



Oregon

Theodore R. Kulongoski, Governor

Board of Massage Therapists

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BOARD MEETING MINUTES

August 9, 2010

Attendance

Board Members:

Kathy Calise, Public Member, Chair
Heather Bennouri, LMT, Vice Chair
Crystal Collier, LMT
David Fredrickson, LMT
Melanie Morin, LMT
Craig McMillin, Public Member
Timothy Driscoll, DC, Public Health Member

Staff:

Frank Peccia, Interim Executive Director
Diana Nott, Enforcement Coordinator
George Finch, Interim Compliance Manager
Lori Lindley, Assistant Attorney General

Public: Jessica Donohue Lisa Najarian Terrence McCormick Jeremy Efsaaff
Diana Vitells Leonel Duarte Peter Ross

Call to Order

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

At this time, there was an introduction of each Board member as well as Frank Peccia, Interim Executive Director. Public members introduced themselves as did George Finch, Interim Compliance Manager.

- 1) **Approve Agenda - Bennouri moved** to approve the agenda as presented. **Second the Motion: Collier**
In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.
- 2) **Approve Minutes of July 12, 2010** – There was a discussion pertaining to a request to amend the minutes by an attendee from the July 12, 2010 Board meeting. **Bennouri confirmed with Nott** that the recording was reviewed and no discrepancy was found. **Bennouri** indicated that she believes that the minutes accurately reflect her recollection of the conversations as well. No amendments will be made. **Bennouri moved** to approve the minutes of July 12, 2010 as presented. **Second the Motion: Morin**
In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.
- 3) **Directors Report**
 - a) **Finances: Reports** – Peccia provided the Board with several exhibits to be presented with the Director's Report.
Exhibit 1: This is a spreadsheet used to track items that the Board has requested action on or items that have been requested to return to the Board at a later date. **Bennouri** asked about the semi-independent report items. It was discussed that earlier in the year the Board had reviewed a semi-independent agency report. At that time, there were some suggested revisions for that report. **Peccia** suggested that the current submission not be changed unless there was a question by Legislative Fiscal Office or Budget and Management Division. The next Semi-independent report to be submitted will reflect the requested changed.

Peccia also reported that the Health Licensing Group, under the direction of the Governor's office, has initiated a peer review process of licensing agencies. The OBMT and the Oregon Board of Optometry have been selected as the first two agencies to be reviewed. The review committee consists of Jim Heider with the Physical Therapist Licensing Board, Dave McTeague with the Oregon Board of Chiropractic Examiners and Ann Walsh with the Oregon Board of Naturopathic Medicine. The review team has requested information to be provided by the end of August. This will be the major focus of Peccia's work in the

coming weeks. There is a significant amount of data to be collected and focuses primarily on performance and statistics related to turn-around times in the various areas of the agency. The data request has been reviewed by staff and is a contributing factor in requiring further database development.

Peccia updated the Board on the status of investments. He has been working to process the appropriate documents to establish an investment account with the bank. He reported that there have been difficulties due to the differences between a corporate entity and a government entity. The documents request corporate entity information. **Peccia** will continue to work on this task.

Exhibit A: The Board reviewed a report on revenue comparison for fiscal years 2003-2004 through 2009-2010. This allowed the Board to see trends in the Board revenue. Examination application fees revenue has had a minor drop and appears to be in a current down turn. However, it is anticipated that this revenue may rise slightly and begin to stabilize at around \$40,000. The civil penalty collections have increased very slowly since 2006-2007 and are projected to close the fiscal year at around \$37,000. Examination fees peaked in 2005-2006 fiscal year at \$148,300 then decreased over the next biennium. While lower than the 2005-2006 revenue, this category is forecasted to rise slightly and end the biennial period at \$252,000. Late fees are anticipated to end the biennial period at \$130,000, which is a significant increase from the 2003-2005 reporting period. There was a discussion on the change in late fee schedule in 2005 which affected this number. Licensure fees have trended upward with each biennium and this is expected to continue. The licensure fee revenue forecast for the end of the 2009-2010 fiscal year is \$353,000. The final revenue forecast indicates that the Board may expect \$620,000 to \$625,000 per year in revenue.

