



Oregon Board of Massage Therapists

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

BOARD MEETING MINUTES March 9, 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:

Vincent Stone Lisa Garofalo Paul Gerhards

A
P
P
R
O
V
E
D

Call to order

McCal called the public meeting to order at 10:02 am. All Board members in attendance. Manriquez and Welker attended by telephone.

1) Approve Agenda

Executive session and law enforcement will be discussed after Directors report. **Jordan** moved to approve agenda as amended. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.**

2) Approve minutes of January 12, 2006 and February 9, 2006

January 12, 2006: Oxman believes that a motion to table the CPR discussion was made; however, after reviewing the recording of the meeting it was determined that it was a suggestion not a motion. The Board determined that the January minutes should reflect the effective date of 1-1-08 for the CPR to become effective. **Law** moved to approve the January 12, 2006 minutes with this revision. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.**

February 9, 2006: Oxman moved to approve the February 9, 2006 minutes. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.**

3) Directors Report

a) Financial Report: We are over budget in Government Services due to higher than anticipated AAG costs. Jordan is pleased that the Board is operating well within the budget.

b) Updates: Board position: The public position held by Law will be available at the end of April. The Board is working with the Governor's Office to fill this position.

Profession Comparison: Glenn is working on documents which compare the differences in scope of practice between Massage Therapists and Esthetician, Chiropractic Assistant, Acupuncturist, Nurses, etc. with the intention of promoting practitioner and public awareness. Glenn expects to have this completed by the April meeting.

Conversion Renewal: We have begun sending out active and inactive conversion renewal notices. Law was impressed with how clear the explanation was.

April Meeting: The board meeting that is scheduled for the coast is in Cannon Beach rather than

Seaside due to hotel accommodations. We will be holding the meeting at the Hallmark Inn and Resort on Saturday, April 8, 2006. There was discussion of holding an executive session on Friday night. Jordan will be unable to attend the Friday evening meeting. Oxman is unable to attend the entire meeting.

A
P
P
R
O
V
E
D

4) 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.

5) Law Enforcement

a) Action on all Law Enforcement cases:

Case #3-05-345 Allegation: Practicing and advertising massage without a license.

Recommendation: Issue a Notice of Proposed Action for one (1) violation of ORS 687.021(1) purporting to be in the practice of massage without a license and one (1) violation of ORS 687.021(2)(a) advertising massage without a license for a total civil penalty of \$1,500.

Law so moved. In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez.

Opposed: None. Motion carried.

Case #9-05-407 Allegation: Practicing and advertising massage without a license.

Recommendation: Issue a Notice of Proposed Action for one (1) violation of ORS 687.021(2)(a) advertising massage without a license and two hundred ninety-six (296) violations of ORS 687.021(1) practicing massage without a license for a total civil penalty of \$54,500. **Jordan** so moved. **In favor: McCal, Jordan, Law, Oxman, Welker, and Kern. Abstained: Manriquez.**

Motion carried.

Case #1-06-440 Allegation: Practicing and advertising massage without a license.

Recommendation: Issue a Notice of Proposed Action for two (2) violations of ORS 687.021(2)(a) advertising massage without a license for a total civil penalty of \$1,500. **Jordan** so moved. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None.**

Motion carried.

Case #2-06-448 Allegation: Failure to post license. **Recommendation:** Issue a Notice of Proposed Action for one (1) violation of OAR 334-010-0025(8) all licensed massage therapists must clearly display their license at their place of business for a total civil penalty of \$500. **Kern** so moved. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed:**

None. Motion carried.

Case #3-06-449 Applicant for licensure. Jordan moved to deny applicant a license. **In favor:**

McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.

Case #3-05-331 Roberto Dovald - Allegation: Practicing and advertising massage without a license. **Recommendation:** Issue a Notice of Proposed Action for two (2) violations of ORS 687.021(1) purporting to be in the practice of massage without a license and one (1) violation of ORS 687.021(2)(a) advertising massage without a license for a total civil penalty of \$2,500. **Law** so moved. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed:**

None. Motion carried.

