



Oregon Board of  
Massage Therapists



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2011 Upcoming Board Meeting Dates

- Monday, February 7th
- Monday, March 7th
- Monday, April 11th
- Friday & Saturday, May 13th & 14th at COCC in Bend
- Monday, June 13th
- Monday, July 11th

All meetings are held at the Board office and begin at 9:00 a.m. unless otherwise noticed

*A Note From the Board Chair*

Happy 2011!

At the November Board Meeting, I agreed to serve as the Board Chair for another year. I am both honored and humbled to serve as the Chair for 2011.

This last year had many challenges but also gave me the opportunity to meet many of you. I thank you for the support you have given the Board as we faced the challenges of this last year and hope that you will continue to let the Board know how we can best serve you.

~Kathy Calise

*Fee Changes*

On December 20, 2010 the Oregon Board of Massage Therapists approved an increase of \$50 for active renewals. The fee increase will generate sufficient revenue to off-set the current series of losses that the board office has experienced for the 09-11 biennium. The current fee structure is:

- \$150 per biennial renewal for active license
- \$50 per biennial renewal for inactive license
- \$10 per license reprint
- \$10 per license verification

Please remember that your application for renewal must be postmarked no later than the 1<sup>st</sup> day of the month of expiration in order to avoid any late fees. The fee for a late renewal is \$25 per week, up to a maximum of \$250.

Here is a brief summary of the finances for the Oregon Board of Massage Therapists from July 2009 to December 2010

Revenue	\$ 925,374
Expenses	\$1,101,695
Net Loss	\$ (176,321)

The board office is continuing to look at ways to decrease costs.

If you have an interest in the finances for the board office we would welcome your input as we begin preparing for the budget for the 2011-13 biennium. Just complete the Committee/Volunteer Application Form for the rules committee and return it to the board office.

~ Kate Coffey

## *Compliance Corner*

As I get a bit more settled into my duties and responsibilities, I have been noticing some trends that I would like to address globally. Hopefully by discussing these topics and encouraging open communication between the compliance office staff, licensees, massage students and the general public we can head off unnecessary complaints and investigations.

### Misinformation:

#### New Massage Therapists, Licensees & Students-

We continue to receive complaints about new licensees and students, as well as receiving informal inquiries from students, about potential violations of state Board rules and laws with respect to their activities and/or conduct.

I urge all students and licensees to contact the Board office with specific questions about the rules and laws related to their scope of practice. Students with questions about scope of practice work or participation in special events should also contact the Board office for guidance.

Often times the Massage Schools are giving out information, either to individual students or in a classroom setting and that information is potentially being misconstrued or misinterpreted.

We have noticed in the compliance office that there is an uptrend in complaints and complaint related calls to the office, related to massage students and individuals who are not yet enrolled in a massage school. Please remember we are here to answer any questions you may have relative to your conduct and practice.

### Advertisement-

This topic merits reflection on a regular basis. Specifically, a general reminder that if you hold a current active Oregon massage license, you should be aware that per **OAR 334-010-0025 9) *All licensed massage therapists are required to include their license number in all advertisements, including but not limited to: written, electronic, televised and audio. (emphasis added)***

We have experienced a number of complaints related to the above and found through our investigations that not always is it a matter of an LMT disregarding the rules. It appears as though some LMTs have purchased advertisement space in the past on Backpage.com & Craigslist.com and subsequently, when the advertisement on these websites begin to thin out, the advertisement staff members take it upon themselves to offer to re-post previous advertisements for free. The problem begins with the advertising staff person(s) editing the ads without a LMT's knowledge, and then posting it to the sites. In all occasions, the LMT must activate the "free" ad through a simple double click of a mouse. A review of the ad before you activate it, to ensure your LMT number appears in the ad will inevitably resolve non-compliance with the above rule and subsequent complaints and investigations.

### Public Service Announcements-

We would like to bring your attention to another method the compliance office has taken to try and reduce unlicensed practice and further validate the profession in support of our Licensed Massage Therapists. We have begun advertising Public Service Announcements on Backpage.com to warn consumers about unlicensed practice and the risks associated with patronizing these individuals. Take a moment and review those PSA's and give us your feedback. We are hopeful that by being proactive we can impact those who

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## *Examiner Interest*

The Oregon Board of Massage therapists contracts with licensed massage therapists to proctor the practical examination. There have been several LMT's who have expressed an interest in proctoring the exams in the future. The current contracts will expire on June 30, 2011 and a solicitation for new contracts will be posted on the OBMT website within the next few months. Please be sure to periodically check the website if you are interested in becoming an examiner.

