



Oregon Board of Massage Therapists

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BOARD MEETING MINUTES
Thursday, March 10, 2005

Attendance

Board Members:

Michael Jordan, LMT, Chair
Jackie Kern
Brad Welker, DC

Stephanie Manriquez, LMT.
Cathy Law
Lisa Oxman, LMT

Jacqueline McCal, LMT, attended by telephone

Staff: Patty Glenn, Executive Director
Michelle Sherman, Office Manager
Diana Nott, Administrative Specialist

Public:

Jill Stanard, ND

1) Call to order– 10:00 AM

Jordan called the public meeting to order at 10 AM.

2) Approve Agenda

Glenn asked to make the following change to the agenda:
Add item 5) d) – Meeting Schedule

Oxman moved to approve the agenda as amended. **All in favor: Jordan, Kern, Law, Manriquez, McCal, Welker, and Oxman. Opposed: None. The motion carried.**

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

Jill Standard, ND, observer, represented OSM. No comments.

4) Approve minutes of the February 10, 2005 meeting minutes.

Law had two changes. Item 12 Case 303 should read "10 supervised visits of at least one hour each by another licensed massage therapists...". Item 14 Announcements. Delete--Whether the governor likes it or not. **Oxman** moved as changed. **All in favor: Jordan, Kern, Law, Manriquez, McCal, Welker, and Oxman. Opposed: None. The motion carried.**

5) Report of Executive Director

a) Financial Report

Glenn gave an overview of P&L summary. She noted that it's not red-lining and we will continue to see this perspective until the new renewal system is in place. She's concerned that the profit margin isn't greater however exams and renewals are still creating income. A revision to the current budget is needed due to change of director audit, change of staffing, the move to Hawthorne, and numerous audits.

At the May Board meeting the 05-07 budget will be presented in order to have a public hearing in June so that the budget will be approved and in place by July 1, 2005.

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A board member is needed to volunteer to review reconciliation reports. This entails meeting with Diana to review reconciliation reports to determine that finances are in order. Law has volunteered on a trial basis with Manriquez to back up. Manriquez stated that the late fee income is amazing. Jordan stated that they were increased to discourage renewing late.

b) **Legislative Update**

Senate Bill 97 has had its second hearing. It's gone through the Senate and all are in favor. The House hearing was scheduled for a work session but it's being "sat on" as it is leverage in other political issues. However, the Governor is in support through its Regulatory Streamlining office. Law asked who is chair of the House. It is Representative Dalto. This is our Bill that changes the renewal process.

Senate Bill 2105 Jacqueline McCal was able to attend from the Board. Jen Brady from Silverton School of Massage testified against the Bill as well as Diana Nott. There was written testimony from several individuals. Sue Wilson and Board of Cosmetology's lobbyist, Jim Markee, were in attendance on behalf of HLO. The bill hasn't been scheduled for a work session or hearing as yet.

House Bill 2283 changes mental health evaluation. No update.

House Bill 2285 is still moving forward. The Bar Assoc regarding administrative law proposed this Bill.

Health licensing boards have fiscal concerns. This bill would change how rules would be presented when altering Board/Agency Oregon Administrative Rules.

Senate Bill 405 Though it went through the hearing process it has not gone through committee. The committee is making sure everything's is addressed. This Bill gives semi-independent Boards/Agencies the ability to purchase property, to borrow money, and enter into borrowing agreements.

House Bill 2284-Would not allow recovery of civil penalty, rather the monies would go into the State's general fund.

Athletic training Bill—would include non-sports related injuries to be incorporated into their scope of practice. However, this is not a direction Athletic trainers can go. This bill has been postponed.

Physical Trainers Association. The practice act wasn't done in a format that Legislative Counsel was comfortable with. It is being rewritten. Board of Massage member please read from our perspective.

When will Legislature end? Senate will be wrapping up by soon.

