



Oregon Board of Massage Therapists

MORROW CRANE BUILDING SUITE 250 3218 Pringle RD SE Salem OR 97302
(503) 365-8657 fax (503) 385-4465

D
R
A
F
T

BOARD MEETING MINUTES

February 13, 2003

Morrow Building, Large Conference Room
3218 Pringle Rd SE Salem OR 97302

Attendance

Board Members:

Michael Jordan, L.M.T., Chair
Jacqueline Kern
Cathy Law (via telephone)

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

Board member David Frostad was not in attendance

Staff: Bev Holzman, Executive Director
Jacqueline McCal, Administrative Assistant

Public:

Cindy Varvais, LMT

Nicholas Chrones, LCC

Jennifer Hodges

Melanie Steed-Hildebrand

Kalista Friday

Gary Schiclner

Wendy Sampson

Sarah B Davis

Rachel Smith

Wendy Loren, LMT

Paul Gerhards, LMT

- 1) Call to order
Jordan called the meeting to order at 9:08 A.M.
- 2) Approve Agenda
Kern moved to approve the agenda as written. **The motion carried.**
- 3) Public Forum - An opportunity for the public to address the Board and ask questions.
 - Melanie Hildebrand – she read a letter to the Board expressing some concerns on fingerprinting and the Board's authority. Hildebrand will provide a copy of the letter to the board staff after she makes some clerical corrections.
 - Sara Davis re: fingerprinting. She stated that application of the proposed requirement would not serve the public safety. Those who send fingerprints would be those with nothing to hide. Those who have something to hide would just not apply for an Oregon license. Davis stated for the record that she is opposed to the Board implementing that statute. Jordan clarified the authority to require fingerprinting is not a proposal; it is already in statute.
 - Jennifer Hodges, LMT – she had some questions regarding the last meeting. Does the board do random checks on people/businesses and does the board have the authority to do random checks? Holzman cited OAR 334-030-0025(15) which states an LMT must keep equipment and premises in sanitary condition as required by rules of the Board. It does not specify that random checks may be conducted. Hodges had several other questions about investigations. Jordan encouraged Hodges to write a letter to Holzman with her specific questions. Oxman feels the board should have a policy in place regarding inspections and they should not be random. Hodges questioned if the board members are adhering to the laws in place. Manriquez stated in other professions random inspections from the health department or cosmetology board can occur and it is common practice in sanitation and health professions. Hodges stated she is

opposed to random checks. Hodges then moved to a different subject: At the last meeting Jordan stated he is doing investigations. Hodges asked about that process; does he make a decision on the case? Is it a conflict of interest for Jordan to investigate, give information and decide on action for a law case? Jordan stated the question has been put to Attorney General's office and it is not a conflict of interest. One of the criteria for something to be a conflict of interest is if the person in question is making money based on his/her involvement. Jordan does the investigative work pro-bono. Jordan explained the cases are presented to the board with his written investigative report. The board discusses the case without his input and he does not vote on board action on cases. Hodges asked if it were possible to get information on letters the Board received about fingerprinting? Yes, they are public documents; she can contact the board office about getting them. Hodges suggested the board use fingerprinting on a case by case basis when necessary other than straight across the board for all LMTs.

- Wendy Loren: Loren supports the other comments about fingerprinting and how the process will be implemented. Loren recommended the Board figure out "how" first before putting the statute into play. Loren also stated she feels it is a conflict of interest for Jordan to conduct investigations.

4) Approve minutes of the November 8, 2002 and January 9, 2003 meetings.

Holzman stated the draft of the January 9, 2003 minutes was revised to include action on case number 7-02-187.

Oxman stated she would like the board to discuss investigations in future meetings and consider hiring an investigator who is impartial. At this point it is not clear if the investigator should be a part-time employee or a contracted provider. Holzman will put this on the April 2003 meeting agenda.

