



# Oregon

Kate Brown, Governor

## Board of Massage Therapists

610 Hawthorne Ave SE, STE 220

Salem, OR 97301

Phone: (503) 365-8657

Fax: (503) 385-4465

[www.oregon.gov/OBMT](http://www.oregon.gov/OBMT)

## OBMT Board Meeting Minutes

May 13, 2022

Remotely via GoToMeeting

### DAY ONE (1)

#### Attendance:

#### Board Members:

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

#### Staff:

Robert Ruark, Interim Executive Director  
Ekaette Udosenata, Operations, and Policy Analyst  
Torey McCullough, Compliance Specialist  
Jeff Van Laanen, Compliance and Licensing Manager  
Lori Lindley AAG  
Mitch Breedlove, Initial License Coordinator  
Rowena Clinite, Licensing Coordinator

#### Public:

Anne Nutwell,	Ashley Hernandez (FSMTB)	Corey Walden OR-	Daniel Steinmetz
Elizabeth Preston	Joe Lemon	Laura Embleton	Lily L.
Lisa Garofalo LMT	Rachel-Lyn Rogers,	Rosie Herkemij LMT	

### 1. Call to order at 9:06 a.m.

### 2. Introduction

**Rodriguez** called the meeting to order at 9:09 a.m. Board members performed roll call; **Chen-Pinkham, Gray, Odle, Rowan** and, **Rodriguez. Ruark**, Executive Director, **Lindley**, AAG, **McCullough**, Compliance Specialist, **Van Laanen**, Compliance and Licensing Manager, **Udosenata-Harruna**, Operations, and Policy Analyst; Mitch Breedlove, Initial License Coordinator, and Rowena Clinite, Licensing Coordinator were also present.

**Rodriguez** asked members of the public to introduce themselves. Public present at the time were: Anne Nutwell, LMT#22093, Ashley Hernandez (FSMTB), Ashley Hernandez (FSMTB), Corey Walden LMT#22299, Daniel Steinmetz LMT#5948, Elizabeth Preston LMT #22015, Joe Lemon, Laura Embleton (ABMP), Lily Lunnemann LMT#12464, Lisa Garofalo LMT#3326, Rachel-Lyn Rogers, LMT#19380, Rosie Herkemij LMT#5040.

**Rodriguez** welcomed everyone to the Board.

### 3. Approve Agenda:

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

### 4. Approve Minutes from March 14, 2022 Board Meeting:

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

Approve Minutes from the March 15th, 2022, rules hearing

**Rowan** moved to approve the March 15th, 2022, rules hearing minutes. **Second the motion: Chen-Pinkham. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**

## **5. Board Business:**

**Ruark** thanked everyone for attending the Board meeting.

### **a. Financial (See Appendix 1):**

#### **Directors Report**

OBMT offices have fully re-opened to the public as of May 1, 2022. OBMT has staffed our offices throughout the pandemic and been available in person and via telephone, however, prior to May 1, we limited our public access to appointments only. In fact, since we moved to our new office space during the pandemic, this is truly the first time our doors have been open to the general public. Staff are working various schedules, including some staff working from home, others working entirely at the office and others are on a hybrid schedule, where they work from home on some days with office time on others.

At the beginning of May, I attended the FSMTB Executive Summit and found it to be informative and a great opportunity to learn about nationwide trends in the massage industry. I was asked to be a member of a panel of industry professionals to speak about OBMT's approach to stem the flow of illegal massage facilities within the state. I brought the Boards compliance manager with me to the summit as many of the topics related to his duties at OBMT.

#### **Budget Report**

Attached to this packet you will find the Profit and Loss Budget versus Actual. The sheets lists income and expenses and the first column of numbers are the income and expenses of the Board to date. The right column of numbers indicates what was budgeted for expenses and income. We are approximately 10 months into this two year budget cycle. Let's start with income: As you can see by the numbers we are only about 21% funded in the income category of initial licensure and about 25% funded in the income category of initial applications. We should be around 41% funded at this time. This is not unexpected and is more than likely a result of COVID restrictions and COVID fears, I have talked to other licensing Board directors and they are in a similar situation. I am hopeful, based on the numbers that these two funding sources will increase post COVID.

Of particular note is the income category of Late Fees. The Board has waved late fees due to COVID restrictions, that late fee waiver will end July 1, 2022, so the continued loss of this income item will not continue. I anticipate that that income line item will only be about 50% funded this biennium, resulting in an approximate \$70,000 loss this biennium. That loss has been covered by the Boards working capital. The Board currently has about 4 months of working capital.

I also want to touch on expenses. As you can see on the attached statement, our expense line item of computer expenses is approximately 90% spent. This is due to the COVID pandemic and the need to move just about all of our operations to a virtual environment. I anticipate we will overspend this budget line item this biennium, however, due to other reduction in expenses, in areas such as investigation expenses, legal fees, travel, security, etc., we should be able to balance that out at the end of the biennium.

As you can see and as mentioned, our legal fees are down, our office supply line item is down, both travel in state and out of state are down, and of note, our postage line item is way underspent, this is due to our moving to a online licensing model versus mailing licenses directly to licensees.

In summary, the budget is currently 36% funded, just a 5% variance of where we should be at 41%. And expenses are at 39%, just a 2% variance of where we should be at 41%.

As stated before, the Board also has approximately 4 months of working capital.

**Ruark** stated that the Board would go into that in a little more detail tomorrow. But he did find the summit very informative, and it was a great opportunity to learn about the nationwide trends in the massage industry. It was a great first in-person meeting since the pandemic started. It was nice to see everybody and network a little bit.

### **Budget:**

**Ruark** stated that he did a little bit of an extensive budget report for everybody.

The Board is about ten (10) months into its two-year budget cycle or biennium and went over the Board's profit loss versus the actual statement. (See appendix)

**Ruark** asked if anyone had any questions about the budget.

**Chen-Pinkham** wondered why the utility showed zero expense.

**Ruark** responded, stating that utilities are covered in the current lease. **Ruark** noted that the Board hadn't moved when the budget was built. Those were anticipated utility expenses, but the utilities are covered in this lease, so the Board does not have that expense.

**Chen-Pinkham** thanked **Ruark** for the response.

**Rowan** wondered when it said switching over to the State IT. Would that mean moving away from the current IT support?

**Ruark** responded, stating that is correct. **Ruark** expressed that the Board is moving to DAS IT because the Board's infrastructure right now is not sustainable. For the Board to continue with the private IT support, the Board would have to purchase a substantial amount of equipment to update the equipment the Board currently has in place. **Ruark** added that he does not claim to know much about IT but knows numbers. And when the current IT support started talking about replacing all the hard drives and servers, the Board was looking at a gigantic expenditure. **Ruark** stated that the Board wouldn't have that expenditure going to State/DAS IT because updates are included on their price list.

### **Staffing:**

Staff are working various schedules, including some staff working from home, others working entirely at the office and others are on a hybrid schedule, where they work from home on some days with office time on others. These schedules are approved by DAS HR and office management and seem to be working well.

**Rowan** asked if Ruark is anticipating any major changes next year with staffing.

**Ruark** responded, stating that as of right now, the Board has a limited duration employee and would have to determine whether to continue the limited duration employee. Then, the Board will have to determine if the Board has the budget to have that limited-duration employee continue, bring that employee on full-time or part-time, or let that employee go. So, it depends on workload, budgets, and other things. So, that would be the only change in the next year or so. **Ruark** added that any approval for bringing that person on any different than limited duration would go through the Board.

**Rowan** thanked Ruark.

### **Director's Evaluation:**

**Ruark** stated that at the 2021 business meeting, upon completion of the Executive Director Performance review, the Board asked **Ruark** to research what other boards and state agencies did to find examples that the Board could use for future Executive Director Reviews. **Ruark** stated that he first looked into what the Board has done in the past and what was required per Board's bylaws and statutes. **Ruark** noted that per the Board's bylaws, the Executive Director's evaluation section should be facilitated by an executive committee whose membership consists of the immediate past chair, the current chair, and the current vice-chair. The executive Committee should perform the annual Board's administrative review. So, that Committee is what's going to make up that review. **Ruark** added that it goes on further in Section 10 to say, the Executive Committee of the Board shall give the formal evaluation of the performance of the Executive Director annually and then present the finding to the Board in an executive session. So, that's the only thing it says regarding the executive director's performance review. **Ruark** said he reached out to other boards to get an idea of what they do. And, quite frankly, it runs the gamut, from what this Board has done in the past, which is an informal review not in the executive session, to lengthy evaluation processes, where they reach out to stakeholders, and staff, amongst other things. **Ruark** stated that he had attached some examples that he thinks would work well. These two examples are from the Travel, Oregon Council, or Travel Information Council, and the other example is from the Oregon State Board of Architect Examiners. These are two executive directors that **Ruark** respects. **Ruark** stated that they had built these performance evaluations at the end, which seemed to work well for them. **Ruark** would like the Board to decide which one of the two, if any, they would like to see incorporated into OBMT's next Executive Director Performance evaluation. **Ruark** recommends facilitating the performance evaluation on the anniversary date of hire, November.

**Rodriguez** asked if everyone had a chance to look over both examples. Then, **Rodriguez** directed board members where to find the PDF form of the Executive Director's Performance Appraisal.

**Odle** Liked the example from the council support and agency leadership, where it gives 5 or 6 boxes for people to choose from, and all the questions are clear and concise.

**Rodriguez** stated that one breaks down each topic. Then there are boxes 1, 2, 3, 4, 5, plus not applicable, one being unsatisfactory and five being outstanding. **Rodriguez** wants to make sure everyone can see those.

**Chen-Pinkham** liked that one as well, especially the breakdown. It makes everything clear.

**Rodriguez** liked that term versus having a scale of 1 to 5, and it's like, whoa. It comes from a purely subjective place of what the three feels like versus a five. At the same time, this is clear about what each number represents. It would be helpful to have another box for comments.

**Ruark** suggests adding a comments section to each one of those categories.

**Rowan** asked that since they did not get a chance to look at this thoroughly, is there any way that the Board could come back to this topic or circle back tomorrow. Would that be possible?

**Rodriguez** responded, stating that it is possible, but she is fine with giving Rowan and anyone else who needs it some time to review the examples; however, she will do whatever people feel comfortable with.

**Rowan** thinks a 10-minute break would be sufficient to look at the examples.

**Rodriguez** responded, stating that would mean having to amend the agenda.

**Gray** noted that they don't see three different review formats and wondered if they are missing something.

**Rodriguez** responded, stating they think there are just two.

**Ruark** confirmed that there are only two examples.

**Gray** stated ok and added that they like the first one better because it's more thorough and breaks down various categories of responsibility. **Gray** thinks the second one seems to broaden too, general, and I think the goal of a performance review is to get clear about expectations and objectives and how those goals should be met. It would be better to be more specific about laws and the various elements of the performance.

**Chen-Pinkham** commented that they had seen reviews where it has two different columns, one for the employee to evaluate themselves and another for the Board to evaluate employees. Then, if there are discrepancies, they could discuss the discrepancy between the employee's and the Board's expectations. **Chen-Pinkham** finds this model an attractive chance for self-evaluation and to hear other people's opinions about the performance. However, **Chen-Pinkham** is unsure if that's something the Board wants to consider.

**Ruark** thinks unless the Board wants him to write the process up, he figured that the Committee would be charged with establishing how they wanted to evaluate. However, if the Board wants him to come up with an evaluation that the Board wants to send out to certain individuals, staff, stakeholders, and other Board members to solicit information, maybe the Board could develop how that should be done in a committee. **Ruark** thinks the Committee might want to decide how they're going to complete the evaluation and present it to the Board, or the Board can decide now and then instruct the Committee on how they want that done at a future date.

**Gray** like the idea of doing that parallel self-evaluation. Ultimately, this is a tool for communication.

**Rowan** stated that upon review of examples and based on all the performance reviews they have done in their career, **Rowan** strongly prefers the second format, the architect's format, instead of the numbered system. Rowan noted that would very much be their direction. **Rowan** thinks sometimes the numbers can almost become meaningless. **Rowan** added that there becomes a lot of social pressure to rate things like that just because it's such a common tool used in everything from online orders to server at a restaurant. Rowan thinks they can maybe gloss over some things, but they feel like the other format might open up better communication and therefore is partial to the architects' Board.

**Gray** stated that she is not wedded to the idea of numbers. But the first example has more specific categories and asks for more detailed information that they like. As for the number part, **Gray** suggests replacing it with the metrics for evaluation. **Gray** thinks that the specific information tied to the performance of what an executive director does makes sense. On the other hand, **Gray** feels that the architect one is super vague.

**Rowan** stated that the Board would need to flesh that out and make it more specific for the Board.

**Ruark** expressed that this is just an example. The final product would include the executive director's position description.

**Gray** stated that in that case, she is good with the architect's format, as long as it is tied to the executive director's job description.

**Rowan** feels that the architect's version forces more conversation and makes the Board clear and direct about what is important. **Rowan** added that this format would ensure that the Board is as transparent as possible so that changes can easily be made if there is an issue.

**Rodriguez** recommends laying it out like the first one per the job description in each category. So, there are details with the metrics of the second one. And that means that this can be done by the Board and possibly staff. **Rodriguez** added that the topic could be discussed further in a bit. **Rodriguez** noted that she liked Chen-Pinkham's idea of the executive director filling out the same evaluation so that the Board can compare and have that conversation piece.

**Ruark** will put together a draft along the lines of what the Board recommends and present it to the Board at the next board meeting for approval before sending it to the Committee to conduct the evaluation.

**Rodriguez** thinks that sounds wonderful. Thank you.

#### **COVID Update:**

**Ruark** is currently keeping track of the COVID numbers and attend weekly and bi-weekly meetings with other directors to discuss trends. **Ruark** will continue these meetings and report any recommendations or pertinent information to our licenses and the Board.

#### **Board member recruitment:**

687.115 State Board of Massage Therapists; members; appointment; terms; meetings; compensation; administrator.

(1) The State Board of Massage Therapists operates as a semi-independent state agency subject to ORS 182.456 to 182.472, for purposes of carrying out the provisions of ORS 687.011 to 687.250, 687.895 and 687.991. The board consists of seven members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

(a) Four must be licensed massage therapists.

(b) Three must be members of the public, including one public member selected from a health related field. Public members may not be:

(A) Massage therapists; or

(B) A spouse, domestic partner, child, parent or sibling of a massage therapist.

(2) (a) Board members required to be licensed massage therapists may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by a professional organization representing massage therapists.

(b) In selecting the members of the board, the Governor shall strive to balance the representation on the board according to: (A) Geographic areas of this state; and (B) Ethnic group.

When I took over as the Executive Director my intention was to get the Board more involved in the selection process of prospective Board members. This has been difficult for several reasons. Ultimately, for LMT members, the statute is clear that the Governor will select these members based on recommendations from professional organizations representing massage therapist. I have reached out to several Boards and found that individual Board recommendations are not the norm. I also conducted research into our Board member selections from the past several decades and found that these members made application to the Governor Executive Appointments and were selected by the Governor, not the Board.

The current position vacated by Vice-Chair John Combe received a few applicants. Those applicants were reviewed by the Governor's office and a selection was made. However, just prior to confirmation that applicant removed themselves from contention and declined the position. I have reached out to the Governor's office regarding picking replacement from the current pool of applicants and I am awaiting a response. If any LMT wishes to be a Board member, please reach out to Board staff and we will direct them on how to complete the application process.

The public Board Member position remains vacant. We continue to advertise for this position and just recently placed a free ad in the [Partners In Diversity Community Engagement - Partners In Diversity](#) website. Partners in Diversity aims to create a competitive advantage for our region by attracting, retaining and developing diversity influencers and professionals of color. We believe community engagement is critical to accomplish this goal and have provided this page to support our communities of color. The purpose of this space is to share events and opportunities relevant to communities of color in Oregon and southwest Washington.

To post an event, you must be a community-based organization, nonprofit or public agency.

If you know of a Public Health member who is willing to serve on the Oregon Board of Massage Therapists please have them reach out to Board staff and we will direct them on how to complete the application process.

**Ruark** stated that when he first took over as the Executive Director. **Ruark** wanted to get the Board involved in that selection process. **Ruark** stated that he wished to bring all the applicants forward to the Board and have the Board review these applicants and make a recommendation to the Governor's Office. Because of how the process is done, **Ruark** has found that to be difficult to accomplish is he does not often get the schedule of when they're going to be confirmed and when things are due until about a month or so before that happens. **Ruark** added that the bylaws state that the Board must provide all stakeholders with information to make a recommendation.

**Ruark** added that board members are required to be licensed. The Governor may select a therapist from a list of 3 to 5 nominees for each vacancy submitted by the professional organization representing massage therapists. The law states that the Governor's office picks LMT members, which is contrary to what **Ruark**

has been trying to do by getting all these applicants to the Board and having the Board make a recommendation for the LMT members. **Ruark** added that it is very clear in state law that the Governor's Office picks board members in the process and how they do it. It also goes on to say, in selecting the members of the Board, the Governors will strive to balance the representation on the Board according to geographic areas of the state and ethnic group. So, the Governor ultimately makes that decision. **Ruark** noted some pushback he has been finding when trying to get the Board involved in that process.

**Ruark** expressed that before, whenever somebody applied, he was unaware of the applicant until he met with the Governor's office. Often, they would only tell him who the Governor's office picked. And it was before he could get that information to the Board. Now, any applicant has to do it in Workday, a database he has access to. So he can gain access to the information to see who the applicants are. This has made it easier for him to let the Board know who the applicants are. **Ruark** is still working on trying to get the Board involved in making a recommendation to the Governor's Office. **Ruark** stated that for the LMT position that John Combe vacated, the person was chosen for that board member position based on the recommendation of the professional organizations. However, just two days ago, that person declined that nomination right before confirmation was set to happen. So, that position is open right now. **Ruark** reached out to the Governor's office about how to handle that scenario. However, the meeting with the Governor's policy advisor is not until next week or two, she didn't give me a date yet, but she said she would go over the process and answer some of the questions I had about that.

**Ruark** stated that the Public Board Member position and the Public Health Board member position remain vacant. The Board continues to reach out to people and advertise. **Ruark** added that board staff did find a website. It's called the Partners in Diversity Community Engagement. He discovered that website when he attended a board director's meeting. **Ruark** stated that there are a lot of public board member vacancies right now throughout the State. Boards are having a hard time filling those positions. **Ruark** found out about the Partners and Diversity Committee Engagement website, and the Board submitted board member information and posted it. Hopefully, that spurs some applicants. **Ruark** added that the Board staff is doing everything they can. **Ruark** state that the Board staff is doing everything we can, and I'm working with other directors, asking them if they have any ideas about public members that might be able to fill our positions, and they're asking me the same thing. So, if any LMTs here read the minutes and are interested in being a public member on a different board, he would certainly look at that website, and, as all those directors said, they will do the same for the Board. So, hopefully, they're doing the same at their upcoming meetings.

With some feedback, **Rowan** has been talking to healthcare providers they can find. One of the biggest problems they see with MDs, psychologists, and mental health providers, is that the burden on them because of the common issues is so immense that they are overworking their schedules and can't give up a day. **Rowan** If they do not have a day to take out, even if they wouldn't normally be interested, **Rowan** is not sure what to do about that, but the reality is, there's a shortage of health care providers. **Rowan** asked how the Board can get people to take off Monday, which tends to be their busiest? **Rowan** added that they don't know a single person who has an office that doesn't work Monday. But, they can't figure out how to get them to make that work for them because it's too much client care that they miss out on. **Rowan** stated that is the feedback they are getting. So, they are wondering if maybe they were thinking too narrowly.

**Ruark** stated that he is a part of a group called the Healthcare Professional Regulatory Boards, which includes nurses, physical therapists, chiropractors, medical doctors, and dentists. **Ruark** added that many professionals are involved in that meeting, and those are the meetings that have reached out and asked them about members. **Ruark** also reached out to a couple of those boards and their associations and put something



in their magazine/online magazine to ask for recruitment. The Board almost had a physical therapist that went through the process and completed an application. Still, that individual backed out simply because of time constraints, with another interested party who looked at the time constraints and withdrew as they couldn't make that commitment. **Ruark** stated that the board meetings are on Monday because Mondays are the best time for most LMTs to attend. After all, many of them work on the weekends and take Monday off. So we're trying to accommodate our licensees by making Monday the meeting date.

**Rowan** wondered if there is any way that the Board could try to recruit people that the Board could pull board members, and maybe we could each write something up about what kind of value the board members find the best. **Rowan** does not think people realize the types of things that come across the table in executive sessions and, in some ways, the social justice work that the Board performs. **Rowan** thinks some of that might be a good recruiting tool for people with a lot of investment in social justice and equity-type issues. **Rowan** finds some of the most rewarding aspects of serving on the Board. And think it's absent from what people would see, just dealing with massage therapy. **Rowan** noted that the Board deals with the implications of racism, underrepresentation, and human trafficking. And all of these things are coming across the table, but that's invisible when recruiting.

**Ruark** agreed to state that the Governor appointed an individual to health boards who tried to reach out to the underserved community. **Ruark** noted that he has been working with that individual to try to recruit. **Ruark** expressed that in the end, many directors attended a sort of a function symposium, where there was a facilitator, and the directors could answer questions for potential board members. **Ruark** stated that it was beneficial and well attended by the communities. **Ruark** thinks the directors had a lot of great questions and answer scenarios. Although this was a statewide event and the issues addressed are a big problem, look at the State's boards and commission's websites and see what board positions are now open. In addition, some boards are hurting because they can't do their disciplinary action due to a lack of public members and have held off on discipline for a year or longer.

**Chen-Pinkham** suggested publishing the board member vacancy in the Newspaper in the Asian community called Asian reporter, which is also published in English.

**Rodriguez** thinks about recruiting health care providers who are also teaching, maybe in universities or schools where they're not necessarily in a full-time practice but believe they still must maintain some level of licensure. **Rodriguez** wonders if there is a way to reach out to colleges and universities in some of the health care fields to see if they are interested in something like this.

**Ruark** thinks it's a great idea and had intended to reach out to the schools to get an idea of how their numbers are doing because of the decrease in initial applications and initial licensure.

**Gray** suggested reaching out to Pacific University, which has audiology and optometry programs. **Gray** asked if it's required that the Governor's office selected from a pool of 3 to 5 applicants whose applications have been advanced by a professional organization or, in the case of Oregon, got more than one professional organization representing. **Gray** wondered if people understood that if an LMT applies, they must also be endorsed or advanced in some way by one of those professional organizations.

**Ruark** responded, stating that he asked that same question and has been asking a lot of questions to the Governor's office to get an idea of exactly where the Board stands because he wants to be able to provide answers to the Board. **Ruark** expressed that they pointed out to him that the statute states that the Governor

may select somebody from that list. So it is up to the Governor to make that selection. But may select the Board member from the list, and the follow-up question was, how often do they go against that list? Per the statute, the Governor will appoint the best person to represent, considering the geographical area, because they want representation statewide. They want a wide cross-section, and ethnic groups and diversity are part of that selection process. So the Governor will select the individual that the Governor feels is the best fit for the Board based on the applicant and not just an endorsement.

**Gray** expressed that it is good to know because, when they applied, they had no idea about the professional organizations endorsing candidates. **Gray** noted that they got a mass e-mail from their professional trade association AMTA, Oregon, encouraging people to apply. **Gray** stated that they are glad to know that these applications can come from various sources because if people aren't members, they might not know or think to seek that kind of recommendation. **Gray** added that Organizations wouldn't necessarily know that some of their members are well-known, beloved, capable people that they could endorse have applied.

**Ruark** stated that although he will not disparage previous directors, looking at some of the past practices, he is not sure that the process was followed. And as a new director, the only thing he has is what the rules and law state, and **Ruark** has to abide by that. **Ruark** expressed that he wasn't familiar with how the process worked. It took him a few board member appointments and a lot of discussion with other directors and the Governor's office to grasp how the process goes truly.

**Odle** asked if the school Lindley mentioned earlier was the Western University of Health Services, the osteopathic school located in Lebanon.

**Lindley** responded, stating no. They are referring to Western States University, the chiropractic school In Portland, but there is also that one in Lebanon, and so the Board could also reach out to them.

**Odle** thinks that reaching out to the school in Lebanon might be a good idea as some students and instructors may also have been doctors.

**Lindley** knows that Western States University has a great respiratory therapy program. However, that might be a lot of traveling, as you said. But perhaps they can zoom into the meeting.