Exhibit B: **Peccia** reported that he tried to gain a historical perspective on costs and provide the Board with some detailed expenses. He provided the Board with a report of Revenue vs. Expenses with forecast for 2010-2011 and actual numbers for 2007-2008, 2008-2009 and 2009-2010. Of significant note were the following items and explanations:

Contract Professional Services: This is where the Board had previously categorized temporary employee services. New staff has been hired and this will no longer be reported in this category; those amounts will be rolled into payroll expense.

Payroll Expense: This number has increased over time. For the period of July 2007 through June 2008, the payroll expense was \$295,569. The payroll expense forecast for July 2010 through June 2011 is expected to be approximately \$492,000. Contributing factors to the payroll increases include hiring of the Compliance Manager, preparation of hiring a full time support staff and unemployment obligations for the prior Executive Director and prior Compliance Manager. The unemployment claims are expected to be approximately \$24,000 for the fiscal year.

Audit Expenses: This expense is expected to decrease for the 2010-2011 fiscal year, as the audits are biennial and the most recent audit had occurred during the 2009-2010 fiscal year.

Computer Expense: The forecast for the 2010-2011 fiscal year for computer expenses is below historical averages by \$20,000 but reflects the much-needed modifications to the current database for required reporting.

Investigative Expenses: This expense has increased with each biennium. This is consistent with the increased enforcement activities over time. As a matter of cause and effect, when enforcement activity rises the investigative expenses will rise as well. This will be an area where the Board will have to try to manage accordingly. Consideration will be made towards the level of enforcement activity vs. the cost of the activity.

Janitorial Expense: Though the projected expense is higher than prior years at \$2,400, it is consistent with market place services and is an acceptable level of cost for the service. It was discussed that a staff member had previously provided janitorial services and that service has since been contracted with another party.

Legal Fees: This area is expected to decrease in the 2010-2011 fiscal year as a result of fewer services required to address internal office matters. It is recognized that this is a controllable number and will require monitoring.

Meals & Mileage: These line items will be reclassified to travel – in state. The projected expense of \$25,000 is consistent with

prior years.

Bennouri asked about the Dues & Subscriptions line item, as the 2010-2011 projection may not reflect the Federation of State Massage Therapy Boards (FSTMB) membership dues. This will be reviewed and adjusted accordingly.

Exhibit C: This report provides information on the 2009-2011 adopted biennial budget. The Board was able to review the actual revenue and expenses for 2009-2010 and review the projected revenue and expenses for 2010-2011. The Board was able to see that the adopted budget reflected a shortfall, and it was suggested to raise that budget limit to \$230,000. The report provided indicated line item areas where the money should be allocated.

Exhibit D: The Board discussed increasing revenue. It was recommended to increase active massage license renewals by \$50 per biennium. The renewal fee increase is projected to reduce the biennial loss by approximately \$73,000 if implemented January 1, 2011.

Exhibit E: The Board received a salary forecast that they would be able to manage to. This report provided information on all staff salaries, Board stipends, benefits and taxes, unemployment compensation and Department of Administrative Services (DAS) client services. **Bennouri** inquired what DAS client services consisted of. **Peccia** responded that this is what the Board pays for a Human Resources Analyst. **Collier** inquired about the difference between the Executive Director and the Interim salaries. It was explained that there is a planned over-lap between the new hire and the departure of **Peccia** and this is where those numbers come from. **Peccia** indicated that the numbers reported were projected slightly high, though once the Board is through the transition of Executive Directors, it should even out.

b) Temporary Rule Filing - Nott reported that the temporary rule for the Board Chair stipend had been filed as required. The Board then discussed the timeline that would need to be followed in order to provide a January 1, 2011 implementation date for a fee increase. In addition, **Calise** intends to visit several communities throughout the state to address the fee increase with Oregon LMTs. **Bennouri** suggested making these town halls at least one-hour in length so that attendees could obtain continuing education for attendance. There will be further discussion on this matter later in the meeting. The Board intends to hold a public hearing on the fee increase prior to the October 4, 2010 Board meeting.

