



Oregon

Kate Brown, Governor

Board of Massage Therapists

728 Hawthorne Ave NE

Salem, OR 97301

Phone: (503) 365-8657

Fax: (503) 385-4465

www.oregon.gov/OBMT

OBMT Board Meeting Minutes

November 5, 2018

Board Office

Attendance

Board Members:

Jon Grossart, LMT, Chair

Christa Rodriguez, LMT, Vice Chair

Meng Chen, Public Member

John Combe, LMT

Carol Ann Kirby, Public Member

Kelley Rothenberger, LMT

Steven Foster-Wexler, LAc, Public Health Member

Staff:

Kate Coffey, Executive Director

Ekaette Udosenata-Harruna, Policy Analyst

Bob Ruark, Compliance Manager

Lori Lindley, AAG

Public:

Amy Bennett

Aumkara Newhouse

Carrie Heinsch

Claire Darling

Debbie Denardo

Donald Schiff

Erika Baern

Gary Hulett

Julie Crispin

Kathy Calise

Lauren Swick

Mark Retzlaff

Nicholas Chrones

Samuel Hobbs

Call to order at 9:05am

Grossart called the meeting to order at 9:05 am. Roll call was performed. **Chen, Combe Foster-Wexler, Grossart, Kirby, Rodriguez, and Rothenberger** were present. **Coffey**, Executive Director, **Lindley**, AAG, **Udosenata-Harruna**, Policy Analyst, and **Ruark**, Compliance Manager.

Grossart asked members of the public to introduce themselves. Public present at this time were.

Amy Bennett, Aumkara Newhouse, Carrie Heinsch, Claire Darling, Debbie Denardo, Donald Schiff, Erika Baern-East West College, **Gary Hulett, Julie Crispin-AMTA-Oregon, Kathy Calise-Lane Community College, Lauren Swick, Mark Retzlaff-AMTA-Oregon, Nicholas Chrones, Samuel Hobbs.**

1) Approve Agenda:

Combe moved approve the Agenda. **Second the motion. Rodriguez: In favor: Chen, Combe, Foster-Wexler, Grossart, Kirby, Rodriguez, and Rothenberger. Opposed: None. Motion carries.**

2) Public Comment:

Hobbs expressed that he is against the reduction of the required Continuing Education (CE) hours per licensing period. He is also against item 7(a) of the proposed OAR 334-010-0050, which eliminates the ability to carry over excess contact continuing education hours to the next subsequent renewal. **Hobbs** stated that he would also like to address the

individuals who believe they are too experienced or semi-retired to take more continuing education. **Hobbs** finds this to be ridiculous and noted that if they do believe that they are too experienced, then they should teach. **Hobbs** does not believe that people who have been practicing for a number of years or semi-retired who do not believe they need to be held to the same standard that is held currently, perhaps needs to reassess the profession or their involvement in the profession. In addition, Hobbs would like to address the topic of regulation verses advocacy citing the North Carolina Board of Dentistry VS Federal Trade Commission. **Hobbs** understanding of the case is more of an anti-trust case and has nothing to do with regulating verse advocacy. At the end of the rational, the board also spoke to continuing minimum competency and would like to point out that OAR 334-010-0047 does not address minimum competency. It states that you maintain competency through continuing education. **Hobbs** expressed that he appreciated technique courses being put back into the proposed CE rules regarding specifically massage and bodywork techniques. Lastly, **Hobbs** stated that he is aware of the struggle in regards to standards across the nation as to finding appropriate verbiage for continuing education rules.

Swick noted that she sent a letter to the board regarding why the proposed CE rule changes are in conflict with the board's mission statement. **Swick** stated that she is strongly against the proposed CE hours reduction. She feels strongly that the integrity of the profession is on the line and would like to remind everyone here today that, Oregon has been one of the states that have set the standards in the massage and bodywork profession and, it has taken decades to accomplish this. The move to reduce the CE hours and requirements, will take the board backward. This is something that she finds to be very heartbreaking.

Bennett note that for the record she submitted a letter to the board. **Bennett** stated that she went through the meeting minutes for the entire year and read them and it brought up a number of questions. **Bennett** noted that partly, she has questions about some of the language that has come up in the minutes and asked them in the previous letter that she submitted to the board. **Bennett** stated for the record that she is opposed to reduction of the number of CE hours, and fundamentally does not see how the reduction brings the board into alignment with other health care professions, or with other state boards. **Bennett** noted that, the one thing that she would like to point out from her research is that, she went to massage today website and found about seven randomly chosen boards and looked up their hours, and none of them requires 6 hours or less as they are all well above that. **Bennett** stated that Oregon does not lead the nation in the number of hours required for continuing education. The standard does appear to be about 24 hours and there is a lot of variation. **Bennett** believes it would be useful if the board is considering making changes to the number of hours, the board needs to take a look at other boards.

Newhouse stated that he was in a car crash a year ago and gained knowledge of the importance of massage therapists as a key element in treating traumatic brain injury has expanded significantly due to that incident. The board needs to encourage people to expand their knowledge rather than restrict them by reducing the CEU requirements.

Schiff stated that the point that he wants to make is that, in Oregon, massage therapists have the rights, responsibilities and privileges of a health care provider. Many massage therapists, particularly those who were not trained recently or trained in Oregon, do not have the training to necessary do that work and yet have the responsibility to adhere to the norms. The way that massage therapists get the knowledge and understanding, is by taking continuing education. Rather than decreasing the number of required hours because, the board thinks that an anti-trust case requires the board to do so, is not an accurate assessment. In any event, the board could be requiring a certain number of hours that actually addresses the issue of enhancing the training of skills of massage therapists in the health care world. **Schiff** inquired whether the board wants to remain a leader in the profession or does the board want to drop to the bottom? He believes that the CE proposal is heading in the wrong direction.

3) Approve Minutes for September 17, 2018:

Rothenberger moved to approve the September 17, 2018 minutes as is. **Second the motion: Kirby. In favor: Chen, Combe, Foster-Wexler, Grossart, Kirby, Rodriguez, and Rothenberger. Opposed: None. Motion carries.**

4) Directors Report:

Coffey updated the Board on the Budget Status for the 2017-19 Biennium. The board expenses are \$144k more than the revenue received for the first sixteen months of the biennium. The board projected to overspend by \$66k; however, the increase in payroll and legal costs increased the over expenditure. The board's actual revenue is \$66k more than the revenue projection for the first sixteen months of the 2017-19 biennium. The excess revenue is in the categories of Civil Penalties, Applications, Initial License, and Fingerprint fees. The Board has three months of working capital at the end of October 2018.

Kirby reminded the board on the discussion regarding potential increases to fees and she wanted the board to hold off to see what was going to happen with the rest of the biennium. She stated that the matter will be further discussed in the budget section of the agenda.

Compliance Update:

The compliance section received 19 new complaints since the September 2018 Board Meeting, this number is up compared to recent months. There are currently two contested cases pending at the Office of Administrative Hearings. Both cases are scheduled for a hearing in December 2018; however, one case should settle prior to the hearing as the Board is awaiting signature on the stipulated agreement by the Respondent. The Office of Administrative Hearings has issued one proposed order affirming the Board's decision. Two Licensee's filed for judicial review at the Oregon Court of Appeals; however, both those cases were not accepted by the Court of Appeals due to timeliness issues.

New Website Demonstration

The State of Oregon is converting to a new website with a direction of allowing the public to easily access information. All agencies must transition to the new website by 2020. The link below will take you to the Board's website that is still under construction. Please review the website as Ekaette will provide a brief demonstration during the board meeting and welcomes your suggestions.

<http://staging.apps.oregon.gov/OBMT/Pages/index.aspx>

5) Board Business:

a. 2019 Board Calendar:

1. January 14, 2019
2. March 18, 2019
3. May 20, 2019
4. July 29, 2019
5. September 13-14, 2019 (Traveling Board Meeting Location: Medford, OR)
6. November 18, 2019

The Board discussed the calendar and location for the September 2019 traveling board meeting. They reviewed the costs for the locations of Ashland, Eugene, Hood River and Medford, Oregon and agreed to have the September 2019 traveling board meeting in Medford, OR.

Combe moved to approve Medford, OR as the location for the traveling board meeting in September 2019. **Second the motion: Kirby. In favor: Chen, Combe, Foster-Wexler, Grossart, Kirby, Rodriguez, and Rothenberger. Opposed: None. Motion carries.**

b. FSMTB Annual Meeting Recap (see appendix 1)

Grossart updated the board on the 2018 FSMTB annual meeting (see appendix 1 starting on page 24-42). **Grossart** noted that there were many topics of discussion at the meeting that were very interesting. The first was the discussion surrounding where states are with regards to facility permit/licensing. Most of the States are still dealing with facility license. Oregon Board of Massage Therapists is well ahead as other state are just now regulating facilities whilst others are in the process of passing legislation to regulate facilities. Secondly, a lot of States are worried about marijuana policy as many States just got medical marijuana and are heading towards recreational marijuana. Many States expressed concerns with the CBD oils as they are a little more nebulous. The FSMTB lawyer clarified that federally, CBD is still a schedule one substance, so regardless to what a lot of States think, it is still federally illegal.

Grossart noted that the resolutions proposed by the Oregon Board of Massage failed. The reasons given by the FSMTB were slightly strange. What was interesting was that, most everyone in the room seemed unhappy with the way voting was going for the FSMTB board of directors but they voted down the proposals that Oregon brought to the table. It was a very odd discussion as even the boards that did not like the current process insinuated that they wanted something different. The general consensus was, people were not happy with the election process.

Calise inquired where FSMTB is with portability/reciprocity with other states.

Grossart noted that the Federation is continuing to work on making national portability.

Bearn stated that, Entry Level Access Project (ELAP) was a collaboration between Federation of State Massage Therapy Boards (FSMTB), Associated Bodywork & Massage Professionals (ABMP) and the American Massage Therapy Association (AMTA) that came up with 625 hours of the entry level education. There was no discussion or consideration for continuing education. Before the Oregon Board of Massage Therapists sign on to six hours of continuing education per year as per the FSMTB recommendation, **Bearn** really wants to know how FSMTB came up with that number, as it is very different from what the majority of State licensing boards are requiring. **Bearn** stated that she would not want to rely on a number that is pulled out of thin air. She would want to know what study had been done. ELAP was a multiyear study and it was bought into by ABMP, FSMTB, and AMTA all the primary stakeholders where reviewing that and it was not just one organization. If the board is looking at developing standards about what could potentially be in line with a national standard, she would hope that it would be a concerted effort by all agencies who have a stake in the massage profession. To get together and come up with something that makes sense for Oregon Massage Therapists and is in line with other healthcare professional providers who are not massage therapists, but who perform similar independent work as massage therapists. **Bearn** expressed strongly that she is very concerned about dropping the continuing education hours.

Combe thanked the board representatives for attending the 2018 annual FSMTB meeting. **Combe** added that he would passionately suggest that the board be in the driver's seat at these meetings. **Combe** stated that he will be happy to be a part of proposing resolutions again to the Federation. **Combe** would hate to see the board go backward because of a suggestion made at the national level. **Combe** expressed that we cannot expect to push the profession if we have other people pushing it for us. He welcomes the challenge of representing the board at the next FSMTB annual meeting and would hate to see the board and its LMTs flounder because of the board's lack of push.

- c. **Board Action Plan (updated)** - **Coffey** updated the board on the action plan. **Coffey** noted that there are nine items on the strategic planning objective. **Coffey** noted that 2 more items have been added to the list. Modification of the Topical Preparation Policy and review of the current board Mission Statement.

1. Revise Electronic Board Meeting delivery method
2. Historical FSMTB Documents to Board Meeting area
3. Asian Pacific Islander Community and unlicensed practice concerns
4. Facility Permit – Pursue unlicensed facilities
5. Emeritus Status for Licensees with Over 20 years
6. Revise CEU rule
7. Scope of Practice
8. Topical Preparation policy – include language that state that the policy is a guideline, consult your legal counsel before doing anything.
9. Mission statement (review to ensure that it is in line with current mandate for the board)

Coffey recommended having a facilitator for the board's planning meeting in September 2019.

Rodriguez moved to amend the agenda, to move the budget from agenda item e to agenda item d. **Second the motion: Kirby. In favor: Chen, Combe, Foster-Wexler, Grossart, Kirby, Rodriguez, and Rothenberger. Opposed: None. Motion carries.**

d. 2019-2021 Budget (see appendix 2)

Coffey updated the board on the board's 2019-2021 budget. Expenditures: **Coffey** directed the boards attention to appendix 2 starting on page 44-59. Which shows the 2017-2019 approved budget and 2019-2021 proposed budget and the percent of increase. **Coffey** noted that the proposal for the 2019-2021 budget is 2.4million and it will fully fund the six full time staff positions for the entire biennium. **Coffey** expressed that currently, the board has one limited duration employee and that position has been able to collect over \$18k worth of civil penalty revenue for the month of October 2018. Previously the board did not have the resources to dedicate to the compliance section where they work within the process to ensure the civil penalties are collected. The board currently has approximately \$730k of uncollected civil penalties at the Oregon Department of Revenue that is yet to be collected. It is much better for the board to settle a case and receive a payment of the civil penalty instead of sending it to the Oregon Department of Revenue for collection. The board on average only receives \$2k to \$3k a month from the Oregon Department of Revenue for their collection efforts.

Kirby noted that even though payroll expense reflects an increase of 6.5%, it is still the largest expense category. The small percent does reflect the fact that the board picked up an additional position.

Revenue: **Coffey** noted that at the May 2018 traveling board meeting, the board was provided information that indicated a fee increase was needed. The current 2019-21 biennial revenue proposal comes to \$1.9 million with no fee increases the 2019-21 biennial forecasted expenditures are \$2.4 million which creates a deficit of \$482k. The board will not have a sufficient beginning fund balance to cover the 2019-2021 deficit. The board will need to have a fee increase. **Coffey** recommends that the board increase active and inactive renewal fees for the biennium. That will increase active renewal fees from \$155 to \$200, an increase of \$45 over a two year period, and inactive renewal fee from \$75 to \$100, an increase of \$25 over a two year period. **Coffey** noted that the last time the board had a revenue increase of this magnitude was January of 2011, and increased the active renewal fee by \$50 a biennium. Then the Board increased active renewal fees in 2016 by \$5 which was the cost of the Oregon Health Authority survey assessment. The increase of \$45 will generate \$325k in revenue and reduce the deficit. **Coffey** also directed the board's attention to ORS 687.071(2) which will increase initial licensing fees to align with the board's statutes. By increasing the initial licensing fee to \$200 and \$100 will generate \$117k for the biennium. **Coffey** direct the board's attention to the US Bank, bank statement and recommended that the board liquidate its CD account as it is at renewal time. If the board does not liquidate the

CD now, and the board needs it later, there is going to be a 3% penalty assessed to the board. By liquidating the board's CD account now will allow the board to be fully funded for this biennium as the board has been in deficit spending for the majority of the current biennium.

The board discussed the budget and decided to increase the facility permit fee to \$200 from \$50.

Grossart expressed that as a semi-independent board, the board is only funded by licensing fees and civil penalties. The board does not receive any money from the State General Fund. Even though the numbers sound bad, a lot of that money is what goes into enforcement and going after the people that are violating the Board's rules and laws. If the board is not able to fund thier operations, the board will fail to function and do what it has been charged to do.

Kirby moved to liquidate the board's CD account on or before November 16, 2018. **Second the motion: Rothenberger. In favor: Chen, Combe, Foster-Wexler, Grossart, Kirby, Rodriguez, and Rothenberger. Opposed: None. Motion carries.**

Kirby moved to accept the budgetary limited expenditure of \$2,417,000 which fully funds 6 full time staff position including step increases, and 2% cola for the 2019-2021 biennium. Also move to increase the active renewal fee from \$155 to \$200 and inactive renewal fee from \$75 to \$100. Increase the initial licensing fee to \$200 for over 12 months and \$100 for under 12 months. Increase the facility permit fees from \$50 to \$200. Move to take the proposed budget to a rules hearing. **Second the motion: Combe. In favor: Chen, Combe, Foster-Wexler, Grossart, Kirby, Rodriguez, and Rothenberger. Opposed: None. Motion carries.**

Kirby moved to move the current limited position to a permanent position. **Second the motion: Rodriguez. In favor: Chen, Combe, Foster-Wexler, Grossart, Kirby, Rodriguez, and Rothenberger. Opposed: None. Motion carries.**

e. Proposed Rules for January 2019 (Appendix 3)

Coffey updated the board on the rules hearing on September 25, 2018 regarding the following proposed rules (see Appendix 3 starting on page 61-81).

ORAR 334-001-0060 Definition: Clarify the definition of certified class or program.

ORAR 334-001-0012 Budget: Increase budget for 2017-2019 Biennium.

ORAR 334-010-0005 Application: clarifies the Facility License requirements and requires all applicants notify the board within 10 days if something changes on their original application for licensure

ORAR 334-010-0006 Facility Permits: Clarifies language for denial of Facility Permit application and use of Facility Permit.

ORAR 334-010-0015 Licensure: Specifies the type of CPR certification required.

ORAR 334-010-0017 Lapsed License: Specifies the type of CPR certification required; Requires that licensees, whose license has been lapsed for more than three years, meet current initial licensure requirements prior to reactivation of the license.

ORAR 334-010-0025 Practice of Massage: Requires LMTs to post their current license.

ORAR 334-010-0033 Fees: Clarifies Facility Permit fees.

ORAR 334-020-0005 Facilities and Sanitation: Clarifies Facility Permit requirements.

ORAR 334-040-0010 Discipline: Clarifies the description of Fitness to Practice and the discipline associated with the failure to practice safely.

Coffey noted that the board received one written comment from Lorinda Roslund stating, "it seems cumbersome and

unnecessary to post our facility permit number on all our advertisements. Other medical professionals are not required to do so. We already have to post our state license number. That is enough in itself. I disagree with this proposed rule and ask that it be removed.”

Crispin expressed a concern regarding cooperate facilities and inquired how would they include each individual license number?

Foster-Wexler moved to modify OAR 334-020-0005 (1)(B)(iv) to read, “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”. Adding the language “all massage therapy”. **Second the motion: Rodriguez. In favor: Chen, Combe, Foster-Wexler, Grossart, Kirby, Rodriguez, and Rothenberger. Opposed: None. Motion carries.**

Combe moved to approve the proposed rules as amended from the September 25, 2018 to go into effect January 1, 2019. **Second the motion: Kirby. In favor: Chen, Combe, Foster-Wexler, Grossart, Kirby, Rodriguez, and Rothenberger. Opposed: None. Motion carries.**

f. Draft CEU Survey Questions

1. Demographics

- ❖ Y/N: Are you a resident of Oregon?
- ❖ Y/N: Are you an Oregon LMT?

2. Not an LMT

- ❖ Before going to see an LMT, do you verify if they have a license?
- ❖ Before going to see an LMT, do you verify if they have discipline on their license?
- ❖ How many hours per 2 year renewal do you think an LMT should take?

3. Is an LMT

- ❖ When were you initially licensed?
- ❖ How many hours was your initial training program?
- ❖ How many CE hours did you take during your last renewal period?
- ❖ Y/N: Do you hold an LMT in another state besides OR?
- ❖ Check all that apply: Do you hold another health care provider credential in Oregon?
 - PT, PTA, DC, CA, CNA, LPN, RN, Therapy (not sure how to word that one)
- ❖ What part of the state is your primary residence?
 - Portland Metro (including Vancouver-metro)
 - Pacific Coast
 - Central Western Oregon (Corvallis, Eugene, etc.)
 - Southern Western Oregon (Medford, Ashland, Grant's Pass, etc.)
 - Eastern Columbia Gorge (Hood River, The Dalles, Boardman, etc.)
 - Eastern Cascades (Bend, Sisters, etc.)
 - Eastern Oregon – I84 corridor (Pendleton, La Grande, Baker City, Ontario, etc.)
 - Eastern Oregon – Other
 - Washington (Excluding Vanvoucer area)
 - Idaho
 - California
 - Other Out of State

4. CE Provider Information

- Y/N: Have you ever taught in a basic massage therapy educational program?
 - Y
- ❖ Y/N: Do you currently teach in a basic massage therapy program?

- Y/N: Have you ever taught CE classes for LMTs?
 - Y
 - ❖ ◦ Y/N: Do you currently teach CE classes for LMTs?
 - ❖ ◦ Check all that apply: Where did you teach your classes:
 - self-arranged location
 - co-sponsored by a school or professional organization
 - on-line
 - N
 - ❖ ◦ Y/N: If you have never taught classes for LMTs, do you plan to in the future?
5. Rules
- ❖ ◦ Scale of 1-5/strongly agree to strongly disagree or 1-10 (depending on what granularity we want)
 - The main legal mandate of the OBMT is to ensure public safe and that practitioners maintain minimal competency.
 - The focus of the OBMT is on ensuring practitioners maintain minimal competency.
 - The focus of the OBMT is on ensuring practitioners maintain a high level of skill.
 - CEs are important for the growth of a practitioner.
 - CEs are important for protecting the public.
 - CEs courses should only be taught by licensed professionals or teachers sponsored by a professional organization.
 - I only take CEs to meet my renewal requirements.
 - Contact hours for CEs means that I am actually touching a classmate during class.
 - I like to take classes in-person.
 - I like to take classes on-line.
 - There are enough classes available to me that I don't need to travel overnight for.
 - There are classes that I want to take that I don't have to travel overnight for.
 - The classes I've taken are a good value for the money.
 - That classes I've taken focus on maintaining the knowledge and skills I learned in my initial training program?
 - The classes I've taken explicitly focus on client safety and current science of massage?
 - The classes I've taken focus on learning new techniques for my practice.
 - The total cost of classes (including class cost, travel cost, time not working) is in line with the amount of income I receive.
 - All LMTs should meet the same basic requirements each renewal period.
 - Pick one:
 - Oregon law requirements a minimum of 12 hours of CE per 2 year renewal period, while the current OBMT board rules require 25 hours.
 - How many hours of CE per renewal period are needed to focus on public safety?
 - 12
 - 25
 - 25-35
 - 35+
 - How many hours of CE per renewal period are needed to be a good practitioner?
 - 12
 - 25
 - 25-35
 - 35+
 - Pick One:
 - ❖ ◦ I'd rather have reduced required CE hours along with reduced allowed topics.
 - ❖ ◦ I'd rather have the same required CE hours with a similar set of allowed topics?