**Ruark** stated that the idea of reaching out to the schools and instructors is wonderful. **Ruark** noted that, as Rowan mentioned earlier, he also thinks many of these schools would support allowing their staff, if they have time to serve on the Board, on work hours, which would work well for them. So, hopefully, that will be the case. That's an untapped resource he will reach out to, and he appreciates everyone bringing that up.

**Gray** appreciated the extra clarity provided by Ruark regarding the selection processes. **Gray** stated that they have long been curious about how this sausage is made. And so, they are grateful for the explanation today.

**Odle** commented that they appreciated the Monday meeting as they didn't know how it would work out, but that gives them time over the weekend to read all the material and come to the meeting ready. **Odle** added that this one was a little more difficult, as it's on Friday and Saturday.

**Walden** stated that they had an unrelated question.

**Rodriguez** responded, stating that it was not time for public comment. That will be coming later on the agenda. So just hold your thought, and the Board will get there. Thank you.

**Walden** responded, saying sounds good.

**Rodriguez** thanked Ruark for being very thorough. She added that the Board appreciates Ruark's work and all the research presented to the Board.

#### **b. Compliance Report:**

Compliance is preparing for several possible administrative hearings in the coming months. Case load remains steady. Director Ruark and I recently attended the FSMTB Executive Summit meeting where Director Ruark was part of a panel of experts discussing facility regulation and how it relates to defense against human trafficking. The other topics were also primarily focused on compliance issues including Forensic Psychology in the world of Massage (inappropriate touching); and Interagency Collaboration (Regulators with local Law enforcement, and inter-agency cooperation with other regulators and other state agencies. The conference was very beneficial and reaffirmed the Board's progress in our efforts to partner with other states, local law enforcement and other regulatory agencies that share a common goal of reducing human trafficking in all areas, including the massage industry. In addition to the valuable information provided in the breakout sessions, the networking connections with other regulatory professionals and agencies will help our staff resolve issues, address problems, and develop creative solutions to compliance cases in the future. The information sharing with other sister agencies can help us develop or affirm our own policies, rules and laws as well as model our own successes for others to model after Oregon. The Oregon Board is considered one of the more progressive and innovative members of the federation and we look forward to sharing our successes and experiences with our counterparts at other state boards.

Compliance Specialist Torey McCullough is attending advanced State Training in addition to all her other duties and responsibilities, giving her the tools to improve the agency and best prepare herself for future advancement in State Government. Thank you Torey for the extra effort and for bringing the benefits of this training back to the Board.

#### **Licensure:**

Board Application Coordinator, Mitch Breedlove, approached management with an idea to help streamline the initial application process, essentially combining the two step application process into one step. This idea was shared with Operations and Policy Analyst Ekaette Udosenata-Harruna, who took that great idea and made it even better. This proposal has been approved in concept by management and sent to our database contractor to determine what changes would need to be made and what costs might be involved for the reprogramming. Based on past change requests, we anticipate this being an easy change with little expense and the results should all but eliminate confusion on the part of our initial applicants as well as significantly increase our efficiency processing initial applications. We are hopeful we will no longer need to field the volume of phone calls and emails from those initial applicants who were confused by the two step process. Historically many initial applicants would stop the process after the first step and need to be contacted by staff to keep the application moving forward. These proposed changes should allow us more time to work on other issues while also serving our initial applicants more efficiently.

Licensure renewals during the months of February and March were all processed completely without any renewals

going into lapsed status. This is a notable achievement as those renewal applicants who are lacking CE's or other requirements often need significant personal attention by our staff to help them get into compliance before their renewal time expires. If the renewal window closes before they have all their renewal requirements met, the applicant falls into the lapsed status which then triggers more steps, requirements, and fees for both the applicant and our staff. The fact that Licensing Coordinator Rowena Clinite and Office Specialist II Christian Bradley were able to assist all of our renewal applicants to successful renewals without anyone falling into the lapsed category over a two month period is a great accomplishment. Ro and Christian are working hard to make it three months in a row with the April renewals.

Christian Bradley has recently participated and successfully completed an advanced State training opportunity which will better prepare him for serving our clients and serving State Government well into the future. Congratulations Christian, and thank you for all your efforts to assist our LMTs as well as all the help and support you give to all of our staff members and management.

**Gray** thanked Van Laanen for doing such a good job. **Gray** is curious if Van Laanen could let the Board know which specific problems the Board is solving with the new streamlined licensing process. **Gray** also would like to know a little more about the two-step process versus the new one-step one.

**Van Laanen** responded, stating absolutely and deferred to Udosenata Harruna or perhaps Breedlove to explain some of the confusion that the two-step process has developed in how things get. **Van Laanen** noted that on occasion, in the past, an applicant has been inadvertently paused from the process instead of continuing forward because they failed to complete the application in step two. **Van Laanen** called upon Breedlove to explain the new approach and how that might eliminate many of those problems.

**Breedlove** stated that he would talk about what changes were being made. The problem was there was a two-step process. First, the applicant would log in and go to the login page, provide a minimal amount of information and make a payment for the application fee and background check. They would then receive an e-mail with a customer number and PIN. Then, the applicant is supposed to go back to the same spot and log in with that information in step two. The problem is that about half of the applicants never return to complete step two. Instead, they do the first step and stop. **Breedlove** added that at that point, all the Board has their e-mail address and name, so the Board must prompt them to complete the application, which means the Board must constantly go back into the application multiple times, as opposed to doing it in one fell swoop. **Breedlove** thought that the Board could make this a one-step process.

**Udosenata Harruna** responded, stating that Board staff and the database developer are working on a solution.

**Van Laanen** thanked Breedlove and Udosenata Harruna. **Van Laanen** hopes that helps in answering Gray's questions.

**Gray** responded, stating that it helps a lot, and it is a worthy project.

**Rodriguez** thanked Van Laanen.

## 6. Legislative Update

**Ruark** wants to talk about House Bill (HB) 2359 from this last legislative session, which is now a law in the Oregon Revised Statutes Chapter 413. **Ruark** indicated that the Board had had a few questions about this. **Ruark** did not anticipate it affecting most LMT and wanted to let the Board know about it. **Ruark** stated that HB 2359 says that a healthcare provider must work with a healthcare interpreter from a healthcare interpreting registry administered by the Oregon Health Authority when communicating with a patient who prefers to communicate in a language other than English unless the provider is fluent in that particular language.

**Ruark** added that HB 2359 says if a patient/client wants to have somebody who speaks their language, the healthcare provider needs to provide an interpreter. **Ruark** stated that the Oregon Border Massage therapist is specifically listed in this statute. However, it defines what a healthcare provider is regarding this statute. And it says that the healthcare provider is only subject to this bill if the licensee is reimbursed with public funds in whole or in part. So if you're being reimbursed with public funds for the massage therapy, then that's the only time this statute applies to massage therapists. **Ruark** added that if a massage therapist is providing massage under the Oregon Health Plan or getting reimbursed by another government agency to reimburse the service with public funds, the therapist must provide an interpreter if somebody requests.

**Chen-Pinkham** asked if worker's Compensation is public or private and if this law applies to them.

**Lindley** responded, stating that Workers' Compensation has its own, the Workers' Compensation Board and the Workers' Compensation System have their certified interpreter, rules, and statutes similar to the administrative law, the process to the Oregon Hearing Division. **Lindley** doesn't think this applies to them and believes this is more for practitioners. **Lindley** added that they had gotten some questions at DOJ from other clients asking if this is a per-patient analysis. **Lindley** No, if you have one Medicaid patient and you bill Medicaid, you must have an interpreter for whoever walks in your office.

**Van Laanen** thinks the question was whether or not billing workers' Compensation is considered public funds.

**Lindley** responded, stating, usually not. But she does not know as Saif is a quasi-state agency. But think it may be considered public funds from Saif.

**Ruark** thinks there will be a lot of questions as the Board work through this bill. **Ruark** has reached out to some people with more questions than answers. However, **Ruark** added that he would update the Board and licensees if anything changes or if they add the judicial opinions.

**Rodriguez** hears the question from people who work on municipal and State staff and utilize insurance. **Rodriguez** guesses are not public funds, even though it is something that employers and employees perhaps fund that doesn't include health insurance. **Rodriguez** wanted to throw that out there. That is not part of this bill.

**Lindley** stated another thing that might happen as an LMT may work for chiropractic or multi-disciplinary practice. That practice takes public funds and whether they're covered under that.

**Ruark** thinks this might apply to some LMT working in facilities, such as hospitals, doctors, or chiropractors. However, **Ruark** believes if they're working for those individuals, it's up to that company to make sure that they comply with that law versus the individual.

**Lindley** agreed with Ruark stating that is correct.

**Rodriguez** stated that would be her interpretation as well. **Ruark** thanked everyone for their comments.

## 7. Proposed Rules Effective July 1, 2022 (See Appendix 2):

**Udosenata Harruna** updated the Board, noting that the rules hearing scheduled on March 15, 2022, had a very good turnout and community engagement. The Board received a lot of feedback. That information is all included in the Board Meeting Packet. **Udosenata Harruna** hopes the Board has a chance to review all of the comments and will be able to make a decision. The rules that are on the table for approval from the rules hearing were:

OAR 334-001-0055 Board Member Stipend.

OAR 334-001-0060 Definition, including the new language, the new terminology for contact, noncontact, replacing that with supervised or unsupervised continuing education hours. The same goes for

OAR 334-010-0009 Credentialing review

OAR 334-010-0015 Licensure

OAR 334-010-0017 Lapse license

OAR 334-010-0028 Breast Massage

OAR 334-010-0029 Internal Cavity Massage

OAR 334-010-0050 Continue Continuing Education is where most of the changes happened. The Board received many comments regarding continuing education rollover hours, and those are all here.

OAR 334-020-0005 Facility and Sanitation

OAR 334-020-0055 Communicable Disease Control

OAR 334-040-0010 Discipline

The Board received written comments and oral comments. **Udosenata Harruna** So, at this point, the Board has all the feedback that Board staff received thus far from the rules hearing about these particular proposed rules. At this point, it is up to the Board to decide what direction the Board wishes to go, whether that would be approving the rules as is, and if there are any changes that the Committee would like to make to the proposed regulations before moving them forward.

**Rodriguez** asked if everyone had an opportunity to look at all the comments and see the revisions up to date.

**Rowan** commented that the rules are part of public safety first. And if there's a conflict between the public interest and the interest of massage therapists, the Board's mandate is to put the public interests first. So **Rowan** felt a lot of compassion for all the arguments about continuing education. But also felt the concerns of the massage therapists are secondary to the overriding interest of the public in that realm. So based on how they

read the Board rules, **Rowan** felt and understood all those concerns but still felt like the developed rule was in the public's best interest for the profession and it's a well-written rule.

**Rodriguez** asked Rowan if their comment was for both continuing education and communicable disease or was that for continuing education.

**Rowan** responded, stating that they were speaking about continuing education. That seems to be a hot and angry topic right now. They understand a lot but think it's the right thing to do. **Rowan** believes the rule was written, while the Committee did a good job.

**Rodriguez** thanked Rowan.

**Gray** stated that they continue to be strongly in favor of all of it. Except for one aspect, ending the use of excess rollover continuing education hours. **Gray** still would hold that. **Gray** added that from their conversations with other LMTs and their anecdotal evidence, people who accumulate extra rollover hours are often enrolled in long, very advanced programs that have those long periods of study. **Gray** thinks it's reasonable for those well-educated people to be able to roll those excess hours into the next licensing period. **Gray** added that, in general, those longer programs are more expensive and appreciated that the Board is considering having a phase-in period. **Gray** realizes that they are bucking the trend as they are the only one on this Board so far who has said that they are in favor of continuing to allow access hours to roll over into the next licensing period. **Gray** is glad that as the trend is going the other way, as near as they can tell, people who already have accumulated those excess hours, in particular, this year, imagining that they'd be able to roll them over, will at least be able to do it that one more time.

**Rodriguez** thanked Gray. **Rodriguez** piggybacked on Gray's comment and stated why she spent hours looking at the comments. **Rodriguez** added that she also went back in the minutes when this first began and read through everything. She recognizes that initially when the Board brought up the idea of this continuing rollover, the step was also with the idea of shrinking the required hours down, she believes 12. That did not happen, and she is perfectly happy with the minimum number of hours the Board requires. But, that said, **Rodriguez** thinks it can be a barrier for massage therapists if the Board is going to maintain a higher level to not allow for rollover, and she knows that the argument has also been there for a while. **Rodriguez** stated that there's no other board that does that. Even in the State or across the country. **Rodriguez** thinks there may be a handful. **Rodriguez** repeatedly hears whenever we're with the FSMTB or whatever it is that the Oregon Board of Massage Therapists is progressive, and the Board does things its way and does things well. Also, **Rodriguez** has been hearing from staff. Again, they're doing a wonderful job. They're also figuring out other ways to streamline, and even now, with the application and renewal process, simplifying things in a way that will make it easier for them and applicants and licensees. **Rodriguez** feels that the Board wants to encourage people to join the industry.

**Rodriguez** also wants to support those who continue their education and do well by allowing rollover. **Rodriguez** would love to hear other people's thoughts. **Rodriguez** does not necessarily think that is going to be an astronomical burden. But that is their thought. And again, that was combing over everything and saying there because it has been a long time, and we were in a time warp, it feels like it. But then she also feels like things are changing, now what dropping contact hours, and she thinks it will also allow for more accessibility. So, **Rodriguez** stated that is her recommendation. But that doesn't mean that everyone must agree with me.

**Gray** thanked and agreed with Rodriguez.

**Rowan** further commented that all the arguments they hear favor continuing the rollover. They haven't heard anything other than it isn't beneficial to the massage therapists. The purpose of the Board is public safety. A good continuing and ongoing education serves that purpose. **Rowan** stated that when they look at the continuing education requirements, with what's available online and CE available from state training, you can get free see ours by just showing up to these meetings. **Rowan** added that they could get their licensure renewal for almost or under \$100. The cost of maintaining a professional healthcare license for a massage therapist is not onerous compared to the price many boards and licensees have, from their research and talking to people. **Rowan** thinks the Board has a much lower CE requirement than most health boards. While they are compassionate towards a massage therapist, who wants to take these huge classes and roll them over for a period, it was so clear, as they read all the rules and need the ethics of being a Board member with that, when those two things conflict, the primary obligation is always to the public good. **Rowan** thought about this: considering every argument for extending the rollover comes to the interest of the massage therapist, Rowan does not find that compelling, and they will completely support eliminating that as an option.

**Gray** has a hard time understanding how somebody taking a 75-hour program during one licensing period would be injurious to the public and how allowing the person to roll over a portion of those excess hours into the next licensing period would not serve the public interest. **Gray** added that, on the other hand, somebody who gets there inexpensive and maybe not necessarily rich in content. People are going to do what they are going to do. **Gray** thinks that we could be getting in the way of people committing to get into some of these big training programs that are long-term and expensive and produce highly skilled practitioners. So, **Gray** continues to beat the drum in favor of roll over.

**Rodriguez** stated that it was a big push by the Governor and the Governor's office to get people to work and not try to create these little barriers. **Rodriguez** expressed that is where their mindsets also come from, and they appreciate that the Board is a regulatory board, not an advocacy board. The trade organizations are there to advocate. **Rodriguez** noted that the Board wants not to have those barriers in place for new applicants and folks that are current licensees. The other argument that can also be made for finance is the finances and budgets in the income for LMTs can just be across the Board as what's considered full-time for an LMT is different from other professions.

**Rowan** would like to say that when this conversation started, all the issues came up, and people were coming to the board meetings about changing continuing education. This was all pre-pandemic. **Rowan** remembers all that happened, a big part of it, had to do with the contact hours. What has changed in the world since the pandemic is that they can meet their CE requirements for no cost online based on how current requirements. Because one can complete these classes online for less than it would cost them to fill their gas tank, **Rowan** added that quality is available online. This conversation started a few years ago in a completely different world. **Rowan** thinks having to hear about the support with these big expensive programs, and I get that. Still, at the same time, if someone is taking a class today, and you're rolling over for two years, four years down the road, that information should be somewhat outdated and subject to some revision. **Rowan** So, yeah, I think that the access, the low-cost access to good quality education, is different than it was when those conversations started.

**Ruark** believes the terminology is supervised and unsupervised.

**Rodriguez** thanked Rowan.

**Odle** asked if this was the opportunity to comment on the proposed rules going into effect on July 1, 2022. **Odle** stated that they would like to comment on the communicable disease rules. Everyone knows how they voted the



last time. **Odle** added that their concern is that this affects all parties. **Odle** is hoping everyone got to read the testimony because not one person provided testimony in favor of the proposed rule. The Board just had a 10-minute conversation about CES, something that the Board has been working on for the last couple of years. **Odle** is concerned about what the public would think after showing up at the meeting and giving testimonies. **Odle** wants to offer up their concerns about that.

**Rodriguez** responded, stating absolutely. **Rodriguez** expressed that the way she was going to do it was to have a moment to discuss the CE, and then that would open it up to the communicable disease. However, **Rodriguez** promised it wasn't getting glossed over.

**Rodriguez** asked if there was any further comment on the proposed CE rules. Ok, let me bring that up with the communicable disease rules. **Rodriguez** recognized that there was a lot of information. However, she wants to remind everyone that the Oregon Health Authority and the Governor have authority over the Board. **Rodriguez** strongly recommended that the Board adopt this into its rule. **Rodriguez** stated that all that rule says is one must comply with the Oregon Health Authorities rules.

**Ruark** stated that whether it's in Board's rule or not, licensees still have to comply with it. The reason it's in there is that the Oregon Health Authority wants to allow the Board the discretion to do what they want to do if somebody violates that rule. The Board can consider the situation, the person's licensing status, and all the things that board members might know versus somebody from the Oregon Health Authority (OHA) who deals with everybody in the entire State. So they're trying to give local control to the Board. **Ruark** reiterated that it is not a new rule. It says one has to comply with these rules that the Oregon Health Authority (OHA) came up with. So, massage therapists must still abide by the rules, even if they are not incorporated. **Ruark** added that incorporating the rules into Board's rule gives this Board the ability to enforce it how it wants to implement it. The Oregon Health Authority needs to enforce it, and they may do whatever they want to do based on whatever they want to do. Providing local control is the reason behind the incorporation of the rules. The Board can decide what they want to do with their licensees versus leaving it to a gigantic agency that has this umbrella over everybody else. So, I think there's a misconception about what those rules are. Hopefully, that helps with the explanation.

**Rodriguez** thanked Ruark.

**Van Laanen** wants to re-emphasize what the director mentioned there. This is the law, and the law is already in effect. Licensees are going to be subject to it. The Board's adoption of the rule and being able to enforce it gives the Board local control to apply our mitigation, based on our knowledge of the profession, which he thinks is as much control as we're ever going to have in this area. **Van Laanen** added that it would be foolish to give it away and let another state agency discipline our license holders.

**Rowan** would like to thank Ruark for that explanation. For all the times I've read this, that's the conclusion I'm coming to. **Rowan** feels if the Board abdicates the responsibility, the Board can't change the law. **Rowan** added that it is a matter of who gets to manage violations, and if the Board leaves it to OHA, **Rowan** thinks Ruark and Van Laanen are right. OHA deals with MDs, hospitals, and other agencies with much more money. **Rowan** fears the fines imposed could be excessive to what massage therapists could manage. Knowing the Board tends to keep its penalties within a reasonable amount for massage, they couldn't afford a \$10000 fine as it would put them out of business, and they fear that would be the case.

**Rodriguez** asked Board members if there was any further comment on communicable diseases.

**Odle** stated that the Board worked on the CE requirements for years, and the communicable disease rules are supposed to be the same as OHA, but maybe that wasn't communicated to the public the way Ruark just described. **Odle** appreciates that, and perhaps the public needs to hear the explanation and see what they say then because everything that the people said at the hearings was against it. So **Odle** wants to ensure that the public's voice is heard.

**Ruark** thinks everyone has experienced this pandemic is a touchy topic, especially the government involvement in the pandemic. **Ruark** added that there are a lot of different opinions about how it should be handled. **Ruark** agrees that there was a misconception about what these rules were trying to accomplish. **Ruark** noted that they talked to several people over the phone about why these rules exist. **Ruark** thinks people, not everybody, do this, but sometimes people read what they want to, when they see something, versus trying to get clarification on it. So it's because there's passion behind how they feel about things. So doing outreach certainly might be helpful, but Ruark thinks a large percentage of people don't believe that that's the intent behind this rule or agree with the rule, in general.

**Rodriguez** asked if there were any further comments on the communicable disease rules. **Rodriguez** thinks they should put it up for a vote on adopting the communicable disease now that the Board has clarification and an understanding. **Rodriguez** asked if there was a motion to adopt this rule and move it forward.

**Gray** moved that the Board adopt the communicable disease rule and move it forward. **Second the motion: Rowan. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodriguez. Opposed: Odle. Motion carries.**

**Rodriguez** wants to go back to continuing education. **Rodriguez** would like to move forward with a vote and have a motion to move forward with the rule as it is written.

**Rowan** moved. **Odle** Second. **Opposed: Rodriguez. Second the motion: Chen-Pinkham. In favor: Chen-Pinkham, Gray, Odle, and Rowan. Opposed: None. Abstain: Rodrigues. Motion carries.**

**Rodriguez** state that this is brutal, and here's why. The continuing education rules changes have been going on for over ten years. Grossart put the work into it when he was chair back in mid-2019. And even though a pandemic happened, and many things have changed, **Rodriguez** believes in moving something forward that is clean, clear, and precise. **Rodriguez** stated that because she couldn't decide, she needed to abstain. So, at this point, unfortunately, the Board does not have a quorum. That said, not to make this sound like the Board is stuck and sitting on this but would like to recommend having until the next meeting in July to decide. **Rodriguez** knows that there was also some discussion from staff about some verbiage change and would like to go back through some of the verbiages and then would like to bring that back in July.

**Ruark** clarified that the Board is not approving part of the CE rules. So, the rest of the regulations can move forward, but the rollover portion remains.

**Rodriguez** stated that the main part of the table is the rollover piece. Everything else, **Rodriguez** believes everyone agrees.

**Ruark** noted that is not what the Board voted on. The Board voted on not moving forward the continuing education, which the majority of this is all the rules. If the Board wants a specific part to stay back and move everything else forward, then it needs to be clear about what it wants to stay back.

**Rodriguez** thanked Ruark for the clarification. Next, **Rodriguez** asked if everyone agreed to move the CE forward without eliminating rollover hours.

**Ruark** suggests the Board consider moving forward with the entire rules except for what the Board doesn't want. Then that way, Board staff can pull that portion, move everything else, will work, and then the Board can perfect on the table what the Board doesn't want. **Ruark** thinks that's better.

**Rodriguez** asked to move forward with all rules except for the rollover portion of the CE, but beyond that, move forward with all the proposed regulations. **Rodriguez** asked if there was a motion for that?

**Gray** motioned that the Board move forward with all the rules except for the rollover portion of Continuing Ed.

**Ruark** thinks if the Board ended up tabling that portion of the rules, there could be more discussion about the rollover CE. **Ruark** believes they also mentioned having some staff input so the Board can understand how the staff deals with that. **Ruark** added that it is a great opportunity if the Board decides to table the rollover portion while moving everything else forward.

**Rodriguez** stated that is her reasoning and thanked Ruark for articulating that. **Rodriguez** feels like everything else is great. However, they would like to hear from the staff, especially now that staff is back full-time at the office and processes are being changed. **Rodriguez's** recommendation would be to hear directly from staff on this piece and their interpretation, as they are doing all of this long after she leaves the Board. **Rodriguez** does not want to burden Board staff because the Board operates on a skeleton crew as the Board is a small office and agency.

**Ruark** noted that this is the perfect opportunity because the staff has some rules in the queue and some cleanup rules that we will bring in the next implementation phase. **Ruark** stated that if the Board wants to put this in this next set of rule corrections, then that's a perfect opportunity. The Board staff anticipated sending some suggestions to the next board meeting for the Board to review with a new lens because it is a new world out there.

**Rowan** asked if this would go back to a rules hearing.

**Ruark** responded, stating that if the Board took these rules and moved them forward, Board staff would add this to the next iteration of rules.

**Van Laanen** will meet with Director Ruark after the meeting today or tomorrow to talk about getting staff input, to be able to present to the Board, especially from our two primary employees that work in that area and get you the pros and cons from their perspective. **Van Laanen** will get something in writing, and if the Board wants anybody to testify in a meeting, that can be arranged as well. **Van Laanen** wanted to reiterate what the executive director pointed out that, if you hear that testimony, that information to decide, then the rule as written is good, does not need to go back to Committee or rules hearing because it is the same rules that already went through the rules hearing process.