4) Committee Updates

a) Education/Scope of Practice Committee – Fredrickson reported that this committee met at the Oregon School of Massage on July 30, 2010. There were two members of the public present, though no public comments were made. The committee reviewed the legislative directive and **Barck Garofalo** presented information to the committee regarding regulation in California, New York, Arizona and Washington. Consideration was given to how various states regulate the massage profession and if there are specific exemptions. There was concern from the committee on possible requests for exemption in Oregon and how the committee can best address those requests and make recommendations to the Board that coincide with requirements of other states. They have compiled approximately half of the information and will continue to work on the project. **Fredrickson** noted that he was very impressed by the committee and the quality of work from them. He felt that the tone and tenor of the discussion was succinct and business was covered in a timely manner.

b) Rules Committee – Bennouri reported that the committee met on August 3, 2010 and reviewed several action items that had been assigned to them:

Board Chair Stipend: The committee reviewed the Board Chair stipend temporary rule and suggested moving it forward for permanency. The committee felt that the Board should look at implementing some accountability measures for all Board members pertaining to the stipend and the work that each member does.

Portfolio Review: After much review of the portfolio review process recommendation, it was determined that to implement such a process would require a statutory change. Current statutory language restricts the Board to recognition of certified classes as well as recognition of practitioners coming to Oregon only from other states that have licensure requirements. It will not allow the Board to appropriately address work experience or practitioners coming from states with no regulation. It was suggested that once the Board has authority to craft rules for such a process, the Board consider a \$150 portfolio review fee.

Counter License: The committee reviewed the suggestion to have a fee associated with an expedited licensure fee. After discussion on the reasons for considering such a fee, it was suggested by the committee that the Board adopt a policy that disallows such a practice. Offering to issue expedited licenses can include such challenges as lack of staff to address the matter when an applicant arrives at the Board office, inability to process the application due to lacking documentation, inability to process the application due to lacking arrest record information, disrupting work processes and unfairly causing a delay in processing for other individuals that have applied in a traditional manner. AAG **Lindley** agrees with this determination.

Fee Increase: The committee reviewed the suggested fee increase of \$50 per biennium for active license renewals only. They find this to be an acceptable increase. They were concerned with providing information to stakeholders as quickly as possible so that licensees are not surprised.

Draping: The committee reviewed the current draping rules. There had been some concern over a possible misuse of the exceptions, though the committee could not determine a manner in which to better address the issue. As there are no current disciplinary matters surrounding the current draping rules, it was suggested to leave the language as it is.

Budget: The committee approved an amendment to the budget as needed.

There was some concern that there had been no representation from the Oregon Chapter of the American Massage Therapy Association. In addition, **Bennouri** served a dual role as Board liaison and Oregon Massage Therapy Association representative.

c) **Multiple Discipline Task Force** – **Collier** reported that this committee met on July 30, 2010. They received a report from the Education/Scope of Practice Committee. Member Fred Shipley resigned from the committee. **Calise** spoke to the committee about the information needed for her to adequately report to the legislative committee. **Collier** indicated that the committee reviewed input from the members on the work product. They are also continuing to work on the legislative directive. The members are currently tasked with research on the current statutory framework and determination if such language may be burdensome for various disciplines, modalities or professions. **Collier** has resigned as the Board liaison, as **Calise** is in attendance as well. This resignation will ultimately save the Board money by not having to reimburse mileage for multiple members on a committee. She will issue a formal letter of resignation to the committee. **Calise** indicated that the MDTF would need to be placed on the September Board Meeting & Work Session agenda, as she will need to get information for the presentation to the legislative committee. In addition to the resignation of Shipley and **Collier**, John Combe has resigned as the committee chair. He has other obligations that prevent him from devoting further time to this committee. The group is considering having a combined meeting with the Education/Scope of Practice Committee. They are making progress and moving forward. **Calise** thanked **Collier** for her work on the MDTF.