Oxman moved to approve the November 8, 2002 minutes and the January 2003 minutes with the above stated revision. **The motion carried.**

5) Report of Executive Director

a) Financial Report

Holzman presented the P/L statement. Oxman expressed concern that Frostad was not at the meeting to give input as the Board's financial officer.

b) Correspondence Report

No comments. Jordan stated the board could consider recommendation of renewal date revisions. Shel Sherman will bring ideas to April 2003 meeting. Holzman stated that will require a statute change and will need to be presented to the legislators at the next session. She stated the legislators have not generally been opposed to changing renewal dates.

c) Building Update

Holzman presented information on a potential office site to lease. The site is located at Center Street Plaza, 746 & 748 Hawthorne St, Salem, Oregon. Holzman gave an overview of the process to buy a building and the setbacks from the Department of Justice that prevented that from happening. Jordan gave an overview of proposed lease site. **Oxman moved to** enter into the lease agreement with the signatures of Holzman and Jordan. **The motion carried.**

6) Committee Reports

a) "All Committee Meeting" Report – Holzman

Holzman stated the "All Committee" meeting was very productive. Holzman clarified that the committees, through the committee liaison, will make recommendations to the board; the board will have final approval on any committee recommendations. Oxman asked about the most recent changes to the Model Curriculum. Oxman said the A and B lists appear to have been recreated and not made from the documents already in place. Jordan asked to have an opportunity to meet with Lisa Garofalo and Jacqueline McCal to discuss those changes. He will report at the April 2003 board meeting.

- b) Examination committee – recommendation by Chair, Jacqueline McCal

McCal asked the Board to consider two recommendations:

- (1) Include the practical exam scores with the pass/fail notification.
- (2) Allow candidates who failed to review the scored exam. Examinees would be allowed to see a “clean” exam, not one with examiner comments and scores.

Oxman moved to accept both recommendations with implementation to begin after July 1. **The motion carried.**

7) Old Business

- a) Discussion on ORS 687.075 – Criminal Identification Information (fingerprint cards)

Jordan asked if the members wanted to discuss this now or put on the next retreat agenda. Oxman stated she wanted to discuss it now as she has given this a lot of thought. Oxman said she always has concerns about any policy, rule or legislation that takes away a person’s privacy – this is her own personal concern. Oxman asked to hear the other board members thoughts. Oxman suggested that a fingerprint card be required if a person checks “yes” on the “convicted of a crime?” question on the applications. Manriquez stated most people who are in opposition seem to speak from a fear point. She sees it as a positive thing.

Jordan stated in most schools background checks and fingerprints are ran on employees, volunteers and most anyone who works at a school. Welker: asked what percentage of people that now check the “yes” box have complaints filed against them? Holzman stated she didn’t have that information. Jordan explained the fingerprinting process. Jordan stated the office has a need to verify arrest records and do fingerprinting/background checks of sexual law cases. Jordan stated the board had previously looked at access to the Law Enforcement Data System (LEDS) access for the office directly but it was too expensive.

The initial cost was approximately \$5,000 and then a \$1,200 monthly access fee. The access fee would be paid whether the system were used or not. **Oxman moved to** continue business as we have and let this lie. Discussion: Manriquez would like to see it as a retreat item; Law would like to see as retreat item too. Oxman asked Manriquez and Law what other information will be at the retreat that has not already been provided. Manriquez would like more time to make a final decision. Law said she is not sure how she feels and is not comfortable making a decision at this point. Jordan called for the vote on Oxman’s motion: Oxman and Welker were in favor; Manriquez, Law and Kern were opposed. **The motion failed.**

Manriquez moved to put this item on the retreat agenda. **The motion carried.**

- b) Stipends

Holzman stated there continues to be controversy on when a board member should be paid and she asked for very specific guidelines for payment of stipends. Holzman pointed out that most other state agencies pay board members a stipend of \$30 per board meeting; this is approximately \$2520 per biennium. OBMT board members receive \$100 per meeting and now that the board meets monthly that is approximately \$15,400 per biennium. Oxman stated she feels that board members should be paid for attending a rules hearing, whether serving as the hearing officer or not, and should be paid for all days of a retreat. She said serving on a board should not cause a hardship for the members. The Board agreed that a member who serves as hearing officer at a rules hearing should get a stipend. Jordan stated he served as a hearing officer because he was closest but would be happy to let some else take on the task. Oxman said all board members in attendance at a hearing should be paid a stipend because a rules hearing requires public notice. Holzman stated that she feels it is too expensive to pay board members \$100 stipends if it continues to be for other than regularly scheduled board meetings. She stated although there is no intent to create a financial hardship for those serving on boards it is a voluntary position. Oxman asked the board to approve a stipend payment for her attendance at the last rules hearing. Jordan asked for a vote to approve payment of that stipend for Oxman; all were opposed. There was detailed discussion on stipend payments for hearings and retreats. Jordan suggested the Board consider having a one day work session as opposed to a 3 day retreat; to have that work session in Salem and therefore avoid the high costs related to a retreat. Manriquez: recommended having a one-day work session every six months as opposed to an annual 3 day retreat. That was agreeable to everyone. **Oxman moved** to leave the stipend at \$100 for board meetings, \$100 for each day of a work session and \$100 for the hearing officer only at a public rules hearing.

