

BOARD OF MASSAGE THERAPY
FULL BOARD CONFERENCE CALL
301 S. PARK AVENUE, HELENA, MT
ROOM 439 12:00 P.M.
1/5/2010
OPEN SESSION MINUTES

AMERICANS WITH DISABILITIES ACT:

The Department of Labor and Industry is committed to providing meeting access through reasonable accommodation under the Americans with Disabilities Act. Please contact the Board office prior to the proposed meeting date for further information.

EXECUTIVE SESSION: The decision on whether to hold a meeting in executive session is at the discretion of the Presiding Officer pursuant to Section 2-3-203 MCA.

CALL TO ORDER: 12:05 P.M.

Members Present:

Michael Eayrs, Professional Member, Chair
Nick Soloway, DC, LAC Health Care Member, Vice-Chair
Grace Bowman, Public Member
Deborah Kimmet, Professional Member
Stacy Baird, Professional Member

Staff Present:

Cheryl Brandt, Program Manager
Tyler Moss, Board Counsel
Traci Collett, Unit 1 Supervisor
Marilyn Kelly-Clark, Fiscal Officer

Others Present:

Susan Carlson, Rules Committee Member
Rachel Romanelli, Rules Committee Member

REVIEW OF AGENDA: The agenda was reviewed and a quorum established.

PUBLIC COMMENT STATEMENT:

In accordance with 2-3-103(1), MCA, the Board will hold a public comment period. Please note that Open Forum is the public's opportunity to address the Board on any topic not on the current agenda. While the Board cannot take action on the issues presented, the Board will listen to comments and may ask that the issue be placed on a subsequent agenda for possible Board

action. The Chairperson of the Board will determine the amount of time allotted for public comment.

No issues were raised during Open Forum.

RULE REVIEW:

New Rule I Board Organization, New Rule II Procedural Rules, and New Rule III Citizen Participation were discussed by the members with no changes suggested. New Rule IV Definitions was discussed with the clarification that only definitions used in the currently proposed rules would be included in this initial rule notice. As new definitions are used in future rules, they can be added to this rule. New Rule V Fee Schedule was reviewed.

Motion: Grace Bowman moved to notice new rules I through V as discussed. Dr. Soloway seconded. Motion Carried.

New Rule VI Licensure by Grandfather Clause was discussed. The issue of concern for this rule is how to address the statutory requirement of good moral character. The Rules Committee had requested a letter from Department Chief Legal Counsel, Pam Bucy, on this issue. The Chair noted that the Board members had received this letter. Deb Kimmet advised the Board that she had drafted a response to Ms. Bucy's letter, and Ms. Kimmet read her response letter to the members. The Board thoroughly discussed the letter from Pam Bucy and the concerns raised by Ms. Kimmet.

Motion: Deb Kimmet moved to strike part (c) of New Rule VI which required two letters of character reference. Motion died for lack of a second.

Motion: Deb Kimmet moved to amend the language in part (c) of New Rule VI to read "two letters attesting to the good moral character of the applicant submitted directly to the board office by individuals who are not the applicant's family members". Dr. Soloway seconded. Motion Carried.

Motion: Dr. Soloway moved to notice New Rule VI as changed. Grace Bowman seconded. There were four votes in favor. Deb Kimmet opposed the motion. Motion Carried.

Motion: Grace Bowman moved to change part (d) in New Rule VII and to change part (d) in New Rule VIII to the same moral character language proposed for New Rule VI. Stacy Baird seconded. Motion Carried.

New Rule VII Licensure by Examination was reviewed. The issue of discussion for this rule is the language proposed to address the statutory requirement for possession of a high school diploma or its equivalent. Deb Kimmet reviewed for the members language she found by researching statutes and rules from other boards.

Motion: Deb Kimmet moved to amend the language for part (b) of New Rule VII to that used by the Board of Alternative Health Care: "a copy of a certified transcript sent directly from a high school, showing evidence that the applicant has graduated from the school or a GED or other high school equivalency certificate of completion." The motion was withdrawn after Board Counsel explained that the current language of New Rule VII places more discretion with the Board than would Ms. Kimmet's suggested language.

Motion: Dr. Soloway moved to notice New Rule VII with the amended language to part (d) on moral character and leaving part (b) as presented. Stacy Baird seconded. Motion Carried.

New Rule VIII Licensure by Endorsement was discussed regarding whether the rule should read "verification of an active license in good standing, from another state or jurisdiction, whose current requirements include a minimum of 500 hours of study that meets or exceeds the curriculum guidelines established by any program or organization accredited by the national commission for certifying agencies or its equivalent or successor and passage of either the MBLEx, NCETMB, or the NCETM examination or a state examination deemed to be equivalent" as one statement or whether the exam requirement should be listed separately as part (f).

Motion: Deb Kimmet moved to combine part (e) and (f) as one criteria for the endorsement rule. The motion died for lack of a second.

Tyler Moss, Board Counsel, responded to Board member questions regarding the rule language. The Board was advised that, if (e) and (f) are not combined, then applicants by endorsement would need to pass an exam in addition to having a license in another jurisdiction. Board Counsel said the Board can choose to require the examination for the purpose of ensuring "equivalency."

Motion: Grace Bowman moved to accept New Rule VIII as written. Dr. Soloway seconded the motion. There were three votes in favor. Michael Eayrs and Deb Kimmet voted against the motion. Motion Carried.

24.101.413, ARM Renewal Dates and Requirements was discussed. The Program Manager explained that the Licensing Specialist assigned to the Massage Board has seven other boards. When reviewing staff availability, the best deadline date for license renewal appeared to be annually on August 31.

Motion: Michael Eayrs moved to notice the amendment to ARM 24.101.413 as proposed. Dr. Soloway seconded. Motion Carried.

NEXT MEETING:

The next meeting will be a meeting in Helena on January 25, 2010.

ADJOURNMENT:

As time for the meeting had come to an end, the meeting was adjourned at 12:58 P.M.

SUBMITTED BY: Cheryl Brandt, Program Manager

APPROVED BY: Micheal Eayrs, Chair

DATE APPROVED: 1/25/2010