

**MINUTES OF THE MASSAGE THERAPY
ADVISORY COMMITTEE
Thursday, January 18, 2007
Room, 1952, Riffe Center**

Call to Order: Ms. Rieve called the meeting to order at 1:07 p.m. on Thursday, January 18, 2007.

Committee Members Present: Rick Phillips, Dennis Gibbons, Rick Greely, Jeanne-Marie Hall, and Mark Melecki

Guests Present: Laura Issenmann, Virginia CMT; Julie Troiano, MT from Marion General Hospital, Ramona Chance, AMTA Ohio Chapter

Staff Present: Kay Rieve, Sallie Debolt, Mike Miller, Debbie Jones, and Judy Rodriguez

Minutes Review and Approval – July 20, 2006

Mr. Gibbons moved, Mr. Greely seconded, and the minutes were approved.

(Note: at the end of the meeting, Mr. Greely noted that on page 2, paragraph 4, line 10, “Mr. Melecki” should be “Mr. Miller”. He also noted that the next line should also be changed from “Mr. Melecki” to “Mr. Miller”. Changes so noted and minutes corrected).

Approval of 2007 MTAC Meeting Dates

Ms. Rieve stated that the dates are April 19, July 19 and October 18 at 1:00 pm. She stated that Room 1960 is reserved for the next two meetings. Ms. Rieve mentioned that the Board is scheduled to move in June or July to the third floor of the Rhodes Tower. Room reservations can not be made there until the Board is a tenant. Room 1960 has been scheduled in the event the move has not taken place by the July meeting. Ms. Rieve will keep the council informed of developments regarding the move.

New Business

Draft Legislation

Mike Miller offered proposed language to change statute 4731.19 according to suggestions made in the last meeting. (See page 7 of the attachments). He stated that that the language of B3 was the issue. Mr. Greely stated that it might be better to use the language “current educational requirements”. Mr. Miller mentioned the reason he wrote it this way was because of past discussions surrounding the difficulty of going back case by case to see how many hours were required when that person graduated. Mr. Greely offered an example of an MT who was educated in the 80’s. At that time the requirement was 350 hours. If the MT had been practicing on the West Coast and was certified, do we want them to be able to sit for the exam? Mr. Melecki mentioned that he was fine with the principle of the statute exactly as it is written. He thought the issue of using Mr.

Greely's language had more to do with the fact that if we put numbers in this statute, and we increase requirements in the future, that we'd have to open the statute again. Mr. Miller agreed that would be the case. It was acknowledged by the group that this was not a licensing issue but just requirements of sitting for the exam. Ms. Rieve offered that if we raise the educational hours to 1000 in a couple years, this statute states that they have to have at least 750 hours. Mr. Greely asked if we could put in language that would say something like "at least the minimum number of hours required at the time of graduation." Mr. Miller offered that you'd have to go back each time to see what those hours were. Mr. Greely stated that he was trying to avoid having to back and reopen the statute should the required hours increase. After discussion it was agreed to leave it as written and should hours increase in the future, the statute would be changed.

Discussion then ensued concerning B2. Mr. Melecki stated, and the committee agreed, that we need to create language that is broad enough to allow for licensure by a board governed by a state, but narrow enough to cut out the business license people. Mr. Miller stated that it was no problem to add the verbiage to reflect that. Ms. Rieve stated what the board does now. If an out-of-state applicant graduated before 2006, and the school was on the list prior to 2006, we're letting them sit for the exam. If they graduated after 2006 then they have to be approved under the new rule. That process does the same thing this statute does.

Mr. Gibbons asked if opening up the statute in the future would create foreseeable or unforeseeable complications. Mr. Miller said that it would create both. Ms. Rieve asked if the Board is trying to put through this statute change. Mr. Miller stated that it is not. He said that the Board does support the change but he is not sure they will be the ones pushing it.

