



Oregon Board of
Massage Therapists



Inside this issue:

<i>Interim Executive Director Letter</i>	1
<i>OBMT Enforcement</i>	1
<i>Letter from the Governor's Office</i>	2
<i>Letter from the Board Chair</i>	3
<i>Address Changes</i>	4
<i>New Board Member</i>	4
<i>Duty to Report Clarifications</i>	4
<i>Law Enforcement Flow Chart</i>	6

2010 Upcoming Board Meeting Dates

- Friday and Saturday, May 14 and 15 in Ashland
- Monday, June 7 at the Board office
- Monday, July 12 at the Board office
- Monday, August 9 at the Board office

All meetings begin at 9:00 a.m. unless otherwise noticed

Letter from the Interim Executive Director

This has been a very exciting year so far. I started the year spending time volunteering for my favorite charity, Habitat for Humanity. Then as life does, things changed and I'm now working for you as interim-director for OBMT. Needless to say it was a very fast change for me and I'm sure for a number of you as well. This has been a tremendous learning curve for me and a great experience as well. I am very thankful that you have a very knowledgeable staff in the OBMT office whom I confer with a great deal. My work since February has been 100% internal focusing on the business operations in the office. We most recently wrapped up the last straggling components of the OBMT 2007-2009 fiscal year audit. I'm now slogging through a required fiscal report for the governor and legislature which is due soon. We have made some internal changes in how financial activity occurs in the office to ensure that we have adequate internal control and separation of responsibility. Our personnel policies and files are being brought up to date so that we comply with federal and state laws and policies. Also, we have started purging or redacting unnecessary personal information in our member files that is not needed for the licensing process. Kathy Calise will be spearheading the hiring of a permanent Executive Director beginning in April. We have on board a retired HR executive, Taunie Murray, who will be assisting Kathy and the hiring subcommittee members with the various recruitment and selection components of the process. In the meantime I, with the help of the veteran staff, will continue to look at possibilities in the office for streamlining or improving the way the Board's day to day business is conducted.

—Frank Peccia

OBMT Enforcement in the Spotlight

When a Licensed Massage Therapist hits the news in a negative manner, it impacts the entire profession, in a variety of ways. Some members of the public may become fearful of visiting a massage therapist—or, unfortunately, one gender of massage therapist (cases do go both ways, as the Board sees). LMTs are usually hit with a mixed reaction: disappointed (or even horrified) that a so-called “peer” would behave in such a manner, but grateful they are being stopped so there are no further victims. The Board faces its own challenges in being limited by timeframes set by public meetings law and the actions available to ensure a fair and consistent outcome that still protects the public.

(Continued on page 7)

Letter from the Governor's Office

Theodore R. Kulongoski
Governor



April 12, 2010

Dear Licensed Massage Therapist:

I appreciate this opportunity to communicate with you directly and correct any misperceptions about recent personnel actions at the Oregon Board of Massage Therapy. In February, Governor Kulongoski terminated the employment of the Board's executive director because he believed the Board needed a change in staff leadership.

During this transition period, the work of the Board is continuing without interruption. The Board has been fortunate to retain an excellent interim executive director, Frank Peccia, who will manage the Board until a new director is hired. The Board's recruitment process, which will include a statewide search, is likely to take several months.

I also want to express great appreciation for the leadership and hard work demonstrated by the Board, especially during the past two months. Board members serve in a voluntary capacity, working for the good of the profession. Transitions are never easy and the Board has maintained a steady hand throughout the process.

A number of licensees have expressed concern to me that there is a connection between the recent personnel action and the Governor's the State of the State speech in which he suggested the Legislature consider "suspending" the Oregon Board of Massage Therapy. Let me assure you – the two issues are unrelated.

As I explained in an email the Board forwarded to all licensees last June, the Governor made his remarks in the context of reducing the size of state government and recognizing that state government cannot continue being all things to all people. The Governor anticipates that, in considering his suggestions, the Legislature will proceed in an open, public, thoughtful and methodical manner. If the Legislature does decide to make any changes by suspending, consolidating or eliminating any boards, a statutory change is required. Changes in statute can only be accomplished during a legislative session; the next session is scheduled for January 2011.