- c) **Correspondence**—The Secretary of State received a complaint about internal controls by the Board of Massage Therapists. It has been almost 2 years since a complaint was filed with governor's office against this Board. Nancy Young, a Secretary of State auditor, sent the Board a letter stating that they were beginning a review of internal controls over revenues and expenditures. This audit will be the 5th audit in four years. Two audits by the Secretary of State as they perform an audit every 2 years and one change of director audit when Holzman left. There are three different findings of accounting concerns: criminal accounting, which would be partnered with Oregon State Police; a report; or a management letter. Glenn will be meeting with Chuck Swank of Grove, Mueller and Swank on Monday to review the audit report from the change of director audit to determine if there is anything critical that would have instigated the current audit. Oxman will draft an article to be published in the Boarderline. This article will also include an apology for the long renewal due to review of continuing education. Once Senate Bill 97 is approved we will be changing the renewal process so that it is spread throughout the two years.

- d) **Meeting schedule**—Glenn is concerned about how much work goes into each meeting and not having adequate time to complete the items before having to start work on the next meeting. She wants to go back to alternating executive and public meetings. The May meeting needs to be a budget hearing as it has to be in place July 1st. Oxman's opinion was that we could have a public meeting in April and May and then June would be executive session. April, July, October would be off the alternating meeting schedule. The July meeting will be in Medford and we're hoping that Rogue Community College would be willing to host the meeting. It was discussed previously, to have the July meeting in Bend, however,

McMenamins, St. Francis School wasn't available. Therefore the October meeting will be in Bend. The Parrish House at St. Francis would cost about \$300 a night and sleep the entire Board. The work session would be at the Parrish House but the Board meeting would be at Central Oregon Community College.

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6) Committee Reports

- a) **Scope of Practice Committee – December 18, 2004**—Mike Blackmore is ill and will not be available by telephone.
- b) **Exam Committee – February 28, 2005**— Mike Blackmore is ill and will not be available by telephone.

7) New Business

- a) **Goals for 2005**—Various goals were discussed during the previous year that Glenn wasn't aware of i.e. the mission statement. Glenn has provided a list of goals for 2005 and asked the Board members review and add items by the next meeting.
- b) **OSM Student Inquiry**—The question was raised if a student can be tutored by an instructor rather than taking a class. The Board members stated that this is not really a board issue but rather between Department of Education and the schools. The Education Committee may review the 300-hour requirements to determine if a change is warranted.
- c) **Personnel Policy Manual**—Since the Board became semi-independent at the end of 1999, we have adopted the Department of Administrative Services' personnel policy. It is now time to draft our own. Glenn has provided a copy of another Board's policy and asks that the Board members review this so that the Board of Massage Therapists can draft and adopt our own policy by July 1st.
- d) **PT Legislative Concept**—Glenn has asked the Board members review the legislative concept for Physical Therapists to see if it has any impact on our board.

8) Old Business

Felony and Gross Misdemeanor Policy—The Board reviewed a policy a year ago but hasn't adopted any. AAG McGinnity is reviewing Washington's policy. Members are asked to read this policy and voice any concerns at the next Board meeting so we can start the process of adopting our own policy. Having this matrix in place will provide the schools with a guideline when admitting students to their program.

- 9) **Public Comments** – Opportunity to share thoughts that pertain to agenda items. Jill Stanard asked to get a copy of the felony policy from the Washington Department of Health. Glenn will email to her.

Break at 11:16.

Back in public session 11:31

Into executive session at 11:31

10) EXECUTIVE SESSION – Law Enforcement and Attorney /Client Correspondence

[Executive session is held pursuant to ORS 192.660(2)(f) To consider information or records that are exempt by law from public inspection (legal counsel), ORS 192.660(2)(h) consultation with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed and ORS 192.660(2) (k) to consider information obtained as part of an investigation of a licensee or applicant by a health professional regulatory board.]

Into public session at 11:56

11) PUBLIC SESSION - Law Enforcement – discussion re: law enforcement cases and to take action against all law enforcement cases.