6. Text Box
 - What classes currently required to be part of the CEs do you think shouldn't be?
 - What classes not currently required should be required as part of each renewal period?
7. Last ethics class
 - ❖ Y/N: Was the that class you took to meet the 4 hours in Professional Ethics, Boundaries, and Communications a stand-alone class specifically to meet that requirement?
 - Y
 - Y/N: Was the class solely about ethics?
 - Y/N: Was the class beneficial?

Kirby left the meeting at 11:44am

a. Proposed CEU Rule Revision

Continuing Education Proposal:

334-010-0050

Continuing Education

(1) The intent of Continuing Education is to protect the public by maintaining knowledge and **minimal competency** of massage and/or bodywork. Each licensee must complete ~~25~~ 12 hours of continuing education each renewal period.

(a) The continuing education hours must be from the following topics **and within the scope of the license:**

~~(A) Massage and bodywork techniques;~~

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

~~Stretching and gymnastics that lengthen and shorten soft tissues;~~

~~(D) Posture and movement assessment;~~

~~(E) Massage and bodywork business practices;~~

(A) Science of Massage Therapy:

~~(F-i) Anatomy and physiology of the human body; (G~~

ii) Kinesiology of the human body;

~~(H-iii) Pathology of the human body;~~

(iv) Assessment of client's soft tissue, posture, and movement patterns;

(v) Pain management;

~~(I) Professional Ethics, Boundaries or Communication;~~

(B) Client Safety and Communication:

(i) Communicable diseases;

(ii) Sanitation;

(iii) Draping;

(iv) Ethical client interaction;

(v) Therapeutic framework and boundary setting;

(vi) Trauma informed care;

(C) Oregon Regulatory Practices:

(i) 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 will be given for each meeting day with a limit of 3 per renewal period.

- (ii) Insurance Billing;
- (D) Re-Examination of minimal competency:
 - (i) Licensee may retake any of the Board approved written exams once per renewal period for 6 CE hours. Proof of passing counts as the CE certificate.
 - (ii) Licensee may retake the OBMT Jurisprudence Exam once per renewal period for 1 CE hour. Proof of passing counts as the CE certificate.
 - (iii) Licensee may take any of the Board approved written ethics exams once per renewal period for 6 CE hours. Proof of passing all sections counts as the CE certificate.
- ~~(J-E) Cultural competency as defined in ORS 413.450~~
- ~~(K) Body mechanics;~~
- ~~(L) Somatic education; or~~
- ~~(M-F) CPR/First Aid- Basic Life Support (BLS) for Healthcare Providers;~~
 - (i) Distance learning versions of the course shall count for 1 hour of CE;
- ~~(a-b) At renewal time, each licensee must sign and submit a Board supplied CE form submit full details of all CEs taken during the renewal period indicating they have completed 25 the required hours of continuing education. The Board may require proof of CE hours.~~
- (A) Required details include, but are not limited to, course title, course provider, completion date, and hour breakdown per CE category.**
- ~~(b-c) Of the 25 required hours, at least 15 must be contact hours of continuing education training or Board approved activities. A at least 4 contact hours must be in Professional Ethics, Boundaries and/or Communication topics listed in OAR 334-010-0050(1)(a)(B) or the examinations in OAR 334-010-0050(1)(a)(D)(iii). The remaining 10 of 25 hours may be contact or noncontact hours.~~
- (2) The methods of obtaining continuing education ~~contact hours~~ shall include: **courses, seminars, workshops, meetings, and research conferences.**
 - ~~(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.~~
 - (a) Classes shall be provided by:**
 - (A) licensed or accredited massage and bodywork training program;**
 - (B) accredited institution of higher learning;**
 - (C) a provider recognized by a massage and bodywork professional organization;**
 - (D) licensed healthcare provider;**
 - (E) Sponsored by a professional Organization**
 - (F) Pain Management**
 - (G) American Heart Association (AHA) or OSHA compliant CPR provider**
 - (b) Classes may be in-person or distance learning.**

- (c) Classes must be completed and with a passing grade when applicable.**
- ~~(3) The methods of obtaining continuing education non-contact hours shall include:~~
- ~~(a) Publishing an article relating to massage and bodywork;~~
 - ~~(b) Self-study based on media (i.e. book/video, periodical, web-based, DVD);~~
 - ~~(c) Courses or lectures on massage and bodywork which a licensee presents. A licensee may receive credit for presenting a course or lecture only one time per renewal period regardless of how many times the licensee presents the course or lecture.~~
- ~~(4-d) If the Continuing Education-Continuing education with subject matter is not listed under OAR 334-010-0050(1)(a) or outside the scope of an LMT it will not be accepted for continuing education.~~
- (e) Continuing education with expanded topic focus will be given partial credit based on the CE hours covering the topics listed in OAR-334-010-0050(1)(a) if the licensee can verify the hour breakdown via an official syllabus or a class completion certificate.**
- ~~(6-3) The continuing education requirement does not apply to a A licensee's-is not required to complete any continuing education for the first license renewal.~~
- ~~(7-4) 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 topics from 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.~~
- ~~(8-5) Continuing education records must be maintained by each licensee for a minimum of five years.~~
- ~~(5-6) 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 you will have 30 days to complete the audit form and submit copies (not originals) of your Continuing Education certificates.~~
 - ~~(b) If you fail to provide the requested information to the Board, within the 30 days, the Board may issue discipline per ORS 687.081 and 687.250.~~
- ~~(9-7) 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.~~
- ~~(10-8) 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.~~

The board discussed the continuing education proposal and directed board staff to send out the survey and bring back the survey result to the board meeting in January 2019.

Rothenberger expressed that if the board is going to require ethics boundaries and communication, she wants law to be a part of that requirement.

Ruark stated that ethics already has a definition given to it in OAR 334-001-0060 (20). If the board is to change the ethic requirement to include law, then the definition of ethics in the OAR 334-001-0060 (20) must change as well.

8. Correspondence:

Coffey shared details of correspondence received at the Board office. See appendix 4 starting on page 83-104 for all correspondence received by the board at the November 5, 2018 board meeting.

The Board did not have time to discuss the correspondence and directed the ED to respond to all thanking them for their inquiries and feedback on the continuing education draft rules proposal.

9. Fall 2018 BOARDerline:

The Board approved the Fall BOARDerline for publication in December to include the survey link for licensees and interested parties to provide feedback on the proposed CE rules.

10. Public Comments:

Denardo had a question about incorporating the law into the Ethics class. And stated that she currently teaches a class that does just that. The class ties laws into the specific ethical concept.

Bennett expressed her concern that there is no instruction that specifically addresses what is required of a CEU provider. She noted that it would be very helpful if the board could provide some guidance/guideline.

Heinsch stated that the statute class in question is six hours. Her concern is mixing the law with ethics and communication. She noted that it should be a clear new thing that is added that LMTs need. Perhaps it could be rotated between ethics and law as ethics is different information of how LMTs stay within the boundaries and how LMTs communicate which is super important. She warns that if the board plans to put the law with other stuff is going to get watered down as there is so much to cover. If the board makes the law aspect separate from ethics, it will force people to focus on just that however, if law is coupled with ethics, it will be a huge mistake. She recommend the board consider rotating ethics and laws where a LMT has to complete each at every renewal period.

Retzlaff reiterated **Bennett's** point. The more guidance that CE providers can have of what is in or what is out, the better. **Retzlaff** stated that, one of the things he has been trying to explain as much as possible to people is that, the board is a regulatory board trying to solve regulatory problems and a lot of the people around the room are massage therapists trying to solve massage problems and there could be potential conflict of interest. One of the things that the profession has is the Entry Level Access Project (ELAP) which was a group of stakeholder's consisting of regulators, educators and professional organization all coming together for a chance to collaborate. Out of the collaboration was the model practice act, which serves as a guideline for schools. **Retzlaff** hopes that there could be something similar to the model curriculum for continuing education. **Retzlaff** acknowledged the board's methodical process to ensure that all aspect of an issue is consider as it allows stakeholders to feel like a part of the process and expressed his appreciation to the board.

Hobbs issued a point of clarification with regards to the statement that the State of Washington requires 12 hours of continuing education every two years. The correct number is 24 for every two years and they require renewal every year. **Hobbs** stated that no one is looking to lower their continuing education hours except for Oregon. He cannot reiterate enough how deplorable an idea it is to lower the continuing education hours. He encouraged new board members to speak up for what they think is correct, now is the time to do so. **Hobbs** stated that the audit process that is being required in the continuing education rule proposal is a lot and will be a cumbersome project for the board to regulate and thinks having a rubric for continuing education providers would be very helpful.

Schiff reiterated that he is opposed to reducing the number of continuing education hours. He thinks that, if the board is seriously considering that option, the board should form a rules committee. **Schiff** thinks the continuing education proposal is a bad idea but strongly believes that the board needs to get a broad

consensus to do that. Eliminating the distinction between contact and noncontact hours with the exception of technique classes as those must be in the physical presence of an instructor would help reduce a lot of the confusion and help the people in the rural areas obtain the continuing education with minimum burden. The board could also make it a requirement that instructors must have three years of experience in the area of instructing.

Swick reiterated that she is against dropping the continuing education hours to 12. **Swick** strongly disapproves as she believes the massage profession and the integrity of the industry is on the line. **Swick** believes that with the reduction, massage therapists will be effected and the client safety will definitely be on the line. **Swick** thanked the board for allowing her the opportunity to be a part of the discussion.

Crispin inquired if some of this is about reciprocity and the board getting on the national level and even the playing field. States that having a minimum requirement and there could be a minimum of 12 hours does not mean that because in Oregon its 25, we are not compliant with that, Oregon is just over compliant. Is the concern that someone moving into the state cannot get licensed because they do not have enough continuing education? Its not that hard to get a few hours of continuing education to move to Oregon. Oregon has been setting a standard and she would personally like to continue that standard of Oregon LMTs are on the top of the field. In addition, **Crispin** would like the board to have guidelines for the use of CBD in addition to marijuana policy.

Rothenberger thanked the public for coming to the board meeting.

Rothenberger moved to take a short break. **Second the motion: Chen. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez, and Rothenberger. Opposed: None. Motion carries.**

The Board returned to Public Session at 11:45pm.

Public present: None Present

Grossart called the Board into Executive Session at 11:45pm.

EXECUTIVE SESSION

The Board may enter into Executive Session 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) to review test questions, scoring keys and other data used to administer a licensing examination, ORS 192.660(2)(h) consultation with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed, ORS 192.660(2)(k) to consider information obtained as part of an investigation of a licensee or applicant by a health professional regulatory Board and ORS 192.660(2)(i) To review and evaluate the job performance of the Executive Director or staff. Prior to entering into Executive Session, the nature of and authority for holding the Executive Session will be announced.

11. Executive Session

a. Compliance (192.660(2)(k))

The Board returned to Public Session at 2:55 pm.

Coffey announced that on December 31, 2018 will be her last day of work. **Coffey** will be retiring effective January 1, 2019. **Coffey** stated that she had worked 31 years with the state and it is time. The Oregon Board of Massage Therapists has been an awesome place to work and has been the highlight of her career. This has been a wonderful place to work. **Coffey** thanked the board for their leadership and for volunteering their time to be on the board.

Grossart expressed that as board chair, and someone **Coffey** recruited to be on the board, it has been an absolute pleasure working with her. You have been an excellent executive director.

Rodriguez moved to make Bob Ruark the interim Executive Director effective January 1, 2019 until the board is able to fill the position permanently. **Second the motion: Foster-Wexler. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez, and Rothenberger. Opposed: None. Motion carries.**

Rodriguez moved to add 4 items to the action plan. 1) Update the Strategic Plan and Board's Mission statement; 2) Create a policy for granting exemptions from public record disclosure; 3) Review the modal curriculum; and 4) Write an article about acupuncture and ensure it gets translated into Chinese. **Second the motion: Chen. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez, and Rothenberger. Opposed: None. Motion carries.**

12. Action on Executive Session Items

Compliance Cases

- i. Discuss AG Advice
- ii. Case 2168 – **Foster-Wexler** moved to Accept the Final Order as written with updated fees and costs. **Second the motion: Rothenberger. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- iii. Case 2171 – **Chen** moved to Accept the Stipulated Agreement negotiated by staff. **Second the motion: Combe. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- iv. Case 2343 – **Rothenberger** moved to Accept the Stipulated Agreement negotiated by staff. **Second the motion: Combe. In favor: Chen, Combe, Foster-Wexler, Rodriguez and Rothenberger. Grossart Recused. Opposed: None. Motion carries.**
- v. Case 2469 – **Chen** moved Issue License and assess a civil penalty for one violation each of ORS 687.021(1) (a) and (c) for a total Civil Penalty of \$1,000. **Second the motion: Combe. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- vi. Case 2474 – **Combe** moved to Issue a Notice of Proposed Action (Civil Penalty) for violation of OAR 334-040-0010 (12) assisting, employing or permitting unlicensed practice of massage. **For a total civil penalty of \$1000. Second the motion: Foster-Wexler. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- vii. Case 2373 – **Chen** moved to issue order of Dismissal negotiated by staff. **Second the motion: Foster-Wexler. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- viii. Case 2406 – **Combe** moved to Accept the Stipulated Agreement negotiated by staff. **Second the motion: Rothenberger. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- ix. Case 2476 – **Chen** moved to Issue a Notice of Proposed Action (Civil Penalty) for one violation each of ORS 687.021 (1) (b) and OAR 334-040-0010 (12). ORS 687.021 (1) (b) Operate a massage facility without a facility permit, OAR 334-040-0010 (12) assisting, employing or permitting unlicensed practice of massage. **For a total civil penalty of \$2000. Second the motion: Rothenberger. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- x. Case 2506 – **Foster-Wexler** moved to Issue a Notice of Proposed Action (Civil Penalty) for one violation each of OAR 334-010-0050 (1) (a) and (b), (5) (b), (7), (8), (9) and (10): OAR 334-010-0050 Continuing Education (1) The intent of Continuing Education is to protect the public by maintaining knowledge and skills of massage and/or bodywork. Each licensee must complete 25 hours of continuing education each renewal period. (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 maybe contact or noncontact hours. (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 you will have 30 days to complete the audit form and submit copies (not originals) of your Continuing Education certificates. (b) If you fail to provide the requested information to the Board, within the 30 days, the Board may issue discipline per ORS 687.081 and 687.250. (7) Continuing education must be completed within the renewal period. Contact hours taken and submitted during renewal in excess of the total number required may only be carried over to the next subsequent renewal period. (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. For a total civil penalty of \$1,000 and suspension of LMT's license until compliance with CE requirements are met. **Second the motion: Rodriguez. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**

- xi. **Case 2477 – Foster-Wexler moved to Issue a Notice of Proposed Action (Civil Penalty) for one violation each of OAR 334-010-0050 (1) (a) and (b), (5) (b), (7), (8), (9) and (10):** OAR 334-010-0050 Continuing Education (1) The intent of Continuing Education is to protect the public by maintaining knowledge and skills of massage and/or bodywork. Each licensee must complete 25 hours of continuing education each renewal period. (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 maybe contact or noncontact hours. (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 you will have 30 days to complete the audit form and submit copies (not originals) of your Continuing Education certificates. (b) If you fail to provide the requested information to the Board, within the 30 days, the Board may issue discipline per ORS 687.081 and 687.250. (7) Continuing education must be completed within the renewal period. Contact hours taken and submitted during renewal in excess of the total number required may only be carried over to the next subsequent renewal period. (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. For a total civil penalty of \$1,000 and suspension of LMT's license until compliance with the CE requirements are met. **Second the motion: Chen. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- xii. **Case 2478 – Combe moved to Issue a Notice of Proposed Action (Civil Penalty) for one violation each of OAR 334-040-0010 (2) and (5) OAR 334-040-0010 (2) Knowingly or recklessly making any false statement to the Board; (5) Knowingly or recklessly falsifying an application or continuing education statement or documentation; For a total civil penalty of \$2,000. Second the motion: Rothenberger. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- xiii. **Case 2435 - Foster-Wexler moved to accept the Stipulated Agreement negotiated by staff. Second the motion: Rodriguez. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- xiv. **Case 2482 - Foster-Wexler moved to Approve Application for Licensure. Second the motion: Combe. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- xv. **Case 2491 – Rothenberger moved to Issue a Notice of Proposed Action (Civil Penalty) for one violation each of OAR 334-040-0010 (20) Failing to comply with an order issued by the Board; for a total civil penalty of \$1,000 AND Suspension of License until all civil penalties, fees, and costs are paid in full. Second the motion: Combe. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- xvi. **Case 2492 – Rothenberger moved to Deny Application for Licensure. Second the motion: Combe. In favor:**

Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.

- xvii. **Case 2494 – Rodriguez moved** to Revoke License's massage license pursuant to ORS 687.051 (1)(e), ORS 687.081 (1) (g) and OAR 334-010-0005 (5). ORS 687.051 Qualifications of applicants; continuing education; license renewal; inactive status; rules. (1) To be eligible for issuance of an initial license in this state as a massage therapist, the applicant shall: (e) Pass an examination prepared and conducted by the State Board of Massage Therapists or its authorized representative establishing the applicant's competency and ability to engage in the practice of massage. The examination must be administered in the English language or another language approved by the State Board of Massage Therapists and may be in written, oral or practical form and may test the applicant for the required level of knowledge and skill in any subject related to massage or bodywork. The State Board of Massage Therapists shall accept passage of the National Certification Board for Therapeutic Massage and Bodywork examination or another national standardized examination approved by the State Board of Massage Therapists as meeting the written examination requirement described in this paragraph. ORS 687.081 Grounds for denial, suspension or revocation of, or refusal to renew, license or permit; probation; civil penalties; complaint investigation. (1) The State Board of Massage Therapists may discipline a person, deny, suspend, revoke or refuse to renew a license to practice massage or a permit to operate a massage facility and issue a reprimand to or censure or place on probation a licensee or permittee, if the person: (g) Whether licensed to practice massage or applying for a license to practice massage, fails to meet a requirement under ORS 687.051. OAR 334-010-0005 Applications (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. **Second the motion: Rothenberger. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- xviii. **Case 2495 – Rodriguez moved** to Revoke License's massage license pursuant to ORS 687.051 (1) (e), ORS 687.081 (1) (g) and OAR 334-010-0005 (5). ORS 687.051 Qualifications of applicants; continuing education; license renewal; inactive status; rules. (1) To be eligible for issuance of an initial license in this state as a massage therapist, the applicant shall: (e) Pass an examination prepared and conducted by the State Board of Massage Therapists or its authorized representative establishing the applicant's competency and ability to engage in the practice of massage. The examination must be administered in the English language or another language approved by the State Board of Massage Therapists and may be in written, oral or practical form and may test the applicant for the required level of knowledge and skill in any subject related to massage or bodywork. The State Board of Massage Therapists shall accept passage of the National Certification Board for Therapeutic Massage and Bodywork examination or another national standardized examination approved by the State Board of Massage Therapists as meeting the written examination requirement described in this paragraph. ORS 687.081 Grounds for denial, suspension or revocation of, or refusal to renew, license or permit; probation; civil penalties; complaint investigation. (1) The State Board of Massage Therapists may discipline a person, deny, suspend, revoke or refuse to renew a license to practice massage or a permit to operate a massage facility and issue a reprimand to or censure or place on probation a licensee or permittee, if the person: (g) Whether licensed to practice massage or applying for a license to practice massage, fails to meet a requirement under ORS 687.051. OAR 334-010-0005 Applications (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. **Second the motion: Rothenberger. In favor: In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- xix. **Case 2496 – Rodriguez moved** to Revoke License's massage license pursuant to ORS 687.051 (1) (e), ORS 687.081 (1) (g) and OAR 334-010-0005 (5). ORS 687.051 Qualifications of applicants; continuing education; license renewal; inactive status; rules. (1) To be eligible for issuance of an initial license in this state as a massage therapist, the applicant shall: (e) Pass an examination prepared and conducted by the State Board of Massage Therapists or its authorized representative establishing the applicant's competency and ability to engage in the practice of massage. The examination must be administered in the English language or another language approved by the State Board of Massage Therapists and may be in written, oral or practical form and may test the applicant for the required level of knowledge and skill in any subject related to massage or bodywork. The State Board of Massage Therapists shall accept passage of the National Certification Board for Therapeutic Massage and Bodywork examination or another national standardized examination approved by the State Board of Massage Therapists as meeting the written examination

requirement described in this paragraph. ORS 687.081 Grounds for denial, suspension or revocation of, or refusal to renew, license or permit; probation; civil penalties; complaint investigation. (1) The State Board of Massage Therapists may discipline a person, deny, suspend, revoke or refuse to renew a license to practice massage or a permit to operate a massage facility and issue a reprimand to or censure or place on probation a licensee or permittee, if the person: (g) Whether licensed to practice massage or applying for a license to practice massage, fails to meet a requirement under ORS 687.051. OAR 334-010-0005 Applications (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. **Second the motion: Rothenberger. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**

xx. **Case 2497 – Rodriguez moved** to Revoke License's massage license pursuant to ORS 687.051 (1) (e), ORS 687.081 (1) (g) and OAR 334-010-0005 (5). ORS 687.051 Qualifications of applicants; continuing education; license renewal; inactive status; rules. (1) To be eligible for issuance of an initial license in this state as a massage therapist, the applicant shall: (e) Pass an examination prepared and conducted by the State Board of Massage Therapists or its authorized representative establishing the applicant's competency and ability to engage in the practice of massage. The examination must be administered in the English language or another language approved by the State Board of Massage Therapists and may be in written, oral or practical form and may test the applicant for the required level of knowledge and skill in any subject related to massage or bodywork. The State Board of Massage Therapists shall accept passage of the National Certification Board for Therapeutic Massage and Bodywork examination or another national standardized examination approved by the State Board of Massage Therapists as meeting the written examination requirement described in this paragraph. ORS 687.081 Grounds for denial, suspension or revocation of, or refusal to renew, license or permit; probation; civil penalties; complaint investigation. (1) The State Board of Massage Therapists may discipline a person, deny, suspend, revoke or refuse to renew a license to practice massage or a permit to operate a massage facility and issue a reprimand to or censure or place on probation a licensee or permittee, if the person: (g) Whether licensed to practice massage or applying for a license to practice massage, fails to meet a requirement under ORS 687.051. OAR 334-010-0005 Applications (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. **Second the motion: Rothenberger. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**

