



# Oregon

Theodore R. Kulongoski, Governor

*Board of Massage  
Therapists*  
748 Hawthorne Ave NE  
Salem, OR 97301  
Phone: (503) 365-8657  
Fax: (503) 385-4465

## BOARD MEETING MINUTES

Friday, September 18<sup>th</sup>, 2009  
OBMT Conference Room ~ Salem, OR

### ATTENDANCE:

#### Board Members Present:

Jordan Barton, LMT, Chair  
Kathy Calise, Public Member, Vice Chair  
Jeanna Catalano, LMT  
Crystal Collier, LMT  
Heather Bennouri, LMT  
Tim Driscoll, DC, Public Health Member

#### Staff Present:

Patty Glenn, Executive Director  
Mindy Tucker, Director of Compliance

#### Absent Board Member(s):

Craig McMillin, Public Member, excused

#### Public:

Jesse Hickerson, Diana Cottell and Sara Gregg

---

### CALL TO ORDER:

**BARTON** called the public meeting to order at 1:10 pm. **McMillin** was granted an excused absence.

### 1) Approve Agenda with the following changes/additions:

- a. BENNOURI added OMTA's request that a Board member be present at Breitenbush for their annual meeting should be moved under Board Business
- b. BENNOURI suggested reviewing the Board compensation for exceptional work issues; added to Board Business
- c. BENNOURI add Board Member Training report
- d. BENNOURI added BOARDERline report, Item #M
- e. BENNOURI discussed HB2118
- f. GLENN changed Case #848 from Executive to Public Session under section (4).
- g. GLENN asked Board to stay approving the closed case report until October 2009 meeting
- h. GLENN changed Public Session #8C to read: "Multiple Disciplinary...."
- i. GLENN/BARTON changed 2A (2-6) changed to Public Forum & Announcements

**BENNOURI** moved to approve changed agenda as amended.

**IN FAVOR:** All present members. **OPPOSED:** None. Motion carried.

### 2) **BARTON** advised to enter into Executive Session to discuss Executive Item -2A(1)(Applicant AC)

### 3) EXECUTIVE SESSION:

The Oregon Board of Massage Therapists will now meet in executive session, pursuant to ORS 192.660(2)(f) to review, discuss, and consider mediation communications that are confidential and exempt from disclosure, pursuant to ORS 192.502(9), 36.224(6), 36.220(1)(a), and OAR 334-001-0051(6). The Board may also consider and discuss in executive session information obtained as part of an investigation of a licensee or applicant, pursuant to ORS 192.660(2)(k). The Board may also review, consider, and discuss written legal advice provided by the Department of Justice that is confidential or privileged and exempt from disclosure under ORS 192.502(9) and ORS 40.225 and other applicable authority.

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.

EXECUTIVE SESSION Entered at 1:20 p.m.  
EXECUTIVE SESSION Concluded at 2:30 p.m.  
EXECUTIVE SESSION Re-entered at 5:38 p.m.  
EXECUTIVE SESSION Concluded at 6:26 p.m.

4) EXECUTIVE SESSION ACTION

- a) **APPLICANT #AC**- Criminal record to include current criminal issues.  
**RECOMMENDATION:** **BENNOURI** moved to issue a Notice to Deny Application for Licensure  
**IN FAVOR:** All present members. **OPPOSED:** None **Motion carried.**
- b) **RENEWAL APPLICANT #AF** – Failure to disclose arrest on licensure renewal.  
**RECOMMENDATION:** **CALISE** moved to issue a Notice of Proposed Action for (2) violations of ORS 687.081(1)(a)(b) and violations of OAR 334-010-0015(2)(c)(6)(e) for a \$500.00 civil penalty and Suspension of License.  
**IN FAVOR:** All present members. **OPPOSED:** None. **Motion carried.**

5) PUBLIC SESSION Entered at 2:40 p.m.  
PUBLIC SESSION Concluded at 5:38 p.m.  
PUBLIC SESSION Entered at 6:26 p.m.  
PUBLIC SESSION Concluded at 6:40 p.m.

a.) Enforcement Case #770 (CLINE)

**BENNOURI** moved to withdraw Notice of Proposed Disciplinary Action that was issued on 02.28.2006 due to compliance met by the Respondent on 05.28.2009.

**IN FAVOR:** All members present **OPPOSED:** None Motion Carried.

b.) Enforcement Case #852 (ELSNER)

**COLLIER** moved to issue a Notice of Proposed Disciplinary Action for (1) violation of ORS 687.021(1) Unlicensed Practice of Massage Therapy and (1) violation of ORS 687.021(2)(a) for Unlicensed Advertisement of Massage Therapy.

**IN FAVOR:** All members present **OPPOSED:** None **Motion Carried.**

6) PUBLIC COMMENTS:

Diana Cottell was present and addressed the Board. Cottell stated she is the chair of Governmental Relations Committee and was interested in learning more about the Multiple Disciplinary Task Force and Scope of Practice Task Force. Cottell stated she is interested in serving on any of those committees. **GLENN** stated she will be in contact with all of those individuals who show an interest in serving.

