



Oregon

Kate Brown, Governor

Board of Massage Therapists

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OBMT Board Meeting Minutes

March 14, 2022

GoToMeeting/Telephonic

Attendance

Board Members:

Christa Rodriguez, LMT, Chair
John Combe, LMT, Vice-Chair
Meng Chen-Pinkham, Public Member
Beckett Rowan, LMT
Maria Odle, Public Member
Carol Gray, LMT

Staff:

Bob Ruark, Executive Director
Ekaette Udosenata-Harruna, Policy Analyst
Jeff Van Laanen, Compliance & Licensing Manager
Victoria McCullough, Compliance Specialist
Mitch Breedlove, Initial License Coordinator
Rowena Clinite, Licensing Coordinator
Lori Lindley, AAG

Public:

Ali Oliver	Anne Nutwell	Ashley Hernandez	Camron Dunn
Christy Espino	Daniel Steinmetz	Debbie Anne	Elizabeth Preston
Erika Baern	Erika Baern	Gretchen Grooms	Hannah Reed
Jesse B LMT	Julie Madsen	Laura Embleton- ABMP	Lauren Swick
Lareina E. Hembrook	Hunter Irons	Jamin Rak, LMT	Jennifer Olsen
Lisa Oxman	Mark Retzlaff - AMTA Oregon	Myrna Ritten	Nancy Zevely
Todd Pennington	Lauren	Xinyuan Smith	

1. Call to order at 9:06 am

Rodriguez welcomed everyone to the meeting. Then, **Rodriguez** called the meeting to order at 9:06 am.

2. Introductions:

A roll call was performed. Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez were present. Lindley, AAG for the Board. Ruark, Executive Director. Van Laanen, Compliance and Licensing Manager, Udosenata-Harruna, Policy Analyst. Mitch Breedlove, Initial Licensing Coordinator, and McCullough, Compliance Specialist.

3. Approve Agenda:

Combe moved to approve the Agenda. **Second the motion. Odle: In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**

4. Approve Minutes for January 31, 2022:

Chen-Pinkham moved to approve January 31, 2022, minutes as written. **Second the motion: Gray. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**

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5. Board Business:

a. Financial:

Director's Report

Ruark updated the Board on the Board's finances, stating that he had a little bit of a short Director's Report because this was his first day back after being off for a week and a half with some illness.

Budget

Funding – Eight months into the 21-23 Biennium, the Board is underfunded by about \$120,000. Most of the funding shortfalls are from the following funding types: Late Fees: Application Fees, and Initial Licensure Fees. This funding shortfall was, for the most part, expected. Because the Board has not assessed late fees since the beginning of the pandemic and due to previous school closures and the uncertainty that the pandemic has brought, initial licenses and applications decreased substantially. **Ruark** noted that he had seen a month-to-month increase in applicants and initial licenses issued, and if the curve continues upward, the Board should meet its funding goals for the biennium. Today, the Board has approximately four months of working capital, with a bank balance of approximately \$350,000.

Expenditures – The Board's expenditures remain consistent so far this biennium. The Board has underspent its projected expenses by about \$40,000.

Financial Audit Update:

Ruark stated that currently, the Board is going through a financial audit. The audit is required every other year, and it is due to the Secretary of State on April 1. This is the first year that the Board is using this audit company. Nonetheless, other Semi-Independent Boards and Agencies use this company. The company is a little later than the Board staff would like them to be in getting those reports back, as **Ruark** had hoped to have that audit report for this Board meeting for the Board to review. But that's not going to happen. **Ruark** stated that the audit company had assured him that the report would be ready in time for the due date. **Ruark** noted that he would present the audit report to the Board at either the next board meeting or if the Board has a board meeting in the interim. **Ruark** adds that there is also another report due to the Governor's Office. It's also a report that is due every other year. It's called a Semi-Independent Board and Agencies (SIBA) report. This report is due to the Legislative Session, the Speaker, the Governor, and the Secretary of State. The SIBA report is due at the same time as the audit report and depends on information on the audit report. **Ruark** stated that the report is almost done as he must wait for the audit report to finish the SIBA report. **Ruark** said that the SIBA report would also be presented to the Board at the next board meeting.

Ruark asked if anyone had any questions about any of the information presented thus far? Since there was no question, he moved on to the next phase.

COVID 19 Update:

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As of March 12, the indoor mask mandate has been lifted, except for those individuals who work in a healthcare setting. The OHA has defined healthcare settings in OAR 333-019-1011. Ruark stated that the Governor's office and the Oregon Health Authority had downgraded COVID-19 from a pandemic to an endemic. The question that the Board has been getting a lot of over the last couple of weeks has been, how does that apply to a massage therapist? Ruark stated that he intended to clarify to everybody before this Board meeting, but that wasn't possible due to issues beyond his control. Ruark noted that he would explain it here at this Board meeting.

After this Board meeting, Ruark will send something out this week to all LMT providing clarification. Although the Oregon Health Authority (OHA) defined a healthcare setting for this pandemic, OHA used the definition when they lifted the indoor mask mandate. That definition is in the Board's proposed rules. It is also on the Oregon Health Authority website, and it is substantial. It comes back to the fact that not all LMTs work in a healthcare setting. The Board has explained this several times, and Ruark wants everybody to understand that this is not the Board's definition of a healthcare setting. This definition of a healthcare setting was from the Oregon Health Authority committee. So not all LMTs are in a healthcare setting. Ruark stated that the definition is lengthy; however, he will write it up and put it out for everybody again. Ruark added that the answer is: If your practice falls under the definition of a healthcare setting, you must continue to mask until the indoor masked mandate is lifted for healthcare settings.

Board Members Recruitment:

Ruark stated that regarding the public health member recruitment, he had a meeting with the Governor's Healthcare Policy Advisor scheduled for last week. However, due to illness, that meeting was moved to tomorrow. **Ruark** explained that when he has that meeting, he gets provided with the applications from the Governor's Office of everyone who applied for the position. **Ruark** stated that he didn't have those applications at this board meeting. **Ruark** noted that the Board might consider having a meeting between now and the next Board meeting to review those applications since those applications cannot be reviewed today.

Rodriguez thanked Ruark for the presentation and said the Board is glad he feels better.

b. Compliance

Van Laanen updated the Board, stating that the compliance and licensure report is succinct and short this meeting due to the short turnaround between meetings and staff vacation schedules for the last month and a half. As a result, the compliance agenda is shorter than most months. Complaints remain steady, while some have been a bit unusual. OBMT Investigator Edgar has resigned her contract with the Board to focus on her full-time employment and family. Compliance will be on the lookout for another Investigator to bring on in the future. Investigator Edgar was one of the Board's female investigators who was invaluable for investigations that included gender-specific allegations. The Board still has one female investigator on contract who is doing a great job, but Edgar's service will be missed. The Board's current investigator staffing can handle the current caseload.

Licensure Report:

Van Laanen stated that as Director Ruark Pointed out, the Board continues to see slow, but steady upward trends in the renewals to normal levels, as well as new applications for initial licenses are increasing some as well, back up to what would be more Normal pre-COVID situation. The Board staff is busy as usual with new applications and renewals. Staff members report nothing of note to report to the Board between recent meetings. The Board staff continues to field questions related to the recent changes in the COVID status and mandates and some questions about the proposed CE rule(s) changes. The Board staff is sending all the correspondence to the Board to be considered at the rules hearing as appropriate, and that has monopolized the phone calls and emails at the office, for the most part, for the last several weeks. But everybody is doing a fine job, and the staff is keeping up with everything. **Van Laanen** then asked if there were any questions regarding compliance, he would be happy to answer them.

Odle thanked Investigator Edgar also for serving the Board.

Rodriguez thanked Investigator Edgar for her service on behalf of the Board.

Van Laanen stated that he would add that to his official written report, but the Board is staffed well enough with investigators to handle the caseload. **Van Laanen** said the Board is looking for qualified new investigators, stating that this will benefit the Board.

Rodriguez noted that the next topic is Legislative Update and asked if any bills may currently impact the Board?

c. Legislative Update

Ruark stated that a couple of bills would impact the Board and licensees. In particular, there is Senate Bill 1512 regarding background checks for licensees, and it's receiving a lot of amendments right now. The bill on the backside will be much different from it now because there's a lot of input into that bill. However, **Ruark** stated that it is the only one that has a broad impact on licensees right now. **Ruark** said a few other bills impact the Board peripherally but not to the extent that SB 1512 does.

Lindley stated that she heard that Senate Bill 1512 did not go through. **Lindley** noted that the bill required people to ask in advance of application whether they would be qualified as an applicant. That bill died.

Ruark noted that Board staff would certainly keep the Board up to date on any bill that might impact the Board and Board staff feel might go through.

Rodriguez thanked Ruark and stated that any comments regarding rules are in review and will be going into hearing tomorrow at 9:00 am, And that does include the CE, the stipend, etc. Then, **Rodriguez** asked Harruna to touch on the proposed rules for a few minutes to let people know. Finally, **Rodriguez** stated that the rules hearing notices were sent to her email on February 10, 2022, if people would like to refer to their emails.

Udosenata Harruna noted that the other one that Rodriguez is wondering about is probably the proposed rules on communicable diseases. **Udosenata Harruna** stated that tomorrow, March 15, 2022, at 9:00 am, the Board is holding a rules hearing, and she expects a lot of people. **Udosenata Harruna** noted that the proposed rules

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that the Board will be going over tomorrow for the rule hearing process would be as follow (see appendix 1 for complete rule text and changes):

1. AMEND: OAR 334-001-0055

RULE TITLE: Board Member Stipend

RULE SUMMARY: Amend the maximum amount of Board Member Stipend and add verbiage to clarify the performance of official duties. HB 2992 (2021) requires board members, based on their gross income in the previous tax year, to be compensated for their board service at a rate equal to the daily per diem as state legislators. The Board may adopt a rule setting this as the per diem rate for all members (regardless of income). The Oregon legislative per diem is currently \$155 per day. The Board's rule now compensates all members a maximum of \$100 for each day. The proposed rule increases the preparation day compensation from \$100 to \$155, or the current Oregon legislative per diem.

2. AMEND: OAR 334-001-0060

RULE TITLE: Definitions

RULE SUMMARY: The proposed amendments will locate and replace all agency rules with the terminology contact and noncontact hours with supervised and unsupervised hours. The proposed regulations will reestablish definitions for the new terminology supervised and unsupervised hours in Division 001.

3. AMEND: 334-010-0009

RULE TITLE: Credentialing Review

RULE SUMMARY: Amend verbiage to reflect the terminology contact/noncontact to supervised and unsupervised changes.

4. AMEND: OAR 334-010-0015

RULE TITLE: Licensure

RULE SUMMARY: Amend rules to reflect the terminology contact/noncontact to supervised and unsupervised changes.

5. AMEND: OAR 334-010-0017

RULE TITLE: Lapsed License

RULE SUMMARY: Amend rules language to reflect changes to the terminology contact/noncontact to supervised/unsupervised.

6. AMEND: OAR 334-010-0028

RULE TITLE: Breast Massage

RULE SUMMARY: Amend rules language to reflect changes to the terminology contact/noncontact to supervised/unsupervised.

7. AMEND: OAR 334-010-0029

RULE TITLE: Internal Cavity

RULE SUMMARY: Amend rules language to reflect changes to the terminology contact/noncontact to supervised/unsupervised.

8. AMEND: OAR 334-010-0050

RULE TITLE: Continuing Education

RULE SUMMARY: Amend to clarify continuing education rule language and requirement to be in concert with current times. The proposed rules reduce the minimum requirement for in-person continuing education from 15 to 8 hours, end the use of excess/rollover continuing education hours for subsequent renewal, and clarify continuing education requirements for first-time license renewal.

9. AMEND: OAR 334-020-0005

RULE TITLE: Facilities and Sanitation

RULE SUMMARY: Amend to modify rule language for clarity. The modification is mainly to clean up rules to ensure that when the Board references rules in disciplinary actions, the Board references the correct rules and laws.

10. AMEND: OAR 334-020-0055

RULE TITLE: Communicable Disease Control

RULE SUMMARY: Amend the rule to add verbiage defining healthcare providers per OHA. Incorporate OHA rules requiring licensees to comply with OHA rules on masking and vaccination to control communicable diseases into OAR 334-020-0055.

11. AMEND: OAR 334-040-0010

RULE TITLE: Discipline

RULE SUMMARY: Amend the rule to add language for clarity and allow the Board to require information during an interview to make disciplinary decisions.

Rodriguez asked if there were any questions for members of the Board. Since there was none, **Rodriguez** thanked Udosenata Harruna for her presentation. **Rodriguez** said she is sure many folks will be there tomorrow.

d. Federation of Massage Therapy Board (FSMTB) Update

Rodriguez stated at the last meeting that this was the Board's opportunity if the Board wanted to bring anything to the Annual Meeting for FSMTB to vote on possibly. **Rodriguez** noted that last year, the Board voted on something that helps new Board members onboarding, and it did go through. **Rodriguez** stated that she does not know if there are any interests or anyone who would like to move something from Oregon. If there's any burning desire, she recognizes that it may be difficult because the Board hasn't been able to be physically present at a meeting for a couple of years. Although, Combe was there virtually last year, and **Rodriguez** was virtually available for voting the year prior. **Rodriguez** is opening the floor to the Board if anyone has anything they would like to present. **Rodriguez** went on to say that she recommends that since the Board has some ideas which the Board would like to send to the annual meeting, which will be in October, in North Carolina. However, the Board does not need to decide who the Board sends over as a Delegate until July or maybe even August. Her recommendation is to hold off on voting for that until probably at the very earliest the May meeting, if not the July meeting. Because, as we know, so much can change between now and then. But as it stands, for now, they have an in-person meeting in October. So, does anyone have any questions or thoughts?

