



Oregon

John A. Kitzhaber, MD, Governor

Board of Massage Therapists

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RULES COMMITTEE MEETING

March 21, 2011

OBMT Office

Attendance

Committee Members:

Michael Jordan, LMT, **Chair**

Michael Blackmore, LMT

Barb Pickle, LMT

Todd Pennington, LMT

Board Members & Staff:

Heather Bennouri, LMT, Board Liaison

Kate Coffey, Executive Director

Diana Nott, Compliance Coordinator

Public: There was no public in attendance.

1. **Call to Order** - Jordan called the meeting to order at 9:03am.
2. **Introductions** – Present today are Michael Jordan, LMT, Michael Blackmore, LMT and AMTA representative, Barb Pickle, LMT and Todd Pennington, LMT; Board Member Heather Bennouri, LMT and Board Liaison; and staff members Kate Coffey, Executive Director and Diana Nott, Compliance Coordinator.

A request for representation from the Oregon Massage Therapy Association (OMTA) has been issued. At this time, there has not been a representative from that professional association assigned to this committee.

Pickle nominated **Jordan** as the Committee Chair. **Blackmore** seconded the motion. All attendees were in favor of the motion and **Jordan** was appointed the Chair.

3. **Public Input** – At this time, **Pennington** was not an official member of the committee, though he indicated that he was considering it. He stated that he reviewed the Oregon Administrative Rules, Chapter 334, and found them to be fairly reasonable. He stated that he suspects that if SB 454 passes, there will be a need for additional rules. **Jordan** stated that he suspected the Board would request the committee to address any needed rules with the passage of SB 454. **Coffey** indicated that there would be a need to clarification that hydrotherapy will remain in the scope of practice of a massage therapist.

4. **Considerations:**

It was discussed that the Board's desire has been to limit the frequency of non-urgent rules changes. This decision was implemented in an effort help prevent confusion with licensees and provide clarity on when one may expect any rules changes to occur. The Board had determined that non-urgent rules changes would be

implemented only on January 1st or July 1st. As such, it was discussed that the current items being worked on are suggested to be compiled for the rules hearing process later in the year, with a January 1, 2012 implementation date.

- a. Inactive to Active mid-cycle – There had previously been a discussion on the fees associated with individuals that move from an inactive to an active status mid-cycle. The staff was asking for clarity on the rule to clearly outline what was required when such a move occurs. It was explained that the rules had been previously interpreted that an individual may return to an active status by paying the active fee. Past practice was to require the full active fee. It was then internally changed to accept the difference in fee between the inactive status and the active status. It was unclear that the rule as written allowed such a practice. It was also questioned if that was the intent of the Board.

There was discussion that the committee may need to establish a definition for mid-cycle.

After lengthy discussion, the following suggestions were made:

- 334-010-0033 (1)(d), The difference between the current active and inactive renewal fee for mid-cycle renewals

(this would require renumbering of the remaining fees)
- 334-001-0060 (22), Mid-cycle means a license renewal 21 months or less from the due date of the licensee's current biennial renewal.

(this would require renumbering of the remaining definitions)

- b. Fingerprinting – **Jordan** reported that the Board had tried, in the past, to create rules and policies for fingerprinting of new applicants. He indicated that there was significant opposition to this prospect, as individuals were concerned that the fingerprint copies would be retained by the Oregon State Police. There seems to be a misunderstanding that OSP is required to destroy the cards after the criminal history is conducted.

Nott reported that with the implementation of the LEDS checks, the Board discovered that roughly 4% of the LMT population and applicants have unreported criminal history matters.

Coffey believes that the majority of the other health boards are conducting fingerprinting.

Jordan asked if it was the Board's desire to conduct fingerprinting only for new applicants or if they would require it for renewals as well.

Pickle stated that Washington State only requires fingerprinting for out-of-state applicants.

Blackmore would need to obtain feedback from AMTA members to tentatively determine the AMTA opinion on the matter. He suggested conducting fingerprint checks for all new applicants and only one full cycle of renewals.