**Rodriguez** thanked Ruark and Van Laanen and added that the Board is not scrapping the whole thing after all that's been done. Instead, **Rodriguez** said that its one little hitch which is the next step of getting staff opinion and hearing what they say and what their day is in and day out looks like, one way versus the other.

**Udosenata Harruna** clarified that the Board is moving everything forward except for the rollover of continuing education hours.

**Rodriguez** responded by stating yes.

**Gray** moved to approve and move all rules except the rollover portion of the continuing education rules through the final rules process for adoption with the effective date of July 1, 2022. **Second the motion: Odle. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**

**Rodriguez** thanked everyone for the discussion.

## 8. API Newspaper Article

**Ruark** stated that Chen-Pinkham asked him to come up with an article that the Board could put out to some of the API media outlets regarding several things, such as the licensing process and resources. **Ruark** reached out to McCullough, who already had some information she was putting out to the communities to write this article. **Ruark** had Chen-Pinkham review the article, which she thinks was well written. In the end, the Board would need a translator to translate because some technical terms were in there and submitted to some media outlets within the AAPI community. **Ruark** noted that Board staff wanted to get approval from the Board before sending it out because it's on behalf of the Board.

**Chen-Pinkham** wondered if the Board should include the complaint website and phone number.

**Ruark** thinks it's a great idea.

**Rowan** noticed that the article keeps saying male and female a few pages back. **Rowan** thinks it should be simplified by making the article gender-neutral.

**Ruark** responded, stating that it was great. The Board staff will change that. Good point.

**Lindley** stated that the other thing she would like to add is to differentiate that the Board doesn't have criminal authority because I don't want them to think the Board will do something. So, somehow make that obvious, its law enforcement, unrelated to the Board's regulatory authority.

**Ruark** thanked Lindley and stated that the staff would clarify that.

**Gray** stated that this is all awesome information, and she senses that the audience should be the people who are likely to be employed in these facilities, rather than the facility owners and the owners know this stuff, and they do what they do anyway. **Gray** noted that the employees are the ones who need to see this information.

**Chen-Pinkham** thinks the Board should educate both the facility owners and the employees. However, because they are from other countries and might not be familiar with the laws here, **Chen-Pinkham** would rather be clearer and just lay out everything for both sides, letting them know the consequences of their actions.

**Rowan** thinks that's a great point. **Rowan** thinks Gray is right that the owners and the people making a lot of profit from this know they're doing something wrong. **Rowan** added that there are also connected family

members and people who may not understand the fault or complexity of what's happening. **Rowan** thinks that the article also provides those people with the necessary information. **Rowan** agrees with writing it across the Board for the bigger audience.

**Chen-Pinkham** thinks if the Board wants to add another line, like, right now, many people thought they were saying its mainly Chinese speakers. But if other people wish to request these documents in different languages, we should be able to provide that as well.

**Ruark** stated that Board staff would wait a week to send this out. If any Board member has any suggestions they want to submit after looking at it a little further, please feel free to offer some suggestions as the article will not be going out immediately. **Ruark** added that Board staff would make the corrections that the Board has already talked about, which is to shorten the article. **Ruark** thinks the article covers everything that the Board needs to cover, explaining the laws and giving some resources to people who might be victims.

**Chen-Pinkham** wants to upload this to the Board website. In case the Newspaper was not able to publish everything. **Chen-Pinkham** suggests that the Board provide a summary and then direct them to the website to look at the full article on translation.

**Gray** would love to be able to spend a little bit of time reviewing the article. **Gray** thinks that if the Board could trim the article down and make it more concise, it's more likely to be published in final form. **Gray** noted that if it's too long, the Board might not like how they cut it, and they're not necessarily going to run it by the Board. **Gray** would love to spend a little time with this and encourage everyone to see how they could make this more concise. **Gray** added that it might be reasonable to chat with somebody at the publication or publications where the Board proposes to send this, to ask them what kind of word count they are looking for. That way, we can be more assured that the Board's message won't get garbled.

**Ruark** thinks the article can be pushed to the next board meeting and, in the interim, if there's some information that board members want to submit. Then, they can submit them to make those corrections or bring them back to the Board.

## 9. BOARDerline

**Rowan** expressed that they loved this BOARDerline article. **Rowan** stated that it was easy to figure out what was going on. I love the format and everything itself. Yes, this is fantastic.

**Rodriguez** loved the article about how ideas become rules.

**Ruark** added that the Rollover part of the rules would be removed, and only the board-approved rules would be included in the article.

**Rodriguez** wondered if the Board should go ahead with the opportunity to serve on the Board and add the LMT position.

**Udosenata Harruna** stated that the LMT vacancy will be added now that the position is available.

**Rodriguez** thanked Udosenata Harruna. I'm all about being proactive if we can help it. And I know that's a luxury, sometimes. **Rodriguez** asks if anybody sees anything or has any recommendations. **Rodriguez** also

echoed what Rowan said. The BOARDerline feels a lot streamlined and a little easier to read, and do see some of the items the Board went over. **Rodriguez** noted that the columns aren't completely lined up. She imagined that'll be cleaned up.

**Rowan** thought on the page before some percentage signs were under the numbers. **Rowan** expressed that they had someone ask them about this two days ago, saying they do not understand what the Board does or what they go to the Executive session for, and they asked for these numbers. **Rowan** is excited and couldn't be happier with the BOARDerline.

**Rodriguez** recommends adding something to let everyone know that Board's staff are back in the office. Something simple, just saying, like with the e-mail and everything. What's on the Website?

**Chen-Pinkham** suggested adding a link to the Board meeting dates, as well as a dial-in phone number as well.

**Udosenata Harruna** thanked everyone for their feedback and added that she would update the BOARDerline with all the recommended changes.

**Rodriguez** asked if there were any other thoughts or if to move forward with a few edits.

The Board reviewed, discussed, and approved the [BOARDerline spring edition](#) for publication.

## 10. Public Comment and Correspondence:

### Correspondence (See Appendix 3)

**Rodriguez** stated that now is the opportunity to go over the correspondence and open the floor for public comment. **Rodriguez** asked if everyone had a chance to review the one written correspondence regarding the pulse wave soundwave or shock wave devices. Everyone has that. **Rodriguez** stated that the question is, does this device fall under the scope of practice of Massage Therapists? **Rodriguez** believes the person that sent this in is here today. Rosie Herkemij, right?

**Herkemij** Yes.

**Rodriguez** asked Rosie to please state their full name and LMT number for the record. Then, **Rodriguez** asked board members if they had any questions for Rosie. So I'd like to start there.

**Rowan** responded, stating that they had a question. **Rowan** as if this a prescription available device or is this some the public can get on Amazon, for example.

**Herkemij** thinks the device must be bought from a direct seller, but it is a class one device. **Herkemij** does not believe one can get this specific device on Amazon, but you never know nowadays.

**Rowan** wants to know if this is something that one would get through a prescription or a medical supplier and therefore have to be a medical supplier or a medical provider to purchase this device.

**Herkemij** responded by stating that one does not have to be a medical supplier or a medical provider to purchase this device because she is starting to sell them. She can sell it to anyone because of the device's classification. Still, we're choosing not to sell it to anyone other than medical providers.

**Rodriguez** stated that for clarification, anyone could come up and buy this device, correct? They do not have to have a license or a certification to buy the device.

**Herkemij** wants to do specifically external pelvic floor work on females and males. **Herkemij** would like to be considered to complete a class and get certified to do that work. The only course they can currently get certified for pelvic floor work is the internal cavity, and **Herkemij** does not want to do that.

**Rodriguez** asked what Herkemij wanted to hear from the Board today regarding are questions.

**Herkemij** would like the Board to go ahead and say that massage therapists can take a class and get certified to do the pelvic floor externally, and she has a program in the works that will fulfill the requirements. **Herkemij** added that the program would get people certified with 15 hours of CEU credit and the class. The program would be able to use that as long as the students get the extra supplemental certificate. **Herkemij** stated that they are predominantly planning on working with a physical therapist and a chiropractor. Still, **Herkemij** also wants to be able to do it because, according to their understanding, a lot of the pelvic floor work would invade the genitalia. **Herkemij** does not think that's outside their scope of practice. **Herkemij** wants to work in those areas so that people can get relief. The areas would work predominantly for women, but some men have pelvic floor injuries.

**Rodriguez** responded, saying it does make sense.

**Ruark** asked what draping looks like when providing this type of service?

**Herkemij** responded, stating that clients are always covered except where the work is being done.

**Rodriguez** asked if, at any time genitalia would be exposed.

**Herkemij** responded by stating yes when working on the specific location of the genitalia. But it's only for therapeutic reasons. **Herkemij** understands that the Board already approved internal cavity massage, which is not for sexual reasons but includes the genitalia. **Herkemij** expressed that they don't want to do internal cavities. So they are trying to devise a lesser option to provide something necessary and beneficial.

**Ruark** asked a follow-up question. **Ruark** wondered whether the practice would be based on a referral from somebody since a massage therapist cannot diagnose an issue.

**Herkemij** responded, stating correct. That's why, for multiple reasons, it is going to require, regardless of if they are working under a healthcare provider, would automatically have that referral built-in with that referral process.

**Ruark** does not think there's any difference between this and the internal cavity massage. Looking at the statute, although the Board does not address this type of massage in the rules and may have to make a rule change to accommodate the request.

**Lindley** responded by stating that there may have to be a rule implementation for an external pelvic massage. Because **Lindley** noticed on the internal cavity massage rule that it does say that one has to articulate a therapeutic rationale that the client understands what's being done and why it's helpful and has evidence of specific training and that kind of thing. **Lindley** added that maybe the Board wants to make specific rules for external pelvic floor massage.

**Rodriguez** noted that several people have recently come to them about this. So maybe this is something that the Board needs to start looking into. **Rodriguez** added that this could be something for the action plan where the Board may need to start looking into some rules and figuring something out for external pelvic floor work because they have had several people come to her, even CEU instructors pelvic floor work that is not technically, an internal cavity, but still in that nebulous.

**Gray** noted that this is a device that anybody can buy over-the-counter without a prescription that they could use at home, akin to a massager, although this sounds like an ultrasound device. People in some cases use it because it uses an ultrasound transmission gel. So **Gray** might be working in Libya areas or an inguinal region, an area that ordinarily would be covered except for internal cavity work, but this isn't internal cavity work. **Gray** stated that the Board needs to make some separate rules about consent and draping for this procedure, and that seems pretty straightforward to me. It's not any wilder than anything else already permitted under the massage therapist license. It's just that people have questions about it, and they want to be clear, correct?

**Herkemij** responded correct, but it is not an ultrasound machine as it does not produce heat. It's a very small amount of contraindication.

**Gray** stated that as a former midwife, she is familiar with Doppler ultrasound and those kinds of devices for imaging or, you know, conducting placental sounds and fetal heart rate and therefore familiar with the gel.

**Lindley** wondered if this is something in the massage school curriculum or if it is a continuing education thing that one would take on the weekend and incorporate into their practice. **Lindley** also wondered if the Board wanted more information on the equipment and how that procedure is done. **Lindley** feels they don't know enough about it, just reading two pages.

**Herkemij** stated that the machine runs for the based model at \$27,500, and there are ones that are \$100,000 and go up. So even though the public could go out and buy the device, most people will not do that.

**Ruark** thinks the reason that the Board asked whether the public can get it, it's because massage therapists can't use something that requires a prescription on somebody. **Ruark** added that if anyone can use it over the counter, the Board has previously ruled that things that the general public can use can be used in the massage practice. **Ruark** thinks that's more of the Board's questioning versus, you know, who can get it or not. **Ruark** stated that he could work with **Lindley** and maybe reach out to **Herkemij** and the sales rep to get some more information and bring it back to the Board. **Ruark** added that potentially some draft rules or something regarding that. I think it's not much different from internal cavity massage regarding how we would write it. This allows somebody with specialized training under certain circumstances, similar to the pelvic floor massage rule that says that you know, if there's a reason and one has the training in that. One knows all those stipulations. One can do that type of massage.

**Rowan** stated that it's their understanding that one can get certificates for taking classes, but there is no actual certification in these techniques, correct? But one can get a certificate from taking classes.



**Herkemij** thought there was an actual class. However, they only got one class certified to do internal cavity work.

**Gray** responded, stating that there are many classes out there, and they have taken three. **Gray** also thinks it's important for the Board to say that it is not in a position to require a particular certification or endorse a particular one. **Gray** added that this would be a complaint-driven process, just like everything else around here.

**Lindley** added that the internal cavity rule doesn't require a certificate. It just shows that a person must present evidence that they have specialized contact hours in that type of training, so that would be where it comes down to the Board. **Lindley** If they were a complaint, and the Board investigated the person, as long as the person followed the rule and had the training, they would be fine.

**Rodriguez** added right along with written consent.

**Lindley** responded, stating correct. As well as adding appropriate draping and no treatment on anyone under 18.

**Rodriguez** stated that this time, the Board is not able to decide at the moment. However, just to reiterate what Ruark was saying. The Board will continue contacting the three of you now to get more information.

**Rodriguez** thanked Herkemij

Public comment.

**Rodriguez** So now I would like to go ahead and open it up to public comment. I just ask because this is recorded as a public record that you do again state your name for the recording and just for the sake of time, please keep your comment to a maximum of two minutes.

**Garofalo** thanked Ruark for moving those continuing education rules forward except for the carryover.

**Garofalo** thought she would have to beat their head against the wall. But, **Garofalo** wanted to say if it is useful, she would be happy to meet with them about the carryover language and the points behind the intent.

**Rodriguez** thanked Garofalo

**Walden** stated that they have a question for the Board about the scope of practice, which has already been answered. Still, to make it usable when interacting with insurance companies in mind, **Walden** needs to make it part of the public record. **Walden** expressed that the brief is that they carry out some hands-on skills that include eccentric, isometric activations of the patient to improve range of motion, muscular tone, tissue tone, strength, recruitment, and so on. And so, this is hands-on work. **Walden** had a board member confirm this is within the scope as part of somatic work and somatic CEs, but they needed that confirmed in the public record.

**Rodriguez** responded, stating that it is a part of the public record.

**Walden** asked if this is within the scope of Oregon LMTs. Because they have spoken with someone on the phone about this but rules are very vague regarding somatic work in general. **Walden** has a couple of insurance companies that are giving them issues because the Board rules and laws are so ambiguous and context that they can't get the insurance to pay them when everyone else will because while this is recognized in scope, it's not listed anywhere specifically in the rules or laws for them to co-operate with them. So, if the approach is in scope if someone from the Board can confirm that, that would take care of that for them.

**Ruark** stated that what is in the scope of practice is if you're doing within the definition of massage in the Board rules and laws. **Ruark** added that those are within the scope of practice, which is the best that the Board will be able to do for Walden unless one of the board members wants to comment on that. **Ruark** reiterated that if Walden falls under the definition of massage, it is within the scope of practice massage.

**Walden** noted that they had someone be explicit on the phone with them that this was hidden scope. They are asking for hands-on work within the typical scope and intent of a massage therapist, so changing muscle tone and so on using a patient involvement like muscular activations would be part of the somatic style work of our scope of massage. **Walden** said they had someone confirm that on the phone from the Board. **Walden** is hoping just to have someone on the board volunteer a yes that, as I just described, is within scope.

As you're describing it, **Rowan** wondered, what can you give me an example of a technique you're doing that isn't spelled out in our scope of practice in the rules?

**Walden** says if someone were doing muscle testing and finding a muscle unable to function properly, as, in its strength, recruitment is in some degree of deficit. Actively in the insurance parlance, this would be a therapeutic exercise. But having the patient, say, I'm trying to activate a group max, and so putting them in a position for that, too, be the most likely activated muscle, and having them resist manual pressure, where I am hands-on, to change muscle tone and other similar factors. So, if that answers your question, it would be applying pressure at specific angles in positions of the person's body or therapeutic outcome and a hands-on fashion.

**Lindley** stated that what Walden described is the definition of massage, which says the use of pressure on the human body to maintain good health. So, does that answer your question?

**Walden** stated that many LMTs have experience with insurance companies and are trying to get as much direct language to ensure that insurance companies do not find reasons not to pay for services. **Walden** understands the Board has limitations as far as judgments go on that. So they are with the Board and just hope the minutes from today's meeting will satisfy the Insurance Company. **Walden** stated that they have one comment on the day's agenda if they could also add that at this time.

**Rodriguez** responded, stating yes.

**Walden** stated that this is regarding the rollover of continuing education hours. They are concerned that limiting rollover hours will decrease the quality of Oregon LMTs and create potential harm for the community and the public. Many massage therapists are employees, and they earn an income of \$15 to \$30 an hour, depending on if they're doing contract work and not working 40 hours a week. **Walden** added that many LMTs have been pursuing higher quality, larger, continuing education units when available. These are more expensive, but they are also more thorough and offer much higher quality education, and they can only do that because they rollover. **Walden** takes significant concern at the notions that attending this board meeting is an equivalent and quality and benefit to the public and improving one's abilities to practice massage. **Walden** stated that they are happy to be here and interact with the Board in their profession. However, they do not consider their involvement in the Board meetings substantially helpful to the public. Whereas higher quality LMT continuing education would be. Still, if the Board removes the ability to have those rollovers, then many LMTs will drop those because they cannot afford to sustain them if they have to do those every contract period. **Walden** added that this doesn't apply to them, and they will not run into this problem as they have enough income. However, that is not the case with other LMTs. **Walden** expressed that they have serious concerns as this will lower the quality of Oregon LMTs and potentially harm the public.

**Rodriguez** thanked Walden for her feedback. **Rodriguez** recommends taking a break before moving on to the Executive session. The time is 12:10.

**Odle** moved to take a break until 12:30. **Second the motion: Rowan. In favor: Chen-Pickham, Gray, Rowan, and Rodriguez. Opposed: None. Motion carries.** The Board stopped for a break.

**Rodriguez** noted that the Board had moved to take a break until 12:30. **Rodriguez** reminded everyone to come back here so she could read the Board into the executive session.

**The Board returned to Public Session at 12:30 a.m.**

**The Board entered into Executive Session at 12:40 a.m. pursuant to ORS 192.660 (2) (k).**

#### **11. Executive Session:**

**Rodriguez called** the Board into Executive Session at 11:18 a.m. All board members and staff present.

**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.**

**The Board returned to Public Session at 2:36 p.m.**

#### **12. Public Compliance Actions:**

- i. Case 3103 – Gray moved to Dismiss. Second the motion: Chen-Pinkham. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries**
- ii. Case 3255 – Rowan moved to Issue a Notice of Proposed Action for violation of OAR 334-030-0005 (1)**

- and (2), OAR 334-040-0010 (25)(a)(C) And require respondent to unconditionally pass professional class. **Second the motion: Chen-Pinkham. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- iii. **Case 3309 – Odle moved** to Issue a Letter of Concern. **Second the motion: Gray. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- iv. **Case 3311 - Gray moved** to Issue a Notice of Proposed Action for violations of ORS 687.021(1)(a), Fifteen (15) violations of ORS 687.021(1)(c). For a total civil penalty in the amount of \$16,000. Refer case to appropriate law enforcement pursuant to ORS 676.177. **Second the motion: Odle. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- v. **Case 3323 – Rowan moved** to Issue a Notice of Proposed Action for violation of ORS 687.021 (1)(b); Six (6) violations of ORS 687.021(1)(c); violation of ORS 687.021(1)(d); OAR 334-040-0010 (12). For a total civil penalty in the amount of \$9000. And refer case to appropriate law enforcement pursuant to ORS 676.177. **Second the motion: Chen-Pinkham. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- vi. **Case 3334 - Chen-Pinkham moved** to Issue a Notice of Proposed Action for one violation of ORS 687.021 (1) (a), violation of ORS 687.021 (1)(b), and Four (4) violations of ORS 687.021 (1)(c); OAR 334-040-0010 (12). For a total civil penalty of \$7,000. And refer case to appropriate law enforcement pursuant to ORS 676.177. **Second the motion: Rowan. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- vii. **Case 3366 - Chen-Pinkham moved** to Issue a Notice of Proposed Action for one violation of ORS 687.021 (1) (a). For total civil penalties in the amount of \$1,000. **Second the motion: Rowan. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- viii. **Case 3335 - Chen-Pinkham moved** to Issue a Notice of Proposed Action for violation of ORS 687.021 (1) (b), Three (3) violations of ORS 687.021 (1) (c), and Two (2) violations of OAR 334-040-0010 (12). For a total civil penalty of \$6,000. And refer case to appropriate law enforcement pursuant to ORS 676.177. **Second the motion: Gray. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- ix. **Case 3345 - Gray 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 ORS 687.021 (1) (d) and violation of OAR 334-040-0010 (12). For a total civil penalty of \$7,000. And refer case to appropriate law enforcement pursuant to ORS 676.177. **Second the motion: Odle. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- x. **Case 3367 – Gray moved** to Issue a Notice of Proposed Action for violation of ORS 687.021 (1)(a). For a total civil penalty of \$1000. **Second the motion: Odle. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries**
- xi. **Case 3349 – Rowan moved** to Combine Case Nos. 3349 and 3359 and Issue a Notice of Proposed Action for: Violation of ORS 687.021 (1)(a), Five (5) violations of ORS 687.021 (1) (b), Seven (7) violations of ORS 687.021 (1) (c), Two (2) violations of OAR 334-040-0010 (12), Two (2) violations of OAR 334-

- 040-0010 (12). For a total civil penalty of \$17,000. And refer case to appropriate law enforcement pursuant to ORS 676.177. **Second the motion: Gray. In favor: Chen-Pinkham, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xii. **Case 3350 – Rowan moved** to Issue a Notice of Proposed Action for Two (2) violations of ORS 687.021 (1) (a). For total civil penalties in the amount of \$2,000. **Second the motion: Gray. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xiii. **Case 3369 – Rowan moved** to Issue a Notice of Proposed Action for one violation of ORS 687.021 (1) (a). For total civil penalties in the amount of \$1,000. **Second the motion: Gray. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xiv. **Case 3370 – Rowan moved** to Issue a Notice of Proposed Action for one violation of ORS 687.021 (1) (a). For total civil penalties in the amount of \$1,000. **Second the motion: Gray. In favor: Chen-Pinkham, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xv. **Case 3356 – Chen-Pinkham moved** to Issue a Notice of Proposed Action for: Violations of ORS 687.021 (1) (b), Nine (9) violations of ORS 687.021 (1) (c), Violations of ORS 687.021 (1) (d), and violation of OAR 334-040-0010 (12). For a total civil penalty of \$12,000. And refer case to appropriate law enforcement pursuant to ORS 676.177. **Second the motion: Rowan. In favor: Chen-Pinkham, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xvi. **Case 3371 – Chen-Pinkham moved** to Issue a Notice of Proposed Action for one violation of ORS 687.021 (1) (a). For total civil penalties in the amount of \$1,000. **Second the motion: Rowan. In favor: Chen-Pinkham, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xvii. **Case 3357 – Rowan moved** to Issue a Notice of Proposed Action for violation of ORS 687.021 (1) (b), Five (5) violations of ORS 687.021 (1) (c), and violation of OAR 334-040-0010 (12). For a total civil penalty of \$7,000. And refer case to appropriate law enforcement pursuant to ORS 676.177. **Second the motion: Chen-Pinkham. In favor: Chen-Pinkham, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xviii. **Case 3372 – Rowan moved** to Issue a Notice of Proposed Action for one violation of ORS 687.021 (1) (a). For total civil penalties in the amount of \$1,000. **Second the motion: Chen-Pinkham. In favor: Chen-Pinkham, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xix. **Case 3276 – Rowan moved** to Withdraw Notice of Proposed Action and Issue Letter of Concern. **Second the motion: Chen-Pinkham. In favor: Chen-Pinkham, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xx. **Case 3149 – Chen-Pinkham moved** to Accept Stipulated Agreement and Final Order negotiated by staff. **Second the motion: Gray. In favor: Chen-Pinkham, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**

- 
- xxi. **Case 3152 – Rowan moved to Accept Stipulated Agreement and Final Order negotiated by staff (after payment of civil penalty). Second the motion: Odle. In favor: Chen-Pinkham, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xxii. **Case 3247 – Odle moved to Accept Stipulated Agreement and Final Order negotiated by staff (after payment of civil penalty). Second the motion: Chen-Pinkham. In favor: Chen-Pinkham, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xxiii. **Case 3285 – Chen-Pinkham moved to Accept Stipulated Agreement and Final Order negotiated by staff. Second the motion: Odle. In favor: Chen-Pinkham, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xxiv. **Case 3373 – Gray moved to Issue License. Second the motion: Rowan. In favor: Chen-Pinkham, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xxv. **Case 3376 – Rowan moved to Deny Application. Second the motion: Gray. In favor: Chen-Pinkham, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xxvi. **Case 3374 – Rowan moved to Issue License. Second the motion: Rowan. In favor: Chen-Pinkham, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
- xxvii. **Case 3375 – Gray moved to Deny Application. Second the motion: Odle. In favor: Chen-Pinkham, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**
13. **Public Comments: None.**
14. **Adjournment**

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

With no further business before the Board, **Rodriguez** adjourned the meeting at 2:41 p.m.