Rowan wondered how many people the Board would normally send to the FSMTB meeting.

Rodriguez responded, stating that generally, the Board likes to send people who haven't been to the meeting before and a delegate who can help speak on behalf of the Board, typically the chair or the vice-chair.

Rodriguez stated that Van Laanen is yet to attend and, of course, three new board members haven't gone yet. **Rodriguez** noted that the Board had the budget to send people last year, and it was just a matter of who had availability. This year, it will also depend on funding. However, FSMTB covers the expense for the Delegate, and the Board covers the cost for any other person attending the meeting. **Rodriguez** stated that her thought is that there would probably be at least three people attending the meeting.

Combe approved Van Laanen to be the first to go since he was raising his hand.

Rodriguez apologized to Van Laanen for not seeing his hands up.

Van Laanen responded, stating that he would re-affirm Rodriguez's recollection because he was scheduled to attend the FSMTB annual meeting twice, and the meetings got canceled. Odle was scheduled once, and Beckett was scheduled once. **Van Laanen** stated that he would refresh everybody's memory, and since the Board didn't spend any money in the last two years, he hopes that the Board saved some money and might be able to make up for that if the FSMTB does have an in-person meeting this year. **Van Laanen** stated that it might be nice if they had the official dates in October so they could put them on the calendar to avoid other conflicts?

Rodriguez shared the information for the 2022 Annual Meeting for FSMTB is October 18 through 20th in Charlotte, North Carolina. **Rodriguez** asked everyone to take note of the date and stated that of the three board members that haven't had the pleasure of going, is there already a conflict to that?

Gray confirmed that she had a conflict.

Rodriguez expressed that it would have been nice to go as a small pack. However, the Board also has to be careful with the number of Board members, so the Board is not in the quorum. **Rodriguez** noted that if the Board wants, it can discuss it further at the May meeting and decide.

Combe stated that he would just champion the meeting even though the chapter of his time on the Board was ending. **Combe** would support that the Board put people in line for that meeting as soon as they come onto the Board. **Combe** also stated that he thinks the cycle of the same people going historically doesn't serve the Board well. So he would champion just getting people in a cycle to where any new person is already in line to attend the meeting.

Rodriguez agreed with Combe and stated that the Board was trying to do that, except the pandemic occurred. Otherwise, she knows a few people have already had a good experience. So, she agrees with that.

e. Upcoming Board Member Vacancy:

Ruark stated that for a potential Board member, the timing was terrible for him because he was sick. **Ruark** noted that he had meetings scheduled to get everything moving for the board members right before this board

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meeting. Unfortunately, **Ruark** could not do that and could not reschedule right before the Board meeting because the Governor's healthcare policy advisor was unavailable until tomorrow. So, he could not get all those packets and input from that end to bring to the Board. **Ruark** stated that what he would like to do is push that off. **Ruark** thinks that it would be important to have the Board review these applicants, and it might be something that the Board does at a board meeting before the next Board meeting. He stated that there should be an emergency board meeting before the next Board meeting specifically to review these Board member applicants and have all the information. But he does not have the information to provide to the Board, and he apologizes for that.

Rodriguez thanked **Ruark** for the presentation and stated that it was completely understandable. However, **Rodriguez** noted that just to let everyone know, the discussion in question is regarding vacancies for LMT and Healthcare member non-LMT positions.

Gray asked how much public notice the Board has to give when scheduling an emergency or previously unscheduled Board meeting? She'd like to know the answer to that question and thinks they need to get this thing on the calendar because some Board members are super busy.

Ruark responded, stating that he is trying to get it before this legislative session ends so the Board can get somebody confirmed.

Udosenata Harruna responded, stating that at least 24-hour notice is needed for an emergency meeting. However, an emergency is an emergency. Therefore, if the Board needs to meet at a moment's notice, if the Board can provide a reasonable justification for the emergency meeting, the Board can hold an emergency meeting at a moment's notice. **Udosenata Harruna** asked **Lindley** for her thoughts.

Gray thinks the Board must give seven days' notice for the meeting.

Lindley stated that 24-hour notice is required for a special meeting.

Rodriguez stated that she believes it is 24-hours because that is what the Board was doing at the beginning of the pandemic. The Board gave at least 24, if not 72-hour notice before the emergency Board meetings.

Gray stated that it might be a hard sell to say this was an emergency, so **Gray** thinks it may fall under the seven-day category. **Gray** added that the legislature adjourned on March 4.

In response to **Gray**, **Ruark** said that they have special meetings where they do these types of board appointments. **Ruark** thinks the meeting for Board appointments occurs around March, ending or beginning of April, so they have off-session meetings where they do that legislative business.

Lindley said the Board could have a special meeting with 24-hour notice to the general public, the news media, and interested parties. **Lindley** added that the Board could have an emergency meeting, which is faster with less than 24-hour notice, but the Board has to explain why that meeting couldn't be delayed by providing the 24-hour notice.

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Ruark stated that this would be a special meeting, not an emergency.

Rodriguez responded by stating that she knows that the Board will try to coordinate it as best as possible. **Rodriguez** noted that the special or emergency meetings aren't long all-day meetings. But probably something that would potentially take roughly an hour or maybe less. It just depends on how many packets the Board must work through.

Odle said that what she is gathering is why the Board is not scheduling now is because Ruark is juggling all these balls along with the legislative session, and the board has no idea how long this will take since there is no information.

Rodriguez responded, stating that was correct. **Rodriguez** said that she knows that Ruark has the meeting with the Governor's office tomorrow. Once he gets a little more information down the pike, Ruark will reach out to all Board members to coordinate a meeting. **Rodriguez** asked if there were any other questions or comments?

Rodriguez stated that she wants to take the opportunity to give tribute and commend John Combe for his tenure, not only on the Board but on committees. She asked Combe how many years he had been involved with public service at OBMT.

Combe said he started in 2001, and it's also been awesome. **Combe** stated that it's a chapter change for him and the Board, but the Board is just as strong now, which is exciting. **Combe** said that Lisa Garofalo, who served on the education committee, had been a mentor in disguise even though she didn't know that she's served on that committee forever. **Combe** thanked Lisa Garofalo. His new role is serving the massage community at a national level in the research department.

Rodriguez congratulated him and said he would certainly be missed for many reasons. First, she appreciates him for being such great support, a great voice for the Board, the public, the licensees, and his thoughtfulness and candor. Second, **Rodriguez** knows that the next group is fortunate to have him. Third, **Rodriguez** knows he will do good things, especially in research. She said she also heard the plaque did arrive safely.

Combe appreciated the Board's kind gesture, and he invited anyone in Eastern Oregon who wants to drop by for coffee is welcome now.

Rodriguez hoped to see him on the other side, on occasion on the public side of things, just to see how you're doing and thank him once again for his service

f. Board Member New Business:

In-Person Board Meeting

Rodriguez stated that we had to push out in-person Board meetings out to possibly January or March 2023, and she is curious now that the emergency mandate has been lifted if this is something that the Board wants to look at as far as trying to meet sooner in person. And she would like to open up the floor for discussion for the other

board members.

Gray said she is not ready to commit to in-person meetings yet.

Combe echoes Gray and stated that as bouncing as this topic has been, Combe thinks, for the safety of the Board consistencies and planning on a schedule. Last month the Board was discussing a state of Emergency with no end date, and now, magically, the Board is in a different vantage. He would champion leaving it through the calendar year.

Odle agrees with Gray and Combe.

As she recalls, **Rodriguez** said the Board should leave it as is, although it was open-ended, so the Board has not necessarily picked a date. The Board does not have to choose a date today. **Rodriguez's** recommendation is not to have an in-person Board meeting at the next meeting because that's a two-day meeting, and that would just be way too much. Instead, **Rodriguez** recommends the Board talk about this further as time goes on, and the Board will hopefully have a better understanding of what's going on in the world.

6. Public Comment and Correspondence:

Correspondence (see appendix 2):

Rodriguez asked if everyone saw that a couple more letters had been added to the Board meeting packet? If so, if Board members haven't had a chance to read, she will give people a few moments to read those.

Combe asked if it was just the three he saw or if they were new to the three?

Rodriguez said she is just seeing the three on her end.

Udosenata Harruna responded by stating that there are only three. Everything else had to do with rules inquiries. So, they are all going to the rules hearing tomorrow.

Rodriguez asked if anyone wished to speak on any of the correspondents?

Odle said she just wanted to thank everybody that sent in their information. It's always good to have public input on this stuff and so thank you for sending their correspondences in ahead of time.

Public Comment:

Rodriguez moved forward to public comment. So members of the public, just remember that this is a recorded meeting, and therefore the Board needs you to, before you speak, state your name state your license number if you are licensed in the state of Oregon. Or if you're representing a group. And I do ask that you keep your comments to a maximum of two minutes. So she went ahead and opened the floor.

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Ritten stated that she wanted a point of clarification regarding the something mentioned about communicable diseases and vaccines and masking. **Ritten** noted that they are not sure what is meant by that. For example, suppose we're talking about the vaccine. Are LMTs required to be vaccinated, and if so, at what point is a person considered completely vaccinated, and **Ritten** apologizes if she completely misunderstood.

Udosenata Harruna, in response to the rule in question, is the Communicable Disease Rule. Therefore, the Board is incorporating an already existing Oregon Health Authority (OHA) rule. **Udosenata Harruna** stated that the proposed rule aims to bring that to the forefront, where LMT can easily access that information and know what is expected of them. Also, the OHA rule requiring masking and vaccination is for LMTs working in healthcare settings. That proposed rule is so that the Board can have disciplinary authority for LMT who may violate that rule. Currently, that authority lies with the OHA. Therefore, OHA is trying to push that to the respective agencies to take responsibility for disciplining their licensees. So if you have a question for clarifying that particular rule, **Udosenata Harruna** would say reach out to OHA to seek clarification.

Ritten stated that it was never clear about the full vaccine status because Johnson & Johnson used to be one and done, and with all the different boosters and now with Pfizer and Moderna, she is just a little confused about that. And again, this is something that she would have to take up with the OHA as the OBMT has not taken authority over that. Correct?

Udosenata Harruna said that is correct. This is currently a proposed rule. All the Board is attempting to incorporate it into the rule so that the Board can bring about disciplinary action. Currently, OHA is the one doing the disciplinary. So, they want to push that to the respective agencies to take responsibility for their licensees.

Ritten said It hadn't happened yet with the OBMT.

Udosenata Harruna responded, stating that was correct. **Udosenata Harruna** said right now; these are just proposed rules. But please keep in mind: this rule is already in effect. It's already been implemented by the Oregon Health Authority.

Ritten thanked Udosenata Harruna

Oxman read her correspondence into the record: "Oxman noted that they were an educator for Lane Community College for ten years and sat on the OBMT from 1999 to 2007, chairing the Board for 2 to 3 years. Oxman is testifying to proposed rule changes to be effective July 1, 2022, for OAR 344-020-0055, concerning facilities and sanitation. Oxman has great respect and admiration for the Board, having served herself for eight years. Oxman is opposed to incorporating OHA Rules, requiring licensees to comply with OHA Rules on masking and vaccination to control communicable diseases into OBMT's Oregon Administrative Rules (OAR) 344-020-0055. Their primary concern is that Oregon Health Authority (OHA) 's decisions regarding mandates have been controversial and divisive. In particular, the force mandates to vaccinate have led to the loss of job security and created a two-tiered society based on personal health choices. Vaccine manufacturers and the physicians implementing vaccines are immune from litigation against them. Still, employers and government agencies are not: the courts refused to allow President Biden the authority to mandate vaccines in businesses with 100 or more employees. Suppose the Board moves to mandate vaccines in whatever capacity the Oregon

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Health Authority prescribes. In that case, the Board can be held liable for any injuries or deaths to our largest group of stakeholders, the LMTs, in the State of Oregon. The vaccine adverse effect reporting system has documented unprecedented injury and death associated with COVID vaccinations. Oxman's secondary concern is that the new language in the rule proposal further defines massage therapists as health care providers. Do the vast majority of Oregon massage therapists see themselves as healthcare providers? Most LMTs are not providing service in conventional health care settings described in this new rule. Rather, they provide relaxation, massage, independently, or in a spa environment. Some provide on-site services or relate to the sports industry. Our umbrella of how we practice massage is wide with various modalities. Oxman sincerely appreciates the work and effort this Board has put into the current proposed rule changes. In the case of the proposed changes to OAR 334-020-0055. Oxman finds that it may cause unnecessary litigation against our Board and weaken rather than strengthen our mission, our vision, and accountability. Oxman suggests the Board let the Oregon Health Authority enforce its own mandates. Thank you so very much. I appreciate all that you do. God bless.” **Oxman** thanked the Board considerably for allowing her to speak today. She noted that she works with elders, and she cannot attend the proposal meeting that the Board has scheduled for tomorrow. So, that's why they are weighing in today. And she thanked Van Laanen for their phone call. Because she would have missed the meeting, she is very grateful to have said her piece today, and she hopes that the Board considers it.

Rodriguez thanked Oxman for her comment and feedback and for being here, and absolutely, the Board will consider it. Do any other members of the public wish to speak to the Board?

Grooms thanked Oxman for her comment. Unfortunately, **Grooms** cannot attend the meeting tomorrow because of client scheduling, but they just appreciate Oxman’s comment. They wanted to clarify, so if the Board incorporates the OHA rules, does that still separate a healthcare environment versus a spa environment?

Udosenata Harruna responded by saying yes.