## *Compliance Corner Continued*

*(Continued from page 2)*

chose to “skirt” the laws and rules by purporting to be massage therapists, when in reality they are providing substandard or illicit services.

Insurance, insurance insurance...ugh...

We are receiving an increasing number of complaints lodged by insurance companies against LMTs. Every single month the numbers appear to go up. I strongly encourage each and every LMT that bills insurance companies to implement a few administrative tasks when completing a new patient intake form. Make sure that your client understands and signs off on the fact that they have read your office policies as it relates to insurance billing. Specifically, ensure that

your clients understand that it is their responsibility to know the limitations of their policy and policy exclusions. It is also important to let your clients know and sign off agreeing they understand that any co-payment is their responsibility. There are a number of good model policies out in the profession and I recommend that you network with your peers and colleagues and then implement what is best for your practice.

We recommend that every LMT should, as part of their continuing education component, periodically take a billing practices refresher course. The Board members are currently developing a “Best Practices” model that will assist in this and other areas of practice management.

~Chris Montenaro

## *Duty to Report: Impacts of House Bill 2059*

I am aware that this topic (HB 2059) has appeared twice in 2010 Borderline articles, January and April editions, however; there has been a lot of talk amongst the professionals in our field with respect to the “Duty to Report” mandate required in HB 2059 which was passed in the 2009 legislative session. I am going to briefly re-visit the highlights of the bill. This law requires certain licensed health practitioners, (Massage Therapists for the purposes of this article); in the State of Oregon to report prohibited or unprofessional conduct to the State Regulatory Board by which the responsible party is licensed. This requirement also includes self-reporting. The law is broad and encompasses a great many qualifying types of conduct that must be reported. The reporting of specific conduct requires both Board notification as well as Law Enforcement notification.

Now, obviously there are situations and circumstances that are exempt from the reporting requirement under specific current HIPPA and other state

or federal statutes, however navigating your duty to report should be done with caution and without delay. The priority for all health regulatory Boards is public safety. It is important to understand how failing to appropriately report conduct violations of other health practitioners undermines the profession. Reporting unethical conduct and violations of our rules and laws is critical in order to ensure that our massage profession continues to move forward in a positive and professional direction.

I encourage everyone to take the time to read and understand their obligations as a professional licensed massage therapist in the state of Oregon. You can read the entire law by visiting <http://www.leg.state.or.us/09reg/measpdf/hb2000.dir/hb2059.en.pdf>

Should you have questions related to this law, please feel free to contact the Board compliance office.

~Chris Montenaro

## *OBMT Structure*

### **Governor**

Appoints all board members.

Has Executive Authority to remove/replace Executive Director.

### **Legislature**

Senate confirms all of Governor’s board appointments.

Determines structure, authority, and responsibilities of board; ie, provides the laws that govern the profession and creates an agency with the authority and responsibility to enforce those laws.

### **OBMT** (the actual board as a whole)

Responsible for creating rules that address specific details regarding the profession of massage therapy.

Charged with responsibility of hiring/firing Executive Director.

Instructs Executive Director through policy and procedure on how to operate board office.

Comprised of volunteers that meet approximately once per month.

Only board members can vote on issues pertaining to board business (this includes rules adoptions, policy and procedure adoptions, discipline, and other decisions)



### **Chair: Kathy Calise, Public Member, Eugene**

Officiates at Board meetings; meets regularly with Executive Director, Legislators and Committees. Has signing authority for Board.



### **Vice Chair: Heather Bennouri, LMT, Tualatin** *also serves as Rules Committee Liaison*

Steps in if the Chair is unavailable. Ideally spends additional time at some of the commitments of the chair in order to learn more about the responsibilities of the position.

### **Board Members**



Crystal Collier, LMT  
La Grande



R. Craig McMillin  
Public Member, Salem



Tim Driscoll, DC  
Public Member (health profession), Donald



Melanie Morin, LMT  
Tigard *also serves as MDTF Liaison*



David Fredrickson, LMT  
Ashland *also serves as Education/Scope of Practice Committee Liaison*

## *OBMT Compliance Information*

The following is complaint/case information for the year 2010:

<b>Number of complaints actively open at start date of reporting period:</b>	<b>98</b>
<b>Number of new complaints received during reporting period:</b>	<b>157</b>
Allegations of unlicensed practice:	59
Allegations of some form of professional misconduct:	69
No license number in advertising:	29
<b>Closed without Board action during reporting period:</b>	<b>103</b>
Compliance Met:	39
Unsubstantiated/unfounded/no violation found:	22
Non-licensed person notified of ORS:	4
Unreachable:	13
Board lacks jurisdiction:	11
Letter of concern:	7
Withdrawn:	4
Duplicate Case:	3
<b>Closed with Board action during reporting period:</b>	<b>63</b>
Unlicensed:	38
Sexual violations:	4
Non-compliance:	0
Other issues:	21

The Board took action on 38 cases of unlicensed practice of massage. 6 of those cases involved individuals practicing massage while their license was lapsed, inactive, suspended or revoked. 3 of those 5 individuals have since taken steps to bring their license into a current status.