5) Board Business

a) **Executive Director Hire Update** – As the prior attempt has been considered a failed recruitment, the position has been re-posted and will remain open until filled. The process will now have applications reviewed as they are submitted to DAS. It is expected to be a less structured process than the prior recruitment was. **Fredrickson** inquired if the screening committee would still be reviewing first-round applicants. **Calise** responded that it would probably be the case, though it will depend on how things work out. She indicated that she did not want to have **Peccia's** time with the Board expire before a new Executive Director was in place. As such, **Peccia** is expected to be half-time for the remainder of his tenure and Board members may be needed to have more interaction in the office. There was discussion on the time remaining for **Peccia**, which was enough to make it through August. There are a few options that the Board can consider, including contracting or temporary services. However, this would require **Calise** to sign all of the legal documents as **Peccia** would no longer have signature authority. It is the desire of **Calise** to have a permanent hire by October 1, 2010. This is a task that will be worked on every day. **Finch** has agreed to stay on as back-up to **Peccia** and the new Compliance Manager will begin August 23, 2010.

b) **Compliance Strategy** – The Board was provided with a written compliance strategy for consideration. **Finch** explained that compliance has been obtained in some matters with minimal enforcement efforts and little cost to the Board. It is

suggested that the Board use most of their compliance resources on licensees when there are ethics issues, boundary violations, sanitation matters, injury and other professionally-related matters and to back away from the unlicensed practice matters. There was discussion on maintaining the current compliance level and comparisons were made between Portland and Seattle. The Board may wish to consider issuance of warnings, multiple warnings or face-to-face contact with investigators as opposed to disciplinary action.

i) Injunctive Relief & Associated Costs – Finch wanted to be sure that the Board was aware that each injunctive relief effort will cost the Board between \$2,000 and \$5,000. **Peccia** stated that this consideration is part of managing costs. The Board has successfully obtained injunctive relief in one case of prolific re-offending and currently there are two or three additional cases that the Board has referred for injunction. **Finch** also reported that the Board is currently approximately one-third complete with the Healthcare Integrity and Protection Databank (HIPDB) entries. As those entries are being made, information is being gathered to enter into the database so that the Board will be able to obtain statistics and historical case data. **Bennouri** asked about the privacy and confidentiality line item in the report. There was discussion on the strategy. It was felt that the final product will be better. The database developers will be returning to this project soon and the Board will be able to see the product and provide feedback. There was some discussion on the design and the desired information to be extracted. **Collier** inquired as to who has access to the HIPDB information. Only entities that have reason to access the information and who pay the required fees may have access. However, the databank does not disclose information that can not be obtained by contacting the Board and requesting a copy of the Notice and Final Order. In addition, the Board still intends to have all Notices, Final Orders, Settlement Agreements, etc. available on the web site at some point in the future.

ii) Compliance Cost vs. Fines Revenue – This matter was not discussed.

c) Character Questions – The Board was presented with two draft character question documents, which were formats that they seemed to like when they previously viewed this matter. It was suggested that the form include the phrasing “mind-altering substances” to the questions pertaining to substance abuse. **McMillin** would like the document to state “to the best of your knowledge, have you ever been investigated...” There was discussion on who the Board would like the two formats to be melded and have it return to them for consideration at the September meeting.

Peccia asked the Board if they wanted to officially adopt the compliance strategy. **Bennouri** stated that she did not see anything to reflect how the Board will address scope of practice overlap with other Boards. In moving forward and developing positive relationships with other Boards, she would like the OBMT to consider how to deal with those areas where there are special procedures and overlap. **Calise** suggested reviewing the strategy in six months for possible changes. **Collier moved** to adopt the Oregon Board of Massage Therapists Compliance Strategy. **Second the Motion: Driscoll In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.**

Bennouri moved to take a break at 10:24 am. **Second the Motion: Driscoll In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.**

The Board returned from break at 10:40 am.

d) Breast Massage & Internal Cavity Policies – The Board received a suggested revision to the newly adopted Internal Cavity Policy. There was discussion on the policy as previously adopted and the suggested revisions. Of particular interest were requiring another individual to be present for certain procedures and if such a requirement is reasonable when the client is a consenting adult. The language reflects that it is advisable, not that it is required, and it is for the protection of both parties. There was also discussion on referring to LMTs as health care providers as opposed to health care practitioners. **Bennouri** reported that she had started working on the breast massage policy statement, though she was struggling with the male vs. female aspect of the requirements. She would like to attempt to make the two policies as parallel as possible in the language. These items will come before for the Board at the September meeting for consideration.

e) Best Practices – This item is postponed until the October 2010 Board meeting.

f) Policies: Travel and Maintaining a Professional Work Place – Peccia provided the Board with an updated policies manual for review. This will become part of the procedures portfolio for the office. There was discussion on how the per diem item on page five was confusing. **Bennouri moved** to adopt the Oregon Board of Massage Therapists Policy Manual, with small revisions of removing the references to the per diem. **Second the Motion: Collier In favor: Bennouri, Collier,**

Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.