xxi. **Case 2498 – Rodriguez moved** to Revoke License's massage license pursuant to ORS 687.051 (1) (e), ORS 687.081 (1) (g) and OAR 334-010-0005 (5). ORS 687.051 Qualifications of applicants; continuing education; license renewal; inactive status; rules. (1) To be eligible for issuance of an initial license in this state as a massage therapist, the applicant shall: (e) Pass an examination prepared and conducted by the State Board of Massage Therapists or its authorized representative establishing the applicant's competency and ability to engage in the practice of massage. The examination must be administered in the English language or another language approved by the State Board of Massage Therapists and may be in written, oral or practical form and may test the applicant for the required level of knowledge and skill in any subject related to massage or bodywork. The State Board of Massage Therapists shall accept passage of the National Certification Board for Therapeutic Massage and Bodywork examination or another national standardized examination approved by the State Board of Massage Therapists as meeting the written examination requirement described in this paragraph. ORS 687.081 Grounds for denial, suspension or revocation of, or refusal to renew, license or permit; probation; civil penalties; complaint investigation. (1) The State Board of Massage Therapists may discipline a person, deny, suspend, revoke or refuse to renew a license to practice massage or a permit to operate a massage facility and issue a reprimand to or censure or place on probation a licensee or permittee, if the person: (g) Whether licensed to practice massage or applying for a license to practice massage, fails to meet a requirement under ORS 687.051. OAR 334-010-0005 Applications (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. **Second the motion: Rothenberger. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**

xxii. **Case 2499 – moved** to Revoke License's massage license pursuant to ORS 687.051 (1) (e), ORS 687.081 (1)(g) and OAR 334-010-0005 (5). ORS 687.051 Qualifications of applicants; continuing education; license renewal; inactive status;

rules. (1) To be eligible for issuance of an initial license in this state as a massage therapist, the applicant shall: (e) Pass an examination prepared and conducted by the State Board of Massage Therapists or its authorized representative establishing the applicant's competency and ability to engage in the practice of massage. The examination must be administered in the English language or another language approved by the State Board of Massage Therapists and may be in written, oral or practical form and may test the applicant for the required level of knowledge and skill in any subject related to massage or bodywork. The State Board of Massage Therapists shall accept passage of the National Certification Board for Therapeutic Massage and Bodywork examination or another national standardized examination approved by the State Board of Massage Therapists as meeting the written examination requirement described in this paragraph. ORS 687.081 Grounds for denial, suspension or revocation of, or refusal to renew, license or permit; probation; civil penalties; complaint investigation. (1) The State Board of Massage Therapists may discipline a person, deny, suspend, revoke or refuse to renew a license to practice massage or a permit to operate a massage facility and issue a reprimand to or censure or place on probation a licensee or permittee, if the person: (g) Whether licensed to practice massage or applying for a license to practice massage, fails to meet a requirement under ORS 687.051. OAR 334-010-0005 Applications (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. **Second the motion: Rothenberger. Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**

xxiii. Case 2500 – Rodriguez moved to Deny licensure for renewal and Revoke License's massage license pursuant to ORS 687.051 (1) (e), ORS 687.081 (1)(g) and OAR 334-010-0005 (5). ORS 687.051 Qualifications of applicants; continuing education; license renewal; inactive status; rules. (1) To be eligible for issuance of an initial license in this state as a massage therapist, the applicant shall: (e) Pass an examination prepared and conducted by the State Board of Massage Therapists or its authorized representative establishing the applicant's competency and ability to engage in the practice of massage. The examination must be administered in the English language or another language approved by the State Board of Massage Therapists and may be in written, oral or practical form and may test the applicant for the required level of knowledge and skill in any subject related to massage or bodywork. The State Board of Massage Therapists shall accept passage of the National Certification Board for Therapeutic Massage and Bodywork examination or another national standardized examination approved by the State Board of Massage Therapists as meeting the written examination requirement described in this paragraph. ORS 687.081 Grounds for denial, suspension or revocation of, or refusal to renew, license or permit; probation; civil penalties; complaint investigation. (1) The State Board of Massage Therapists may discipline a person, deny, suspend, revoke or refuse to renew a license to practice massage or a permit to operate a massage facility and issue a reprimand to or censure or place on probation a licensee or permittee, if the person: (g) Whether licensed to practice massage or applying for a license to practice massage, fails to meet a requirement under ORS 687.051. OAR 334-010-0005 Applications (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. **Second the motion: Rothenberger. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**

xxiv. Case 2501 – Rodriguez moved to Revoke License's massage license pursuant to ORS 687.051 (1) (e), ORS 687.081 (1) (g) and OAR 334-010-0005 (5). ORS 687.051 Qualifications of applicants; continuing education; license renewal; inactive status; rules. (1) To be eligible for issuance of an initial license in this state as a massage therapist, the applicant shall: (e) Pass an examination prepared and conducted by the State Board of Massage Therapists or its authorized representative establishing the applicant's competency and ability to engage in the practice of massage. The examination must be administered in the English language or another language approved by the State Board of Massage Therapists and may be in written, oral or practical form and may test the applicant for the required level of knowledge and skill in any subject related to massage or bodywork. The State Board of Massage Therapists shall accept passage of the National Certification Board for Therapeutic Massage and Bodywork examination or another national standardized examination approved by the State Board of Massage Therapists as meeting the written examination requirement described in this paragraph. ORS 687.081 Grounds for denial, suspension or revocation of, or refusal to renew, license or permit; probation; civil penalties; complaint investigation. (1) The State Board of Massage Therapists may discipline a person, deny, suspend, revoke or refuse to renew a license to practice massage or a permit to operate

a massage facility and issue a reprimand to or censure or place on probation a licensee or permittee, if the person: (g) Whether licensed to practice massage or applying for a license to practice massage, fails to meet a requirement under ORS 687.051. OAR 334-010-0005 Applications (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. **Second the motion: Rothenberger. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**

xxv. Case 2502 – Rodriguez moved to Revoke License's massage license pursuant to ORS 681.051 (1) (e), ORS 687.081 (1) (g) and OAR 334-010-0005 (5). ORS 687.051 Qualifications of applicants; continuing education; license renewal; inactive status; rules. (1) To be eligible for issuance of an initial license in this state as a massage therapist, the applicant shall: (e) Pass an examination prepared and conducted by the State Board of Massage Therapists or its authorized representative establishing the applicant's competency and ability to engage in the practice of massage. The examination must be administered in the English language or another language approved by the State Board of Massage Therapists and may be in written, oral or practical form and may test the applicant for the required level of knowledge and skill in any subject related to massage or bodywork. The State Board of Massage Therapists shall accept passage of the National Certification Board for Therapeutic Massage and Bodywork examination or another national standardized examination approved by the State Board of Massage Therapists as meeting the written examination requirement described in this paragraph. ORS 687.081 Grounds for denial, suspension or revocation of, or refusal to renew, license or permit; probation; civil penalties; complaint investigation. (1) The State Board of Massage Therapists may discipline a person, deny, suspend, revoke or refuse to renew a license to practice massage or a permit to operate a massage facility and issue a reprimand to or censure or place on probation a licensee or permittee, if the person: (g) Whether licensed to practice massage or applying for a license to practice massage, fails to meet a requirement under ORS 687.051. OAR 334-010-0005 Applications (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. **Second the motion: Rothenberger. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**

xxvi. Case 2503 - Rodriguez moved to Revoke License's massage license pursuant to ORS 687.051)(1) (e), ORS 687.081 (1) (g) and OAR 334-010-0005 (5). ORS 687.051 Qualifications of applicants; continuing education; license renewal; inactive status; rules. (1) To be eligible for issuance of an initial license in this state as a massage therapist, the applicant shall: (e) Pass an examination prepared and conducted by the State Board of Massage Therapists or its authorized representative establishing the applicant's competency and ability to engage in the practice of massage. The examination must be administered in the English language or another language approved by the State Board of Massage Therapists and may be in written, oral or practical form and may test the applicant for the required level of knowledge and skill in any subject related to massage or bodywork. The State Board of Massage Therapists shall accept passage of the National Certification Board for Therapeutic Massage and Bodywork examination or another national standardized examination approved by the State Board of Massage Therapists as meeting the written examination requirement described in this paragraph. ORS 687.081 Grounds for denial, suspension or revocation of, or refusal to renew, license or permit; probation; civil penalties; complaint investigation. (1) The State Board of Massage Therapists may discipline a person, deny, suspend, revoke or refuse to renew a license to practice massage or a permit to operate a massage facility and issue a reprimand to or censure or place on probation a licensee or permittee, if the person: (g) Whether licensed to practice massage or applying for a license to practice massage, fails to meet a requirement under ORS 687.051. OAR 334-010-0005 Applications (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. **Second the motion: Rothenberger. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**

xxvii. Case 2504– Rodriguez moved to Revoke License's massage license pursuant to ORS 687.051 (1) (e), ORS 687.081 (g) and OAR 334-010-0005 (5). ORS 687.051 Qualifications of applicants; continuing education; license renewal; inactive status; rules. (1) To be eligible for issuance of an initial license in this state as a massage therapist, the applicant shall: (e) Pass an examination prepared and conducted by the State Board of Massage Therapists or its authorized representative establishing the applicant's competency and ability to engage in the practice of massage. The

- examination must be administered in the English language or another language approved by the State Board of Massage Therapists and may be in written, oral or practical form and may test the applicant for the required level of knowledge and skill in any subject related to massage or bodywork. The State Board of Massage Therapists shall accept passage of the National Certification Board for Therapeutic Massage and Bodywork examination or another national standardized examination approved by the State Board of Massage Therapists as meeting the written examination requirement described in this paragraph. ORS 687.081 Grounds for denial, suspension or revocation of, or refusal to renew, license or permit; probation; civil penalties; complaint investigation. (1) The State Board of Massage Therapists may discipline a person, deny, suspend, revoke or refuse to renew a license to practice massage or a permit to operate a massage facility and issue a reprimand to or censure or place on probation a licensee or permittee, if the person: (g) Whether licensed to practice massage or applying for a license to practice massage, fails to meet a requirement under ORS 687.051. OAR 334-010-0005 Applications (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. **Second the motion: Rothenberger. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- xxviii. Case 2457 – Foster-Wexler moved to Accept Stipulated Agreement negotiated by staff. **Second the motion: Combe. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- xxix. Case 2431 – Rodriguez moved to Approve Application for Licensure. **Second the motion: Combe. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- xxx. Case 2483 – Chen moved to Issue a Notice of Proposed Penalty for one violation of OAR 334-010-0025 (8) OAR 334-010-0025 Practice of Massage (8) Active licensed massage therapists must display their license in a location clearly visible to their clients. Delay vote on Application until court cased resolved. For a total civil penalty of \$1,000 AND Suspension of License Renewal process until all civil penalties, fees, and costs are paid in full. **Second the motion: Combe. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- xxxi. Case 2511 – Chen moved to Issue a Notice of Proposed Penalty for one violation each of ORS 687.021 (1) (b), (c), and (d), and OAR 334-040-0010 (12) Practice of massage without license prohibited; operation of massage facility without permit prohibited; injunction against violation. (1) A person may not: (b) Operate a massage facility or purport to operate a massage facility without a permit issued by the board under ORS 687.059, unless the person is an individual massage therapist who is working out of the individual's home. (c) Advertise that the person engages in the practice of massage unless the person is licensed under ORS 687.051 or holds a permit under ORS 687.059. (d) Use the word "massage" in a business name unless the person is licensed under ORS 687.051 or holds a permit under ORS 687.059. OAR 334-040-0010 The Board may deny, conditionally grant, restrict, suspend or revoke a license or permit, impose probation, reprimand, censure, impose remedial education or corrective actions, and/or impose a civil penalty for any of the following reasons: (12) Assisting, employing, or permitting an unlicensed person to practice massage. For a total civil penalty of \$4000 AND Suspension of Facility Application process until all civil penalties, fees, and costs are paid in full. **Second the motion: Combe. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- xxxii. Case 2512 – Rothenberger moved to Approve Application for Facility pending compliance with Case No. 2511. **Second the motion: Combe. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- xxxiii. Case 2484 – Combe moved to Deny Application for Licensure. **Second the motion: Rothenberger. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Ronthenberger. Opposed: None. Motion carries.**
- xxxiv. Case 2513 – Rothenberger moved to Issue a Notice of Proposed Penalty for two violations of OAR 334-040-0010 (12) OAR 334-040-0010 (12) Assisting, employing, or permitting an unlicensed person to practice massage; For a total civil penalty of \$2000. **Second the motion: Chen. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**
- xxxv. Case 2514 – Rothenberger moved to Issue a Notice of Proposed Penalty for two violations each of ORS 687.021 (1) (b), (c), and (d), OAR 334-020-0005 (1) (a) (A) and (B), OAR 334-040-0010 (7) and (21) and one violation each of ORS 687.021 (1) (a), OAR 334-010-0025 (5) and OAR 334-040-0010 (1) and (12) ORS 687.021 Practice of massage without

license prohibited; operation of massage facility without permit prohibited; injunction against violation. A person may not: (a) Engage in or purport to engage in the practice of massage without a massage therapist license issued by the State Board of Massage Therapists under ORS 687.051. (b) Operate a massage facility or purport to operate a massage facility without a permit issued by the board under ORS 687.059, unless the person is an individual massage therapist who is working out of the individual's home. (c) Advertise that the person engages in the practice of massage unless the person is licensed under ORS 687.051 or holds a permit under ORS 687.059. (d) Use the word "massage" in a business name unless the person is licensed under ORS 687.051 or holds a permit under ORS 687.059. OAR 334-010-0025 Practice of Massage (5) A person represents himself or herself as a massage therapist when the person adopts or uses any word(s) that implies a skill or application as defined by statute 687.011. OAR 334-020-0005 Facilities and Sanitation (1) Permanent and Mobile structures: (a) All permanent structures and mobile facilities where a LMT routinely conducts massage and bodywork must: (A) Be established and maintained in accordance with all local, state and federal laws, rules & regulations; (B) Obtain a facility permit to operate; OAR 334-040-0010 The Board may deny, conditionally grant, restrict, suspend or revoke a license or permit, impose probation, reprimand, 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; (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; (12) Assisting, employing, or permitting an unlicensed person to practice massage; (21) Failure to obtain the required permits for facilities or in violation of OAR 334-010-0010. For a total civil penalty of \$5000. **Second the motion: Chen. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**

xxxvi. Case 2515 – Rothenberger moved to Issue a Notice of Proposed Penalty for one violation each of ORS 687.021 (1) (b), (c), and (d), OAR 334-020-0005 (1) (a) (A) and (B), OAR 334-040-0010 (7), (12) and (21). ORS 687.021 Practice of massage without license prohibited; operation of massage facility without permit prohibited; injunction against violation. A person may not: (b) Operate a massage facility or purport to operate a massage facility without a permit issued by the board under ORS 687.059, unless the person is an individual massage therapist who is working out of the individual's home. (c) Advertise that the person engages in the practice of massage unless the person is licensed under ORS 687.051 or holds a permit under ORS 687.059. (d) Use the word "massage" in a business name unless the person is licensed under ORS 687.051 or holds a permit under ORS 687.059. OAR 334-020-0005 Facilities and Sanitation (1) Permanent and Mobile structures: (a) All permanent structures and mobile facilities where a LMT routinely conducts massage and bodywork must: (A) Be established and maintained in accordance with all local, state and federal laws, rules & regulations; (B) Obtain a facility permit to operate; OAR 334-040-0010 The Board may deny, conditionally grant, restrict, suspend or revoke a license or permit, impose probation, reprimand, censure, impose remedial education or corrective actions, and/or impose a civil penalty for any of the following reasons: (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; (12) Assisting, employing, or permitting an unlicensed person to practice massage; (21) Failure to obtain the required permits for facilities or in violation of OAR 334-010-0010. For a total civil penalty of \$4000. **Second the motion: Chen. In favor: Chen, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**

xxxvii. Case 2516 – Rothenberger moved to Issue a Notice of Proposed Penalty for two violations of OAR 334-040-0010 (12) OAR 334-040-0010 (12) Assisting, employing, or permitting an unlicensed person to practice massage; For a total civil penalty of \$1000. **Second the motion: Chen. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**

xxxviii. Case 2415 – Foster-Wexler moved to Accept the Stipulated Agreement negotiated by Board Staff. **Second the motion Combe. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez and Rothenberger. Opposed: None. Motion carries.**

xxxix. Case 2405 – Chen moved to Accept the Voluntary Surrender of Licensure negotiated by Board Staff. **Second the motion Combe. In favor Chen, Combe, Foster-Wexler, Grossart, Rodriguez, and Rothenberger. Opposed:**

None. Motion carries.

- xi. **Case 2449 – Chen moved** to Accept the Withdrawal of Application and issue an Order of Dismissal. **Second the motion Rothenberger. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez, and Rothenberger. Opposed: None. Motion carries.**
- xli. **Case 2468 – Chen moved** to Issue a Notice of Proposed Action (Civil Penalty) for one violation of **OAR 334-010-0025(3)(a)(A)(B)(C) and (D) and OAR 334-040-0010(25)(a) (C) (i)** OAR 334-010-0025 Practice of Massage (3) A massage therapist must use safe and functional coverage/draping practices during the practice of massage when the client is disrobed. (a) Safe and functional coverage/draping means:(A) LMT explains, maintains, and respects coverage/draping boundaries; (B) Client gives informed consent; (C) Genitals and gluteal cleft of male and female clients and the breast area of female clients are not exposed; (D) Massage or movement of the body does not expose genitals, gluteal cleft or breast area. OAR 334-040-0010(25) Unprofessional or dishonorable conduct which includes but is not limited to: (a) Any conduct involving inappropriate physical contact or sexual misconduct which includes: (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. For a total civil penalty of \$1000. **Second the motion: Combe. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez, and Rothenberger. Opposed: None. Motion carries.**
- xlii. **Case 2505 – Rodriguez moved** to Accept Interim Consent Order or voluntary surrender negotiated by the Board Investigator. **Second the motion: Combe. In favor: Chen, Combe, Foster-Wexler, Grossart, Rodriguez, and Rothenberger. Opposed: None. Motion carries.**

13. Public Forum:

Opportunity for the public to share thoughts that pertain to agenda items – There were no members of the public present.

14. Announcements

Next Board meeting will be on January 14, 2019 at 9 am at the Board Office in Salem, Oregon.

15. Adjourn Meeting:

Rodriguez moved to adjourn the meeting. **Second the motion: Combe. In favor: Chen, Foster-Wexler, Grossart, , and Rodriguez. Opposed: None. Motion carries.**

The meeting was adjourned at 3:24pm.

