

**MINUTES OF THE MASSAGE THERAPY  
ADVISORY COMMITTEE  
Thursday, April 19, 2007  
Room, 1960, Riffe Center**

**Call to Order:** Ms. Rieve called the meeting to order at 1:12 p.m. on Thursday, April 19, 2007.

**Committee Members Present:** Dennis Gibbons, Rick Greely, and Jeanne-Marie Hall.

**Guests Present:** Ramona Chance, AMTA Ohio Chapter, Niki Hettel, EHOVE; and Katie Fox, EHOVE.

**Staff Present:** Kay Rieve, Sallie Debolt, Mike Miller, Karry Thacker, and Judy Rodriguez

**Minutes Review and Approval – January, 2007**

Ms. Debolt asked that her name be changed from “DeBolt” to “Debolt” throughout the minutes. She also asked that on page 3, 3<sup>rd</sup> full paragraph, sentence be changed to read “Ms. Debolt agreed that CE doesn’t ensure competency.” She also noted that on page one it should read “draft legislation” instead of “draft rules.” Changes were agreed upon.

Mr. Greely moved and Mr. Gibbons seconded and the minutes were approved as amended.

**CE Survey** – Ms. Rieve stated she would like to discuss this issue later in the meeting because Jeanne-Marie hadn’t arrived yet.

**New Executive Staff Member** – Ms. Rieve introduced the Board’s new executive staff member, Karry Thacker, who was there to observe and learn. Ms. Thacker was formerly of the governor’s office. Attendees then introduced themselves to Ms. Thacker.

**Discussion of New Legislation – Criminal Background Checks**

Mr. Miller stated that the alternative med bill was re-introduced from last general assembly as much the same bill. Mr. Greely stated that last time there was confusion as to what legislators were actually sponsoring. They thought it was strictly about dieticians and nutritional counseling. When they found all the other items in there, they were not happy. Mr. Miller stated that all you have to do in this bill is register with the Department of Commerce and have a high school education. Mr. Greely commented that we may as well close the Medical Board as far as massage therapy is concerned because no one would go to school.

Mr. Miller then mentioned HB 104 regarding criminal background checks (pages 8-10 of the handouts). He stated that all of the Board’s licensees are included in HB 104 which will require a criminal background check (both state and federal) at the time of initial application for license and for restoration. Mr. Greely asked when this would be done, e.g. at time of test application, after the exam, etc. Mr. Miller stated this would be worked out in the rules as each set of licensees is different. There was some discussion as to the timing for massage therapists. Ms. Rieve offered that it would probably be done at the exam application/licensure process. She stated that on the application, the student must disclose criminal background so a background check at that point would verify what was on the application. Mr. Gibbons opined that it would be better at time as well so because there have been some cases where criminal activity took place while the student was in school. He also stated that the schools would prefer the Board do the background checks because the standard for possibly denying a student’s application for education would be different from school to school.

Ms. Rieve offered that the Board has denied licensure for violent crimes like murder or sexual improprieties because of the nature of the profession (intimate and unchaperoned). She also stated that the student has to finish school and pass the boards before even being considered for licensure anyway. She also said that everyone is doing it now e.g. school bus drivers. Our licensees should have them too.

Ms. Debolt offered that the way it is written is that the background check won't happen until they file an application for the exam. It wouldn't be at the pre-education level.

Ms. Thacker asked if the Board does advice letters. Ms. Debolt answered that we do on scope of practice issues perhaps but not on whether an applicant will be accepted based on a possible background check. Ms. Rieve offered that each case is looked at individually. There is no rule that says if you have a felony you can't be licensed.

Mr. Gibbons asked for clarification that the background check would not be done after they've taken the test and passed. Ms. Rieve stated that it would be done at the application time. It would be completed in two weeks. There is a fee involved. The applicant would pay the fee and get it done as part of the application process. Mr. Greely asked if this would affect the deadlines for receipt of the application. He also mentioned that this might be a financial hardship. Ms. Rieve stated that rules would be worked out. Ms. Debolt said it might even be done after they've passed the exam. But as stated before, rules will be worked out for each profession.

### **Federation of State Massage Therapy Boards**

Ms. Chance mentioned that Ohio is not signed up yet and that Deborah would be willing to meet with MTAC in person if that would help. Ms. Chance stated that FSMTB really wants Ohio on board since we have our own test. She mentioned that the handout includes their mission, goals, task analysis results. Ms. Rieve asked Ms. Chance to get with Rick as he is in favor as is the Board. Ms. Rieve mentioned that one problem in getting the survey done was that it didn't fit what we do. Ms. Chance mentioned that they are going to launch the test in October and are doing the beta testing in July. Ms. Rieve asked if anyone were willing to take the test to give the Board some information regarding the test. Mr. Greely mentioned that it would be good to get a cross-section of MT licensees to take the test. Mr. Gibbons mentioned that the person can't be affiliated with a school. Ms. Rieve mentioned that we could go through the Council of Schools for names of graduates who may be interested. There was discussion regarding the differing terminology around the country. National standardized testing would be difficult because of this. Mr. Gibbons offered that when he looked at the questions, he felt Ohio MT's would do fine on the science portion. He felt the massage portion with its differing terminology would be harder.

