



Oregon Board of Massage Therapists

MORROW CRANE BUILDING SUITE 250 3218 Pringle RD SE Salem OR 97302
(503) 365-8657 fax (503) 378-3575

BOARD MEETING MINUTES
Wednesday, September 5, 2001
Windmill Inn
Ashland, Oregon 97302

Attendance

Board Members:

Lisa Oxman, L.M.T., Chair
Judy Basker
David Frostad, L.M.T.
Stephanie Manriquez, L.M.T.

Michael Jordan, L.M.T.
Jacqueline Kern
Jennifer Knight

Staff: Bev Holzman, Executive Director
Michelle Sherman, Office Manager
John Pounds, Exam Coordinator
Jacqueline McCal, Administrative Assistant

Public:

Judith Sanford; Ashland Massage Inst., Self
Beth Hoffman; Ashland Massage Inst., Self
Lisa Barck-Garafalo; Oregon School of Massage

Beth Heller; LMT, Self
Tracy Wise; Cascade Institute Of Massage
Whitney Lowe, NCBTMB

Oxman announced that pursuant to ORS 192.660 (1)(f) and ORS 192.660 (1)(h) the Oregon Board of Massage Therapists will now meet in Executive Session for the purpose of considering records that are exempt by law from public inspection. These records are relevant to test questions, scoring keys, and other examination data used to administer the qualifying examinations and consultation with legal counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. Representatives of the news media and designated staff shall be allowed to attend the Executive Session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the Executive Session except to state the general subject of the session as previously announced. No decision may be made in Executive Session. At the end of the Executive Session the Board will return to open meeting and welcome the audience back into the room. The Executive Session convened at 1:10 PM; ended at 2:23 PM.

- 1) Executive Session – 1:00 PM
 - a) Lunch
- 2) Call to order
Oxman called the public meeting to order at 2:35 PM
- 3) Approve Agenda
Oxman revised the order of the Agenda to accommodate the telephone discussion with Paul Parker of NCBTMB and added items 9)e) and 9)f).
Jordan moved to approve the agenda as revised. **The motion carried.**

- 4) Approve July 23, 2001 Board meeting minutes
Knight moved to approve the minutes as written. **The motion carried.**

5) Old Business

- a) Continued discussion on adoption of the NCBTMB exam.

Paul Parker of the NCBTMB joined the meeting via telephone. There was a large and involved discussion on this issue. Clarifications regarding the NCBTMB exam are as follows:

- The percentages of subject matter are the same on each exam.
- There are two “versions” of the exam available at any given time; re-tests (after failure) would take a different version.
- Someone can re-test two times after failing, he/she would have to wait for a period of time before testing again.
- It takes approximately 4-6 weeks to take the test after initial date of application.
- Is NCBTMB considering raising the 500 hour requirement? The determination of the hourly requirements is based upon a *Job Task Analysis* and if the data suggests a change in the profession that resulted in a need to increase hours, hours would be increased. NCBTMB plans to begin a new *Job Task Analysis* in 2002. If there were a change in the hourly requirements, the NCBTMB would allow at least one year to implement the change.
- Of the thirty states that regulate massage in some way, twenty-four states use the NCBTMB exam as part of their licensing criteria.
- Every five years the NCBTMB conducts a new *Job Task Analysis* to track the profession.
- The NCBTMB exam is currently offered in two locations relative to Oregon: one in Vancouver, Washington and one in Eugene, Oregon. Would it be offered in more locations if Oregon adopted the exam? Possibly, it would depend on the volume of people wanting to take the exam.
- What makes an exam “legally defensible”? It must have 2 components: reliability and validity.
- The questions on the NCBTMB exam go through a rigorous process. Exam writers are trained by psychometricians on how to write questions and a psychometrician reviews those questions.
- Some of the questions on the exam are “test” questions and not scored. Out of 170 questions, 150 are scored.
- The NCBTMB provides a booklist for study resources.

Board staff member McCal recently took the NCBTMB exam. She stated she did not feel there were enough kinesiology questions. She did like receiving her results immediately after taking the exam.

Knight moved to adopt the NCBTMB exam to replace the Board’s written exam. Discussion followed. Oxman limited further discussion to ten minutes and opened the discussion to include the public and administrative staff. A state jurisprudence exam could address questions specific to Oregon. Oregon could require 200 hours of science courses along with passing the NCBTMB exam. Oxman called for the vote after 25 minutes of discussion. **Frostad moved** to temporarily lay aside Knight’s motion ; he referred to it as a preemptory motion. Oxman called for discussion on Frostad’s motion. After discussion Oxman called for a vote. **The motion did not carry**; Frostad and Kern were opposed. Oxman called for the vote on Knight’s motion. Those in favor: Knight, Manriquez and Jordan. Those opposed: Frostad and Kern. Basker abstained. Oxman, as Chair did not vote. This resulted in a vote of 3 in favor and 2 opposed. **The motion did not carry**. Discussion followed questioning whether the motion passed, it was decided Holzman would review the rules and determine if the requirements for a majority vote had been met.

