



Oregon

John Kitzhaber, MD Governor

Board of Massage Therapists

748 Hawthorne Ave NE

Salem, OR 97301

Phone: (503) 365-8657

Fax: (503) 385-4465

www.oregon.gov/OBMT

**Insurance Billing and Fee Splitting
Task Force Meeting
January 26, 2015
Lane Community College
Downtown Compose Room 125
Eugene, OR**

Attendance

Committee Members:

Mike Blackmore, Chair/LMT
John Combe, LMT
Jamin Rak, LMT
Samantha Rose, LMT (Absent)
Dr. Chris Osterlitz, (Absent)

Board Members & Staff:

Kathy Calise, Board Liaison
Kate Coffey, Executive Director
Ekaette Udosenata, Policy Analyst

Public:

Ariana Orton, LMT
Kathy Adams LMT
Chad Ravert LMT
Mary L Marlow LMT

CALL TO ORDER – Mike Blackmore called the meeting to order at 9:07 pm.

INTRODUCTIONS: Present at time of introductions Blackmore, Combe, Calise, Rak, Coffey and Udosenata.

Approve agenda: The Task Force approve the agenda with no changes.

Task Force assignment: The Task Force committee reviewed the assignment from the Board. The assignment is for the Task Force to determine if there is a need for rules on fee splitting and insurance billing and if there is provide the board with the proposed rules.

Tools provided to the Task Force: The Board provided the Task Force members each the following:

- The book "Hands Heal" by Diana L. Thompson.
- A publication by the American Massage Therapy Association (AMTA) titled "The Value and Efficacy of Massage Therapy in Integrated Health Care".
- Copies of rules from other State Board's regarding fee splitting and insurance
- Correspondence from LMT's regarding the subject matter

Fee Splitting:

Blackmore noted that Groupon can be considered fee splitting and it has become a law in New York that as a Massage Therapists, Groupon cannot be used to solicit business.

Coffey explained that the reason the federal law on fee splitting does not apply to LMTs in Oregon is the law pertains to those who accept federal funds via Medicare or Medicaid.

Combe noted that the group needs to be cognizant that it is not setting up the board to put itself in a position where it violates the law whether in state or nationally. If LMTs are planning to offer service for federal programs, they have to ensure that they are abiding by federal regulation for example, obtaining a prescription from a physician for clients who have Medicaid and Medicare. He further noted that the delicate Rope that the Board has to watch out for is simply that, the Board wants to safe guide the public but it should not hinder the LMTs in the process either. **Combe** further questioned if it is the intent of the Board to have something beyond the core curriculum for LMTs to follow.

Calise explained that at some point in time, the Board discussed the matter of insurance billing and concluded that it would behoove the LMTs who plan to bill insurance to take advance training.

Defining fee splitting

The Task Force agreed that in order to address the issue of fee splitting it would be important to first have a comprehensive understanding of the issue and secondly, define the issue. The Task Force discussed the issue of Groupon and concluded that this method of advertisement is considered fee splitting. When one pays for advertising, one is contracting with the advertising agency where in some cases, the business owner keeps a certain percent and a certain percent goes to the advertising agency. In some instances, many LMTs find themselves in an overwhelming situation where they are not able to fulfil the level of services they contractually agreed to.

Rak noted that with all the regulations out there regarding health care professionals and their clients, the Task Force needs to be mindful when making recommendations to update the Rules with a fee splitting definition. The definition has to be clear of what constitutes fee splitting and what is considered showing gratitude.

Combe noted that the Task Force needs to be aware and not discriminate against any demographic of the LMTs. As a task force, when recommending a rule change, the Task Force needs to at least entertain the idea of ensuring that there is balance in the requirements or guideline and the resources made available to the LMTs to deal with the changes. In essence, there has to be some form of education made available to the LMTs to prepare the LMTs for the changes.

Coffey noted that if the task force is going to write a rule regarding fee splitting, there has to be a definition for fee splitting.

Calise read from page 7 of the AMTA publication "The Value and Efficacy of Massage Therapy in Integrated Health Care". **Calise** further noted that LMTs are going to be treating their customers as patients very soon rather than clients.

The task force agreed to add the rules on fee splitting to the section of OAR 334-030-0001. The recommendation needs to be flexible enough to evolve with the ever changing world. A definition of Fee Splitting will need to be added to the Oregon Administrative Rule.

Insurance Billing:

The Task Force discussed the matter of Insurance Billing and agreed that there has to be an understanding of what is considered a discount especially if it result in dual fee schedule. When an LMT enters into a relationship with an insurance company, it is unlawful for LMTs to charge the insurance different from none insurance services rendered.

The Task Force inquired whether or not the Board can send a case or cases to the Dept. of Insurance and

Finance or the Department of Justice for reprimand. It was determined that the Board only has jurisdiction over the statutes and rules that are provided to the board.

The Task Force discussed the matter of Over Billing; Billing for Services never Rendered and Over Treating with no Outcome Based Expectations. The Task Force agreed that writing one rule that encompasses these three main issues that have become problematic in the massage industries in regards to insurance billing would be the best approach. They further concluded that it is critical for LMTs to be educated on these practices simply because, the techniques of insurance billing is a technique where advance training is necessary and should be required to practice this act of insurance billing. The Task Force further noted that having a more defined ethics and scope of practice will be further strengthening the Board's Preventative efforts.

Combe suggested that the Board include this subject matter in the core curriculum. This will allow entry level massage therapist to be aware of insurance billing and fee splitting before leaving school. **Combe** noted that currently, the Board has a wide open scope and it needs to be a little more specific. The board needs to look at improving the education requirement first before looking to impose new guidelines. With the changes that are to occur in the next few years, it will behoove the Board to find solution that would address the issue in the long run and not just patch up the problem today.

Chart Note or Client Intake form:

Blackmore noted that currently, the Board does not require chart notes or client intake forms. The Task Force questioned if this should be a requirement and if it should be address in this assignment?

Combe noted that the Board does not expect nor require the licensees to perform a client intake or perform chart note. As a result, the LMT lacks a form of liability protection. It is essential and it is overdue for the licensing Board to maintain that as a requirement and the simple fact of liability purposes.

Rak agreed that this is an important matter that should be discuss and he noted that this is subject matter that will completely redefine massage and should be discussed at a different time. **Rak** further recommend a language change that states "to care for a client from a referring physician" to 334-030-0005.

The Task Force recommended that, there has to be a set standards when it comes to insurance billing and education especially in the Core Curriculum. To ensure that students are getting the necessary exposure to the subject matter of insurance billing before entering the Massage industry as a practicing massage therapist. Furthermore, the Task Force agreed that It should be mandated and required in rules that LMTs have liability insurance. In addition, the Task Force agreed that the professional standard and ethical section of the Rules needs to be clarified in great details.

Homework assignments:

Rak will send an email to **Blackmore** regarding the language that should be added to the recommended rules

Combe is in support of adding language to the rules with a modification of the Core Curriculum. This is the direction that the Board is going and it is important to educate the people well rather than under educate them. At a minimum require 25 hours of curriculum on insurance billing.

Next meeting:

The task force agreed to create a proposed Rule via electronic correspondence to address the issues of insurance billing and fee splitting as assigned by the Board.

Public Comments: No comments at this time.

Announcement:

The task force will get a final report to the ED by the 27th of February and Mike Blackmore or Kathy Calise will present this at the Mach 9, 2015 Board Meeting

Meeting adjourned at 12:55 pm

DRAFT