that she thinks this document provides a very good guideline and would help the Board. **Glenn** indicated that the Board had been looking at developing our own document at one point, but feels that this would be a good guiding document for Oregon to use as well. It was decided that an in-depth discussion on this matter would be more appropriately addressed at a later date, but Board members were asked to keep the document in their Board binders for reference.

**b) Personnel Handbook – Driscoll, Catalano and Glenn** met and went through all of the comments provided by Board and staff and a revised document was created for Board review. **Glenn** reported that the document is also being reviewed by Kathryn Logan with DoJ labor. The Board will review the document in detail at the November meeting to discuss the intent and implementations.

c) **Badge Policy – Tucker** reported that the Board has not had a badge policy in the past. Contract investigators are allowed to carry a badge and this document outlines the appropriate uses. It was provided to the Board for informational purposes, however if there are any concerns or suggestions they should let **Glenn** know.

d) **Board Special Committee Updates**

i) **Legislative – McMillin** has been working with **Calise** and Claudia Black with the Governor's Office on how to appropriately deal with legislative matters. He talked about where difficulties might come in and navigating the appropriate channels.

ii) **Attorney Usage – McMillin** reported that there is an interest in setting up appropriate protocols for the use of the AAG. **Bennouri** received some documents to get the process started. They will be evaluating the current usage of the AAG, costs associated with that usage, etc. **McMillin** thanked **Bennouri** for her work.

**McMillin** further reported that in conducting his review of concerns raised by an individual into the conduct of the Board, he did not find fault with how the staff is handling the concerns. He stated that he is close to writing a letter to the Board to provide more information on what's been happening. The concerns primarily revolve around the current reflexology exemption language. It has been suggested that there may be a desire to change the current language. He did not see any need for the Board or staff to change how they have been handling things.

iii) **Office Policies and Procedures** – Document will be reviewed in November.

iv) **Personnel Performance/Salaries – McMillin** has requested more documents. More discussion would occur in Executive Session.

**Barton** asked about correspondence coming from the Board chair or other Board members and setting up Board e-mail accounts. **Glenn** reminded all the board that all members should have dedicated email accounts which only receive board related business. **Glenn** also stated that part of the paperless board meeting migration will include oregonmassage.org board member email addresses.

**Bennouri** commented on her observation of the various depths and/or simplicity of other Board's statutes. There was a conversation on how the OBMT statutes came to be as detailed as they are. It was suggested that things such as length of existence of a regulatory body and evolution of a profession may play a role in how statutes grow and expand, as well as how diverse or specific a scope of practice may be.

7) **Public Comment** - Opportunity for the public to address the Board.

**Glenath Moyle** agreed with the discussion on the evolution of statutes. She then asked for clarification on the place of the professional associations vs. the Board when it comes to taking positions with the legislature. **McMillin** explained that given the current political climate, it has to be the industry that comes forward to promote the regulation of the massage profession. For the Board to do so only appears to be self-serving. If someone feels strongly about the existence of the Board, either for or against it, it needs to be the individuals and organizations that promote that stance. It is important for the legislature to know where their constituents stand on issues. Advocacy needs to come from those we serve, not from ourselves. **Barton** added that support for the position also needs to come from friends, family and clients of LMT's. **Glenn** reported that she and **Catalano** had presented for OMTA at their annual meeting and that there was some really good discussion there about the different ways that the profession can get involved.



**Case No. 836**

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**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 837**

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**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 838**

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**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 839**

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**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 840**

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**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 841**

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**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 842**

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**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 843**

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**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 844**

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**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 846**

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**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 847**

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**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 851**

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**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 852**

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**Allegation:** Unlicensed practice                              **Closed:** Compliance met

**Case No. 855**

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**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 856**

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**Allegation:** Unprofessional conduct                      **Closed:** Allegations unfounded

**Case No. 863**

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**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 864**

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**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 865**

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**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 866**

**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 867**

**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 868**

**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 869**

**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 870**

**Allegation:** No license number in ad                      **Closed:** Compliance met

**Case No. 876**

**Allegation:** Unlicensed practice                              **Closed:** No violation found

**b) Renewal Applicant AF - Calise moved** to rescind her September 18, 2009 motion pertaining to Renewal Applicant AF. **In favor: Barton, Bennouri, Catalano, Collier, McMillin and Calise. Opposed: None. Motion carries.**

