



# Oregon

Theodore R. Kulongoski, Governor

## Board of Massage Therapists

748 Hawthorne Ave NE  
Salem, OR 97301

Phone: (503) 365-8657

Fax: (503) 385-4465

www.oregonmassage.org

## BOARD MEETING MINUTES

June 15, 2007

### Attendance:

#### Board Members:

Stephanie Manriquez, LMT, Chair  
Jackie Kern, Public, Vice-Chair  
Jacqueline McCal, LMT  
R. Craig McMillin, Public Member

#### Staff:

Patty Glenn, Executive Director  
Diana Nott, Law Enforcement Coordinator  
Kathryn Watson, Exam Coordinator

#### Public:

AAG: Lori Lindley  
William Wagner

Ute Munger  
Leslie Rutherford

Melanie Steed-Hildebrandt

### Call to order

**Manriquez** called the public meeting to order at 10:10 am. Role call performed. All were present with the exception of Oxman and Barton, who were excused.

- 1) **Approve Agenda - McCal** moved to approve agenda. **In favor: McCal, McMillin, Kern and Manriquez Opposed: None. Motion carried.**
- 2) **Approve April 13, 2007 Minutes** - Tabled until the July Board meeting.
- 3) **Public Forum** - Melanie Steed-Hildebrandt thanked the Board for their hard work and the improved communication with the licensees. She stated that she was not clear what the FSMTB stood for and shared her concerns with the Board. She provided the Board with a letter stating her concerns and other issues.
- 4) **Report of Executive Director**
  - a) **Updates**

**Glenn** provided the Board members with the latest Touchstone newsletter from OMTA. There was a brief discussion on the newsletter and the information contained in it. **Manriquez** mentioned that LMT's can no longer use re-testing as an option for renewal of their National Certification.

**Glenn** provided the Board with a copy of the current Profit & Loss. She further discussed the budget and shared information on the current work flow in the office. **Glenn** recently spent a day with an accountant to review financials and explore the functionality of QuickBooks. She stated that she is verifying that accounting codes that are consistent with general government and is going to make some changes for this coming biennium which will provide the same information but in a much cleaner format. **Manriquez** asked about the benefits of moving payroll to a new system. **Glenn** explained that QuickBooks can handle the payroll with the same guarantees as ADP but in a more cost efficient and streamlined manner. The current accounting software can integrate all of the information with less hassle and time. There is 3<sup>rd</sup> party verification through INTUIT. There's live support, less expense and it is more streamlined. It would also allow us to better follow time tracking with automatic input on a daily basis. There are a lot of enhancements and the office is excited for the implementation. It is expected that we will make that switch in July.

5) **Committee Report**

a) **Rules Committee** - The Board reviewed the Committee Report from Jill Stanard. The Board members then went through the proposed amendments to Division 30 and gave feedback for the staff to give to the Committee. The next meeting is scheduled for Monday, June 18, 2007 at 10:00am at the OSM Salem Campus.

6) **Board Member Training** by Lori Lindley, AAG – Ms. Lindley provided a PowerPoint presentation to the Board regarding the process of Administrative Law and the life of a contested case hearing. Ms. Lindley also distributed training materials which she felt would be useful to the Board.

7) **EXECUTIVE SESSION - Law Enforcement**

The Board may enter into Executive Session to discuss certain matters on the agenda for 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, 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 and ORS 192.660(2)(i) To review and evaluate the job performance of the Executive Director or staff. Prior to entering into Executive Session, the nature of and authority for holding the Executive Session will be announced.

The Board entered Executive Session at 11:34am and returned to Public Session at 1:57pm.

8) **Executive Session Action**

a) **Applicant 1—McMillin** moved to approve the application for initial license for Applicant 1. **All in Favor: McCal, Manriquez, Kern and McMillin. Opposed: None. The motion carried.**

b) **Applicant 2—McCal** moved to approve Applicant 2 for the Oregon Practical Exam. **All in Favor: McCal, Manriquez, McMillin and Kern Opposed: None. The motion carried.**

c) **Case #5-06-475 Allegation:** Unprofessional or dishonorable conduct. **Recommendation: Kern** moved to issue a Notice of Proposed Action for 1 violation of OAR 334-030-0005(1)(e) failure to represent all aspects of his or her professional capabilities and services honestly and accurately, 1 violation of OAR 334-030-0005(2)(c) failure for the LMT to be accountable for his or her actions and commitments, 1 violation of OAR 334-030-0005 (5)(b) failure of the LMT to act within the context of professional practice standards, code of ethics and relevant statutes and regulation and assess a civil penalty of \$2,500. **All in Favor: McCal, Manriquez, McMillin and Kern Opposed: None. The motion carried.**