Grooms also wanted to validate Oxman’s concerns. **Grooms** works on many clients every week who have been injured by this vaccine and thinks her concerns are valid as to liability, Board liability since the vaccine manufacturers aren't liable, so that's all. Finally, **Grooms** thanked the Board for listening.

Rodriguez thanked Grooms for their comment and for being here.

Rak introduced himself and said he just wanted to make sure if it was ok to discuss topics that were not specifically discussed previously during the Board member aspect of the meeting?

Rodriguez responded by stating yes unless it's regarding an ongoing investigation.

Rak said it is more of a generic investigation that he is discussing. **Rak** knows the Board has been talking a lot about massage and the new legislation being health care providers, and obviously, some are resistant to the types of that designation. His concern has been through the pandemic, **Rak** knows, especially in the Portland Metro area. There has been a huge uptick in illegal massage therapy places starting up. He knows a lot goes on behind the scenes that the public is not privy to. He understands why, but it sure does seem to go through all the disciplinary records and see all these people getting fined if they're still in business years later. **Rak** is curious to

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know if there are any plans for a task force or a committee or more active board involvement and getting these places stamped out. **Rak** personally knows of many different ways that could come to fruition. It seems, to him, that merely fining these businesses one thousand dollars a pop is not going anywhere, and it's not stopping them. Are there other mechanisms the Board could use to squash this and help the massage profession thrive? Because he sees so many of their colleagues who went out of business because of the pandemic, and he sees them getting replaced by all these illegitimate massages spas popping up all around town. And so he is just curious and would like to have a bit of a dialog about that. It doesn't affect him personally. But it does affect, he thinks, public safety, in general. He recently had a client who came in, and he said someone had attempted to do something to him at one of these spas. When **Rak** explained that the spa was not a licensed facility, he was shocked at how they could even have a business. So **Rak** stated that is the big issue at hand and what brought him here today, along with obviously wanting to hear what's going on with the proposed rules.

Rodriguez thanked Rak and added that the Board certainly valued and appreciated their concern. Then, **Rodriguez** asked the Board compliance manager, Van Lannan, if he wanted to speak on that?

Van Laanen thanked Rak for his input and stated that he would be happy to discuss it more in-depth with Rak personally if Rak would like to send him an email or call. **Van Laanen** said that generically, the board has very limited civil capabilities regarding these illegal facilities for the rest of the public present. However, the Board is working diligently to do everything to pressure them. And right now, the Board has been very receptive to partnering with local law enforcement when local law enforcement, has the time resources intend to shut these places down. And the Board has been very successful in many places in the state and less successful in others. But unfortunately, the Board does not have the power currently to shut these places down, and the Board is using every tool that it has to apply the leverage that the Board can have the best outcomes possible. **Van Laanen** thinks that without some very substantial changes in the state's process for how regulatory Boards approach these issues, there is not much more the Board can do. Furthermore, the civil penalty process that the Board has available without cooperation from local law enforcement, and prosecutors, for the criminal side of these operations is not enough. The Board and the compliance department are doing the best they possibly can. The Board understands and agrees to some extent that there's an uptick in some areas, but there are downticks in many other regions in the state, as well. So, overall, with his two years as Compliance Manager and about three years prior as a contracted investigator, he doesn't believe it's inflating across the Board in the last five years. It is holding pretty steady. He would be happy to discuss any ideas that Rak or anybody in public has. Also, if Rak has any suggestions, he would be glad to hear them and champion them.

Rak would love to have that conversation. He said he has emailed twice and has tried to leave voicemails, unsuccessful.

Van Laanen stated that he would send Rak an email from his email so that they could connect with him.

Rak thanked Van Laanen and said he knows, obviously it's a hot topic, and he knows the Board is not turning a blind eye to it. But, he was just seeing so many, especially in his area in the Portland metro area, where these people have been fined for years, and he thinks a thousand dollars it's just considered more of a strange business tax for their business. And they just consider it part of doing business in Portland, so instead of paying money for licensing and education, they just pay a fine every once in a while. **Rak** is also curious. He knows in the past organizations, and he's not sure how much the Board had a choice in getting at least where they're unable to advertise actively. He knows they were removed from yellow pages in the past. But now, obviously,

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we have Google, Yelped, and other online forums, and is there anything that can be done to stop that? Because the Board stopped that, then that would hamstring their business and be able to bring in unsuspecting new victims.

Rodriguez stated that the Board is one piece of the puzzle. With the Board's jurisdiction, what the Board can do comes from a fine. The Board can go in and find for advertising. Certain communities have stopped postings, businesses like Craigslist, etc. It's a little bit of a whack-a-mole situation. But just know that for as long as she has been on the Board, which is almost seven years now, she has seen a vast difference, especially down in her area in southern Oregon, in how involved law enforcement is now. Human trafficking is a huge issue, and many of these places are on the radar. She said she understands the frustration, but it takes time to get investigations together. There is also much other law enforcement involvement on the federal level and the state, county, municipality, etc. So, just know that the compliance department is working very hard with law enforcement to track these people down and try to close them down and close them down for good. Just so people are aware, many of these businesses are not just here in Oregon. There are a lot of connections to other states, and, again, if it's an issue of trafficking, people are moving all over the country. So, it's a complicated process, but she also just wants to say that the compliance department is working very hard doing their due diligence. From the public level, she understands the frustration of seeing the finding repeatedly. It seems like nothing has happened, but **Rodriguez** can assure the public that things are happening from what we are also seeing. It's just unfortunate that's not able to happen. i.e., to Eradicate them all. She also thanked Van Laanen for being willing to have the conversation with folks. And if anyone ever has questions about this kind of stuff, please reach out. That's what we're here for, is to reach out. And if you ever see anything or hear anything that's like, that's not good. Again, tell it to the Board. There are ways to go ahead and send in the complaint online.

Van Laanen said he had sent an email already to Rak, so he looks forward to talking to Rak more in the future.

Rak thanked Van Laanen.

Rodriguez thanked Rak for his comments. She will open the floor up again for anyone who wishes to speak.

Zevely said she hasn't been on the full meaning, so apologies if someone had said this. She had a recommendation or an idea about the CEUs. She knows the Board is having a meeting tomorrow. Her idea was instead of not allowing any rollover CEUs, what about allowing partial, so that people don't go for four years without any new continuing education.

Rodriguez responded by saying her comments would be taken into consideration. Rodriguez stated that the Board is having the Rules hearing tomorrow. **Rodriguez** asked if Zevely could not make the rules hearing tomorrow, as that is where all of this will be discussed in much more detail.

Zevely said she most likely will be there tomorrow. And if the meeting is for an hour?

Rodriguez said she believed it's allotted for as long as it allows. Typically, in the past. We haven't had so much interest in people wanting to be present for the rules hearing. So usually an hour. But she would also expect this to go perhaps a bit longer.

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Zevely said she might not be able to be there for all of it, but she wanted to plant a seed, especially if she did not attend. So yeah, it was just something along the lines of maybe only allowing so many rollovers and somehow ensuring that X amount had to be completed within the two years before renewal.

Rodriguez thanked Zevely and said her comment had been noted. Then, **Rodriguez** asked if any public members also wished to speak to the Board?

Oxman asked for permission to speak since she didn't hear most of what was said

Rodriguez responded to Oxman and said she has already spoken once and does have other people who wish to speak.

Oxman said she didn't know how many people were there from a public position since we're not sitting in a room together, so she's happy to wait until the end.

Dunn said his issue was with a healthcare setting versus a spa type of setting? Will that be addressed tomorrow whether or not massage therapists will continue the masked mandate?

Rodriguez responded by stating that she is not sure if the Board wants to address it directly. It's coming down from the Oregon Health Authority's definition of a healthcare setting. It's something that's already in law, so the Board is taking that definition and recommending it as part of the Board's rule. **Rodriguez** asked Van Laanen if he wanted to speak on that.

Van Laanen stated that he just wanted to point out that it seems like there's a little part of this that might be missing with the public communications. The definition and everything with the health authority already exists. The rule already exists. That's not going to change. The question is whether or not the Board wants to incorporate it into its rules so that the Board can police ourselves rather than having the Health Authority police our license holders. So, the Board is considering adopting its own language to incorporate the currently existing state rule and law to conduct its investigations for potential violations rather than have the health authority do it for the Board. That is the crux of the Board's consideration for adopting that rule. So he doesn't know if they understand that even if the Board doesn't adopt the rules, it will still be there. It's really about whether the Board will manage it themselves and apply their own experiences. LMTs experience with this profession or allow another outside agency to police LMT. He thinks that's the crux and desire for why the board considers bringing the rule into our books rather than allowing OHA to do it for the Board. He just wanted to add that point.

Rodriguez appreciated Van Laanen for his enlightenment.

Dunn said he is trying to figure out where he stands as he does not do spa work. His work is mostly with MBAs and pain management, and he is an independent practitioner. **Dunn** stated that there is a chiropractor across the hall, so there's going to be some, probably the mask mandates because he is in the same building, but he is just trying to figure out where he stands with the mask mandate, so is there a place he can go to find out where his work stand.

Van Laanen responded to Dunn, stating that he believed Director Ruark was going to put out some correspondence to all LMTs to re-iterate the definition of the healthcare facility so that Dunn can determine

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whether or not his practice fits into that. **Van Laanen** stated that just with the limited amount of information Dunn gave him, he would say Dunn probably doesn't. Still, **Van Laanen** thinks Dunn needs to follow the OHA's definition, and the Board will be happy to help Dunn interpret that if he needs further assistance after it gets posted. **Van Laanen** added that even if LMT's practice doesn't fall into the health care facility category, the LMT still can have their own policies in their facilities for masking for themselves and their clients and their staff. So even if they're not required by law, they can certainly have their own corporate business masking policies within their own business if they are not required by law. So for those that want to continue to wear masks or have their clients wear masks.

Steinmetz said they know where to find the link to join the meetings here. But they do not know where to find the link for the rules hearing tomorrow?

Udosenata Harruna responded, stating that he could find the link to attend the rules hearing on the Board's website under proposed rulemaking in the Board category. You'll see the rule notice right there, and you'll see the link to join the meeting at the bottom. So, if you're using a phone or tablet, there's a plus sign, so you need to expand that to access the rest of the meeting information.

Steinmetz noted that he didn't scroll down far enough. He found a link and thanked Udosenata Harruna.

Rodriguez allowed one more public member to speak to the Board, and then the Board will need to move on. **Rodriguez** said everyone that wished to speak had spoken and gave Oxman one minute to talk.

Oxman appreciated the conversation about the issues with unlicensed massage therapists or unlicensed people claiming to be massage therapists. **Oxman** stated that one of the Board's proposed rules suggests that the Board would like to email LMTs licenses and have the LMTs print them. It occurs to her that there are going to be a lot of ways that could happen, which may reduce the professionalism of the licenses that the Board currently sends out and make it easier for people to create fake licenses. Thank you, that's all I wanted to say, and again, she appreciated the Board's work.

Rodriguez thanked everyone that has spoken and was present for the meeting. At this time, she wanted to check with Board and staff. She asked if Board members wished to have a break before moving into the executive session? And she said she showed a time of 10:31 am. So we give 10 minutes break. As a reminder, everyone will come back here before going into Executive Session. All right, so then, let's come back here at 10:42. Have a good bright day.

Chen-Pinkham moved to take a short 10-minute break. **Second the motion: Combe. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriquez. Opposed: None. Motion carries.**

The Board took a short break at 10:31:00 AM

The Board returned to the public session at 10:42:00 AM

Rodriguez welcomed everyone back. We're still waiting for a couple more people to circle back around. She did show a time of 10:43 am. And, just a moment here, the Board will be moving into Executive Session, just to give members of the public an idea of how long it may take—just looking at the items here. **McCullough** can

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confirm this, too. Rodriguez thinks this will probably be around, maybe the 90-minute mark. She knows there will be some discussion with some of these, and it should be as the Board certainly wants to go over everything.

Rodriguez called the Board into Executive Session at 10:50 am. The estimate for the executive session is probably around 1.5 hours. Rodriguez hopes to be back in public session around 12:30 thereabouts.

EXECUTIVE SESSION

The Board may enter into Executive Session to discuss certain matters on the Agenda pursuant to ORS 192.660: To discuss certain matters on the Agenda pursuant to ORS 192.660 (2) (f) to consider information or records that are exempt by law from public inspection, ORS 192.501 (4); and/or To review, discuss, and consider written legal advice provided by the Department of Justice, pursuant to ORS 192.660 (2) (f) or to consult with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed pursuant to ORS 192.660 (2) (h); and/or (3) To consider and discuss in executive session information obtained as part of an investigation of a licensee, applicant or other person alleged to be practicing in violation of law, pursuant to ORS 192.660 (2) (k) (L) and ORS 676.175. Prior to imposing a sanction authorized under ORS 687.081 or any rule of the Board, the Board shall consider, but is not limited to considering, the following factors: (a) The persons past history in observing the provisions of ORS 687.011 to 687.250, 687.895 and 687.991 and the rules of the Board; (b) the effect of the violation on public safety and welfare; (c) the degree to which the action subject to sanction violates professional ethics and standards of practice; (d) the economic and financial condition of the person subject to sanction; and (e) any mitigating factors that the Board may choose to consider; and/or to consider the employment of a public officer, employee, staff member or individual agent pursuant to ORS 192.660 (2) (a); and/or to consider the dismissal or discipline of a public officer, employee or staff member or hear complaints or charges brought against such a person if they do not request an open hearing pursuant to ORS 192.660(2)(b). Prior to entering into Executive Session, the nature of and authority for holding the Executive Session will be announced.