---

**OBMT Board Meeting Minutes**  
**May 13, 2022**  
Remotely via GoToMeeting

**DAY TWO (2)****Attendance:****Board Members:**

Christa Rodriguez, LMT, Chair  
Becket Rowan, LMT Member, Vice-Chair  
Meng Chen-Pinkham, Public Member  
Maria Odle, Public Member.  
Carol Gray, LMT Member

**Staff:**

Robert Ruark, Interim Executive Director  
Ekaette Udosenata, Operations, and Policy Analyst  
Torey McCullough, Compliance Specialist  
Jeff Van Laanen, Compliance and Licensing Manager

**Public:**

**Elizabeth Preston.**  
**Kelly Arme**  
**Ashley Hernandez**

**1. Call meeting to Order/Introductions:**

**Rodriguez** called the meeting to order at 9:09 a.m. Roll call was performed. **Chen-Pinkham, Odle, Gray, Rowan** and **Rodriguez**, were present. **Ruark**, Executive Director, **Van Laanen**, Compliance and Licensing Manager, **McCullough**, Compliance Specialist, and **Udosenata Harruna**, Operations and Policy Analyst were also present.

**Rodriguez** asked members of the public to introduce themselves. The public present at this time were: **Elizabeth Preston, Kelly Arme and Ashley Hernandez.**

**2. Approve Agenda:**

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

**3. FSMTB Executive Summit**

**Ruark** stated that he was fortunate enough to attend the FSMTB Executive Summit and found it informative and a great opportunity to learn about nationwide trends in the massage industry. **Ruark** noted that he was asked to be a panel of industry professionals to speak about OBMT's approach to curtailing the flow of illegal massage facilities within the State. There was a three-member panel that talked about what the different state agencies are doing to combat that issue. **Ruark** added that there were a lot of executive directors as well as a lot

of compliance people, which was the first time, he had seen the FSMTB Executive Summit focused on collaboration.

**Van Laanen** thanked **Ruark** and said he mentioned the summit yesterday. In his opinion, the summit was over too quickly. **Van Laanen** stated that sometimes when attending these training, one can't wait to leave. This wasn't the case. The networking was exciting because he met many of his counterparts along the tier of both licensure and compliance and could network with other professionals from other states that are doing the same job or similar. This opportunity provides the opportunity to reach out to these people and see if they have encountered similar problems and how they dealt with them, their success and failures Et cetera. **Van Laanen** added that they now have whole new group of professionals to network with, but that was just the tip of the iceberg. The training was exceptional as well. **Van Laanen** would like to suggest to FSMTB that they extend and expand the training in the future and maybe even have some breakout sessions. **Van Laanen** thought it was extremely valuable. **Van Laanen** hopes it keeps getting better and would like to go again.

#### 4. The Biennial Audit (See Appendix 4)

**Ruark** stated that every two years, the Board has to go through a biennial audit on processes and financials to ensure that the procedures the Board has in place are sufficient and meets the industry standards. Also, the Audit is to ensure that the money that the Board says is in the bank is in the bank and that the things that the Board is spending the money on are appropriate. **Ruark** stated that the Board used to contract with a different auditor who had done the auditing for a long time. That individual retired. **Ruark** said that the Semi-Independent Board and Agencies (SIBA) got together to get an auditor that would perform the Audit sustainably and cost-effectively. **Ruark** stated that a bid was put out, and responses were received and reviewed. The SIBAs looked at the Secretary of State Audits Division. They looked at the two proposals received, and those SIBAs who did not use the Secretary of State Audit Division went with the company that they remain SIBAs decided on. **Ruark** stated that the Audit went well as the auditor found no problems, as demonstrated in the Audit report.

The Board's processes in place are good, there were no concerns, all the balances matched, and everything was good, and so it's a good audit. **Ruark** is glad everything went well, and there were no recommendations about how the Board could change things. Although, during the Audit, **Ruark** found some processes he wants to change and improve. **Ruark** stated that there was no pre-audit or post-audit Meeting because of COVID. So, it was a different format for him. The one thing he didn't like about this audit company was the lack of communication. **Ruark** didn't know how far they were along in the Audit. They kept asking for documents then we wouldn't hear anything for three weeks and requested more documents.

**Ruark** didn't know the timeframe and didn't know when to involve Chen-Pinkham. Or if he needed to involve her or how that worked because it's a different process. But thinks that will be worked out.

**Ruark** stated that the SIBAs got together and plan to approach this auditor if we're going to use them again next year or next biennium to make better ground rules about pre-meetings and post-meetings. So Directors can keep our Board more informed about the process as it goes along.

**Rodriguez** asked if that was feedback that the other SIBA also expressed.



**Ruark** responded, stating yes. That's the exact thing that we all had was that the other auditor was very communicative and, of course, had done it for years, so the Board knew what it needed and what the SIBAs had to report and keep respective Board informed about the process. **Ruark** added that was the one thing the SIBAs had, and **Ruark** thinks there'll be very receptive to that. The auditors were great, and they did a great job.

**Rowan** expressed that having lived through audits at companies knows it's an incredibly stressful time. However, **Ruark** is doing everything he can. **Rowan** stated that they read all of the reports and hope that going forward, setting ground rules to make **Ruark's** job easier for reporting. **Rowan** was happy with the product and felt it was understandable, readable, and very happy with the finished product.

**Ruark** noted that it seems to be the consensus among other board members. Also, the feedback **Ruark** got from the directors was that they liked the format. The Board's previous formats were bulky and had a lot of narratives. This has a lot of charts and descriptions that help explain the context. **Ruark** added that most board members enjoy the format.

**Rodriguez** thinks the report looks great, clean, and impressive. **Rodriguez** stated that the reports show the good work the Board staff is doing.

**Gray** liked the final product and wondered if the SIBAs were concerned about not meeting a deadline because you weren't getting feedback about how close they were during the process.

**Ruark** responded, stating that was the main concern. **Ruark** added that all SIBAs have a deadline to submit the report to the Secretary of State Audits Division, and some of the SIBAs, like this Board, got that a few days before the deadline. **Ruark** expressed that the OBMT was assured they would get the report beforehand. But not knowing this company, **Ruark** had to rely on their word. Mosse Adams is a reputable business and have been around for a long time. **Ruark** added that the lack of communication made SIBAs feel like they might not meet deadlines.

##### 5. SIBA Report (See Appendix 5):

**Ruark** stated that the SIBA report was due the same day as the Financial Audit report. So, the SIBA report is due to the Governor, the Secretary of State Audits Division, the Speaker of the House, and the Senate President. **Ruark** stated that the Board has to do this report because most boards that are not semi-independent have to go before the Senate to testify and present their information. Semi-independent Boards and Agencies don't have to do that unless we're called heads before the Senate. And if a SIBA is called before them, it's generally not good. So, we submit this report, and then the Governor's office takes all the reports from the semi-independent boards and compiles them into one report that goes to the Senate for review. And if they have questions, they would call the Board to testify. **Ruark** stated that the final report is very extensive as it has a lot of statistics, includes the audit report, and takes a long time to complete.

**Rowan** stated that this was their first time seeing a SIBA report and loved going through it because the consistency of what they were reading there was what they were hearing at every staff meeting or every board meeting. **Rowan** felt there weren't any surprises. They also appreciated the sections on what the Board is doing for consumer advocacy, the breakdown of all the timelines for the rules, etc. **Rowan** thought it was an excellent document from their perspective as a board members.

**Rowan** hopes that when onboarding the new members, perhaps this is a document the Board give to them and go over it with them to start because it just had so much perspective. **Rowan** wishes they would have had that before this Meeting last year would have been valuable.

**Ruark** agrees and notes that it's a great idea.

**Gray** agrees and especially loved looking at compliance statistics over a longer period than one month. **Gray** also noted that it is nice to have more of a big picture view, so they appreciated reading this report.

**Rodriguez** noted that it is great because it shows everything that has occurred every couple of years and many things accomplished during that timeframe. **Rodriguez** added that there are reasons behind why there may be some discrepancies or whatever, but it also shows how well the Board survived the pandemic. **Rodriguez** added that the report gives perspective, and she appreciates what **Rowan** said about providing this report to new Board members when onboarding.

**Rowan** thinks it will help flesh out the context of the starting point for the year. In addition, **Rowan** says it could help smooth it out because there's a lot to learn and figure out in the first year as a new Board member.

**Chen-Pinkham** asked if the SIBA report is something the Board shares with the general public or the licensees.

**Ruark** responded, stating that he was not sure. **Ruark** added that the SIBA report gets submitted to the Governor's office, and then the Governor's office reports all Semi-Independent Boards and Agencies. **Ruark** suspects that the report submitted is shared with the public and is pretty sure the Board can share the same report with the public, too. **Ruark** noted that he would look into it to make sure. **Ruark** stated that he could put it on the Board's website so people could access the report.

**Rodriguez** adds the SIBA report to the minutes or something like that.

**Gray** love having the SIBA report and maybe adding it to the documents section on the Board's website so people can read that stuff, and even though anyone will hardly look at it or read it, **Gray** thinks it's really important to have it there.

**Chen-Pinkham** asked if there was anything that could make the tracking easier because there are many things being tracked in the report.

**Ruark** responded, stating that most of that stuff is already tracked, like the rules update. So, some of that is already taken care of. **Ruark** expressed that the one thing that is the most time-consuming is the budget part of the report because he has to go line by line to figure out percentages and things like that. So, there's no real way to track that until after the budget cycle.

**Rowan** asked if the information on the report was being constantly compiled. For example, if they wanted some of the data either about the rules or about compliance, would that be something that Van Laanen would have access to without having to do a bunch of work to pull it together for them? **Rowan** asked if that was an ongoing document.

**Ruark** responded, stating that it mostly depends on what is requested. But, Board staff can quickly come up with that stuff with minimal work as Board staff track that information. The real work involves us going

through those lists and ensuring that everything in there is accurate. Usually, everything in the database is 100% correct. But sometimes have to go through to ensure that there wasn't something in there twice. So to answer the question, that's something Board staff can come up with pretty quick.

**Gray** asked if there are any anticipated changes to the ability to gather statistics to track things as the Board transition to state IT.

**Ruark** responded, stating no. The transition won't have any impact at all on that. It's not going to impact it because our statistics are tracked through the database, which is web-based. **Ruark** So there's not going to be much of a problem or difference as the particular server is already on DAS IT.

**Ruark** is excited about going to DAS IT. The current IT support has been great. Moving to DAS, IT will be less expensive and consistent with other state agencies. **Ruark** added that all the protocols, like, right now, there's so much concern about hacking, and ransomware, and things like that. **Ruark** has to send the Board IT support something from DAS IT about new security requirements. Every time that happens, it costs the Board money. And these are all mandates from the Governor's office, so it has to happen. And it cost the Board extra money, but if we're part of DAS IT, it's just part of the update. **Ruark** added that it doesn't cost the Board anything else for them to implement those updates. So it will be cheaper in the long run and a little more secure. But, to be honest with you, I think that one of the ultimate goals, too, is that our system will be vulnerable to attack.

**Gray** wonders if the Board needs help, given that it is smaller than many other entities using the DAS IT system. Will the Board end up waiting in line behind some big hitters to meet our service needs?

**Ruark** stated that when he first became the executive director, there was a transition in DAS IT. **Ruark** went to a big director meeting, and the new Director of DAS IT was there, saying that DAS IT wants to cater to the little agencies and the big agencies. SIBA and smaller boards like the Teacher Standards Commission director were vocal about not wanting to be secondary to everybody. The director made it clear that if DAS IT does not have the infrastructure to have SIBAs and other small agencies get what they need promptly, then they will not go to DAS IT. **Ruark** stated that DAS IT brought on some staff and has assured SIBAs and other small agencies that they can support them with no problem.

**Van Laanen** thanked **Ruark** and added that exactly what he was going to provide to **Gray** was his experience at teacher standards was that the DAS IT team was quite responsive. Not to say that our existing provider is not responsive. They are. **Van Laanen** understands there are two additional factors. First, COVID and State employees work remotely to some extent. **Van Laanen** expected that created a whole bunch of new problems that he assumes DAS IT has worked through over time.

**Odle** piggybacks on what **Van Laanen** said, there were growing pains in early 2020 with the COVID, and everyone experienced that. But, right now, the DAS IT helpdesk is very responsive. For example, if her computer isn't working right or Adobe does something, **Odle** gives DAS IT a call, and **Odle** will either get a phone call or a quick e-mail. But they implemented a ticket system which **Odle** appreciates as it gives her regular updates on the status of issues and when the issue was resolved. So they are much more responsive now than they were before, and the downtime is so much less than they used to be, and they want to know how they're doing because they send you a survey after each contact they do, which was good. **Odle** knows that the State went through e-mail changes. **Odle** asked if the Board is going with the State now and if the e-mail addresses will have to change?

**Ruark** responded, stating that the Board had already changed its e-mail addresses from Oregon message to Oregon.gov. **Ruark** noted that this was a statewide requirement, even if the agency was a SIBA or IT support was not from DAS IT. So yes, they've already changed the Board's old e-mail address.

## 6. Board Action Plan:

**Ruark** updated the Board on the Board Action Plan. **Ruark** said he would like to give the new board members a little history of this particular action plan. So previous to this, the Board hired a facilitator to come to the traveling board meeting in Hood River. The facilitator put together their board action plan with public input and input from everybody. **Ruark** stated that was the Board's last in-person traveling board meeting. **Ruark** noted that he was the Interim Director at the time, and the Board built that plan. So, the Board was in a position where the Board was looking to the future and kind of coming up with ideas about where the Board wanted to go and things like that. **Ruark** Based on what was going on at the time and input from LMTs and stuff like that. So, the Board came up with this board action plan. Many items on this board action plan have been fulfilled or continue to be worked on. **Ruark** noted that when the Board got the finished product, there were some concerns from some Board members and some of the Board staff that the format wasn't something the Board cared for as much as the other format we had the Board plan previous to this. So, **Ruark** recommends that the Board reaches out to this person that the Board had used in the past that we'd been really happy with, see what kind of availability this individual had, and maybe, um, come together at the end of the year, after we get new board member and then build a new action plan based on, what's going on right now and the needs of the Board.

- Reduce the dependence on penalty income to fund the board operations.

**Ruark** stated that a Board member wanted to separate the income received from civil penalties from all the other income and just use the civil penalty income received for investigations that way. However, it doesn't look like the Board is using the money to do something other than investigations. **Ruark** noted that when Carol Ann Kirby mentioned it to the Board, this item got added to the action plan, **which** was impossible based on the current law and how auditing practices work.

**Ruark** expressed that he conducted some research on that based on the Board's SIBA model. But, Board's current law and how accounting principles work, that'd be impossible, and it's not done by any other board, anywhere, or anything else. So, that's why that hasn't been worked on much outside of doing some research on it.

- Develop a budget format that shows the Budget against actual forecasting.

**Ruark** started to provide more information to the Board at each meeting. In each quarter, all expenditures are reviewed by the Board Vice-Chair, and **Ruark** tries to provide as much as he can to the Board members to give the Board an idea of exactly what's going on with the Budget. **Ruark** informed the Board of how things were going and provided the Board with the financial forecast.

- Improve the consistency of messaging and all communications.

This came down to the fact that if somebody were to call a Board member, staff member, or the Executive Director and ask them about something, no matter who they called, the response should be consistent across Board. As a result, **Ruark** implemented a weekly meeting with all staff, where Board staff meet weekly and

share ideas. In addition, the Board staff has an e-mail chain and the cell phone text chain, where information and ideas are shared.

- Develop methods to be a more welcoming and inclusive organization.

**Ruark** stated that the Board had done as much work as possible. However, **Ruark** thinks there's always room for improvement.

- Improve the quality of communication with licensees by better understanding their needs.

**Ruark** expressed that COVID helped that. Believe it or not. **Ruark** communicated more with licensees now than he had previously, although his entire directorship has been almost during the pandemic. **Ruark** knows he had a little bit outside of COVID, so. Then the COVID happens, so he thinks on the backside of cool, but some of these things that the Board would like to see have already been implemented. **Ruark** believes it won't be an issue anymore if it was even an issue.

- Establish positive working relationships with stakeholders.
- Streamlined communications with stakeholders.

**Ruark** stated that the Board had done a lot of work, especially in the COVID era.

Increased outreach to the underserved communities, particularly the API community. **Ruark** stated that this was an interesting idea. Although not sure which board member came up with it but a great idea, nonetheless.

**Ruark** expressed that if the licensee's problem was having difficulty finding continuing education, staff should be able to direct them to places, a particular agency, stakeholder, or professional organization that might deal with that. **Ruark** thinks the Board has done well at making sure the Board increased outreach to the underserved communities, particularly the API community. **Ruark** stated that this is something the Board works on all the time and continues to work on.

- Expand the pool of contract investigators.

**Ruark** stated that at the time of this action plan, the Board was down about 2 or 3 investigators, and Board staff was able to fill those positions. Also, at that time, the Board didn't have contract investigators throughout the State. Instead, they were centralized in the Valley, which made it difficult and more expensive to conduct investigations.

- Audit Liason

At the time of the board meeting, the Board did not have the audit liaison position, formerly held by Carol Ann Kirby. Chen-Pinkham now holds the position, and it'll have to be somebody else after Chen-Pinkham leaves.

- Focus on staff development.

This is something that **Ruark** felt strongly about and believes he must have suggested to the Board, and the Board agreed with him. **Ruark** added that the Board allowed him to increase the Budget for Staff Development/Training; unfortunately, COVID hit right when the Budget was increased. So, there has not been a

lot of staff training, but the staff has done as much as possible remotely. **Ruark** anticipates this next year/next budget cycle. Then, board staff can focus on that a little better.

- Create a sustainable document management system and process.

**Ruark** thinks the Board has a pretty good document management system right now. Although there is always room for improvement, the Board has a very responsive database that manages that document management system. In addition, **Ruark** thinks that person is doing a great job responding to the Board's needs.

- Relocate to a better office space.

**Ruark** stated that the Board has moved to a great place and the Board staff loves it. **Ruark** can't wait to have everybody in their post-COVID and maybe have a welcome open house, where the Board can have board members, LMTs, and other interested parties come to see the new office space and meet everybody.

- Improved communication Methods processes between BMT staff and board members, particularly between meetings.

**Ruark** expressed that he immediately started giving Board members individual briefings between meetings. **Ruark** added that sometimes, he sends out only relevant information to everyone and has been doing that more recently while also trying to ensure not to inundate everyone with too many e-mails. **Ruark** said he would resume sending out updates about what's going on to Board members in-between meetings.

- Review and revise the internal processes and key documents.

**Ruark** stated that this is something that he is particularly excited about, and the Board has been doing that, but he wants to review and revise the internal processes and key documents. **Ruark** expressed that this is something that he wanted to accomplish when he took over as the director. Review, revise and streamline all internal processes and the context of the documents used at the Board office. **Ruark** thinks this has been accomplished.

- Fill in the Executive Director Position.

**Ruark** thanked the Board and added that this had been accomplished.

- Develop an emergency technology plan for the event of a system failure.

**Ruark** noted that this came about because right around that time, after taking over as the Executive Director, the Board had a huge power issue that caused multiple hard drives to fail, and the Board lost a bunch of data that we had to recover. There was a big ice storm not long after, which resulted in the lost data prompting another recovery effort. The Board decided that they needed to have an emergency technology plan. **Ruark** states that the Board now has an emergency technology plan received from DAS. The plan will be implemented now and after moving over to DAS IT.

- Conduct an annual review of the Attorney General.

**Ruark** stated that at the time, there was some concern about the Board's Attorney General, who was also the attorney for the Cairo Board. And at that time, there was some contention between the Chiro Board and the Massage Board centered on chiropractic assistance. **Ruark** stated that there was a sufficient amount of LMTs in the community that was unhappy with how Chiropractic Assistances are certified and that they were certified at all and able to do things. **Ruark**, so there was a big contention there, and concern that the Board's Attorney General needed to be impartial and therefore need an annual review of the Attorney General to ensure that she is impartial between both Boards. **Ruark** noted that is something the Board has not done, and that's something **Ruark** wants to discuss the next time the works on building the next action plan, whether or not the Board wishes to include this in the plan.

- Utilize the Board's broad base of experience to serve its stakeholders

**Ruark** stated that the last one was better to utilize the Board's broad experience base to serve our stakeholders. When hiring, look within the agency first to find out the strengths of everybody, and make sure you're playing to the strengths of everybody on staff. Then, **Ruark** thinks of reviewing the strategic plan at the end of the year or the beginning of next year, perhaps even at the next business board meeting, having that facilitator come and build a new plan after the new Board members are settled. **Ruark** thinks it would be a great idea, but that's just his recommendation, and he will certainly do whatever the Board would like to do.

**Gray** thinks it's a great idea to settle the new Board members and charge ahead as a team.

**Rowan** wondered how long everybody on the Board still had of their term.

**Chen-Pinkham** stated that their last meeting would be in September 2022, but the term ends in November 2022.

**Rodriguez** is January of 2024.

**Gray** is November 2024.

**Rowan** thinks they are April 2024.

**Odle** is the end of 2023.

**Rodriguez** expressed that it was interesting because they remembered the action plan before this one. This was more about processes, live, office, how things are run, and accessibility. Whereas the one before was more about the need to do more work on the scope of practice or continuing education or look at certain policies, it was revealing topical policy at the time. **Rodriguez** can also appreciate that many of the processes that were brought up to let people know when things were done and also involve members of public and trade organizations. **Rodriguez** stated that they all had an opportunity to be involved in creating the Board action plan. There was full involvement from everyone present at that meeting, not just the Board deciding what should be on the action plan. **Rodriguez** believes that some of these things will always be ongoing as there will always be work that can be done with inclusivity and outreach. Still, they are getting the sense that things will get better now that the Board has its executive director and has survived COVID. The COVID forced the Board to dig deep into communication, and she saw the positive outcomes there, but some of those pieces will always be ongoing. **Rodriguez** is getting the sense now with what was brought up yesterday with pelvic work.

Rodriguez thinks those are the pieces looking ahead that they recommend the Board consider putting on a future action plan.

**Ruark** also had been through the last few Strategic Action Plans, and the last one done down South was very community-focused as anybody in the audience was involved in the process. **Ruark** added that everybody got a sticky note and could put it where they wanted to see the Board go, and the category with the most sticky notes got moved into the board action plan. It was an interesting way of doing it. **Ruark** stated that he had been involved with a lot of strategic planning. This was probably the most inclusive and interesting one he has ever been involved in.

**Ruark** likes some of the great topics that came out of it and also agree with Rodriguez that a lot of these things are ongoing and certainly the direction that the Board should go. But think the ones previous to that, focusing the Board on things that directly affect licensees in the Board, like, legislation and policies versus the overall staff development and communication that was the main focus of the latest action plan.

**Ruark** agreed with Rodriguez and asked if the Board decided that maybe the action plan should be built after all Board members' positions were filled.

**Rowan** thinks it would be great to serve the newer members if the Board waited for them.

**Ruark** added that this would allow the Board to ensure that it secured a facilitator that the Board had used for many years before that versus a facilitator that we had to go with.

**Rodriguez** agrees and recommends that as well. Maybe it would be helpful for the Board members here to see the previous strategic action plan so that they can see and decide if they want that person or not.

**Ruark** will send the last couple of plans to the Board members.

**Ruark** stated that the facilitator in question did reach out to him a few months ago in an informal e-mail to see if he was interested in her facilitation service. **Ruark** responded by saying the Board is certainly interested but had to the Board about what they want to do. **Ruark** will make sure to find out what her availability is.

**Rowan** asked when scheduling the next year's meetings if the Board has the flexibility with the two-day meeting.

**Ruark** responded, stating that the Board gets to decide on meeting dates.

**Rodriguez** stated that the dates are not set in stone. It's whatever works for everyone. The idea for all Board meetings is accessibility for the public. But then, the reasons the Board tried to travel to places that are associated with a school or even just outreach, to areas that otherwise wouldn't have access in person to the Board. Rodriguez added that when the Board is looking for venues, the Board tries to think along those lines.