In the meantime, State Representative Val Hoyle and I will be convening a workgroup to discuss possible ways to improve the effectiveness and efficiency of all health professional regulatory boards, including the Oregon Board of Massage Therapy. A meeting will be held later this month and invitations will be extended to board executive directors, board chairs and

Licensed Massage Therapists
April 12, 2010
Page Two

association representatives. If you have any thoughts on how to improve services, please send your comments to the Board Chair, Kathy Calise.

Thank you for your patience and interest.

Sincerely,



Claudia Black
Senior Health Policy Advisor
Office of Governor Ted Kulongoski

Letter from the Board Chair

Happy Spring!

I would like to introduce myself to you. I am Kathy Calise and the January 11, 2010 Board meeting was my first meeting as Chair. I have served on the Board since July 2007 as a public member. The last three months have been challenging for the OBMT but out of these challenges has come the opportunity for me to meet and speak to many of the Licensed Massage Therapists in Oregon. What a great experience this has been for me!

I would like to encourage all of the Massage Therapists who live in Southern Oregon to come to the May 14, 2010 Board meeting in Ashland. This is a great opportunity for you to meet the Board members and express your concerns and expectations.

I look forward to serving you in the remaining months of 2010 and wish you happiness and sunny days.

—Kathy Calise, OBMT Chair

New Board Member

David Fredrickson has been the co-owner, Dean of Students, and a lead faculty member of the Ashland Institute of Massage for seven years. A 1987 graduate of East-West College, David's current private practice focuses on his love of orthopedic bodywork therapies for chronic soft tissue conditions. His background has been strongly influenced by chiropractic and osteopathic physicians and teachers.

David, a self-affirmed "science geek" is optimistic about the expanding role of therapeutic massage in allied medical health care fields. His commitment to the people of Oregon in service on the OBMT will focus on strengthening education and practice standards, educating legislators and policymakers, and working to secure massage therapy's place in the changing healthcare environment.

Address Changes

Have you moved? If so, please notify the Board of your change of information within 30 days of that change as required per OAR 334-010-0025 (7). Note that we only accept this information in written form. This means the updated information can be submitted via mail, email, website or fax.

Duty to Report Clarifications

In the last issue, a bill that passed in 2009 (HB 2059) was reviewed in relationship to LMT's duty to report. Interestingly, there is a conflict within the bill that makes some of the details challenging for practitioners to determine when they do need to report and when they should NOT report.

What to Report

Any suspected violation of that health practitioner's practice act, whether it be privacy violations, boundary violations, malpractice violations, or other behaviors in contradiction with their charge as a medical professional. In addition, if there is indication that the professional may be "impaired" (meaning under the influence of drugs, alcohol, or other addition, or have other mental disorders) that could prevent them from performing their duties as a professional responsibly or could cause harm to the public.

Where to Report

Report directly to that health practitioner's board. Visit www.oregon.gov and do a search by the profession to find contact information for the appropriate agency.

When to Report

You should report when you see or have a reasonable suspicion of any of the behaviors under "what to report" above. (There are exceptions, which will follow.) You have ten days from the suspected violation to report to that practitioner's board.

(Continued on page 5)

Duty to Report Clarifications

(Continued from page 4)

When NOT to Report

If you become aware of any of the actions under “What to Report” while the individual is a client (or patient) and therefore protected by HIPPA regulation, you should not report.

Sample Scenarios

For some, the “when” vs. “when not” to report becomes confusing. Take a look at the following scenarios to give you a better understanding of when a situation should be reported. For the purposes of generality, we will have Dr. Alcoholic as our practitioner who is impaired.