Appendix 1,

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Pages 24-4

FSMTB 2018 Day 1

- Vote to move elections before Resolution and By-Law Amendments votes since those could change voting method and would be effective immediately

President's Report

- Ed Bolden's always been focused on public safety since joining his state board
- 3 key issues when FSMTB was founded
 - need for consistent SOP and entry level standards
 - common national exam
 - common database with licensing and compliance database
- Previous Year Milestones
 - MBLEx
 - flagship product and service
 - content outline changed to reflect current practices based on 2017 Job Task Analysis
 - Member Board Executive Summit
 - 2nd edition of MBLEx study guide
 - continued InTouch publication
 - Educational Records Center
 - enabling bona fide schools to upload records into the system
 - MTLT – licensing database
 - beat launch goals
 - working with boards to populate the database
 - Florida is first to populate database [except Oregon was last year]
 - Continuing Education Registry
 - planned to launch 1H 2019
 - Strategic Plan
 - planned through 2020
 - 2019 will be the start of planning the next phase
- need to provide better exam security, more centralized administrative services
- need to create uniform education standards
 - minimal competency
 - evidence based massage practice focus
 - reliable programmatic approval for MBLEx
 - review and update Model Practice Act
 - emerging professionals campaign for engagement
 - model application
 - create services to help member boards avoid deregulation

Resolutions and By-Laws Amendments Presentation

- Jamie Corey from Pennsylvania – head of Policy Committee
- Resolution 1 – task force to review numerical vs pass/fail scores for MBLEx
 - Recommendation
 - Policy: Do Not Pass
 - Board: Do Not Pass
 - since using computer adaptive scores, scores can be misleading
 - score doesn't necessarily reflect relative difficulty of each person's test

- paper available on the FSMTB website explaining the reasons for the change
- Georgia – Pam Nichols
 - Federation made the change and did not ask Member Boards for any input or statistics
 - helps students see if they are making progress
 - helps schools know how well their students are doing
- Resolution 2 – Human Trafficking model law language
 - Recommendation
 - Policy: Pass
 - Board: Pass
 - original date was 2019 which would have created budget issues
 - WI changing it to 2020 allowed it fit into the budget and switch to a “Pass”
 - WI
 - time to enforcement is lengthy
 - bad actors often move on before enforcement can get to them
 - working on the Model Practice Act to help boards with licensees and facilities
- By-Law Amendment 1 – no slating
 - Recommendation
 - Policy: Do Not Pass
 - Board: Do Not Pass
 - want to guarantee diversity
 - one state could take over the whole board
 -
- By-Law Amendment 2 – voting method
 - Recommendation
 - Policy: Do Not Pass
 - Board: Do Not Pass
 - needs electronic method
 - no guarantee on states taking it over
 - what if too many candidate
 - diversity and inclusion

Presentation of Board of Directors Candidates

- Position 1
 - Ed Bolden
 - 1 years as VP, 2 as P
 - focus on public safety and protection
 - chosen to dedicate life to service of this profession in regulation
 - Craig Knowles
 - NCBTMB, AMTA, state board chair, FSMTB board
 - focus on state boards and what they need
- Position 2
 - Dianne Layden – NC
 - 6th year on NC board, 3rd year as treasurer, policy committee, public member of board
 - FSMTB – human trafficking committee, policy committee, Polaris group, CLEAR group
 - public members can bring a unique viewpoint
 - Ahmos Netanel – CA
 - 38 years in massage profession, majority focused on regulation
 - CA AMTA, first chairman of CMTC

- diversity of thought and geography
- Keith Warren – AL
 - ED of AL Board since inception in 1996
 - represents 13 board in AL via his own consulting company
 - fought off attempt at deregulation
- Position 3
 - Victoria Drago – FL
 - vice chair of FL board
 - evolve profession via regulation while maintaining high standards
 - hiring specialist for spa franchise, works with COMTA
 - excited for MTLTD to help state boards
 - as dedicated to this work as children and grandchildren
 - Caroline Guerin – TX
 - part of the Texas advisory board

Treasurer's Report

- David Cox – MD
- July 1, 2017 – Jun 30, 2018
 - \$13.5M assets
 - income \$5.71M
 - expenses: \$5.075M
 - surplus: \$635k
 - had a planned deficit but ended up with a surplus
- revenue mostly from exam (92%)
- 2018 saw a drop in exam revenue partially due to qualifications for exam
- Audit
 - no significant findings in the audit
 - small changes were recommended and accepted by the board
- Idea Planning
 - bring all exam processing in house rather than contract out
- looking for volunteers

Member Board Reports

- Alaska
 - relatively new board
 - passed HB 110
 - enabled board to regulate massage establishments
 - working on the regulations for that bill (2019-6)
 - looking for help with that
 - reduced fingerprinting requirements
 - completed a sunset audit (HB 275)
 - 1400 licenses which exceeded expectation of 600
 - has to self-fund
 - completed first license renewal and navigated challenge of audits
- Washington
 - open to revise the entire state code
 - finalized breast massage code and then reopened it to fine tune it over the last year
 - working on the perineal area regulations

- lots of feedback
- issue of who owns the patient files in a facility setting (currently practitioners own them)
- trafficking issues
- potential legislative act about photos on licenses that got voted down
- Oregon
 - unlicensed facilities/practice been a major focus
 - compliance cases up, contested case hearings up
 - won acupuncture case defining it as massage under state law
 - API FAQs on website in English and Chinese
 - success stories – had some people go from bad schools to good schools
 - CE rules under revision
- California
 - published report has a few errors – questions 16 and 18 had the answers reversed
 - two new amendments effective 2019-1
 - complete 500 hours
 - accepted if the school was approved at that time
 - can be from more than one school
 - required to pass an exam, but paused for 24 months
 - designed to protect the MBLEx
 - been doing training with police officers about illegal massage practices
 - did a training for city lawyers
- Idaho
 - Lt. Gov. requested executive order from each board stating their purpose
 - getting people to work quicker with provisional licenses
 - lower the cost of renewal since a surplus of revenue
 - trying to get fingerprinting for background check but didn't pass
- Montana
 - cleaning up CE standards language
 - have very loose language and working to streamline for staff
 - survey for licensees on what they'd like the Board to do
 - survey for the public on what the Board could do to ensure their safety
- Nevada
 - working on reflexology testing
 - updated regulations to include reflexology and Structural Integration
 - reflexology = 200 hours
 - SI = 730 hours
 - LMT to 550 hours
 - requiring establishment licenses for all 3 groups
- Utah
 - no legislative actions
 - no CEU but investigating it
 - seeing a decrease in illegal establishments but increase in sex trafficking
 - has a current 1000 apprenticeship program
 - reestablishing the guidelines for that
 - questions about foot zoning and reflexology to be removed from licensure
- Arizona
 - new ED
 - defeated attempt to remove 10 different boards
 - starting to see people getting their licenses in less than 30 days

- trying to do a major statute rework
 - 500 hours by statute and additional 200 by rules
 - going to push for 700 hours in statutes
 - require everyone to take MBLEx
- currently getting a new database that will work with MTLTD
- got reciprocity changed
 - used to need 5 continuous years and now needs 2 years within 5 years
- students from schools that had national accreditation didn't need to take MBLEx
- low income people can get a license for free <200% of poverty level
- lowering CEs to 18 but redefine categories
 - 6 hours ethics, 6 hours massage, 6 elective
- lowering reapply timelines
 - 3 to 2 years
- looking to into curriculum oversight
 - any school with national accreditation have their curriculum accepted
- New Mexico
 - revised application for visiting massage therapy instructors
 - instructors must be approved and have a temporary license to teach
 - streamlining administration
 - has one single full time rather than 2-3 part time
 - now there is a state compliance department you deal with rather than a specific person
 - doing a rewrite of the rules
- Texas
 - licensing umbrella board
 - 30 different licenses, 800,000 licensees
 - 30,000 LMTs
 - very cautious of human trafficking
 - has establishment for cosmetology and looking to include that for massage
 - looking at having student permits where schools feed class hours back to the board monthly
 - already has for barbering
 - has advisory boards for each of the programs – 2 LMT, 2 massage schools, 2 establishments, 1 peace office, 1 public member
 - beefing up inspector rules and guidelines
 - trying to “plain talk” the rules rather than having specific and spread out rules
- Oklahoma
 - started 2016
 - housed under Board of Cosmetology and Barbering
 - working on reaching out to unlicensed therapists
 - did a rule change to clean up language and lower CE for 16/2 year to 10/2 year
 - tried to do establishment licensure but failed
 - had a deregulation bill focused on their parent board but not the massage portion
 - did not make it out of committee
 - will be resubmitting the legislative timeline
- Missouri
 - est. 2000
 - has a mentorship program that works quite well
 - fingerprints required at the student level so that they know early on if there will be trouble at the beginning of the processing
 - getting rid of the fee for student license but still keeping the license

- not having issues with CE
- does license establishments
 - needs to tighten up their inspector protocols so that they can get better reports (only facts, no conjecture)
- Iowa
 - try to clean up curriculum standards
 - told the committee wouldn't look at it and if kept pushing they would reduce the required hours
 - all the different cities are coming up with different requirements for establishments
 - AMTA IA might be pushing for a statewide requirement
 - had a SC decision
 - practice without a license is a misdemeanor
 - board could investigate or send to the police
 - in Dubuque, police went into an illicit practice and seized money and computers
 - law had loophole about "if another punishment applies" so the boards civil penalties overrode the misdemeanor
- Nebraska
 - had 12 bills that would negatively affect massage therapy
 - taxation of massage as a luxury service – but wasn't including spas or nails
 - mobile massage – how to fit into establishment license
 - legislature wanted to lower 1000 hours to 500 hours
 - 407 review of foot reflexology
 - wanted to be exempted and have a separate board
 - review determined no change needed since it already fell under the SOP for massage and not fiscally responsible to create a board for 20 people
 - rewriting rules
 - lowering to 20 hours
 - option to online or alternative classes
- South Dakota
 - lots of board changes
 - trying to make things more streamlined
 - 900 licensees
 - automated renewal
 - thinking about offering a discount to online renewal
 - last year governor was talking about deregulation got convinced to change his mind
 - new ED and board members (previous P and VP resigned)
 - offering two hours of CE for board attendance
 - hoping to have a roundtable with their schools
 - taking a stronger stance on unlicensed practice but fine is only \$40
 - looking for advice on dealing with DoJ and legislatures on how to deal with illegal practice being a front door to bigger issues
- North Dakota
 - 740 licensees
 - working on cleaning up the language
 - working on criminal history and how complains are handled
 - changed CEU
 - 25 → 3 hours
 - 15 → 6 hours
 - everyone else 25 hours
 - been going well

- Wisconsin
 - responding to law enforcement concerns
 - struggling with Asian bodywork practitioners who qualify for a two-part exemption but are still practicing what would fall under the definition of massage therapy
 - revising rules on approved schools and applications
- Illinois
 - umbrella board
 - dealing with unlicensed practice, out of state applicants, inappropriate touch, exempt practices, sexual practices
 - establishments not owned by a single LMT have to place a notice about human trafficking
 - Chicago requiring facilities to let people know that requesting a sexual service is a felony
- Indiana
 - 2016 and 2017 law amendments
 - not effective until completion of rule
 - moved from certification to licensing
 - 500 hours to 625 hours
 - 24 CEs
 - national background check
 - issues with falsifying documents in the application process, including school documents
 - increase in complaints for inappropriate touch and safety issues
 - clients and practitioners, male and female
 - law passed to create a list of crimes that prevent people from getting a license
 - needed to be fit to each profession
 - needed to include relation to time, relation to the profession, evidence of rehabilitation/treatment
- Michigan
 - 9788 LMTs
 - had over 1000 applications in 2017
 - umbrella board
 - working on keeping some board history as board member roll off
 - 500 to 625 hours
 - sexual misconduct from therapists so thought increasing clinic hours would help
 - 40 clinic hours → 5
 - 6 ethics hours → 10
 - added ethics to CEs
 - saw issues with new practitioners that didn't have the best communication
 - increase of complaints against male therapists
 - human trafficking issues since bordering Canada
 - no establishment licensing
 - allowed CPR for continuing education
 - medical marijuana is an issue
 - if you have a medical card, you can't be a licensed practitioner (all healthcare providers)
- Ohio
 - just starting purely medical marijuana
 - medical board still put CBD as schedule 1 and it got pulled from a lot of shelves
 - added 517 LMTs last year with just over 12k therapists
 - started seeing municipalities required all massage therapy to be by an LMT
 - currently in Ohio, relaxation massage is allowed without a license
- Pennsylvania
 - addressed CBD due to a push by their therapists – class 1 substance

- has medical marijuana
- went through a whole 2018-2019 board review
 - MT stayed but some boards were eliminated
- has Asian bodywork and reflexology exemptions
- no facility/establishment licenses
- in the middle of a big fee increase to be more solvent
 - looking at a stepped implementation to over 3 renewal cycles
- over 10k licensees
- New Hampshire
 - gone through a state reorg – now under an umbrella board
 - ED got contacted to work with a human trafficking task force
 - opening up laws/rules for an establishment license
 - problems with people coming from out of state with only 500 hours
 - require 750 hours
 - offer hours for years teaching, publishing articles, etc.
 - CE are 12/2 years
 - putting forward law to do fees with a point system where the fees are based on the number of points on your license
- Rhode Island
 - governor pushed for a rules rewrite
 - basing disciplinary actions on required a reliable source
 - adopting standards based on NCBTMB
 - now state in rules the only recognized title is LMT and other certifications must be after that title
 - statutes require 6/yr or 12/2 years for CEs
 - old computer system
 - no ability to track it and rules only talk about 6 hours
 - no ability to change renewal application so applicants only need to attest they completed the hours
 - new applicants no longer required to submit proof of citizenship, right to work, or photos
 - mandated by state
 - fingerprints not required
 - no jurisdiction over schools but can only accept education from approved schools
 - accredited by agency approved by DoE federally, state DoE, or COMTA
 - eliminated hour by hour subject requirements but still require MBLEx
- Delaware
 - require establishment licenses – brought forward by a particular legislator and board didn't know about it before hand
 - increase in attendance at meetings mostly due to this change
 - Board of Regulation asked for there to be no fee
 - been taking applications for the last two months
 - investigators being hired
 - board switched from 4 professionals/3 public to 3 professionals/4 public
 - has a two tiered licensed – certified can't bill insurance, licensed can
 - 100 vs 500 hours
 - Structural Integration pushing for exemption
- Maryland
 - 2nd year of being it's own board instead of part of an umbrella board
 - working on cleaning up confusing language in statues
 - has a two tiered system
 - registered vs licensed

- both have to have 600 hours
- licenses have additional requirements – 60 hours at a higher institution
- working on what constitutes CE classes
- working on massage establishment license
 - working on fairness of fees to business owners
 - determining if investigation should be a law or health issue
 - lots of ways of zoning massage businesses
 - some are zoned as adult entertainment
- licensed as a healthcare practitioner
- Washington, D.C.
 - 861 licensees
 - not currently licensing establishments (had a previous one but got put on suspension)
 - recently achieved a full 5 person board, which they haven't had for awhile
 - require CPR and first aid for licensing
 - added requirement for in-person component
 - need to be certified for the entire time of licensure
 - 2019 licensing cycle will be requiring an LGBTQ sensitivity training along with all other healthcare providers
 - 7 complaints in the last year – 3 related to unlicensed practice, 4 for sexual misconduct
 - issue with licensed people hiring unlicensed people
 - sometimes require a business ethics course
 - would like FSMTB to have courses like that for people to take rather than having them fin their own
- West Virginia
 - same issues with unlicensed practice and improper conduct
 - been dealing with hostile legislature for last 2-3 years around deregulation
 - starting to realize the importance of regulation for massage
 - looking to increase required hours
 - looking to add an English proficiency component
 - realizing the need establishment licenses
 - need to update the rules to clean up language
 - under order from Governor as well to review all regs to see if still needed
 - due Nov 1
- Kentucky
 - umbrella board
 - state has had a huge pension crisis so limited state budget
 - looking for ways to sustain board via increased fees
 - at beginning phase of establishment licenses
 - background checks are taking a long time to get FBI background checks back
 - trying to get with KY State Police to doing the background checks for them
 - trying to do everything online except new applicants
 - only auditing 10% renewals now but trying to work toward 100% to prevent fraud
- Virginia
 - advisory board under nursing board
 - 4 LMTs, 1 public member (one must be from a school)
 - board has no purview over schools or establishments
 - meet once a year
 - staff does the day to day work
 - 2016 switched from certified to licensed
 - 2017 added background check

- 2017 changed requirements of CE providers (expanded the list)
- started discussions about exempt professions
- North Carolina
 - does electronic fingerprints to speed up process
 - law last year to get establishment licenses
 - rules got 10 letters of rejection so going back to legislature
 - next year will require all renewals to be online
 - online application will be available in next months
 - contracted with several investigators to work in unlicensed and illicit activity
 - lots of time spent in criminal court with discipline and injunctions
 - no longer allowing copies of licenses along with a watermark on the back of the license with the expiration year
 - can request a duplicate license if they need additional copies
 - also providing licensees with wallet cards for people who move around facilities
- South Carolina
 - 2017-11 governor's task force on human trafficking asked if they wanted to establish establishment licenses, which they were already talking about doing
 - had a bad version of the bill that came up and got it defeated
 - bringing up their own version
 - increasing hours from 500 to 625
 - some people wanted higher but couldn't justify it
 - adding in initial background checks
 - wants to make laws that work for long periods of time
- Tennessee
 - new rules that requires establishment owners to submit lists of all employed therapists
 - lowered CE from 25 to 24
 - added FSMTB as approved CE provider
 - new law about not being able to deny licensure to people for crimes that don't have an impact to the practice of the profession
 - reflexology issues with differences between licensees and establishment rules
- Louisiana
 - recently moved under another board
 - doing a rules rewrite
 - recommends reaching out to local law enforcement and FBI to educate them about massage
 - government reached out to them to not delay licensing to military members
 - changed process to move military applicants up to the front of the line
- Mississippi
 - appointed by governor, 5 member board, 3 LMT, 1 associated health care member, 1 public member, 4 year terms, no more than 2 terms
 - 3 different situations – active, retired, provisional for 90 days for new graduates
 - also licenses schools, instructors, CE providers and programs
 - had a sunset review and at the 11th hour someone tried to come in and water the reg downs – fought off
 - want to work with MTLTD but law verbiage doesn't say they can't, but legal adviser recommended they get the law to explicitly say they can
- Alabama
 - had a sunset review
 - someone was trying to push for deregulation due to one person who was grandfathered
- Georgia
 - the resolution from 2 years ago helped them keep down the diploma mills

- board did a 3 day review of statues and regulations with AG office due to NC Dentistry Board case
 - came up with issues with non-regulated bodyworkers
 - allowing CEs that are out of scope
- created a subcommittee to work with AMTA for bodywork but that work failed
- added in photo ids but not mandatory yet
- working with putting data into MTL D
- working for using CE broker as requirement for renewal
- governors race has gotten the massage board involved
 - cooperative approach to safety
 - no mandatory reporting requirement
- Florida
 - same issues with unlicensed, sexual misconduct, human trafficking
 - processes 3700 applications per year, 3 application processor
 - gotten review time down to 3 days
 - added fingerprints for L2 background screening
 - working on establishment licenses
 - also working on adding preventing someone getting a new license if they've been previously revoked
 - working to improve communication with applicants and schools
 - has a new brochure "Licensing Without the Pitfalls"
- Puerto Rico
 - 34 boards covering 54 professionals
 - 280 active professions with provisional licenses
 - 387 LMTS
 - still issues with Hurricane Maria – loss of jobs due to massage centers closing and hotels closing
 - many licensees went to USA, especially Florida

Member Services Reports

- License Renewal Committee
 - creating services for license renewal
 - establish standards for license renewal
 - vet/monitor CE courses
 - register CE providers
 - oversee regulatory education and competence courses
 - Member benefits for Utilizing CE Registry
 - consistency across delegations
 - proper delegation of authority
 - ability to verify attainment of continuing education in MTL D
 - standardized course content...
 - ...
 - work to see how new modalities would affect the categories supplied
 - created a small handout for marketing reasons
 - created a CE Standards & Registry Guidebook
 - not public yet
 - will be available on the website
- Exam Committee Report
 - 2017 Data
 - First time pass rate = 73.9%

- Re-Exam pass rate = 40.9%
- Total: 67.8%
- 283 ADA requests
- What's New?
 - updated 2018 Candidate Handbook
 - 72 hours appointment rescheduling limit
 - updated 2018 Study Guide
 - updated 2018 content outline
 - history and subculture topics removed from exam
 - CA Bill SB 1480 – no MBLEx required for 2 years
- 2017 OR Resolution
 - challenges
 - Locating schools
 - candidate origin (home, school, alternate)
 - Pearson VUE Policy
 - Bend, OR < 150 hours/year
 - need at least 600 hours/week to be considered for a Pearson VUE site
 - schools can be a PVTC but not a PPC
 - 283 PPC in the US
 - Conclusion
 - maybe more PPC centers will be added during the duration of the delivery contract
 - definitely need to be concerned about security
 - will consider expanded test centers when looking at future exam providers

Executive Session

- Privileged info so no notes

2018 FSMTB Meeting Day 2

Human Trafficking and Massage Therapy

- Task Force created in 2015
- report released in 2017
- estimated 9,000 illicit massage businesses in the US
- exempt practices are used to facilitate human trafficking
- many states going to establishment licenses
- Kimberly Hodge – TN
 - TN Board working to combat human trafficking, fraud, and prostitution
 - trafficking is the overlap of labor, coercion, and commodity/money
 - they found an average of 3 ladies per establishment with 6 massages per day
 - brings about \$130k/year
 - the worker only usually gets the tips
 - if the workers add sexual acts, brings in an additional \$230k/yr
 - TN regulates therapists and establishments
 - defines massage, bodywork, and somatic
 - defined together
 - no exemptions

- no regulation for hands off energy work, but as soon as you touch the soft tissue you need a license
- as soon as there is compensation you need a license
- establishment – fixed or mobile facility open to the general public
- have a Class B misdemeanor, but that also results in a Class E Felony
- defined rules for denial including fraud and previous discipline
 - will revoke establishment license for hiring unlicensed practitioners
- Methods and Tendencies
 - clients are mostly men
 - therapists dress and act in a provocative manner
 - little or no draping
 - establishment stay open well into hours of darkness (9PM or later)
 - often cash only and do not accept insurance or credit cards
 - no client records or intakes
 - advertise on shady websites
 - no liability waivers
- 2014 TN begins to notice common themes in applications
 - same home addresses and email address
 - home address is the establishment address
 - attended the same school
 - took MBLEx before attending or graduating
 - school on MBLEx different from transcript
 - same e-mail address
 - multiple individuals applying for same establishment license
 - transcript hours vary from each student
 - men always bringing applicant or documents to office
 - learned from watching all public board meetings
 - people stopped coming to office
 - men switched to Caucasian or African-American
- Feb 2015
 - pulled over 100 therapist and establishment files and made connections for the TBI and Franklin Police Department
 - got arrest and conviction of therapist who was a lieutenant in the ring for sex trafficking, money laundering
- 2016
 - found mingling of fraud and human trafficking
 - work closer with TBI
 - did a law enforcement training for TBI
- 2017
 - went to law enforcement academy and taught vice agents about massage therapy
 - educated about proper certificates, proper draping
 - with TBI trained the Department of Health on how to detect places laundering the money for the establishments
 - they have call centers now and send the ladies to a hotel to avoid the establishment investigations
 - TN doe 30-40% of the work for TBI in making the connections
 - July – worked with Metro Vice to raid 3 establishments
 - pulled 50-75 files for law enforcement
 - TBI is calling for TN Board investigators so both can have their cases

- 2018
 - TN has their own human trafficking force that the Board works with
- What must you do?
 - Call other departments and agencies – law enforcement, schools, AG office
 - can't go it alone
 - there are webs of establishments and the move around and re-open
- Other Things that have helped
 - impersonation of a licensed professional is a Class E Felony
 - working to get state to do abatement orders on establishments
 - nuisance acts to pad lock offices
- Beverly May – CA
 - CAMTC has brochure about HT
 - distributed over 50k of them
 - all practitioners get one when they get initial certification and when they renew
 - CAMTC's Tools
 - has more available as a private board rather than a state licensing board
 - behavior based denial and discipline rather than limited to criminal convictions
 - coordination with local law enforcement
 - strong regulation to address fraudulent and substandard schools
 - 7/13 board seats are held by local government officials
 - one dedicated to a HT representative
 - not one single certificate holder has been found in violation for HT
 - over past 55 years, hundreds of local organizations regulated massage as Adult Entertainment
 - legitimate practitioners couldn't afford to comply and often went underground
 - HT gave rise to a new wave of oppressive regulation
 - media reports
 - well-intentioned HT NGOs
 - terrible state and local massage regulations
 - effective law enforcement training
 - everyone want to save the victims
 - 2010 – HT investigator tried to shut down CAMTC, but failed
 - got a seat on the board and now a supporter
 - 2015 sunset
 - land use and business regulations restored to local control with minimal restrictions in the law
 - same for all professions just not applied so oppressively (except to LAC and chiros sometimes)
 - since BackPage has shutdown police are reporting greater solicitation on the streets
 - San Francisco Dept. of Public Health Newcomers Program
 - have native speakers go into establishments and online and talk to people
 - John Vanek – “Everything You Need to Know About Human Trafficking and Modern Slavery”
 - according to Polaris, the top states with issues are CA, TX, FL, NY, and OH
 - elements of HT of adults
 - force, fraud, or coercion
 - Polaris composite
 - conflating HT and sex work
 - certain organizations support full abolition of the sex worker industry and use HT as the foothold
 - What happens when the victims see it as their only option?