Of the remaining 32 unlicensed cases, 20 were closed as Final Default Order, 8 entered into a Stipulated Agreement with the Board and 4 paid their full civil penalty immediately. In addition, the Board has moved to seek injunctive relief for 4 individuals that have had multiple disciplinary orders with the Board, yet continued to advertise and/or practice massage without an active license. Of the 4 injunctive orders, 1 has been completed in favor of the Board. The other 3 are pending.

11 individuals have entered into Stipulated Agreements with the Board as a condition of receiving or renewing their massage license. One individual was denied initial licensure and one individual was denied renewal. These particular determinations were based on the arrest record and/or criminal history of the individual.

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## *OBMT Compliance Information Continued*

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### Case Detail for LMT's:

**Case #757:** Michael Retone – Licensee was arrested for sex abuse while working in a tanning salon. Licensee was contacted by the Board and offered the opportunity to **surrender** his license, which he did.

**Case #771:** Benjamin Bekker – License was initially **emergency suspended** in 2009 for multiple violations of ORS 687.081(1)(f), conviction of a crime that bears a demonstrable relationship to the practice of massage; ORS 687.081(1)i, engages in unprofessional or dishonorable conduct; ORS 687.081(3), continued practice constitutes a serious danger to the public; OAR 334-040-0010(4), conviction of a crime in this state or jurisdiction; OAR 334-040-0010(13), use of intoxicants, drugs or controlled substances, or mind altering substances to such an extent as to impair or potentially impair licensee's ability to perform professional duties in a safe manner; OAR 334-040-0010(19)(e), any conduct or practice which could endanger the health or safety of a client or the public; and OAR 334-040-019(19)(f) any conduct or practice which impairs the massage therapists ability to safely and skillfully practice massage. The massage license was subsequently **revoked** in 2010.

**Case #790:** Diane Whiffin - Licensee was disciplined for one violation of ORS 687.081(1)(i) and OAR 334-040-0010(19)(a)(C)(i), unprofessional or dishonorable conduct which includes disrobing or draping practices that reflect a lack of respect for the client's privacy, deliberately watching a client dress or undress for self gratification instead of providing privacy for disrobing; and three violations of OAR 334-010-0025(9), failure to include license number in advertising. LMT was assessed a civil penalty of \$550 and required to complete a Board approved ethics class.

**Case #833:** Nishan VanAtta – Licensee was disciplined for one violation of failure to follow a Board order in violation of ORS 687.081(1)(I and OAR

334-040-0010(18); one violation of failure to cooperate with the Board during an investigation in violation of ORS 687.081(1)(i) and OAR 334-040-0010(17)(a)(b); and four violations of making false representation to the Board in order to induce or prevent action by the Board in violation of OAR 334-040-0010(2). Licensee's massage license was **revoked**.

**Case #875:** Michael Carter – License was **revoked** 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; In addition, the Board assessed a total civil penalty of \$6,000 and sought injunctive relief.

**Case #909:** Alexander Cann – Licensee's renewal was **denied** for: two violations of ORS 687.081(1)(a)(b), violated provisions of ORS 687.011 to 687.250... and made false representation or statement to the Board in order to induce or prevent action by the Board; two violations of ORS 687.081(1)(f), has been convicted of a crime that bears a demonstrable relationship to the practice of massage; two violations of OAR 334-040-0010(2), knowingly or recklessly making false statements to the Board; one violation of OAR 334-030-0010(15)(2)(c), furnishing documents for the conviction of a crime; and OAR 334-030-0010(15)(6)(e), furnishing other documents as required by the Board.

**Case #911:** Heather Sadowski - Licensee was disciplined and assessed a civil penalty for: One violation of OAR 334-040-0010(5), the use of false or misleading advertising, which includes but is not limited to advertising massage, using the term "massage" or any other term that implies a massage technique or method in any private or public communication or publication by a person licensed or not licensed by the Board as a massage therapist; and Seven violations of OAR 334-040-0010(11), practicing or purporting to practice massage when the license has been revoked or suspended, lapsed or inactive.