**Ruark** added that there is great interaction that a lot of the Board members have missed, not having been able to do these meetings in person that hopefully, you will enjoy once the Board can do in-person Board meetings again.



**Rodriguez** always has so much fun at those meetings because everyone is in the thick of it with the community, and the public is always so excited to see the real people and how accessible the Board is. **Rodriguez** also now, people can see the Board through this medium, but nothing compares to the face-to-face. So **Rodriguez** looks forward to the days when the Board can start doing that again.

**Rodriguez** thanked **Ruark** for streamlining the action plan.

#### 7. Meeting Work Item Review:

- **Ruark** will work with **Herkemij** and the Board's Attorney regarding the pelvic floor massage to develop suggestions for the Board.
- **Ruark** will rework the API news release to make it flow better and more concise,
- **Ruark** will rework the director evaluation forms to make them specific to the Board of Massage. Then, **Ruark** will bring that back to the Board to review and make more suggestions.
- **Ruark** will work on developing a time with a facilitator to build the new Board Action Plan.

**Rodriguez** responded, adding that is what they have as well. **Rodriguez** knows that **Van Laanen** has already reached out to her staff regarding rollover to get their feedback on the pros and cons to list how beneficial it is for them to remove, add, or keep it completely? **Rodriguez** stated that Board Member recruitment was to reach out to schools, Universities Specifically for health care Possession.

**Chen-Pinkham** added that she suggested reaching out to the Asian reporter for the public member position.

**Rodriguez** thanked **Chen-Pinkham** and believed that covers that.

**Odle** asked if Board Staff contact information could be updated on the database. In addition, **Odle** asked if past Board Members added somewhere for historical purposes.

**Rowan** would think a list of former board members and the tenure they served would be public information and cannot think of a reason why that wouldn't be possible. So **Rowan** asked if the Board could maintain a list of past members.

**Ruark** responded, stating that there is a list of past Board members.

**Rodriguez** suggests adding that to the Board packet on the database in the historical section.

**Chen-Pinkham** wondered if somebody could update their last name on the website or the board member list.

**Ruark** responded, saying that it would be updated soon.

**Rodriguez** thinks it's time to move on to our elections of Board officers. So that is for the chair and vice-chair positions.

**Rowan** motions to take a break. Gray Second. **Second the motion: Gray. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodrigueez. Opposed: None. Motion carries.**

**Rodriguez** stated that it was for a five-minute break. To clarify, the time is 10:35. Come back at 10:40.

## 8. Board Officer Election:

Again, **Rodriguez** is for choosing folks for a Chair and the Vice-Chair position. So **Rodriguez** would say, let's go ahead and start with a Chair position. Do we have any nominations?

**Odle** nominates Christa Rodriguez to stay in the position as Chair.

**Chen-Pinkham** nominates Rowan for either a chair or vice-chair.

**Rodriguez** thanked everyone and accepted the nomination. Next, Rodriguez asked Rowan if they had been nominated for both Chair and Vice-Chair do they accept either.

**Rowan** accepts the vice-chair nomination.

**Rodriguez** stated that before it goes to vote, any other nominations for Chair.

**Odle** moved to nominate and elected Christa Rodriguez for Board Chair. **Second the motion: Rowan. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodriquez. Opposed: None. Motion carries.**

**Chen-Pinkham** moved to nominate and elected Beckett Rowan for Board Vice-Chair. **Second the motion: Gray. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodrigueez. Opposed: None. Motion carries.**

**Rodriguez** congratulates Rowan as the Vice-Chair for the Oregon Border Massage therapist.

**Rowan** thanked everyone for nominating and voting them for the Vice-Chair position.

**Rodriguez** is happy to help Rowan with the onboarding process and appreciates everything that Rowan brings to the Board.

**Rowan** thanked everyone and stated that it feels like a pandemic work, and they have yet to meet all the Board members in person.

**Rodriguez** looks forward to the day when everyone can get together face-to-face, as they missed that.

**Chen-Pinkham** asked how likely the Board will have an in-person meeting before the exit of the Board.

**Rodriguez** stated that the thought was to wait until next year. But now that all offices are open, if people are still uncomfortable with face-to-face, this medium is still available. And that includes board members, staff, and the public. But, if that is something that the Board wants to consider discussing further, we can do that.

**Ruark** asked Board members to keep in mind that, when they decide to do that, to give Board staff as much lead time as possible because Board staff have to schedule hotel rooms and a conference room because the format's going to be a little bit different this time, it'll be a different kind of Meeting.

**Chen-Pinkham** asked if the in-person Meeting could be scheduled for their last meeting in September.

**Ruark** was also thinking the same thing, like a going away Meeting.

**Rodriguez** can't believe Chen-Pinkham is leaving the Board soon, and time is such a weird thing. **Rodriguez** thinks that if the Board wants to go ahead and do that, she would suggest that we amend the agenda to talk about in-person meetings and have the discussion after a public comment or after announcements.

**Rowan** moves to amend the agenda to discuss in-person Meetings after announcements. Second: Chen-Pinkham

**Rodriguez** stated that the amendment talks about in-person meetings after announcements. So, the other election the Board has to discuss is for The FSMTB annual meeting delegate. The FSMTB is in Charlotte, North Carolina, and will be from October 18 through the 20th. And just so folks know, the delegate travel and everything is paid for by FSMTB. So it's not coming out of the Board's Budget. But, any other representative the Board sends to the Meeting will come out of the Board travel budget. So, who will the Board send this year as a Delegate?

**Chen-Pinkham** asked if the Board would have any new Board members before that Meeting.

**Ruark** responded, stating that the Board would have somebody to get confirmed here just Monday, but that individual backed out. So, the Board has 4 or 5 applicants. So, to answer the question, there's a potential of having a Board member by then. **Ruark** thinks the Board wants the Delegate to be familiar with FSMTB, somebody who's been to meetings, and somebody who knows the process because the Delegate is part of the Board, a voting member of this gigantic board meeting that happens.

**Ruark** added that individuals as to be very well versed. Then, regarding sending staff and board members, the Board already has multiple new board members in the queue. **Ruark** would like to send Van Laanen and Rowan, Odle and Gray as a staff member.

**Ruark** added that the Board has the Budget to supports send Board members and staff as the Board has not used any out-of-state travel funds this last two years.

**Chen-Pinkham** asked if Odle was available and felt comfortable being a delegate.

**Odle** does not think that they should be the Delegate. Instead, Odle thinks that Rodriguez, Gray, or Rowan should because they have massage licenses and a real stake in the game.

**Ruark** stated that the Board chair could be a delegate, which traditionally has been many years previous, but that doesn't mean anybody can't be the Delegate. I just wanted to let you know the past practice we've done over many years.

**Rodriguez** expressed that is why they put it out for discussion, as it does not have to be them.

**Gray** stated, for the record, that they are unable to attend in October.

**Rodriguez** would like to go ahead and have someone put forth a nomination for the Delegate.

**Odle** would like to nominate Beckett Rowan to be the Delegate.

**Rowan** is unsure if they can attend the Meeting as they just started teaching at Lane Community College (LCC). **Rowan** would know by the next, but unfortunately, my boss was on vacation this week, and they couldn't verify that. So it would be hard for **Rowan** to commit to being the Delegate today. Rowan does not know if they can get their work week covered.

**Chen-Pinkham** recommend Christa Rodriguez for delegate.

**Rowan** moved to nominate Christa Rodriguez for Delegate. **Second the motion: Chen-Pinkham. In favor: Chen-Pinkham, Gray, Odle, Rowan, and Rodriguez. Opposed: None. Motion carries.**

**Rodriguez** said they are available to go to the FSMTB as the Delegate

**Rodriguez** Ok, all right, so that's been approved that I'm happy to go as a delegate for FSMTB this year. **Rodriguez** would recommend Jeff Van Laanen. **Rodriguez** asked Odle if she was available to attend.

**Odle** responded by stating she was not available to attend the FSMTB in October.

**Rowan** stated that they are happy to go at this point, but they have to confirm with their director that they can get those days off.

**Ruark** noted that it looks like Rowan is the only one that can go from the Board.

**Chen-Pinkham** moved to approve Jeff Van Laanen and Beckett Rowan to attend the FSMTB annual meeting. Second: Odle

## 9. Public Comment:

**Rodriguez** opened the floor up to public comment and requested that anyone commenting should state their name for the record again, and please keep their comment for up to two minutes, max.

**Steinmetz's** comments are what was touched on earlier about looking forward to the in-person Board meetings. If the Board has future board meetings in person, would that include maintaining the video conferencing? Having a blended format, or would they strictly be in person, has that been discussed?

**Rodriguez** responded, stating that it has been discussed in the past. The meetings would be a hybrid medium, where those that can come to the in-person Meeting that this would still be available, and that's true for members of the public, as well as board members and staff.

**Steinmetz** appreciated being able to attend the Meeting remotely for the last two years. **Steinmetz** spent 25 years in the field, and it was always kind of this mysterious activity even when they were on the teaching staff in Eugene. **Steinmetz** never knew what was happening with this mysterious activity that had swayed over what licensees did. It was a kind of a black box experience. **Steinmetz** stated that it has been wonderful to participate the last two years and knows that they are struggling with how to make a blended format work in their faith community. So **Steinmetz** wanted to express their appreciation for the last two years. They have I've thoroughly been enjoying being part of the process of how the sausage is made.

**Rodriguez** thanked Steinmetz. **Rodriguez** appreciates everyone for being here and being with the Board. **Rodriguez** has seen how much more accessible having the meeting remotely has been to people, and it's also helped a lot of the Board's conversations.

## 10. Announcement

**Rodriguez** noted that the next meeting is on July 11, 2022, which is a Monday. So that's a one-day meeting, and the Board is meeting virtually Via GoToMeeting. **Rodriguez** does not think there are any other announcements.

## 11. In-Person Board Meeting:

**Rodriguez** asked if there is anyone here that still wishes for us to wait until next January or March of 2023 for an in-person Board meeting.

**Gray** won't be meeting in person. **Gray** noted that her husband is a transplant recipient, and she is not ready to meet in person. **Gray** expressed that it is not especially relevant how the Board meets as long as it continues with a virtual option.

**Rodriguez** thanked Gray for sharing the information.

The Board discussed the in-person Meeting and voted to make September 19, 2022, a hybrid Board meeting.

**Odle** motion that the September 19, 2022, Board meeting be the first hybrid meeting. Second: Chen-Pinkham

**Rodriguez** stated that it had been accepted that it would be the First Hybrid meeting. **Rodriguez** also wants to put it out there again. Just as we all know, it is a fluid time. If anything changes or the Board faces any shifts as far as COVID or otherwise that are beyond the Board's control, then at the time, this can turn back into a remote meeting. **Rodriguez** also encourages people considering joining in person to not come in person if they are ill for the sake of everyone else.

**Rodriguez** asked if there were any other announcements before we adjourned the Meeting. Seeing no green lights, **Rodriguez** thanked everyone for being here for the past couple of days. **Rodriguez** thinks it's been a really good and valuable meeting, and the Board got a lot done. The Board is moving forward with a lot, and it feels good. **Rodriguez** is hoping the next time the Board meeting will have at least one new Board member, maybe two. **Rodriguez** is trying to be very optimistic here. **Rodriguez** shows a time of 11:40 a.m. and the Meeting is adjourned.

**Ruark** congratulates Christa Rodriguez as the Board Chair and Beckett Rowan as the Vice-Chair.

## 12. Adjournment:

**Rowan** moved to adjourn the meeting. Second the motion: **Odle**. In favor: **Chen-Pinkham, Gray, Odle,**

**Rowan, and Rodriguez. Opposed: None. Motion carries.**

With no further business before the Board, **Rodriguez** adjourned the meeting at 11:41 a.m.

APPENDIX 1,  
DIRECTOR'S REPORT - BOARD FINANCIALS

## May 2022 Directors Report

### **Directors Report**

OBMT offices have fully re-opened to the public as of May 1, 2022. OBMT has staffed our offices throughout the pandemic and been available in person and via telephone, however, prior to May 1, we limited our public access to appointments only. In fact, since we moved to our new office space during the pandemic, this is truly the first time our doors have been open to the general public. Staff are working various schedules, including some staff working from home, others working entirely at the office and others are on a hybrid schedule, where they work from home on some days with office time on others.

At the beginning of May, I attended the FSMTB Executive Summit and found it to be informative and a great opportunity to learn about nationwide trends in the massage industry. I was asked to be a member of a panel of industry professionals to speak about OBMT's approach to stem the flow of illegal massage facilities within the state. I brought the Boards compliance manager with me to the summit as many of the topics related to his duties at OBMT.

### **Budget Report**

Attached to this packet you will find the Profit and Loss Budget versus Actual. The sheets lists income and expenses and the first column of numbers are the income and expenses of the Board to date. The right column of numbers indicates what was budgeted for expenses and income. We are approximately 10 months into this two year budget cycle. Let's start with income: As you can see by the numbers we are only about 21% funded in the income category of initial licensure and about 25% funded in the income category of initial applications. We should be around 41% funded at this time. This is not unexpected and is more than likely a result of COVID restrictions and COVID fears, I have talked to other licensing Board directors and they are in a similar situation. I am hopeful, based on the numbers that these two funding sources will increase post COVID.

Of particular note is the income category of Late Fees. The Board has waved late fees due to COVID restrictions, that late fee waiver will end July 1, 2022, so the continued loss of this income item will not continue. I anticipate that that income line item will only be about 50% funded this biennium, resulting in an approximate \$70,000 loss this biennium. That loss has been covered by the Boards working capital. The Board currently has about 4 months of working capital.

I also want to touch on expenses. As you can see on the attached statement, our expense line item of computer expenses is approximately 90% spent. This is due to the COVID pandemic and the need to move just about all of our operations to a virtual environment. I anticipate we will overspend this budget line item this biennium, however, due to other reduction in expenses, in areas such as investigation expenses,



legal fees, travel, security, etc., we should be able to balance that out at the end of the biennium.

As you can see and as mentioned, our legal fees are down, our office supply line item is down, both travel in state and out of state are down, and of note, our postage line item is way underspent, this is due to our moving to an online licensing model versus mailing licenses directly to licensees.

In summary, the budget is currently 36% funded, just a 5% variance of where we should be at 41%. And expenses are at 39%, just a 2% variance of where we should be at 41%.

As stated before, the Board also has approximately 4 months of working capital.

**Staffing:**

Staff are working various schedules, including some staff working from home, others working entirely at the office and others are on a hybrid schedule, where they work from home on some days with office time on others. These schedules are approved by DAS HR and office management and seem to be working well.

**COVID Update:**

I am currently keeping track of the COVID numbers and attend weekly and bi-weekly meetings with other directors to discuss trends. I will continue these meetings and report any recommendations or pertinent information to our licenses and the Board.

**Board member recruitment:**

687.115 State Board of Massage Therapists; members; appointment; terms; meetings; compensation; administrator.

(1) The State Board of Massage Therapists operates as a semi-independent state agency subject to ORS 182.456 to 182.472, for purposes of carrying out the provisions of ORS 687.011 to 687.250, 687.895 and 687.991. The board consists of seven members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

(a) Four must be licensed massage therapists.

(b) Three must be members of the public, including one public member selected from a health related field. Public members may not be:

(A) Massage therapists; or

(B) A spouse, domestic partner, child, parent or sibling of a massage therapist.

(2) (a) Board members required to be licensed massage therapists may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by a professional organization representing massage therapists.

(b) In selecting the members of the board, the Governor shall strive to balance the representation on the board according to: (A) Geographic areas of this state; and (B) Ethnic group.

When I took over as the Executive Director my intention was to get the Board more involved in the selection process of prospective Board members. This has been difficult for several reasons. Ultimately, for LMT members, the statute is clear that the Governor will select these members based on recommendations from professional organizations representing massage therapist. I have reached out to several Boards and found that individual Board recommendations are not the norm. I also conducted research into our Board member selections from the past several decades and found that these members made application to the Governor Executive Appointments and were selected by the Governor, not the Board.

The current position vacated by Vice-Chair John Combe received a few applicants. Those applicants were reviewed by the Governor's office and a selection was made. However, just prior to confirmation that applicant removed themselves from contention and declined the position. I have reached out to the Governor's office regarding picking replacement from the current pool of applicants and I am awaiting a response. If any LMT wishes to be a Board member, please reach out to Board staff and we will direct them on how to complete the application process.

Our vacant public Board Member position remains vacant. We continue to advertise for this position and just recently placed a free ad in the [Partners In Diversity Community Engagement - Partners In Diversity](#) website. Partners in Diversity aims to create a competitive advantage for our region by attracting, retaining and developing diversity influencers and professionals of color. We believe community engagement is critical to accomplish this goal and have provided this page to support our communities of color. The purpose of this space is to share events and opportunities relevant to communities of color in Oregon and southwest Washington.

To post an event, you must be a community-based organization, nonprofit or public agency.

If you know of a Public Health member who is willing to serve on the Oregon Board of Massage Therapists please have them reach out to Board staff and we will direct them on how to complete the application process.

## Oregon Board of Massage Therapists Profit & Loss Budget vs. Actual

July 2021 through June 2023

TOTAL

	<u>Jul '21 - Jun 23</u>	<u>Budget</u>
<b>Income</b>		
Facilities Permit	4,800.00	6,000.00
Credentialing Review	1,300.00	4,500.00
Fingerprint Fee	34,539.75	95,760.00
Verification	2,090.00	3,600.00
License Reprint	1,110.00	3,600.00
Initial Licensure	65,350.00	300,000.00
Application Fee	44,600.00	175,000.00
Civil Penalties	166,078.52	350,000.00
Late Fee	400.00	144,000.00
Licensure Fee	589,876.50	1,418,231.00
LMT List	3,800.00	12,000.00
NSF Fees	175.00	400.00
Public Records / Miscellaneous	521.80	150.00
<b>Total Income</b>	<u>914,641.57</u>	<u>2,513,241.00</u>
<b>Expense</b>		
State Assessments	68,302.74	90,000.00
Contract/Professional Services	0.00	9,854.00
<b>Total PAYROLL EXPENSE</b>	577,900.58	1,586,671.00
Accounting Expense	2,516.12	800.00
Audit Expense	8,500.00	8,000.00
Bank Charges	26,811.33	40,000.00
Collections Fee	181.57	3,000.00
Computer Expense	90,848.64	100,000.00
Dues & Subscriptions	2,924.00	3,000.00
Equipment Repair	74.50	
<b>Total Investigation Expense</b>	89,621.83	216,000.00
Janitorial	2,785.00	0.00
Legal Fees	65,535.13	200,000.00
Meals	122.00	5,740.00
Office Equipment Lease	2,664.86	8,400.00
Office Furniture	0.00	15,000.00
Office Supplies	4,075.13	16,000.00
Payroll Taxes	0.00	0.00
<b>Postage</b>	<u>7,810.35</u>	<u>28,150.00</u>
Professional Development	590.00	10,000.00
Rent	42,304.50	96,000.00
Security	199.84	3,000.00
Telephone/Fax/Internet	6,724.71	15,600.00
Travel - In State	691.65	30,480.00
Travel - Out of State	665.17	12,500.00
Utilities	0.00	9,600.00
<b>Total Expense</b>	<u>1,001,849.65</u>	<u>2,507,795.00</u>
<b>Net Income</b>	<u><u>-87,208.08</u></u>	<u><u>5,446.00</u></u>

APPENDIX 2,

OBMT PROPOSED RULES  
EFFECTIVE JULY 1, 2022

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective July 1, 2022**

(~~strike through~~ represents deletions, **bold** represent new additions):

**334-001-0055**

**Board Member Stipend**

- (1) The Oregon Board of Massage Therapists hereby adopts a board member stipend of ~~\$400~~ **up to \$155** ~~per day~~ **or the current Oregon legislative per diem stipend each day** ~~per 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 678.140, HB 2992, 2021 Legislative Session & ORS 292.495  
**Statutes/Other Implemented:** ORS 678.140

Stat. Auth.: ORS 182.460 & 687.121

Stats. Implemented: ORS 182.460 & 687.121

Hist.: BMT 1-2010, f. & cert. ef. 4-12-10; BMT 2-2010, f. 7-23-10, cert. ef. 7-26-10; BMT 3-2010, f. 12-22-10, cert. ef. 1-1-11

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective July 1, 2022**

(~~strike through~~ represents deletions, **bold** represent new additions):

**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.~~
- ~~(14)~~ **14**) "Contract" means an agreement for purchase, lease, rental or other acquisition or sale or other disposal by the Board of Goods or Services.
- ~~(14)~~ **15**) "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.
- ~~(14)~~ **16**) "Contractor" means the Person with whom the Board enters into a Contract.

Oregon Board of Massage Therapists OAR 334

**Proposed Changes**  
**Effective July 1, 2022**

- (~~18~~17) "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.
- (~~19~~18) "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.
- (~~20~~19) "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.
- (~~21~~20) "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;
- (~~22~~21) Equivalent Credit Hours: are those credit hours as determined by the respective educational institution or its certified classes or programs
- (~~23~~22) 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.
- (~~24~~23) "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.
- (~~25~~24) "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
- (~~26~~25) "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.
- (~~27~~26) "Licensee" means any person holding a license, permit, or certificate issued by this Board; an LMT
- (~~28~~27) "LMT" means a Licensed Massage Therapist.

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective July 1, 2022**

- ~~(2928)~~ "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.
- ~~(3129)~~ "Offer" means a response to a request for price quote or response to a Solicitation Document.
- ~~(3230)~~ "Offeror" means a Person who submits an Offer.
- ~~(3331)~~ 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.
- ~~(3432)~~ "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.
- ~~(3533)~~ "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.
- ~~(3634)~~ "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.
- ~~(3735)~~ "Practice of massage" is defined in ORS 687.011.
- ~~(3836)~~ "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.
- ~~(3937)~~ "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.



Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective July 1, 2022**

- (4240) "Solicitation Document" means an Invitation to Bid, Request for Proposal or other document issued to invite Offers from prospective Contractors.
- (4341) "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.
- (4442) "Split Fee" means giving or receiving a commission or payment, either monetary or otherwise, for the referral of patients.
- (4543) "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.

Stat. Auth.: ORS 687.011 & 687.121

Stats. Implemented: ORS 687.011

Hist.: BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 3-2009, f. & cert. ef. 7-2-09; BMT 2-2011, f. 6-29-11, cert. ef. 7-1-11; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12; BMT 2-2012, f. 12-4-12, cert. ef. 1-1-13; BMT 1-2015, f. 3-12-15, cert. ef. 7-1-15

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective July 1, 2022**

(~~strike through~~ represents deletions, **bold** represent new additions):

**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.
    - (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 ~~contact~~ **supervised** hours of prior continuing education in subject areas may apply.
      - (i) 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 ~~contact~~ **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 ~~contact~~ **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.

Stat. Auth.: ORS 687

Stats. Implemented: ORS 687.031

Hist.: BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective July 1, 2022**

(~~strike through~~ represents deletions, **bold** represent new additions):

**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(1)(b);
  - (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

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective July 1, 2022**

- (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 must be ~~contact~~ **supervised** hours of continuing education training or Board approved activities. At least 4 ~~contact~~ **supervised** hours must be in Professional Ethics, Boundaries and/or Communication. The remaining 10 of 25 hours may be ~~contact~~ **supervised** or ~~noncontact~~ **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 must be ~~contact~~ **supervised** hours of continuing education training or Board approved activities. At least 8 ~~contact~~ **supervised** hours must be in Professional Ethics, Boundaries and/or Communication. The remaining 20 of 50 hours may be ~~contact~~ **supervised** or ~~noncontact~~ **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.

Stat. Auth.: ORS 687.121 & 687.051

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0006; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04; BMT 1-2006, f. & cert. ef. 1-5-06; BMT 2-2006(Temp), f. & cert. ef. 2-16-06 thru 8-7-06; Administrative correction 8-22-06; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective July 1, 2022**

(~~strike through~~ represents deletions, **bold** represent new additions):

**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 ~~contact~~ **supervised** hours in Professional Ethics, Boundaries and/or Communication.
  - (e) 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; 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 ~~contact~~ **supervised** hours in Professional Ethics, Boundaries and/or Communication.
  - (f) 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; 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 the periods of the lapsed license;
  - (c) Late fee payment;
  - (d) Proof of 50 hours of continuing education;
  - (e) Verification of 8 ~~contact~~ **supervised** hours in Professional Ethics, Boundaries and/or Communication.
  - (f) 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; 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

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective July 1, 2022**

(7) Continuing Education is not required if this is your first subsequent renewal after receipt of your initial license.