Elections

- BOD
 - 3 3-year slots
 - Slot 1 – Craig Knowles
 - Slot 2 – Dianne Layden
 - needed a runoff
 - Slot 3 – Victoria Drago
- Nominating Committee – 3 spots, 4 running
 - Lydia Nixon, Michael Black, Bridget Myers

Voting on Resolutions and By-Laws

- Resolution 1 – Scores vs Pass-Fail and Task Force
 - Fail – 20-20
- Resolution 2 – Human Trafficking Model Language
 - Pass – 35-4-1
- By-Law 1 – No Slating
 - Fail – 14-25-1
- By-Law 2 – Voting Method
 - Fail – 21-19-0
 - PA wants to work on it
 - mostly South opposed

The State of Massage Education

- panel discussion led by Kevin Snedden
 - 2017 3000+ massage training programs
 - if a new school showed up on an MBLEx application would begin to research that program
 - effective July 1, 2017
 - candidate needs to establish enrollment in and having received training from the school and the school had to provide the information
 - developer the Education Record Center (ERC)
 - policy implementation outcomes
 - ERC usage up
 - MBLEx totals have gone down: 30,711 → 23,373
 - repeat attempt takers dropped
 - 24% drop in exams administered
 - cannot be attributed all to closed schools so assumption is it's related to preventing fraudulent candidates from taking it
 - school outreach and support
 - more info contained in the annual report
 - provide candidate handbook at no charge to programs (also a PDF on the website)
 - challenges
 - “but I didn’t know”
 - staff changes at training programs
 - some programs use alternative organizations/vendors for the data
 - programs that weren’t valid
 - some schools are trying to do partnerships with legitimate programs
 - verifying approval status for schools that are closed

- most states don't track dates of opening/closing
- taking action
 - TLDR got 200 test scores invalidated in TX
 - IN – only a student in the program can file a complaint against a school
- Emmanuel Bistas – IL
 - runs a private vocational school
 - no Federal financial aide
 - got approached by bad schools to work on a partnership (one closed, one approved)
 - found one of them was selling MBLEx test questions
 - out of state – go to state website, FSMTB, NCBTMB
- Darlene Compo – WI
 - credit hours vs contact hours
 - inconsistent data provided by registrars
- Nancy Harrell – NC
 - strict rules about what a program needs to get up and running
 - can't always find the hours they need for hours (20 in psychological, 15 in business, 15 in ethics)
- Dawn Hogue – COMTA ED
 - COMTA does work with some other accrediting agencies to work together

The Future of Regulation

- Dale Atkinson, Esq.
- future of regulation is and will be driven by the actions and inactions of state regulatory board and their members
- public protection isn't good enough by itself anymore with the scrutiny regulation is under
 - but never a wrong answer
- days of exclusivity are gone – scopes of practice all overlap
 - can't get stuck in protectionism or turf wars
- change is inevitable, change is not bad
- invite your authority body to your meeting (send them the meeting minutes)
 - invite legislators and committee members
 - send a “we miss you”
 - show them why you are needed
- What is regulation?
 - Regulations – guidelines – compliance
- Does government have to be involved in regulation?
 - The answer is probably no
- Why is government involved in regulation?
 - due process
 - enforcement mechanism
- Do you want state based government regulation of massage therapy?
 - Why or why not?
- regulation of massage has always been delegated to the states
 - sees no change towards a federal level of control over time
- what does government bring to the table...
 - betterment of society
 - mandated ... force of law
 - criteria set forth in law
 - use of experts

- uniform application
- due process
- fairness
- elimination of subtle, but lawful private sector application of criteria
- these are the arguments to bring beyond public safety for benefits of licensure
- state board responsibilities
 - your role is to know your role
 - can't get stuck in your own scope
- state based regulations
 - grounded in the US Constitution (Amendment 10)
- What did we have yesterday?
 - no regulation
 - evolved into local/municipal regulation
 - evolved into state legislation
- What we do have today?
 - Recognition of state's rights
 - state regulation
 - legislative process
 - intent to capture the sphere of regulation
 - creation of boards
 - delegation of authority
- What might we have tomorrow?
 - the arguments against regulation are based upon economic issues
 - unnecessary barriers to access to care
 - unnecessary barriers to entry
 - argued by some regarding ALL occupations and professions
 - job task force analysis and exam point toward uniformity across state lines, so how you justify differences to other states
 - regulations prohibiting past convictions preventing future licensure are becoming more common
 - no regulation vs. state regulation vs. federal regulation vs. other
 - Would there be chaos without regulation?
 - federal regulation less likely, especially if states get together to work for portability
 - writing is on the wall for getting a license for a military spouse
- meet with your other boards at least once a year
 - all health boards (even veterinary – who can work on animals?)
 - can identify holes and strategic issues
- What causes this kind of scrutiny?
 - Politics
 - legal decisions
 - economic theories
 - data/statistics
 - read them into the record
 - amount of licenses, renewals, compliance cases, website hits, phone calls, etc.
 - laws that don't make any sense
 - failure to separate trade from regulation
 - inconsistencies in:
 - statutes
 - regulations
 - judicial decisions

- decision making by boards
- balancing act between state's rights and sensible regulation
- know...
 - the roles of the board
 - roles of a board member
 - role of board staff
 - why government is involved
 - the consequences of private sector control
 - ...
- collective voices
 - intra- and interstate communications
- What do boards do?
 - entry/access
 - renewal/continued competence
 - enforcement
 - outreach
 - data collection and management
 - optometry can do 100% audits through their FSMTB equivalent in minutes
- Uniformity
 - applications/renewals
 - mobility and portability
 - MBLEx
 - FSMTB Model Practice Act
- Data Management/MTLD
 - gather and store primary data source
 - initial application and renewals
 - primary source transcripts
 - MBLEx scores
 - ...
 - accessible by member boards
 - at request of licensee/applicant
 - e-profiles
- Education
 - annual meetings
 - ongoing training
- make it make sense to the politicians
 - effective and efficient
- Where will we be in the near future?
 - Perhaps where we are now, but with effective and efficient means of collectively gathering, storing, and sharing data
- Take home points
 - understand the role of the board
 - understand the role of board members
 - be able to articulate such roles
 - forge relationship with legislature
 - effective and efficient
 - avoid parochialism
 - leverage collective voice/FSMTB
- move your meetings around if you have the authority

- locations, facilities
- helps increase the visibility into all we do
- invite media to the meetings

FSMTB Strategic Plan

- Moving some services in house from contracted
- Services
 - expand FSMTB services and educational resources to increase support of member boards and augment public protection
 - implement FSMTB license renewal program
 - explore expansion of MTLD
 - develop a school review process
 - develop a uniform code of ethics
- Governance
 - explore initiatives to strengthen infrastructure to successfully achieve FSMTB's mission
 - explore opportunities to grow and sustain FSMTB infrastructure
 - promote the value of massage therapy regulation
- Communication
 - broaden communications to facilitate understanding of regulatory community roles
 - enhance communication to all stakeholders to facilitate understand of importance of public protection
 - encourage awareness of fraud in the licensure process
 - develop a consumer bill of rights to promote consumer awareness
- want to ask what the member board's want
- What would you like to see the FSMTB do over the next decade?
 - Get people together who fail tests together to figure out to help them
 - accreditation of international schools
 - MBLEx geographic accessibility
 - MBLEx additional languages
 - online forums
 - broadcast FSMTB board meetings and provide minutes
 - unified education hours for basic licensure
 - model practice language for going beyond basic competency (like for learning more specialization)
 - comprehensive research into what the public actually believe massage therapy to be and what would be entry level competency
 - form a more data driven database for boards to pull data from
- What would you like to see the FSMTB do over the next years?
 - Universal or standard transcript template, esp. for schools that are closing

Roundtables

- Establishment Licenses
- Regulating Massage with Legal Marijuana
 - even if marijuana is still legal, CBD might not necessarily be
 - should the Board even be making a statement? (check with your attorney)
- Sunset reviews

Appendix 2,

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Oregon Board of Massage Therapists - 2019-21 Budget Proposal

Expenditure	FY 2018 Actuals	FY 2019 Proposed	2017-19 Approved Budget	2019-21 Increase	2019-21 Proposed Budget	Percent Increase
State Assessments	26,725	17,039	43,764	17,547	61,311	40.09%
Contract/Prof. Services	2,275	7,325	9,600	254	9,854	2.65%
Accounting Expense	371	429	800	0	800	0.00%
Audit Expense	5,143	2,857	8,000	4,000	12,000	50.00%
Bank Charges	19,169	13,659	32,828	5,572	38,400	16.97%
Collection Expense	3,057	5,075	8,132	168	8,300	2.07%
Computer Expense	36,955	59,045	96,000	500	96,500	0.52%
Dues & Subscriptions	2,800	3,466	6,266	134	6,400	2.14%
Investigation Expense	82,128	127,872	210,000	6,000	216,000	2.86%
Janitorial	4,498	5,102	9,600	1,200	10,800	12.50%
Legal Fees	140,775	104,177	244,952	-22,224	222,728	-9.07%
Meals	2,337	3,403	5,740	0	5,740	0.00%
Office Equipment Lease	3,330	3,810	7,140	1,260	8,400	17.65%
Office Furniture	0	13,600	13,600	4,400	18,000	32.35%
Office Supplies	4,487	8,473	12,960	3,040	16,000	23.46%
Postage	13,841	13,017	26,858	1,292	28,150	4.81%
Professional Development	350	4,450	4,800	1,200	6,000	25.00%
Rent	29,374	30,096	59,470	12,530	72,000	21.07%
Security	636	1,614	2,250	750	3,000	33.33%
Telephone/Fax/Internet	6,650	5,793	12,443	3,157	15,600	25.37%
Travel - In State	13,019	16,171	29,190	1,290	30,480	4.42%
Travel - Out of State	1,295	9,105	10,400	2,100	12,500	20.19%
Utilities	4,114	4,966	9,080	520	9,600	5.73%
Total S&S Expenses	403,329	460,544	863,873	44,690	908,563	5.17%
					0	
**Total Payroll Expense	685,552	730,575	1,416,127	92,310	1,508,437	6.52%
Total	1,088,881	1,191,119	2,280,000	137,000	2,417,000	6.01%

* Fully funds 6 staff positions, step increases, one 2% COLA for the 2019-20 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 & Services and AAG Flat Rate Fee

Fee Increase:

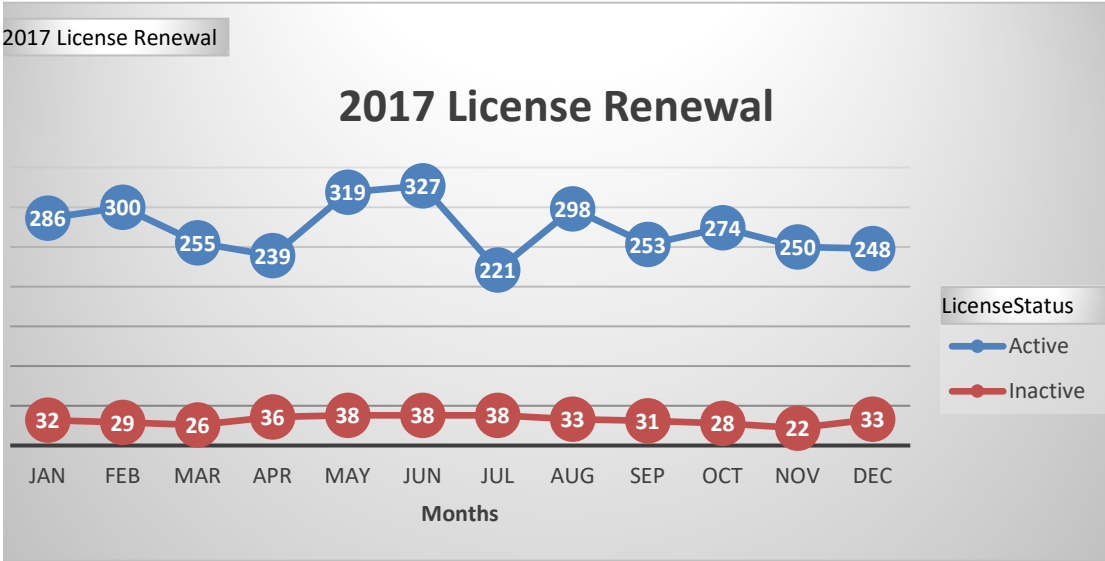
Increase Active Renewal Fee to \$200 & Inactive Renewal to \$100 will increase revenue by

\$325,000 Increase Initial License fee to \$200 & \$100 will increase revenue by \$117,000

Increase Facility Permit to \$200

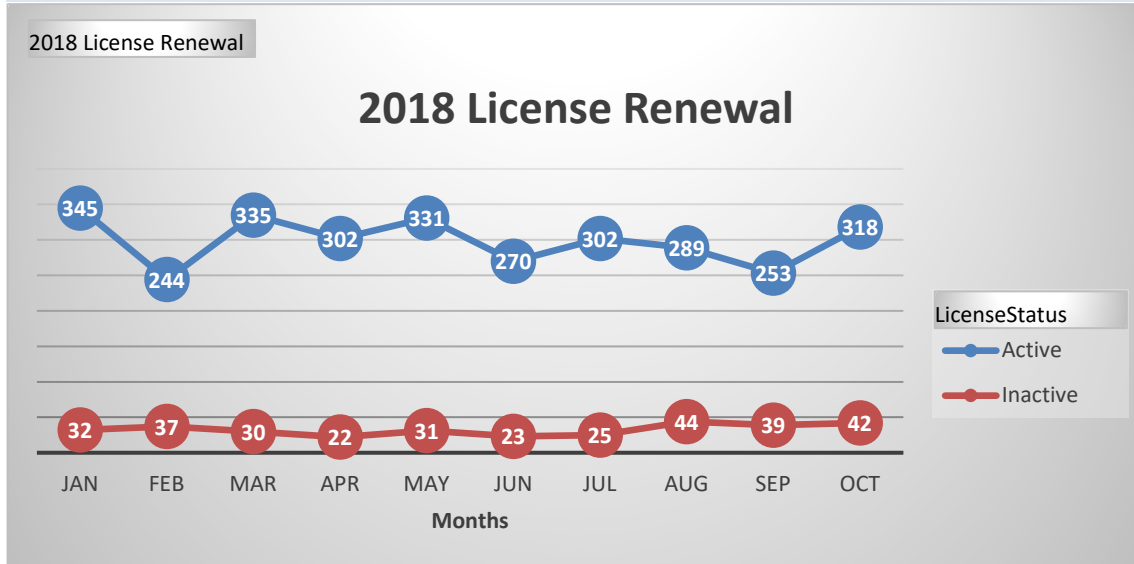
Oregon Board of Massage Therapists 2017 License Renewal Report

2017 License Renewal Month	License Status		
	Active	Inactive	Grand Total
Jan	286	32	318
Feb	300	29	329
Mar	255	26	281
Apr	239	36	275
May	319	38	357
Jun	327	38	365
Jul	221	38	259
Aug	298	33	331
Sep	253	31	284
Oct	274	28	302
Nov	250	22	272
Dec	248	33	281
Grand Total	3270	384	3654



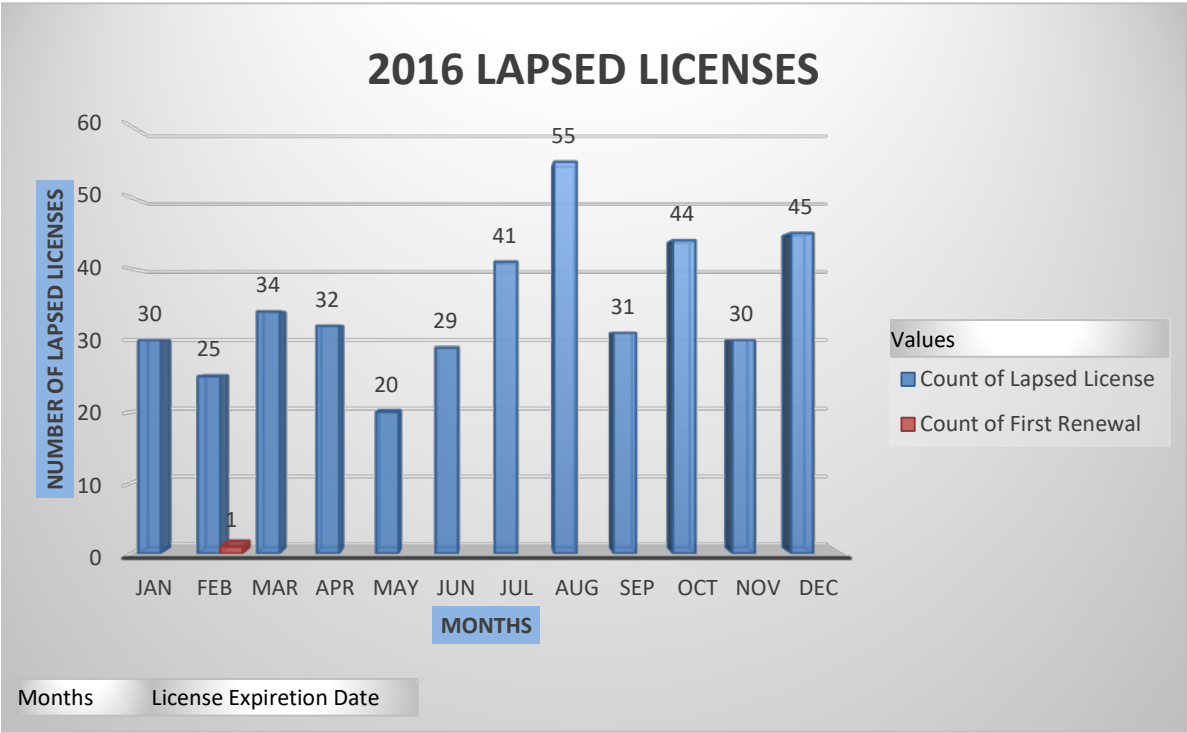
Oregon Board of Massage Therapists 2018 License Renewal Report

2018 License Renewal Months	License Status		Grand Total
	Active	Inactive	
Jan	345	32	377
Feb	244	37	281
Mar	335	30	365
Apr	302	22	324
May	331	31	362
Jun	270	23	293
Jul	302	25	327
Aug	289	44	333
Sep	253	39	292
Oct	318	42	360
Grand Total	2989	325	3314



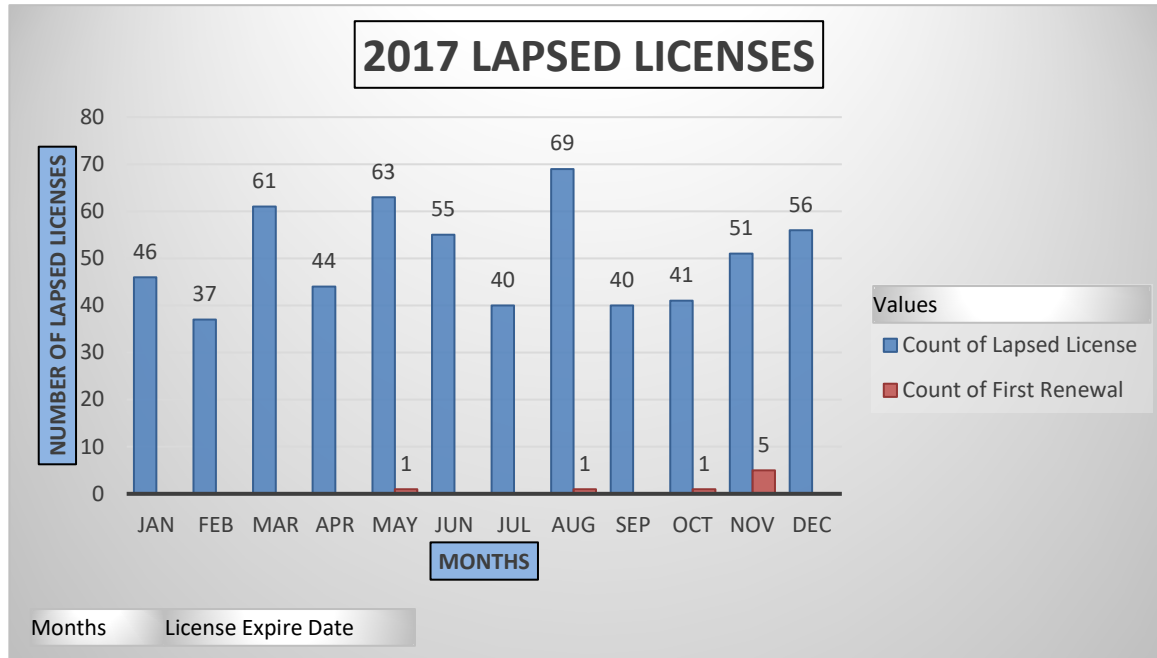
Oregon Board of Massage Therapists 2016 Lapsed Licenses Report

Lapsed Months	Count of Lapsed License	Count of First Renewal
Jan	30	
Feb	25	1
Mar	34	
Apr	32	
May	20	
Jun	29	
Jul	41	
Aug	55	
Sep	31	
Oct	44	
Nov	30	
Dec	45	
Grand Total	416	1