7. Executive Session

a. Compliance (192.660(2)(L))

The Board returned to Public Session at 12:33 pm.

Rodriguez welcomed everyone back. The Board has completed its Executive Session. Now, the Board is back in public session. It is currently 12:33 pm. **Rodriguez** stated that what has been requested before continuing with the Agenda is to take a 20-minute break. **Rodriguez** asked if there was a motion.

Combe moved to take a Short Break. **Second the motion: Chen-Pinkham. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**

The Board returned from a short break at 12:33 pm.

8. Action on Executive Session Items

9. Public Compliance Cases

- i. Case 3147 – Chen-Pinkham moved** to Issue a Notice of Proposed Action for violation of ORS 687.021 (1)(b), Seven (7) violations of ORS 687.021 (1)(c), violation of ORS 687.021 (1)(d), Two (2) violations of OAR 334- 040-0010 (12). For a total of \$11,000. And forward the case to appropriate law enforcement pursuant to ORS 676.177. **Second the motion: Odle. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**

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- ii. Case 3316 – Chen-Pinkham moved to Issue a Notice of Proposed Action for violations of ORS 687.021 (1)(a). For a total of \$1,000. Second the motion: Odle. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- iii. Case 3210 – Combe moved to Issue a Notice of Proposed Action for violation of ORS 687.021 (1) (b), Four (4) violations of ORS 687.021 (1)(c), violation of OAR 334- 040-0010 (12). For a total civil penalty of \$6,000. Forward the case to appropriate law enforcement pursuant to ORS 676.177. Second the motion: Chen-Pinkham. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- iv. Case 3222 – Chen-Pinkham moved to Issue an Order to Withdraw the Notice of Proposed Action and Dismiss the case. Second the motion: Gray. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- v. Case 3321 – Chen-Pinkham moved to Issue a Notice of Proposed Action for Three (3) violations of ORS 687.021 (1) (b), Nine (9) violations of ORS 687.021 (1)(c), Two (2) violations of OAR 334- 040-0010 (12). For a total civil penalty of \$14,000. Forward the case to appropriate law enforcement pursuant to ORS 676.177. Second the motion: Gray. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- vi. Case 3244 – Odle moved to Dismiss. Second the motion: Rowan. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- vii. Case 3258 – Rowan moved to Dismiss. Second the motion: Combe. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- viii. Case 3272 – Rowan moved to Issue a Notice of Proposed Action for Two (2) violations of ORS 687.021 (1)(a). For a total civil penalty of \$2,000. Forward the case to appropriate law enforcement pursuant to ORS 676.177. Second the motion: Combe. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- ix. Case 3317 - Rowan moved to Issue a Notice of Proposed Action for violation of ORS 687.081 (1)(b), violation of OAR 334- 040-0010 (12). For a total civil penalty of \$2,000. Second the motion: Combe. In favor: Chen-Pinkham, Combe, Odle, Rowan, and Rodriguez. Opposed: Gray. Motion carries.**
- x. Case 3332 – Rowan moved to Issue a Notice of Proposed Action for violation of OAR 334-040-0001 (1). For a total civil penalty of \$1,000. Second the motion: Combe. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xi. Case 3279 – Gray moved to Issue a Notice of Proposed Action for violation of ORS 687.021 (1)(a), Two (2) violations of ORS 687.021 (1)(c), violation of ORS 687.021 (1)(d). For a total civil penalty of \$4,000. Forward the case to appropriate law enforcement pursuant to ORS 676.177. Second the motion: Odle. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**

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- xii. **Case 3285 – Rowan moved** to Issue a Notice of Proposed Action for violation of ORS 687.021 (1)(a), Two (2) violations of ORS 687.021 (1)(b), Seven (7) violations of ORS 687.021 (1)(c). For a total civil penalty of \$10,000. Forward the case to appropriate law enforcement pursuant to ORS 676.177. **Second the motion: Gray. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xiii. **Case 3286 – Gray moved** to Issue a Notice of Proposed Action for violation of ORS 687.021 (1)(b), Nine (9) violations of ORS 687.021 (1)(c), violation of ORS 687.021 (1)(d), violation of OAR 334-040-0010 (12). For a total civil penalty of \$12,000. Forward the case to appropriate law enforcement pursuant to ORS 676.177. **Second the motion: Odle. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xiv. **Case 3318 – Gray moved** to Issue a Notice of Proposed Action for violation of ORS 687.021 (1)(a). For a total civil penalty of \$1,000. **Second the motion: Odle. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xv. **Case 3308 – Odle moved** to Issue a Letter of Concern. **Second the motion: Gray. In favor: Chen-Pinkham, Combe, Gray, Odle, and Rowan. Opposed: None. Abstain: Rodriguez. Motion carries.**
- xvi. **Case 3084 – Combe moved** to Accept Stipulated Agreement and Final Order negotiated by staff. **Second the motion: Rowan. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xvii. **Case 3293 – Chen-Pinkham moved** to Accept Stipulated Agreement and Final Order negotiated by staff. **Second the motion: Rowan. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xviii. **Case 3319 – Gray moved** to Issue License. **Second the motion: Combe. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xix. **Case 3331 – Combe moved** to Issue License. **Second the motion: Chen-Pinkham. In favor: Chen-Pinkham, Combe, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**

10. Public Comment:

Rodriguez opened the floor, once again, for public comment. **Rodriguez** expressed that if a public member wishes to speak, they should state their name license number if an Oregon licensee. **Rodriguez** asked that public members keep their comments to a maximum of two minutes.

No public comment

11. Meeting Work item Review:

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Rodriguez stated that next on the Agenda is the meeting work item review. **Rodriguez** noted that there are a few meetings work items that came up during the meeting today:

1. Waiting on more information regarding upcoming Board vacancies.
2. A possibility of a special meeting between now and the May Board meeting to review applicants.
3. Chinese newspaper article regarding what is going on at the Board.
4. The upcoming rules hearing: **Rodriguez** noted that there would be a rule hearing coming up tomorrow at 9:00 am.

12. Announcement:

The next Board meeting will be remotely on May 13 & 14, 2022, at 9 am via GoToMeeting (call-in information will be sent as part of the May 2022 Board meeting notice).

This meeting would be John Combe's last Board meeting. The Board appreciates all that Combe provided to this Board, the licensees, and the public. That is just beyond commendable.

Ruark thanked Combe and stated that his professionalism, insight, and the direction provided have been invaluable. Ruark hopes to stay in touch.

Combe stated that he would be around, and he had an equally great experience. Combe said that the only other announcement he would like to say is he will be leaving the Education Liaison role and, as everyone knows, the vice-chair role. Combe sees great potential in all of our Board members but thinks Rowan has come to the Board and could fill the Vice-Chair. Therefore, Combe proposes nominating Beckett Rowan as the Board Vice-Chair to fill his vacancy.

Odle thanked John Combe for his service and stated that he made her feel welcomed the first time and the only time she saw Board members in person.

13. Board Members Required Training – Information Security

Board completed the required 2022 training on Information Security.

14. Adjourn Meeting:

Chen-Pinkham moved to adjourn the meeting. **Second the motion: Combe.** In favor: **Chen-Pinkham, Combe, Gray, Rowan, and Rodriguez.** Opposed: **None.** Motion carries.

The meeting was adjourned at 1:26:00 pm.

APPENDIX 1,
OBMT PROPOSED RULES

OFFICE OF THE SECRETARY OF STATE
SHEMIA FAGAN
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 334
BOARD OF MASSAGE THERAPISTS

FILED
02/08/2022 11:44 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Establish rules to align the board with statutory requirements and clarify existing Board rules.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 03/15/2022 10:00 AM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT: Ekaette Udosenata Harruna
503-559-6619
ekaette.udosenata@obmt.oregon.gov

610 Hawthorne Ave SE, STE 220
Salem, OR 97301

Filed By:
Ekaette Udosenata-Harruna
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 03/15/2022
TIME: 9:00 AM - 10:00 AM
OFFICER: Ekaette Udosenata Harruna
ADDRESS: Ekaette Udosenata
610 Hawthorne Ave SE, STE 220
97301, OR 97301
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NEED FOR THE RULE(S)

With the passage of HB 2992, the rules on Board Member Stipend are amended to align with the Oregon legislative current per diem of \$155 per day and add verbiage to clarify the performance of official duties. Definitions: Proposed amendments will locate and replace all agency rules with the terminology contact and noncontact hours with supervised and unsupervised hours. Amend verbiage to reflect the terminology contact/noncontact to supervised and unsupervised changes Credentialing Review; Licensure; Lapsed License; Breast Massage; and Internal Cavity. Continuing Education: Amend to clarify continuing education rule language and requirement to be in concert with current times by making continuing education requirements more accessible via remote learning. The proposed rules reduce the minimum requirement for in-person continuing education from 15 to 8 hours, end the use of excess/rollover continuing education hours for subsequent renewal, and clarify continuing education requirements for first-time license renewal. Communicable Disease Control: Given the pandemic, the proposed rule was amended to add verbiage defining healthcare providers per OHA. Incorporate OHA rules requiring licensees to comply with OHA rules on masking and vaccination to control communicable diseases into OAR 334-020-0055. Facilities and Sanitation: Amend to modify rule language for clarity. Discipline: Amend rule to add language for clarity and allow the Board to require information during an interview as needed to make disciplinary decisions.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

OAR 334, 2018 Board meeting minutes. These documents are available at www.oregon.gov/obmt.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The adoption of these proposed rule changes will have no effect on racial equity in this state.

OAR 334-001-0055

OAR 334-001-0060

OAR 334-010-0009

OAR 334-010-0015

OAR 334-010-0017

OAR 334-010-0028

OAR 334-010-0029

OAR 334-010-0050

OAR 334-020-0055

OAR 334-020-0005

OAR 334-040-0010

FISCAL AND ECONOMIC IMPACT:

There is no fiscal impact on licensees or small businesses since the proposed language reduces the number of continuing education hours that must be in-person. However, with the passage of HB 2992, the proposed rule increases the amount Board members receive to prepare for a Board meeting from \$100 to \$155. The increases will cost the Board about \$2,695 additional expense per year (Seven (7) Board meetings with seven (7) members).

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

OAR 334-001-0055 Board Member Stipend, No projected fiscal impact

OAR 334-001-0060 Definitions, No projected fiscal impact

OAR 334-010-0009 Credentialing Review, No projected fiscal impact
OAR 334-010-0015 Licensure, No projected fiscal impact
OAR 334-010-0017 Lapsed License, No projected fiscal impact
OAR 334-010-0028 Breast Massage, No projected fiscal impact
OAR 334-010-0029 Internal Cavity, No projected fiscal impact
OAR 334-010-0050 Continuing Education, No projected fiscal impact
OAR 334-020-0055 Communicable Disease Control, No projected fiscal impact
OAR 334-020-0005 Facilities and Sanitation, No projected fiscal impact
OAR 334-040-0010 Discipline, No projected fiscal impact

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

OAR 334-001-0055 Board Member Stipend, No projected fiscal impact
OAR 334-001-0060 Definitions, No projected fiscal impact
OAR 334-010-0009 Credentialing Review, No projected fiscal impact
OAR 334-010-0015 Licensure, No projected fiscal impact
OAR 334-010-0017 Lapsed License, No projected fiscal impact
OAR 334-010-0028 Breast Massage, No projected fiscal impact
OAR 334-010-0029 Internal Cavity, No projected fiscal impact
OAR 334-010-0050 Continuing Education, No projected fiscal impact
OAR 334-020-0055 Communicable Disease Control, No projected fiscal impact
OAR 334-020-0005 Facilities and Sanitation, No projected fiscal impact
OAR 334-040-0010 Discipline, No projected fiscal impact

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

OAR 334-001-0055 Board Member Stipend, No projected fiscal impact
OAR 334-001-0060 Definitions, No projected fiscal impact
OAR 334-010-0009 Credentialing Review, No projected fiscal impact
OAR 334-010-0015 Licensure, No projected fiscal impact
OAR 334-010-0017 Lapsed License, No projected fiscal impact
OAR 334-010-0028 Breast Massage, No projected fiscal impact
OAR 334-010-0029 Internal Cavity, No projected fiscal impact
OAR 334-010-0050 Continuing Education, No projected fiscal impact
OAR 334-020-0055 Communicable Disease Control, No projected fiscal impact
OAR 334-020-0005 Facilities and Sanitation, No projected fiscal impact
OAR 334-040-0010 Discipline, No projected fiscal impact

c. Equipment, supplies, labor and increased administration required for compliance:

OAR 334-001-0055 Board Member Stipend, No projected fiscal impact
OAR 334-001-0060 Definitions, No projected fiscal impact
OAR 334-010-0009 Credentialing Review, No projected fiscal impact
OAR 334-010-0015 Licensure, No projected fiscal impact
OAR 334-010-0017 Lapsed License, No projected fiscal impact
OAR 334-010-0028 Breast Massage, No projected fiscal impact
OAR 334-010-0029 Internal Cavity, No projected fiscal impact
OAR 334-010-0050 Continuing Education, No projected fiscal impact

OAR 334-020-0055 Communicable Disease Control, No projected fiscal impact

OAR 334-020-0005 Facilities and Sanitation, No projected fiscal impact

OAR 334-040-0010 Discipline, No projected fiscal impact

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Each licensee may be considered a small business. Licensees and stakeholders were notified through meeting minutes and invitations to attend the meetings.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

334-001-0055, 334-001-0060, 334-010-0009, 334-010-0015, 334-010-0017, 334-010-0028, 334-010-0029, 334-010-0050, 334-020-0005, 334-020-0055, 334-040-0010

AMEND: 334-001-0055

RULE SUMMARY: Amend maximum amount of Board Member Stipend and add verbiage to clarify the performance of official duties. HB 2992 (2021) requires board members, based on their gross income in the previous tax year, to be compensated for their board service at a rate equal to the daily per diem as state legislators. The Board may adopt a rule setting this as the per diem rate for all members (regardless of income). The Oregon legislative per diem is currently \$155 per day. The board's rule currently compensates all members a maximum of \$100 for each day. The proposed rule increases the preparation day compensation from \$100 to \$155 or the current Oregon legislative per diem.

