



Oregon

Theodore R. Kulongoski, Governor

Board of Massage Therapists

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BOARD MEETING MINUTES

October 4, 2010

Attendance

Board Members:

Kathy Calise, Public Member, Chair

Heather Bennouri, LMT, Vice Chair

Melanie Morin, LMT

Crystal Collier, LMT

David Fredrickson, LMT

R. Craig McMillin, Public Member

Tim Driscoll, D.C., Public /Health Member

Staff:

Lori Lindley, Assistant Attorney General

Chris Montenegro, Compliance Manager

Kathryn Watson, Exam Coordinator

Kristy Huffman, Intern

Public: Cindy Robert Leah Bowder Jenna Sanders Kathryn Hoover
Candace Spencer Taurie Murray Twyla Lawson

Call to Order

Calise called the meeting to order at 9:03 am. Role call was performed. Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll were present. Introductions of board members and staff were made as well as introductions from the public in attendance.

- 1) **Approve Agenda** - Fredrickson moved to approve the agenda. **Second the Motion: Driscoll In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll . Opposed: None. Motion carries.**
- 2) **Approve Minutes of August 9, 2010 meeting** – McMillin moved to approve the minutes from the August 9, 2010 Board meeting subject to future revisions. **Second the Motion: Bennouri In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries.**
- 3) **Directors Report** – While not in attendance, Peccia provided the Board members with a budget comparison, forecasted and actual for July-August of 2010. The Board consensus is that the outlook is slightly less bleak. **Bennouri** wishes to see the outlook on late fees as they seem to be less than expected. **Bennouri** thinks that the draft provided for the town hall meeting was good. The upcoming winter weather may cause board members to call in for board meetings during the winter months rather than be physically present.
- 4) **Committee Updates** –
 - a) **Education/Scope of Practice Committee** – This committee did not meet this month but they have compiled information regarding exemptions by state
 - b) **Rules Committee** – Fee for verification and reprint to be increased to \$10 each which is still considered nominal compared to other states. Language regarding fee increase will need to go to a December rules hearing. **Calise** reports that the massage community has seemed receptive to this increase and the public is appreciative of the town hall meetings.

c) **Multiple Discipline Task Force – Calise** reports that this committee may only meet 1 or 2 more times. The committee has served its purpose and will be disbanded. Report to follow in November Board Meeting.

5) Board Business

a) **Proposed Rules – 334-001-0012** budget changed to \$1,500,000 334-001-0055 (2) stipend added for board chair of \$375.00 per month. 334-010-0033 fees schedule needs to be changed to initial license reflected as \$100 and renewal of active license reflected as \$150. The fee schedule is to be renumbered to accommodate this change. **McMillin** moves to accept the rules as amended. **Second the Motion: Fredrickson. In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries.**

b) **November Board meeting - Bennouri moved** to change the November 2010 board meeting to November 15, 2010 due to multiple board member conflicts. **Second the Motion: Collier In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries**

c) **2011 Calendar Discussion –** Discussion continued that the travelling board meeting was scheduled too late in the year on the 2011 calendar. The travelling board meeting was moved to April 22 & 23, 2011. The September board meeting was moved to September 12, 2011. **Bennouri moved** to approve the 2011 calendar as amended. **Second the Motion: Morin. In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries.**

Collier will be excused from the February 2011 Board meeting.

6) **Public Comment –** Cindy Robert with AMTA, Oregon Chapter states that she appreciates that the Board Chair has reached out to her regarding working together.

Lindley arrived at 9:25 am

Character questions, committee expectations and the mission statement are deferred to the November board meeting.

Calise clarified that the September board meeting did not have a quorum and therefore is to be considered a committee meeting as no decisions could be made.

7) EXECUTIVE SESSION

The Oregon Board of Massage Therapists will now meet in executive session, pursuant to ORS 192.660(2)(f) to review, discuss, and consider mediation communications that are confidential and exempt from disclosure, pursuant to ORS 192.502(9), 36.224(6), 36.220(1)(a), and OAR 334-001-0051(6). The Board may also consider and discuss in executive session information obtained as part of an investigation of a licensee or applicant, pursuant to ORS 192.660(2)(k). The Board may also review, consider, and discuss written legal advice provided by the Department of Justice that is confidential or privileged and exempt from disclosure under ORS 192.502(9) and ORS 40.225 and other applicable authority.

Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session. At the end of executive session, the Board will return to open session and welcome the audience back into the room.

The Board entered into Executive Session at 9:34 per ORS 192.660(2)(k) and returned from Executive Session at 4:07.