**Catalano moved** to deny the renewal application of AF's massage license. **In favor: Barton, Bennouri, Catalano, Collier, McMillin and Calise. Opposed: None. Motion carries.**

**10) Public Session Action**

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

**Case No. 095**

**Donna Breedlove**

**Allegation:** Unlicensed practice                              **Closed:** Civil penalty assessed & paid

**Case No. 665**

**Catherine Stough**

**Allegation:** Unprofessional conduct                      **Closed:** Stipulated agreement issued

**Case No. 668**

**John Goertzen**

**Allegation:** Unlicensed practice                              **Closed:** Stipulated agreement issued

**Case No. 743**

**Chris Fierro**

**Allegation:** Unlicensed advertising                      **Closed:** Compliance met

**Case No. 765**

**Lisa King**

**Allegation:** Unlicensed practice                              **Closed:** Stipulated agreement issued

**Case No. 770**

**Mike Cline**

**Allegation:** Non-compliance with an existing Board Order                      **Closed:** Compliance met

<b>Case No. 778</b> <b>Allegation:</b> Unlicensed Practice	<b>Carolyn Busse</b> <b>Closed:</b> Final default order
<b>Case No. 785</b> <b>Allegation:</b> Unlicensed Practice	<b>Duane Anthony Dorsey</b> <b>Closed:</b> Final default order
<b>Case No. 806</b> <b>Allegation:</b> Unlicensed Practice	<b>Ladonne Wray Rodriguez</b> <b>Closed:</b> Final default order
<b>Case No. 878</b> <b>Allegation:</b> Unlicensed Practice	<b>Lisa Pivowar</b> <b>Closed:</b> Compliance met/warning issued

**b) Case 740 (Timothy Parrish) – Collier moved** to issue a Notice of Proposed Action for three violations of ORS 687.021(1), practicing or purporting to be in the practice of massage without a massage license, for a total civil penalty of \$3,000 and referral to the Oregon Board of Chiropractic Examiners and move for possible injunction against Respondent. **Barton, Bennouri, Catalano, Collier, McMillin and Calise. Opposed: None. Motion carries.**

**c) Case 762 (Eliza Cahill) – Bennouri moved** to accept the Final Order as written and issue the Final Order on October 27, 2009, if timely exceptions to the Proposed Order are not filed by October 27, 2009. **Barton, Bennouri, Catalano, Collier, McMillin and Calise. Opposed: None. Motion carries.**

**d) Case 783 (Rhiannon Miller) – Tucker** updated the Board – the injunction went through. In looking at repeat offender issues, the Board might want to look at weighing the cost of doing an injunction process. **McMillin** said that it should be considered on a case-by-case basis.

**11) Announcements – Glenn** updated the Board regarding the mediation process. Staff will have additional meetings with Janet Gillman with the Employment Relations Board and group mediation is scheduled to begin November 5, 2009.

**Glenn and Calise** will be meeting in the next week to discuss Board trainings.

The November meeting will include a holiday/recognition lunch, where Board members and staff will be out of the office during that time. The November agenda will be written to include the lunch.

As the Board is wrapping up several things and this is the last meeting for the year, everyone should expect a full day of work. **Driscoll** plans to be in attendance for the afternoon portion.

Board members were also asked to think about who they would like to elect as the new Vice Chair for 2010 as well as who they would like to elect as the delegate and alternate delegate for the 2010 FSMTB annual meeting.

A broadcast will be sent out informing LMT's that there is a professional Board position coming available.

**McMillin** reported that while he thinks that the Board is operating as it should, he is quite concerned with reports that staff has been rude to the public.

**Glenn** passed out a historical document, reference in Public Comments, to the Board. The study was done by the Budget and Management Division of the Oregon Department of Administrative Services regarding regulated professions. This is being provided for informational purposes and may provide some insight for the Board.

**12) Adjourn Meeting - Bennouri Moved** to adjourn the meeting at 1:16 pm. **In favor: Barton, Bennouri, Catalano, Collier, McMillin and Calise. Opposed: None. Motion carries.**