Mr. Melecki asked about the Board's authority to require continuing education of massage therapists. Ms. Debolt stated that currently the Board does not have that authority. Mr. Gibbons mentioned that it would have to be in statute. Mr. Melecki stated that it could be an easy one-line addition. This would give the Board the authority at some future point to write rules that don't have to go through the legislature. Discussion then ensued around the issue of a continuing education requirement. Ms. Hall stated that Ohio's education requirements are of the highest in the nation to begin with and that requiring continuing education was not necessary. She stated that the states that do require continuing education have initial education hours requirements much lower than ours. She felt continuing education should be optional. Mr. Gibbons stated that putting it in statute only gives the Board the authority to do it, not make it mandatory. It would give the Board the authority to establish a rule at a future date. Ms. Hall felt the Board should get feedback from licensed MT's before addressing the issue. Mr. Greely stated that MT's were the only health care profession in the State of Ohio that doesn't require continuing education. Mr. Melecki raised a question as to how many of the 8-9000 licensees are actually practicing? Ms. Hall agreed and stated that a survey of licensees would be quite helpful. Mr. Gibbons stated that opening up statute is a difficult process and that while we have this statute open it might be good to add something at this time giving the Board future authority. Mr. Melecki opined that continuing education is a

mark of a professional versus a hobbyist. Ms. Hall offered that a survey of licensees should be conducted before we address this issue. Ms. Chance stated that professional organizations require it. Mr. Phillips offered that the professionals he spoke with think requiring continuing education is a good thing. Ms. Rieve offered that we could put a survey with the renewal applications.

Ms. Troiano stated that this issue is why she came to the meeting today. She said that she is an MT at Marion General Hospital. She is not in a spa, or doing relaxation therapy. She does strictly medical work. She said doctors are asking her how they would know other MT's would have the same knowledge she does in acute disorders. They want to know that is being done to assure that MT's across the board know how to treat crises patients. Ms. Hall stated that that is a specialized profession. To require the same continuing education for MT's in spas would not be fair. Optional continuing education or employee training would be the better way for those in specialized fields.

Mr. Greely said we shouldn't really differentiate between MT's in spas and those in clinical practice. MT's right out of school aren't going to know how to treat COPD. He stated that most MT's aren't going to want to treat COPD. Some will, and that's where specialization comes in. He then opined that the definition of professional includes continuing education.

Mr. Gibbons asked Ms. Debolt and Mr. Miller if it would be easier to add something to this statute now just to give the Board the authority to require it in the future. Mr. Phillips reiterated that this wouldn't give the requirement now, just give the board the authority to do it in the future. He also stated that if we do a CE requirement in the future, perhaps we wouldn't need to raise the educational requirement to 1000 hours. Mr. Miller stated that it would be easier to add that now while the statute is open. However, his feeling was that continuing education wasn't an indicator of competence in a field. Ms. Issenman offered that continuing education doesn't necessarily have to be about the profession necessarily. Ms. Debolt agreed that CE doesn't ensure competency. Ms. Debolt said that when language is added to the statute, it's a given that there will be a requirement in the future.

Mr. Melecki stated that the Board's charge is to protect the public and it requires continuing education of all other professions it regulates. He then asked, what role does CE have in accomplishing the Board's mission to protect the public. Mr. Miller offered that the Board is grappling with the same issue. They want a competency-based measure to know that people are up to standards. They don't believe that CE proves competency either. It's just been a standard used because there hasn't been competency testing out there. Mr. Melecki stated that in Ohio the AG wrote an opinion that said anyone could do massage but not massage therapy. So what advantage does having a license provide? He said that continuing education and a higher educational requirement are the closest we get to competency. Ms. Hall said that the high hour requirement in itself produces more capable MT's. Ms. Chance said that as a nurse, she took some CE classes that were not required because she wanted to. But now that there is a requirement, people scramble at the last minute before applying for recertification. Ms. Jones asked Ms. Chance about

CE offered by AMTA. Ms Chance stated that MT's can take just about anything; business, ethics, etc. Ms. Jones asked if the MT field was changing enough to say that continuing education is necessary like it is for doctors. Mr. Greely said yes, there are changes in the profession and there is new research coming out all the time. Some textbooks say massage is contra-indicated in cancer. Yet, the James Cancer Clinic uses it all the time. If you graduated a long time ago, things have changed significantly. We have direct access to the patient. If a patient comes with a medical complaint, unless we're staying current we don't know whether to send this patient on or not. Mr. Greely also said that the techniques haven't changed much in 100 years but the application of those techniques is changing all the time. He stated that's why CE is so important. Mr. Greely stated that we can wait to get information from a survey. Ms. Rieve stated that we could send some questions in the next renewal mailing in May. We could have some information by the July meeting. Ms. Rieve asked that the committee to email suggestions for questions. Ms. Jones said she could bring a sample of the survey to the next meeting.