Stat. Auth.: ORS 183, 687.121 & 182.456 - 182.472

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: BMT 2-1998, f. & cert. ef. 7-22-98; BMT 2-2002, f. & cert. ef. 5-8-02; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04; BMT 1-2006, f. & cert. ef. 1-5-06; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 3-2009, f. & cert. ef. 7-2-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective July 1, 2022**

(~~strike through~~ represents deletions, **bold** represent new additions):

**334-010-0028**

**Breast Massage**

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

Stat. Auth.: ORS 687  
Stats. Implemented: ORS 687.121

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective July 1, 2022**

(~~strike through~~ represents deletions, **bold** represent new additions):

**334-010-0029**

**Internal Cavity Massage**

- (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) 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) 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.



Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective January 1, 2022**

After much discussion, the committee agreed to send the following versions of the rules to the Board and to the November Rules Hearing for adoption (~~strike through~~ represents deletions, **bold** represent new additions):

**334-010-0050**

**Continuing Education**

(1) The intent of Continuing Education is to protect the public by maintaining **continued competency in the knowledge, and skills, and abilities** of massage ~~and/or~~ bodywork. **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 ~~First Aid/~~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~~ **over-the-counter massage tools;**

(c) ~~Stretching and gymnastics that lengthen and shorten soft tissues~~ **Active and passive range of motion and stretching techniques;**

(d) ~~Posture and movement assessment~~ **Assessment of client's soft tissue, posture, and movement patterns;**

(e) Massage and bodywork business practices;

(f) **Massage and bodywork instructor training**

(g) Anatomy and physiology of the human body;

(h) Kinesiology of the human body;

(i) Pathology of the human body;

(j) Professional Ethics, Boundaries or Communication;

(k) Cultural competency **as defined in ORS 413.45;**

(l) Body mechanics;

(m) Somatic education;

(n) ~~CPR/First Aid~~ **Basic Life Support (BLS);** or

(o) Pain Management **as provided by the Oregon Pain Management commission (OPMC)**

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective January 1, 2022**

~~(A) At renewal time, each licensee must sign and submit a Board-supplied CE form indicating they have completed 25 hours 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.~~

(3) The methods of obtaining continuing education contact hours ~~shall~~ **include the topics listed in OAR 334-010-0050 (2) for continuing education shall include:**

**(a) Participation in instructor supervised, formal learning courses, seminars, workshops. 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;**
- 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 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 boards, email, social media groups, or other methods of direct communication.**

**(C) These must have a syllabus that includes competencies covered and methods of assessment.**

**(b) Participation in unsupervised, no instructor, 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 credit hour will be given for each meeting.**

**(B) These may be delivered in person or online.**

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective January 1, 2022**

- ~~(a) Attendance of courses, seminars, and workshops sponsored, certified by a licensed or accredited massage and bodywork training program;~~
  - ~~(b) Attendance of courses or activities for continuing education offered by a provider recognized by a massage and bodywork professional organization;~~
  - ~~(c) Attendance of courses provided by 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 Oregon Board of Massage Therapists board meeting, board committee meeting, board task force or serving on these committees/task forces. One hour of CE contact credit will be given for each meeting.~~
- (4) ~~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 reporting.~~
- (4) If the Continuing Education subject matter is not listed under OAR 334-010-0050(1) 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.~~
- (6) Continuing education must be completed within the renewal period: **as determined by the class' completion date.** ~~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 with second renewal.~~
- (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.**

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective January 1, 2022**

- (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 (1) 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.

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective July 1, 2022**

(~~strike through~~ represents deletions, **bold** represent new additions):

**334-020-0005**

**Facilities and Sanitation**

(1) Permanent and Mobile structures:

(a) All permanent structures and mobile facilities where a ~~LMT routinely conducts~~ **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;

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective July 1, 2022**

(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.

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0012; MTB 2-1985, f. & ef. 1-23-85; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0030; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 2-2013, f. 11-26-13, cert. ef. 1-1-14; BMT 1-2015, f. 3-12-15, cert. ef. 7-1-15

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective July 1, 2022**

(~~strike through~~ represents deletions, **bold** represent new additions):

**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.**

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Transferred from 333-035-0032; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0080; MTB 1-1992, f. & cert. ef. 7-28-92 (and corrected 8-6-92); BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective July 1, 2022**

(~~strike through~~ represents deletions, **bold** represent new additions):

**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;



Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective July 1, 2022**

- (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 334-010-0010~~ **OAR 334-020-0005 (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.

Oregon Board of Massage Therapists OAR 334  
**Proposed Changes**  
**Effective July 1, 2022**

- (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.

Stat. Auth.: ORS 687.081 & 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; Sections (6) - (20)(h) Renumbered from 334-030-0020; BMT 2-1998, f. & cert. ef. 7-22-98; Renumbered from 334-030-0025 by BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12; BMT 2-2012, f. 12-4-12, cert. ef. 1-1-13; BMT 1-2013, f. 5-31-13, cert. ef. 7-1-13; BMT 2-2013, f. 11-26-13, cert. ef. 1-1-14; BMT 1-2015, f. 3-12-15, cert. ef. 7-1-15

APPENDIX 3,  
CORRESPONDENCE

Pulse – wave, Sound – wave or Shock – wave Devices  
FDA approved Class 1 device

\*\*\*Special Note: No intra cavity/orifice/internal work required & is not used for purposes of sexual stimulation, should only be applied for therapeutic purposes\*\*\*

This device is used for other areas of the body. However, these notes are meant for the usage, and protocols of working with the pelvic floor specifically.

## **Pelvic Floor Dysfunction**

*Your pelvic floor is a group of muscles found in the floor (the base) of your pelvis (the bottom of your torso).*

### **Causes of pelvic floor dysfunction listed, but not limited to:**

- *Traumatic injuries to the pelvic area (like a car accident).*
- *Pregnancy.*
- *Overusing the pelvic muscles (like going to the bathroom too often or pushing too hard), eventually leading to poor muscle coordination.*
- *Pelvic surgery.*
- *Being overweight.*
- *Advancing age*
- *And a variety of other conditions not listed above*

### **Contraindications/Precautions:**

Infections

Cancerous Tissues

Pregnancy (over the fetus)

Lung tissue in the focal area

Air Containing Organs (GI tract)

Brain Tissue (Open BBB like capillary beds)

Blood clotting disorder (DVT & Pulmonary Embolism)

Client would need to provide a doctor's release for treatment

Pulse – wave, Sound – wave or Shock – wave Devices  
FDA approved Class 1 device

## **Pelvic floor therapy**

The therapist manipulates pelvic floor muscles to restore their strength and function.

### **Protocols for use of the Pulse – wave, Sound – wave or Shock – wave Device:**

Treatment Area – Sacral area, Perinium, Right and Left Inguinal space, and the External Genital area.

Can be used to treat for, but not limited to:

Used to increase circulation (blood flow)

Used to decrease pain

### **Treatments for:**

- Bladder
  - Urinary Leakage
  - Urinary frequency and urgency
- Bowels
  - Stool Leakage
  - Stool urgency and frequency
- Pain
  - Abdominal pain
  - Pain with intercourse
  - Pain associated with pregnancy and postpartum
  - Pelvic pain
- Prostatectomy
- Pelvic organ prolapses
- Endometriosis
- Polycystic Ovarian Syndrome
- And much more.

### **Draping –**

- Patient will be in Prone position for application to sacral region, and in Supine position for application to the genital/pelvic floor area. (*See Treatment Areas*)

Pulse – wave, Sound – wave or Shock – wave Devices  
FDA approved Class 1 device

**Sanitation & Safety Practices –**

- Gloves are used because of the area being treated.
- Towels are used to remove ultrasound gel from the area post treatment (to be laundered after each use or disposable 1x use towels) if applicable to the device being used.
- Device gets sanitized between each use, similar to other devices like ultrasound wands...etc.

APPENDIX 4,

OBMT BIENNIAL AUDIT

## Report of Independent Accountants

Oregon State Board of Massage Therapists  
Oregon Secretary of State Audits Division

We have performed the procedures enumerated below, on the accounting records noted below for the Biennium ended June 30, 2021. The Oregon State Board of Massage Therapists is responsible for the accounting records noted below. The Oregon State Board of Massage Therapists has agreed to and acknowledged that the procedures performed are appropriate to meet the intended purpose of assisting the Oregon State Board of Massage Therapists in complying with Oregon Revised Statute (ORS) 182.464. Additionally, the Oregon Secretary of State Audit Division has agreed to and acknowledged that the procedures performed are appropriate to meet their purposes. This report may not be suitable for any other purpose. The procedures performed may not address all the items of interest to a user of this report and may not meet the needs of all users of this report and, as such, users are responsible for determining whether the procedures performed are appropriate for their purposes.

The procedures we performed and our findings are as follows:

### Receiving, Recording, and Reporting Transactions

1. We obtained the following list of internal controls for receiving, recording, and reporting transactions. We agreed the list of internal controls to the Board's policies and procedures without exception.
  - a. The Funds Distribution Summary is initialed, indicating review.
  - b. The eLITE Transaction Header Log totals correspond to the bank totals.
  - c. Invoices are date stamped and check stubs are initialed, indicating approval.
  - d. The Daily Sales Journal and Credit Card Log matches both in amount and in name of licensee credited and is reviewed and signed off.



2. We obtained a schedule from management of all accounting transactions from QuickBooks that occurred during the Biennium ended June 30, 2021 and haphazardly selected 10 transactions. We performed procedures over the items selected to obtain evidence that the control took place. The results of our procedures are included in the table below:

Transactions Selected	Control A	Control B	Control C	Control D
1	✓	✓	N/A	N/A
2	✓	✓	N/A	N/A
3	✓	✓	N/A	N/A
4	✓	✓	N/A	✓
5	✓	✓	N/A	N/A
6	✓	✓	N/A	✓
7	N/A	N/A	✓	N/A
8	N/A	N/A	✓	N/A
9	N/A	N/A	✓	N/A
10	N/A	N/A	✓	N/A
✓	= Procedure performed without exception			
N/A	= Control not applicable for this selection			
Control A: We viewed Deposit Summary and Funds Distribution Summary initialed, indicating review. We verified that the amounts matched on both documents.				
Control B: We noted that the eLITE Transaction Header Log totals that include the transaction matched the corresponding bank totals.				
Control C: We noted that the invoice had received date and check stub had check or signoff, indicating approval.				
Control D: We viewed the credit card receipts and daily sales journal, noting that the names of licensees credited and the amounts matched and had a sign off indicating review and approval.				

### Cash Handling

The Oregon State Board of Massage Therapists generally does not receive cash or disburse cash, thus no procedures were performed over Cash Handling.

**Licensing Individuals**

3. We obtained the following list of internal controls for licensing individuals. We agreed the list of internal controls to the Board’s policies and procedures without exception.
  - a. Applications and qualifications are reviewed. If an application is incomplete, the applicant is notified with information they need to complete their application.
  - b. Once an application is completed and reviewed, a formal license is issued.
  - c. Current licensed status is maintained in the accounting software.
  
4. We obtained a schedule from management of all licenses issued, denied, or withdrawn during the Biennium ended June 30, 2021 and haphazardly selected 10 samples from the schedule of licenses issued, denied, or withdrawn. We performed procedures over the items selected to obtain evidence that the control took place. The results of our procedures are included in the table below:

Licenses Selected	Control A	Control B	Control C
1	✓	✓	✓
2	✓	✓	✓
3	✓	✓	✓
4	✓	✓	✓
5	✓	✓	✓
6	✓	✓	✓
7	✓	✓	✓
8	✓	✓	✓
9	✓	✓	✓
10	✓	✓	✓
✓	= Procedure performed without exception		
N/A	= Control not applicable for this selection		
Control A: Reviewed application, noting date received, completeness, and review of application by Administrative Coordinator.			
Control B: We reviewed the copy of the issued license, indicating approval.			
Control C: We reviewed support for current licensing status.			

**Bank Reconciliations**

5. We confirmed bank balances with financial institutions that the Board uses as of June 30, 2021. We agreed the confirmations to the June 30, 2021 bank reconciliations without exception.
  
6. We obtained the following list of internal controls over bank reconciliations. We agreed the list of internal controls to the Board’s policies and procedures without exception.
  - a. Each month, the bank statement is downloaded.
  - b. The bank reconciliation is prepared and there is indication of the preparer.
  - c. The executive director reviews and signs the completed reconciliation report.

7. We obtained a list from management of all bank reconciliations for the Biennium ended June 30, 2021 and haphazardly selected 3 reconciliations. We performed procedures over the items selected to obtain evidence that the control took place. The results of our procedures are included in the table below:

Reconciliations Selected	Control A	Control B	Control C
1	✓	✓	✓
2	✓	✓	✓
3	✓	✓	✓
✓	= Procedure performed without exception		
N/A	= Control not applicable for this selection		
Control A: We noted the bank statement included support for reconciliation, including bank statements received.			
Control B: We viewed the Reconciliation Report with support for indication of preparer.			
Control C: We noted that there was evidence of review by the Executive Director after reconciliation is prepared.			

8. We haphazardly selected up to 3 reconciling items from each of the bank reconciliations selected in Procedure 7 and agreed those reconciling items to supporting documentation without exception.

### Revenues Other Than Licensing

9. We obtained the following list of internal controls over revenues other than licensing (see items 3 & 4 above for internal controls over licensing). We agreed the list of internal controls to the Board's policies and procedures without exception.
- Support for civil penalties is retained in the form of a Signed Default Order or Documentation of Hearing and Revocation of License.
  - Credit card payments are recorded in the Credit Card log which is reviewed and initialed.
  - Civil penalties are invoiced and invoices match the amount listed in the documentation in step a. above.
  - The Funds Distribution Summary is initialed, indicating review.
  - The Daily Sales Journal and Credit Card Log matches both in amount and in name of licensee credited.
  - The eLITE Transaction Header Log totals correspond to the bank totals.

10. We obtained a schedule from management of non-licensure revenues during the Biennium ended June 30, 2021 and haphazardly selected 10 non-licensure revenue items. We performed procedures over the items selected to obtain evidence that the control took place. The results of our procedures are included in the table below:

Non Licensure Revenues Selected	Control A	Control B	Control C	Control D	Control E	Control F
1	✓	N/A	✓	N/A	N/A	N/A
2	✓	N/A	✓	N/A	N/A	N/A
3	✓	N/A	✓	N/A	N/A	N/A
4	✓	N/A	✓	N/A	N/A	N/A
5	N/A	N/A	N/A	✓	✓	✓
6	N/A	N/A	N/A	✓	✓	✓
7	N/A	N/A	N/A	✓	✓	✓
8	N/A	✓	N/A	✓	✓	✓
9	N/A	✓	N/A	✓	✓	✓
10	N/A	✓	N/A	✓	✓	✓
✓	= Procedure performed without exception					
N/A	= Control not applicable for this selection					
Control A: We noted that there is support for the civil penalty in the form of a Signed Final Default Order or Documentation of Hearing and Revocation of License.						
Control B: We noted that the credit card log was initialed, indicating review.						
Control C: We viewed the record of the civil penalty dollar amount on the transaction journal from QuickBooks or the invoice issued.						
Control D: We viewed Deposit Summary and Funds Distribution Summary initialed, indicating review. We verified that the amounts matched on both documents.						
Control E: We viewed the web deposit or credit card receipts and daily sales journal, noting that the names of licensees credited and the amounts matched.						
Control F: We noted that the eLITE Transaction Header Log totals that include the transaction matched the corresponding bank totals.						

### Expenses

11. We obtained the following list of internal controls over expenses. We agree the list of internal controls to the Board's policies and procedures without exception.
- Invoices or bills received by US Mail are date stamped.
  - Check stubs are retained, with evidence of approval via initials in the lower right corner.
  - Financial reports (which include budget-to-actual reports) are prepared by the Executive Director and provided to the Board on a bimonthly basis.

12. We obtained a schedule from management of expenses during the Biennium ended June 30, 2021 and haphazardly selected 10 expense items. We performed procedures over the items selected to determine if the internal controls identified above were followed. The results of our procedures are included in the table below:

Expenses Selected	Control A	Control B	Control C
1	✓	✓	✓
2	✓	✓	✓
3	N/A	✓	✓
4	✓	✓	✓
5	✓	✓	✓
6	✓	✓	✓
7	✓	✓	✓
8	✓	✓	✓
9	✓	✓	✓
10	✓	✓	✓
✓	= Procedure performed without exception		
N/A	= Control not applicable for this selection		
Control A: We noted that the invoice is stamped and dated upon receipt.			
Control B: We noted check stubs are initialed, indicating approval for payment.			
Control C: We noted the financial report was provided to the Board.			

**Budget and Board Financial Reporting**

13. We obtained the following list of internal controls over Budgetary and Board Financial Reporting. We agreed the list of internal controls to the Board's policies and procedures without exception.

a. Every other month the Board Meeting will include discussion and presentation of the Profit & Loss Budget-to-Actual Report

Budget	Year 1 1	Year 1 2	Year 1 3	Year 1 4	Year 1 5	Year 1 6	Year 2 7	Year 2 8	Year 2 9	Year 2 10	Year 2 11	Year 2 12
Control A	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
✓	= Procedure performed without exception											
Control A: We noted the Board Meeting Minutes contained discussion regarding and/or the Profit & Loss Budget to Actual Report.												

14. We reviewed the final budget-to-actual report for the Biennium ended June 30, 2021 and noted that actual expenditures for the biennium did not exceed budget expenditures.

We reviewed the budget-to-actual report for the Biennium ended June 30, 2021 and identified the following budget line items that exceeded 10% of total revenues or expenses and had a variance exceeding 10% of total revenues or expenses for the biennium. As follows:

- a. Civil Penalties. Actual was 78% greater than the budgeted amount. The variance was due to several factors including the following: compliance streamlined the process and took a more active role in collection efforts, they started using the Oregon Department of Revenue as a collection agent, and they are seeing an uptick in illegal massage facilities who are providing sexual services under the guise of massage; these facilities fall under the board's jurisdiction.

We noted that the following budget line items exceeded 10% of total revenues or expenses, but did not have a variance exceeding 10% of total revenue or expenses for the biennium so did not perform any additional procedures. As follows:

- b. Licensure Fee Revenue; actual was 1% greater than budget  
c. Payroll Wage Expense; actual was equal to budget

We were engaged by the Oregon State Board of Massage Therapists to perform this agreed-upon procedures engagement and conducted our engagement in accordance with attestation standards established by the American Institute of Certified Public Accountants. We were not engaged to and did not conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively, on accounting records of the Oregon State Board of Massage Therapists for the Biennium ended June 30, 2021. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

We are required to be independent of the Oregon State Board of Massage Therapists and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements related to our agreed-upon procedures engagement.

*Moss Adams LLP*

Portland, Oregon  
March 30, 2022

APPENDIX 5,

OBMT SIBA REPORT



**2022**

# **Semi-Independent Agency Report**

In accordance with ORS 182.472

## **Oregon Board of Massage Therapists**

### Board Members

Christa Rodriguez, L.M.T., Chair

Beckett Rowan, L.M.T.

John Combe, L.M.T., Vice Chair

Carol Gray, L.M.T.

Maria Odle, Public Member

Meng Chen, Public Member

Vacant Position, Public-Health  
Professional

Prepared and submitted by:  
Robert Ruark, Executive Director  
March 30, 2022



## PREFACE

Pursuant to ORS 182.472 the following is a copy of the Oregon Board of Massage Therapists 2022 Semi-Independent Agency Report.

The report is due to the Governor's office on April 01 of the even numbered years. This report covers the most recent biennium timeframe of July 01, 2019 through June 30, 2021.

Copies of this report have been sent to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Office. The Legislative Fiscal office shall review the report and shall prepare and submit a statement of findings and conclusion to the Joint Legislative Audit Committee.

OREGON MASSAGE THERAPY LICENSING BOARD

2022 Semi-Independent Agency Report

INDEX PAGE

Section One.....Audit Reports

Section Two.....Biennium Budget Comparisons

Section Three.....Rule Making Activities

Section Four.....Consumer Protection

Section Five.....Licensing Activities & Disciplinary Actions

Section Six..... Other Board Activity

**SECTION ONE**  
**AUDIT REPORT**



## Report of Independent Accountants

Oregon State Board of Massage Therapists  
Oregon Secretary of State Audits Division

We have performed the procedures enumerated below, on the accounting records noted below for the Biennium ended June 30, 2021. The Oregon State Board of Massage Therapists is responsible for the accounting records noted below. The Oregon State Board of Massage Therapists has agreed to and acknowledged that the procedures performed are appropriate to meet the intended purpose of assisting the Oregon State Board of Massage Therapists in complying with Oregon Revised Statute (ORS) 182.464. Additionally, the Oregon Secretary of State Audit Division has agreed to and acknowledged that the procedures performed are appropriate to meet their purposes. This report may not be suitable for any other purpose. The procedures performed may not address all the items of interest to a user of this report and may not meet the needs of all users of this report and, as such, users are responsible for determining whether the procedures performed are appropriate for their purposes.

The procedures we performed and our findings are as follows:

### Receiving, Recording, and Reporting Transactions

1. We obtained the following list of internal controls for receiving, recording, and reporting transactions. We agreed the list of internal controls to the Board's policies and procedures without exception.
  - a. The Funds Distribution Summary is initialed, indicating review.
  - b. The eLITE Transaction Header Log totals correspond to the bank totals.
  - c. Invoices are date stamped and check stubs are initialed, indicating approval.
  - d. The Daily Sales Journal and Credit Card Log matches both in amount and in name of licensee credited and is reviewed and signed off.

2. We obtained a schedule from management of all accounting transactions from QuickBooks that occurred during the Biennium ended June 30, 2021 and haphazardly selected 10 transactions. We performed procedures over the items selected to obtain evidence that the control took place. The results of our procedures are included in the table below:

Transactions Selected	Control A	Control B	Control C	Control D
1	✓	✓	N/A	N/A
2	✓	✓	N/A	N/A
3	✓	✓	N/A	N/A
4	✓	✓	N/A	✓
5	✓	✓	N/A	N/A
6	✓	✓	N/A	✓
7	N/A	N/A	✓	N/A
8	N/A	N/A	✓	N/A
9	N/A	N/A	✓	N/A
10	N/A	N/A	✓	N/A
✓	= Procedure performed without exception			
N/A	= Control not applicable for this selection			
Control A: We viewed Deposit Summary and Funds Distribution Summary initialed, indicating review. We verified that the amounts matched on both documents.				
Control B: We noted that the eLITE Transaction Header Log totals that include the transaction matched the corresponding bank totals.				
Control C: We noted that the invoice had received date and check stub had check or signoff, indicating approval.				
Control D: We viewed the credit card receipts and daily sales journal, noting that the names of licensees credited and the amounts matched and had a sign off indicating review and approval.				

### Cash Handling

The Oregon State Board of Massage Therapists generally does not receive cash or disburse cash, thus no procedures were performed over Cash Handling.

### Licensing Individuals

3. We obtained the following list of internal controls for licensing individuals. We agreed the list of internal controls to the Board's policies and procedures without exception.
  - a. Applications and qualifications are reviewed. If an application is incomplete, the applicant is notified with information they need to complete their application.
  - b. Once an application is completed and reviewed, a formal license is issued.
  - c. Current licensed status is maintained in the accounting software.
  
4. We obtained a schedule from management of all licenses issued, denied, or withdrawn during the Biennium ended June 30, 2021 and haphazardly selected 10 samples from the schedule of licenses issued, denied, or withdrawn. We performed procedures over the items selected to obtain evidence that the control took place. The results of our procedures are included in the table below:

Licensees Selected	Control A	Control B	Control C
1	✓	✓	✓
2	✓	✓	✓
3	✓	✓	✓
4	✓	✓	✓
5	✓	✓	✓
6	✓	✓	✓
7	✓	✓	✓
8	✓	✓	✓
9	✓	✓	✓
10	✓	✓	✓
✓	= Procedure performed without exception		
N/A	= Control not applicable for this selection		
Control A: Reviewed application, noting date received, completeness, and review of application by Administrative Coordinator.			
Control B: We reviewed the copy of the issued license, indicating approval.			
Control C: We reviewed support for current licensing status.			

### Bank Reconciliations

5. We confirmed bank balances with financial institutions that the Board uses as of June 30, 2021. We agreed the confirmations to the June 30, 2021 bank reconciliations without exception.
  
6. We obtained the following list of internal controls over bank reconciliations. We agreed the list of internal controls to the Board's policies and procedures without exception.
  - a. Each month, the bank statement is downloaded.
  - b. The bank reconciliation is prepared and there is indication of the preparer.
  - c. The executive director reviews and signs the completed reconciliation report.