CHANGES TO RULE:

334-001-0055

Board Member Stipend ¶

(1) The Oregon Board of Massage Therapists hereby adopts a board member stipend of \$100 up to \$155 ¶ or the current Oregon legislative per diem stipend each day or portion thereof during which the board member is actually engaged in the performance of official duties ¶

(2) Performance of official duties is defined as: ¶

(a) Scheduled meetings: ¶

(A) Board meetings, including special Board meetings via conference call, ¶

(B) Board committee meetings. ¶

(b) Appointments with Board staff for Board business: ¶

(c) Legislative testimony; OR ¶

(d) Conferences and activities that the Board has requested that the member attend as its ¶ representative. ¶

(3) Each Board member shall receive a two day stipend of \$155 per day or the current ¶ Oregon legislative per diem for each regularly scheduled Board meeting preparation. This compensation is not paid if the Board member does not attend the meeting for which they have prepared.

Statutory/Other Authority: ORS 182.460, ORS 687.121, ORS 678.140, HB 2992, 2021 Legislative Session, ORS 292.495

Statutes/Other Implemented: ORS ~~182.460, 687.121~~ 687.121, ORS 182.460, ORS 678.140

RULE SUMMARY: The proposed amendments will locate and replace all agency rules with the terminology contact and noncontact hours with supervised and unsupervised hours. The proposed regulations will reestablish definitions for the new terminology supervised and unsupervised hours in Division 001.

CHANGES TO RULE:

334-001-0060

Definitions ¶¶

- (1) "Advantageous" means in the Board's best interests, as assessed according to the judgment of the Board. ¶¶
- (2) "Award" means either the act or occurrence of the Board's identification of the Person with whom the Board will enter into a Contract. ¶¶
- (3) "Barter" means partial or complete trade or exchange of massage or bodywork services for any other type of goods or service other than money. ¶¶
- (4) "Board" means the State Board of Massage Therapists or its authorized representatives as provided by ORS 687.115. ¶¶
- (5) "Bodywork" means the use on the human body, for the purpose of, but not limited to, maintaining good health and establishing and maintaining good physical condition of: ¶¶
 - (a) Pressure, friction, stroking, tapping, kneading, vibration or stretching by manual or mechanical means or gymnastics; ¶¶
 - (b) Appliances, tools or devices; ¶¶
 - (c) Topical preparations; or ¶¶
 - (d) Hot and cold applications. ¶¶
- (6) "Boundary" means the limits in a professional relationship which create safety based on the needs of the client. ¶¶
- (7) "Boundary violation" means an alteration or shift in the limits of a professional relationship so that what is allowed in the relationship becomes ambiguous and/or may not be based on the needs of the client. ¶¶
- (8) "Caring" means acting in a manner in which things, events, people or relationships matter. ¶¶
- (9) "Certified Class or program" means a class or program that is approved by the Board and is offered: ¶¶
 - (a) By a person or institution licensed as a career school under ORS 345.010 to 345.450; or ¶¶
 - (b) By a community college or university approved by the Higher Education Coordinating Commission; ¶¶
 - (c) By an accredited College or University; or ¶¶
 - (d) In another state and licensed or approved by the appropriate agency in that state. ¶¶
- (10) "Client" means any individual, group of individuals, or organization to whom an LMT provides massage ¶¶
- (11) "Client vulnerability" means factors which diminish a client's ability to be self-determining. ¶¶
- (12) "Compensation" means something given or received as payment including but not limited to bartering, tips, monies, donations, or services. ¶¶
- (13) "Conflict of interest" means any action or decision or recommendation by an LMT at the detriment of a client. ¶¶
- ~~(14) "Contact hours" means actual hours in class under the instruction of and in the physical presence of an instructor; or an interactive distance learning course. ¶¶~~
- ~~(154)~~ "Contract" means an agreement for purchase, lease, rental or other acquisition or sale or other disposal by the Board of Goods or Services. ¶¶
- ~~(165)~~ "Contract Price" means, as the context requires; ¶¶
 - (a) The maximum payments that the Board will make under a Contract if the Contractor fully performs under the Contract; ¶¶
 - (b) The maximum not-to-exceed amount of payments specified in the Contract; or ¶¶
 - (c) The unit prices for Goods and Services set forth in the Contract. ¶¶
- ~~(176)~~ "Contractor" means the Person with whom the Board enters into a Contract. ¶¶
- ~~(187)~~ "Critical Reflection" means a process whereby knowledge and action are connected to each other through the application of careful, conscious, deliberate reflection on: ¶¶
 - (a) Personal practice (perceptions, assumptions, motivations, values, behaviors). ¶¶
 - (b) Assessment and understanding of a situation. ¶¶
 - (c) Likely or actual consequences or impact of one's actions. ¶¶
- ~~(198)~~ "Dual Relationship" means any relationship of a personal or business nature with a client that is in addition to or concurrent with a professional relationship in which the LMT is providing or has provided massage or bodywork services to that same client. ¶¶

(2019) "Ethics" means a system of valued societal beliefs and behaviors that may be used to guide and evaluate conduct to ensure the protection of an individual's person and rights. ¶

(210) "Emergency" means circumstances that: ¶

(a) Could not have been reasonably foreseen; ¶

(b) Require prompt execution of a Contract to remedy the condition; and ¶

(c) The circumstances create a substantial risk of loss or revenue, damage or interruption of services or substantial threat to property, public health, welfare or safety when the circumstances could not have been reasonably foreseen; ¶

(221) Equivalent Credit Hours: are those credit hours as determined by the respective educational institution or its certified classes or programs ¶

(232) Good moral character means ¶

(a) An applicant has not ever before the date of application, been convicted of a felony or an offense involving moral ¶
turpitude or prostitution, solicitation, required to be a registered sex offender and other similar offense which has a ¶
reasonable relationship to the practice of massage; ¶

(b) Has not ever before the date of application, been convicted of an act involving dishonest, fraud misrepresentation, ¶
gross negligence or incompetence or is not currently incarcerated or on community supervision after a period of ¶
incarceration in a local, state or federal penal institution for such an act; ¶

(c) Has not ever before the date of application, had a professional license revoked or suspended by this state, a political subdivision of this state, or a regulatory board in another jurisdiction in the United States, or voluntarily surrendered a professional license in lieu of disciplinary action; ¶

(d) Has not ever before the date of the application, had a massage therapy license revoked or suspended by any state or national massage certifying agency. ¶

(243) "Goods and Services" or "Goods or Services" means supplies, equipment, materials and services including Personal Services and any personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto, that the Board is authorized by law to procure. ¶

(254) "Indorsement" means the process of evaluating and recognizing the credentials of a person licensed in Oregon in another health care specialty that includes in its scope of practice, acts defined as massage: or ¶

(265) "Informed consent" means a process wherein clients have knowledge of what will occur, that participation is voluntary, and that the client is competent to give consent. ¶

(276) "Licensee" means any person holding a license, permit, or certificate issued by this Board; an LMT ¶

(287) "LMT" means a Licensed Massage Therapist. ¶

(298) "Massage" or "massage therapy" is defined in ORS 687.011. ¶

~~(30) "Non-Contact hours" means education hours independently acquired outside the presence of an instructor. ¶~~

~~(31)~~ (29) "Offer" means a response to a request for price quote or response to a Solicitation Document. ¶

(320) "Offeror" means a Person who submits an Offer. ¶

(331) Professional fitness means ¶

(a) An applicant has not ever before the date of application, been convicted of a felony or an offense involving moral ¶
turpitude or prostitution, solicitation, required to be a registered sex offender and other similar offense which has a ¶
reasonable relationship to the practice of massage; ¶

(b) Has not ever before the date of application, been convicted of an act involving dishonest, fraud misrepresentation, ¶
gross negligence or incompetence or is not currently incarcerated or on community supervision after a period of ¶
incarceration in a local, state or federal penal institution for such an act; ¶

(c) Has not ever before the date of application, had a professional license revoked or suspended by this state, a ¶
political subdivision of this state, or a regulatory board in another jurisdiction in the United States, or voluntarily ¶
surrendered a professional license in lieu of disciplinary action; ¶

(d) Has not ever before the date of the application, had a massage therapy license revoked or suspended by any state ¶
or national massage certifying agency. ¶

(342) "Personal power" means recognizing and taking personal responsibility for the inherent power differential between the LMT and the client and recognizing and taking personal responsibility for the impact of professional decisions, actions and behavior on the client. ¶

(353) "Power differential" means the basic inequality inherent in the professional relationship between an LMT and a client in terms of who has the advantage in the relationship. The LMT is presumed to have the advantage by

virtue of the authority which emerges from the role of professional and the vulnerability which is automatically part of the role of client. ¶

(364) "Practical Work Experience" means experience gained while employed or self-employed providing legal massage/bodywork to the public within the last five (5) years, in another state or jurisdiction. ¶

(375) "Practice of massage" is defined in ORS 687.011. ¶

(386) "Professional authority" means the power inherent in the professional role and which is derived from a combination of an LMT's specialized or expert knowledge, societal expectations, stated and unstated client expectations, and an LMT's personal power. ¶

(397) "Professional relationship" means the relationship established when a LMT contracts with a client, verbally or in writing, to provide any service associated with the practice of massage or bodywork. ¶

(4038) "Professional role" means assuming the demands and responsibilities of professional authority by taking charge of the conditions which create and maintain client safety and trust in the professional-client relationship. ¶

(4139) "Scope" means the range and attributes of the Goods or Services described in the applicable Solicitation Document, or if no Solicitation Document, in the Contract. ¶

(420) "Solicitation Document" means an Invitation to Bid, Request for Proposal or other document issued to invite Offers from prospective Contractors. ¶

(431) "Specification" means any description of the physical or functional characteristics or of the nature of Goods or Services, including any requirement for inspecting, testing or preparing Goods or Services for delivery and the quantities of materials to be furnished under a Contract. Specifications generally will state the result to be obtained. ¶

(442) "Split Fee" means giving or receiving a commission or payment, either monetary or otherwise, for the referral of patients. ¶

(453) "Successful Completion" means the written receipt of credit from classes taken at a community college or university or the written receipt of a certificate from a program or private career school. ¶

(44) "Supervised hours" means actual hours in class under the instruction of and in the physical presence of an instructor; or an interactive distance learning course.¶

(45) "Unsupervised hours" means education hours independently acquired outside the ¶ presence of an instructor. ¶

(46) "Written" or "Writing" means conventional paper documents, whether handwritten, typewritten or printed, in contrast to spoken words. It also includes electronic transmissions or facsimile documents when required by applicable law or permitted by a Solicitation Document or Contract.

Statutory/Other Authority: ORS 687.011, ORS 687.121

Statutes/Other Implemented: ORS 687.011

AMEND: 334-010-0009

RULE SUMMARY: Amend verbiage to reflect the terminology contact/noncontact to supervised and unsupervised changes.

CHANGES TO RULE:

334-010-0009

Credentialing Review ¶¶

(1) The Board may grant a license to applicants who are or have legally practiced massage and/or bodywork for a minimum of the previous 3 years after successful completion of the jurisprudence examinations, the written examination and upon a credentialing review.¶¶

(a) Credentialing review must be submitted on the approved Board of Massage forms (Credentialing Review), submitted with official transcripts and/or certificates as proof of completion.¶¶

(b)(A) Of the 200 Anatomy & Physiology, Pathology and Kinesiology hours required, 120 hours minimum must be from certified class instruction. Of the 200 hours required, up to 80 ~~contacts~~supervised hours of prior continuing education in subject areas may apply. Official Transcripts or Certificates of Completion must be documented on the approved Board of Massage form: Credentialing Review.¶¶

(B) Of the 300 Massage Theory and Practical Application, Clinical Practice, Business Development, Communication and Ethics, and Sanitation hours required, 140 hours minimum must be from certified class instruction. Of the 300 hours required up to 120 ~~contacts~~supervised hours of prior continuing education in subject areas may apply. Of the 300 hours required, up to 40 hours of practical work experience may apply.¶¶

(C) The additional 125 hours can be in Anatomy & Physiology, Pathology, Kinesiology, Massage or Bodywork Theory and Practical Application, Clinical Practice, Business Development, Communication, Ethics, Sanitation or Hydrotherapy. Of the 125 hours required, up to 75 ~~contacts~~supervised hours of prior continuing education in subject areas may apply.¶¶

(2) Credentialing Review applications must be accompanied by:¶¶

(a) Current Credentialing Review fee and¶¶

(b) Any additional documentation required by the Board.

Statutory/Other Authority: ORS 687

Statutes/Other Implemented: ORS 687.031

AMEND: 334-010-0015

RULE SUMMARY: Amend rules to reflect changes to the terminology contact/noncontact to supervised and unsupervised.