Scenario 1 Dr. Alcoholic and Nurse both happen to be grocery shopping before heading to their hospital shift in the emergency room. They run into each other, have a conversation, and Nurse notices Dr. Alcohol is a bit unsteady and smells of alcohol. *Should Nurse report? YES*

Scenario 2 Dr. Alcoholic is in a severe car accident and is admitted to the ER. When the nurse reviews lab results, discovers a blood alcohol content of .09. *Should Nurse report? NO, as it would violate patient confidentiality under HIPPA.*

Scenario 3 Dr. Alcoholic is seeking counseling for both an alcohol and sexual addiction. During a session with a counselor, Dr. Alcoholic confesses to having sex with a patient. *Should Counselor report? NO, again violating patient confidentiality.*

Scenario 4 Dr. Alcoholic visits long-time friend LMT for a massage. LMT has been aware for a number of years of a drinking problem, but has never actually reported Dr. Alcoholic, although has tried to support treatment efforts in the past. It occurs to LMT as Dr. Alcoholic is sharing information during the massage that Dr. Alcoholic falls under the guidelines as an impaired professional. *Should LMT report? YES and NO. YES, if the LMT originally became aware of Dr. Alcoholic’s problem outside of the client/LMT relationship. NO, if the LMT only became aware of Dr. Alcoholic’s problem through the client/LMT relationship.*

