



# Oregon Board of Massage Therapists

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## BOARD MEETING MINUTES Thursday, February 10, 2005

### Attendance

#### Board Members:

Michael Jordan, LMT, Chair  
Jackie Kern  
Cathy Law

Stephanie Manriquez, LMT.  
Jacqueline McCal, LMT  
Brad Welker, DC

Lisa Oxman was excused from the meeting.

**Staff:** Patty Glenn, Executive Director  
Michelle Sherman, Office Manager

**Public:** Robyn McGinnity, AAG, Helen Bicart, Investigator, Jan Foster, Investigator, Jill Fraser, Tyfani McComb, B, Schuber (unable to read name), Steven Gott, Jenn Hodges, Molly (unable to read name), Karen Jewell (Unable to read name), Sarah Martin, Tiffany Gregory, Amy Kinbragh (unable to read name), Chelsea Cunningham, Marcea Wiggins, ND, representing Pioneer Pacific, and Heather Johnson.

#### 1) Call to order– 9:00 AM

Jordan called the public meeting to order at 9:25am.

#### 2) Approve Agenda

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

#### 3) Approve minutes of the November 22, 2004 meeting minutes

**Law moved** to approve November 22, 2004 minutes. **All in favor: Jordan, Kern, Law, Manriquez, McCal, Welker. Opposed: None. The motion carried.**

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

Jenn Hodges suggested that continuing education be given for attending board meetings.

#### 5) Report of Executive Director

##### a) Financial Report

After review of the financial records it has been determined that the 2003-2005 budget needs to be increased as the move from Pringle Rd and decreasing the budget for examiner payments has had a greater impact than originally budgeted. Further details will be provided at the next meeting.

Renewals were discussed during this segment of the agenda. It was explained that 5200+ renewals were sent mid-October 2004. This is an increase from the 2002 renewal of 3400. Law asked what the processing of renewals entailed to which Glenn explained. A report was announced concerning the status of licensees as of this meeting. Renewal Results as of 2/10/05:

Those who have renewed as Active for 2006:	3917
Those who have renewed as Inactive for 2006:	421
Those who renewed for 2006 but are lacking:	320
Those who haven't renewed active with an expiration date of 2004:	860
Those who haven't renewed inactive with an expiration date of 2004:	127

##### b) Legislative Update

**SB 97** was well received and moved to the floor at that meeting. It will then go to the senate. Jordan explained that this bill would allow the Board to determine the best cycle for renewing licenses.

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**SB 405** this bill gives semi-independent Boards/Agencies the ability to purchase property, to borrow money, and enter into borrowing agreements. Write to your Representative or Senator.

**SB 2105** goes in front of the Committee at 8:30 tomorrow morning. Anyone in opposition please attend if at all possible. Glenn explained that this bill would remove the limitation of the C7th vertebrae for facial technologist.

**HB 2029** went in front of the Senate February 8<sup>th</sup>. Please write to your representative or senator to show that you support this bill. Glenn explained that the bill would regulate the reporting format of financial documents required to be filed with the Legislative Fiscal Office biennially by Semi-Independent boards and agencies.

**HB 2140** would require inmates to exhaust internal remedies before filing complaints with health licensing boards, which may reduce the number of frivolous complaints filed against licensed health care providers.

**HB 2283/2284/2285.**

2285—AAG McGinnity stated that the hearing is scheduled at the end of March. The Bill broadens the authority of law judges when presiding over contested case hearings. It is the Department of Justice's opinion is that this is not the best course of action, as that authority should be left up to the individual Agencies or Boards.

Jordan opened the floor to members of the public. Tyfani McComb—stated that if their training allows for it then she supports HB 2105 (hands & feet). Karen Hewitt—assumed that there are laws in place to protect the public and is concerned if there is a way that the therapist can be held accountable if there is a problem with the service provided if HB 2105 (body wraps) is approved without further education. Jen Hodges asked about where to look on line for more information about HB 2283, 2284, and 2285.

**6) Committee Reports**

Scope of Practice Committee meeting December 18, 2004. This segment has been postponed to the March meeting, as committee members were not able to attend this board meeting.

**7) New Business**

**a) Vote to accept changes to 334-010-0050**

AAG McGinnity made suggestions on the text of the rule change. Text was edited during break. Board reviewed minor changes. **Kern** moved to accept Continuing Education changes as revised:

**334-010-0050**

**Continuing Education**

The intent of Continuing Education is to protect the public by maintaining and enhancing licensees' professional knowledge and skills relating to massage and bodywork practice.

