



Oregon Board of Massage Therapists

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BOARD MEETING MINUTES
Thursday, September 9, 2004

Attendance

Board Members:

Michael Jordan, L.M.T., Chair
Lisa Oxman, L.M.T.

Cathy Law
Jackie Kern

Manriquez was excused from the meeting. Welker was absent. Future Board member, Jacqueline McCal was in attendance.

Staff: Patty Glenn, Executive Director
Michelle Sherman, Office Manager

Public: Paul Gerhards, LMT

1) Call to order

Jordan called the public meeting to order at 9:16 AM.

2) Approve Agenda

Oxman moved to approve the agenda as presented. **In favor: Michael Jordan, Cathy Law, Lisa Oxman, Jackie Kern.**

3) Public Forum – No Public comments.

4) Approve minutes of the June 10th, July 8th, August 16th and August 20th meeting minutes.

Kern moved to approve all minutes as stand. **In favor: Michael Jordan, Cathy Law, Lisa Oxman, Jackie Kern.**

5) Committee Reports

Combined Education and Scope of Practice Meetings:

Kern had no comments. Oxman asked that the discussion of continuing education be moved to the next meeting. Glenn stated that the Education/Scope of Practice committee is working on revising the body of 334-010-0050 and Lisa Barck-Garofalo would be presenting these changes at the next meeting.

6) Report of Executive Director

a. Financial Report

There is nothing of significance to report. Glenn and Sherman are watching budget closely.

b. Correspondence Report

- i) *LFO Audit*—Glenn will be working on questions asked by Ms. Sexton, of the Legislative Fiscal Office. Asked board members for any advice they might or may have.
- ii) *Legislative Counsel*—Charley Cheek withdrew his allegations of the board not having authority to impose fees as necessary. He was unaware that the semi-independent status of the Board allows authority to assign fee as necessary through SB1127. Correspondence also stated that rule text of the January 2003 changes did not reach their office within the 10-day period. The Executive Director will draft a response stating that the text was sent, through state shuttle, within the allotted time per the rules log kept by Board staff.

- iii) *Farmer's Insurance Email/Response*—Glenn asked to move item to the end of new business to give the board time to review the letter, which was drafted in response to Farmer's

Insurance's letter concerning the definition of client. The Board allowed this to be moved to the end of new business.

7) New Business

- a) **Parliamentary Procedure: Sturgis**—The Board uses The Standard Code of Parliamentary Procedure by Alice Sturgis as its basis for conducting board meetings. As we have a new board member coming sometime in October, it was felt that the board needed to review these procedures. There was ample discussion by the board members as to the relevance of conducting the meetings with a firm knowledge of Sturgis.
- b) **Meeting Schedule for 2005**—There was discussion concerning how many and what types of meetings should the board hold a year as well as whether the executive session should precede or follow the public session. The Board decided that the 2nd Thursday of every month with periodic work sessions would be acceptable. They are willing to accept small variations on a case-by-case basis. The 2005 meeting schedule will be addressed at the October 14th meeting, of which will be an executive and public meeting.
- c) **Rules Committee**—Jordan reminded the Board that the rules should be reviewed on an on-going manner to ensure that they remain valid. Glenn suggested that the Board consider creating a rules committee to review the OAR's on a constant basis. Jordan suggested that the Board consider tabling this issue in order to allow time to consider whether this is appropriate. **Oxman** moved to table until the October board meeting. **In favor: Michael Jordan, Cathy Law, Lisa Oxman, Jackie Kern.**
- d) **Stipends**—There was discussion concerning what constitutes earning a stipend. The Board needs to more clearly define stipend payments.

Break at 10:30am

Back into Session at 10:43am

- e) **Delegation of Authority to sign Notices and Orders**—AAG suggested that the Board assign authority to Executive Director to sign not only the Notice of Proposed Action but Final Orders as well. Currently the Board Chair signs Final Orders. By assigning this authority to the Executive Director the law enforcement process will be expedient. This will not remove the Chairperson of the Board's right to sign these documents. **Oxman** moved to delegate signature to include Final Orders to the Executive Director. **In favor: Michael Jordan, Cathy Law, Lisa Oxman, Jackie Kern. Opposed: None. The motion carried.**
- f) **Work Experience**—Should work experience be an acceptable part of subject matter of the 500-hour requirement for application? After discussion the Board was not in favor of allowing work experience to count towards this requirement. There was some concern about board members having duo relationships.
- g) **Prostate Massage**—The Board received a letter concerning prostate massage. The Board discussed whether prostate massage should be specifically added to 334-010-0025(2). No action was taken.