CHANGES TO RULE:

334-010-0015

Licensure ¶

- (1) An applicant for licensure or renewal of a license must complete, in its entirety, an original application furnished by the Board. ¶
- (2) An applicant for an initial license and all lapsed and inactive licensees applying for reactivation must submit a completed electronic fingerprint for a criminal background check. ¶
- (3) All applications for licensure must be accompanied by proof of current cardiopulmonary resuscitation (CPR) certification from the American Heart Association's Basic Life Support (BLS) Healthcare Providers Course or its equivalent. The CPR certification card must include an expiration date. ¶
- (4) An applicant must provide written explanation and copies of all related documentation as requested by the board if: ¶
 - (a) Applicant has ever been investigated, disciplined or denied licensure by this agency or any other governmental agency in any state or jurisdiction of the United States or foreign country; ¶
 - (b) Applicant has surrendered a massage license or other professional license in any state or jurisdiction of the United States or foreign country; ¶
 - (c) Applicant has been arrested, charged or convicted of any type of violation of the law, including both misdemeanors or felonies, in the state of Oregon or other jurisdictions of the United States or foreign country; ¶
 - (d) Applicant has abused or been treated for the abuse of alcohol, controlled or mind altering substances; or ¶
 - (e) Applicant has suffered from and/or received treatment for a mental, physical or emotional condition, which could impede applicant's ability to safely practice massage. ¶
- (5) Applicants for initial licensure must have passed a written examination approved by the board unless the applicant is applying through Health Indorsement in which the applicant must have passed a practical examination. ¶
- (6) Licenses issued expire on the last day of the licensees' birth month of even numbered years for licensees with even numbered birth years and odd numbered years for licensees with odd numbered birth years. Thereafter, licenses may be renewed every other year upon completion of the application requirements. The application must be returned to the Board postmarked no later than the 1st day of the month of expiration. A delinquent fee must be paid if the completed application and all requirements are not received by the due date. ¶
- (7) Applicants for the renewal of an active license must sign a statement verifying completion of a minimum of 25 hours of continuing education. The Board may require proof of the continuing education hours. ¶
- (8) Applications for renewal of an active license must be accompanied by: ¶
 - (a) Current licensing fee; ¶
 - (b) Any applicable late fees; ¶
 - (c) Proof of current cardiopulmonary resuscitation (CPR) certification from the American Heart Association's Basic Life Support (BLS) Healthcare Providers Course or its equivalent. The CPR certification card must include an expiration date; ¶¶
- (d) Proof of 25 hours of continuing education as required in OAR 334-010-0050(42); ¶
- (e) All licensees must take and submit proof of completing the 1 hour online Pain management module, provided by the Oregon Pain Management Commission (OPMC), at least once, by a licensee's next required continuing education reporting; and ¶
- (f) Any additional documentation required by the Board. ¶
- (9) All applicants for initial, renewal, or reinstated license must sign a statement verifying that they have read, understand, and must comply with all current Oregon Revised Statutes (ORS 687), Oregon Administrative Rules (OAR 334), and policy statements of the Board. ¶
- (10) Licenses issued by the Board must not be transferable. ¶
- (11) A person licensed by the Board may move to an inactive status by completing the form provided by the Board. Upon payment of the appropriate fee, the applicant will be issued an inactive license. During the period of inactive status, the licensee may not practice massage for compensation in the State of Oregon. ¶
- (12) An application to reactivate an inactive license must be accompanied by: ¶
 - (a) Current licensing fee; ¶
 - (b) Verification of current cardiopulmonary resuscitation (CPR) certification from the American Heart

Association's Basic Life Support (BLS) Healthcare Providers Course or its equivalent. The CPR certification card must include an expiration date. ¶

¶
(c) Verification of 25 hours of continuing education for each biennium the license was inactive. Of the 25 hours, at least ~~15~~⁸ must be ~~contact~~^{contact}~~supervised~~ hours of continuing education training or Board approved activities. At least 4 ~~contact~~^{contact}~~supervised~~ hours must be in Professional Ethics, Boundaries and/or Communication. The remaining ~~10~~⁷ of 25 hours may be ~~contact or noncontact~~^{contact or noncontact}~~supervised or unsupervised~~ hours. At least 1 hour must be in Cultural Competency as per ORS 413.450; Cultural Competency continuing education approved by the Oregon Health Authority, will be accepted for meeting the cultural competency requirement. ¶

(d) Verification of 50 hours of continuing education for the reactivation of inactive license more than 1 biennium must be submitted to the Board. Of the 50 hours, at least ~~30~~¹⁶ must be ~~contact~~^{contact}~~supervised~~ hours of continuing education training or Board approved activities. At least 8 ~~contact~~^{contact}~~supervised~~ hours must be in Professional Ethics, Boundaries and/or Communication. The remaining ~~20~~³⁴ of 50 hours may be ~~contact or noncontact~~^{contact or noncontact}~~supervised or unsupervised~~ hours. At least 1 hour must be in Cultural Competency as per ORS 413.450; Cultural Competency continuing education approved by the Oregon Health Authority, will be accepted for meeting the cultural competency requirement; and ¶

(e) Completed electronic fingerprints for criminal background check.

Statutory/Other Authority: ORS 687.121, 687.051

Statutes/Other Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086, 687.121

AMEND: 334-010-0017

RULE SUMMARY: Amend rules language to reflect changes to the terminology contact/noncontact to supervised/unsupervised.

CHANGES TO RULE:

334-010-0017

Lapsed License ¶¶

- (1) The massage therapist license is considered lapsed if an individual fails to complete the renewal process prior to the expiration of license. ¶¶
- (2) During the lapsed status, no such person shall practice massage in the State of Oregon. ¶¶
- (3) An applicant whose license is lapsed less than 24 months may return to active status by including the following with the completed application. ¶¶
- (a) Payment of the current fee for activation of the license; ¶¶
- (b) Late fee payment; ¶¶
- (c) Proof of 25 hours of continuing education; ¶¶
- (d) Verification of 4 ~~contacts~~^{supervised} hours in Professional Ethics, Boundaries and/or Communication. ¶¶
- (e) Proof of current ~~certification in in~~ cardiopulmonary resuscitation (CPR) certification from the American Heart Association's Basic Life Support (BLS) Healthcare Provider cardiopulmonary resuscitation (CPR). The CPR certification card must be received by the CPR provider and Course or its equivalent. The CPR certification card must include the an expiration date of the CPR certification; and ¶¶
- (f) Complete and submit a completed electronic fingerprint for criminal background check. ¶¶
- (4) An applicant whose license is lapsed for more than 24 months and less than 36 months may return to active status by including the following with the completed application. ¶¶
- (a) Payment of the current fee for activation of the license; ¶¶
- (b) Payment of the licensing fee for the previous period of the lapsed license; ¶¶
- (c) Late fee payment; ¶¶
- (d) Proof of 50 hours of continuing education; ¶¶
- (e) Verification of 8 ~~contacts~~^{supervised} hours in Professional Ethics, Boundaries and/or Communication. ¶¶
- (f) Proof of current ~~certification in~~ cardiopulmonary resuscitation (CPR) certification from the American Heart Association's Basic Life Support (BLS) Healthcare Providers Course or its equivalent. The CPR certification card must include an expiration (CPR) date; and ¶¶
- (g) Complete and submit a completed electronic fingerprint for criminal background check. ¶¶
- (5) An applicant whose license is lapsed for 36 months or more, must meet all of the current initial license requirements listed in OAR 334-010-0005 (4) (a-d) to reactivate to active status; and include the following with the completed application. ¶¶
- (a) Payment of the current fee for activation of the license; ¶¶
- (b) Payment of the licensing fee applicable for ~~each biennium the license was lapsed and for the current licensing period but not to exceed, a maximum of two renewal periods, for any~~ the periods of the lapsed license; ¶¶
- (c) Late fee payment; ¶¶
- (d) Proof of 50 hours of continuing education; ¶¶
- (e) Verification of 8 ~~contacts~~^{supervised} hours in Professional Ethics, Boundaries and/or Communication. ¶¶
- (f) Proof of current ~~certification in~~ cardiopulmonary resuscitation (CPR) certification from the American Heart Association's Basic Life Support (BLS) Healthcare Providers Course or its equivalent. The CPR certification card must include an expiration (CPR) date; and ¶¶
- (g) Complete and submit a completed electronic fingerprint for criminal background check. ¶¶
- (6) An applicant whose license is lapsed for 12 months or less may renew as an inactive status; a license that is lapsed for 12 months or more is prohibited from renewing as an inactive status ¶¶
- (7) ~~All information required for restoring a lapsed license to an active status must be received within 3 years of the date of lapsing along with the requirements listed in OAR 334-010-0017(3)(a-h). ¶¶~~
- (8) Continuing Education is not required if this is your first subsequent renewal after receipt of your initial license.
- Statutory/Other Authority: ORS 183, 687.121, 182.456 - 182.472
- Statutes/Other Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086, 687.121

AMEND: 334-010-0028

RULE SUMMARY: Amend rules language to reflect changes to the terminology contact/noncontact to supervised/unsupervised.

CHANGES TO RULE:

334-010-0028

Breast Massage ¶

(1) Prior to performing breast massage to treat certain medical conditions, a LMT must:¶

(a) ~~B~~be able to present evidence of the completion of specialized ~~contact~~supervised hours as training beyond the minimum competencies, which includes but is not limited to, indications, contraindications, therapeutic treatment techniques, expected outcomes, client safety, client consent, client communication, draping techniques, sanitation, and ethical responsibilities related to breast massage;¶

(b) ~~B~~be able to articulate a therapeutic rationale which is acknowledged by the client; rationale may include a medical prescription and/or permission to consult with the clients health care provider(s).¶

(c) ~~A~~acquire prior written and verbal consent before proceeding; the written consent must include clients' option to accept or decline to provide a witness, in addition to the client and LMT.¶

(2) While performing these procedures a LMT must use appropriate draping techniques at all times. Any temporary exposure of the breast area for the purposes of treatment is acceptable only in respect to appropriate procedures for that treatment. Immediately following treatment of the area, the breast area must be covered again.¶

(3) Additional prior written consent and the actual presence of a parent or legal guardian is required when treating individuals under 18 years of age.

Statutory/Other Authority: ORS 687

Statutes/Other Implemented: ORS 687.121

AMEND: 334-010-0029

RULE SUMMARY: Amend rules language to reflect changes to the terminology contact/noncontact to supervised/unsupervised.

CHANGES TO RULE:

334-010-0029

Internal Cavity ¶¶

- (1) All Internal Cavities massage must be performed utilizing universal precautions for communicable disease control. ¶¶
- (2) Internal Cavities consist of nasal cavities, oral cavities, auricular cavities, anal cavities, and vaginal cavities. ¶¶
- (3) Internal cavity massage that must be performed using gloves: ¶¶
 - (a) Anal cavities and ¶¶
 - (b) Vaginal cavities. ¶¶
- (4) Internal cavity massage that must be performed using gloves or finger cots: ¶¶
 - (a) Nasal cavities and ¶¶
 - (b) Oral cavities. ¶¶
- (5) Prior to performing these special procedures, an LMT must: ¶¶
 - (a) ~~B~~be able to present evidence of the completion of specialized ~~contact~~supervised hours as training beyond the minimum competencies, which includes but is not limited to, indications, contraindications, therapeutic treatment techniques, expected outcomes, client safety, client consent, client communication, draping techniques, sanitation, and ethical responsibilities related to internal cavity massage; ¶¶
 - (b) ~~B~~be able to articulate a therapeutic rationale which is acknowledged by the client; rationale may include a medical prescription and/or permission to consult with the clients health care provider(s); ¶¶
- (6) Prior to performing internal cavity massage a LMT must obtain written and verbal consent before proceeding, written consent must include clients' option to accept or decline to provide a witness in addition to the client and LMT. ¶¶
- (7) While performing these procedures a LMT must use appropriate draping techniques at all times. Any temporary exposure of the genital area for the purposes of treatment is acceptable only in respect to appropriate procedures for that treatment. Immediately following treatment of the area, the genital area must be covered again. ¶¶
- (8) Under no circumstances will intravaginal or intra-anal techniques be performed on individuals under 18 years of age.

Statutory/Other Authority: ORS 687

Statutes/Other Implemented: ORS 687.121

AMEND: 334-010-0050

RULE SUMMARY: Amend to clarify continuing education rule language and requirement to be in concert with current times. The proposed rules reduce the minimum requirement for in-person continuing education from 15 to 8 hours, end the use of excess/rollover continuing education hours for subsequent renewal, and clarify continuing education requirements for first-time license renewal.