The second policy for Board review is the Maintaining a Professional Work Place Policy. This is a DAS policy and is applicable to other state agencies. It is considered a very good way of documenting expectations for communication and interpersonal communications in an office. **Bennouri moved** to adopt the Oregon Board of Massage Therapists Maintaining a Professional Work Place Policy as submitted. **Second the Motion: Collier In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.**

g) DoJ Advisement Letter – The Board had received an advisement letter from the Department of Justice (DoJ) for review at the May 2010 Board meeting and work session. The information presented at that time indicated that massage therapists are considered health care providers in the State of Oregon, that they are required to follow the PIP statute and that they may offer cash at time of service discounts. It has been requested that this subject be provided in the newsletter. **Collier** suggested a “Best Practices” section to the newsletter and having a compilation of those pieces published to the web site. It was discussed that this would be a good idea and that getting “best practices” information out though as many avenues as possible would be advantageous.

h) Second Quarter 2010 Exam Statistics – The Board was presented with the examination statistics for the second quarter of 2010. There was discussion on prior pass rates in years past and the noticeable improvement in those rates. The Board was pleased. **Bennouri** inquired about a demographics report that should have been presented with the quarterly statistics. **Nott** asked staff member **Watson** to prepare the demographics report and it was provided to the Board members.

i) Inquiry: CE for senior practitioners – The Board has periodically, over the years, received requests from individuals asking for modifications, exceptions or exemptions of continuing education (CE) requirements for senior practitioners. The Board is unable to create separate requirements for one demographic over another. It is the desire of the Board that practitioners are interacting with other practitioners as part of the CE requirements, as they feel that there is value with peer interaction. **Bennouri** will draft an article for the newsletter on obtaining affordable continuing education, which may help alleviate the concerns of a financial burden that some LMTs have indicated. **Calise** will respond to the inquiry.

j) 2011 Calendar Discussion – The Board discussed preparation for creation of the 2011 Board calendar. It was determined that the first Monday following the first Tuesday of the month would better allow for financial records to be prepared for the Board. There was some discussion on the possibility of utilizing technology to allow for video conferencing and as a cost-saving measure for the Board. There was concern that this was an ineffective manner in which to hold full-day meetings. **Calise** would like to explore alternative methods of conducting Board business. The Board also considered if limiting the number of examination days per month would provide a savings. **Bennouri** pointed out that a delay in examination equated to a delay in issuance of a license, which negatively impacts the finances. It was determined to keep the examination schedule as it has been.

k) Schedule for Town Hall Meetings – **Bennouri moved** to amend the agenda and include this item with announcements. **Second the Motion: Morin In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.**

l) All-Schools Meeting – **Calise** reported that there would be a meeting of Oregon massage schools scheduled for August 27, 2010 at Lane Community College. **Peccia** inquired about staff attendance. **Calise** indicated that it was the desire of the group to have no staff present. She would be attending, as she is the program director at an Oregon massage school.

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

There were no comments from the public.

7) Executive Session

a) Law Enforcement (192.660(2)(k))

The Board will now meet in 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 192.660(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, applicant, or other persons alleged to be practicing in violation of law pursuant to ORS 676.175 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.

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 11:29 am and returned to public session at 2:55 pm.