Ms. Rieve opined that it would be good for FSMTB to talk to the Council of Schools. She mentioned that the new test would affect them most. She also said that it would be great to use the national testing but it would have to phased in and the schools given ample time to adjust. Mr. Gibbons mentioned that the schools on board are teaching between 500-750 hours so we would be good on the hours in Ohio. He mentioned that our problem with the test in Ohio might be that we are so high on the A&P. Most states are 50-100 hours. We are 3 times that. He wasn't sure Ohio would want to lower that. Mr. Greely offered that if we did decide to use the test it would be 2-4 years to get ready for it.

Mr. Gibbons mentioned that the test would be reciprocal in 38 states. Ms. Rieve stated that reciprocity is a big advantage to the test. The doctors do this now. She said that other advantages include taking the test online at any time and having study guides. But she stressed that we want a good exam.

Ms. Hall said she found it difficult to get in touch with anyone at FSMTB. Ms. Chance said that they have a new executive director, Deborah Persinger, who is on top of things. There was some discussion as

to the process of putting this test together and the review process. Then discussion took place about bringing Ms. Persinger to the MTAC or Council of Schools meetings in June or July. Ms. Rieve agreed to mention it to Rick Whitehouse.

### **Council of Schools**

Mr. Greely mentioned that Jerry Levins had a meeting with Rick Whitehouse and Ms. Rieve which was very positive. Mr. Whitehouse was very interested in what the council is doing and in working with the council. Mr. Levins felt Mr. Whitehouse was very engaging and there was common interest. He mentioned that one of the goals of the Council is to have a plan on how they're going to make progress. Part of that was making key alliances with other boards including the Medical Board. Ms. Rieve mentioned that the Board should have a representative at the council meeting. Mr. Greely agreed that it would be helpful so that questions could be answered in a timely fashion.

Mr. Greely said they are working on their strategic plan. That process started in January when they hired a consultant to assist in this process. He said that their meeting on the previous meeting looked at the draft document which will be presented to the council in June. He also mentioned that hopefully the June meeting will produce a clear mission and objectives for the council.

### **MTAC Vacancy**

Ms. Rieve mentioned that Mr. Malecki is now in Oregon. She said that she will put a notice on the website asking for resumes.

### **Website Information/Test Content**

Mr. Greely mentioned that the website lists the old books and that it was confusing for some. There was agreement that this needs to be posted through the June exam. The new list of books will be posted after that and will be effective for December exams. Discussion then ensued around the curriculum changes that were made. Mr. Gibbons stated that a lot of the schools got upset over teaching of concepts versus teaching books. There was agreement that the content of the exam is mainly the same but some questions are geared more to content rather than "regurgitative" facosmetologists. Mr. Gibbons said that most everyone across the country wants to see testing on content rather than text. Mr. Greely agreed saying that the biggest hurdle is common language.

### **Sexual Misconduct**

At the last meeting Sallie Debolt asked the committee to look at the sexual misconduct rules for physicians and see how to apply that to massage therapists. She stated that the rules require practitioners to offer chaperones for intimate exams. Ms. Hall offered that it should be offered when massaging minors. Ms. Debolt offered that because of nature of how massages are done (with patient on table, undressed, with sheet covering body), a third party might upset the general purpose. Mr. Greely said that the word "exam" should be changed to "treatment" because MT's aren't allowed to do exams. He also said that if he were to work on the breasts he would offer a chaperone of the patient's choice. He doesn't have the staff to have someone paid to come in and watch. He also stated that this would not make the patient any more comfortable anyway. Mr. Greely opined that the offer of a chaperone should be required. He felt that there should be some discussion as to informed consent. Mr. Greely stated that asking the patient while they are on the table if they want a breast massage is not informed consent. It was agreed that informed consent should be in writing for breast massage. Mr. Greely offered that informed consent has 5 elements:

1. Disclosure – has the patient been told what is to be done and what outcomes to expect (positive and negative)
2. Does the patient understand? You can't use terminology that only MT's would understand. You have to use lay language.

3. Has the patient voluntarily made this decision? Are they under the MT's influence?  
Are they in an altered state?
4. Is the patient competent to make that decision?
5. Signed consent.

Mr. Greely mentioned that this process should not be done on the table. And if patient asks for procedure while on the table, the MT should offer that at the next session after signed consent. Ms. Rieve stated that she even had a massage where the masseuse asked her "what areas are you uncomfortable with me massaging?" She thought that was a good way to approach it as well. She said that this could be done while you are taking a history.