The committee then addressed page 8 – the changes to Rule 4731-1-11. Ms. Rieve stated that Rule E was changed from 90 to 120 days to reflect what is already in practice. In regards to rule F, Ms. Rieve stated that they have schools turn in their forms at the last minute. One of the staff attorneys noted that there was no rule regarding a deadline for turning in the forms. So this rule was crafted. Mr. Greely asked if the deadline reflects a postmark or receipt in the office. Ms. Rieve stated that it has to be in the office by the deadline. She stated that 45 days gives them time to send out the admittance cards 30 days in advance. Mr. Greely stated that there should be an implementation date 18-24 months out so allow schools to adjust to the schedule. Ms. Rieve said that they added the last line so that the student doesn't have to pay the price for the school delaying. She also stated that they would take a fax on the deadline. Mr. Greely said he will take the rule to the Council of Schools. Mr. Miller stated that we wouldn't have to put a date in the rule. A cover letter could go out stating a date of implementation. Ms. Rieve said that this will go to a rules hearing and information will be posted on the web-site.

Sexual Misconduct

Ms. Debolt passed out to the committee Chapter 4731-26 of the Ohio Revised Code dealing the sexual misconduct among physicians. She is seeking advice on how to adapt the rules to MT's. Massage therapy is different from medicine in some ways, but the same in others. She assumed some changes needed to be made based on the difference in the power differential and the practice of massage in general. Ms. Debolt asked that the committee email their changes and/or comments to her by the April meeting.

Results from December, 2006 LMT Exam

Ms. Rieve handed the committee the results of the exam. She stated that for 1st time takers the passing rate was 68.7% for the limited branch section and 65% for the basic science section. Mr. Phillips stated that his students felt it was a fair exam. Ms. Rieve stated that the results were done early and these MTs have been licensed. Ms. Rieve stated that the new exam will be used in December of 2007.

Mr. Gibbons asked if the Board is looking at the schools who had high fail rates. Ms. Rieve stated that they are. She said there are schools that have had high fail rates for several exams. They will be put on probation which means they have three exams to bring up their pass rates. She stated that it will be a public document.

Ms. Hall asked about the rule regarding probation. Ms. Debolt read the rules from 4731.1.18 and 19.

Council of Schools

Mr. Greely said that at the last meeting the COS wanted to develop a strategic plan. As a result, some of the Board may be contacted. He said they want to establish a plan to move the profession along and need key contacts at the Board to aid that process. Mr. Greely stated that next meeting is March 5 at Columbus State. It was agreed that it would be beneficial to have someone from the Board attend. Ms. Rieve said it would be good to have the Council present to the limited branch committee. She said she'll try to come to the meeting and bring Ms. Debolt or Mr. Miller.

Federation of State Massage Therapy Boards

Ms. Chance stated that they got an email from the Meaningful Measurements group which stated that they got a good response from the job task analysis survey. They will use this information to blueprint the test in February. Their plan is to have the test ready by July 2007. They will also do a statistical analysis based on the career path part of the survey. She said that right now they need more questions. If Ohio wants to use this as their test, they would like Ohio to submit some questions. Mr. Gibbons thought it might be helpful for them to have a sample of our test. He also stated that the FSMTB is working very hard to get questions that are well-researched and of high quality. Ms. Rieve stated that she would have to talk with Diane Thompson regarding legal, ethical issues of our involvement with the test construction.

The committee then discussed Board representation at the Federation. Ms. Chance said that representation by the Board has to be someone who is an employee of the Board. Ms. Rieve said that MTAC members may not be qualified to go. Mr. Gibbons felt they would rather have a member of the Board. Ms. Chance said that there aren't many members yet as the states are still trying to see if the federation will be stable. She said that the federation has a website: FSMTB.org. Discussion ensued around the test being used by Ohio and how Ohio could sample the test to make that decision. Ms. Rieve stated that the Council of Schools needs to be involved because national norms of curriculum would have to be established. Mr. Greely mentioned that there is support for a standardized national test. Ms. Rieve said that she would like to see a test done at the school level and then if they pass they apply for license like it is for MD's. Ms. Chance said that the FSMTB is working hard at getting a good test put together.

Ms. Chance said that there is a March meeting in Dallas and it would be good to have a board member attend. Ms. Rieve will investigate that.