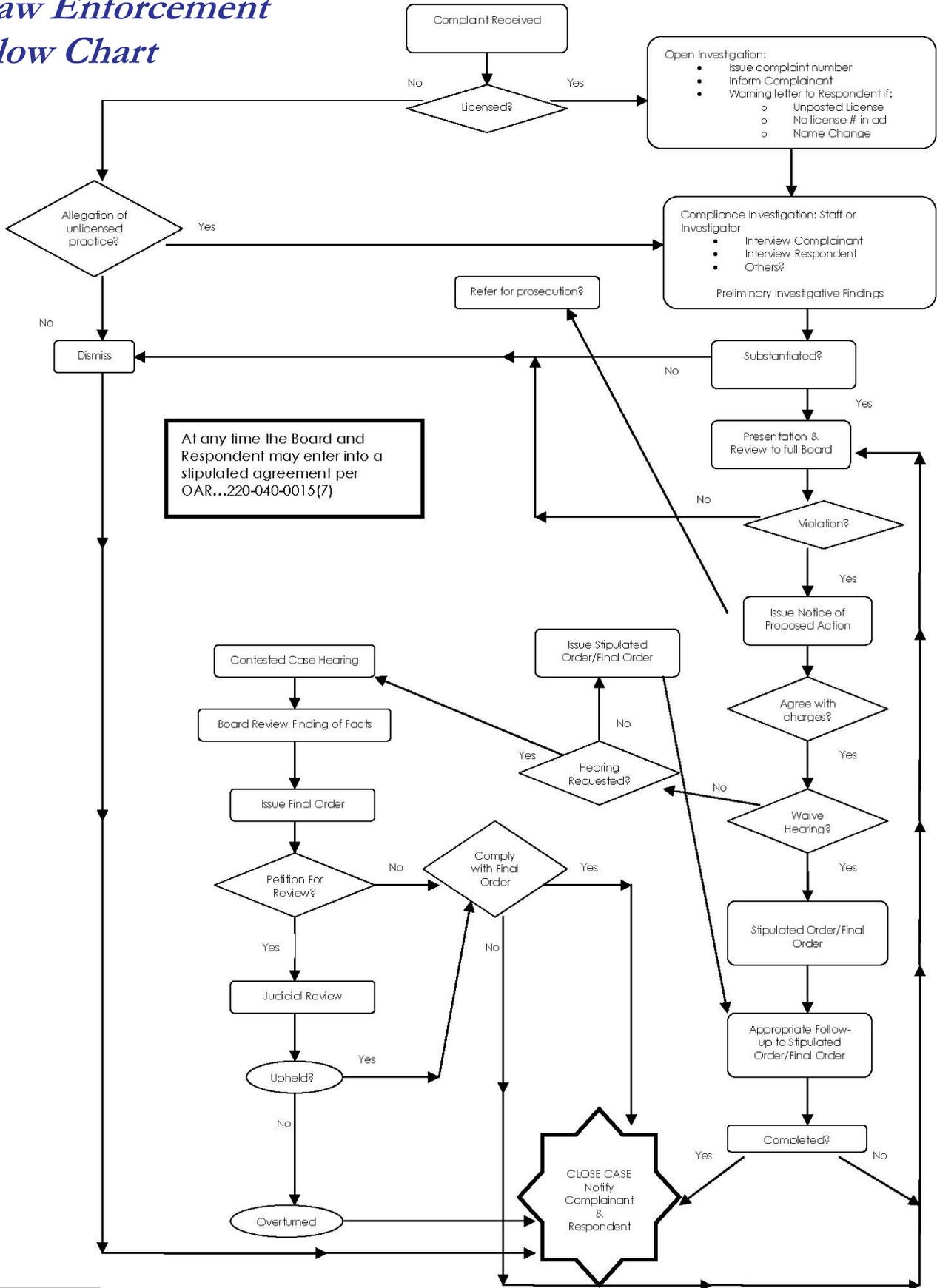
Reporting is Confidential

In most cases, if you file a report, you are not required to provide personal information. However, it is best if you provide minimal contact information so that the agency you report to can contact you if there are further questions, or in some cases, if there is patient victim information. Your information will be kept confidential.

History

This bill came about through a case where a nurse discovered an anesthesiologist inappropriately touching a patient while the patient was sedated. When the nurse reported it to the overseeing oral surgeon, no action was taken. The intent of this bill was to provide both a clear course of action for reporting, protection of the public and prevention of future victims, and a legal responsibility to all practitioners to ensure public protection through reporting.

Law Enforcement Flow Chart



OBMT Enforcement in the Spotlight

Many questions arose recently as to what the Board was doing in response to a specific case that appeared in the media. Every LMT, regardless of the nature of a complaint, is entitled to due process. This means that whether an investigation is occurring, what any investigation status might be, and what actions could or might be taken is not public information, so the Board and the Board office cannot answer questions about *any* licensee or *any* investigations, regardless of what information has appeared in the press. Once the Board has specifications or documentation that is public, that information can be released. The following information is provided as generalities for how *any* type of case with severe allegations is handled.

One of the fastest ways to stop an LMT from practicing is for the Board to request and the LMT sign an Interim Consent Order Agreement (ICOA). This is not often used, and constitutes a voluntary agreement of the LMT not to practice, even though they maintain an active license. Depending on the type of case and allegations, different information is included in the agreement. The other expedited means of preventing an LMT from practicing is if an Emergency Board Meeting is called and additional action (emergency suspension or revocation) can be taken. With the procedure of an emergency suspension or revocation, the LMT can request a hearing.

A licensee will show up on the Board verification web site as active long after signing an ICOA, as well as after the Board issues an Emergency Suspension or Revocation. With an ICOA, this is because technically the massage license is still active. With an Emergency Suspension or Revocation, it is because due process requires additional steps to be taken before this is reflected publicly, the first of which is Noticing the LMT of the Board action. If the LMT disagrees with Board action(s), the LMT has the right to request a hearing within 21 days. Scheduling this can take up to sixty days and is dependent upon the Office of Administrative Hearings. The Administrative Law Judge then has 60 days in which to return an opinion to the Board. Both of these steps can take longer if there happens to be a heavy case load. When the decision is returned to the Board, they can consider it and determine what the Final Order will be. If the LMT does not request a hearing after the Notice, after 21 days a Final Order is issued. Once the Final order is signed and issued, the status of the LMT's license will then be changed on the Board web site.

For details on how complaints are handled, please refer to the diagram on page 6.



Oregon Board of Massage Therapists

748 Hawthorne Avenue NE

Salem, OR 97301

Phone: 503-365-8657

Fax: 503-385-4465

www.oregon.gov/OBMT

For questions or comments contact the office or
email kathryn.watson@state.or.us

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.*