



## 2017 RULES UPDATE

Effective July 1, 2017 the following rules were updated:

- An application for initial license will expire 12 months after the initial date of applying for licensure.
- Clarifies the Continuing Education language to allow the carry-over of Ethics continuing education hours taken in excess of the required 4 hours. For Ethics hours to carry-over you must meet the following criteria
  1. Submitted more than 25 hours of continuing education
  2. Submitted more than 15 contact hours



## FACILITY PERMIT UPDATE

Since the implementation of the Facility Licensing in January 2015 the Board has licensed over 200 facilities and revoked 1 facility. In addition, the Board has issued over 50 civil penalties for operating a massage facility without a license.

This law requires all massage facilities not owned by a licensed health professional to obtain a facilities permit. It exempts massage school clinics and those facilities owned or operated by a licensed health professional. LMT's are not required to

obtain a facility permit as they are a licensed health professional according to Oregon Revised Statute 676.

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### Special points of interest:

- ◆ *"Hakomi" is outside the Scope of Practice of Massage and it is not an acceptable topic for Continuing Education.*
- ◆ *"Fee splitting" is not allowed.*

# 2018 Board Meeting Dates

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- ♦ January 22, 2018 (Salem, OR)
- ♦ March 19, 2018 (Salem, OR)
- ♦ May 18 & 19, 2018 (Astoria, OR)
- ♦ July 16, 2018 (Salem, OR)
- ♦ September 17, 2018 (Salem, OR)
- ♦ November 5, 2018 (Salem, OR)



## More Details

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## FSMTB ANNUAL MEETING UPDATE

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Even though this was my fourth FSMTB meeting, it was my honor to finally represent Oregon as the official delegate this year. While many of you only know of the FSMTB as “that group that does the MBLEx”, they started as a way for state massage boards to work together on common goals. The Annual Meeting is where all the state boards and agencies get together to share info and get updated on the current going-ons of the FSMTB.

During the member board reports, it was again reinforced all the similarities between the boards. Almost every state is dealing with issues related to human trafficking as it relates to massage and unlicensed practice. There has also seemingly been a national increase in fraudulent documentation as well as inappropriate touch. However, there are also differences: many states were surprised at how well we in Oregon are able to go after violations of unlicensed practice, as well as our ongoing outreach to the Asian-Pacific Islander community.

One of the things FSMTB has been working on is creating a training course for state board staff to be able to notice warning signs of fraudulent documents, so that they are better able to determine which ones to give closer attention to. They did an initial training to a smaller group and are planning on making it available to all state boards in 2018. They also released their official report

on human trafficking. There was a panel discussion covering education discrepancy verification, school oversight authority, distance education, and preparation for practice.

One important milestone was a demo of the almost-ready-to-launch MTLD database. This is a database that each state can upload its licensing data to making it easier for other states to access directly.

This is being done as one of the steps on increasing national portability of your massage license to other states. So, if you want to get licensed in another state, the new state would be able to pull up most of your info directly from this shared database. The other benefit is that compliance information could also be shared, so it would be easier to know if people had been disciplined elsewhere before granting them their license. Oregon also received a nice plaque in recognition that we are the first state to begin uploading data to the database (only publicly available information currently).

There was also a demo of their new CEU software – which is a bit more controversial. FSMTB is looking to make

itself a CEU clearing house to help licensees and boards better track CEUs. One of the benefits they are touting is specific tracking of quality of each class via student feedback to make sure the quality of classes stays high over time.

We had our annual legal seminar from Dale Atkinson. The theme for this year was “Risk Management”. The point he always drives home is that massage boards must always be about regulation and public safety, and NOT advocacy. Board members often want to do things that are designed to help the massage world and its practitioners, but those are outside of the legal scope of the board. Those types of activities are for the professional organization to handle. Many concerned people come to the board for help in what ultimately results in an advocacy role, which we are unfortunately unable to help with.

Oregon also brought three resolutions to the meeting this year (the only ones). All three were given a “Do Not Pass” recommendation both from the FSMTB Policy Committee and the Board of Directors. Two were focused on internal working of the FSMTB, both unfortunately failed for various reasons. The third resolution, which did pass, was tasking the FSMTB with doing a study of rural accessibility for the MBLEx, something the OBMT has gotten numerous requests for over the years (and which are always passed along). Gathering this data should be a great step forward in determining if there are enough testing centers and how to improve that if needed.

**-Jon Grossart, LMT, Board Chair**

# FEE SPLITTING AND MEDICAL BILLING

They can cause delays or denials in payment from insurance companies. They can eat into your time and schedule. Also, they can be classified as unethical. Fee-splitting and Dual Fee Scheduling can hurt your practice. As of January 2017, new rules regarding Fee-splitting and Billing have become effective. Hopefully, this article will give you all the tools you need to follow these rules.



Fee splitting is defined as, someone other than the provider takes a portion of revenue for providing marketing or other services. The most common instance of fee splitting in Massage Therapy is with advertising coupons or agencies. An example would be Groupon. Because the agency takes a percentage of the payment to offer the advertising, that violates the fee splitting rule. The same can be said for an individual business hiring LMT's as Independent Contractors and then taking a percentage of the service fee\*. Another example of fee splitting is, if a company or other provider takes a percentage of the fee for referring the patient to your practice. This can be perceived as unethical behavior. In the instance of the advertising agency, you are also losing time that could be used on patients that are looking for a life-long Massage Therapist and not just the "best deal." Should you choose to get involved with a fee splitting advertising agency, you will now have to ask them to put you on the same flat rate contract as Chiropractors or other healthcare providers. This is the only way to avoid breaking the fee-splitting rule.