The Board can pre-approve a \$100 stipend payment for other board members who wish to attend a rules hearing before the hearing takes place. **The motion carried.**

8) New Business

a) Indorsement Applicant – Maghan Ruby

Jordan asked if the latest documents meet the indorsement requirements? Holzman said she did not feel comfortable making that decision and that is why she put it before the Board. It was determined that the school did not explain why there was a discrepancy in the two transcripts it provided for Ms. Ruby.

Manriquez moved to deny the application; Holzman was directed to again contact the school to get an explanation of the discrepancy between transcripts. **The motion carried.**

b) Consider settlement proposals on certain law cases

Law moved to accept the Settlement Proposals for the following cases: Case 5-99-044; Case 4-00-080; Case 7-01-133; and Case 8-01-136. Jordan and Oxman abstained. **The motion carried.**

c) Discussion on granting CE credit for those serving on Board committees

Oxman recommended moving to work session. Manriquez stated the correct term is CE not CEU. This item will be moved to a work session.

d) Discussion on OAR 334-030-0010(1) – filing complaints anonymously

Holzman wanted to clarify that while it is true a person can file a complaint anonymously, the complainant cannot necessarily remain anonymous should the Board propose disciplinary action against the respondent. Once the Board decides to take action against an LMT, the complainant's identity will be revealed.

e) 2003 retreat dates

A discussion on retreats occurred earlier in the meeting [agenda item 7 b]. As a result of that discussion, the Board decided to hold a one-day work session, approximately every six months. The work-session would be in Salem at the Board office. Board members should be prepared to set work session date(s) at the April 10, 2003 board meeting.

f) Exam appeals

Manriquez moved to deny the appeal of candidate 10201. **The motion carried.**

Manriquez moved to deny the appeal of candidate 9341. **The motion carried.**

Manriquez moved to deny the appeal of candidate 10132. **The motion carried.**

9) Public Comments

- Melanie Hildebrand: Hildebrand asked what percentage of the 4000+ LMTs have committed sexual violations and what percentage of LMTs have committed non-sexual violations. Jordan gave some guesstimates. Holzman stated she would research the subject and put that information in the next newsletter.

- Cindy Varvais: She is the newly appointed president of the Oregon Massage Therapy Association (OMTA). Varvais wanted to let LMTs know that OMTA will have local meetings that will offer CE's for coming to some of the meetings

- Rachel Smith: Smith stated she appreciated the opportunity to attend the board meeting and see how the board functions. She stated appreciation for the board's work and the things that are going "right". Smith commended Oxman on her statements regarding "fingerprinting". Jordan encouraged those in attendance to consider applying for board member positions.

- Nick Chrones: Chrones stated there are a number of ways to get CE's. He asked if that information could be posted and maintained on the webpage? Holzman replied that could be a little overwhelming. Holzman said she would research providing that information in the newsletter.

- Wendy Loren: Loren asked if the Board had reconsidered its position in not allowing instructors to be examiners? Holzman continues to feel there is a conflict of interest. Jordan stated Holzman currently has the authority to award/deny contracts for examiners. Oxman thinks board needs to reconsider this issue in the future. Jordan stated the reason behind the decision is to prevent schools from teaching the exam. A large discussion followed. Holzman stated she also feels it is a conflict of interest because an instructor who is an examiner has information a non-examining instructor does not have.

- Varvais stated that when she was allowed to do be an examiner while teaching she noticed it was time-consuming for the staff to determine who is from what school and to make sure examiners don't get own students.

10) Announcements

Holzman stated Jordan received a letter from the Oregon Board of Medical Examiners (BME) The BME is in opposition to the Board's revision of OAR 334-010-0025, in which it deleted item 2) e) "The intent to cure specific medical problems." Jordan read the letter for the board members and the public in attendance. Holzman stated people could get more information on legislative matters by going to the webpage: www.Oregon.gov. Jordan clarified it is an administrative rule change, not a statute change.

11) Adjourn

Manriquez moved to adjourn 12:12 P.M. The motion carried.