CHANGES TO RULE:

334-010-0050

Continuing Education ¶¶

~~(1) The intent of Continuing Education is to protect the public by maintaining knowledge and skill continued competency in the knowledge, skills, and abilities of massage and/or bodywork. Each licensee must complete 25 hours of continuing education each renewal period. Continued competence is the ongoing ability of a licensee to integrate and apply the knowledge, skills, judgment and personal attributes required to practice safely and ethically.¶¶~~

~~(a) Each licensee must complete 25 hours of continuing education each renewal period.¶¶~~

~~(b) Of the 25 hours, at least 4 must be in either Professional Ethics, Boundaries, or Communication. These hours must be obtained by participation in supervised learning as defined in 334-010-0050 (3)(a).¶¶~~

~~(c) Of the 25 hours, at least 1 must be in Cultural Competency.¶¶~~

~~(d) Of the 25 hours, at least once by a licensee's next required continuing education reporting, 1 must be in Pain Management as provided by the Oregon Pain Management Commission (OPMC). This module may be repeated and will apply to continuing education hours. ¶¶~~

~~(e) Each licensee must hold a current Basic Life Support (BLS) card.¶¶~~

~~¶¶~~
~~(2) The continuing education hours must be from the following topics and within the scope of the license:¶¶~~

~~(a) Massage and bodywork techniques;¶¶~~

~~(b) Use of thermal modalities, topical preparations, mechanical assistive devices/appliances;¶¶~~

~~(c) Stretching and gymnastics that lengthen and shorten over-the-counter massage tools; ¶¶~~

~~(c) Active and passive range of motion and stretching techniques;¶¶~~

~~(d) Assessment of client's soft tissues;¶¶~~

~~(d) P, posture, and movement assessment; patterns; ¶¶~~

~~(e) Massage and bodywork business practices;¶¶~~

~~(f) Massage and bodywork instructor training¶¶~~

~~(g) Anatomy and physiology of the human body;¶¶~~

~~(gh) Kinesiology of the human body;¶¶~~

~~(hi) Pathology of the human body;¶¶~~

~~(ij) Professional Ethics, Boundaries or Communication;¶¶~~

~~(jk) Cultural competency as defined in ORS 413.45;¶¶~~

~~(kl) Body mechanics;¶¶~~

~~(lm) Somatic education;¶¶~~

~~(mn) CPR/First Aid Basic Life Support (BLS); or¶¶~~

~~(no) Pain Management¶¶~~

~~(A) At renewal time, each licensee must sign and submit a Board-supplied CE form indicating they have completed 25 hour as provided by the Oregon Pain Management commission (OPMC)¶¶~~

~~(3) The methods of continuing education. The Board may require proof of CE hours.¶¶~~

~~(B) Of the 25 hours, at least 15 must be contact hours of continuing education training or Board approved activities. At least 4 contact hours must be in Professional Ethics, Boundaries and/or Communication. The remaining 10 of 25 hours may be contact or noncontact hours.¶¶~~

~~(2) The methods of obtaining continuing education contact hours shall include:¶¶~~

~~(a) Attendance of courses, seminars, and workshops sponsored or certified the topics listed in OAR 334-010-0050~~

~~(2) for continuing education shall include:¶¶~~

~~(a) Participation in instructor supervised, formal learning courses, seminars, workshops (formerly "contact hours"). A minimum of 8 hours of the required 25 hours must be from this method. ¶¶~~

~~(A) These shall be provided by:¶¶~~

~~i. a licensed or accredited massage and bodywork training program;¶¶~~

~~(b) Attendance of courses or activities for continuing education offered by ii. a provider recognized by a massage and bodywork professional organization;¶¶~~

- (c) Attendance of courses provided by iii. an accredited institution of higher education if topics are listed in OAR 334-010-0050(1)(a-m).
- (d) Attendance of courses, seminars, and workshops that meets the content requirement of OAR 334-010-0050(1)(a-m).
- (e) Individual interactive distance learning study courses with subject matter that is listed in OAR 334-010-0050(1)(e-j).
- (f) Courses in cardiopulmonary resuscitation/first aid if taken in the presence of an instructor;
- (g) Providing Board requested peer supervision or Board exam proctoring; One hour of CE contact credit will be given for each meeting/day.
- (h) Attendance at an Oreg;
- iv. a licensed healthcare provider, including an LMT or equivalent license;
- v. an American Heart Association (AHA) or OSHA compliant CPR provider.
- (B) These may be delivered in person or by virtual learning. Virtual learning method is one in which there is an instructor available to directly answer questions from course participants or interact with them through various formats such as electronic discussion Board of Massage Therapists board meeting, board committees, email, social media groups, or other meeting, board task force or serving on thhods of direct communication.
- (C) These must have a syllabus that includes committees/task forces. One hour of CE contact credit will be given for each meeting.
- (3) The methods of obtaining continuing education non-contact hours shall include:
 - (a) Publishing an article relating to massage and bodywork;
 - (b) Self-study based on media (i.e. book/video, periodical, web based, DVD);
 - (c) Courses or lectures on massage and bodywork which a licensee presents. A licensee may receive credit for presenting a course or lecture only one time per renewal period regardless of how many times the licensee presents the course or lecture.
 - (d) All licensees must take and submit proof of completing the one (1) hour online Pain management module, provided by the Oregon Pain Management Commission (OPMC), at least once, by a licensee's next required continuing education report
- (b) Participation in unsupervised, informal learning presentations, webinars, seminars, meetings. A maximum of 17 hours of the required 25 hours may be from this method.
- (A) These shall be provided by:
 - i. a licensed or accredited massage and bodywork training program;
 - ii. a provider recognized by a massage and bodywork professional organization;
 - iii. an accredited institution of higher education;
 - iv. a licensed healthcare provider, including an LMT or equivalent license;
 - v. an American Heart Association (AHA) or (Occupational Safety & Health Administration (OHSA) compliant CPR provider;
 - vi. OBMT Board or Committee meeting with a limit of 3 hours per renewal period. One hour will be given for each meeting.
- (B) These may be delivered in person or onlinge.
- (4) If the Continuing Education subject matter is not listed under OAR 334-010-0050(12) it will not be accepted for continuing education.
- (5) The Oregon Board of Massage Therapists randomly selects a minimum of 10 percent of received monthly renewals for an audit.
 - (a) If selected for an audit the licensee will have 30 days to complete the audit form and submit copies (not originals) of their Continuing Education certificates.
 - (b) If the licensee fails to provide the requested information to the Board, within the 30 days, the Board may issue discipline per ORS 687.081 and 687.250.
- (6) The continuing education requirement does not apply to a licensee's first license renewal.
- (7) Continuing education must be completed within the renewal period. Contact hours taken and submitted during renewal in excess of the total number required may only be carried over to the next subsequent renewal period.
 - (a) Contact hours taken in Professional Ethics, Boundaries and/or Communication in excess of the four hour requirement may be carried over to the next subsequent renewal period.
 - (b) First renewal CE are not required to be submitted at the time of renewal, CE taken during the first renewal period may be submitted wi, as determined by the class' completion date.
- (7) The continuing education requirement does not apply to a licensee's first license renewal. Continuing Education taken during the first renewal period must be submitted during the first renewal and all hours will carry over to the second renewal. period only.
- (8) Continuing education records must be maintained by each licensee for a minimum of five years.
- (9) If the Board finds indications of fraud or falsification of records, investigative action shall be taken. Findings

may result in disciplinary action up to and including revocation of the licensee's license.¶

(10) Failure to complete continuing education hours by the time of renewal may result in revocation, suspension and/or denial of a license. Licensee has 30 days from date of notification of non-compliance to come into compliance. Failure to be in compliance may result in discipline of the license to practice massage.¶

(11) During a Governor of Oregon declared State of Emergency:¶

(a) Continuing education hours may be reduced from the current required hours to no fewer than the statutorily required hours as per ORS 687.051.¶

(b) The Board or their designee may authorize alternative methods of obtaining required continuing education hours through ~~contact or noncontact~~ supervised and unsupervised hours. The subject matter of the continuing education hours must meet the requirements set forth in OAR 334-010-0050 (42) continuing education rules.¶

(c) The Board or their designee may utilize a period of up to one year to phase any adjusted rules back to normal requirements.¶

~~(d)~~ This rule does not apply to the cultural competency continuing education subject matter requirements pursuant to ORS 676.850.

Statutory/Other Authority: ORS 687.081, 687.121, 687.122

Statutes/Other Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086, 687.121

AMEND: 334-020-0005

RULE SUMMARY: Amend to modify rule language for clarity.

CHANGES TO RULE:

334-020-0005

Facilities and Sanitation ¶¶

(1) Permanent and Mobile structures: ¶¶

(a) All permanent structures and mobile facilities where a LMT routinely conducts massage and bodywork ~~the practice of massage and bodywork is routinely conducted~~ must: ¶¶

(A) Be established and maintained in accordance with all local, state and federal laws, rules & regulations; ¶¶

(B) Obtain a facility permit to operate; ¶¶

(i) Notify the Board office in writing; ¶¶

(a) Of any change of the permitted Facility's name, business location, operation status, ownership, email or mailing address within 30 days of change. ¶¶

(b) A Facility Permit Transfer Application must be submitted and approved by the Board prior to the Facility providing of massage therapy services under new ownership, under a new business or assumed business name. ¶¶

(ii) A permitted Facility must display its permit in a location clearly visible to anyone entering the facility; ¶¶

(iii) A permitted Facility must display original licenses of its LMT employee(s) in a location inside the premises, clearly visible to the general public. ¶¶

(iv) A permitted Facility is required to include its permit number in all massage therapy advertisements, including but not limited to: written, electronic, televised and audio advertisements, service menus, business cards, flyers, websites, and other means of promotion of the permitted Facility. ¶¶

(C) Facilities exempted from the permit process: ¶¶

(i) Clinic or facility owned or operated by a person authorized to practice a profession ¶¶

by a health professional regulatory board, as defined in ORS 676.160; ¶¶

(ii) A career school licensed under ORS 345.010 to 345.450; and ¶¶

(iii) Clinics of a board approved massage therapy program. ¶¶

(D) Provide a finished lavatory that ¶¶

(i) Is well maintained, ¶¶

(ii) Provides a system for sanitary disposal of waste products, ¶¶

(iii) Is capable of being fully closed and locked from the inside, ¶¶

(iv) Supplies hot and cold running water, ¶¶

(v) Is supplied with liquid soap and single use towels, ¶¶

(vi) Is supplied with toilet paper at each toilet; ¶¶

(E) Dispose of refuse sewage in a manner described by local and state law; and ¶¶

(F) Follow applicable laws pertaining to public spas, pools, baths and showers. ¶¶

(b) All treatment spaces must: ¶¶

(A) Provide for client privacy, both in-house and on-site; ¶¶

(B) Be designated as used only for massage at the time of services; ¶¶

(C) Provide for sufficient heating, cooling and ventilation for client comfort; and ¶¶

(D) Provide illumination during cleaning. ¶¶

(c) The facility and treatment space must be: ¶¶

(A) Cleaned regularly and kept free of clutter, garbage or rubbish; ¶¶

(B) Maintained in a sanitary manner; and ¶¶

(C) Maintained free from flies, insects, rodents and all other types of pests. ¶¶

(2) Outcall/On-site ¶¶

Any temporary location where the LMT conducts massage and bodywork, the LMT must provide and utilize: ¶¶

(a) Safe, sanitized and well-maintained equipment, tools and preparations; ¶¶

(b) Sanitary linen practices; and ¶¶

(c) Client privacy practices.

Statutory/Other Authority: ORS 687.121

Statutes/Other Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086, 687.121

AMEND: 334-020-0055

RULE SUMMARY: Amend the rule to added verbiage defining healthcare providers as per OHA. Incorporate OHA rules requiring licensees to comply with OHA rules on masking and vaccination to control communicable diseases into OAR 334-020-0055.

CHANGES TO RULE:

334-020-0055

Communicable Disease Control ¶

- (1) All therapists must always practice communicable disease prevention and control. ¶
- (2) LMT's are required to follow the communicable disease guidelines as adopted by the Board. ¶
- (3) The Oregon Health Authority (OHA) has adopted certain rules to control the communicable disease COVID-19. Unprofessional conduct pursuant to OAR 334-040-0010 (17), (22) and 25 (C)(f) includes failing to comply with any applicable provision of an OHA COVID-19-related rule or any provision of this rule. ¶
- (4) Failing to comply as described in subsection (1) includes, but is not limited to:¶
 - (a) Failing to comply with OHA's rules requiring masks, face coverings or face shields, including ¶ [OAR 333-019-1011(healthcare), if applicable:¶
 - (b) Failing to comply with OHA's rules requiring vaccinations, including OAR 333-019-1010 ¶ (healthcare), if applicable. Note, a Healthcare setting is defined as "any place where health care, including physical or behavioral health care is delivered and includes, but is not limited to any health care facility or agency licensed under ORS chapter 441 or 443, such as hospitals, ambulatory surgical centers, birthing centers, special inpatient care facilities, long-term acute care facilities, inpatient rehabilitation facilities, inpatient hospice facilities, nursing facilities, assisted living facilities, residential facilities, residential behavioral health facilities, adult foster homes, group homes, pharmacies, hospice, vehicles or temporary sites where health care is delivered (for example, mobile clinics, ambulances), and outpatient facilities, such as dialysis centers, health care provider offices, behavioral health care offices, urgent care centers, counseling offices, offices that provide complementary and alternative medicine such as acupuncture, homeopathy, naturopathy, chiropractic and osteopathic medicine, and other specialty centers." Or; ¶
 - (c) See definition of healthcare setting in OAR 333-019-1010.¶
- (5) No disciplinary action or penalty action shall be taken under this rule if the rule alleged to have been violated is not in effect at the time of the alleged violation.¶
- (6) Civil penalties for violating this rule include: Imposition of discipline for violating this rule includes: \$500 civil penalty. Any such civil penalties or discipline shall be imposed in accordance with ORS Ch. 183.

Statutory/Other Authority: ORS 687.121

Statutes/Other Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086, 687.121

AMEND: 334-040-0010

RULE SUMMARY: Amend the rule to add language for clarity and allow the board to require information during an interview as needed to make disciplinary decisions.