7. We obtained a list from management of all bank reconciliations for the Biennium ended June 30, 2021 and haphazardly selected 3 reconciliations. We performed procedures over the items selected to obtain evidence that the control took place. The results of our procedures are included in the table below:

Reconciliations Selected	Control A	Control B	Control C
1	✓	✓	✓
2	✓	✓	✓
3	✓	✓	✓
✓	= Procedure performed without exception		
N/A	= Control not applicable for this selection		
Control A: We noted the bank statement included support for reconciliation, including bank statements received.			
Control B: We viewed the Reconciliation Report with support for indication of preparer.			
Control C: We noted that there was evidence of review by the Executive Director after reconciliation is prepared.			

8. We haphazardly selected up to 3 reconciling items from each of the bank reconciliations selected in Procedure 7 and agreed those reconciling items to supporting documentation without exception.

#### Revenues Other Than Licensing

9. We obtained the following list of internal controls over revenues other than licensing (see items 3 & 4 above for internal controls over licensing). We agreed the list of internal controls to the Board's policies and procedures without exception.
- Support for civil penalties is retained in the form of a Signed Default Order or Documentation of Hearing and Revocation of License.
  - Credit card payments are recorded in the Credit Card log which is reviewed and initialed.
  - Civil penalties are invoiced and invoices match the amount listed in the documentation in step a. above.
  - The Funds Distribution Summary is initialed, indicating review.
  - The Daily Sales Journal and Credit Card Log matches both in amount and in name of licensee credited.
  - The eLITE Transaction Header Log totals correspond to the bank totals.

10. We obtained a schedule from management of non-licensure revenues during the Biennium ended June 30, 2021 and haphazardly selected 10 non-licensure revenue items. We performed procedures over the items selected to obtain evidence that the control took place. The results of our procedures are included in the table below:

Non Licensure Revenues Selected	Control A	Control B	Control C	Control D	Control E	Control F
1	✓	N/A	✓	N/A	N/A	N/A
2	✓	N/A	✓	N/A	N/A	N/A
3	✓	N/A	✓	N/A	N/A	N/A
4	✓	N/A	✓	N/A	N/A	N/A
5	N/A	N/A	N/A	✓	✓	✓
6	N/A	N/A	N/A	✓	✓	✓
7	N/A	N/A	N/A	✓	✓	✓
8	N/A	✓	N/A	✓	✓	✓
9	N/A	✓	N/A	✓	✓	✓
10	N/A	✓	N/A	✓	✓	✓
✓	= Procedure performed without exception					
N/A	= Control not applicable for this selection					
Control A: We noted that there is support for the civil penalty in the form of a Signed Final Default Order or Documentation of Hearing and Revocation of License.						
Control B: We noted that the credit card log was initialed, indicating review.						
Control C: We viewed the record of the civil penalty dollar amount on the transaction journal from QuickBooks or the invoice issued.						
Control D: We viewed Deposit Summary and Funds Distribution Summary initialed, indicating review. We verified that the amounts matched on both documents.						
Control E: We viewed the web deposit or credit card receipts and daily sales journal, noting that the names of licensees credited and the amounts matched.						
Control F: We noted that the eLITE Transaction Header Log totals that include the transaction matched the corresponding bank totals.						

### Expenses

11. We obtained the following list of internal controls over expenses. We agree the list of internal controls to the Board's policies and procedures without exception.
- Invoices or bills received by US Mail are date stamped.
  - Check stubs are retained, with evidence of approval via initials in the lower right corner.
  - Financial reports (which include budget-to-actual reports) are prepared by the Executive Director and provided to the Board on a bimonthly basis.



12. We obtained a schedule from management of expenses during the Biennium ended June 30, 2021 and haphazardly selected 10 expense items. We performed procedures over the items selected to determine if the internal controls identified above were followed. The results of our procedures are included in the table below:

Expenses Selected	Control A	Control B	Control C
1	✓	✓	✓
2	✓	✓	✓
3	N/A	✓	✓
4	✓	✓	✓
5	✓	✓	✓
6	✓	✓	✓
7	✓	✓	✓
8	✓	✓	✓
9	✓	✓	✓
10	✓	✓	✓
✓	= Procedure performed without exception		
N/A	= Control not applicable for this selection		
Control A: We noted that the invoice is stamped and dated upon receipt.			
Control B: We noted check stubs are initialed, indicating approval for payment.			
Control C: We noted the financial report was provided to the Board.			

### Budget and Board Financial Reporting

13. We obtained the following list of internal controls over Budgetary and Board Financial Reporting. We agreed the list of internal controls to the Board's policies and procedures without exception.

a. Every other month the Board Meeting will include discussion and presentation of the Profit & Loss Budget-to-Actual Report

Budget	Year 1 1	Year 1 2	Year 1 3	Year 1 4	Year 1 5	Year 1 6	Year 2 7	Year 2 8	Year 2 9	Year 2 10	Year 2 11	Year 2 12
Control A	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
✓	= Procedure performed without exception											
Control A: We noted the Board Meeting Minutes contained discussion regarding and/or the Profit & Loss Budget to Actual Report.												

14. We reviewed the final budget-to-actual report for the Biennium ended June 30, 2021 and noted that actual expenditures for the biennium did not exceed budget expenditures.

We reviewed the budget-to-actual report for the Biennium ended June 30, 2021 and identified the following budget line items that exceeded 10% of total revenues or expenses and had a variance exceeding 10% of total revenues or expenses for the biennium. As follows:

- a. Civil Penalties. Actual was 78% greater than the budgeted amount. The variance was due to several factors including the following: compliance streamlined the process and took a more active role in collection efforts, they started using the Oregon Department of Revenue as a collection agent, and they are seeing an uptick in illegal massage facilities who are providing sexual services under the guise of massage; these facilities fall under the board's jurisdiction.

We noted that the following budget line items exceeded 10% of total revenues or expenses, but did not have a variance exceeding 10% of total revenue or expenses for the biennium so did not perform any additional procedures. As follows:

- b. Licensure Fee Revenue; actual was 1% greater than budget
- c. Payroll Wage Expense; actual was equal to budget

We were engaged by the Oregon State Board of Massage Therapists to perform this agreed-upon procedures engagement and conducted our engagement in accordance with attestation standards established by the American Institute of Certified Public Accountants. We were not engaged to and did not conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively, on accounting records of the Oregon State Board of Massage Therapists for the Biennium ended June 30, 2021. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

We are required to be independent of the Oregon State Board of Massage Therapists and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements related to our agreed-upon procedures engagement.

*Moss Adams LLP*

Portland, Oregon  
March 30, 2022



# Oregon

Kate Brown, Governor

## Board of Massage Therapists

610 Hawthorne Ave. SE, Ste. 220

Salem, OR 97301

Phone: (503) 365-8657

Fax: (503) 385-4465

[www.Oregon.gov/OBMT](http://www.Oregon.gov/OBMT)

March 30, 2022

Moss Adams LLP  
805 SW Broadway, Suite 1200  
Portland, OR 97205

In connection with your engagement to apply agreed-upon procedures to assist the Agency comply with Oregon Revised Statute (ORS) 182.464 for the Biennium ended June 30, 2021 as documented in the Contract between the Oregon State Board of Massage Therapists (Agency or Board) signed on January 18, 2022. We confirm, to the best of our knowledge and belief, the following representations made to you during your engagement.

1. We are responsible for designing, implementing and operating internal controls for the Agency. Our internal controls include, but are not limited to the following:
  - a. The Funds Distribution Summary is initialed, indicating review.
  - b. The eLITE Transaction Header Log totals correspond to the bank totals.
  - c. Invoices are date stamped and check stubs are initialed, indicating approval.
  - d. The Daily Sales Journal and Credit Card Log matches both in amount and in name of licensee credited and is reviewed and signed off.
2. Licensing Individuals:
  - a. Applications and qualifications are reviewed. If an application is incomplete, the applicant is notified with information they need to complete their application.
  - b. Once an application is completed and reviewed, a formal license is issued.
  - c. Current licensed status is maintained in the accounting software
3. Bank Reconciliations:
  - a. Each month, the bank statement is downloaded.
  - b. The bank reconciliation is prepared and there is indication of the preparer.
  - c. The executive director reviews and signs the completed reconciliation report.
4. Revenues other than Licensing:
  - a. Support for civil penalties is retained in the form of a Signed Default Order or Documentation of Hearing and Revocation of License.
  - b. Credit card payments are recorded in the Credit Card log which is reviewed and initialed.
  - c. Civil penalties are invoiced and invoices match the amount listed in the documentation in step a. above.
  - d. The Funds Distribution Summary is initialed, indicating review.
  - e. The Daily Sales Journal and Credit Card Log matches both in amount and in name of licensee credited.
  - f. The eLITE Transaction Header Log totals correspond to the bank totals.
5. Expenses:
  - a. Invoices or bills received by US Mail are date stamped.
  - b. Check stubs are retained, with evidence of approval via initials in the lower right corner.

- c. Financial reports (which include budget-to-actual reports) are prepared by the Executive Director and provided to the Board on a bimonthly basis.
6. Budget and Board Financial Reporting:
- a. Every other month the Board Meeting will include discussion and presentation of the Profit & Loss Budget to Actual Report
7. We have provided you with all relevant information and access, as applicable.
8. We are unaware of any matters contradicting the internal controls identified above.
9. We are not aware of any material departures from the internal controls identified above.
10. We have disclosed to you all known events subsequent to the June 30, 2021 that would have a material effect on the internal controls identified above.
11. We have obtained from the Oregon Secretary of State Audits Division their agreement to the procedures and acknowledgment that the procedures are appropriate for their purposes.
12. We agree with the final procedures performed and acknowledge that they are appropriate for the intended purpose of the engagement.



Robert Ruark  
Executive Director for the Oregon State Board of Massage Therapists

**SECTION TWO**

**BIENNIUM BUDGET COMPARISON**

# OREGON BOARD OF MASSAGE THERAPISTS



## **182.472 (2) (c) A description of the public hearing process used to establish the budget adopted for the current biennium.**

Amendments were made to:

334-001-0012 – Modified the budget for the 2021-23 biennium.

The Board voted to approve the 2021-23 budget at the March 15, 2021 Board meeting.

The Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact was filed on April 27, 2021.

Notice was provided to Licensees, interested parties and legislators on April 27, 2021

The Hearing was published on the Boards website on April 27, 2021.

The Hearing was held on May 15, 2021 virtually at the Office of the Oregon Board of Massage Therapists, 610 Hawthorne Ave. SE Suite 220, Salem, Oregon. One member of the public attended and no written comments were received.

The Board voted to adopt the 2020-23 budget as recommended at the May 15, 2021 Board meeting.

The Certificate and Order for filing Permanent Admin Rules was sent to the Secretary of State-Archives Division and Legislative Counsel May 26, 2021. The budget was effective July 1, 2021.

## **184.472 (b) Description of Material Changes between Budget & Actual Expenses for the 2019-21 Biennium**

Credentialing Review – 33 % decrease - fewer applicants applied using the Credentialing Review process

Facilities Permit – 56 % decrease – fewer facility permit applications than expected

Application Fee – 35 % decrease – less renewal and return from lapsed status applicants than expected. Feedback from licensees indicated that many of them discontinued their practice of massage due to the COVID 19 pandemic.

Civil Penalties – 183% – increased number of compliance cases coupled with more streamline collection process. Also, as of 2018, all collections were moved to Oregon DOR who increased collection activity of old collection cases.

NSF Fees – 38 % decrease – decrease number of returned checks

# OREGON BOARD OF MASSAGE THERAPISTS



Public Records/Misc. – 23 % decrease – decrease number of requests for license verification and license reprints

Late Fees – 52 % decrease – late fees decrease due to waiver of late fees in response to COVID 19 pandemic, began March 2020.

Fingerprint Fee – 22 % decrease – decrease in the number of applicants, initial, renewal and lapsed needing to get fingerprinted partially due to massage school closures as a result of COVID 19 Pandemic.

Licensure Fees – 0 % increase – This line item was fully funded this biennium.

State Assessments – 6 % increase – increase of DAS assessments

Contract/Prof. Services – 12 % decrease – fewer professional service contracts

Accounting Expense – 52 % decrease – used fewer CPA services during the biennium than anticipated.

Bank Charges – 2 % increase – As utilization of the online renewal system increased so did the credit card charges.

Payroll Expenses – 13 % decrease – decrease due to less overtime as Board Meetings were held virtually and employees working from home.

Audit Expenses – 39 % decrease – audit expenses less than expected due to contracting with a new auditing firm.

Collection Fee – 51 % decrease – collections fees are now being collected by DOR after past due civil penalties that were turned over to the Department of Revenue.

Computer Expense – 62 % increase – increase directly related to COVID 19 pandemic and mandate to work from home, required large initial investment in hardware and software to facilitate both virtual Board meetings and employees working from home.

Investigative Expenses – 17 % decrease – decrease is due to a period of several months when only priority investigations were conducted because of the COVID 19 pandemic.

Meals – 40 % decrease – Less in state and out of state travel this biennium and Board meetings held virtually due to COVID 19 restrictions.

Office Furniture – 100% decrease – No major office furniture purchases this biennium

# OREGON BOARD OF MASSAGE THERAPISTS



Professional Development – 0 % increase/decrease – This line item was spent this biennium. One new compliance manager, one new LD employee and a new Board Member.

Security – 28 % decrease – Decreased charges from security monitoring vendor

Travel – In State – 56 % decrease – COVID 19 restrictions limited travel this biennium.

Travel – Out of State – 91 % decrease – COVID 19 restrictions limited out of state travel this biennium.

Legal Fees – 53 % decrease – decrease due to COVID 19 restrictions on administrative hearings causing a backlog and less hearings this biennium.

Postage – 20 % decrease – decrease due to OBMT moving to an online renewal system and issuance of licenses digitally.

Office supplies – 13 % decrease – decrease due to office staff working remotely due to the COVID 19 pandemic restrictions.

Utilities – 28 % decrease – decrease due to office staff working remotely due to COVID 19 pandemic restrictions.

## **Description of Material Changes between 2019-21 Budget and the 2021-23 Budget**

Credentialing Review – 25% decrease - Budget projection based on 2019-21 actual revenue

Facilities Permit – 40% decrease - Budget projection based on 2019-21 actual revenue

Fingerprint Fee – 0% increase – Budget projection based on 2019-21 actual

Application Fee – 3% decrease - Budget projection based on 2019-21 actual revenue

Civil Penalties – 55 % increase - Budget projection based on 2019-21 actual revenue

Late Fee – 0 % increase – Budget projection based on 2019-21 actual

Licensure Fee – 0 % increase - Budget projection based on 2019-21 actual revenue

LMT List – 0% change - Budget projection based on 2019-21 actual revenue

Public Records/Misc. – 0 % increase - Budget projection based on 2019-21 actual revenue



# OREGON BOARD OF MASSAGE THERAPISTS



License Verifications - 40% decrease – Budget projection based on 2019-21 actual revenue

Investigative Expenses – 0 % increase based budget projection on 2019-21 actual.

State Assessments – 46.79 % increase – Budget projection based on the price list of goods and services published by DAS as well as projected increase in DAS risk assessment fees.

Contract/Prof. Services – 0 % increase - Budget projection based on 2019-21 actual expenses

Payroll Expenses – 5.19 % increase – Budget projection based on negotiated labor contracts.

Accounting Expense – 0% increase – projection based on 2019-21 actual.

Audit Expense – 33 % decrease – Budget projection based on 2019-21 actual expenses.

Bank Charges – 4 % increase - Budget projection based on 2019-21 actual expenses

Collections Fee – 64 % decrease - Budget projection based on 2019-21 actual expenses and now fully using DOR to collect all civil penalties.

Computer Expense – 3.63 % increase – Budget projection based on contractual costs with database provider

Investigation Expense – 0 % increase - Budget projection based on 2019-21 actual expenses

Janitorial – 100% decrease – Moved to new office building that includes janitorial in the lease payment.

Legal Fees – 10 % decrease – Budget projection based on the price list of goods and services published by DAS and 2019-21 actual.

Office Equipment Lease – 0 % increase - Budget projection based on 2019-21 actual expenses

Office Furniture – 17 % decrease – Budget projection based on 2019-21 actual expenses and last biennium budget was increased to accommodate move to new office space, completed in March 2021.

Office Supplies – 0 % increase - Budget projection based on 2019-21 actual expenses.

# OREGON BOARD OF MASSAGE THERAPISTS



Postage – 0 % increase - Budget projection based on 2019-21 actual expenses and the movement to automated issuance of Licenses in 2021.

Professional Development – 67 % increase - Budget projection based on three new board members and one new office staff being added this biennium.

Security – 0 % increase - Budget projection based on contract with the security monitoring firm and 2019-21 actual expenses.

Telephone/Fax/Internet – 0 % increase - Budget projection based on contract with telephone/Fax/Internet providers as well as the 2019-21 actual expenses.

Travel – In State – 0 % increase - Budget projection based on 2019-21 actual expenses.

Travel – Out of State – 0 % increase - Budget projection based on 2019-21 actual expenses.

OREGON BOARD OF MASSAGE THERAPISTS

	<u>7/1/2019 to 6/30/2021</u>	
checking a/c balance at 7/1/2019	345,778.39	
checking a/c balance at 7/1/2020		686,557.25
net income for 7/1/2019 to 6/30/2021	200,838.69	(123,929.26)
change in a/r	16,830.39	(6,265.10)
change in a/p	123,109.78	(9,930.83)
purchase of fixed assets		(27,034.23)
change in vacation accrual		25,281.19
subtotal	686,557.25	544,679.02
checking a/c at 6/30/2020	686,557.25	
checking a/c at 6/30/2021		544,679.02
	<u>7/1/2021 to 6/30/2023</u>	
checking a/c balance at 7/1/2021	544,679.02	
checking a/c balance at 7/1/2023		547,402.02
net income for 7/1/2021 to 6/30/2023	2,723.00	2,723.00
change in a/r	-	-
change in a/p	-	-
purchase of fixed assets		-
change in vacation accrual		-
subtotal	547,402.02	550,125.02
checking a/c at 6/30/2022	547,402.02	
checking a/c at 6/30/2023		550,125.02

**OREGON BOARD OF MASSAGE THERAPIST  
Budget Comparison**

	2019-21 Budget	2019-21 Actuals	% Change Budget Budget to Actual	2021-23 Budget	% Change 2017-19 to 2019-21 Budget
<b>Ordinary Income/Expense</b>					
<b>Income</b>					
Initial Licensure	312,000	150,199	-51.86%	300,000	-3.85%
License reprint	6,720	3,980	-40.77%	3,600	-46.43%
Verification	6,000	3,870	-35.50%	3,600	-40.00%
Credentialing Review	6,000	4,000	-33.33%	4,500	-25.00%
Facilities Permit	10,000	4,350	-56.50%	6,000	-40.00%
Fingerprint Fees	95,760	74,639	-22.06%	95,760	0.00%
Application Fee	180,000	117,534	-34.70%	175,000	-2.78%
Civil Penalties	225,740	412,894	82.91%	350,000	55.05%
Late Fee	144,000	69,751	-51.56%	144,000	0.00%
Licensure Fee	1,418,235	1,435,512	1.22%	1,418,231	0.00%
LMT List	12,000	8,891	-25.91%	12,000	0.00%
NSF Fees	400	150	-62.50%	400	0.00%
Public Records / Misc.	149	115	-22.99%	150	0.67%
<b>Total Income</b>	<b>2,417,004</b>	<b>2,285,884</b>	<b>-5.42%</b>	<b>2,513,241</b>	<b>3.98%</b>
<b>Expense</b>					
State Assessments	61,311	65,287	6.48%	90,000	46.79%
Contract/Prof. Services	9,854	8,650	-12.22%	9,854	0.00%
Payroll Expenses	1,508,437	1,315,471	-12.79%	1,586,671	5.19%
Accounting Expense	800	385	-51.88%	800	0.00%
Audit Expense	12,000	7,329	-38.93%	8,000	-33.33%
Bank Charges	38,400	39,155	1.97%	40,000	4.17%
Collections Fee	8,300	4,047	-51.25%	3,000	-63.86%
Computer Expense	96,500	156,228	61.89%	100,000	3.63%
Dues & Subscriptions	6,400	2,909	-54.55%	3,000	-53.13%
Investigation Expense	216,000	178,839	-17.20%	216,000	0.00%
Janitorial	10,800	10,058	-6.87%	0	-100.00%
Legal Fees	222,728	103,584	-53.49%	200,000	-10.20%
Meals	5,740	3,442	-40.03%	5,740	0.00%
Office Equipment Lease	8,400	6,944	-17.34%	8,400	0.00%
Office Furniture	18,000	0	-100.00%	15,000	-16.67%
Office Supplies	16,000	13,948	-12.83%	16,000	0.00%
Postage	28,150	22,324	-20.70%	28,150	0.00%
Professional Dev.	6,000	5,968	-0.53%	10,000	66.67%
Rent	72,000	77,665	7.87%	96,000	33.33%
Security	3,000	2,154	-28.19%	3,000	0.00%
Telephone/Fax/Internet	15,600	16,137	3.45%	15,600	0.00%
Travel - In State	30,480	16,986	-44.27%	30,480	0.00%
Travel - Out of State	12,500	1,163	-90.70%	12,500	0.00%
Utilities	9,600	6,848	-28.66%	9,600	0.00%
<b>Total Expense</b>	<b>2,417,000</b>	<b>2,065,520</b>	<b>-14.54%</b>	<b>2,507,795</b>	<b>3.76%</b>
<b>Net Ordinary Income</b>	<b>4</b>	<b>220,363</b>		<b>5,446</b>	

Oregon Board of Massage Therapists  
**Balance Sheet**  
As of June 30, 2021

	<u>Jun 30, 21</u>
<b>ASSETS</b>	
Current Assets	
Checking/Savings	
US Bank 0687 - New General	544,679.02
Total Checking/Savings	544,679.02
Accounts Receivable	
11000 - Accounts Receivable	714,659.73
Total Accounts Receivable	714,659.73
Total Current Assets	1,259,338.75
Fixed Assets	
9500 - Capital Asset - Database	54,789.00
Accumulated Depreciation	-54,789.00
Furniture and Equipment	27,034.23
Total Fixed Assets	27,034.23
<b>TOTAL ASSETS</b>	<b><u>1,286,372.98</u></b>
<b>LIABILITIES &amp; EQUITY</b>	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable	131,221.39
Total Accounts Payable	131,221.39
Other Current Liabilities	
Vacation Accrual	50,239.37
Total Other Current Liabilities	50,239.37
Total Current Liabilities	181,460.76
Total Liabilities	181,460.76
Equity	
Prior Period Adjustments	748,401.32
Retained Earnings	357,844.33
Unrestricted Net Assets	122,595.83
Net Income	-123,929.26
Total Equity	1,104,912.22
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b><u>1,286,372.98</u></b>

**Oregon Board of Massage Therapists - 2021-2023 Budget Proposal**

Expenditure	FY18 Actuals	FY19 Actuals	2017-19		2017-2019 Actual Expenses	FY20 Actuals	FY21 Proposed	2019-2021 Approved Budget	2021-2023 Adjustment	2021-23 Proposed Budget	Percent Adjustment
			Board Appv Budget	+/-							
State Assessments	26,725	28,024	43,763	-10,986	54,749	31,887	30,653	61,311	28,689	90,000	46.79%
Contract/Prof Svcs	2,275	105	9,600	7,220	2,379	4,288	4,934	9,854	0	9,854	0.00%
Accounting Expense	371	0	800	429	371	0	404	800	0	800	0.00%
Audit Expense	5,143	0	8,000	2,857	5,143	7,329	0	12,000	-4,000	8,000	-33.33%
Bank Charges	19,169	17,101	32,828	-3,442	36,270	17,804	19,200	38,400	1,600	40,000	4.17%
Collection Expense	2,269	934	8,132	4,929	3,203	2,380	4,160	8,300	-5,300	3,000	-63.86%
Computer Expense	36,955	39,675	96,000	19,370	76,630	71,801	48,260	96,500	3,500	100,000	3.63%
Dues & Subscriptions	2,800	3,368	6,266	98	6,168	109	3,208	6,400	-3,400	3,000	-53.13%
Investigation Expense	84,350	93,017	210,000	32,633	177,366	105,399	108,000	216,000	0	216,000	0.00%
Janitorial	4,498	4,580	9,600	522	9,078	4,925	5,400	10,800	-10,800	0	-100.00%
Legal Fees	149,775	85,810	244,952	9,367	235,586	43,408	111,368	222,728	-22,728	200,000	-10.20%
Meals	2,337	1,348	5,740	2,055	3,685	3,305	2,872	5,740	0	5,740	0.00%
Office Equipment	3,330	3,418	7,140	392	6,748	3,310	4,200	8,400	0	8,400	0.00%
Office Furniture	0	0	13,600	13,600	0	100	9,000	18,000	-3,000	15,000	-16.67%
Office Supplies	4,487	7,339	12,960	1,134	11,826	7,713	8,008	16,000	0	16,000	0.00%
Postage	13,841	13,924	26,858	-907	27,765	11,711	14,074	28,150	0	28,150	0.00%
Professional Development	350	590	4,800	3,860	940	5,369	3,000	6,000	4,000	10,000	66.67%
Rent	29,374	30,181	59,470	-85	59,555	31,010	36,000	72,000	24,000	96,000	33.33%
Security	636	846	2,250	768	1,482	544	1,500	3,000	0	3,000	0.00%
Telephone/fax/inter net	6,650	6,370	12,443	-577	13,029	7,389	7,800	15,600	0	15,600	0.00%
Travel - In State	13,019	8,767	29,190	7,404	21,786	15,011	15,240	30,480	0	30,480	0.00%
Travel - Out of State	1,296	1,320	10,400	7,784	2,615	1,163	6,248	12,500	0	12,500	0.00%
Utilities	4,115	4,140	9,080	825	8,254	3,859	4,800	9,600	0	9,600	0.00%
Total S&S Expenses	413,765	350,857	863,873	99,250	764,628	379,814	448,339	908,563	12,561	921,124	1.38%
**Total Payroll Expense	685,552	649,538	1,416,127	81,037	1,335,090	549,594	754,225	1,508,437	78,234	1,586,671	5.19%
<b>Total</b>	<b>1,099,317</b>	<b>1,000,395</b>	<b>2,280,000</b>	<b>180,288</b>	<b>2,099,718</b>	<b>929,408</b>	<b>1,202,564</b>	<b>2,417,000</b>	<b>90,795</b>	<b>2,507,795</b>	<b>3.76%</b>

\* Fully funds 6 staff positions, step increases, one COLA for the 21-23 Biennium

\*\* State Assessments is based on Price List of Goods and Services & contract with OHA

\*\*\* Continues with the same level of compliance

\*\*\*\* Legal fees based on price list of goods and services and historical numbers.