8) Action on Executive Session Items

- a) **Renewal License Applicant AA – Bennouri moved** to grant the applicant his massage license renewal with the stipulations that the applicant shall obey all laws and ordinances and that he shall check in with the Board office every six months for one year. **Second the Motion: Collier In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.**
- b) **Initial License Applicant AB – Bennouri moved** to grant the applicant her massage license with the stipulations that the applicant shall obey all laws and ordinances and that she shall check in with the Board office every six months for one year. **Second the Motion: Morin In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.**
- c) **Initial License Applicant AC – Bennouri moved** to grant the applicant his massage license with the stipulations that he obey all laws and ordinances and that he report to the Board office every six months for one year. **Second the Motion: Morin In favor: Bennouri, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: Collier. Motion carries.**
- d) **Initial License Applicant AD – Collier moved** to grant the applicant her massage license with the stipulations that she obey all laws and ordinances and that she report to the Board office every six months for one year. **Second the Motion: Driscoll In favor: Bennouri, Collier, Driscoll, McMillin, Morin and Calise. Opposed: None. Motion carries.** Fredrickson was recused from the discussion and vote on this matter.
- e) **Initial License Applicant AE – Morin moved** to grant the applicant his massage license with the stipulations that he obey all laws and ordinances, that he shall report to the Board office every six months for one year and that he shall regularly attend AA meetings as required by his sponsor. **Second the Motion: Driscoll In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.**
- f) **Case 791 (from July) Bennouri moved** to close this case as unable to substantiate. **Second the Motion: Fredrickson In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.,**
- g) **Case 874 (from July) Collier moved** to close this case as no violation found. **Second the Motion: Morin In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.** Bennouri requested that a letter be issued to the corporate office of the facility informing them of the Oregon requirement for posting licenses.
- h) **Case 883 (from July) Collier moved** to close this case as no violation found. **Second the Motion: Morin In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.**
- i) **Case 909 – The Board received an update on this case. Bennouri moved** to rescind the stipulated order offer. **Second the Motion: Morin In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.**
- j) **Case 951 – McMillin moved** to close as complaint withdrawn and issue a letter of concern pertaining to posting the license. **Second the Motion: Bennouri In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.**
- k) **Case 964 (from July) Collier moved** to issue a Notice of Proposed Action for forty-nine violations of ORS 687.021(2)(a), advertising for massage without a license, for a total civil penalty of \$29,000. **Second the Motion: Morin In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.**

- l) Case 982 (*from July*) Driscoll moved to close this case as respondent unreachable. **Second the Motion: Fredrickson**
In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.
- m) Case 1004 (*from July*) Collier moved to issue a Notice of Proposed Action for one violation of ORS 687.021(1), practicing or purporting to practice massage without a license; for a total civil penalty of \$500 and forward to the Oregon Board of Cosmetology. **Second the Motion: Bennouri**
In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.
- n) Case 1005 (*from July*) Bennouri moved to defer this case to a future Board meeting and to require the LMT to appear before the Board for consideration. **Second the Motion: Morin**
In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.
- o) Case 1020 (*from July*) Driscoll moved to issue a Notice of Proposed Action for one violation of ORS 687.021(1), practicing or purporting to practice massage without a license; and five violations of ORS 687.021(2)(a), advertising massage without a license; for a total civil penalty of \$4,500 and forward to the Marion County District Attorney for prosecution consideration. **Second the Motion: Bennouri**
In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.
- p) Case 1024 – Collier moved to issue a Notice of Proposed Action for one violation of OAR 334-040-0010(11), practicing or purporting to practice massage when the license has been revoked or suspended, lapsed or inactive; and three violations of ORS 687.021(2)(a), advertising massage without a license; for a total civil penalty of \$3,500. **Second the Motion: Morin**
In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.
- q) Case 1028– Bennouri moved to issue a Notice of Proposed Action for one violation of ORS 687.021(1), practicing or purporting to practice massage without a license; for a total civil penalty of \$500 and forward to the Oregon Board of Cosmetology. **Second the Motion: Driscoll**
In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.
- r) Case 1029 (*from July*) Fredrickson moved to close the case as board lacks jurisdiction and issue a letter of concern. **Second the Motion: Driscoll**
In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.
- s) Case 1039 – Collier moved to issue a Notice of Proposed Action for one violation of ORS 687.021(1), practicing or purporting to practice massage without a license, for a total civil penalty of \$500 and forward to the Oregon Board of Cosmetology. **Second the Motion: Bennouri**
In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.
- t) Case 1042– Collier moved to issue a Notice of Proposed Action for one violation of ORS 687.021(1), practicing or purporting to practice massage without a license; and one violation of ORS 687.021(2)(a), advertising massage without a license; for a total civil penalty of \$1,500 and forward to the District Attorney for prosecution consideration. **Second the Motion: Morin**
In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.
- u) Case 1045 – Bennouri moved to issue a Notice of Proposed Action for two violations of ORS 687.21(2)(a), advertising massage without a license, for a total civil penalty of \$1,500 and forward to the Oregon Board of Cosmetology. **Second the Motion: Driscoll**
In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.

