



# Oregon Board of Massage Therapists

MORROW CRANE BUILDING SUITE 250 3218 Pringle RD SE Salem OR 97302  
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## BOARD MEETING MINUTES

Thursday, July 25, 2002

3218 Pringle Rd SE – Large Conference Room  
Salem, Oregon 97302

### Attendance

#### Board Members:

Michael Jordan, L.M.T., Chair  
David Frostad, L.M.T.  
Jacqueline Kern  
Cathy Law

Stephanie Manriquez, L.M.T.  
Lisa Oxman, L.M.T.  
Brad Welker, D.C.

**Staff:** Ryan Kahn, Assistant Attorney General  
Bev Holzman, Executive Director  
Michelle Sherman, Office Manager

#### Public:

Talena Barker; Tressider Co/AMTA-OR  
Patty Glenn; Ashmead College  
Siri McElliott; Ashmead College  
Richard Williams; Ashmead College

Francesca Meier; Ashmead College  
Christie Joachim; AMTA-OR  
Ray Siderius; Oregon School of Massage  
Nick Chrones, Lane Community College

Jordan announced that pursuant to ORS 192.660 (1)(f) and ORS 192.660 (1)(h) the Oregon Board of Massage Therapists will now meet in Executive Session for the purpose of considering records that are exempt by law from public inspection. These records are relevant to test questions, scoring keys, and other examination data used to administer the qualifying examinations and consultation with legal counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. 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 the Executive Session the Board will return to open meeting and welcome the audience back into the room. The Executive Session convened at 10:04 A.M. Ended at 2:20 P.M.

- 1) Executive Session  
Lunch
- 2) Call to order  
Jordan called the public meeting to order at 2:35 P.M. He introduced and welcomed new board member Brad Welker. Jordan noted this is the first time to have a full seven-member board in several months.
- 3) Approve Agenda  
**Frostad moved** to approve the agenda as written. **The motion carried.**

4) Public Forum - An opportunity for the public to address the Board and ask questions

Patty Glenn; Ashmead – Glen expressed concern because of the length of time involved for those who take the NCE exam. The delay in getting exam results and the time frame for the Oregon practical exams can cause a hardship for several massage students. Manriquez stated that applicants could take the Oregon practical exam before or after they have NCE certification.

Christie Joachim, L.M.T., representing Governmental Relations for AMTA – Joachim wished to ask some questions and open discussion regarding Legislative Concept 96800/01 – Competency Evaluations (LC 96800/01). Joachim stated the AMTA has not taken a position on this yet. Joachim: Has the board seen the need for this sort of statute as opposed to using unprofessional conduct violations to regulate massage therapists? Jordan: Yes, LC 96800/01 is needed for times when the board is not qualified to make a determination on a person's capability to be a safe practitioner and not a danger to the public. Joachim: Is the Board considering using competency evaluations when reviewing arrest records of applicants and licensees and as an investigative tool for law enforcement cases? Jordan stated yes, that is true. Joachim wanted to clarify that as a health regulatory agency, the Board wanted to have those with experience make evaluations on a person's competency. Jordan agreed that is the intent. Joachim: What about the need to determine mental competency? There are a lot of different definitions for "mental competency". Jordan stated it is hard to give specifics; the cases would be considered on an individual basis. Joachim: What if a client was upset with a therapist and wanted to "get even" by filing a complaint that the therapist was mentally incompetent? Jordan stated every case is determined individually, and based on the information in the file the Board would enter into whatever depth of investigation is necessary. The Board would not request a competency evaluation without sufficient evidence to determine one was necessary. Joachim said she felt all of her questions had been answered and thanked the Board.

5) Approve May, 2, 2002 Board meeting minutes

There was discussion on the July 9, 2002 letter from the Feldenkrais Guild asking the Board to change a portion of the minutes in which Frostad stated a Feldenkrais practitioner *could* fall under the definition of gymnastics. The Guild felt the statement was inaccurate and asked the Board to removed the statement from the minutes or have the statement identified as a personal opinion of Mr. Frostad. Frostad stated that what he said is what he meant and didn't see a reason to change it. **Frostad moved** to approve the minutes as written. **The motion carried.** Oxman did ask the minutes to say she was "excused" from the meeting instead of saying she "left". Holzman will make that change.

6) Report of Executive Director

Holzman presented the financial report for review. Holzman stated the report continues to show a large negative balance; that will be remedied when renewals come in at the end of this year. Frostad and Sherman will meet before the next meeting and Frostad will present a report on the Board's financial status at that time.