1) Each licensee shall complete 25 hours of continuing education each renewal period. At renewal time, each licensee shall sign and submit a Board supplied CE form indicating they have completed 25 hours of continuing education. At least 12 hours must be contact hours defined as instruction involving other massage and bodywork practitioners. The remaining 13 hours may be contact hours or in areas as defined on Board supplied CE form.

2) The continuing education requirement shall not apply to a licensee's first license renewal.

3) Continuing education must be completed within the renewal period. Contact hours taken in excess of the total number required may only be carried over to the next subsequent renewal period.

4) Continuing education records shall be maintained by each licensee for a minimum of five years.

5) If the Board finds indications of fraud or falsification of records, investigative action shall be instituted. Findings may result in disciplinary action including revocation of the licensee's license.

6) Failure to complete continuing education hours by the time of renewal may result in denial of a license. Licensee has 30 days from date of notification of non-compliance to come into compliance. Failure to be in compliance may result in suspension of the license to practice massage.

7) Continuing education must be in areas related to the practice of massage or bodywork including theory, research, technique or business development.

**All in favor: Jordan, Kern, Law, Manriquez, McCal, Welker. Opposed: None. The motion**

carried.

**b) New Committees/Committee Assignments**

Tabled until March, as Oxman was not in attendance. Glenn requested the Board's opinion of the chairperson's duty of a committee. The board members stated that that person runs the meeting, works with committee members to schedule meetings, and works closely with the board. The role of the Board liaison is there to listen and give input as to what the Board might want.

**c) March 17<sup>th</sup> Schools Meeting**

Informational meeting with representatives from each of the schools to discuss changes in the rules and requirements of becoming licensed as well as to get feedback from those representatives. Review with the Board at the April meeting to let them know how this went. A discussion about past requirements and ensuing myths took place. It was suggested that in order to dispel these myths that an article be written and published in the newsletter.

**d) AMTA National Convention/State Board Meetings**

There is interest in reestablishing the national coalition between boards. AMTA would be willing to host this meeting at the national convention. More information when it becomes available.

**e) CE Classes/Traveling Board Meetings**

The Board will be holding meetings in key cities such as Bend, Columbia River Gorge or Southern Oregon in April, July and October on the weekends. It has been considered to offer continuing education units to help attendance at Board meetings as well as to offer LMT's an opportunity to get their training for free. Classes on ethics, draping techniques and insurance billing (CPT codes) have been considered. Would the schools be willing to host the Board in order to cut costs? Jordan suggested that we attach work sessions to these meetings. Law suggested allowing 1 unit of CE for attending board meetings.

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**8) Old Business**

**The NLE Exam** was revisited as staff wanted to verify that the Board understood that applicants to the National written exam are not required to show a transcript; therefore, exempt from verifying that they have met the 550 hours required. It was determined that this is acceptable, as applicants are required to show their transcript upon applying for the Oregon Practical exam. Manriquez stated that National would be offering another type of exam in 2006 that tests on the Swedish modality only.

**9) Public Comments**

Jen Hodges—All schools meeting, is it just the school representative or can instructors come? Also will the CE changes be in the rules?

**10) New Business**

**a) Synergy Massage tables and other mechanical apparatus**

Aqua (Hydro) massage tables have been reviewed by the board and it has been determined that they must be operated by LMT's. The information available on "Synergie; The Cellulite Solution" tables indicates that it goes beneath the skin, and manipulates tissue. In the brochure under "The Physiology of Synergie" it states, " Vacuum massage physically manipulates the collagen fibers and connective tissue and increases metabolism to the treated area through increased local blood circulation. Glenn would like to send a letter out to manufactures informing them of the need to have LMTs operate equipment in Oregon and that failure to notify potential buyers could result in liability. Also letter to go out to businesses utilizing the equipment. Law would like to see a statement go out. Manriquez agrees. Helen Bicart asked about chairs for spa pedicures. The Board's position has been that the client is controlling it and there is no charge for it therefore it does not require an LMT to operate. Question was raised "Why do we need a statement, it's in our OAR's." AAG McGinnity responded that this statement would help in LE actions. Glenn will write letter to companies and businesses.

Break at 10:52. Jordan dismissed due to illness.

Back into session at 11:15. Welker as sub-chair.

