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Loree V. Kessler, MPA
Executive Director

Meeting Notice
Missouri Board of Therapeutic Massage
August 23, 2010 – 10:30 a.m.
Conference Call Number (573) 526-5712
Toll Free Number (866) 630-9350
Division of Professional Registration
3605 Missouri Boulevard – Jefferson City, Missouri

Notification of special needs as addressed by the Americans with Disabilities Act should be forwarded to the Board of Therapeutic Massage, P.O. Box 1335, 3605 Missouri Boulevard, Jefferson City, Missouri 65102 or by calling (573) 522-6277 to ensure available accommodations. The text telephone for the deaf or hard of hearing is 800/735-2966 or 800/735-2466 for Voice Relay Missouri.

Except to the extent disclosure is otherwise required by law, the Missouri Board of Therapeutic Massage is authorized to close meetings, records and votes, to the extent they relate to the following: Chapter 610.021 subsections (1), (3), (5), (7), (13), (14), and Chapter 324.001.8 and 324.001.9 RSMo.

The Board may convene in closed session at any time during the meeting. If the meeting is closed, the appropriate section will be announced to the public, with the motion and vote recorded in open session minutes.

Anyone requiring additional detail regarding the telephone conference call should contact the Missouri Board of Therapeutic Massage, P.O. Box 1335, 3605 Missouri Boulevard, Jefferson City, Missouri 65102 or by calling Loree Kessler, Executive Director at (573) 522-6277. The TTY number for Relay Missouri is 800/735-2966 or 800/735-2466 for Voice Relay Missouri.

Please see attached agenda for this meeting.

**Tentative Open Session Agenda
 Missouri Board of Therapeutic Massage
 August 23, 2010 – 10:30 a.m.
 Conference Call Number (573) 526-5712
 Toll Free Number (866) 630-9350
 Division of Professional Registration
 3605 Missouri Boulevard – Jefferson City, Missouri**

Call to Order	Kevin Snedden, Chairperson
Roll Call	Executive Director
Approval of Agenda	
1. Approval of Open Session Minutes	
August 23, 2010 Board Agenda Meeting	
2. Emergency Regulation - Fees	
Meeting Schedule	

Motions to Close

Section 610.021 subsections (14), 324.001.8 and 324.001.9 RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to the licensee or applicant section 610.021 subsection (1) RSMo for the purpose of discussing general legal action, causes of action or litigation and any confidential or privileged communication between this agency and its attorney, and for the purpose of reviewing and approving closed meeting minutes of one or more previous meetings under the subsection 610.021 RSMo which authorizes this agency to go into closed session during those meetings.

OPEN SESSION MINUTES
Missouri Board of Therapeutic Massage
August 8, 2010 - 9:00 a.m.
Division of Professional Registration
3605 Missouri Boulevard – Jefferson City, Missouri

At 9:02 a.m., the Missouri Board of Therapeutic Massage meeting was called to order by Kevin Snedden, Chairperson, at the Missouri Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri. Roll call was facilitated by the executive director.

Board members present

Kevin Snedden, Chairperson
Renate Brodecker
Dawn Standley
Carl Nelson

Staff present:

Loree Kessler, Executive Director
Jeanette Wilde, Executive I
Greg Roach, Licensure Technician II
Greg Mitchell, Counsel

Visitor

Edwin Frownfelter, Assistant Attorney General (11:40 a.m. until 12:04 p.m.)

Mr. Snedden stated he would be voting in open and closed sessions.

A motion was made by Ms. Brodecker and seconded by Ms. Standley to approve the open session agenda adding a discussion regarding Florida licensure and renewal fees. Motion carried unanimously.

A motion was made by Ms. Brodecker and seconded by Ms. Standley to approve the open minutes of the June 13 conference call and June 16 mail ballot. Motion carried unanimously.