Dual Fee Scheduling is defined as having two (or more) fee schedules based on the type of patient and/or payment. While there is no specific law in Oregon restricting the fee schedules of Licensed Massage Therapists, this is classified as improper billing procedure. There is a Physician Fee Schedule that is on the Oregon.gov website that gives a maximum allowable amount that can be billed for the service of Massage and Manual Therapy. As a provider, you assign a price per 15-minute unit. That amount should be consistent regardless of how your patient pays you. It is well understood that Insurance Billing takes more time and energy, so there are allowances for you to offer a Time of Service (TOS) discount to anyone who pays cash for services rendered. However, offering a discount higher than 30% can still be classified as a dual fee schedule. If your billing amount is very high or at the maximum, you risk getting push-back from the insurance company. This also could be perceived as unethical. Ask yourself, are you providing the same service to each of your patients regardless of how you are getting paid? Having a consistent fee schedule designed for your practice will save you time and any trouble in the long run.

The new rule was created in 2015 by a Task Force put together by the Oregon Board of Massage Therapists. It was proposed as a rule in July 2016 to be effective on January 2017. The rule is: 334-040-0010 (23-24)

(23) Misrepresentation or fraud in any aspect of the profession, including but not limited to charging for unnecessary services, charging for services not provided, failing to provide services that are paid in full, or failure to comply with Oregon insurance billing laws and rules. (24) Splitting

fees or giving or receiving a commission in the referral of patients for services.

This rule in effect will mean that it is likely that complaints can be made to the Board if you are using a dual fee schedule or if you are fee splitting.

What can you do in your practice? Start with a Fee Schedule. Use the Physician Fee Schedule or the Medicare Fee Schedule to determine the best 15-minute unit price for your practice. Next, create a Time of Service discount. It is suggested that you choose a TOS that is only 20-30% less than your rate. Then, create a form with your practice information on it and a breakdown of your fee schedule. This form can be signed by your patients if you choose. Lastly, if you are currently in a fee splitting contract you should reach out to the advertising agency and let them know about the rule change. Ask them about a flat-rate contract. There are rules and laws for other healthcare practitioners involving fee splitting, so most of the advertising agencies have the option available. If you follow these guidelines, you will be doing everything you can to follow these new rules.

\*Wage violations or other employer/employee issues should be reported to the Bureau of Labor and Industries, or BOLI. For information or complaints about wage or employment issues, please visit the BOLI web site at [www.oregon.gov/BOLI](http://www.oregon.gov/BOLI).

**-Mandy Beeman, LMT**



# HAKOMI

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The Board determined that the practice of Hakomi is considered Psychotherapy and is not within the Scope of Practice of Massage. The scope of practice of a Licensed Massage Therapist does not include counseling a client and the Oregon Revised Statute 687.030(h) clearly exempts licensed counselors and practitioners of psychotherapy that utilize touch techniques from licensure.

The Board is allowing the Mindfulness Experiential Therapy (M.E.T.A.) course for body-workers offered at the Hakomi Institute in Portland, OR as acceptable for Continuing Education.



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## A Reflection From David Fredrickson

As I near the completion of eight years of service to the State of Oregon as a member of the OBMT I would like to offer my thanks and gratitude to those who have assisted and guided me along the way.

I am grateful to former OBMT members Kathy Calise and Craig McMillin who helped to guide the Board through some challenging times. Their dedication provided me with a great example to follow.

I thank my trade association and massage school colleagues and friends, with whom I have sought to build consistent open dialogue, for their work to support the professional practice of licensed massage therapy in Oregon and in the nation.

I salute the OBMT staff as one of the finest in the country. I have been proud to represent you as Board Chair in state

and national forums. Your work enables the OBMT to be widely recognized as a leader in the fair application of state statutes and rules, and quality regulation of the massage profession.

Specifically I'd like to recognize: Kate Coffey, OBMT Executive Director, for her exemplary leadership in the management of our agency; Compliance Manager Robert Ruark, and Assistant Attorney General Lori Lindley for their excellence in both guiding the members of the OBMT in the consideration of cases, and for representing the Board in Administrative Law proceedings; Policy Analyst Ekaette Udosenata for her unfailing professionalism, and unflappable nature in providing information and analysis to Board members and the to the public on our behalf; Mitch Breedlove and Rowena Clinite for being the voices of the OBMT to the public and point persons for licensing information and credentialing

review; and, my fellow Board members who dedicate themselves to preparation and fair deliberation, providing guidance to Board staff, and protection of public health and safety.

Finally, I owe a debt of gratitude to my friend, the late Senator Dr. Alan Bates, for his support and recognition of licensed massage therapy as an integral and deserving member of the Oregon healthcare community.

**- David Fredrickson, LMT**



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## New Translations in Chinese

The Board now offers the following Documents in Chinese. Click on the follow links to access this documents. [FAQs](#), [How to Obtain a License](#), and a [Handout on Reflexology](#). You can also find these documents on the Board's website @ [oregon.gov/obmt](http://oregon.gov/obmt). The board can also provide translation through a third party company if requested.

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