**11) Announcements**

None

**12) Executive Session**

Welker called the Executive Meeting to Order at 11:24 AM

**[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.]**

**13) Law Enforcement**

Welker called the Public Meeting to Order at 1:57 PM

**Case No.1-04-262 Lucinda “Cindy” Cooper**

<b>Allegation:</b> Advertising and practicing massage without a license.
<b>Recommendation:</b> Issue a Notice of Proposed Action for 1 violation of ORS 687.021(2) advertising massage without a license for \$500, and 2 violations of ORS 687.021(1) performing massage without a license for \$1000 per violation, for a total civil penalty of \$2500. Waive \$2000 based on fact that she subsequently received her license. <b>Law</b> so moved. <b>All in favor: Kern, Law, Jordan (by telephone), McCal. Opposed: none. Manriquez abstained. The motion carried.</b>

Welker called the Executive Meeting back into session at 2PM.  
Welker called the Public Meeting back into session at 2:14PM

Jacqueline moved to open a case pursuant to case # 1-04-262.

**Case No. 2-05-309**

<b>Allegation:</b> Assisted, employed or permitted an unlicensed person to practice massage.
<b>Recommendation:</b> Issue a Notice of Proposed Action for 1 violation OAR 334-030-0025(10) Assisting, employing, or permitting an unlicensed person to practice massage for a total civil penalty of \$500. <b>McCal</b> so moved. <b>All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.</b>

**Case No. 10-02-197**

<b>Allegation:</b> He wants to renew his license but hasn't paid the civil penalty or completed any of the requirements from the Stipulated Final Order.
<b>Recommendation:</b> Refuse to renew Licensee's license per OAR 334-030-0025(17) & (18) . <b>Manriquez</b> so moved. <b>All in favor: Kern, Law, Manriquez, McCal. Opposed: None. The motion carried.</b>

**Case No. 7-04-287**

<b>Allegation:</b> Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition.
<b>Recommendation:</b> Issue a Notice of Proposed Action for 1 violation of OAR 334-030-0025(15) Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition as required by rules of the Board for \$500, and 1 violation of OAR 334-030-0025(19)(d) Any conduct or practice which could endanger the health or safety of a client or the public for \$1000, for a total civil penalty of \$1500. <b>McCal</b> so moved. <b>All in favor: Kern, Law, Manriquez, McCal. Opposed: None. The motion carried.</b>

**Case No. 10-04-303**

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**Allegation:** Practicing outside scope of practice by adjusting the neck; discussing sexual issues with students; and using devices outside scope of practice.

**Recommendation:** Issue a Notice of Proposed Action for 2 violations of OAR 334-010-0025(2) The application of ultrasound, diathermy, and electrical neuromuscular stimulation or substantially similar modalities for \$500 1<sup>st</sup> violation and \$1000 for 2<sup>nd</sup> violation. 1 violation of OAR 334-030-0025(12) Practicing or offering to practice beyond the scope permitted by law for \$1000. 3 violations of OAR 334-030-0025(19)(a)(C) Sexual impropriety which is any behavior, gestures, or expressions that are seductive or sexually demeaning to a client; inappropriate procedures, including, but not limited to, disrobing or draping practices that reflect a lack of respect for the client's privacy; and initiation by the professional of conversation regarding the sexual problems, preferences or fantasies of the professional for \$3000, 1 violation of OAR 334-030-0025(19)(e) Any conduct or practice which impairs a massage therapist's ability to safely and skillfully practice massage, for a total civil penalty of \$6500. Refer to Dept. of Education, Nursing Board and Chiropractic Board. Respondent's license to be suspend until such time as he takes and passes a 20-hour in-class course in ethics and boundary's. Then licensee will be placed on supervised probation until 10 supervised visits of at least one hour each by another licensed massage therapists, who is approved by the Board, is completed. **Law so moved. All in favor: Kern, Law, Manriquez. Opposed: None. McCal abstained. The motion carried.**

**Case No. 8-03-230 Katie Ripple**

**Allegation:** Advertising massage without a license. Unable to make contact.

**Recommendation:** Close case C21 Respondent Unreachable. **Kern so moved. All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.**

**Case No. 10-03-239 BJ**

**Allegation:** Advertising massage without a license. Unable to make contact.

**Recommendation:** Close case C21 Respondent Unreachable. **Manriquez so moved. All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.**

**Case No. 8-03-252 John Henningsen**

**Allegation:** Offering massage without a license.

**Recommendation:** Issue a Notice of Proposed Action for 1 violation of ORS 687.021(1) performing massage without a license for a total civil penalty of \$500. Refer to Naturopathic Board. **McCal so moved. All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.**