Financial Report

The executive director provided an overview of the board's fund balance noting that revenues from applications have remained fairly steady through fiscal year 2010. In reviewing the end of the year costs, it was noted that the board spent approximately eight-six percent of its appropriation and it was projected that it would remain nearly the same for fiscal year 2011. The income from applications since the last renewal cycle and not spending the entire appropriation resulted in a fund balance that nears the limit imposed by the statute. Therefore, the board recommended the fund balance be reduced to decrease the potential for a fund sweep and provide adequate revenue to cover operational costs.

The executive director reported that a regulatory amendment has been drafted along with a request for rulemaking authorizing a one time decrease in the renewal fee for massage

therapists to \$35 for the 2011-2013 renewal year. The board agreed with the recommendation and authorized the executive director to proceed with filing the regulatory amendment.

The executive director stated the regulation and request for rulemaking would be included on the agenda for the August conference call. A motion was made by Ms. Brodecker and seconded by Mr. Nelson to approve the financial report. Motion carried unanimously.

MBLEx Update

Mr. Snedden provided an update concerning the utilization of the examination noting the Puerto Rico requires the licensure examination be provided in Spanish. Mr. Snedden noted that Texas had indicated an interest in a Spanish version of the MBLEx as well. The board determined additional information was needed regarding acceptance of a Spanish version of the examination and instructed the executive director to obtain information from the Federation regarding the process for determining statistical validity of the examination and how other states are addressing this issue. The executive director stated she would survey the boards within the division to obtain information on other professions and the availability or restriction relating to national examinations offered in a foreign language.

Kansas College of Chinese Medicine

The board determined that graduates of the massage program would be eligible to apply for licensure based upon completing a program at this school.

Florida Licensure Requirements

The executive director explained that multiple attempts had been made to contact the Florida licensure board regarding educational requirements for massage programs located in another state. The Missouri board had received applications for licensure by reciprocity from individuals that completed a course of study in massage that was not in compliance with Missouri's requirements, however, the applicants were licensed by the State of Florida.

The executive director further explained that in an email from Anthony Jusevitch, Executive Director for the Florida board, there is a provision in the Florida law that allows and a Florida approved program to perform a "transfer of credit" from a school that has not been approved by the State of Florida. Therefore, if a person started or completed a program in another state, s/he could apply to a Florida school, transfer credits, complete a program from a Florida approved school and be eligible for licensure in that state.

The executive director noted, that a similar transfer of credits is allowed by CBHE for Missouri schools to transfer course work in massage. However, there is a limit as to the percentage of hours that can be transferred into a Missouri school.

Based upon this detail, the board determined that when an application for licensure by reciprocity was received based upon a Florida license, staff must verify the whether the applicant transferred credit from another program into a Florida approved school or completed an entire course of study at a Florida school. This detail is available on the Missouri application for licensure. If it appears the applicant transferred into a Florida program, the applicant must request both massage programs provide a transcript.

Meeting Schedule

The board scheduled a conference call for 10:30 a.m., August 23, 2010.

At 9:50 a.m., the board took a recess and reconvened at 9:59 a.m.

At 9:59 a.m. a motion was made by Ms. Brodecker and seconded by Mr. Nelson to convene in closed session pursuant to section 610.021 subsections (14), 324.001.8 and 324.001.9 RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to the license or applicant, section 610.021 subsection (1) RSMo for the purpose of discussing general legal action, causes or action or litigation, and any confidential or privilege communication between this agency and its attorney, and for the purpose of reviewing and approving closed meeting minutes of one or more previous meeting under the subsection 610.021 RSMo which authorizes this agency to go into closed session during those meetings. Board members voting aye: Mr. Snedden, Mr. Nelson, Ms. Brodecker, and Ms. Standley. Motion carried unanimously.

At 11:39 a.m, a motion was made by Mr. Nelson and seconded by Ms. Brodecker to convene in open session. Board members voting aye: Ms. Brodecker, Ms. Standley, Mr. Nelson, and Mr. Snedden. Motion carried unanimously.