9) **Public Forum** – Opportunity to share thoughts that pertain to agenda items – There were no public in attendance at this time.

10) **Announcements** – Calise asked the Board for input on Town Hall meetings to be held across the state in an effort to inform and solicit input from stakeholders regarding the upcoming fee increase. There was discussion of holding one or two Town Hall meetings in the Portland area. The attendance of the first meeting in Portland would indicate if a second meeting should be held. Other areas of consideration for a Town Hall meeting were LaGrande, Bend, Eugene and Newport. Calise feels that it would be beneficial to have a LMT Board member present with her at each meeting. Collier would likely be available to attend a meeting in LaGrande and Bend. Bennouri would be willing to assist with other meetings, pending any scheduling conflicts. McMillin would like to see a presentation that provides information that includes financial numbers. Peccia explained that the presentation would need to explain what the numbers represent and explain what work has occurred in the office, what stakeholders get for their licensure fees, what compliance efforts are being made and what all of these efforts ultimately do for the industry. McMillin would also like to be sure that the problem is clearly identified to stakeholders. He feels that Peccia can bring some credibility to the process in identifying the problem and feels that it would be beneficial to have Peccia in attendance at the meetings. Collier

requested a PowerPoint presentation. **Bennouri** shared that she has received feedback from members of the community that they have read the meeting minutes and were upset when they were made aware of **Peccia's** salary. They felt that they shouldn't have to pay for that. She explained that this path was not a Board choice and explained that when looking for a permanent hire, the salary range will likely be comparable. She further explained that they are not paying for a massage therapist, they are paying for a master of many trades that will be familiar with all areas required to run the Board. In addition, the cost to the Board vs. the cost that would be seen in the private sector is quite different. To obtain someone with such a skill set for the salary that the Board offers is considered quite a good deal. **Calise** indicated that she has heard from LMTs in the community as well. With the economy in a down turn, schools are seeing a decrease in enrollment which affects the number of applicants that the Board processes, ultimately affecting the bottom line. The Board is asking for an additional \$25 per year from active licensees only.

There was a discussion on the fee increase and when the Board can start collecting the additional revenue. Because the rule will not be effective until January 1, 2011, the Board may not collect additional revenues for renewal prior to that date. Renewals processed prior to January 1, 2011 will be processed at the current fee schedule. Renewals that arrive after January 1, 2011, will be processed with the \$150 active biennial renewal fee. Information should be provided to stakeholders ahead of time. A script will be prepared for staff to respond to inquiries.

Fredrickson stated that the presentation will need to include information of cost-cutting measures as well. The stakeholders are going to want to know what else was considered in addition to raising fees. **Calise** stated that such things as postponing hiring of the office support position, declining to send an alternate delegate to the FSMTB annual meeting and the resignation of **Collier** from the MDTF are measures that have been taken in an effort to reduce expenses. In addition, the Board will consider only holding one traveling Board meeting in 2011.

There was a discussion on the unemployment compensation paid out for the prior Executive Director and prior Compliance Manager. This cost is not anticipated to be incurred through the entire reporting period.

McMillin indicated that he would like meeting attendees that are required to be seen by the Board to receive a more specific time to appear. It was suggested that in the future attendees will be informed that they do not need to appear prior to 11:00 am.

11) Adjourn Meeting – Bennouri moved to adjourn the Board meeting at 3:32 pm. **Second the Motion: Morin**
In favor: Bennouri, Collier, Driscoll, Fredrickson, McMillin, Morin and Calise. Opposed: None. Motion carries.