8) Old Business

- a) **Continuing Education-** Discussion concerning the rules voted on at the July 8, 2004 meeting was clarified. **Oxman** moved to rescind the 1st motion made at the July meeting which was: I move that in rule 334-010-0050 that we amend the language in number two to include the change, changing the second sentence to contact hours in excess of the total number required may be carried over for credit for one renewal period. (Instead of not) But it is for one renewal period, which means you can't carry over two or three; study for three months somewhere and then carry it over for the rest of your licensure, you can't do that. So that's number two. Underneath number four, we're going to delete what is there. Each licensee must provide records of all continuing education hours at the time of renewal in the manner prescribed below: On board CE form. That form will be provided at the renewal time. Six will be deleted because it is going to be wrapped into nine. And in nine we will include the words ``or falsification of continuing education report`` to further clarify what we mean by fraud, and then in ten the addition of the required 25 hours to clarify underneath the topic areas. **In favor: Michael Jordan, Cathy Law, Lisa Oxman, Jackie Kern. Opposed: None. The motion carried.**

Oxman moved to delete 334-010-0050 (12) in its entirety. **In favor: Cathy Law, Lisa Oxman, Jackie Kern. Opposed: Michael Jordan. The motion carried.**

Oxman moved to make the deletion of 334-010-0050 (12) effective immediately as a temporary rule. **In favor: Michael Jordan, Cathy Law, Lisa Oxman, Jackie Kern. Opposed: None. The motion carried.**

- b) **Cosmetology Board Update-** Nathan Nordstrom, AMTA Oregon Chapter, left a message for Glenn re: language AMTA Oregon has been acting independent from the Board's opinion, which is their right but it seems to be interfering with the process. Glenn hasn't heard from Sue Wilson, with the Health Licensing Board, concerning the text that the OBMT submitted to them.
- c) **Vote in Fee Schedule-** Table until the 10-day rule with Legislative Counsel is finalized.

9) **Public Comments-** Paul Gerhard's stated that he had a concern about the rules committee and establishing guidelines; and had comments about prostate massage.

Oxman moved to adjourn for lunch at 11:30pm. **In favor: Michael Jordan, Cathy Law, Lisa Oxman Jackie Kern. Opposed: None. The motion carried.**

Reconvened at 1:14 pm

Continued discussion of Correspondence Report item B, iii Farmer's Insurance

Email/Response in Report of Executive Director- Board reviewed the definition of "Client". There is nothing in our rules to prohibit Licensees from billing for services and nothing that prohibits insurance companies from paying for services. Rule to remain as it stands. Glenn to send letter to Farmers' Insurance. See attached letter. **Law moved to send letter. In favor: Michael Jordan, Cathy Law, Lisa Oxman, Jackie Kern. Opposed. None. The motion carried.**

New Business H Added: Send letter AMTA Oregon and cc: National expressing concerns that AMTA Oregon is voicing information on our behalf that is incorrect. Glenn and Nathan Nordstrom, President of AMTA Oregon had previously agreed that any publications concerning OBMT will not be published without us having seen it first.

10) Executive Session

Jordan called the Executive Meeting to Order at 1:23 pm.

Pursuant to ORS 192.660 the Oregon Board of Massage Therapists met in Executive Session for the purpose of considering records that are exempt by law from public inspection.

Jordan called the Public Meeting to Order at 2:32 pm.