7) APPROVAL OF AUGUST MEETING MINUTES – Stayed until October 2009 Meeting

**BARTON** discussed updates from the Board stipends discussions; which has involved DOJ. In August 2009, the Board adopted a temporary rule regarding the stipends that are currently being considered. **BENNOURI** discussed how the minutes should reflect on the Board action as follows: Keep 1<sup>st</sup> paragraph as written; recognizing the Board had not had a need to date, in reference of a diversion program. **BENNOURI** referenced an email she sent to **GLENN** that indicated changes she would like to have made; to include content and grammatical corrections.

**BARTON** requested any changes of the August 2009, meeting minutes suggested by Board Members, should be forwarded to OBMT Staff for corrections; due to the amount of changes requested. **BARTON** advised the approval of August 21-22, 2009, meeting minutes will be on the October 2009 agenda.

8) **DIRECTOR'S REPORT:**

a). **FINANCES:** **GLENN** stated there are no changes from what was presented at the August meeting. Upcoming meeting with the accountant in preparation for the 2007-2009 biennium closing.

b). **SIBA-** On target for the audit. OBMT is scheduled for October 26-27<sup>th</sup> to have the audit team on site. **GLENN** stated Auditors might want to speak with some of the Board members. **GLENN** addressed the audit costs with regard to the expense is almost double from what the audit costs at the last biennium. **GLENN** stated at this point, she is impressed with their level of communication and customer service. **GLENN-** SIBA also addressed furlough days and health care changes for state employees. **GLENN** discussed the use of a lobbyist; as the SIBA group has used one in the past. **GLENN** advised the Board regarding the contract for a lobbyist involving the issues that involve semi-independent boards for the February 2010 special session.

c). **HEALTH RELATED BOARDS (HRB):** The meeting was earlier in the week; there were a lot of conflicting information pertaining to the consolidation discussions, etc. Small agency heads meeting with Scott Harra, (Dir. of DAS) indicated the focus is on the "big picture" concerns a report to the Governor's Office is due by June 2010 from the Reset Cabinet. **GLENN** said discussions focused on how agencies can potentially be more efficient. **GLENN** also related issues with HIPAA, DOJ opinions, etc. pertaining to conflicts within laws and jurisdictional powers. Some suggestions at the meeting included having a DOJ team that is focused on the health related boards. **GLENN** suggested the concept to have a DOJ attorney assigned to the semi-independent and deal with the exceptions that are applicable to the semi independent agencies (e.g. HR, finance).

The next (HRB) meeting will be in a few weeks with Claudia Black; to discuss cost saving functions and work on peer review model and draft rules.

9) **BOARD BUSINESS:**

a) **GOVERNOR'S BOARD TRAINING:** **COLLIER & BENNOURI** gave the Board an update from the training they attended on September 15<sup>th</sup>, 2009. From that training, the announcement was made that this was the last training of its kind that will be offered at this time. The reason cited was due to budgetary issues. **BENNOURI** stated the training really focused on how boards can save money in areas that include reviewing the use of the DOJ attorneys.

**BENNOURI** reported PERS is the most stable public retirement system in the nation. **GLENN** stated the OBMT's contribution was reduced to almost half the amount for employees. **BENNOURI** said the economic growth sectors will be the health care industry. **BENNOURI** said the thing that was stressed numerous times, was to have the DOJ attorney present at meetings to ensure public records laws are being followed; however realizing due to budgetary issues, DOJ presence might not always be possible or probable.

**BENNOURI** stated the extreme importance of keeping on task with Executive Session items and not to stray due to legal reasons and to be cautious of not disclosing items that should not be disclosed; especially since the media is present. Public Records AG Books on meetings are stored in **GLENN'S** office for reference. Conflicts of interest needs to be recorded in the minutes; any discussion needs to have the reflection to accurately depict the votes, potential conflicts of interest and actual conflicts of interest involving issues discussed. Potential can participate, but actual cannot participate.

**BENNOURI** asked the instructor about recusal from discussions and cited the example of a Board member who is an instructor and being informed of an action item involving former student issues. **BENNOURI** was told it was not a conflict of interest due to lack of opportunity for any gain; therefore, the Board member doesn't need to recuse themselves since there is no conflict of interest. However, **BENNOURI** stated the involved Board member could opt for recusal due to a situation being uncomfortable with information discussed. **COLLIER** said the Governor's office is looking at the smallest agencies first and work on focusing the concerns to the larger agencies.

**BENNOURI** said the training did not get into the budget process, but looked at economic trends; where monies are disbursed throughout the state and how some monies are already marked through legislative votes in lieu of depositing into the general fund account. **BENNOURI** summarized the training regarding being cognizant of staff time; go through the executive director for questions & answers; be sensitive to calling DOJ attorney; coordinate with executive director & other Board Members relating to legislative and media communication. Reminder all communication is subject to public disclosure. Not to use the Board's resources to put out personal messages etc.