Case # 3-05-332 Ester Luxen - Allegation: Practicing and advertising massage without a

license. **Recommendation:** Issue a Notice of Proposed Action for two (2) violations of ORS 687.021(1) purporting to be in the practice of massage without a license and one (1) violation of ORS 687.021(2)(a) advertising massage without a license for a total civil penalty of \$2,500. **Jordan** so moved. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.**

Case #6-05-361 Nyle Fisher - Allegation: Practicing and advertising massage without a license. **Recommendation:** Issue a Notice of Proposed Action for one (1) violation of ORS 687.021(1) purporting to be in the practice of massage without a license and seven (7) violations of ORS 687.021(2)(a) advertising massage without a license for a total civil penalty of \$6,500. **Oxman** so moved. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.**

Case #7-05-382 Gene Sykes - Allegation: Practicing and advertising massage without a license. **Recommendation:** Issue a Notice of Proposed Action for seventeen (17) violations of ORS 687.021(2)(a) advertising massage without a license for a total civil penalty of \$16,500. **Kern** so moved. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.** The civil penalty amount should be amended to \$13,000. **Oxman** so moved. **In favor: McCal, Law, Oxman, Welker, Kern, and Manriquez. Opposed: Jordan. Motion carried.**

Case #9-05-422 Donna Green - Allegation: Practicing and advertising massage without a license. **Recommendation:** Issue a Notice of Proposed Action for one (1) violation of ORS 687.021(1) engaging in the practice of massage without a license and seven (7) violations of ORS 687.021(2)(a) advertising massage without a license for a total civil penalty of \$7,500. **Law** so moved. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.**

Case #11-05-428 Ron Marvin - Allegation: Practicing and advertising massage without a license. **Recommendation:** Issue a Notice of Proposed Action for one (1) violation of ORS 687.021(1) purporting to be in the practice of massage without a license and one (1) violation of OR 687.021(2)(a) advertising massage without a license for a total civil penalty of \$1,500. **Welker** so moved. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.**

Case #12-05-438 Ying Wang (Quick Fix Oregon Location) - Allegation: Practicing and advertising massage without a license. **Recommendation:** Issue a Notice of Proposed Action for one (1) violation of ORS 687.021(1) engaging in the practice of massage without a license for a total civil penalty of \$500. **Oxman** so moved. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.**

Case #11-05-441 Michael Gates - Allegation: Practicing and advertising massage without a license. **Recommendation:** Issue a Notice of Proposed Action for one (1) violation of ORS 687.021(1) engaging in the practice of massage without a license and thirteen (13) violations of ORS 687.021(2)(a) advertising massage without a license for a total civil penalty of \$14,000. **Kern** so moved. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.** **Jordan** moved to refer case to Multnomah County DA. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.**

Case #3-05-338 Rose Damour - Refer to Coos County DA. Jordan so moved. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.**

A
P
P
R
O
V
E
D

- b) **Civil Penalty for Failure to post LMT Number, Change Address, Change name**—Moved to the April board meeting.

6) **Committee Report**

- a) **Rules Committee Report:** Lisa Garofalo presented the report, on behalf of Jill Stannard, from the March 3, 2006 meeting. As a result of the discussion at the February board meeting, the committee has revised ORS 687.011 Definitions. **Oxman** moved to make the following changes: Delete ORS 687.011(4) “Manual” means the use of the hands or the feet, or both, or any part of the body in the performance of massage; ORS 687.011(5) delete the committee suggested definition for Manual therapies; ORS 687.011(6) to read, “Massage” or “bodywork” or “massage therapy” means touch on the body for the purpose of but not limited to promoting physical and emotional well-being which may include but is not limited to the use of: a) pressure, wrapping, friction, stroking, tapping, kneading, vibration or stretching; b) appliances and tools; c) topical preparations; d) hot and cold applications; and add ORS 687.011(11) “Touch” means the use of the hands, or the feet or any part of the body in the performance of massage. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.**

A
P
P
R
O
V
E
D

Law moved to change all references to state, district, territory or providence to jurisdiction. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.**

Law moved that the proposed statutes be submitted as a legislative concept. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.**

- b) **Education/Scope of Practice Committee Report:** Lisa Garofalo presented the report from the February 24, 2006 meeting.