Holzman stated the pass rate for the June practical exam was 81%. The new exam format worked well and the examiners provided a lot of positive feedback about the exam. Holzman stated the exam showed weakness in kinesiology from all schools.

Holzman said the board was entering into renegotiations for the house located on Rickey Street.

7) Committee Reports

No reports.

Chrones said he was waiting for specific direction from the board on reviewing the definition of massage.

8) Action on Executive Session Matter(s)

a) Law Enforcement Cases

**Case No. 5-00-089** – Unprofessional conduct.

**Oxman moved** to close the case C02; Board lacks authority. Jordan abstained. **The motion carried.**

**Case No. 7-01-130** – Unlicensed practice of massage.  
Respondent is a licensed cosmetologist and doing work within that scope of practice. **Kern moved** to close the case C15; Not a board issue. Jordan abstained. **The motion carried.**

**Case No. 8-01-134** – Unlicensed practice of massage.  
**Kern moved** to close the case C21; Unable to locate. Jordan abstained. **The motion carried.**

**Case No. 3-02-142** – Unprofessional conduct.  
**Oxman moved** to close the case C20; Based on further review. Jordan abstained. **The motion carried.**

**Case No. 4-02-143** – Unlicensed practice of massage.  
**Manriquez moved** to issue a Notice of Intent to assess civil penalties for violations of ORS 687.021; and provide an opportunity to enter into a settlement agreement. Jordan abstained. Oxman opposed; **The motion carried.**

**Case No. 4-02-144** – Unlicensed practice of massage.  
**Law moved** to close the case C21; Unable to locate. Jordan abstained. **The motion carried.**

**Case No. 4-02-145** – Unlicensed practice of massage.  
Respondent entered into Settlement Agreement with the Board, paid fines and became licensed. **Kern moved** to close the case C14; Civil penalty assessed and paid and C21, Stipulated Agreement Met. Jordan abstained. **The motion carried.**

**Case No. 4-02-146** – Unlicensed practice of massage.  
**Oxman moved** to close the case C02; Board lacks authority. Jordan abstained. **The motion carried.**

**Case No. 4-02-148** – Unlicensed practice of massage.  
**Oxman moved** to close the case C21; Unable to locate. Jordan abstained. The motion carried.

**Case No. 4-02-154** – Unlicensed practice of massage.  
**Kern moved** to close this case C17; Retired. Jordan abstained. **The motion carried.**

**Case No. 5-02-155** – Unlicensed practice of massage.  
**Manriquez moved** to issue a Notice of Intent to assess civil penalties of \$1000 for one violation of ORS 687.021. Jordan abstained. **The motion carried.**

Proposed Settlements:

**Case No. 6-01-122** – Unlicensed practice of and offer to practice massage.  
A Notice of Proposed Action to assess civil penalties was issued on January 4, 2002. **Law moved** to counter Respondent's March 5, 2002 proposed settlement. Jordan abstained. Oxman opposed; **The motion carried.**

**Case No. 4-00-080**– Unlicensed practice of and offer to practice massage.  
A Notice of Proposed Action to assess civil penalties was issued on June 10, 2002. **Frostad moved** to reject the settlement offer dated June 24, 2002. **The motion carried.**

**Case No. 7-01-127**– Unlicensed practice of and offer to practice massage.  
A Notice of Proposed Action to assess civil penalties was issued on June 10, 2002. **Manriquez moved** to counter Respondent's July 9, 2002 proposed. Jordan abstained. **The motion carried.**

**Case No. 9-00-093**– Unlicensed practice of massage.

A Notice of Proposed Action to assess civil penalties was issued on November 1, 2001. **Frostad moved** to issue a Final Order to assess a civil penalty of \$1000 for violation(s) of ORS 687.021. Jordan abstained. Oxman opposed. **The motion carried.**

8) Old Business

a) Proposed rule changes

Sherman: some of the changes are housekeeping and some not.

OAR 334-010-0010(3) non-refund of exam fees: Oxman: what about if they request within a certain time frame to do so. If requested 14 days in writing in advance. **Oxman moved** to adjust the rule to accommodate applicants to receive a refund of the exam fee, if requested by written correspondence postdated two weeks prior to the exam. Manriquez opposed; **the motion carried.**

Welker excused from meeting at 3:15 P.M.

OAR 334-010-0016(2) no changes.