Disciplinary Hearing Lance Kelley

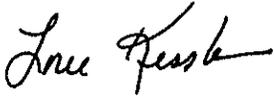
At 11:40 a.m. the board conducted a disciplinary hearing regarding Lance Kelley, LMT.

At 12:04 p.m., a motion was made by Ms. Standley and seconded by Ms. Brodecker to convene in closed session pursuant to section 610.021 subsections (14), 324.001.8 and 324.001.9 RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to the license or applicant, section 610.021 subsection (1) RSMo for the purpose of discussing general legal action, causes or action or litigation, and any confidential or privilege communication between this agency and its attorney, and for the purpose of reviewing and approving closed meeting minutes of one or more previous meeting under the subsection 610.021 RSMo which authorizes this agency to go into closed session during those meetings. Board members voting aye: Mr. Snedden, Mr. Nelson, Ms. Brodecker, and Ms. Standley. Motion carried unanimously.

At 4:39 p.m., a motion was made by Mr. Nelson and seconded by Mr. Standley to convene in open session. Board members voting aye: Mr. Snedden, Mr. Nelson, Ms. Brodecker, and Ms. Standley. Motion carried unanimously.

At 4:40 p.m. Juliet Mee, Director of Professional Massage Training Center, met with the board to provide information regarding recent changes in ADA requirements relating to screening potential students for massage therapy programs. Additionally, Ms. Mee highlighted requirements for schools whose students receive federal loans or grants. Mr. Snedden commented that this area would be of interest to all schools and would discuss this topic with the Federation board.

At 4:56 p.m. a motion was made by Mr. Nelson and seconded by Ms. Brodecker to adjourn the meeting. Board members voting aye: Mr. Snedden, Mr. Nelson, Ms. Brodecker, and Ms. Standley. Motion carried unanimously.



Executive Director

Approved by Board on

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION
Division 2197—Board of Therapeutic Massage
Chapter 1—General Rules**

EMERGENCY AMENDMENT

20 CSR 2197-1.040 Fees. The board is proposing to amend subsection (3)(F).

PURPOSE: The Board of Therapeutic Massage is statutorily obligated to enforce and administer the provisions of Chapter 324, RSMo and sections 324.240 to 324.275, RSMo. Pursuant to section 324.273, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 324, RSMo and sections 324.240 to 324.275, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 333, RSMo and sections 324.240 to 324.275, RSMo.

EMERGENCY STATEMENT: This emergency amendment is necessary to preserve a compelling governmental interest requiring an early effective date of the rule by informing the public of a change in the fee required for the renewal of a license. The board is proposing to decrease the massage therapist renewal fee from \$50 to \$35. The emergency amendment is necessary to allow the board to collect the decreased fee. Massage therapists with a license expiration date of January 31, 2011 will be mailed renewal information on or around November 1, 2010 and the decreased fee needs to be reflected in this information. Without this emergency amendment the decreased fee requirement will not be effective in time for the renewal notice and confusion will result in the renewal process.

The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. In developing this emergency amendment, the board has determined that the fee decrease is necessary for the 2011 renewal period to prevent funds from exceeding the maximum fund balance thereby resulting in a transfer from the fund to general revenue as set forth in section 324.245.2 RSMo, "A compelling governmental interest shall be deemed to exist for the purposes of section 536.025, RSMo, for licensure fees to be reduced by emergency rule, if the projected fund balance of any agency assigned to the board of professional registration is reasonably expected to exceed an amount that would require transfer from that fund to general revenue." The board believes this emergency amendment to be fair to all interested parties under the circumstances.

- (1) All fees shall be paid by cashier's check, personal check, business check, money order, or other method approved by the division and shall be made payable to the Board of Therapeutic Massage.
- (2) No fee will be refunded should any license be surrendered, suspended or revoked during the term for which the license is issued.