Ms. Hall stated that she thought that breast massage wasn't offered by MT's, it was only done under the prescription of a physician. Ms. Debolt said that there were no rules regarding that. Mr. Greely offered that there is some research that breast massage MAY be beneficial in preventing breast cancer.

There was discussion regarding clarification of terminology (client vs. patient). It was agreed that this would be addressed in the definitions. Ms. Hall stated that page 1, (F) should be either deleted or rewritten as MT's don't generally do genitals, rectum, or prostate. She then offered that page 2 (g) should be changed as we don't do "intimate examinations". Ms. Debolt said that it could be "intimate treatment" which would cover breast massage. Ms. Hall also stated that she thought if you were working on a minor it was standard to ask for a chaperone. Ms. Rieve said that this was a good idea and Ms. Debolt agreed that this should be added. Ms. Chance said that at Children's Hospital they are doing massage on infants and there is no 3<sup>rd</sup> person there. There is no direct supervision. She said that she has done teenage girls without a chaperone. Mr. Greely said when he does minors, he requires parent permission and lets the decision of a chaperone be up to the family. He said that he requires a parent to be there at the first meeting because these decisions are discussed then. Ms. Debolt stated that the rules now for physicians don't require chaperones but they require that the physician offer it.

Discussion took place surrounding section (2) on page 2 which defines sexual misconduct as "(a)Touching a breast or any body part that has sexual connotation for the licensee or patient, for any purpose other than appropriate examination or treatment, or where the patient has refused or has withdrawn consent; and (b)Examining or touching of the patient's genitals without the use of gloves." It was agreed that the words examination and examining should be deleted. There was continued discussion regarding massage of private areas and it was agreed that signed informed consent is vital. Ms. Hall stated that she was trained to get permission and updates from physicians for massages on more advanced treatments. The committee agreed this was good but it was not required. The informed consent would protect the public from MT's who don't do this.

Ms. Hall stated that on page 3, (g) should be changed to "performing intimate treatment without clinical justification". Mr. Greely asked for a definition of clinical justification. Ms. Debolt offered that it is some documented condition. What you want to prevent is someone who always does breast massages on certain types of women. But you do want to allow for appropriate breast massage. Mr. Greely asked that if he offers breast massage with every full-body massage, is it "clinically justified"? There was discussion that it probably wouldn't be, but signed, informed patient consent would cover that. It was agreed that "or signed patient consent" should be added to that sentence.

The committee moved on to the Prohibitions section of the sexual misconduct rules. Mr. Greely asked if he was dating someone and gave them a massage, would that be a problem? There was discussion about prohibitions for physicians and termination of patient/physician relationships. Ms. Debolt offered that if we want to raise the standard for MT's we need to include this in the rules. Mr. Greely agreed but asked

if there is an exception for a spouse or companion. Ms. Hall stated that these rules were walking the line between protection of MTs and overpolicing. She said that MTs don't have the same influence over patients that doctors do. Ms. Debolt agreed but stated that you do have an unclothed patient in a closed room.

There was then discussion about key 3<sup>rd</sup> parties in the room. Ms. Debolt stated that you may have a minor, an elderly person not competent to make medical decisions, etc. The physician is prohibited from involvement with the key third party because of undue influence. Several on the committee agreed that MT's would not have that kind of influence like physicians do. It was also agreed that treatment tends to be episodic. Ms. Debolt stated that these rules are written to stop bad practitioners and unfortunately affect the good ones. Ms. Hall offered that even if you're one of the good ones, proving innocence after misunderstanding is costly and lengthy. She offered that the rules should not be over-policing those who are doing good work. Ms. Debolt said she will edit the rules with the committee's input and get back with them.

### **Continuing Education (CE)**

Ms. Rieve said she couldn't get approval to get the survey out with this renewal because of time restraints. She stated that it could be done after renewals since we'll have email addresses and updated postal addresses. The Board is interested in knowing the answers to these questions. We want the survey to produce results so that if we decide to require CEs, we can say this survey backs that up. Ms. Chance mentioned that AMTA does require CE. Ms. Hall asked if the AMTA standards were the only national association the Ohio Board recognizes. Ms. Chance said that the AMTA has been the only organization involved. The Ohio Board has adopted the AMTA standard of practice and code of ethics. No one else has come in to offer input. Ms. Hall opined that LMTs in Ohio should have choice of organizations to belong to. Mr. Greely agreed and stated that the AMTA is the only one with a chapter here.