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## *OBMT Compliance Information Continued*

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**Case 927:** Mark Cohen – Licensee was disciplined for: One violation of OAR 334-040-0010(2), knowingly or recklessly making a false statement to the Board. Licensee was reprimanded, placed on probation for three years and required to take the Board ethics protocol.

**Case #967:** Oneta Megahan – License was **revoked** for violations of OAR 334-040-0010(19)(a)(C)(i), disrobing or draping practices that reflect a lack of respect for the client’s privacy, deliberately watching a client dress or undress for self gratification instead of providing privacy for disrobing; OAR 334-040-0010(19)(a)(B)(iv), oral to oral contact except cardiopulmonary resuscitation; touching breasts or genitals or any sexualized body part for any purpose other than appropriate examination or treatment or where the client has refused or withdrawn consent; and OAR 334-040-0010(19)(a)(C)(iiI), an examination or touching of genitals.

**Case #989:** Rick McDaniel – License was **revoked** 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 rela-

tionship; 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.

**Case #1010:** Yura Feitser – LMT was disciplined for four violations of OAR 334-040-0010(2), knowingly or recklessly making false statements to the Board. Licensee entered into a stipulated agreement which includes a 6 month suspension, 30 hours of community service upon reinstatement of his license and a civil penalty of \$1,000.

**Case #1056:** Ralph (Rocky) Swinney – LMT was issued a civil penalty for one violation of OAR 334-040-0010(10), assisting, employing or permitting an unlicensed person to practice massage.

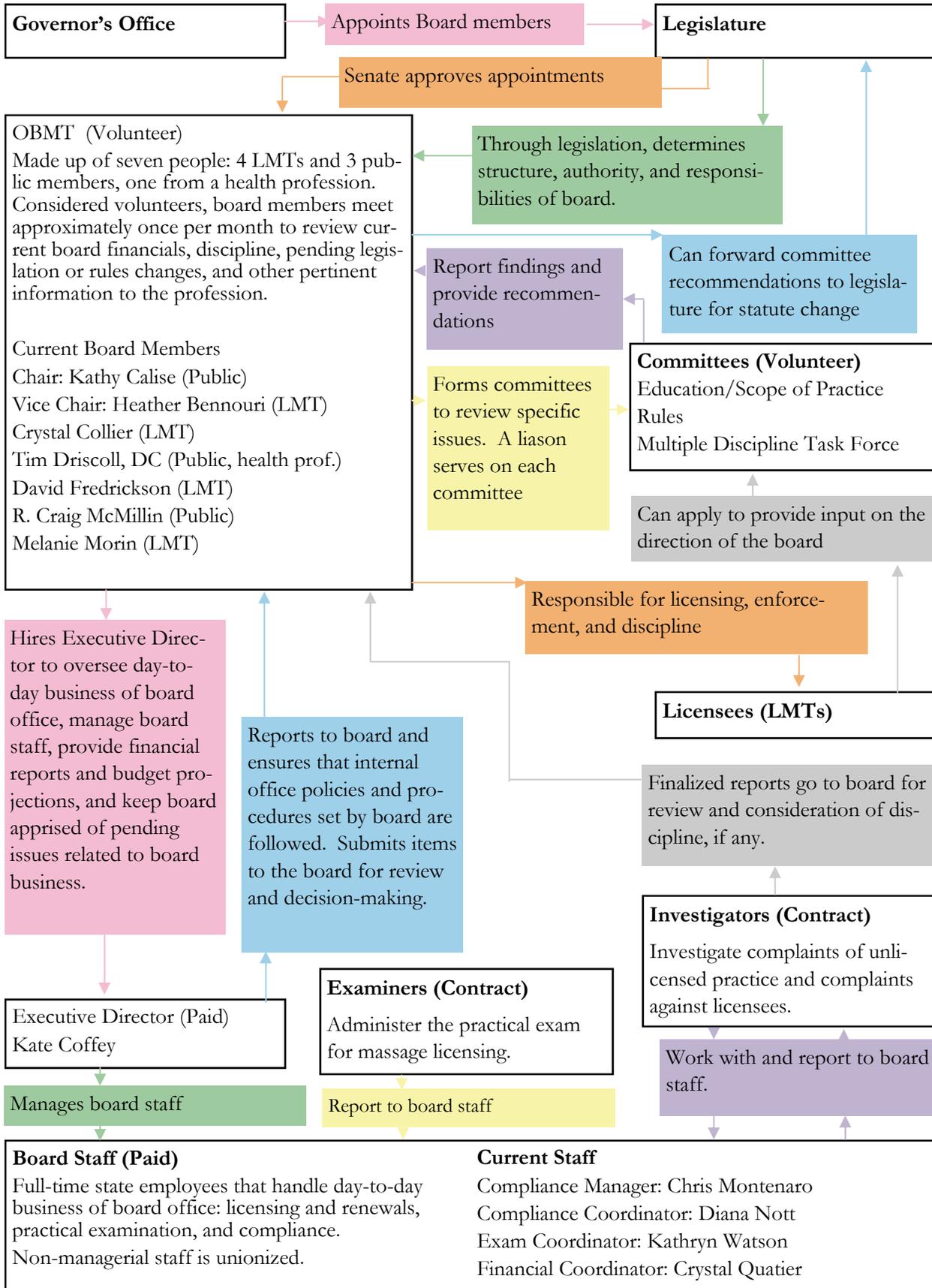
**Case 1058:** Terrence McCormick – License was **revoked** for Four violations of ORS 687.081(1)(b), ORS 687.081(1)(i) and OAR 334-040-0010(2), for making false representation or statements to the Board in order to induce or prevent action by the Board of Massage.