2021-2023 Revenue									
	FY 2018 Actuals	FY 2019 Actuals	2017-19 Actuals	FY 2020 Actuals	FY2021 Projected	2019-2021 Approved Budget	FY 2021- 2023 Increase/ Adjust	FY 2021- 2023 Proposed Budget	Percent change
Credentiaiting Review	1,750	2,500	4,250	2,500	3,000	6,000	-1,500	4,500	-25%
Fingerprint Fee	52,105	41,965	94,070	35,959	47,880	95,760	0	95,760	0%
Verification	2,110	1,710	3,820	1,820	3,000	6,000	-2,400	3,600	-40%
License Reprint	2,630	2,785	5,415	2,100	3,360	6,720	-3,120	3,600	-46%
Initial License	62,407	51,120	113,527	76,849	156,000	312,000	-12,000	300,000	-4%
Application Fee	97,650	76,386	174,036	59,200	90,000	180,000	-5,000	175,000	-3%
Civil Penalties	107,175	167,190	274,365	242,142	112,860	225,740	124,260	350,000	55%
Late Fee	69,410	62,925	132,335	68,292	72,000	144,000	0	144,000	0%
Licenseure Fee	563,115	579,465	1,142,580	720,462	709,116	1,418,231	0	1,418,231	0%
LMT List	4,000	5,300	9,300	4,800	4,800	12,000	0	12,000	0%
NSF Fee	225	125	350	125	196	400	0	400	0%
Public Records/Misc.	72	485	557	43	77	149	0	150	0%
Facilities Permit	3,550	2,200	5,750	3,300	5,004	10,000	-4,000	6,000	-40%
<b>Total</b>	<b>966,199</b>	<b>994,156</b>	<b>1,960,355</b>	<b>1,217,592</b>	<b>1,207,293</b>	<b>2,417,000</b>	<b>96,240</b>	<b>2,513,241</b>	<b>4%</b>

**2021-2023 Revenue Assumptions**

Credentiaiting Review - Assumes 18 per year

Fingerprint Fee - Assumes 72 per month

Initial Licenseure Fee - Assumes 42 per month

Application Fee - Assumes 60 per month

Verification Fee - Assumes 15 per month

License Reprint - Assumes 15 per month

Civil Penalties - Increase due to ODR collection of outstanding debts

Late Fees - Late fees were not collected during pandemic, will resume after pandemic, assumptions base on historic numbers

Licenseure Fee - Revenue increased during pandemic due to less restrictive renewal requirements, assumptions based on historic numbers

LMT List - Assumes 60 requests per year

Facility Permits - Assumes 1 permit change, application or transfer per month

Forecasted Expenses	2,507,795
*Net Revenue	5,446

**2021 - 2023 Expense Assumptions**

State Assessments - Based on price list from DAS.

Contract and Professional Services - Based on Actuals from 2017-2019 biennium and first year of 19-21 biennium

Bank Charges - based on actuals for 17-19 biennium and first year of 19-21 biennium.

Dues and Subscriptions - based on actuals for the 17-19 biennium and first year of 20-21 biennium

Investigations - based on actuals for the 17-19 biennium and first year of 20-21 biennium

Legal Fees - Based on price list for OAH and DOJ estimates received from DOJ CFO.

Audit Fees - Based on historic numbers

Postage Fees - based on actuals for the 17-19 biennium and first year of 20-21 biennium

Total Payroll Expenses - step increases and COLA's

Rent - Based on contract agreement for new facility

**SECTION THREE**

**RULE MAKING ACTIVITIES**



# OREGON BOARD OF MASSAGE THERAPISTS



**182.472 (3) A description of all temporary and permanent rules adopted by the board since the last report was submitted.**

## **2019 Permanent Rules Adopted**

Amendments were made to:

334-010-0005 – Add language to bring the board in compliance with State Law with regards to Military Spouses and Domestic Partners

334-010-0015 – Modify language to confirm with statutory requirement for cultural competency.

334-010-0025 – Modify language to provide clarity on the practice of massage and bring the board in alignment with current verbiage on gender neutrality.

334-010-0033 – Establish fee for statutory required temporary license for military spouses and domestic partners

334-010-0050 – Modify language to bring the board in compliance with statutory requirements on cultural competency. Requires licensees to take and submit 1 hour of cultural competency per renewal period.

334-030-0005 – Modify language to bring the board in line with current verbiage on gender neutrality.

Notice was mailed to Licensees, interested parties and legislators on August 23, 2019.

The date in which the Notice of Proposed Rulemaking Hearing and State of Need and Fiscal Impact was filed on September 27, 2019.

The Hearing was published in the September 2019 Oregon Bulletin.

The Hearing was held on September 27, 2019 at the Office of the Oregon Board of Massage Therapists, 728 Hawthorne Ave., Salem, Oregon. Two members of the public attended, and two written comment was received.

At the Board Meeting held at the Board Office on November 18, 2019 the Board voted to adopt the proposed rules.

The Certificate and Order for filing Permanent Admin Rules was sent to the Secretary of State-Archives Division and Legislative Counsel December 10, 2019.

## **2020 Permanent Rules Adopted**

Amendments were made to:

334-010-0015 – Add language to bring the board in compliance with State Law with regards to measure 110.

# OREGON BOARD OF MASSAGE THERAPISTS



334-020-0050 – Add language to make provision for any instance of state of emergency declared by the Governor to trigger the reduction of continuing education hours to statutory requirement. Additionally, the proposed language would allow the implementation of changes to the continuing education requirement by a designee, the Executive Director, in the case the Board is not able to meet immediately to vote.

Notice was emailed to Licensees, interested parties and legislators on November 23, 2020.

The date in which the Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact was filed on November 20, 2020.

The Hearing was published in the November 2020 Oregon Bulletin.

The Hearing was held on December 21, 2020 virtually via GoToMeeting. No member of the public attended. No written and oral comments were received.

At the Board Meeting held at the Board Office on November 18, 2020 the Board voted to adopt the proposed rules.

The Certificate and Order for filing Permanent Admin Rules was sent to the Secretary of State-Archives Division and Legislative Counsel February 2, 2021.

## **2021 Permanent Rules Adopted**

Amendments were made to:

334-001-0012 – Established the Board's budget for the 2021-2023 Biennium.

334-010-0033 – Add language to make provision for any instance of state of emergency declared by the Governor to trigger a late fee waiver. Additionally, the proposed language would allow the implementation of changes to the late fee requirement by a designee, the Executive Director, in the case the Board is not able to meet immediately to vote.

334-020-0050 – Add language to make provision for any instance of state of emergency declared by the Governor where a reduction of continuing education hours to statutory requirement is triggered to revert back to permanent rules within 12 months after the declared state of emergency is lifted.

Notice was emailed to Licensees, interested parties and legislators on April 21, 2021.

The date in which the Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact was filed on April 20, 2021.

The Hearing was published in the May 2021 Oregon Bulletin.

The Hearing was held on May 15, 2021 virtually via GoToMeeting. One member of the public attended. No written and oral comments were received.

# OREGON BOARD OF MASSAGE THERAPISTS



At the Board Meeting held at the Board Office on May 15, 2021 the Board voted to adopt the proposed rules.

The Certificate and Order for filing Permanent Admin Rules was sent to the Secretary of State-Archives Division and Legislative Counsel May 26, 2021.

# OREGON BOARD OF MASSAGE THERAPISTS



OAR Number	Description of Change	Public Notification Date	Board Action & Hearing Dates	Sec. of State Filing Date	Leg. Counsel Filing Date
334-010-0005	Change	8/23/2019	11/18/2019 --- 9/27/2019	12/10/2019	12/10/2019
334-010-0015	Change	8/23/2019	11/18/2019 --- 9/27/2019	12/10/2019	12/10/2019
334-010-0025	Change	8/23/2019	11/18/2019 --- 9/27/2019	12/10/2019	12/10/2019
334-010-0033	Change	8/23/2019	11/18/2019 --- 9/27/2019	12/10/2019	12/10/2019
334-010-0050	Change	8/23/2019	11/18/2019 --- 9/27/2019	12/10/2019	12/10/2019
334-030-0005	Change	8/23/2019	11/18/2019 --- 9/27/2019	12/10/2019	12/10/2019
334-010-0015	Change	11/23/2020	11/18/2019 --- 12/21/2020	2/02/2021	2/02/2021
334-010-0050	Change	11/23/2020	11/18/2019 --- 12/21/2020	2/02/2021	2/02/2021
334-001-0012	Change	4/21/2021	5/15/2021 --- 5/15/2021	5/26/2021	5/26/2021
334-010-0033	Change	4/21/2021	5/15/2021 --- 5/15/2021	5/26/2021	5/26/2021
334-010-0050	Change	4/21/2021	5/15/2021 --- 5/15/2021	5/26/2021	5/26/2021

**SECTION FOUR**

**CONSUMER PROTECTION**



**182.472 (4) A description of board actions promoting consumer protection that were taken since the last report was submitted.**

This biennium the Oregon Board of Massage Therapists promoted consumer protection by:

Publishing a newsletter which is distributed to all licensees, all schools with Board approved programs, all interested parties, including professional associations and legislatures, and it is posted on the OBMT website

All massage schools in the State of Oregon were invited to an all schools meeting where a question and answer session was provided allowing massage educators and interested parties the opportunity to speak and ask questions about current trends, Oregon laws and the initial licensure process. This outreach was well received and well attended by the schools.

Holding board meetings remotely which increased stakeholder and interested parties involvement. Also, prior to the pandemic, the Board held a two-day business meeting retreat in southern Oregon in an effort to facilitate more massage therapists community involvement.

Worked with the Asian/Pacific Island community to reach out to those individuals within the community who needed clarification regarding the massage laws of the State of Oregon. This included translating our laws and rules into other languages and making that information available on our website.

The Board also purchased the Rosetta stone program and allows staff members who wish to learn a second or additional language, an opportunity, during business hours to work toward secondary/additional language proficiency.

Communicating with massage businesses, massage therapists and other interested parties through email with regular updates regarding the COVID 19 pandemic and its impact on the profession.

Board members and Board staff attended various questions and answer sessions regarding the COVID 19 pandemic and its impact on massage schools, businesses and the individual therapist.

Providing input to national massage therapy Boards and committees regarding various areas of concern for the industry.

Liaison with multiple law enforcement agencies throughout the state in an effort to provide expertise and answer questions regarding the massage industry. These agencies include the Portland Human Trafficking Task Force, a multi-agency, multi-jurisdictional task force for the greater Portland area as well as the Medford, Roseburg and Bend police departments.

**SECTION FIVE**

**LICENSING ACTIVITIES**

**AND**

**DISCIPLINARY ACTIONS**

<b>Section Five - Licensing Activities and Disciplinary Actions</b>	
<b>Section 5</b>	<b>June 30, 2021</b>
Licensed individuals*	7562
Licensed facilities**	275
Total Licensees:	7837
<b>(a) The number of license applications;</b>	<b>8263</b>
Initial (New) Applications for individuals:	930
Initial (New) Applications for facilities:	8
Renewal applications for individuals:	7325
<b>(b) The number of licenses issued; (total; includes individuals, facilities, initial/renewal)</b>	<b>8255</b>
<b>(c) The number of exam applications;***</b>	<b>0</b>
<b>(d) Average processing time from application to Licensure</b>	<b>28 Days</b>
<b>(e) The number of complaints received</b>	<b>402</b>
(1) against license holders (including facilities)	238
(2) against non-license holders****	164
<b>Breakdown of types of complaints reported in (e) above.</b>	
Billing Fraud	9
CE Audit Failure	2
Competency Concerns	22
Ethics/Boundaries	10
Failure to disclose adverse information	11
Injury	4
Other/Undefined/Including business Inspections and open pending investigations	54
Practicing while Inactive	1
Professional Misconduct	38
Sanitation	6
Scope of Practice	10
Sexual Misconduct	29
Substance Abuse/Impairment	1
Unlicensed Practice	240
<b>(f) The total number and types of investigations conducted</b>	
(1) Full investigation opened	440
(2) Resolved (see G1 through G9 Below)	241
(3) Open pending further review	12
(4) Open and under investigation	61
(5) Cases initiated by the Board	190
(6) Cases received by other (Other Licensing Boards, Law Enforcement, LMT's, Etc.)	253
<b>(g) The number and types of resolutions of complaints (see below):</b>	
(1) Closed without action/no jurisdiction/no violation	12
(2) Letters of concern	36
(3) Civil penalties issued and payment received - or sent to collections	43
(4) Civil penalty voted by Board, not yet processed	0
(5) License revocation (including facility permits)	11
(6) Stipulations/agreements, not incl. Civil penalty	60
(7) Denial of License or Facility Permit	4
(8) Voluntary Surrender	7
(9) Hearing or Judicial Review Requested; undetermined	5
<b>(h) The number and type of sanctions imposed (total of 3-9 above):</b>	<b>178</b>
<b>(i) The number of days between beginning an investigation and reaching a resolution.</b>	<b>120 Days</b>



\* Number of Licensee's are down due to many reasons. COVID closed all Oregon Massage Schools for a short period of time, however, many of the schools remained closed through the remainder of the Pandemic. We are seeing an increase in initial applications now and anticipate being back to normal soon. Another contributing factor is that many Massage Therapists allowed their licenses to lapse during the pandemic as they voluntarily took themselves out of practice for safety reasons. Further, we did see a larger than normal number of massage therapists leave the state of Oregon to practice in Idaho, Texas and Florida and other states due to less COVID restrictions.

\*\* Licensed Massage Therapists are not required to obtain facility permits to operate a massage facility. Only individuals who are not in a health related field are required to obtain facility permits, this is why this number is not high and the growth is slow.

\*\*\* The Oregon Board of Massage does not require the Practical Examination anymore (as of 2017), the Board uses the National Examinations which are administered by the Federation of State Massage Therapy Boards (FSMTB).

\*\*\*\* This Board has jurisdiction per ORS 687.021 of individuals and businesses who practice massage without a massage therapist or massage facility license. Unlicensed practice of massage is a nationwide problem. The Board has partnered with various federal, state and local jurisdictions in an effort to educate and eventually enforce the provisions of this statute.

## **SECTION SIX**

### **OTHER BOARD ACTIVITIES**

Agency Name: Oregon Board of Massage Therapy

Biennia	Positions	FTE	Board Meetings	Approximate # Licensees on June 30 close of biennium		Board Stipend	Director Salary \$/Month on 6/30 close of biennium
				Individuals	Facilities		
2011-2013	5	5.00	16	7,289	n/a	\$100/mo and The Board Chair receives an additional \$375/mo	\$8,964
2013-2015	5	5.00	12	7,570	137	\$100/mo and The Board Chair receives an additional \$375/mo	\$9,506
2015-2017	5	5.00	12	8,535	190	\$100 per day	\$9,987
2017-2019	6	6.00	12	8,076	266	\$100 per day	\$7243 Interim Director
2019-2021	6 and 1LD	7.00	12	7,837	275	\$155 Per Day	\$9,129
2021-2023 Projected	6	6.00	12	8,000	285	\$155 Per Day	\$10,046

# OREGON BOARD OF MASSAGE THERAPISTS



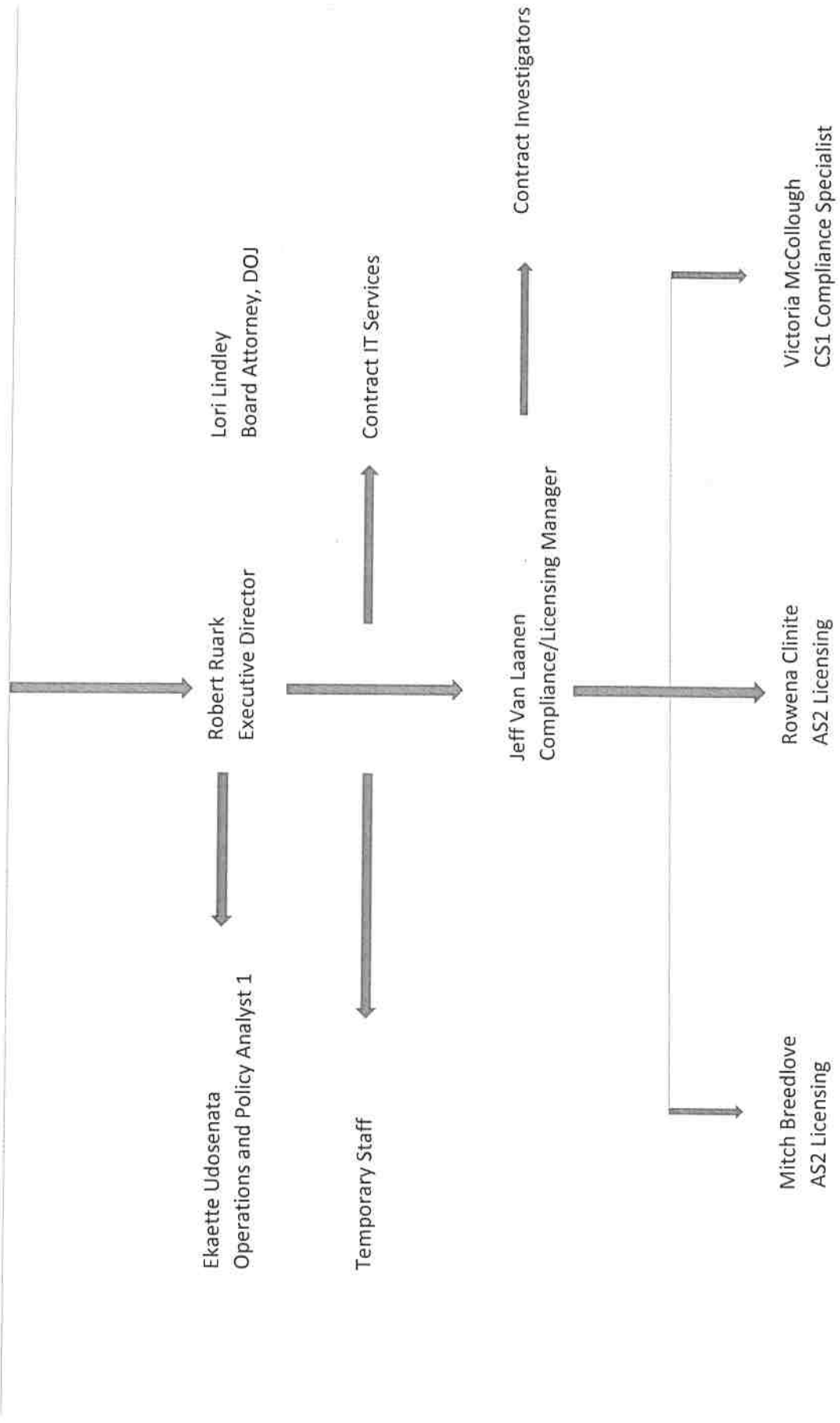
182.472 (2)(d) A description of current fees and proposed changes to fees, along with information supporting the amounts of the current fees and any proposed changes to the fees.

Fee Type	Fees as of 6/30/2015	Fee as of 6/30/2017	Fee as of 6/30/2019	Fee as of 06/30/2021	Fee as of 04/01/2022
Active Biennial License	\$150	\$155	\$155	\$200	\$200
Inactive Biennial License	\$50	\$75	\$75	\$100	\$100
Late fee	\$25 per week, up to a maximum of \$100	\$25 per week, up to a maximum of \$100	\$25 per week, up to a maximum of \$100	\$25 per week, up to a maximum of \$100	\$25 per week, up to a maximum of \$100
Initial License	\$100 or \$50	\$100 or \$50	\$100 or \$50	\$200 or \$100	\$200 or \$100
Application Processing	\$50	\$100	\$100	\$100	\$100
Practical Examination	\$150	\$150	\$150	\$150	\$150
Mailing List	\$100	\$100	\$100	\$100	\$100
License Reprint	\$10	\$10	\$10	\$10	\$10
License Verification	\$10	\$10	\$10	\$10	\$10
Fingerprint Fee for Initial License	\$43	\$40	\$40	\$40	\$47.25
Credentialing Review Fee	\$250	\$250	\$250	\$250	\$250
Facility Permit Fee	\$50	\$50	\$50	\$200	\$200
Facility Permit Transfer Fee	\$250	\$250	\$250	\$250	\$250
Facility Permit Reprint	\$10	\$10	\$10	\$10	\$10
Other Administrative Fees as allowed by law [to allow authority to apply service charge for NSF or photocopy expenses]	Not Defined	Not Defined	Not Defined	Not defined	Not Defined

Fees are unchanged this Biennium, with the exception of the Oregon State Police Fingerprint Fee which was changed by OSP and that fee change was passed on to the Licensee. Current fees needed to support 6 FTE and Board operating expenses.

# Oregon Board of Massage Therapists Organizational Chart

Beckett Rowan Board Member LMT Member	Carol Gray Board Member LMT Member	John Combe Board Member LMT Vice Chair	C. Rodriguez Board Member LMT Board Chair	Meng Chen Board Member Public Member	Maria Odle Board Member Public Member	Vacant Board Member Health Member
---	--	--	---	--	---	---



**NAME OF BOARD Oregon Board of Massage Therapists**

<b>Best Practices Criteria</b>	<b>Yes</b>	<b>No</b>
1. Executive Director's performance expectations are current.	1	
2. Executive Director receives annual performance feedback.	1	
3. The agency's mission and high-level goals are current and applicable.	1	
4. The board reviews annual performance progress report.	1	
5. The board is appropriately involved in review of agency's key communications.	1	
6. The board is appropriately involved in policy-making activities.	1	
7. The agency's budget aligns with mission and goals.	1	
8. The board reviews all proposed budgets.	1	
9. The board periodically reviews key financial information and audit findings.	1	
10. The board is appropriately accounting for resources.	1	
11. The agency adheres to accounting rules and other relevant financial controls.	1	
12. Board members act in accordance with their roles and public representatives.	1	
13. The board coordinates with others where responsibilities and interests overlap.	1	
14. The board members identify and attend appropriate training sessions.	1	
15. The board reviews its management practices to ensure best practices are utilized.	1	
<b>Total</b>	<b>15</b>	<b>0</b>
<b>Percentage of Total</b>	<b>100.00%</b>	<b>0.00%</b>