8) Executive Session Enforcement Action

- a) **Initial License Applicant AA – Bennouri moved** to grant a conditional license with the following stipulations: supervised by a licensed health practitioner in a therapeutic environment, she and clients to be fully clothed during all sessions, provide proof of 6 CE's in ethics, stay in compliance with all rules and laws, check with the board prior to changing employment, peer or mentor supervision to meet 1 hour per week and mentor to be given written permission by licensee to speak freely with the OBMT pertaining to their supervision relationship, no unsupervised massage of any form, the OBMT reserves the right to amend, modify or rescind these conditions at any time. If licensee leaves the state for any period, the time period is thereby tolled. **Second the Motion: Driscoll. In favor: In favor: Calise, Bennouri, Morin, Collier, McMillin and Driscoll. Abstained: Fredrickson Opposed: None. Motion carries.**
- b) **Initial License Applicant AB – McMillin moved** to grant license unconditionally. **Second the motion: Morin. In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries.**
- c) **Initial License Applicant AC – Bennouri moved** to grant a conditional license as follows: licensee must have 2 years of supervised employment, there is to be no independent work until the 2 years of supervised employment has been completed, written consent is given to the employer for the OBMT to request information at any time, 3 contact hours of Ethics is to be included with the December 2012 renewal, to stay current with all laws and rules pertaining to massage. **Second the motion: Fredrickson. In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries.**
- d) **Exam Candidate AD – Bennouri moved** to take no action. Board lacks authority to grant due to statutory limitations. **Second the motion: Driscoll In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries.**
- e) **Case 986 – Bennouri moved** to approve draft settlement agreement as submitted **Second the motion: Morin. In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries.**
- f) **Case 860 – McMillin moved** to dismiss the pending notice due to lack of evidence **Second the motion: Driscoll In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries.**
- g) **Case 896 – McMillin moved** to defer consideration to allow further investigation by the board. **Second the motion: Fredrickson In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries.**
- h) **Case 1056 – Morin moved** to issue a Notice of Proposed Action for one violation of ORS 687.081(i) *Engages in unprofessional or dishonorable conduct.* and OAR 334-040-0010(10) *Assisting, employing or permitting an unlicensed person to practice massage.* The fine is \$500 **Second the motion: Driscoll In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries.**
- i) **Case 790 – Morin moved** to accept the final order in the packet **Second the motion: Collier In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries.**
- j) **Case 967 – Bennouri moved** to issue a final order **Second the motion: Morin In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries.**
- k) **Renewal Applicant AE – Bennouri moved** to rescind the motion to grant a conditional license. **Second the motion: Driscoll. In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries. Bennouri moved** to revoke the license. **Second the motion: Fredrickson In favor: Calise, Bennouri,**

Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries.

l) Case 909 – No motion

m) Executive session Closed case report – Bennouri moved to accept closed case report as submitted Second the motion: Driscoll In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries.

Case No. 905

Allegation: Unprofessional Conduct Closed: Compliance Met

Case No. 1008

Allegation: Unprofessional Conduct Closed: Unable to Substantiate

Case No. 1022

Allegation: No License Number in Ad Closed: Compliance Met

Case No. 1023

Allegation: No License Number in Ad Closed: Compliance Met

Case No. 1026

Allegation: No License Number in Ad Closed: Compliance Met

Case No. 1030

Allegation: Failure to Disclose Adverse Action Closed: Allegations Withdrawn

Case No. 1041

Allegation: No License Number in Ad Closed: Compliance Met

Case No. 1046

Allegation: Non-Compliance with a Board Order Closed: Compliance Met

n) Public Enforcement Action – Collier moved to accept the public closed cases as submitted. Second the motion: Bennouri. In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries. Fredrickson recused from case 1053.

Case No. 927

Mark Cohen

Allegation: Failure to Disclose Adverse Action Closed: Settlement Agreement Issued

Case No. 954

Mcihael Ochoa

Allegation: Unlicensed Practice Closed: Final Default Order Issued

Case No. 973

Brandon Chaffinch

Allegation: Unlicensed Practice Closed: Final Default Order Issued

Case No. 1011

Leonel Duarte

Allegation: Other Closed: Settlement Agreement Issued

<u>Case No. 1018</u>	<u>Courtney Eilertson</u>
Allegation: Other	Closed: Settlement Agreement Issued
<u>Case No. 1043</u>	<u>Rachel Heichen</u>
Allegation: Other	Closed: Settlement Agreement Issued
<u>Case No. 1053</u>	<u>Jessica Donohue</u>
Allegation: Other	Closed: Settlement Agreement Issued
<u>Case No. 1054</u>	<u>Lisa Najarian</u>
Allegation: Other	Closed: Settlement Agreement Issued
<u>Case No. 1055</u>	<u>Jeremy Efseaff</u>
Allegation: Other	Closed: Settlement Agreement Issued

9) Announcements

- a) **Executive Director Employment - McMillin moved** to ask board chair to begin negotiations to employ Kathleen Coffey and to immediately ask attorney general office to begin drafting an offer letter of employment with the expectation that the board will be prepared to vote at the November board meeting. This draft letter to be provided to board members for approval and input with 3 day objection period. **Second the motion: Morin** There is no public comment. **In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries.**
- b) Calise will be out of town on board business until October 14, 2010 but will be accessible by email.
- c) Borderline provided for board member review
- d) Next board meeting moved to November 15, 2010 at 9:00 in the board office.

10) **Adjourn Meeting - Morin Moved** to adjourn the meeting at 4:28. **Second the motion: Driscoll. In favor: Calise, Bennouri, Morin, Collier, Fredrickson, McMillin and Driscoll. Opposed: None. Motion carries.**