d) **Case #10-06-501 Allegation:** Unprofessional or dishonorable conduct. **Recommendation: McCal** moved to issue a Notice of Proposed Action for 2 violations of OAR 334-030-0025 (12) practicing or offering to practice beyond the scope permitted by law, 1 violation of OAR 334-030-0025 (19)(a)(B) sexual violation which is sex between the LMT and the client, 2 violations of OAR 334-030-0025 (19)(d) any conduct or practice that could endanger the health or safety of a client and assess a civil penalty of \$4,500 and require completion of the Board Approved Ethics Protocol and Plan of Supervision. **All in Favor: McCal, Manriquez, McMillin and Kern Opposed: None. The motion carried.**

9) **Law Enforcement Action – Public**

a) **Case #9-06-509 Lisa Bordner Allegation:** Unlicensed Practice of Massage **Recommendation: Kern** moved to issue a Notice of Proposed Action for 1 violation of ORS 687.021(1) engaging in the practice of massage without a license, 1 violation of ORS 687.021(2)(a) advertising for massage without a license. Assess a total civil penalty of \$1,500. **All in Favor: McCal, Manriquez, McMillin and Kern Opposed: None. The motion carried.**

b) **Case #12-06-520 William Wagner Allegation:** Unlicensed Practice of Massage **Recommendation: McCal** moved to issue a Notice of Proposed Action for 1 violation of ORS 687.021(1) engaging in the practice of massage without a license, 3 violations of ORS 687.021(2)(a) advertising for massage without a license. Assess a total civil penalty of \$3,500. **All in Favor: McCal, Manriquez, McMillin and Kern Opposed: None. The motion carried.**

### **Closed Cases**

3-05-333	C01 Compliance met
6-05-358	C11 Compliance with letter
6-05-359	C11 Compliance with letter
2-06-443	C12 Insufficient evidence
3-06-450	C02 Board lacks authority
3-06-452	C12 Insufficient evidence
4-06-459	C15 Not a Board issue
1-06-461	C23 Non-licensed person notified of violation, complied
3-06-462	C01 Compliance met
4-06-470	C02 Board lacks authority
6-06-480	C12 Insufficient evidence
7-06-489	C11 Compliance with letter
10-06-502	C21 Unable to locate
7-06-505	C12 Insufficient evidence
9-06-511	C12 Insufficient evidence
9-06-513	C15 Not a Board issue
12-06-519	C02 Board lacks authority
2-07-527	C12 Insufficient evidence

### **10) New Business**

- a) **FSMTB Test Outline for review and adoption** – The Board went over the Job Task Analysis results and test outline. **Glenn** shared information that was distributed to schools around the country regarding the pilot test. Initial pilot test candidates have to have graduated from a massage program after June 2006. It was suggested by the Board that there be an exam for seasoned professionals to take and compare the results. **Glenn** said that she would pass the suggestion on to the FSMTB. **Manriquez** asked about testing centers in Oregon. **Glenn** said they were working with Pearson VUE to insure, at a minimum, the same accessibility that exists with other exam options.
- b) **FSMTB Annual Meeting** – Tabled choosing delegates until next meeting when more members are present.
- c) **NCBTMB Database Conference Call for Board Administrators & Job Task Analysis** – According to NCB 12 states participated in the conference call. Minutes from that meeting were supposed to be released the same afternoon, but none had been released at this time. When those minutes are released, Glenn will forward them to the Board members. **Glenn** shared that the November 2006 meeting clearly indicated that the states wanted NCB to coordinate with FSMTB on the database issue. **Glenn** hopes that they had not lost sight of that, as nothing has been done since that meeting.
- No additional information has been received regarding the NCBTMB's Job Task Analysis. Glenn will forward any information received.
- d) **Low Level Laser Therapy** - The Board reviewed information on low level laser therapy. The brochure provided indicated use in relieving pain and inflammation. It appears to have similar effects of icing or lymphatic drainage, which doesn't need a prescription. **Kern** asked if this equipment could also be used by cosmetologists. **Glenn** stated that it might be, depending on what it is being used for. **McCal** said that if the public can buy it and use it or if it's available to the general public, then it would be available to LMT's as well, unless proof comes down the line to determine the equipment to be harmful. Based on the information provided and Board conversation the Board determined that Low Level Laser Therapy and other equipment would be acceptable for use by LMTs provided the equipment fits within the scope of practice, is available to the general public without a prescription and the person using the equipment is appropriately trained. **Glenn** will craft language on the decision for public dissemination.