Ms. Rieve talked to Diann Thompson and Mike Miller who stated that if Council of Schools and AMTA think it would good to do this survey, then the Board would approve. She also stated that the Board is planning to do a similar survey with the physicians. She stated that it isn't easy to put the list of questions together to get good results. She said that if you as AMTA, MTAC, or Council of Schools, think it would improve the standard of care in massage therapy and would protect the citizens of Ohio the Board would approve it. There are many considerations involved. The survey would be a good start. She offered that the questions Ms. Hall came up with were good.

Ms. Hall said she approves of CE but stated that this could be a financial burden for those MTs who aren't specializing and are trying to run their own business versus those who are working for hospitals or chiropractors. Ms. Rieve agreed that this is something to consider. She mentioned that the cosmetic therapists have a CE requirement and she hears all the time from Cosmetologists who say the CE requirement is a financial hardship. Ms. Rieve said that the profession wanted CEs and as the regulatory body the Board fines those who don't. Ms. Hall stated that she checked with other states who have similar educational requirements as Ohio and they don't require CEs. It's only the states that are affiliated with the NCBMT people or have 500 hours or less who require CEs. She acknowledged that CE is a money-generating business but where would the average LMT go to avoid losing their license.

Ms. Chance said that the AMTA regional activities in the fall were reduced to \$10 for members and \$20 for non-members because there are those without a lot of money. Ms. Hall said that even if they are free, the LMTs have to close their shop to go. Ms. Chance offered that they try to do them in evenings and other times that LMTs may not be working. Ms. Hall stated that she is not knocking CEs, but she stated that they should be voluntary, not required for licensure. She also said that LMTs now have to pay taxes which is closing shops.

Mr. Greely asked that if the committee knew of any LMT who had to close their shop because of paying sales tax to let him know. The legislature asked the Council of Schools if the sales tax impacted practitioners. If the Council can show that, it will strengthen the case for the sales tax being an unfair tax. Ms. Hall knows people who have left solo practice and have become employed by chiropractors because of the tax.

Regarding CE, Mr. Greely opined that the practice has changed. The influence of pharmacology and the effect massage has on the uptake of drug and the contraindication of drugs is a huge part of what is new to the profession. He stated that the individual LMT out there should have this information. Ms. Hall offered that a magazine article would get that out. Mr. Greely said that magazine articles are good but not to the level of competency that a CE might offer. He also stated that when he went to school, massage was contraindicated for cancer. There is new research being done all the time. CEs help get that new information out to the LMTs. Ms. Hall opined that the information is out there for LMTs to get on their own. Ms. Chance stated that there are people who won't get that information unless they are forced to. She said that nursing didn't have required CE until 4-6 years ago. Before that she didn't have any CEs.

Mr. Greely said that part of the justification for requiring CE is that if we want to be accepted and recognized as a health care professional that we have to do what the other health care professions are doing. All of the other health care professions in Ohio have mandatory CEs. Mr. Gibbons said that recently he had some dentists come to a class he offered for LMTs. He said that they were appalled that more LMTs were not there.

Ms. Rieve said that the hours that would be required would not be overwhelming. She said that the Cosmetologists requirement is 25 hours over 2 years. She also stated that though the physicians have more, about half of it is reading and journaling and half is actual classroom credit. There was continued discussion on how the Board monitors this and how CEs are approved.

Ms. Rieve said that we'll have to figure out how to do the survey. Mr. Gibbons suggested doing it on the website. It was agreed that this would be the easiest way. Ms. Rieve stated that they will keep working on it.

Mr. Greely asked about the alternative entrance into the exam (out-of-state) situation. Ms. Rieve stated that it had to be a statute change. She said that Mr. Miller as some language. Ms. Chance said that if it can be given to the AMTA, they can get it to the lobbyist, they can begin looking at it.

Ms. Rieve said the rule about the deadline hasn't been acted on yet because of work on the budget. She acknowledged that she got good input from several schools.

Mr. Greely suggested that Mr. Whitehouse come to the MTAC meeting so the committee can meet him. Ms Rieve agreed and said that Mr. Whitehouse is making his rounds to different committees and training sessions.

Mr. Greely offered that one of the goals for the Council of Schools is to get the state legislature to accept that all massage is therapeutic. He said that doing this would limit Cosmetologists to friction, superficial kneading and stroking. Everything else is deep tissue massage. He said the Council wants to be included as an interested party in the discussion when the CT rules come up for review. Ms. Rieve offered that the AMTA, Council and State Medical Board should all be registered. Mr. Greely asked that the Board request documentation on what the Cosmetologists are taught in their curriculum.

Ms. Hall stated that she is getting feedback that a lot of chiropractors are hiring LMTs as employees (vs. independent contractors) because insurance companies only pay them for their massage therapy referrals if the MT is an employee. There was agreement that an MT who is an independent contractor would have to bill the insurance company on their own.

The continued discussion on the issue of chiropractic delegation to LMTs was postponed to the next meeting.

The meeting adjourned at 4:08 p.m.