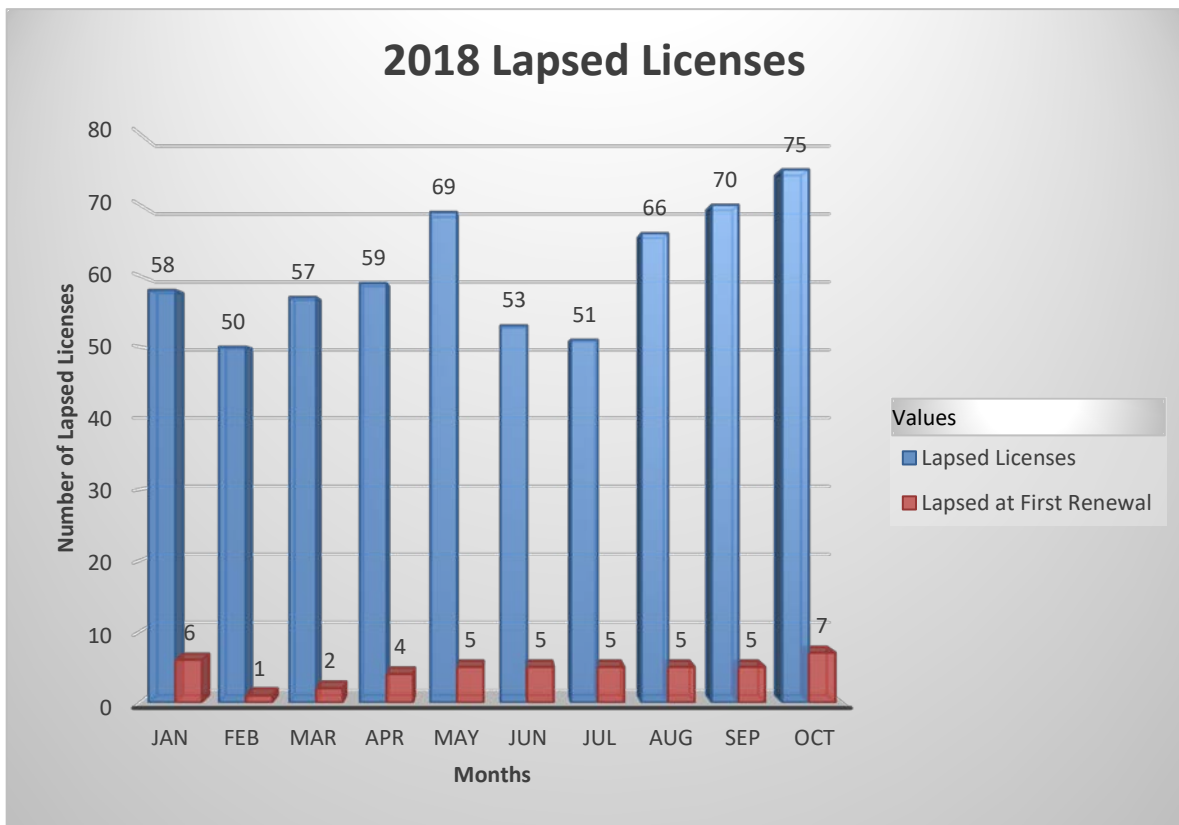
Oregon Board of Massage Therapists 2017 Lapsed Licenses Report

Months	Count of Lapsed License	Count of First Renewal
Jan	46	
Feb	37	
Mar	61	
Apr	44	
May	63	1
Jun	55	
Jul	40	
Aug	69	1
Sep	40	
Oct	41	1
Nov	51	5
Dec	56	
Grand Total	603	8



Oregon Board of Massage Therapists 2018 Lapsed Report

Row Labels	Lapsed Licenses	Lapsed at First Renewal
Jan	58	6
Feb	50	1
Mar	57	2
Apr	59	4
May	69	5
Jun	53	5
Jul	51	5
Aug	66	5
Sep	70	5
Oct	75	7
Grand Total	608	45



Oregon Board of Massage Therapists Yearly Statistics Report 2008

Activity	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	YTD
Active Licenses	5218	5420	5328	4916	5560	5310	5235	5197	5128	5027	5283	5193	
Initial Licenses	33	60	26	54	38	38	41	50	65	83	52	70	610
Total Active Licenses	5251	5480	5354	4970	5598	5348	5276	5247	5193	5110	5335	5263	
Inactive Licenses	481	501	539	507	653	580	580	613	615	625	660	679	
Total Licenses	5732	5981	5893	5477	6251	5928	5856	5860	5808	5735	5995	5942	
Verifications	6	8	1	8	5	4	13	6	11	5	4	6	77
Reactivations	24	43	15	40	25	29	35	30	22	31	28	36	350
Lapsed	0	0	0	0	0	0	0	0	0	0	0	0	0
Expired	0	0	0	0	0	0	0	0	0	0	0	0	0
Applications	0	0	0	0	0	0	0	0	0	0	0	0	0
Exams	0	0	0	0	0	0	0	0	0	0	0	0	0
Renewals - Active	0	0	0	0	0	0	0	0	0	0	0	0	0
Renewals - Inactive	0	0	0	0	0	0	0	0	0	0	0	0	0

Oregon Board of Massage Therapists Yearly Statistics Report 2009

Activity	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	YTD
Active Licenses	5237	5365	5667	5754	5767	5734	5746	5755	5800	5820	5860	5880	
Initial Licenses	44	45	73	54	8	43	65	64	53	64	43	47	603
Total Active Licenses	5281	5410	5740	5763	5775	5777	5811	5819	5853	5884	5903	5927	
Inactive Licenses	688	739	798	812	816	826	838	832	833	836	825	835	
Total Licenses	5969	6149	6538	6575	6591	6603	6649	6651	6686	6720	6728	6762	
Verifications	7	7	4	8	0	4	4	13	5	12	9	5	78
Reactivations	40	26	34	29	11	36	35	31	41	29	31	46	399
Lapsed	56	50	66	50	2	69	76	62	96	60	62	69	718
Expired	0	1	1	1	2	0	2	0	1	0	0	2	10
Applications	0	0	62	65	6	67	94	67	64	69	36	45	575
Exams	0	0	71	82	9	52	115	40	89	77	46	46	627
Renewals - Active	0	0	232	238	76	228	263	219	195	219	153	258	2081
Renewals - Inactive	0	0	49	43	11	37	55	38	28	43	30	31	365

Oregon Board of Massage Therapists Yearly Statistics Report 2010

Activity	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	YTD
Active Licenses	5896	5910	5925	5957	5985	5991	5998	6051	6064	6069	6095	6096	
Initial Licenses	37	54	58	69	42	29	69	58	33	76	44	34	603
Total Active Licenses	5933	5964	5983	6026	6027	6020	6067	6109	6097	6145	6139	6130	
Inactive Licenses	846	847	843	839	828	833	842	834	822	820	805	809	
Total Licenses	6779	6811	6826	6865	6855	6853	6909	6943	6919	6965	6944	6939	
Verifications	6	9	6	1	12	11	10	10	6	6	6	8	91
Reactivations	36	31	32	37	26	35	45	44	25	48	30	44	414
Lapsed	0	68	57	81	67	61	87	61	71	80	82	103	818
Expired	0	0	0	1	0	0	0	0	0	0	0	0	1
Applications	83	59	85	64	51	65	54	61	43	74	49	41	729
Exams	58	72	69	87	48	64	73	62	59	65	70	22	749
Renewals - Active	249	247	252	232	243	215	253	227	208	263	233	234	2856
Renewals - Inactive	53	40	41	32	29	39	36	33	39	42	37	48	469

Oregon Board of Massage Therapists Yearly Statistics Report 2011

Activity	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	YTD
Active Licenses	6102	6171	6201	6208	6198	6220	6207	6201	6218	6241	6228	6252	
Initial Licenses	36	56	62	40	59	33	31	53	47	43	56	52	568
Total Active Licenses	6138	6227	6263	6248	6257	6253	6238	6254	6265	6284	6284	6304	
Inactive Licenses	810	831	835	847	861	855	863	863	865	866	892	899	
Total Licenses	6948	7058	7098	7095	7118	7108	7101	7117	7130	7150	7176	7203	
Verifications	12	10	10	6	15	14	10	14	16	9	11	8	135
Reactivations	48	52	76	34	28	42	36	51	30	34	22	30	462
Lapsed	0	76	1	106	84	67	91	79	90	70	61	56	781
Expired	0	9	232	56	28	31	26	34	30	37	34	31	548
Applications	52	48	79	49	54	85	69	70	57	68	52	33	716
Exams	91	52	72	62	48	76	71	74	56	68	66	40	776
Renewals - Active	131	254	276	228	276	241	214	285	226	193	221	254	2799
Renewals - Inactive	60	42	46	42	57	14	40	56	34	43	42	35	511

Oregon Board of Massage Therapists Yearly Statistics Report 2012

Activity	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	YTD
Active Licenses	6259	6274	6290	6293	6308	6297	6307	6321	6356	6358	6372	6396	
Initial Licenses	46	54	51	50	35	53	58	64	42	41	41	39	574
Total Active Licenses	6305	6328	6341	6343	6343	6350	6365	6385	6398	6399	6413	6435	
Inactive Licenses	903	906	890	890	884	875	868	857	859	844	832	832	
Total Licenses	7208	7234	7231	7233	7227	7225	7233	7242	7257	7243	7245	7267	
Verifications	10	11	18	5	11	13	8	6	4	9	10	7	112
Reactivations	25	35	18	22	26	24	15	19	28	17	20	23	281
Lapsed	0	67	67	70	70	67	80	72	78	53	73	62	759
Expired	0	24	21	30	24	29	33	27	44	24	32	31	319
Applications	57	49	47	56	58	54	72	39	52	52	47	26	609
Exams	57	64	53	61	70	51	74	47	43	67	53	34	674
Renewals - Active	253	219	264	264	253	226	260	208	277	291	253	218	2986
Renewals - Inactive	34	32	33	40	27	33	32	32	32	35	31	30	391

**Oregon Board of Massage Therapists
 Yearly Statistics Report
 2013**

Activity	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	YTD
Active Licenses	6405	6413	6520	6417	6422	6421	6433	6438	6460	6495	6506	6518	
Initial Licenses	33	44	29	30	41	35	37	47	67	35	42	34	474
Total Active Licenses	6438	6457	6549	6447	6463	6456	6470	6485	6527	6530	6548	6552	
Inactive Licenses	821	819	794	821	825	833	822	833	819	817	808	801	
Total Licenses	7259	7276	7343	7268	7288	7289	7292	7318	7346	7347	7356	7353	
Verifications	5	6	3	14	18	25	25	24	13	6	7	9	155
Reactivations	25	29	14	18	20	22	23	15	10	27	16	9	223
Lapsed	0	66	0	52	61	49	59	62	48	54	64	54	569
Expired	0	31	0	43	44	33	31	27	29	48	35	50	371
Applications	40	45	34	67	46	60	81	52	49	59	42	38	613
Exams	53	46	41	55	74	63	91	65	52	67	73	52	732
Renewals - Active	269	261	178	294	274	208	274	266	217	244	223	235	2943
Renewals - Inactive	33	25	23	32	38	42	41	45	34	45	28	36	422

Oregon Board of Massage Therapists Yearly Statistics Report 2014

Activity	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	YTD
Active Licenses	6514	6512	6532	6564	6571	6577	6605	6607	6625	6665	6681	6701	
Initial Licenses	40	47	63	36	43	48	41	37	59	50	44	36	544
Total Active Licenses	6554	6559	6595	6600	6614	6625	6646	6644	6684	6715	6725	6737	
Inactive Licenses	802	804	815	814	817	816	825	823	817	816	815	805	
Total Licenses	7356	7363	7410	7414	7431	7441	7471	7467	7501	7531	7540	7542	
Verifications	8	8	11	12	18	15	12	11	20	13	14	16	158
Reactivations	17	18	32	18	18	23	20	13	30	23	15	11	255
Lapsed	0	55	60	46	50	49	62	33	51	69	39	53	567
Expired	0	35	30	40	38	51	39	39	34	29	30	27	392
Applications	44	41	42	64	48	37	66	38	58	58	35	52	583
Exams	61	56	58	55	58	56	89	48	62	75	43	65	726
Renewals - Active	289	226	265	263	274	246	274	245	293	279	211	282	3147
Renewals - Inactive	35	35	42	27	35	33	39	34	39	40	14	29	402

Oregon Board of Massage Therapists Yearly Statistics Report 2015

Activity	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	YTD
Active Licenses	6699	6704	6704	6707	6710	6715	6715	6737	6758	6770	6794	6769	
Initial Licenses	42	55	30	38	43	49	53	56	46	52	42	52	558
Total Active Licenses	6741	6759	6734	6745	6753	6764	6768	6793	6804	6822	6836	6821	
Inactive Licenses	804	800	808	809	815	806	826	820	809	807	809	813	
Total Licenses	7545	7559	7542	7554	7568	7570	7594	7613	7613	7629	7645	7634	
Verifications	15	11	18	13	7	13	9	23	9	16	8	11	153
Reactivations	14	20	13	22	10	18	11	19	17	16	9	18	185
Lapsed	0	60	66	51	55	43	63	40	52	65	51	39	585
Expired	0	30	6	84	40	49	44	45	32	45	43	30	448
Applications	36	37	42	57	49	56	71	69	32	79	24	79	631
Exams	37	43	44	65	54	52	79	62	31	66	41	31	605
Renewals - Active	256	255	295	296	247	273	269	251	257	229	253	263	3144
Renewals - Inactive	38	28	54	43	35	47	48	34	30	33	38	37	465

Oregon Board of Massage Therapists Yearly Statistics Report 2016

Activity	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	YTD
Active Licenses	6821	6912	7004	7086	7142	7188	7245	7284	7279	7286	7316	7352	
Initial Licenses	126	114	110	95	70	83	97	72	60	78	69	35	1009
Total Active Licenses	6947	7026	7114	7181	7212	7271	7342	7356	7339	7364	7385	7387	
Inactive Licenses	813	811	808	806	805	800	795	795	801	811	815	820	
Total Licenses	7760	7837	7922	7987	8017	8071	8137	8151	8140	8175	8200	8207	
Verifications	18	16	15	18	19	22	17	24	16	16	16	11	208
Reactivations	17	22	22	18	18	19	20	19	18	24	25	20	241
Lapsed	0	41	61	41	50	50	49	47	59	85	62	61	606
Expired	0	34	30	38	36	27	34	28	34	37	36	40	374
Applications	107	94	88	93	68	106	77	81	95	74	64	58	1005
Exams	135	1	0	0	0	0	0	0	0	1	0	0	137
Renewals - Active	208	285	308	269	296	276	231	293	284	328	274	233	3285
Renewals - Inactive	33	39	32	30	33	30	22	32	37	33	38	31	390

Appendix ,
roposed es or n r
Pages



Oregon

Kate Brown, Governor

Board of Massage Therapists

728 Hawthorne Ave NE
Salem, OR 97301
Phone: (503) 365-8657
Fax: (503) 385-4465
www.oregon.gov/OBMT

Rules Hearing
September 25, 2018
Board Office
728 Hawthorne Ave NE
Salem, OR 97301

Attendance

Public:

Mark Retzlaff

Board Staff:

Kate Coffey, Executive Director

Ekaette Udosenata, Policy Analyst

Kate Coffey introduced herself and the procedures for the rules hearing proceeding. Meeting began at 9:00 am.

The proposed Rules are:

OR 334-001-0060 Definition: Clarify the definition of certified class or program.

OR 334-001-0012 Budget: Increase budget for 2017-2019 Biennium.

OR 334-010-0005 Application: clarifies the Facility License requirements and requires all applicants notify the board within 10 days if something changes on their original application for licensure

OR 334-010-0006 Facility Permits: Clarifies language for denial of Facility Permit application and use of Facility Permit.

OR 334-010-0015 Licensure: Specifies the type of CPR certification required.

OR 334-010-0017 Lapsed License: Specifies the type of CPR certification required; Requires that licensees, whose license has been lapsed for more than three years, meet current initial licensure requirements prior to reactivation of the license.

OR 334-010-0025 Practice of Massage: Requires LMTs to post their current license.

OR 334-010-0033 Fees: Clarifies Facility Permit fees.

OR 334-020-0005 Facilities and Sanitation: Clarifies Facility Permit requirements.

OR 334-040-0010 Discipline: Clarifies the description of Fitness to Practice and the discipline associated with the failure to practice safely.

Coffey noted that the board received one written comment from Lorinda Roslund stating, "it seems cumbersome and unnecessary to post our facility permit number on all our advertisements. Other medical professionals are not required to do so. We already have to post our state license number. That is enough in itself. I disagree with this proposed rule and ask that it be removed."

Coffey noted that there were no other written comment received by the Board and no other member of the public present to provide additional comments.

Coffey adjourned the meeting at 9:05am

Oregon Board of Massage Therapists OAR 334
Proposed Changes
Effective January 1, 2019

334-001-0012

Budget

The Oregon Board of Massage Therapists hereby adopts, and fully incorporates herein, the Oregon Board of Massage Therapists' 2017–2019 Biennium budget of ~~\$1,940,000~~ **2,280,000**.

Oregon Board of Massage Therapists OAR 334
Proposed Changes
Effective January 1, 2019

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

Oregon Board of Massage Therapists OAR 334
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- (18) "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) "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) "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) "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) Equivalent Credit Hours: are those credit hours as determined by the respective educational institution or its certified classes or programs
- (23) 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) "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) "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) "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) "Licensee" means any person holding a license, permit, or certificate issued by this Board; an LMT
- (28) "LMT" means a Licensed Massage Therapist.

Oregon Board of Massage Therapists OAR 334
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- (29) "Massage" or "massage therapy" is defined in ORS 687.011.
- (30) "Non-Contact hours" means education hours independently acquired outside the presence of an instructor.
- (31) "Offer" means a response to a request for price quote or response to a Solicitation Document.
- (32) "Offeror" means a Person who submits an Offer.
- (33) 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.
- (34) "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.
- (35) "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.
- (36) "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.
- (37) "Practice of massage" is defined in ORS 687.011.
- (38) "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.
- (39) "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.
- (40) "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.
- (41) "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
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- (42) "Solicitation Document" means an Invitation to Bid, Request for Proposal or other document issued to invite Offers from prospective Contractors.
- (43) "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.
- (44) "Split Fee" means giving or receiving a commission or payment, either monetary or otherwise, for the referral of patients.
- (45) "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.
- (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.

Oregon Board of Massage Therapists OAR 334
Proposed Changes
Effective January 1, 2019

334-010-0005

Applications

- (1) All applications for licensure, inactive status, renewal, temporary permit, or a facility permit must be made on forms provided by the Board. Only applications that are completed and on Board approved forms, without alterations, must be accepted for filing and review by the Board.
- (2) All applications made to the Board must be accompanied by the required fee.
- (3) Applicants for Licensure must submit the following with their application:
 - (a) A copy of a valid government issued photo identification. This identification could be a valid driver's license, a current U.S. passport, immigration/naturalization papers, or a valid state identification card;
 - (b) An official certificate or transcript from the administering institutions, instructors, or programs showing successful completion of study and practice in the required subject matter and hours required by the Board.
 - (A) Official copies of transcripts or certificates presented to the Board ~~in an envelope sealed by the program or institution and verified as sealed may be accepted directly from the applicant.~~
 - (B) If a program or institution granting credit is no longer in business, the Board must accept for review a copy of a certificate of completion, transcript or diploma in the required subject matter and hours. The Board may require additional information to verify the authenticity of such documents.
 - (i) Transcripts or certificates directly received from other states massage licensing boards will be accepted.
 - (C) The Board will not accept transcript(s) or certificate(s) from schools that are not approved or not in good standing with the national massage associations.**
 - (c) A current photograph of the applicant.
- (4) Transcripts must include a minimum of 625 hours of certified classes. The 625 hours must include the knowledge and skills identified in OAR 334-010-0047 competencies and must be comprised of:
 - (a) A minimum of 200 hours of Anatomy & Physiology, Pathology, and Kinesiology; and
 - (b) A minimum of 300 hours of Massage Theory and Practical Application, Clinical Practice, Business Development, Communication and Ethics, and Sanitation. Hydrotherapy may be included as part of the 300 hours.
 - (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.
 - (d) Hours can be calculated in clock hours or equivalent credit hours from an institution that substantially complies with the definition of credit hours in 34 CFR 600.2.
- (5) If for any reason an applicant does not appear to be qualified for Licensure, the applicant must be so notified and invited to submit additional evidence that he/she is entitled to have his/her case considered for licensure.
 - (a) Applicants who are or have legally practiced massage and/or bodywork outside of the State of Oregon may be eligible to apply for the Credentialing Review Process.
- (6) Applicants who apply for licensure on or before December 31, 2015 with a minimum of 500 hours of certified classes and do not take and pass the Oregon practical exam within 60 days of the date of their application must apply as a new applicant.
- (7) All application documents for examination and licensure submitted in a language other than English must be accompanied by:

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- (a) An accurate translation of those documents into English;
 - (b) A notarized affidavit certifying that the translator is competent in both the language of the document and the English language; and
 - (c) A notarized affidavit certifying that the translation is a true and complete translation of the foreign language original.
- (8) Any costs of translation of all documents required by the Board must be at the expense of the applicant.
- (9) If the applicant discontinues the application process or fails to cooperate with the criminal history check process, then the application is considered incomplete.
- (10) All information required for an initial license must be received within 12 months of the initial date of application. Thereafter, one must apply as a new applicant.
- (11) Applicants for Facility Permit must submit the following with ~~their~~ **the Facility Permit** application:
- (a) ~~if~~ **If a natural person**
 - ~~(A) A~~ **(A) A** a copy of a valid government issued photo identification. ~~This identification could be a Valid identification includes: a state issued driver's license, a current U.S. passport, immigration/naturalization papers, or a valid state identification card;~~
 - (B) Verification of Oregon Secretary of State Business Registration confirming registration of the assumed business name with the State of Oregon. The Verification must be in a format acceptable to the Board and include: the business registry number, owner and entity name as each appears on the Facility Permit Application, Facility Address as it appears in the Facility Permit Application, the current status of the registration, and start date of the registration.**
 - (b) ~~if~~ **If not a natural person:**
 - ~~(A) Copy~~ **(A) Verification** of the Oregon Secretary of State Business ~~r~~Registration, ~~listing all owners and/or shareholders and~~ **confirming registration of the corporation, partnership, limited liability company, or assumed business name with the State of Oregon. The Verification must be in a format acceptable to the Board and include the business registry number, entity name as it appears on the Facility Permit Application, Registered Agent, owner/member/partner information, Facility Address as it appears in the Facility Permit Application, the current status of the registration, and start date of the registration.**
 - (B) For corporations, partnerships, and limited liability companies, copies of Articles of Incorporation, Articles of Organization, or shareholder agreements showing all percentages of ownership with appropriate owner(s) identification including name and address.**
- (12) Applicants for Facility Permit Transfer must submit the following with the Facility Permit application:
- (a) If a natural person, a copy of a valid government issued photo identification. Valid identification includes: a state issued driver's license, a current U.S. passport, immigration/naturalization papers, or a valid state identification card;
 - (b) If not a natural person:
 - (A) Verification of Oregon Secretary of State Business Registration confirming registration of the corporation, partnership, limited liability company, or assumed business name with the State of Oregon. The Verification must be in a format acceptable to the Board and include the business registry number, entity name as it appears on the Facility Permit Application, Registered Agent, owner/member/partner information, Facility Address as it appears in the Facility Permit Application, the current status of the registration, and start date of the registration.**

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- (B) For corporations, partnerships, and limited liability companies, copies of Articles of Incorporation, Articles of Organization, or shareholder agreements showing all percentages of ownership with appropriate owner(s) identification, including name and address.
 - (C) A Buy-Sell Agreement, Purchase Agreement, Transfer Agreement, Lease Agreement or other documentation approved by the Board verifying transfer of legal ownership of the Facility.
- (13) Applicants for licensure, inactive status, renewal, or a facility permit must notify the Board in writing immediately, but no later than 10 days after the change occurs, if any information submitted on the application changes, including, but not limited to: name; contact information, including address, email address, and telephone number; Board or other governmental agency investigation or disciplinary actions; civil, criminal, or ethical investigations, arrests, charges or convictions; employment investigations which lead to termination or resignation; in-patient mental health care for a psychological or behavioral health condition, addiction, or chemical dependency issue. Failure to do so may be grounds for denial of the application or revocation of the license, once issued.