- b) **GLENN** addressed electronic issues and stated there will be an IT presentation by Grant Moyle, on paperless board meetings. To maintain confidentiality with regard to Board business, it is important to separate personal email correspondence and personal computer usage from Board information that is disseminated. **MOYLE** presented a short visual of how the process would work for Board members to remotely log in and access Board materials in preparation for meetings, etc.
- c) **GOVERNOR'S CITIZEN COMPLAINT:** **GLENN** discussed Governor's citizen complaint process in response to a concern that was passed to the Board from the Governor's office. **GLENN** discussed how the Board handles said complaints/concerns. **GLENN** stated she shall pass any concerns/complaints received by the Board; to the Board members for informational purposes.
- d) **BOARD SPECIAL COMMITTEE UPDATES:**
  - 1. **LEGISLATIVE – CALISE** stated there are no updates at this point. **BARTON** stated he reached out to Morrisett, but has not heard from his office to date. Committee will be meeting soon, prior to November 2009, in preparation for February special session.
  - 2. **ATTORNEY USAGE - BENNOURI** stated she sent **McMILLIN** some suggestions pertaining to how some other agencies use their AAG. **GLENN** stated she has provided **BENNOURI** with additional information relating to the use of the AAG. **BARTON** said the whole idea was to gain a perspective of how the resources are/have been used.
  - 3. **OFFICE POLICIES & PROCEDURES – GLENN** stated she has received feedback on position descriptions from **CALISE** and **COLLIER**. The committee will be meeting to comment and review position descriptions and personnel handbook. Final drafts should be out after DOJ reviews the content for any legal concerns. **GLENN** stated that is only applicable for staff job descriptions; not policies and procedures. **GLENN** stated she has not received any feedback from Board members on the personnel handbook draft that was handed out at the August meeting.
  - 4. **PERSONNEL PERFORMANCE / SALARIES – GLENN** advised there are some areas that she is working on with the DOJ attorney and union. **GLENN** stated the CBA for 2009-2011 has been ratified and should be posted on SEIU's website soon. **GLENN** said there was an 88% pass rate for the new contract.
- e) **2010 DRAFT CALENDAR:** Discussion and decision rendered to move to every other month meetings beginning in 2010. The remainder 2009 Board Meetings have been changed as follows: October 19<sup>th</sup>, meeting moved from the 16<sup>th</sup>; November 16<sup>th</sup>, from the 23<sup>rd</sup>. Both aforementioned meetings shall commence at 9:00 a.m.

**2010 CALENDAR:** Please note the dates proposed as follows:

January 11<sup>th</sup>, 2010

March 8<sup>th</sup>, 2010

May 14-15<sup>th</sup>, 2010 (traveling board meeting; location to be determined)

July 30-31<sup>st</sup>, 2010 (traveling board meeting; location to be determined)

September 13<sup>th</sup>, 2010

November 8<sup>th</sup>, 2010

- f) **UPDATE ON FURLOUGH DAYS AND FORCED STATE CLOSURES:** **GLENN** reported that she did not take her 2009 COLA increase. Staff received their scheduled step increases. Staff salaries are now frozen and mandatory furloughs are applicable. State management has furloughs; semi independent boards vary in their response. **GLENN** inquired of other semi independent agencies and their plans regarding management furlough days and salary freezes. **GLENN** reported some agency managers are taking furlough days; others are freezing pay; and some semi independent agencies are doing both.

**GLENN** explained the issues around management and furlough days. **GLENN** suggested management not take furlough days but freeze management pay; the Board concurred.

- g) **STUDENTS WORKING FOR CHARITY EVENTS:** **CALISE** stated this question was posed at the all-schools meeting held in August because of some schools receiving compensation for students massaging at charity events, etc. **GLENN** and **CALISE** agreed there needs to be more research involving this topic in the future.
- h) **POSITION DESCRIPTIONS / PERSONNEL HANDBOOK & POLICY MANUAL / RECORDING DEVICE POLICY:** These items were stayed for this meeting with the intent to address them on the October Agenda.
- i) **BOARDERline NEWSLETTER:** **BENNOURI** stated the first newsletter went out and formally addressed congratulations to OMBT Staff Member, Kathryn Watson, for the first issue being completed. **BENNOURI** said the newsletter was (5) pages in length and had different topics included.

#### 10) COMMITTEE UPDATES:

- a) Education Committee an active committee; retired for the summer, but should be meeting soon. Scope of Practice Committee and Education Committee is one in the same; not separate committees.
- b) Multiple Disciplinary Task Force: **GLENN** and **COLLIER** will be working on identifying on committee chair from suggestions.

#### 11) FSMTB UPDATES:

**BARTON** discussed he will not be attending as originally planned. **BARTON** gave an update indicating he will not be moving to Florida. **BARTON** stated he will be stepping down from the Board as Chair and his last meeting will be November 2009; therefore, **BARTON** encouraged another Board member to attend the annual FSMTB meeting. **McMILLIN** is already scheduled to attend in Nashville, TN. The meeting is October 8<sup>th</sup> - 10<sup>th</sup>. No other Board members are available to attend on short notice.

#### 12) ADJOURN MEETING — **BENNOURI** moved to adjourn.

**In favor:** All members present. **Opposed:** None. **Motion carried.**

Meeting adjourned at 6:40 p.m.

Minutes prepared by: \_\_\_\_\_  
Mindy S. Tucker