



# Oregon Board of Massage Therapists

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## BOARD MEETING MINUTES January 12, 2006

### Attendance

#### Board Members:

Jacqueline McCal, LMT, Chair  
Michael Jordan, LMT  
Brad Welker, DC  
Stephanie Manriquez, LMT

Jackie Kern  
Cathy Law  
Lisa Oxman, LMT

**Staff:** Patty Glenn, Executive Director  
Michelle Sherman, Office Manager  
Diana Nott, Law Enforcement Coordinator

#### Public:

Mike Kavia, Dynatronics (Synergie)	Jona Maukonen, Dynatronics/Harrang, Long, Gary, Rudnick	Danny Morgan, Synergie by Dynatronics
Samy Patnode, HLA	Marcea Wiggins, PPC	Betsy Earls, Dynatroni/HLGR
Tito Anders, PPC	Michael Dukart, LMT, AMTA-Oregon	

#### 1) Call to order

**McCal** called the public meeting to order at 10:05 am. All Board members in attendance. Manriquez attended by telephone.

#### 2) Thoughts from the New Chair

Chair McCal introduced herself and explained her expectations. She reiterated that meetings would adhere to the Sturgis Rules of Conduct. She also stated that the minutes need only contain the key points of conversation.

#### 3) Approve Agenda

Add under Item 9) a) Civil Penalty cap and b) Failure to post LMT number fine. **Oxman** moved to approve agenda as amended. **In favor: McCal, Law, Welker, Kern, Jordan, Manriquez and Oxman. Opposed: None. Motion carried.**

#### 4) Approve October 15, November 10, November 28 and December 30 minutes

October 15—the minutes are to reflect that Oxman and Jordan were absent and Welker left the meeting after the public law enforcement section of the agenda. **Oxman** moved to approve the October minutes as amended. **In favor: McCal, Law, Welker, Kern, Jordan, Manriquez, and Oxman. Opposed: None. The motion carried.**

November 10—the minutes are to reflect that the footer show November 10<sup>th</sup> meeting information rather than October 15 meeting information. Also, under item 9) Public Comments the sentence should read Heidi Schaefer—Talked about the convention in New Mexico and the positive feedback from attendees. **Oxman** moved to approve the November 10<sup>th</sup> minutes as amended. **In favor: McCal, Law, Welker, Kern, Jordan, Manriquez, and Oxman. Opposed: None. The motion carried.**

November 28 Special Meeting—Due to telephone issues Oxman was unable to attend. **Kern** moved to approve minutes as amended. **In favor: McCal, Law, Welker, Kern, Jordan, Manriquez, and Oxman. Opposed: None. The motion carried.**

December 30 Special Meeting—**Jordan** moved to approve. **In favor: McCal, Law, Welker, Kern, Jordan, Manriquez, and Oxman. Opposed: None. The motion carried.**

**5) Report of Executive Director**

- a) **All schools meeting**—the model curriculum, exam process, fundamental canons, enforcement and how and where changes have been made were discussed. Schools will provide by email any thoughts on any of these topics.
- b) **Financial Report**—Jordan reviewed records for checking, savings, and payroll and reported that everything looked fine. Glenn informed the Board that the annual audit would be performed in about a month.
- c) **Correspondence**—Received a call from a senator concerning an applicant. Received a letter from Dynatronics, which will be discussed later in the agenda.
- d) **Governor's Report**—Glenn supplied a copy of the annual report concerning Board operations that was submitted to the Governors office as required by Statute.

**6) Committee Report—**

- a) **Rules Committee**—Jill Stanard, ND, presented the Board with committee recommendations for statute changes. Discussion ensued. With the exception of some minor changes, the Board didn't have any objections to the recommendations. A final version will be presented at the February meeting.
- b) **Exam Committee Report**—Glenn updated the members concerning the implementation of the new exam process. The cameras have been installed. Exams are being held 3 days a week currently and will remain so until the influx of applications dwindle.
- c) **Education/Scope of Practice Committee Report**—Lisa Barck Garofalo presented to the Board recommendations for the Model Curriculum, CPR requirement, Outcall rules clarification and Body Wraps. The Board asks that the committee draft a position statement on topical preparation, their uses, and training required. Forward to the exam committee for review of item 1-7 as listed on the December 8 committee report.