(3) The fees are established as follows:

(A) Business License Fee	\$ 50
1. Change of Address Fee	\$ 25
(B) Business License Renewal Fee	\$ 50
1. Late Renewal Fee	\$ 50
(C) Certified Mentor Fee	\$100
(D) Insufficient Funds Check Charge Fee	\$ 25
(E) Massage Therapist Application Fee	\$100
(F) Massage Therapist Renewal Fee	\$ [50]35
1. Late Renewal Fee 1–30 days	\$ 50
2. License Reinstatement Fee 31 days—2 years	\$100
3. Late Continuing Education Fee	\$ 50
(G) Provisional License Application Fee	\$ 50
(H) Provisional License Renewal Fee	\$ 50
(I) Criminal Background Check Fee Amount to be determined by the Missouri State Highway Patrol	
(J) Student License Fee	\$ 25
(K) Education Review Fee	\$ 25

(4) All fees are nonrefundable.

AUTHORITY: sections 324.245, 324.247 and 324.265, RSMo Supp. [2007]2009 and sections 324.250, 324.252 and 324.267, RSMo 2000. This rule originally filed as 4 CSR 197-1.040. Original rule filed Feb. 25, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 26, 2003, effective June 30, 2004. Moved to 20 CSR 2197-1.040, effective Aug. 28, 2006. Amended: Filed Aug. 21, 2007, effective March 30, 2008. Emergency Amendment: filed _____, effective _____, and expires _____.*

REQUEST FOR RULEMAKING

Rule Number and Name: 20 CSR 2197-1.040 Fees EMERGENCY

Please provide as much detail as possible, including any positive, negative and relevant information to explain the need for the rule.

1. Why is it needed?

A reduction in the renewal fee is needed to avoid the potential transfer or sweep of revenue from the Massage Therapy Fund authorized by section 324.245.2 RSMo. The statute states, "...money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the fund for the preceding fiscal year."

In fiscal year 2007 the board fund sweep was \$130,381. The biennial renewal fee history is as follows: 2003 = \$150; 2005 = \$200; 2007 = No renewal fee required; 2009 = \$50.

2. What will the department be able to do with it that it can't do without it?

In order to reduce the renewal fee to correspond with the upcoming renewal cycle, an emergency amendment is required.

3. Why now (e.g. to implement a new statute)?

The fee needs to be decrease prior to the renewal application being mailed.

4. How much will it cost, and who will have to pay?

A massage therapist, renewing the license for the 2011-2013 biennial cycle, will save \$15.

5. If it imposes a fee, is there clear statutory authority for the fee? Is the fee required?

Section 324.245.1(5) RSMo authorizes the board to promulgate regulations to include, "All applicable fees, set at an amount which shall not substantially exceed the cost and expense of administering sections 324.240 to 324.275."

The proposed emergency amendment will be a cost savings of \$15 to each massage therapist for the 2011-2013 biennial cycle.

6. What groups have a stake in this? Have they seen this, and if so, what do they think?

Licensed massage therapists, renewing the license for the 2011-2013, cycle have a stake in this emergency amendment.

The specific emergency amendment language has not been reviewed by the American Massage Therapy Association-Missouri Chapter, however, the association has always supported the board's efforts to reduce fees.

7. Is there a deadline? If so, when and why then?

The renewal notices are mailed on or about November 1, 2010, therefore the regulation must be in effect to authorize the reduction of the renewal fee.

Public Entity/State Agency Fiscal Impact

Will this regulation have a fiscal impact for the board?

YES – this renewal fee reduction will result in a corresponding decrease in revenue to the board fund.

NO

If yes, the following must be completed:

Personal Service Costs

This table lists employees, according to job classification, summarizes the task(s) associated with the regulation, and the estimated time it will take to complete the task(s). Please refer to the Guidelines for Rule Preparation to complete this section.