- b) Model Curriculum: What is it? Why have it? How is it developed? (Frostad)

Frostad: Currently we have three model curriculums. OAR 334-010-0005(5)(c) which states transcripts shall be comprised of content that incorporates the Entry Level Competencies established in OAR 334-010-0047. Sections OAR 334-010-0005 (5)(a) and (b) represent one model curriculum; section OAR 334-010-0005 (5)(c) represents a second model curriculum and within OAR 334-010-0047(2) there is a third model curriculum that references the Occupational

Analysis. It is difficult for the Department of Education to enforce anything based on those models. The Board should consider a model curriculum similar to Washington's which would allow the Board to set standards to measure the schools performance. Currently, this Board approves classes not programs. In Oregon, community colleges do not have to follow the same guidelines as private career schools. A model curriculum could allow the Board to create an analysis checklist of the important criteria for education that could be made available to people coming in from another state. A model curriculum would standardize the process for those applying by reciprocity or indorsement. Frostad stated the Board needs to change OAR 334-010-0046, Class Certification, to include programs. Discussion followed. Frostad asked: does the Board want the Education Committee to make a model curriculum? **Frostad moved** that the Education Committee present a model curriculum at the November 2, 2001 meeting. Discussion followed. Vote: Three in favor; one abstain. **The motion did not carry.** [Editor's Note: at the meeting the Chair stated the motion carried; however, based on review of Sturgis rules it did not carry because a minimum of four votes is required to carry a motion.]

- c) Other Exams: "A" National vs. "The" National. Criteria for acceptance of "A" National exam. Purpose(s) for acceptance of a national exam. (Frostad)
Oxman: Part of this had been discussed previously so this agenda item was moved to the next meeting.
- d) Tracking Board Activities: Ongoing list of complaints with case number, status and actions taken. Items sent to a committee, when they are to report, summary from committee report. Items assigned to individuals with report dates. Questions the Board asks the office to investigate and a summary of the answer. (Frostad)
Frostad: Would like to have a quick summary of things still on the table and have a method to track Board decisions more effectively from meeting to meeting. Holzman will create a summary report.
- e) Consider approval of CEU credit for those who serve on board committees.
Previously the Board voted to not approve CEU credit for those who serve on committees. There is allowance for this under OAR 334-010-0050 (5)(l) which would allow four credits for participation as an item writer for a state or national licensing or certifying examination. Discussion followed on the purpose of continuing education. **Frostad moved** that the Education Committee present suggested changes to the CEU requirements at the November 2, 2001 meeting. Discussion followed. Sherman asked to be included in the discussion as she was responsible for the auditing of CEUs and had several proposed changes. Motion re-stated: for the education committee present at the November 2, 2001 meeting a proposed purpose and suggested structure towards continuing education. **The motion carried.**

6) New Business

- a) Discussion of expectations around Dual Relationships: teacher/therapist & student/client. (Frostad)
Frostad: OAR 334-030-0005 (3)(a), what is appropriate use of personal power. There is potential abuse of power between a teacher who also becomes a therapist for a student. Is that a dual relationship the Board would like to make a comment on? Discussion followed. Frostad would like the Board to consider a rule stating it is inappropriate for a teacher to assume a therapist role with a current student. The Board of Licensed Clinical Social Workers specifically addresses this type of relationship in its rules. Oxman stated the Board does define a dual relationship in OAR 334-001-0060 (16); however, it does not address the relationship between a teacher and student. This item was tabled until the November 2, 2001 meeting. Frostad recommended reading *The Educated Heart* for further thoughts on dual relationships.
- b) Rule changes to require Oregon License # and expiration date on all advertising. (Frostad)
Frostad: Using Washington as a model – they require practitioners to include license with all advertising. Currently the Board is unable to enforce that a person who advertises massage is licensed to do so. Some discussion followed. This item was tabled until the November 2, 2001 meeting.

- c) Suggested model for classified massage ads in phone books and newspapers. (Frostad)
Example:

ATTENTION! All advertisements in this section are Licensed Massage Therapists.

OR:

A Notice stating:

“ATTENTION! Verify a massage license at Oregon Board of Massage Therapists 503-365-8657 or access the website at www.oregonmassage.org”

This item was tabled until the November 2, 2001 meeting.

