



Oregon Board of Massage Therapists

748 Hawthorne Ave NE, Salem OR 97301
(503) 365-8657 fax (503) 385-4465

Thursday, April 8, 2004
EXECUTIVE SESSION

Attendance

Board Members:

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

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

Staff: Bev Holzman, Executive Director
Patty Glenn, Future Executive Director
Helen Bicart, Board Investigator

- 1) Call to order
Jordan called the Executive Meeting to Order at 9:08 AM

Pursuant to ORS 192.660 (1)(f) and ORS 192.660 (1)(h) the Oregon Board of Massage Therapists met 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 are 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 opened the public meeting.

Jordan called the Public Meeting to Order at 9:31 AM

- 2) Action on Executive Session Matter(s)

- a) Law Enforcement Cases

Case No. 4-03-209

Allegation: Unlicensed practice of or offer to practice massage. Respondent practiced massage while his license was in expired status. A hearing was held. The Board considered the Proposed Order issued by the Hearings Officer. **Law moved** to issue a Final Order to reprimand the licensee. **The motion carried.**

Case No. 7-03-223

Allegation: Unlicensed practice of or offer to practice massage. Respondent practiced massage while her license was in expired status and misrepresented to patrons services rendered. On February 12, 2004 the Board issued a Final Order by Default to refuse to renew Respondent's license. The office has received additional complaints. **Oxman moved** to refer this case to the appropriate District Attorney's Office. Jordan abstained. **The motion carried**

Case No. 8-03-224

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Unlicensed practice of or offer to practice massage. Respondent did not request a hearing as required by service of the Notice. **Frostad moved** to issue a Final Default Order to assess civil penalties of \$1500. Oxman abstained. **The motion carried.**

Case No. 7-03-226

Unlicensed practice of or offer to practice massage. Respondent did not request a hearing as required by service of the Notice. **Kern moved** to issue a Final Default Order to assess civil penalties of \$1500. **The motion carried.**

Case No. 9-02-191

Unlicensed practice of or offer to practice massage. On July 31, 2003, the Board issued a Notice of Proposed Action to assess civil penalties. Respondent signed a Consent Order. **Oxman moved** to accept the Consent Order. Jordan abstained. **The motion carried.**

Case No. 10-03-257

Unlicensed practice of or offer to practice massage. Respondent did not request a hearing as required by service of the Notice. **Kern moved** to issue a Final Default Order to assess civil penalties of \$1500. **The motion carried.**

The following cases were discussed and acted upon during Public Session:

Case No. 6-03-225; Renee Kincaid

Allegation: Unlicensed practice of or offer to practice massage. Respondent provided reflexology services; investigation revealed she is a licensed Cosmetologist. **Oxman moved** to close the case C04, Allegations Unfounded. **The motion carried.**

Case No. 9-03-245; Courtlandt Jennings

Allegation: Unlicensed practice of or offer to practice massage. **Law moved** to issue a Notice of Proposed Action to assess a civil penalty in the amount of \$500 for one first time violation of ORS 687.021 (2), advertising to practice massage when unlicensed and to assess civil penalties in the amount of \$1000 each for two violations of ORS 687.021 (1), practicing massage while unlicensed; for a total civil penalty assessment of \$2500. **The motion carried.**

Case No. 9-03-248; Tony Russell

Allegation: Unlicensed practice of or offer to practice massage. **Kern moved** close the case C21, Unable to Locate. **The motion carried.**

The Board entered into a discussion about unlicensed people providing massage services at public forums such as county fairs. The Board directed Holzman to compose an informational letter about the Board and the regulations for those who practice massage in Oregon. The letter is to be distributed to the 36 Oregon counties along with a request that those counties present that letter to other relevant venues.

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Case No. 10-03-255: Paulino Arteaga

Allegation: Unlicensed practice of or offer to practice massage. **Oxman moved** to issue a Notice of Proposed Action to assess a civil penalty in the amount of \$500 for one first time violation of ORS 687.021 (2), advertising to practice massage when unlicensed. Discussion followed. **Oxman amended** her motion to include an additional assessment of a civil penalty in the amount of \$1000 for one violation of ORS 687.021 (1), practicing massage while unlicensed; for a total civil penalty assessment of \$1500. **The motion carried.**

Case No. 3-04-264

Allegation: Unlicensed practice of or offer to practice massage. Respondent practiced while her license was in expired status; she renewed her license before disciplinary proceedings were initiated. **Welker moved** close the case C03, Allegations Withdrawn. **The motion carried.**

3) Exam Appeal

a) Candidate #10927 – **Welker moved** to deny candidate's appeal of the practical exam results, as the candidate did not present clear and convincing evidence of error in the examination content or procedure, or bias, prejudice or discrimination in the examination process. Jordan abstained. **The motion carried.**

4) Discussion on length of time to allow compliance with on-site inspections.

Oxman asked what are the common violations? They are as follows: uncovered garbage containers, not providing single use sanitary towels in a dispenser, inappropriate storage of soiled linens and inappropriate storage of cleaning supplies. The Board determined that those LMTs found to be in non-compliance with the Sanitation, Facility and Building requirements [OAR, chapter 334, Division 20] will be provided thirty days, from the date on the letter of notification of non-compliance, to make the necessary corrections. Those LMTs will be asked to present a written and signed statement that the corrections have been completed. Failure to respond within 30 days and/or providing false statements of compliance could subject the LMT to disciplinary action.

The Board discussed what represents "single-use sanitary towels in a dispenser" as stated in OAR 334-020-0070(3). The Board stated that a roll of perforated paper towels, on a freestanding countertop dispenser or wall-mounted dispenser would meet the requirements of the administrative rule.

There was additional discussion on the Administrative Rules for Sanitation, Facility and Building requirements. Holzman recommended the Board consider implementation of a Rules Revision Committee.

5) Payment of Stipends for the Board Meeting and Work Session.

The Board determined it was appropriate to receive two separate stipends; one for the board meeting and one for the work session.

6) Board Member Stephanie Manriquez

Manriquez recently accepted a position as the Education Director for Central Oregon Community College. Discussion followed on if this would present a perceived or potential conflict of interest. Manriquez stated she would excused herself from votes or discussion that might be perceived as or constitute an actual conflict of interest. She will remain in her position until her term expires in January 2005.

Oxman moved to adjourn the meeting at 11:17 AM. **The motion carried.**