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334-010-0006

Facility Permits

- (1) ~~Applicants for facility permits~~ **Facility Permit Applications** may be denied for reasons listed in ORS 687.081. ~~Applicants~~ **Facility Permit Applications** may also be denied for a permit due to prior discipline by the Board for the ~~unlicensed practice of massage~~ **of the Facility, or its affiliated owner(s), registered agent, or member(s)/partner(s)**. The Board should consider the circumstances of the violations, the duration of the conduct, **the egregiousness of the violations**, if the ~~applicant~~ **the facility, its owner, registered agent, or member(s)/partner(s) are** is currently in compliance with the law and orders Oregon laws and rules, and previous orders of the Board, and whether the conduct demonstrably related to the **Facility Permit Applicant's holding a facility license permit**.
- (2) **A Facility Permit is valid only for the location and business name printed on the Facility Permit. An issued Facility Permit cannot be used at a different location, at multiple locations, or for a facility at the same location under a different name.**
- (3) **Facility Permits issued by the Board are transferable to a new owner(s), or to a new business name or assumed business name, only as approved by the Board.**
- (4) **A permitted Facility may provide massage therapy services only through the use of LMTs licensed under ORS 687.051.**
- (5) **A permitted Facility is responsible for the conduct and behavior of its employees and contracted agents in their performance of services on behalf of or in association with the Facility.**

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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 certification ~~in cardiopulmonary resuscitation (CPR)~~ **from the American Heart Association's Basic Life Support (BLS) Healthcare Providers Course or its equivalent. A 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, other than minor traffic infractions in any state or jurisdiction 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 certification in **Basic Life Support (BLS) Healthcare Provider** cardiopulmonary resuscitation (CPR);. **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); and
 - (e) 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.

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- (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);. **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 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.
 - (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 hours of continuing education training or Board approved activities. At least 8 contact hours must be in Professional Ethics, Boundaries and/or Communication. The remaining 20 of 50 hours may be contact or noncontact hours; and
 - (e) Completed electronic fingerprints for criminal background check.

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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) ~~Payment of the licensing fee applicable for the period of the lapsed license;~~
 - (cb) Late fee payment;
 - (dc) Proof of 25 hours of continuing education ~~for each biennium the license was lapsed and for the current licensing period;~~
 - (ed) Verification of 4 contact hours in ~~Ethics~~ Professional Ethics, Boundaries and/or Communication.
 - (fe) Proof of current certification in in **basic life support (BLS) Healthcare Provider** cardiopulmonary resuscitation (CPR). **The CPR certification card must include the expiration date of the CPR certification; and**
 - (g) ~~A statement indicating whether the applicant has engaged in the practice of massage and bodywork in another jurisdiction during the period of lapsed status; and~~
 - (hf) ~~Applicants must 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 hours in Professional Ethics, Boundaries and/or Communication.
 - (f) Proof of current certification in (BLS) Healthcare Provider cardiopulmonary resuscitation (CPR). The CPR certification card must include the expiration date of the CPR certification; 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 hours in Professional Ethics, Boundaries and/or Communication.
 - (f) Proof of current certification in (BLS) Healthcare Provider cardiopulmonary resuscitation (CPR). The CPR certification card must include the expiration date of the CPR certification; and
 - (g) **Complete and submit a completed electronic fingerprint for criminal background check.**
- (46) 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
- (5) ~~An applicant whose license is lapsed for greater than 12 months must renew as an active status.~~

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- (67) All information required for restoring a lapsed license to an active status must be received within 3 years of the date of lapsing along with the requirements listed in OAR 334-010-0017(3)(a-h). ~~Thereafter, one must apply as a new applicant.~~
- (78) Continuing Education is not required if this is your first subsequent renewal after receipt of your initial license.

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334-010-0025

Practice of Massage

- (1) Massage treatment may include, but is not limited to:
 - (a) Client intake and assessment;
 - (b) Practice of massage or bodywork;
 - (c) Post massage assessment and recommendation; and
 - (d) Documentation.
- (2) Massage treatment does not include:
 - (a) The application of high velocity/low amplitude force further defined as thrust techniques directed toward joint surfaces;
 - (b) The use of equipment or devices that require a prescription; or
 - (c) Making a medical diagnosis.
- (3) A massage therapist must use safe and functional coverage/draping practices during the practice of massage when the client is disrobed.
 - (a) Safe and functional coverage/draping means:
 - (A) LMT explains, maintains and respects coverage/draping boundaries;
 - (B) Client gives informed consent;
 - (C) Genitals and gluteal cleft of male and female clients and the breast area of female clients are not exposed;
 - (i) With voluntary and informed consent of the client, the gluteal and breast drapes may be temporarily moved in order to perform therapeutic treatment of the area.
 - (D) Massage or movement of the body does not expose genitals, gluteal cleft or breast area.
 - (b) Exceptions to the rule may be made for LMTs who can document training in specific modalities that require variations in coverage/draping.
- (4) A Licensed massage therapist must not perform or offer to perform any services for clients other than those connected with giving massage therapy treatments as defined in ORS 687, unless the LMT has additional training and/or licensure.
- (5) A person represents himself or herself as a massage therapist when the person adopts or uses any word(s) that implies a skill or application as defined by statute 687.011.
- (6) Any person who holds a license as a massage therapist in this state may use the abbreviation "LMT." No other person(s) may assume such title or such abbreviation or any other word[s], letters, signs, or figures to indicate that the person using the title is a licensed massage therapist.
- (7) All licensed massage therapists must notify the Board office in writing of any change of residence, business, email or mailing address within 30 days of change of address.
- (8) Active licensed massage therapists must display their **current** license in a location clearly visible to their clients.
- (9) Active licensed massage therapists are required to include their license number in all advertisements, including but not limited to: written, electronic, televised and audio.

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334-010-0033

Fees

(1) The fees are:

- (a) \$100 for initial license;
- (b) \$50 for initial license under 12 months;
- (c) \$155 per biennial renewal for active license;
- (d) \$75 per biennial renewal for inactive license;
- (e) \$100 mid-cycle inactive to active renewal
- (f) \$25 per week, up to a maximum of \$100, for any late renewal;
- (g) \$100 for application processing;
- (h) \$150 for each practical examination;
- (i) \$100 for mailing list;
- (j) \$10 for license reprint;
- (k) \$10 for license verification;
- (l) \$250 Credentialing Review;
- (m) Current Oregon State Police Criminal Background Check Fee;
- (n) \$50 initial facility permit;
- (o) \$250 facility permit **ownership** transfer;
- (p) **\$250 permitted facility name change**;
- (q) \$10 facility permit reprint
- (r) **\$10 permitted facility address change** and
- (~~s~~) (s) other administrative fees as allowed by law.

(2) Application and licensure fees are not refundable

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334-020-0005

Facilities and Sanitation

(1) Permanent and Mobile structures:

(a) All permanent structures and mobile facilities where a LMT routinely conducts massage and bodywork 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, of any change of the permitted Facility's name, business location, operation status, ownership, email or mailing address within 30 days of change. within 30 days of relocating the facility;~~

(a) 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) keep posted and visible to the public, the facility permit with the correct location address~~ **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 advertisements, including but not limited to: written, electronic, televised and audio advertisements, service menus, business cards, flyers, websites, and other means of promotion of the permitted Facility.

(C) Facilities exempted from the permit process:

(i) clinic or facility owned or operated by a person authorized to practice a profession by a health professional regulatory board, as defined in ORS 676.160;

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

(iii) clinics of a board approved massage therapy program.

(D) Provide a finished lavatory that

(i) Is well maintained,

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

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

(iv) Supplies hot and cold running water,

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

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

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

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

(b) All treatment spaces must:

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

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

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

(D) Provide illumination during cleaning.

(c) The facility and treatment space must be:

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

(B) Maintained in a sanitary manner; and

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- (C) Maintained free from flies, insects, rodents and all other types of pests.
- (2) Outcall/On-site
 - (a) 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.

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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 ~~without notification to the Board~~;
- (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;
- (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.

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- (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; 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
 - (v) Encouraging the client to masturbate in the presence of the LMT or masturbation by the LMT while the client is present.
 - (C) Sexual impropriety which is any behavior, gestures, or expressions that are seductive or sexually demeaning to a client; inappropriate procedures, including, but not limited to,
 - (i) Disrobing or draping practices that reflect a lack of respect for the client's privacy, deliberately watching a client dress or undress instead of providing privacy for disrobing;
 - (ii) Subjecting a client to an examination in the presence of students, assistants, or other parties without the explicit consent of the client or when consent has been withdrawn;
 - (iii) An examination or touching of genitals;
 - (iv) Inappropriate comments about or to the client, including but not limited to, making sexual comments about a client's body or clothing, making sexualized or sexually-demeaning comments to a client, comments on the client's or LMT's sexual orientation and making a request to date;
 - (v) Initiation by the LMT of conversation regarding the sexual problems, preferences or fantasies of the LMT; or
 - (vi) Kissing.
 - (b) Violating the client's rights of privacy, and confidentiality.
 - (c) photographing or filming the body or any body part or pose of a client without consent.
 - (d) ~~Failure~~ **Failing** to disclose or ~~release~~ **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 ~~which impairs the massage therapist's ability to safely and skillfully practice massage~~ **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.**

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

~~(ih) Exercising undue influence on a client, including 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.~~ **Employing illegal or unethical business practices including but not limited to;**

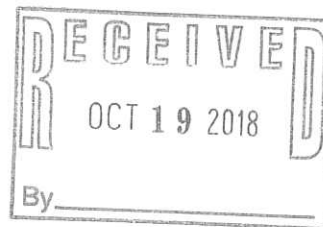
- 1. Fraud, deceit or misrepresentation in obtaining or attempting to obtain any fee or third party reimbursement for services.**
- 2. Taking advantage of a relationship with a client for the licensee's personal advantage, including obtaining a benefit that is a personal, sexual, romantic or financial. 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.**
- 3. 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.**

Appendix 4,
Correspondence

Pages 82-103

October 17, 2018

Oregon Board of Massage Therapists
728 Hawthorne Ave NE
Salem, OR 97301



Attention: Jon Grossart, LMT

It was with great dismay that I read the details of the proposed changes to Continuing Education (CE) requirements.

Although, as a senior citizen with over 25 years of experience as an LMT, I would appreciate having fewer hours of CE required, I am appalled at the idea that my licensing board would no longer accept CE's for hands-on modalities. This is, after all, a hands-on profession!

Such a change would be extremely detrimental to those newer in our profession who should be encouraged to explore a variety of hands-on modalities and who might not do so if such training would not count towards required CE hours.

Please reconsider this unfortunate and, to many of us in the field, unacceptable proposal.

Sincerely,

A handwritten signature in cursive script that reads "Amber Leanna".

Amber Leanna, LMT (#4672)
1574 Coburg Rd. Box 415
Eugene, OR 97401
541-344-4828
MassageByAmber@hotmail.com

cc: Kate Coffey, OBMT
ABMP

From: [OBMT Info](#)
To: [Kate Coffey](#)
Cc: [Ekaette Udosenat](#)
Subject: FW: Proposed CE changes
Date: Monday, October 15, 2018 7:38:15 AM

-----Original Message-----

From: Wendy [mailto:wendy_doran@hotmail.com]
Sent: Sunday, October 14, 2018 10:14 AM
To: OBMT Info <OBMT.Info@state.or.us>
Subject: Proposed CE changes

To whom it may concern,

I read with concern the changes you are proposing to CE requirements for massage therapists. While understanding some of your reasoning behind the proposed changes (rural, seasoned and semi-retired LMTs having challenges meeting the 25 hour requirement), it is a very big mistake to remove somatic training from approval. The public benefits from LMTs growth and development in hands-on work, and is the very essence of what LMTs offer.

Additionally, it is unfortunate to remove the ability of the LMT to roll over hours to the next licensing period. This may encourage LMTs to take short classes rather than taking a more in-depth training - a training of whose effects would carry more weight, be more memorable to the LMT.

I also have concern that chiropractic assistants can now offer one hour massages under the umbrella of the chiropractic license. Chiropractic assistants have less than minimal training at best, and can easily put the public at risk. Is there some way the OBMT can/will challenge the Chiropractic Board on this issue?

Thank you for hearing my concerns,

Sincerely,
Wendy Doran, LMT #3888

Sent from my iPad

Dear Ms. Udosenata-Harruna,

I am writing regarding the proposed CE requirement rule change. I would like to state right off the bat that I am not a CE provider - just a dedicated LMT who has been in practice for 13 years.

I have understood from having conversations with people who have attended the past meetings concerning this matter, and from Oregon Board of Massage Therapy meeting minutes, that the OBMT's reasoning for cutting the important hands-on Continuing Education curriculum requirement is two fold.

One, that the board doesn't have ability to field the validity of the CE hours that those seeking to renew their licenses have been sending in, and it sounds like there have been a lot of questionable submissions.

I completely understand this issue, and not having the people power/funds to hire more people to get this job done, must be really frustrating. But that is like cutting an entire arm off someone who has a festering bee sting. Perhaps instead of scrapping hands-on bodywork & massage technique workshops all together — the substance of our work — CE courses/providers could be vetted more thoroughly, thus having less possible CE courses to field.

The second argument though, which I'm taking directly from the July meeting minutes, holds no water:

... In addition, there the question regarding the over standing scope of the board as a regulatory agency not an advocacy agency so, the board's intent legally is to make sure that the public is safe and not that people are good massage therapists. Mandating people to take 25 hours of technique classes that people may or may not want, is that furthering the goal of public safety in any way and again if people do not want to take it but are taking it because they have to, are we doing a disservice?

The premise for this reason is that the boards only obligation is to make sure that the public is safe. This is the first point that stands in direct conflict with OBMT's own mission statement (which I've attached in full below this letter) reflected in the following passages taken from https://www.oregon.gov/OBMT/Pages/about_us.aspx:

The OBMT states that part of their job in regulating the practice of massage in Oregon is “accomplished by establishing continuing education requirements **and promoting education and enforcing professional standards.**”

In the next paragraph down it states that “**Its [OBMT's] role is to balance public safety and the needs of Licensed Massage Therapists by developing, implementing and maintaining the standards of professional conduct and practice**”

Under the paragraph subtitled 'Accountability' it states that the OBMT is “**Accountable for the integrity of the profession and massage therapists**”

And finally under the paragraph subtitled 'Integrity': “**The OBMT prides itself on conducting its business practices with adherence to soundness of character and ethical principles.**”

As it stands, with the current reasoning for doing away with hands on CE hours that pertain to any massage or bodywork techniques, the OBMT is in direct conflict with its own mission statement, particularly its statements on **Accountability & Integrity**.

This goes to disprove the statement from the meetings minutes and the main premise for doing away with the above CE requirements:

“...the board's intent legally is to make sure that the public is safe and not that people are good massage therapists”

If that is the only legal capacity that the OBMT is responsible for, the OBMT's last point in the mission statement, under 'Transparency', is false:

Transparency — Open and honest regulation of massage therapy in the State of Oregon.

If the OBMT still wanted to argue that the only thing they are responsible for is keeping the public safe, then cutting classes of important hands-on feedback, learning, and the import of the most current research and study (which I'm sure the board is aware) changes constantly in our field, is in direct conflict with keeping the public safe. Should our doctors be held at 'minimum competency' in a field that changes as often as our own, and be expected to have a positive outcome in keeping their patients safe? Shouldn't 'minimum competency' then entail requiring and regulating that they keep up with the ever changing research, case studies and protocol in their field? Is it too much to ask of someone dedicated to their work and the people they serve to take this responsibility upon themselves?

It is said, in the OBMT's meeting minutes, that these proposed changes are inspired in part by the Federation of State Massage Therapy Board's goals:

Some of this is based on what Federation of State Massage Therapy Board (FSMTB) has stated was their goal for continuing education two years ago. Focusing on demonstrating that a massage therapist can maintain minimum competence in what massage therapists have been trained in.

I will reiterate my point that it is not possible for a massage therapist to maintain even minimum competency 'in what massage therapists have been trained in' back when they were in massage school (for some of us that would mean well over a decade ago, or 2 or 3!). The nature of our work is in constant evolution, restructuring and re-evaluating based on case studies, research and new evidence that is constantly being brought forth.

There are many more personal opinions I have, why instigating these proposed rule changes would be a major disservice for all Oregon massage therapists, our clients and the integrity of our profession, but I will stay with arguing the reasons the OBMT has sited for the changes, in hopes that many of my colleagues voices and my own will be heard and taken into serious consideration. I believe this letter will be added to many others that hold my view.

Let us work together to uphold the vision of OBMT in their mission statement and their notions of collaboration and communication:

"Dedicated to an ongoing and evolving cooperative relationship of regulation between the massage industry, licensees, and the public... "

"Collaboration – Willingness to approach others with openness, to be open to the ideas of others and to be willing to shift off-point. Value the relationships amongst the legislators, the licensees and ourselves. Willing to craft compromise and ask questions, identify outcomes that are desired but be open to influence."

"Communication – Endeavor to listen, reflect and clearly state the role and functions of the Board in its partnership with the licensed massage therapists and the public we serve."

Let us figure out a good, practical and beneficial solution to the problems at hand, and not squander all the time, energy and dedication we have put over the past several decades into bringing our industry up to the level it is at now, and continue to be a role model for other states to follow.

Thank you for allowing me to voice my concerns and observations on this matter.

Sincerely,
Lauren Swick LMT

OBMT's Mission Statement

The Board of Massage Therapists regulates the practice of massage. This is accomplished by licensing, establishing continuing education requirements, promoting education, administering tests to establish minimum competency to practice and enforcing professional behavior and standards.

Mission Statement

The Oregon Board of Massage Therapists regulates and monitors the practice of massage therapy in Oregon. Its role is to balance public safety and the needs of Licensed Massage Therapists by developing, implementing, and maintaining the standards of professional conduct and practice.

Vision

Dedicated to an ongoing and evolving cooperative relationship of regulation between the massage industry, licensees, and the public.

Values

Accessibility – Provide up-to-date information on the internet for both the public and the licensees. Strive to be an approachable resource to the massage industry, licensees, and the public.

Accountability – Accountable for safety, health and welfare of the public, the integrity of the profession and massage therapists, as well as oversight and responsibility in reporting to the Governor and the legislature.

Collaboration – Willingness to approach others with openness, to be open to the ideas of others and to be willing to shift off-point. Value the relationships amongst the legislators, the licensees and

ourselves. Willing to craft compromise and ask questions, identify outcomes that are desired but be open to influence.

Communication – Endeavor to listen, reflect and clearly state the role and functions of the Board in its partnership with the licensed massage therapists and the public we serve.

Integrity – The OBMT prides itself on conducting its business practices with adherence to soundness of character and ethical principles.

Transparency – Open and honest regulation of massage therapy in the State of Oregon.

--

Lauren Swick, LMT

**[metta]morphosis massage studio
Earth Body Wellness East
3810 SE Belmont Street
Portland, OR 97214**

**mettamorphosismassage.com
503.957.3059 for appointments**

From: [OBMT Info](#)
To: [Kate Coffey](#)
Subject: FW: The Board/ CE requirements
Date: Wednesday, October 24, 2018 12:43:30 PM

-----Original Message-----

From: Pamela Alexander [<mailto:redshay@comcast.net>]
Sent: Wednesday, October 24, 2018 12:32 PM
To: OBMT Info <OBMT.Info@state.or.us>
Subject: The Board/ CE requirements

Good afternoon,

I was looking to get set up with some continuing education classes in the new year that will count towards my next renewal in March 2020.

I'm hesitant to sign up for anything at this point as I know that you may be changing the requirements. I found that this happened the last time I renewed. Originally, I was told a class would be excepted for my continuing education credits but at the time but for new all the requirements have changed and I was only able to use half of those hours towards my renewal.

I am a single mother and work at my massage practice six days a week. Taking time off to attend continuing education classes is not easy. It's frustrating when I take time off and pay for the classes that they then are not excepted when originally I was told I would be.

Currently, I am looking to enroll in classes this winter for the next renewal period. I'm in asking your help in trying to determine the best way to go about planning my continuing education classes.

Given that the board is still deciding is it possible to get a list of classes that will for sure suffice? If not and the class is approved, is there a possibility of having that class grandfathered in?

Thank you so much for your time,
Pamela Alexander #5736
503-452-0034

Hello Ekaette,

Please see comments and questions below. I hope that some of these might be addressed in the meeting on Monday 11/05/2018. I have also attached 1 other document that I have referred to in my letter and will plan to bring hard copies of everything on Monday.