JOB TITLE	ESTIMATED AMOUNT OF TIME TO COMPLETE EACH TASK

Expense and Equipment Costs

Below is a list of estimated expense and equipment costs most often associated with a regulation. Please check the applicable expense and enter an estimated number in the quantity "Qty" column for each item checked. Please refer to the Guidelines for Rule Preparation to complete this section.

Packet	Cost	Quantity	Total
Correspondence Mailing	\$0.65	0	\$0.00
Application Mailing	\$7.35	0	\$0.00
License Printing and Postage	\$0.72	0	\$0.00
Wall Hanging Printing and Postage	\$2.56	0	\$0.00
LOSS IN REVENUE DUE TO FEE DECREASE	\$15.00	3,500	#####
Other (Please specify)			\$0.00
Total			#####

Private Entity Fiscal Impact

Will this regulation have a fiscal impact upon the public (i.e., applicants, licensees, continuing education providers, etc)?

YES –There will be a cost SAVINGS to renewing licensees

NO

If yes, the following must be completed:

Private Entity Costs

Below is a list of estimated expenses most often associated with a regulation and resulting in a private sector cost. Please check all types of expenses that apply and enter an estimated number in the quantity "Qty" column for each item checked. Please refer to the Guidelines for Rule Preparation to complete this section.

Item	Cost	Quantity	Total
Fee Increase	\$0.00	0	\$0.00
Fee Decrease	\$15.00	3,500	\$52,500.00
Notary	\$2.00	0	\$0.00
Transcript	\$10.00	0	\$0.00
Postage	\$0.44	0	\$0.00
Photo	\$7.50	0	\$0.00
Other (Please specify)	\$0.00	0	\$0.00
Other (Please specify)	\$0.00	0	\$0.00
Other (Please specify)	\$0.00	0	\$0.00
Total			\$52,500.00

Growth Rate - Please answer the questions below related to how the quantity estimates above will change.

What is the expected growth rate of the entities affected by this regulation?

No growth is expected.

During which timeframe is the growth expected to occur?

- Annually
- Biennially
- Monthly

List source(s) of information used in calculating estimate costs for both public and private sectors.

Public Sector Costs – The emergency regulation has no impact upon personal services or expense and equipment costs.

In determining the fee reduction, several areas are examined.

First, a comprehensive review of anticipated expenditures is conducted. A breakdown of the categories of expenditures over the prior four fiscal years is used to project future costs in the areas of transfers, personal services, and expense and equipment.

Secondly, revenues from three prior fiscal years are used to project anticipated income over the next five fiscal years.

Third, cost and revenue projections are then compared to determine : 1) revenue required to pay the administrative costs of administering the licensure law; 2) when applicable, time frame for an increase or decrease in licensure fees; and 3) compliance with section 331.070.2 RSMo that authorizes the board to maintain a fund balance of no more than three times the appropriation based upon a biennial renewal cycle.

Private Sector Costs – Using the aforementioned data outlined above, the renewal fee was determined and applied the number of anticipated renewals for the upcoming biennial cycle.

Small Business Impact

Describe how the proposed regulation is exempt from the SBRFB moratorium.

There is not cost to licensees. There is a cost savings to massage therapists renewing the license for the 2011 – 2013 biennial cycle.

The following questions will assist in composing clear, complete, and concise answers in completion of the small business impact statement. Please refer to the Guidelines for Rule Preparation to complete this section. Also, please provide as much detail as possible, including any positive, negative and relevant information to explain the need for the rule.

- 1. Please describe the methods your agency considered or used to reduce the impact on licensees and small businesses.**
- 2. Please explain how your agency has involved licensees and small businesses in the development of the proposed rule.**
- 3. Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the monies will be used.**
- 4. Please describe licensees and small businesses that will be required to comply with the proposed rule and how they may be adversely affected.**

5. Please list direct and indirect costs (in dollars amounts) associated with compliance.

6. Please list types of licensees and small businesses that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.