The Board discussed at length the CPR removal from the renewal process. It was determined that since the massage industry as a whole is moving towards being recognized in the medical industry CPR needs to be a requirement of renewal. CPR could still be used for continuing education.

**Jordan** moved to reinstate CPR as part of the renewal process effective date of 1-1-08. **In favor: Welker, Kern, Jordan, Manriquez. Opposed: Law, McCal and Oxman. Motion carried.**

**1) EXECUTIVE SESSION – Law Enforcement**

Executive session is held pursuant to ORS 192.660(2)(f) To consider information or records that are exempt by law from public inspection, 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.

**2) Public Session—Law Enforcement—discussion re: law enforcement cases against unlicensed individuals and to take action against all law enforcement cases.**

**Case #2-04-263** Closed C21 Unable to locate.

**Case #2-04-267** Closed C21 Respondent unreachable.

**Case #10-04-298** Closed C21 Unable to locate.

**Case #3-05-325** Closed C11 Compliance met. Respondent added license number to advertising.

**Case #3-05-326** Closed C11 Compliance met. Respondent added license number to advertising.

**Case #6-05-378** Closed C12 Insufficient evidence.

**Case #3-05-434** Closed C02 Board lacks authority. Respondent practicing in Washington. Information sent to WA Board of Massage.

**Case #5-05-439** Closed C11 Compliance Met. Aqua massage controls given to the clients.

**Case #5-05-350** Closed C03 Allegations withdrawn. Respondent auto-expired. The spa she worked for had not updated their web site to reflect that respondent was no longer working there.

**Case #6-05-371** Closed C21 Unable to locate

**Case #7-05-386** Closed C02 Board lacks authority. Respondent is not an Oregon resident or practicing in Oregon.

**Case #2-05-387** Closed C15 Not a Board issue. Dispute between insurance company and LMT regarding fee structure.

**Case #8-05-388** Closed C04 Allegations unfounded. Respondent is a facial tech working within her scope of practice.

**Case #12-04-391** Closed C04 Allegations unfounded. Ceragem selling beds, not using them on public

**Case #7-04-288 Allegation:** Advertising and practicing massage without an Oregon license. **Recommendation:** Issue a Notice of Proposed Action for one violation of ORS 687.021(1) purporting to perform massage without a license and eight violations of ORS 687.021(2) advertising massage without a license, for a total civil penalty of \$8,500. **Oxman** so moved. **In favor: McCal, Law, Welker, Kern, Jordan, Manriquez and Oxman. Opposed: None. Motion carried.**

**Case #6-05-368 Allegation:** Advertising and practicing massage while in Inactive status. **Recommendation:** Issue a Notice of Proposed Action for one violation of ORS 687.051(5) practicing while in an inactive status and eight violations of ORS 687.081(1)(i) engages in unprofessional or dishonorable conduct for a total civil penalty of \$8,500. **Law** so moved. **In favor: McCal, Law, Welker, Kern, Jordan, and Oxman. Opposed: Manriquez. Motion carried.**

**Case #6-05-370 Allegation:** Failing to post license number in advertising. **Recommendation:** Issue a Notice of Proposed Action for one violation of ORS 687.021 advertising massage without a license for a total civil penalty of \$500. **Jordan** so moved. **In favor: McCal, Law, Manriquez, Kern, Jordan, and Oxman. Opposed: Welker. Motion carried.**

**Case #8-05-400 Allegation:** Allowing an unlicensed person to practice massage. **Recommendation:** Issue a letter of concern and close the case. **Oxman** so moved. **In favor: McCal, Law, Welker, Kern, Jordan, Manriquez and Oxman. Opposed: None. Motion carried.**

**Case #7-05-420 Allegation:** Practicing massage without a massage license. **Recommendation:** Issue a Notice of Proposed Action for one violation of ORS 687.021(1) performing massage without a license for a total civil penalty of \$500. **Jordan** so moved. **In favor: McCal, Law, Welker, Kern, Jordan, and Manriquez. Opposed: Oxman. Motion carried.**

**Case #6-05-360 "Zoe" April Jean Dixon Allegation:** Advertising and practicing massage without a massage license. **Recommendation:** Issue a Notice of Proposed Action for 2 violations of ORS 687.021(2) advertising massage without a license and one violation of ORS 687.021(1) performing massage without a license for a total civil penalty of \$2,500. **Jordan** so moved. **In favor: McCal, Law, Welker, Kern, Jordan, Oxman and Manriquez. Opposed: None. Motion carried.**