In the interest of expediting cases and relieve some of the burden from the Board members Glenn suggests providing a summary report to the Board of cases with closure codes of unable to locate, board lacks authority and unable to substantiate in which Board staff closed. Glenn stated that any complaint that comes into the office should be assigned a case #. **Oxman moved** to start this process, provide summary of those cases closed by staff and then vote at the next Board meeting. **All in favor: Jordan, Kern, Law, Manriquez, McCal, Welker, and Oxman. Opposed: None. The motion carried.**

Case No. 03-05-310

Allegation: Respondent is in violation of 687.081 1(j) based on his behavior in the state of Florida and the subsequent revocation of his license there.

Recommendation: **Law moved** to Revoke License pursuant to 687.081 1(j) "Has been the subject of disciplinary action as a massage therapist by any other state or territory of the United States or by a foreign country and the board determines that the cause of the disciplinary action would be a violation under ORS 687.011 to 687.250, 687.895 and 687.991 or rules of the board if it occurred in this state." **All in favor: Jordan, Kern, Law, Manriquez, McCal, Welker, and Oxman. Opposed: None. The motion carried.**

Case No. 03-05-315

Allegation: Engaged in the unlicensed practice of massage and advertising massage without a license.

Recommendation: **Kern moved** to Issue a Notice of Proposed Action for 1 violation of ORS 687.021(1) performing or purporting to perform massage without a license for \$500 and 4 violations of ORS 687.021(2) advertising massage without a license at \$1000 for each violation for a total civil penalty of \$4500. **All in favor: Jordan, Kern, Law, Manriquez, McCal, Welker, and Oxman. Opposed: None. The motion carried.**

Case No. 03-05-311 Virginia T. Benke

Allegation: Engaged in the unlicensed practice of massage and advertising massage without a license.

Recommendation: **Oxman moved** to Issue a Notice of Proposed Action for 2 violations of ORS 687.021(1) performing or purporting to perform massage without a license for \$500 for the 1st violation and \$1000 for the 2nd violation and 2 violations of ORS 687.021(2) advertising massage without a license at \$1000 for each violation for a total civil penalty of \$3500. Refer to WA Board. **All in favor: Jordan, Kern, Law, Manriquez, McCal, Welker, Oxman. Opposed: None. The motion carried.**

Case No. 03-05-312 Renee M. Snider

Allegation: Engaged in the unlicensed practice of massage and advertising massage without a license.

Recommendation: **Manriquez moved** to Issue a Notice of Proposed Action for 2 violations of ORS 687.021(1) performing or purporting to perform massage without a license for \$500 for the 1st violation and \$1000 for the 2nd violation and 3 violations of ORS 687.021(2) advertising massage without a license at \$1000 for each violation for a total civil penalty of \$4500. **All in favor: Jordan, Kern, Law, Manriquez, McCal, Welker, Oxman. Opposed: None. The motion carried.**

Case No. 03-05-316 Seth Feinauer

Allegation: Engaged in the unlicensed practice of massage.

Recommendation: Oxman moved to Issue a Notice of Proposed Action for 2 violations of ORS 687.021(1) performing or purporting to perform massage without a license for \$500 for the 1st violation and \$1000 for the 2nd violation for a total civil penalty of \$1500. Refer to Chiropractic Board. **All in favor: Kern, Law, Manriquez, McCal, Oxman. Opposed: None. Abstained: Jordan. Welker absent. The motion carried.**

Case No. 03-05-313 John Feinauer

Allegation: Advertising massage without a license.

Recommendation: Issue a Notice of Proposed Action for 3 violations of ORS 687.021(2) advertising massage without a license at \$500 for the first violation and \$1000 for each additional violation for a total civil penalty of \$2500. Refer to Chiropractic Board. **All in favor: Kern, Law, Manriquez, McCal, Oxman. Opposed: None. Abstained: Jordan. Welker absent. The motion carried.**

12) Public Comment—None.

13) Announcements—Manriquez & Jordan reappointed as Board members for another 4 years.

14) Adjourn Meeting—Oxman moved to adjourn meeting. **All in favor: Jordan, Kern, Law, Manriquez, McCal, Welker, Oxman. Opposed: None. The motion carried.** Meeting adjourned at 12:22pm