### *Renewal Due Dates & Late Fees*

Please stop and ask yourself the following questions. When does my license expire? When is my renewal due? We have seen a significant number of massage therapists being assessed late fees because they did not notice that their license was due to expire and if you have been assessed late fees your pocketbook feels the strain. In order to avoid any late fees when you renew your license, your completed renewal packet must be postmarked no later than the first day of your license expiration month. The late fees begin on the second of the expiration month at a rate of \$25.00 per week up to the maximum amount of \$250.00. As a courtesy, the Board will mail your renewal form approximately six weeks prior to your renewal due date. If you have not received a renewal packet one month prior to your renewal due date, you may contact the office or print the form from our website, [www.oregon.gov/obmt](http://www.oregon.gov/obmt). Any questions you have regarding your renewal, do not hesitate to contact Crystal Quatier at [crystal.quatier@state.or.us](mailto:crystal.quatier@state.or.us) or at 503-365-8657 ext 6.

## OBMT Structure Flow Chart *contributed by Heather Bennouri*



## *OBMT Structure Continued*

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### **Executive Director (ED): Kate Coffey**

Develops, implements and directs all programs of the Board with policy oversight by the Board. Provide leadership; policy formulation and analysis; public information; management expertise, public relations, budget and personnel management and administrative direction to carry out the statutory mandates and administrative rules governing the Board. This position is relatively unique in that it has authority over day-to-day management of the board office, it serves in an advisory role to the board, but is simultaneously subject to 8 bosses: the 7 board members and the governor.

### **Compliance Manager: Chris Montenaro**

Manages the compliance functions of the OBMT through long- and short-range planning, oversight, coordination and supervision of staff to ensure the public safety with emphasis on investigatory planning, assignment, and review.

### **Financial Coordinator: Crystal Quatier**

Performs cashiering functions; generates and prints checks for expenses to be paid; coordinates payroll functions for the board; and reviews and issues licenses.

### **Compliance Coordinator: Diana Nott**

Provide day-to-day processing and coordination within the compliance unit for the OBMT to ensure compliance with ORS (Oregon Revised Statutes), OAR (Oregon Administrative Rules) and OBMT policies through the review of initial and renewal applications, review of LEDDS (Law Enforcement Data System) checks for initial and renewal applicants, receipt of complaints, maintenance and updating of the complaint and case management data base, review of records, advertising media and correspondence to determine compliance with OBMT regulations and administrative rules. Investigates routine complaints and drafts reports for the Board which are the basis for Board action. Provides Board support by preparing meeting notices and agenda, taking and writing the minutes and ensuring board packets are distributed in a timely manner.

### **Exam Coordinator: Kathryn Watson**

Reviews and approves or denies applications for the practical exam. Facilitates all aspects of the practical exam process including scheduling approved examinees and the examiners who proctor that exam. Staff editor for the newsletter.

~Heather Bennouri

## *Tax Season*

As tax season approaches, be sure to protect yourself by following some basic tips when working with a tax professional. You can find this helpful information at the Oregon state board of tax practitioners site: [http://www.oregon.gov/OBTP/docs/Press\\_Releases/0109\\_Consumer\\_Alert.pdf](http://www.oregon.gov/OBTP/docs/Press_Releases/0109_Consumer_Alert.pdf)



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***Mission:*** *The Board of Massage Therapists protects the public through regulating the practice of massage by balancing the needs of the public and Licensed Massage Therapists through development, implementation and continued improvement in the areas of public safety, boundaries and ethics that will reflect the high standards set within the massage therapy profession.*