**Case No. 12-03-261 Roxanna Douglas**

**Allegation:** Advertising massage without a license.

**Recommendation:** Issue a Notice of Proposed Action for 1 violation of ORS 687.021(2) Advertising massage without a license for a total civil penalty of \$500. **Law so moved. All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.**

**Case No. 3-04-269 Alissia King**

**Allegation:** Advertising and practicing massage without a license.

**Recommendation:** Issue a Notice of Proposed Action for 1 violation of ORS 687.021(2) advertising massage without a license for \$500, and 2 violations of ORS 687.021(1) performing massage without a license for \$1000 per violation, for a total civil penalty of \$2500. **Law so moved. All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.**

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**Case No. 3-04-271 Petra Nicoll**

**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 for \$2500. **McCal** so moved. **All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.**

**Case No. 5-04-280 Bob Williams**

**Allegation:** Offering massage without a license.

**Recommendation:** Close case C21 Unable to locate. **Kern** so moved. **All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.**

**Case No. 6-04-282**

**Allegation:** Offering massage without a license.

**Recommendation:** Close case C01. Compliance Met. **Manriquez** so moved. **All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.**

**Case No. 5-04-285 Susann Edwards**

**Allegation:** Advertising and Practicing massage without a license.

**Recommendation:** Issue a Notice of Proposed Action for 1 violation of ORS 687.021(1) performing massage without a license for \$500, and 2 violations of ORS 687.021(2) advertising massage without a license for \$1000 per violation, for a total civil penalty of \$2500. **Law** so moved. **All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.**

**Case No. 7-04-289**

**Allegation:** Practicing massage without a license.

**Recommendation:** 1 violation of OAR 334-010-0025(9) All licensed massage therapists are required to include their license number in all advertisements, including but not limited to: written, electronic, televised and audio for \$500 and 1 violation of OAR 334-030-0025(8) Practicing massage under a false or assumed name without notification to the Board for \$1000 for a total civil penalty of \$1500. Waive \$1000 if compliance within 30 days of notice. **Law** so moved. **All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.**

Welker called the Executive Meeting back into session at 2:35PM.

Welker called the Public Meeting back into session at 2:43PM

**Case No. 7-04-290**

**Allegation:** Advertising massage without a license and offering massage without a license. Jenn Barge and Jennifer Edwards are the same person.

**Recommendation:** Close case C21 Unfounded. **Kern** so moved. **All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.**

**Case No. 7-04-292 Lyndi Farmer**

**Allegation:** Practicing massage without a license.

**Recommendation:** Close case C04, Allegations Unfounded. **Kern** so moved. **All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.**

**Case No. 7-04-293 Clark Wolf**

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**Allegation:** Practicing massage without a license.  
**Recommendation:** Close case C04, Allegations Unfounded. **Kern** so moved. **All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.**

**Case No. 7-04-294 Jerry Crow**

**Allegation:** Offering massage without a license.  
**Recommendation:** Close case C21, Unable to locate. **Kern** so moved. **All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.**

**Case No. 7-04-295 John Kalb**

**Allegation:** Offering massage without a license.  
**Recommendation:** Close case C04, Allegations Unfounded. **Kern** so moved. **All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.**

**Case No. 10-04-299 Patricia McIntosh**

**Allegation:** Advertising and practicing massage without a license. Contact was made, a massage was scheduled and she was found to be in violation.  
**Recommendation:** Issue a Notice of Proposed Action for 1 violation of ORS 687.021(2) advertising massage without a license for \$500, and 1 violation of ORS 687.021(1) performing massage without a license for \$1000, for a total civil penalty of \$1500. **McCal** so moved. **All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.**

**Case No. 10-04-302 Jacqueline Groher**

**Allegation:** Advertising massage without a license.  
**Recommendation:** Issue a Notice of Proposed Action for 1 violation of ORS 687.021(2) advertising massage without a license for \$500. **Kern** so moved. **All in favor: Kern, Law, Manriquez, McCal. Opposed: none. The motion carried.**

**14) Announcements**

McCal stated that there is a training for Board members at the end of March. Law wants it on record that given the task that was given to us as a board we should be making a statement as a board at the hearing tomorrow regarding concerns of public safety and scope of practice surrounding HB 2105.

Welker called the Executive Meeting back into session per 192-990(1)(f)  
Welker called the Public Meeting back into session at 3:17

**15) Adjourn**

Manriquez moved to close meeting at 3:20 PM. **All in favor: Kern, Law, Manriquez, McCal, Welker. Opposed: None. The motion carried.**