**Case #6-05-369 Sweet Medicine Nation Allegation:** Advertising and practicing massage without a massage license. **Recommendation:** Issue a Notice of Proposed Action for one violation of ORS 687.021(1) performing massage without a license and two violations of ORS 687.021(2) advertising massage without a license for a total civil penalty of \$2,500. **Jordan** so moved. **In favor: McCal, Law, Welker, Kern, Jordan, Oxman and Manriquez. Opposed: None. Motion carried.**

**Case #10-05-408 Victoria Bastraski Allegation:** Advertising and practicing massage without a massage license. **Recommendation:** Issue a Notice of Proposed Action for one violation of ORS 687.021(1) performing massage without a license and six violations of ORS 687.021(2) advertising massage without a license for a total civil penalty of \$6,500. **Welker** so moved. **In favor: McCal, Law, Welker, Kern, Jordan, Oxman and Manriquez. Opposed: None. Motion carried.**

**Case #8-05-416 Samantha Kennedy Allegation:** Practicing massage without a massage license. **Recommendation:** Issue a Notice of Proposed Action for 42 violations of ORS 687.021(1) performing massage without a license for a total civil penalty of \$41,500. **Jordan** so moved. **In favor: McCal, Law, Welker, Kern, Jordan, Oxman and Manriquez. Opposed: None. Motion carried.**

**9) New Business**

**a) FSMTB Membership & Annual Meeting**

**Glenn** explained the merits of membership and asked the Board to consider joining. **Law** moved that we join the Federation. **In favor: McCal, Law, Welker, Kern, Jordan, Oxman and Manriquez. Opposed: None. Motion carried.** Elect Board member delegate at the February meeting to attend the annual meeting.

**3) Old Business**

**a) Conversion Rules**—A rule is needed to explain what the new renewal system will be. **Glenn** read the rule text into record and asked that the Board approve this temporary rule. **Welker** moved. **In favor: McCal, Law, Welker, Kern, Jordan, Oxman and Manriquez. Opposed: None. Motion carried.**

**b) Statute Changes**—discussed during committee report.

**c) Dynatronics - Synergie systems**—Representatives from the Dynatronics Corporation explained their product and asked that the Board consider waiving the requirement that a massage therapist operate the machine. **McCal** made the following statement in reply: “After consulting with legal counsel the Oregon Board of Massage Therapists does not regulate machines, it regulates the practice of massage. The use of this machine or similar equipment constitutes the practice of massage and would require a license from the Board of Massage Therapists or other health related regulatory agencies.” **AAG Lindley** made the following statement in reply, as well: “Under ORS 687.011(5) the Board has authority to interpret their statutes’ plain definition as to whether the Synergie Aesthetic Massage System Device is massage and they have now, for a second time, determined that it is.”

**11) Public Comments**—There were no public comments.

**12) Announcements and Other Business**—**Law** asked that the November 10th minutes read under item 8 Old Business a) second paragraph “**Law** suggests that she be moved to the Education/Scope .....”. **McCal** asked that the October 15th minutes read under item 5 Report of the Director a) be amended to “discussed which board member to take over financial oversight duties after January 2006”. **Law** moved to reapprove the October and November minutes as amended. **In favor: Oxman, McCal, Jordan, Law, Kern, Manriquez. Absent: Welker. Motion carried.**

Reminder—The Board meeting in October will be held on the 20th, 21st, and 22nd in The Dalles.

**Glenn**—discussed changes to rule that **HLO** is proposing. She asked that Board member read through and make written suggestions by January 23, 2006.

**Jordan** asked that the table of contents, in the board member binders, be changed to have the agenda item numbers correspond with the binder numbers.

**Manriquez** announced that the **NCBTMB** is calling for new continuing education committee members. Give her a call if you are interested. It was suggested that we place an article in our next Boarderline.

**13) Adjourn Meeting— Jordan** moved to adjourn. **In favor: Oxman, McCal, Law, Jordan, Kern, and Manriquez. Absent: Welker. Motion carried.** Meeting adjourned at 2:30pm.