1. Outcall rules clarification. Jordan is concerned that the licensee may not be posting their license when performing outcall massage. An article will be included in the Boardline to address this issue. **Oxman** moved to send to Rules committee and have on agenda when decided. Discussion ensued and the Board decided to leave the rule as is due to the broad spectrum of locations where work is performed. **Oxman** rescinded motion.

2. Topical Preparation Policy: Garofalo included a draft of the policy and asks that the Board review. The committee also recommends that a statement be included on all Board policies to the effect of “This policy statement is provided for information and education purposes. For legal requirements and compliance refer to the ORS Chapter 687 and OAR Chapter 334.” **Oxman** moved to adopt the draft topical preparation policy as amended:

Topical Preparations Policy

Topical preparations may be used for the purposes of massage as defined in ORS 687.011(5). Topical preparations are used for but not limited to:

- *lubricate and minimize friction
- *minimize pain
- *warm or cool an area

*address inflammation

*promote the healthy functions of organs and systems of the body

The Oregon Board of Massage Therapists expects that any LMT using a topical preparation, either locally or on the whole body, understands its safe application, and the indications, and contraindications as they apply to each client. Informed consent protocol must be followed.

LMTs are reminded that they need appropriate knowledge and education that may be beyond their initial training when utilizing topical preparations.

In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.

3. Model Curriculum List A and B. Garofalo included a draft of combined lists A and B. A list of the textbooks that these muscles are in will be provided. The Board reviewed and made the following changes: Remove obicularis oculi, obicularis oris, epicranius, and frontalis and add occipitofrontalis, flexor digitourm profundus, abductor pollicus, extensor pollicus brevis, and temporalis. **Law** moved to accept committee's recommendations as amended. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.**

Law moved to amend the motion to include an effective date of January 1, 2007 to be incorporated into the school curriculum. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.** For a copy of the revised list of muscles required in the Model Curriculum contact the office. The Board office will send the revised list to all approved schools as well as post it on our website.

Update from AAG, Lindley. In the case against Irene Mills, Respondent has gone to hearing and the Attorney Law Judge has ruled in the Board's favor. A Final Order has been issued. In the case against Del Jones, Licensee has entered into a Stipulated Order agreeing to surrender his license and never re-apply for licensure. In the case against Thomas Miller, Licensee has entered into a Stipulated Order agreeing to surrender his license.

7) Public Forum—No public questions or thoughts.

8) New Business

a) **CynosureSpa:** This equipment is significantly similar to the Synergy machine previously discussed. To the knowledge of the Board there is only one user of this machine in Oregon who uses this machine. Glenn will write a letter to this company as well as to the manufacturer.

9) Old Business

a) **Database/Systems:** Office preparing costs of updated database. Hardware will be needed to support the database changes and increased storage needs. It was suggested that the computer budget be amended in order to provide a secure licensing database.

b) **FSMTB—Elect Annual Meeting Attendee:** At the February board meeting the Board voted to elect Manriquez as the delegate to attend the FSMTB annual meeting to be held September 21, 22, and 23. **Oxman** moved to elect McCal as vice-delegate. **In favor: McCal, Jordan, Law, Oxman, Welker, Kern, and Manriquez. Opposed: None. Motion carried.**

c) **Board Member Training:** Table until the April meeting. The Chair has asked each member to complete the self-assessment questionnaire by the April meeting. The questionnaire was drafted using the Governors handbook and the FARB's model Board Member Code of Conduct.

10) Public Comments—No public comments.

A
P
P
R
O
V
E
D

11) Announcements—The April meeting will be held in Cannon Beach at the Hallmark Resort. There will not be an Executive Session meeting Friday evening. The Saturday meeting will be all day.

12) Adjourn Meeting— **Jordan** moved to adjourn. **In favor: Oxman, McCal, Law, Welker, Kern, Jordan and Manriquez. Opposed: None. Motion carried.** Meeting adjourned at 2:25pm.

**A
P
P
R
O
V
E
D**