Correspondence

Ms. Debolt stated that page 9 and 15 went to the scope of practice committee. Mr. Greely took issue with page 15 stating that it says MTs can't do facial massage. He felt that the letter was ill-thought. Ms. Debolt said that the Scope of Practice committee felt that if the purpose was for beautification it was not allowed. Mr. Greely said that exfoliating the skin, improving circulation, enhancing muscle tone are all therapeutic applications. He stated that applying topical preparations is included in the MT scope. Ms. Debolt said that the issue was whether it was for beautification or not.

Mr. Greely then stated that there are cosmetologists taking massage therapy courses, practicing techniques, and the cosmetology board is doing nothing to stop it. But this facial massage falls into the MT scope. Ms. Debolt said that the Board doesn't think that the natural process of aging is a medical condition.

Ms. Chance said that she has taken the course and it is massage. There are massage techniques used. Ms. Hall said that she went to a cosmetology school she saw massage therapy techniques in their curriculum.

Ms. Debolt stated that the Boards general position is this: when there is another profession licensed to do something, that committee leads the charge. Mr. Greely stated that the specific Board needs to take action against those doing massage in other professions. Ms. Hall brought up the question if a LMT takes a course in facial massage, are they stepping on their own license? Ms. Debolt said they look at the definition as including medical purpose.

Mr. Greely said the problem is that the committee is composed of doctors who don't understand what MTs do. He stated that MT's have the second highest number of licensees and have no representation on the Board. He understood that is a statutory issue but it is a problem. Because of that, he stated that MTAC should be used in making these decisions.

Mr. Phillips said he knows people who teach this course and they have to be licensed MT's to teach the course. The members felt this was a bad response. The bottom line is that the massage has to be for therapeutic vs. beautification issue. Laura mentioned that this emphasizes the need for good record-keeping.

A question was raised as to whether there could be ad hoc representation on the scope of practice committee. Ms. Debolt said that the committees are the boards means of getting their work done. So ad hoc representation would not be allowed.

Other Business

Mr. Phillips stated that the web-site was very hard to use. He added that there should be an explanation on the web site about what MTAC does. There was agreement among the committee that the new web-site was difficult to maneuver through. Ms. Rieve said she couldn't change the design of the web-site but she could add an explanation of what MTAC does. Discussion took place about the need to have the MTAC email addresses

put back on the website so that access to the public could be re-established. Ms. Rieve said that she would investigate that.

Mr. Melecki mentioned an email he received from a student whose school had canceled Saturday classes making it difficult to complete the program. Mr. Melecki shared that his response was for the student to meet with the school administration first, then possibly file a complaint with the Board. Ms. Rieve said if the student files a complaint with the Board they may have to send it to the career colleges board.

Ms. Troiano asked who would have oversight over a vocational school who is falsifying records in the MT program. It was agreed that Ms. Troiano should file a formal complaint with the Board. Ms. Debolt stated that furnishing false, misleading or incomplete information requested by the Board is a reason for the Board to suspend, put on probation or permanently revoke the school's program. Ms. Debolt stated that this school's pass rate must be pretty low. Ms. Troiano agreed that it is. Mr. Gibbons stated that there was a prior case where the Board was willing to take action but the students were afraid to participate in the investigation. The students just took the exam and failed. Ms. Rieve said that this process is complaint driven and it takes time to investigate and have the allegations proven. Ms. Debolt added that the process after allegations proven takes time as well but it is due process.

Mr. Greely stated that the NCTMB met to discuss a disciplinary database where all MT's regulatory agencies would report similar to those for doctors. He stated that the recommendation was that the Federation and NCTMB work together to form one database.

Ms. Hall asked if there is any communication between the chiropractic board and the medical board regarding the hiring of MT's by chiropractors. Specifically, if chiropractors can hire MTs as employees versus independent contractors. Ms. Rieve said that Diane Thompson was talking with the CB about how they delegate chiropractic techniques. Ms. Hall wanted clarification as to which title should be used. Mr. Greely noted that the issue was with chiropractors delegating chiropractic techniques to MT's which are out of the MT scope. The committee discussed the difficulty for the MT going back and forth between being a chiropractic assistant and an MT. Ms. Hall mentioned that perhaps the distinction between employee and independent contractor would help. Ms. Rieve said that she will follow up with Ms. Thompson regarding this issue of chiropractic delegation and report back to the committee.

The meeting was adjourned at 4:07 p.m.