- e) **Advertising – Scope of Practice** – The Board received a copy of a complaint from the Oregon Health Licensing Agency about an LMT and their advertising. The OHLA was requesting clarification from the Board on scope of practice. The way that the ad was worded, it was confusing whether the practitioner was offering esthetic services or massage-related services. The Board determined that the practitioner was working within their scope of practice, as the skin is a system of the body and the topical preparations used were addressing inflammation and promoting the healthy function of the skin. **Glenn** stated that the LMT might be pushing the line on the language. **McCal** would like to have the LMT advised to direct her advertising towards more massage-related issues as opposed to using terms such as “radiant skin”.

## 11) Old Business

- a) **Review and adopt rules changes** – No testimony was provided at the Hearing earlier that morning. The Board received no written or telephone communication about the proposed rules changes. **McCal** moved to adopt the rules changes as read at the Rules Hearing. **All in favor: McCal, Manriquez, McMillin and Kern. None opposed. Motion carries.**

### b) Legislative Updates:

**SB399 Reflexology Exemption Bill.** **Glenn** shared that SB 399 was signed into law on June 11, 2007 by the Governor. The staff will be working on a statement to explain the very narrow scope of exemption and explain that anyone practicing outside of that exemption will be subject to disciplinary action by the Board.

There was some discussion on various correspondences made with the Governor's office by concerned LMT's and other members of the public. One LMT shared their talk with the Governor's Office and stated that they were told the Governor would sign the bill but expected the Board to return next session and fix any issues.

**SB170 – OBMT's Bill.** SB 170 died this session. The bill had the support of both major professional organizations and had passed out of committee with 100% do-pass recommendation. **Glenn** will be working with the Governor's office to determine what happened and how to prevent it in the future.

**SB717 – Scope of Practice Review Committee.** The intent of this bill is to have the Oregon Board of Medical Examiners appoint a committee to review any health-related scope of practice issues. The concerns which led to this bill appear to be more Professional Association related than Regulatory Board. **Glenn** will continue to follow this bill.

**Legislative Session** should end this month. **Lindley** said a lot of Boards are requesting their Board members communicate with their legislators, as there seems to be much confusion about the roles of professional organizations and regulatory agencies.

## Addendum to 10)a

**Manriquez** moved to approve the FSMTB exam as one of the options for the written portion of the Oregon licensing requirements. **All in favor: Manriquez, McCal, McMillin and Kern. Opposed: None. Motion carries.**

## 12) Public Comments:

*Ute Munger* had a question about item 10 (d) – Low Level Lasers; she asked if there was any possibility of injuring a person that could promote legal action against and LMT and if so, shouldn't the practitioner look into their insurance coverage. **Glenn** said it might be a good idea to issue a statement to that effect. The Board agrees that it is a good idea. **Glenn** will add to the document with low level lasers.

*William Wagner* introduced himself. He shared that he has come to Oregon from another state and practices shiatsu, which is a form of acupressure. He asked the Board to consider in the exam forms of massage other than Swedish. **Manriquez** invited Mr. Wagner to participate on committees to provide his input and effect change.

### 13) Announcements

**Glenn** confirmed that the next Board meeting is July 13<sup>th</sup>. **McMillin** will not be in attendance for the July meeting.

**Manriquez** shared that she will arrive early on the 12<sup>th</sup> of July and will be attending the *BodyWorlds* exhibit at OMSI at 11:30. She invited the other Board members to join her.

**Glenn** offered a quick reminder that the October Board meeting in Bend was moved to the 18<sup>th</sup>, 19<sup>th</sup> and 20<sup>th</sup> because the FSMTB Annual Meeting is on the 12<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup>.

**Glenn** said that September's meeting may need to be changed because it is during the same week as the CLEAR Conference. There is an Executive Leadership Training that she would like attend. The Board will address this at the July meeting.

### 14) Adjourn Meeting - **Kern** moved to adjourn. **In favor: McCal, McMillin, Kern and Manriquez. Opposed: None. Motion carried.** Meeting adjourned at 2:40pm.