11) Action on Executive Session Matter(s)

- a) Law Enforcement Cases
Case No. 10-02-197

Allegation: Original complaint was of Licensee demonstrating unprofessional conduct in a massage setting. Board voted to issue a Final Order to include probation, peer supervision, and training have not been met. **Kern moved to:** Suspend license, effective immediately, until he complies with the original stipulated agreement. The Agreement is to be completed by March 15,

2005. Failure to comply by this date will cause the case to be referred back to the Board for consideration of revocation of license. **In favor: Cathy Law, Lisa Oxman, Jackie Kern. Jordan abstained. Opposed: None. The motion carried.**

Case No. 3-04-266

Allegation: Site inspection revealed that two rooms were not equipped with fly-tight containers and the bathroom didn't have single use sanitary towels. Licensee sent pictures of the corrected violations and is now in compliance. **Oxman moved to** close case C01 Compliance Met. **In favor: Michael Jordan, Cathy Law, Lisa Oxman, Jackie Kern. Opposed: None. The motion carried.**

Case No. 4-04-274

Allegation: Licensee demonstrated unprofessional conduct thru sexual misconduct. **Law moved to** place the licensee on probation for violation of OAR 334-030-0025 and impose probation per ORS 687.081 (1) (i). Licensee to read *Ethics of Touch* and submit a 5 page report within 6 months: complete a 20 hour course OR complete 10 hours of counseling with a licensed counselor within 1 year on ethics and/or boundaries; and reimburse to the Board all investigative costs. **In favor: Michael Jordan, Cathy Law, Lisa Oxman, Jackie Kern. Opposed: None. The motion carried.**

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

Case No. 10-03-240 Dennis Britten

Allegation: Unlicensed practicing of massage and advertising without a license. **Kern moved to** issue a Notice of Proposed Action to assess a civil penalty in the amount of \$500 for one violation of ORS 687.021 (1), practicing massage without a license; and, to assess a civil penalty in the amount of \$1000 for each of the five violations of ORS 687.021 (2), advertising massage without a license for a total civil penalty assessment of \$5,500. **In favor: Michael Jordan, Cathy Law, Lisa Oxman, Jackie Kern. Opposed: None. The motion carried.**

Case No. 9-03-245 Courtlandt Jennings

Allegation: Unlicensed practice of or offer to practice massage. **Oxman move to** agree to the Settlement amount of \$1500. **In favor: Michael Jordan, Cathy Law, Lisa Oxman, Jackie Kern. Opposed: None. The motion carried.**

Case No. 4-04-275 Stephanie Ross

Allegation: Unlicensed practicing of massage and advertising without a license. **Law move to** issue a Notice of Proposed Action to assess a civil penalty in the amount of \$500 for one violation of ORS 687.021 (2) Advertising massage without a license; and to assess a civil penalty in the amount of \$1000 for each of the two violations of ORS 687.021 (1), practicing massage without a license for a total civil penalty assessment of \$2,500. **In favor: Michael Jordan, Cathy Law, Lisa Oxman, Jackie Kern. Opposed: None. The motion carried.**

Case No. 6-04-283 Al Waddell

Duplication of case no. 10-03-253. **Oxman move to** close this case C16, No Complaint. **In favor: Michael Jordan, Cathy Law, Lisa Oxman, Jackie Kern. Opposed: None. The Motion carried.**

Case No. 3-04-284 Rub & Tug

Allegation: Advertising massage without a massage license. **Oxman move to** close this case C15 Not a Board Issue as this is a business. **In favor: Michael Jordan, Cathy Law, Lisa Oxman, Jackie Kern. Opposed: None. The motion carried.**

12) Announcements

Glenn will be attending the October 14, 2004, 2003-2005 Joint Legislative Audit Committee meeting. Board members are encouraged to attend.

The October Executive Session board meeting has been rescheduled to October 15, 2004 at 9am in order to accommodate the 2003-2005 Joint Legislative Audit Committee meeting.

13) Adjourn Meeting

Oxman moved to adjourn at 2:53 pm **In favor: Michael Jordan, Cathy Law, Lisa Oxman, Jackie Kern. Opposed: None. The motion carried.**

NOTE: After the meeting ended it was realized that clarification was needed concerning the temporary rule pertaining the 334-010-0050(11). Therefore, the meeting was called back into session at 2:59pm to clarify this matter.

Oxman moved that we delete the words "Board approved" from OAR 334-010-0050(11) effective immediately by use of a temporary rule. **In favor: Michael Jordan, Cathy Law, Lisa Oxman, Jackie Kern. Opposed: None. The motion carried.**

Oxman moved to adjourn at 3:30pm. **In favor: Michael Jordan, Cathy Law, Lisa Oxman, Jackie Kern. Opposed: None. The motion carried.**