CHANGES TO RULE:

334-040-0010

Discipline ¶¶

The Board may deny, conditionally grant, restrict, suspend or revoke a license or permit, impose probation, reprimand, and censure, impose remedial education or corrective actions, and/or impose a civil penalty for any of the following reasons: ¶¶

- (1) Practicing massage or representing one's self as a massage therapist without a current active license issued by the Board; ¶¶
- (2) Knowingly or recklessly making any false statement to the Board; ¶¶
- (3) Has been the subject of disciplinary action as a licensed healthcare professional by this or any other state or territory of the United States or by a foreign country and the Board determines that the cause of the disciplinary action would be a violation under ORS 687.011 to 687.250, 687.895 and 687.991 or OAR Chapter 334; ¶¶
- (4) Suspension or revocation of a license to practice massage in another jurisdiction based upon acts by the licensee similar to acts described in this section; ¶¶
- (5) Knowingly or recklessly falsifying an application or continuing education statement or documentation; ¶¶
- (6) Conviction of a crime in any state or jurisdiction; ¶¶
- (7) The use of false, deceptive, 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; ¶¶
- (8) Allowing the use of a license by an unlicensed person; ¶¶
- (9) Presenting as one's own license, the license of another; ¶¶
- (10) Practicing massage under a false or assumed name; ¶¶
- (11) Impersonating another massage therapist; ¶¶
- (12) Assisting, employing, or permitting an unlicensed person to practice massage; ¶¶
- (13) Practicing or purporting to practice massage when the license has been revoked or suspended, lapsed or inactive; ¶¶
- (14) Practicing or offering to practice massage beyond the scope permitted by law; ¶¶
- (15) The use of intoxicants, drugs, controlled substances, or mind altering substances to such an extent as to impair or potentially impair the licensee's abilities to perform professional duties in a safe manner; ¶¶
- (16) Practicing massage with a physical or mental impairment that renders the therapist unable or potentially unable to safely conduct the practice of massage; ¶¶
- (17) Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition as required by rules of the Board; ¶¶
- (18) Refusing to permit the Board or its representatives to inspect the business premises of the licensee during regular business hours; ¶¶
- (19) Failing to cooperate with the Board in any licensing action or disciplinary proceeding, including but not limited to: ¶¶
 - (a) Failure to furnish any requested papers or documents, ¶¶
 - (b) Failure to provide in writing a full and complete explanation covering the matter contained in the complaint filed with the Board, ¶¶
 - (c) Failure to respond to subpoenas issued by the Board whether or not the recipient is accused in the proceeding; ¶¶
 - (d) Failure to participate in an interview during a Board investigation, either at the time of the investigation or failing to schedule an interview within a reasonable period of time when requested as part of a Board investigation. ¶¶
 - (e) Failing to respond or directly answer questions asked during an interview or investigation, or failure to verbally provide information reasonably known at the time of the interview or investigation. ¶¶
- (20) Failing to comply with an order issued by the Board; ¶¶
- (21) Failure to obtain the required permits for facilities or in violation of OAR 334-0420-00405 (1)(a)(B). ¶¶
- (22) Failure to report to the Board information that a licensee has engaged in prohibited or unprofessional conduct as required in ORS 676.150. ¶¶
- (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.¶

(25) Unprofessional or dishonorable conduct which includes but is not limited to: ¶

(a) Any conduct involving inappropriate physical contact or sexual misconduct which includes: ¶

(A) Sexual abuse which is conduct which constitutes a violation of any provision of ORS 163.305 through 163.465; ¶

(B) Sexual violation which is sex between the LMT and the client, whether initiated by the client or not, engaging in any conduct with a client that is sexual, or may be reasonably interpreted as sexual, including, but not limited to: ¶

(i) Sexual intercourse; ¶

(ii) Genital to genital contact; ¶

(iii) Oral to genital contact; oral to anal contact; ¶

(iv) Oral to oral contact except cardiopulmonary resuscitation; ¶

(v) 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; or ¶

(vi) Encouraging the client to masturbate in the presence of the LMT or masturbation by the LMT while the client is present. ¶

(C) Sexual impropriety which is any behavior, gestures, or expressions that are seductive or sexually demeaning to a client; inappropriate procedures, including, but not limited to, ¶

(i) Disrobing or draping practices that reflect a lack of respect for the client's privacy, deliberately watching a client dress or undress instead of providing privacy for disrobing; ¶

(ii) Subjecting a client to an examination in the presence of students, assistants, or other parties without the explicit consent of the client or when consent has been withdrawn; ¶

(iii) An examination or touching of genitals; ¶

(iv) Inappropriate comments about or to the client, including but not limited to, making sexual comments about a client's body or clothing, making sexualized or sexually-demeaning comments to a client, comments on the client's or LMT's sexual orientation and making a request to date; ¶

(v) Initiation by the LMT of conversation regarding the sexual problems, preferences or fantasies of the LMT; or ¶

(vi) Kissing. ¶

(b) Violating the client's rights of privacy, and confidentiality. ¶

(c) photographing or filming the body or any body part or pose of a client without consent. ¶

(d) Failing to disclose or releasing information about a client if required by law or on written consent of client ¶

(e) Intentionally harassing, abusing, or intimidating a client either physically or verbally. ¶

(f) Any conduct or practice which could endanger the health or safety of a client or the public. ¶

(g) Any conduct or practice that falls below the standard of minimal competence within the profession that results in unacceptable risk of harm to the client; regardless of whether injury occurs.¶

(h) Any conduct or practice which impairs the massage therapist's ability to safely and skillfully practice massage. ¶

¶

(i) Employing illegal or unethical business practices including but not limited to;¶

(A) Fraud, deceit or misrepresentation in obtaining or attempting to obtain any fee or third party reimbursement for services.¶

(B) Taking advantage of a relationship with a client for the licensee's personal advantage, including obtaining a benefit that is a personal, sexual, romantic or financial. This includes the promotion or sale of services, goods, or appliances in such a manner as to exploit the client for the financial gain or self-gratification of the massage therapist.¶

(C) A Licensee shall bill clients or third parties for only those services actually rendered or as agreed to by mutual understanding at the beginning of services or as later modified by mutual agreement. A Licensee must either honor a gift certificate or pre-paid package or provide a full refund of unused services. A Licensee must comply with ORS 646A.276.

Statutory/Other Authority: ORS 687.081, 687.121

Statutes/Other Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086, 687.121

APPENDIX 2,
CORRESPONDENCES

From: [UDOSENATA Ekaette * OBMT](#)
To: [UDOSENATA Ekaette * OBMT](#)
Subject: FW: [Obmtmeetingnotice] Oregon Board of Massage Therapists - January 31, 2022, Board Meeting Notice
Date: Friday, March 11, 2022 5:36:27 PM
Attachments: [image002.png](#)

From: Jon Dare <jon.dare@mbshc.org>
Sent: Friday, January 14, 2022 10:40 AM
To: UDOSENATA Ekaette * OBMT <Ekaette.UDOSENATA@obmt.oregon.gov>
Cc: obmtmeetingnotice@omls.oregon.gov
Subject: Re: [Obmtmeetingnotice] Oregon Board of Massage Therapists - January 31, 2022, Board Meeting Notice

Hi Ekaette,

I have been very sick slit lately and avoiding covid as much as possible. I'm just catching up on some reading here and this concerns me and was hoping you can address it on my behalf: (copied from meeting notes)

“Ruark stated that LMTs are considered health professionals in the State of Oregon. Ruark noted that the Board's issue with the vaccinations was that it had to be twofold to be required to get vaccinated. First, they had to be health professional regulatory board members or health professionals, which LMT are per statute. Secondly, they also had to practice in a health care setting. The way they defined the health care setting was not conducive to the profession as it was challenging trying to fit LMTs into the definition. So, the Board had to do a lot of research. Ruark noted that defining things comes more along the lines of what the Board considers LMTs scope of practice? What is the health care setting? Ruark stated that basically, that is the question the Board might have to come up with if the Board considers everything an LMT does is in a healthcare setting. That includes the LMT performing foot massage in the mall, performing massage at the State fair, things like that.”

We are not even accepted as part of CAM by most insurance companies. We literally ate laughed at by other healthcare industry workers. The State of WA therapists are treated with much more respect in the industry. Mr. Ruark hasn't got a clue what goes on in the real world of a massage therapist. This makes my blood boil that he skirted the real question. Even the pain management commission doesn't recognize us nor do they have a board position for a massage therapist. They told me we are considered public members. When are we going to actually receive the legal recognitions we deserve?

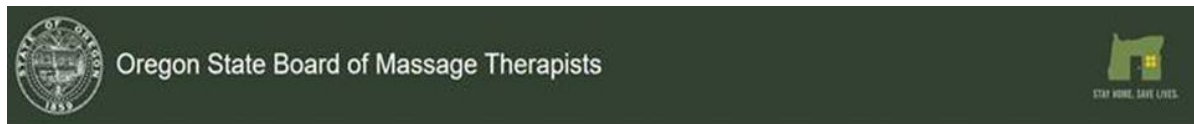
Also, I read about the racial inequity and am concerned that there is nothing for people with disabilities like myself. There are many inequities that we fall under but have no protections or support. Increased fees, etc can really make or break those of us with lower earning potential, along with the CE carry over going away. I know it doesn't affect me this year but it would in the future. It's much harder for me to afford the classes, let alone take them in person.

Thanks for reading/listening and I hope this makes its way to the meeting on my behalf.

Jon Dare 17071

Sent from my iPhone

On Jan 14, 2022, at 05:25, UDOSENATA Ekaette * OBMT <Ekaette.UDOSENATA@obmt.oregon.gov> wrote:



Hello,

Please visit the Board's Website <https://www.oregon.gov/obmt/Pages/board-meetings.aspx> or follow the links below to view the **Board Meeting Notice**, **Agenda** and the **November 15, 2021, Draft Meeting Minutes**:

Board Meeting:

The Oregon Board of Massage Therapists is scheduled to meet on January 31, 2022, at 9:00 a.m. for a Board meeting. The most current meeting information is also available at <https://www.oregon.gov/obmt/Pages/board-meetings.aspx>

Location: [Virtual Meetings via GoToMeeting](#) (see meeting access information below)

Date: January 31, 2022

Time: 9:00 a.m.

[January 31, 2022, Board Meeting Notice](#)

[January 31, 2022, Board Meeting Agenda](#)

[November 15, 2021, Draft Board Meeting Minutes](#)

[Call-in Information for the January 31, 2022, Board Meeting](#)

Please join the Board meeting from your computer, tablet, or smartphone.

<https://global.gotomeeting.com/join/597201469>

You can also dial in using your phone.

United States: +1 (571) 317-3112

Access Code: 597-201-469

BOARDerline Fall Edition 2021

Read up on some important changes the Board made in 2021 in this edition of the BOARDerline.

Some highlights in this Fall 2021 edition:

- Rule changes implemented in 2021
- Emailing Licenses and Renewal Reminder
- Correspondence with the Board
- 2021 FSMTB Annual Meeting Update
- Who Do I Contact For.....?
- Opportunity to serve on the Oregon Board of Massage Therapists

Thank you,

Ekaette Udosenata-Harruna

Operations & Policy Analyst; MPSA, OPBC, OPMA
Oregon Board of Massage Therapists

NEW ADDRESS

Effective March 1, 2021

610 Hawthorne Ave. SE, STE 220

Salem, OR 97301

Office: 5033658657 EXT:102

Cell: 503-559-6619

Oregon.gov/OBMT

ekaette.udosenata@state.or.us

"There are only two days in the year that nothing can be done. One is called yesterday, and the other is called tomorrow, so today is the right day to love, believe, do, and mostly live." Dalai Lama

Please note:

The Board's Office is closed to the general public until further notice due to the Governor's mandates and Executive Orders.

Staff is telecommuting to comply with this requirement. Please allow 2 – 3 business days for staff to review and reply to email correspondence.

Board phone hours are reduced to 8:00 a.m. – 4:00 p.m., Monday through Friday for urgent Board business and to make payments.

I appreciate your patience.



CONFIDENTIALITY NOTICE: The information and any attachments in this email may contain information that is privileged, confidential or otherwise exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that you are not authorized to retain, disclose, disseminate copy or distribute this message or its attachments. If you have received this message in error, please notify the sender immediately by email (obmt.info@state.or.us), and immediately delete this message and all attachments and any copies or backups thereof from your system. Thank you.

From: [UDOSENATA Ekaette * OBMT](#)
To: [UDOSENATA Ekaette * OBMT](#)
Subject: FW: Board nomination
Date: Wednesday, March 9, 2022 2:07:19 PM
Attachments: [image002.png](#)

From: Laura Embleton <laura@abmp.com>
Sent: Saturday, February 26, 2022 8:21 AM
To: RUARK Robert * OBMT <Robert.RUARK@obmt.oregon.gov>
Subject: Board nomination

Good Morning Bob,

ABMP would like to nominate Georgia Fountas to the Board of Massage Therapy. She has been notified to submit her application through the Boards and Commissions page by March 2. Thank you for considering her nomination.

Laura

Laura B. Embleton
Government Relations Director
Associated Bodywork & Massage Professionals
Laura@abmp.com
(303) 679-7645 (o)
(303) 809-8803 (c)





February 21, 2022

Dear Oregon Board Of Massage Therapists,

This letter is in regards to the proposed rules changes from an e-mail I received effective July, 1, 2022. I have to **strongly disagree** with the OBMT wanting to end our "continuing education rollover hours." This will be detrimental to LMT's all over the State of Oregon. I believe the level of continuing education would go down as well. Why would an LMT want to spend money and their time on a 30/40 hour class and not be able to roll the time over to the next renewal? I know over the years it has been very nice having a few extra hours to rollover as finances were tight. This is our only perk we get and now you want to take it away? I think you need to really reconsider this change.

On another note of wanting to put all LMT's under the heading of "healthcare providers" is wrong. Not all LMT's work in the healthcare field and putting that label on them is just not right. I do not believe LMT's need to be incorporated into The Oregon Health Authority rules. It is up to each LMT what they want to do with their own body. It is not up to The State of Oregon.

Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "Tina Haemmerlein LMT". The signature is stylized and written over a horizontal line.

Tina Haemmerlein, LMT OBMT#9280
27642 Redwood Hwy Cave Junction, Oregon 97523
541-592-6190
massagetherapy@frontier.com