1. I would like to understand where the definition of “minimal competencies” is located so that we all understand what exactly it is that we are “maintaining”

2. In the May 2018 Meeting minutes the following appeared

(5.2 CORRESPONDENCE) - Mr. **Frederickson** offered that he would like to see Board staff respond to inquiries regarding the CE requirement inquiries as a matter of professionalism, with the focus on public safety vs. disciplinary issues. The Board further discussed that the Board sets the bar in setting the CE requirements, and it is incumbent upon CE Provider to provide information to the Board that the CE course meets the CE requirements. Executive Director **Coffey** will provide staff training to address these concerns.

Is there more detail available about this conversation regarding

- a) “The Board setting the bar” re: CE requirements?
- b) The statement that it is “incumbent upon the CE Provider to provide information to the Board that the CE meets CE requirements?”

It is my understanding that there is currently no process by which CE Providers may submit classes for board approval. It is also my understanding that this is not a process that the OBMT wishes to provide, as it would be too costly/ time consuming. Is my understanding correct? May we get some clarification as to this particular portion of the May meeting minutes?

3. It was also noted in the May 2018 meeting minutes (11.4 CE Requirements) that ORS.687.051 (5) states that there should be a minimum of 12 hours. It also states in OAR 334-010-0015 (7) that the minimum number of hours should be 25.

- a. Can we get clarification as to the “weight” of ORS vs. OAR? Does one supersede the other in terms of “the rules”? Is there a hierarchy between these two documents?

4. In the same section of the meeting minutes listed above, it was stated by **Fredrickson** that Oregon is still at the top of the CE requirements nationally and Executive Director **Coffey** provided a review of the CE requirements of other Oregon boards.

- a. Please note that Oregon appears to be on par with many other states and is in fact NOT “at the top” of CE requirements. I would appreciate this point

being clarified for the record. (I have included some notes about other state's CE Requirements at the end of this letter.)

b. Can we get a public/ published version of what Director Coffey provided regarding the "review of the CE requirements other Oregon boards"?

5. In the September 2018 Meeting Minutes the following appears under the Public Comment Section (2)

Grossart expressed that the board's mission statement has not been updated due to the fact that, in the last couple of years, there has been a landmark Supreme Court case that has changed the landscape of regulatory bodies across the country. The board is focused on regulation instead of advocacy as well as minimum competency. This is not something that the board decided not to do, but rather to ensure that the board is in compliance with federal law.

a. What does this have to do with why the OBMT mission statement has not been updated?

Grossart went on to provide a synopsis of the ruling (page 10) but did not provide insight as to how this might pertain directly the CE Rules changes in question. Any clarification on this matter would be greatly appreciated.

6. In the September 2018 Meeting Minutes the following appears under the Draft CEU Survey Questions (8)

Grossart responded stating that it would be good for the board to conduct its own survey as the survey conducted by the Associated Bodywork & Massage Professionals (ABMP) and American Massage Therapy Association (AMTA) were based on outdated and incorrect information.

a. What was the incorrect and outdated information specifically?

Also under this section in the minutes **Kirby** noted, "there is a move nationally to do away with state licensing board" (page 7).

- a. Where is this information coming from?
- b. Does this only apply Massage Boards?
- c. Would appreciate clarification on this point.

7. Given that OAR 334-010-0047 (Competencies... Is this the minimal competencies in question? See print out attached.) specifically refers to the "application of

massage and bodywork, “fundamental techniques of soft tissue manipulation and treatment” how is the removal of hands on technique classes in line with the “new” definition of the OBMT the focus is minimal competency and regulation not advocacy?

8. General note: In Oregon, Dental hygienists must have 24 hours ever 2 years. They also MUST work under the direct supervision of a dentist. They are able to (if desired) procure an “Expanded Practice” license where they may provide dental care to the public directly (*without direct supervision*). This requires 36 hour of CEUs per biennium.

It has already been noted that LMT’s in the State of Oregon enjoy the status of independent healthcare practitioners. We do not require LMTs to practice under direct supervision.

9. Last General Note: CEU requirements from 7 (randomly selected by me) states below: **Please note that NONE of them require 12 per biennium or 6 hours per year. All are above that number of hours required.**

Alabama – 16 hours / 2 years

Arizona – 24 hours/ 2 years

Alaska – 16 hours/ 2 years

- Has an “Unacceptable CE” list – Perhaps it would provide more clarity to define what is “out” as opposed to what is “in”/ allowed?

Arkansas – 18 hours/ 2 years

- No rollover

Mississippi – 12 hours per year

Tennessee – 24 hours/ 2 years

North Dakota – 24 hours/ 2 years – 12 hours manual therapy **required**

- 3 hours Ethics first renewal – **none thereafter**
- No rollover
- 15 – 24 years of practice – 6 hours
- 25+ years – 3 hours/ 2 years

I look forward to the meeting on Monday!

Thanks for your time.

~A

Amy Bennett LMT, BCSICM

Elemental Bodywork LLC
www.elementalbodywork.net

[510 NE Dekum St.](#)
Portland OR 97211

503.781.3886
amy@elementalbodywork.net
OBMT # 11023

Board of Massage Therapists

Chapter 334

Division 10 MESSAGE LICENSING

334-010-0047 **Competencies**

A Licensed Massage Therapist must establish by successful completion of Board approved written and/or practical exams, and maintain through Continuing Education, the knowledge and skills relevant to the practice of massage and bodywork as follows:

(1) Knowledge of:

- (a) Massage and bodywork assessment and application;
- (b) Anatomy;
- (c) Physiology;
- (d) Kinesiology;
- (e) Pathology;
- (f) Legal and business requirements;
- (g) Ethical principles; and
- (h) Basic CPR.

(2) Practical skills application of:

(a) Fundamental techniques of soft tissue manipulation and treatment, and safe utilization of:

- (A) Thermal modalities;
- (B) Topical preparations;
- (C) Mechanical assistance devices and appliances;
- (D) Other applications available to the public; and
- (E) Movements and exercises that lengthen and shorten soft tissues within the normal range of the client; and
- (b) Fundamental principles of body mechanics in the application of massage and bodywork; and
- (c) Locating muscle attachments and bellies; and
- (d) Draping/coverage practices that address both function and safety.

(3) Demonstrating Treatment and Business skills in the following areas by:

(a) Developing and utilizing treatment plans addressing client conditions and concerns by:

- (A) Identification of indications and contraindications,
- (B) Informing the client and obtaining informed consent regarding the risks and benefits of the treatment plan, and

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- (C) Application and modification of the treatment plan as needed;
- (b) Using effective verbal and non-verbal interpersonal communication;
- (c) Tracking the client's non-verbal communication and adjusting treatment plan as indicated;
- (d) Utilizing an ethical decision making process;
- (e) Establishing and maintaining a practice environment that provides for the client's safety and comfort; and
- (f) Establishing and maintaining professional business records.

Statutory/Other Authority: ORS 687.121

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

History:

BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09

BMT 2-1998, f. & cert. ef. 7-22-98

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September 20, 2018

Dear OBMT,



I am a licensed massage therapist in Oregon since 2009 and am writing to state my opposition to the proposed changes to massage CE requirements. The requirement of 25 hours of continuing education on an ongoing basis supports the Board's mission to protect the public, providing licensed massage therapists an earnest opportunity to keep abreast of current issues in the field and to continue learning throughout our careers. This standard is key in maintaining the integrity of our profession in Oregon; massage therapists rely upon it to maintain the validity of our profession, and the public relies upon it to assure their massage therapist will work with them in a way that is safe, competent, and held to high standards.

As a healthcare professional, continuing education is essential for me to consistently perform safe, and current, massage therapy techniques. I highly value continuing education courses that deepen my skills and enhance my competency in a field of work that is complex, widely diverse, and multi-faceted, and many of my colleagues feel similarly. In particular, contact hours within the category of bodywork and massage techniques are critical to minimizing the risk of unskilled massage therapists injuring the public, and must be retained for the safety and integrity of the field of massage therapy.

Thank you for your careful consideration of this important matter.


Marissa Emery

LMT #16230

Dear OBMT,

Once again, I write you today to protest the ridiculous proposed changes to LMT's CE requirements. I ask you to never reduce our number of CE hours. LMT's who live in rural areas or don't practice much should not represent those of us who seek professionalism and a continued level of professional, ethical care. With the loss of our state practical exam, it is your responsibility to license and re-license competent practitioners who don't make us look like uneducated "masseuses".

I suggest you offer a semi-retired or part-time license option for those who seek a lower level of professionalism and practice. 25 hours for 2 years is a low level of requirement already. For our earning potential, it is a completely reasonable requirement. I urge you to keep the categories of CE's and allow for partial CE hours from teaching and self-directed learning. I learn more about anatomy, physiology and pathology every term I teach it at Lane Community College.

Furthermore, abolishing CE units for hands-on/contact hours absolutely contradicts our advancement of techniques and professionalism. As we age, we all turn to techniques that are easier on our bodies and our clients. Restricting that for us and the ability to write-off license renewal education on our taxes is an assault to our profession. I am dismayed by the continued efforts by the OBMT to deregulate licensed massage therapy and reduce our professional and ethical practice. Stop attempting these practices. Instead, I ask you to support us in representing a valuable, professional standard of practice that can enhance overall health and support health care. I encourage you as our board to support us in being seen as professionals by the medical field.

Sincerely,
Rosa Jimenez

Rosa's Healing Touch Massage Rosa Jimenez, L.M.T. License #10316 Phone 541-968-9278 Fax 541-431-7089

Email: rosalmt@msn.com Mail: PO Box 10861 Eugene, OR 97440

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Jana Kopp
6312 SE 17th Ave.
Portland, OR 97202
503-913-1094

RECEIVED
OCT 3 2018
Oregon Board of
Massage Therapists

Dear Jon Grossart, LMT, Board Chair and Board Members,

I write today to express my earnest concern for the Board's movement to lower the standard requirements for continuing education in the massage profession. Of you, I respectfully ask three things:

Please Listen to our stories.

Massage has saved the lives of so many from the agony of daily pain and ailments. I have been a dedicated patient of massage for the past 15 years and because of this I have overcome chronic back pain. This is due to the utmost respect my LMT has towards his responsibility to me, his patient, and his unwavering commitment to his own continuing education. It is because of this that he has been able to safely and effectively heal, and because of this that I have never once doubted my body under his care.

Please Protect patients of massage and the dignity of your field.

Lowering the level of Continuing Education required by LMTs directly impacts the safety and welfare of the general public. A decision like this only puts LMTs at greater risk of their own livelihood and therefore puts patients in the care of less educated and less capable hands.

Please Honor your commitment.

Is it not the duty of your Board that massage further gains credibility in the healthcare field as a powerful and viable form of treatment? Is it not your duty to ensure LMTs uphold and continually improve their service to the community seeking their treatment? Is it not your duty to protect the well-being of the patients who end up on their tables?

By lowering the standards of excellence among the LMT community you are putting your profession's reputation at risk. Without the education required to keep massage therapists relevant, effective, and true to their profession's promise, I will be extremely apprehensive to entrust my care to any new LMT. I see long-term negative ramifications for your field if the patient's experience is jeopardized over time.

I ask that you please consider the harm this decision would do to the general public. Thank you for your valuable time.

Much respect,
Jana Kopp



From: [Laura Magpali : A Sanctuary for Healing](#)
To: [OBMT Exam](#); [OBMT Info](#); [Investigator \(Oregon Board of Massage Therapists\)](#); [Ekaette Udosenata](#); [Kate Coffey](#)
Subject: CEU Considerations
Date: Thursday, October 4, 2018 11:34:45 AM

To The Oregon Board of Massage Therapists

Though you have surely been presented with a more eloquent response to your proposals are ce's, I feel the need to add my thoughts.

I can appreciate that you wish to reduce costs and hours, and make your job simpler. You and we LMT's all want simplicity and clarity with regards to what is required to maintain licensing. Certainly, removing any requirements for any classes that actually have to do with bodywork would "help" and make it *simpler* for you.

Not being in the industry yourselves, I can appreciate you having a very challenging time with trying to identify whether a submitted class is legit.

A Very Workable Solution:

Why not allow the schools and other appropriate professionals to determine whether a class is applicable to our profession, rather than reducing the number of hours of education by removing the topic that you don't understand?

You propose to require 8 hours of the 12 hours you are considering to go to CPR & ethics. That leaves FOUR hours of additional training in head knowledge only. CE's are supposed to help keep the therapist up to date, and current both in their skills and their profession. Your proposal omits that as an option.

You want to eliminate credit for *anything* to do with actual hands-on training. The student has graduated with minimal competency as it is, and you suggest that the solution to your not knowing what classes to approve and, to the **minimally working** therapists around the state's complaint is to **reduce hands-on bodywork education for the entire profession.**

Our profession has achieved the level of respect that is has precisely **because** we continue training, raising the bar rather than letting it slide.

Granted, the 'elders' in the profession have a hard time with having to train when their lifestyle and place in life no longer has them actively working. I realize there are a good deal of wonderful rural folks who would like to avoid the inconvenience and expense of travel for training. But it makes zero professional sense to **lower our standards as healthcare providers** in order to help out those who are essentially on the fringe of the *profession*.

I respectfully say, it's not a matter of how many therapists fit into the less-active or have-distance issues. Nor should it be about making life easier for you when there's a simple solution of turning the vetting of classes over to those who are in the industry. It's a matter of our professional standing, long and hard earned that I see being threatened by your current considerations.

Sincerely ~

Laura Magpali

"Feel Good Again!"

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ReikiClassesEugene.com Usui/Holy Fire & Karuna Reiki®
766 Foothill Dr., Eugene, OR 97405
541-525-4033

From: Carmen Miller
To: [Kate Coffey](#)
Subject: Projected CE Changes
Date: Monday, September 17, 2018 12:03:06 PM

Good Morning,

My name is Carmen Miller, L.M.T. #19803. I'm writing to voice my opinion that contact CE hours should NOT be removed from the Oregon license renewal requirements. This will in no way benefit our occupation. I realize the contact CE classes broadly vary from one practitioner to another; my contact classes as a Certified Rolfer™ will look much different than those of a therapist practicing Shiatsu, spa treatments, or Thai massage, but we all hold in common the need for these contact hours to maintain and further our understanding and skills needed for our livelihood. If these contact hours are removed from the requirements, many practitioners will not be able to afford to take the contact classes they need to further their craft, which are considered unneeded for their licensing. As a result, talented instructors and good quality classes/programs will become harder to find in Oregon, as a result of this proposal. The only benefit of this proposal being approved is less paperwork and hassle on side of the person(s) handling the renewal process in Salem, it has severe consequence for everyone else involved. Thank you for your time.

Carmen Miller, Certified Rolfer™

Dear Ms. Udosenata-Harruna,

As a licensed Oregon Massage Therapist, I am writing regarding the proposed CE rule changes. As a health professional, I consider my continuing education to be essential in performing safe and current massage therapy techniques. I choose my continuing education courses carefully, and strategically, to address the concerns of my clients.

These courses are an investment in my profession and in my clients. I want to ensure that I continue to receive credit toward my license renewal when I participate in these courses.

I have been licensed for 20 years and I have worked for a D.O. who thinks a monkey can be trained to massage and I have worked for a D.C. who calls his practice a "rub club". Are those frame of minds what you would like our reputation to be?

I enjoy courses such as:

Biodynamic CranioSacral Therapy

Visceral Manipulation

Lymphatic and other classes I would like to participate in the future such as: Neural Manipulation

Total Body Balancing

these courses have been essential and important in how I enhance my skill set and I enjoy learning.

These courses are taught by highly educated and practicing clinicians and are professionally run. Thank you for your service and for the opportunity to be heard. I hope I'm not too late because the classes are crucial for my education.

Sincerely,

Billie Pettibone

#6302

billie.massage@gmail.com

(541) 643-4733

Donald F. Schiff, BS, LMT.
OR #23463, NM LMT #8
14095 SW Walker Rd. #42
Beaverton, OR 97005
11/4/2018

Oregon Board of Massage Therapists
728 Hawthorne Avenue NE
Salem, OR 97301

Dear Board Members:

Thank you for removing the proposed reduction of continuing education hours for LMTs from your rules hearing. I believe that was a prudent choice. I commend you for specifying the Basic Life Support (BLS) Healthcare Provider version of CPR as a requirement for continued licensure. If LMTs are to have the responsibilities and privileges of allied health practitioners, it is incumbent on the Board to require training that allows us to successfully act as such. That is why I am so opposed to weakening biennial CE requirements. The initial education many of us received was geared towards esoteric or spa practices. No matter how good it was, it did not begin to train massage therapists to be health care practitioners. Yet all of us have the responsibility to operate within healthcare norms. How do we do that? Through continuing education.

So how much CE is enough? 46 of 50 states and the District of Columbia require licensure or certification for Massage Therapists. Of those 47 jurisdictions, 22 require 24 hours or more per biennium. ND requires 32 hours per biennium. Four require between 16 and 20 hours. NM requires 16 hours, plus an additional 16 hours for instructors. Eight states require between 6 and 12 hours. ID requires 6. Thirteen states require no continuing education that I could determine from a casual search. Presuming that this Board wants to require continuing education at all, do you want to be like Idaho, or like the near majority of states requiring 24 hours or more, including Washington? OR PT Assistants are required to complete 24 hours of CE per biennium. LMTs, with our independent practice rights, should be required to complete at least as much.

I do believe that in the long run, our profession and the public are best served by settling on one standard for initial and continuing education to enhance portability, and ultimately reciprocity. However, these efforts are in their infancy. I believe that Oregon should blaze the trail for massage therapists as healthcare providers. Maintain our requirements. Upgrade them as needed. Don't make bad compromises which could endanger the public health and welfare.

According to the draft minutes of the September 17, 2018 OBMT meeting, Chairman Grossart "expressed that the board's mission statement has not been updated due to the fact that, in the last couple of years, there has been a landmark Supreme Court case that has changed the landscape of regulatory bodies across the country. The board is focused on regulation instead of advocacy as well as minimum competency. This is not something that the board decided not to do, but rather to ensure that the board is in compliance with federal law."

I have read the case Chairman Grossart cited, *NC Board of Dentistry v. FTC*, as well as a few commentaries. It is an anti-trust case in which the US Supreme Court decided that regulatory Boards like OBMT, which are controlled by market participants (LMTs in our case), do not have state action

immunity from federal anti-trust laws, which is to say that they can be sued if they act in a monopolistic manner. That's all. It did not say that such regulatory agencies had a duty not to act in the general interests of the profession. Indeed, it implied that it is the nature of such entities to do so.

Limits on state-action immunity are most essential when the State seeks to delegate its regulatory power to active market participants, for established ethical standards may blend with private anticompetitive motives in a way difficult even for market participants to discern. Dual allegiances are not always apparent to an actor. In consequence, active market participants cannot be allowed to regulate their own markets free from antitrust accountability. (*NC Board of Dental Examiners v. FTC*, p. 8)

I see nothing in the case which necessitates that the Board change its mission statement, nor eviscerate its continuing education requirements to focus on “minimal competencies,” as Chairman Grossart claimed. It just means that a person can sue the Board if it acts in a monopolistic manner, like the NC Board of Dentistry did. In any case, OBMT has an Assistant Attorney General at its disposal. You might want to ask her about what the case means to the operation of the OBMT.

Now, there is one reasonable change OBMT might want to consider to ease the financial burden of taking in-person continuing education on rural LMTs. Only a few states make a distinction between contact and non-contact hours. The trend in education is toward more online courses, not fewer. Many college courses are now taught online. Obviously technique courses must be taken in person, but otherwise the distinction is arbitrary. The restriction may have made sense ten to twenty years ago, when distance learning was novel, and therefore suspect, but not now. In addition, eliminating the distinction would simplify reporting for renewals, which would enhance compliance.

The arguments for restricting distance learning revolve around the quality of education provided, but unless the Board wants to regulate CE itself, a Herculean task, I believe that is best left to those organizations in the profession which are tasked to do so. There is absolutely no need to duplicate efforts which are already accomplished, albeit imperfectly, by the private sector. NM regulates instructors and course content, and it has been a subject of contention for the last six years. It's a nightmare for everybody. Course approvals take forever, and top instructors from out of state are made to jump through ridiculous hoops to get individual approval for courses long accepted by NCBTMB. In some cases, international experts have been prohibited from teaching there. One modest step you might consider is to require that CE instructors have 3 years of experience in the subject area they teach, which the WA Massage Board is currently considering. Otherwise, I believe course quality is an concern which market forces will eventually take care of.

Thank you for receiving my comments at such a late date. While I am quite impressed with the draft notes from the last OBMT meeting, an attorney friend advised me that written comments are always preferred because they are durable, can be referred to at will, and are not subject to transcription errors.

Respectfully,

Dear Ekaette Udosenata-Harruna,

I am writing regarding the proposed CE rule changes. I have been an Oregon Massage Therapist for twenty years, I am a teacher of structural integration (in the Anatomy trains school), and I teach my own classes on Neurovascular Release for Structural and Functional Balance.

As a healthcare professional, I choose my continuing education courses carefully, and strategically, to address the concerns of my clients, and so do the massage therapists and structural integrators (who are licensed as massage therapists in this state). We need to be able to choose hands on courses and ethics courses that are the most relevant to our practices.

These courses are an investment in my profession and in my clients. I want to ensure that I continue to receive credit toward my license renewal when I participate in courses such as these:

CranioSacral Therapy
Visceral Manipulation
Neural Manipulation
Neurovascular Release
Lymphatic Balancing

These classes have been essential to my growth as a hands on bodyworker, and I am able to do more refined and effective and safer work because of them. I and many other practitioners who invest in such classes know that it is important to the field of massage and bodywork for such advanced classes to count as continuing education credit for massage license renewal.

Thank you for your service on the Board, and for this opportunity to voice my concerns.

Sincerely,

Kirstin Schumaker, LMT (license # 6582), BCSI
Agile Body Structural Integration
agilebodysi.com
[503-720-7403](tel:503-720-7403)

located at the Washburne:
72 West Broadway, Suite 220
Eugene, OR 97401