7) Action on Executive Session Matter(s)

a) Law Enforcement Cases

- **Case # 5-99-044;** Unlicensed practice of or offer to practice massage.
Frostad moved to issue a Notice of Intent to assess civil penal(t)ies) not to exceed \$1,000 per violation of ORS 687.021 and to refer the case to the cosmetology board. Jordan abstained.
The motion carried.
- **Case # 12-99-070;**– Unlicensed practice of or offer to practice massage.
Kern moved to table and forward to the next Board meeting. Jordan abstained. **The motion carried.**
- **Case # 8-01-137;** Unlicensed practice of or offer to practice massage.
Frostad moved to issue a Notice of Intent to assess civil penal(t)ies) not to exceed \$1,000 per violation of ORS 687.021 and to refer the case to the cosmetology board. Jordan abstained.
The motion carried.
- **Case # 4-00-080;** Unlicensed practice of or offer to practice massage.
Frostad moved to issue a Notice of Intent to assess civil penal(t)ies) not to exceed \$1,000 per violation of ORS 687.021 and to refer the case to the chiropractic board. Jordan abstained.
The motion carried.
- **Case # 5-00-089;** Unprofessional Conduct
Kern moved to issue a Notice of Intent to refuse to renew a license and assess civil penalties not to exceed \$1000 per violation of OAR 334-010-0005(1)(e) and OAR 334-030-0025(17). Jordan abstained. **The motion carried.**
- **Case # 11-00-099;** Unprofessional Conduct
Knight moved to close the case C03, Allegations Withdrawn. **The motion carried.**
- **Case # 6-01-126;** Unlicensed practice of or offer to practice massage.
Frostad moved to issue a Notice of Intent to assess civil penal(t)ies) not to exceed \$1,000 per violation of ORS 687.021. Jordan abstained. **The motion carried.**

- b) Arrest Records
M.W.; application for examination
Jordan moved to accept the application. **The motion carried.**
- d) [ITEM 6(d)] Letter from Susan Alderson-Goines regarding mentoring for massage students [GC01029]
Following discussion the Board determined the schools already handle this and a separate mentorship program is not necessary.
- e) [ITEM 6(e)] Letter from Barb Benson regarding National Alliance of State Massage Therapy Boards.
Frostad stated the organization is not floundering but is in need of active participants. The current "hot topic" is reciprocity/indorsement among member states. **Frostad moved** to elect Jordan to serve as the Board liaison to NASMTB. **The motion carried.**
- f) [ITEM 6(f)] Request for licensure by indorsement from S. Hillyer.
Jordan moved to deny indorsement and to request additional documentation of his educational background. **The motion carried.**

Holzman provided information based on her research on the requirements for a quorum and if the prior motion regarding adopting the NCBTMB exam passed or not. The Attorney General's Manual does not define a quorum and most agencies have voting requirements in their statutes or rules. Holzman stated that according to Sturgis Rules (which the Board follows) that while a Board member may abstain from voting, he/she should only do so when there is a conflict of interest. According to Sturgis and applicable to the Board at this time: a majority vote of all the members means a vote of more than half of all the members both present and absent (four members for this Board). The failure of some members to vote does not reduce the number of affirmative votes required to pass a motion. The Chair customarily only votes when one more vote could alter the outcome. Therefore the motion did not pass.

Frostad moved that adoption of the NCBTMB exam be placed on the agenda for the November 2, 2001 meeting. **The motion carried.**

- 8) Public Comments
Beth Heller, L.M.T. stated she thought the Board should notify LMTs when things happen that would affect the licensees and how they practice. Jordan stated this information is in *The Boarderline*. Heller stated she was not sure if she got the newsletter or not. Oxman asked the staff to obtain Heller's address and verify it is correct in our records.
- 9) Report of Executive Director
 - a) Correspondence
Holzman summarized her report which is attached.
 - b) Financial Statement
Holzman stated it is the beginning of the brand new biennium. The statement shows \$5000 in the red, this was due to the purchase and implementation of a new filing system for the office. The Board has sufficient funds to continue operations.
 - c) Discussion regarding purchase of land/building with other boards
Holzman presented information on her meeting with the other semi-independent agencies and some of the conflict and legal issues surrounding purchasing real estate with other agencies. Holzman stated she thought the Board should consider purchasing an office independently; Holzman confirmed the Board could apply \$75,000 to \$100,000 as a down payment and the monthly payment would be less than our current lease and would not continue to rise as lease payments do. Frostad recommended she look for an office that could house at least one other small agency to help with the monthly costs.

10) Committee Reports

- a) Examination Committee – Chair: Jacqueline McCal
Brief report attached.
- b) Education Committee – Chair: Lisa Barck-Garofalo
No Report.
- c) Scope of Practice Committee - Chair: Nicholas Chrones
No Report.

11) Announcements

The next meeting will be November 2, 2001 in Newport followed by the Board retreat/work session. Lunch for board members will be at noon, Executive Session to begin at 1:00 PM and Public Session to begin at 2:00 PM.

Frostad asked that board members provide him with information before a meeting on a topic that might be discussed so he has time to think about things.

Frostad stated that historically the Chair serves for a year and recommended that discussion on the election of a new chair be placed on the November meeting agenda.

Oxman asked that board members present recommended retreat topics to Holzman. Holzman will send out a proposed agenda the week of October 8 and the following week will send a final agenda.

12) Adjourn

The meeting adjourned at 6:20 PM.