OAR 334-010-0017 (3): Proposal to delete item 3. **Oxman moved** to not accept deletion. Oxman moved to rescind that motion. **Oxman moved** to delete (3). Oxman rescinded that motion. Not taken into consideration.

OAR 334-010-0017 (6): Proposal to change the date of December 1 to December 31. **Oxman moved** to institute proposal. **The motion carried.**

OAR 334-010-0025(2)(e): Proposal to delete item (2) (e) the intent to cure specific medical problems. Discussion on the proposed change followed. Oxman clarified that this is proposal only and if there will be a rules hearing that would allow comments and input from the public. **Oxman moved** to delete item (2) (e). **The motion carried.**

OAR 334-010-0025(3): Proposal to delete item (3). **Oxman moved** to delete item (3). **The motion carried.**

OAR 334-010-0033: Proposal on fee changes. **Oxman moved** to do changes 1, 2, 4 and 5 as noted and accept additions of 8, 9, 10 and 11. **The motion carried.**

OAR 334-010-0041: Proposal to allow staff to determine if a person qualifies for indorsement. Discussion followed. Staff review and possible guidelines will be addressed at the work session. No change submitted.

OAR 334-001-0060 Proposal to add a definition for Compensation. "Something given or received as payment including but not limited to bartering, tips, monies or donations. **Frostad moved** to add this to the definitions. Discussion followed. **The motion carried.**

Proposal to change Sanitation and building requirements: table for now.

Proposal to increase CEU biennial requirement from 12 to 25 hours. **Oxman moved** to adjust 12 to 25 and 6 to 12 throughout the rules where applicable. Discussion. Frostad feels it should be a higher number of hours required, such as 60 hours. Oxman would prefer to keep the hourly requirement at 12. Oxman opposed; **the motion carried.**

OAR 334-010-0025(7) Proposal to add the wording "in writing". **Oxman moved** to approve. **The motion carried.**

OAR 334-010 0050 Proposal of several housekeeping changes and a change in the audit procedures. **Oxman moved** to accept the changes to 0050. Frostad recommended adding the

following to item 11(g): "per publication." **Oxman amended the motion** to include that wording. **The motion carried.**

Table review of the model curriculum until the next board meeting. Frostad invited board members and all others to provide input.

OAR 334-010-0005(1) Proposal to delete the word "original". **Oxman moved** to accept the change. **The motion carried.**

OAR 334-001-0060(11) Proposal to delete "professional services in or as part of the practice of massage and bodywork" and add "massage for compensation and for purposes other than sexual contact as defined in ORS 167.002(5). Client does not include the licensed massage therapist's family members or significant other." **Oxman moved** to accept the change. **The motion carried.**

**Oxman moved** that the proposed CEU changes become effective January 1, 2003. **The motion carried.**

[**Editor's Note:** A copy of the proposed rule changes are provided as an attachment to this document.]

b) Board review of the Model Curriculum  
Table until the work session. Holzman will let the schools know to send input to the board before the meeting.

c) Discussion on allowing volunteering for hospice to count towards CEUs.  
Table until next meeting.

Oxman excused at 4:20.

Jordan stated that due to late hour the Board would table the remaining agenda items, except the indorsement applications until the next meeting.

The Board discussed holding the September 2002 board meeting on Sunday morning after the retreat/work session.

**Manriquez moved** to have board meetings start with Executive Session at 9 A.M., beginning November 8, 2002. **The motion carried.**

d) National Practitioners Database (NPD)  
Table until next meeting.

e) Written comments on proposed statute regarding competency evaluations.  
Holzman will add the written comments received so far as attachments to the minutes.

f) Retreat information  
Sherman provided specifics on lodging accommodations.

9) New Business

a) Indorsement applicant – Vanessa Heit

**Manriquez moved** to grant her Oregon license without further examination contingent upon receipt of current CPR. **The motion carried.**

b) Indorsement applicant – Roxanne Brown

**Manriquez moved** to grant her Oregon license without further examination. **The motion carried.**

10) Public Comments

Chrones: asked the board to let others know as soon as possible that the September board meeting had been changed from Friday to Sunday as he and others had already made accommodations based on a Friday meeting.

**Kern moved** to have the public board meeting on Sunday, September 8, 2002 at 9:00 A.M. and Executive Session on Saturday, September 7, 2002. **The motion carried.**

The retreat/work session will begin on Friday, September 6, 2002 at 1 P.M.

11) Announcements

No announcements.

12) Adjourn

**Manriquez moved** to adjourn the meeting at 4:50 P.M. **The motion carried.**