Pickle suggested focusing fingerprinting on initial applicants and individuals from out-of-state.

Coffey will contact the Board's attorney to obtain any prior work on fingerprinting rules.

- c. Portfolio Review – There was a discussion on the history and need for a portfolio review process. Currently the Board is able to address individuals that enter Oregon from licensed jurisdictions through the state indorsement process. There is no current process that allows the Board to address individuals coming to Oregon from unlicensed jurisdictions that do not meet the current educational requirements as provided in OAR 334-010-0005(4).

The current suggestion for consideration is as follows:

- Minimum of 140 hours of education from a certified class or program; and
- Maximum of 40 hours of clinical practice work experience; and
- Maximum of 120 hours of continuing education hours, of which up to 80 could be the required Health Sciences (anatomy & physiology, kinesiology and pathology) and up to 120 could be the Massage Theory coursework (massage theory & practical application, clinical practice, business development, communication, ethics and sanitation – hydrotherapy would be removed with the passage of SB 454).

There was discussion of updating the draft document to remove exclusions pertaining to the written examination.

Pennington indicated that he likes the concept of a portfolio review process.

It was noted that if SB 454 fails, the Board will need to work on creating a legislative concept for the next legislative session in order to address this need.

There was discussion where to appropriately place portfolio review language in the OARs.

Coffey suggested including the MDTF in the discussion and development of a portfolio review process. She feels that those stakeholders would like to provide input on the process, hours and makeup, as it will ultimately help them to obtain licensure in Oregon.

Pickle recommended looking at other states to determine if/how they utilize a portfolio review process.

Nott indicated that the NCBTMB also has a portfolio review process.

Bennouri would like to get input from both the MDTF and the Education/Scope of Practice Committees on the hours breakdown and requirements.

Coffey will review the materials to help determine the fees that should be associated with this process, as it is recognized that a portfolio review process will be far more labor-intensive than a standard application process.

Bennouri and **Pickle** will work on drafting language to bring to the next committee meeting.

- d. Retired License Status – **Nott** reported that there is a need to allow for a “retired” licensure status and to draft rules around such a status. There is a need to determine what an individual would need to do if they chose to return from a retired status.

The committee suggested the following language to address this issue:

- OAR 334-010-0017(5) An individual shall be considered retired if the licensee informs the Board in writing. If a retired individual chooses to reactivate, the license shall be considered lapsed.
- e. Definition of Prescription – **Jordan** researched the matter and was unable to make a determination on a legal definition of prescription. After a lengthy discussion, it was determined that the Board would not define prescription and leave the current rules referencing prescription as it is. (334-010-0025(2)(a), Massage treatment does not include: the use of equipment or devices that require a prescription.)
- f. Hydrotherapy – If SB 454 passes, it would remove the requirement for hydrotherapy as part of the core-curriculum requirement for massage therapists in the State of Oregon.

There has been concern voiced by some stakeholders that the removal of the requirement may limit their scope of practice. It was pointed out that OAR 334-001-0060(4)(d) indicates that bodywork the use of hot and cold applications and that this is recognized as hydrotherapy.

It was suggested that the Board create a rule that explicitly states that hydrotherapy is within the scope of practice for a massage therapist.

It was suggested that a rule be drafted under OAR 334-010-0025 (4) which states that the LMT must be competent in techniques not included in core curriculum education and abide by Board policies utilizing these techniques.

Blackmore suggested that the Board draft a policy to have in place should SB 454 pass.

Bennouri suggested creating a policy even without the passage of SB 454.

5. Public Input - There was no public input at this time. It was determined that **Pennington** is an official member of the Rules Committee.

The next meeting is scheduled for Monday, April 25, 2011 from 9:00 am – 11:00 am.

6. Adjournment – **Blackmore** moved to adjourn the meeting at 11:15am. **Pickle** seconded the motion. All parties were in favor. The motion carried.