



Oregon

Theodore R. Kulongoski, Governor

Board of Massage Therapists

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BOARD MEETING MINUTES

April 13, 2007

Attendance:

Board Members:

Stephanie Manriquez, LMT, Chair
Jacqueline McCal, LMT
Lisa Oxman, LMT
Jackie Kern, Public
R. Craig McMillin, LMT
Jordan Barton, LMT

Staff:

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

Public:

Kristi Gabriel, LMT
Susannah Elder, LMT, The Healing Chair
Keith Spear, Scherer Inst of Nat'l Healing
Cathy Black, Scherer Inst of Nat'l Healing
Lisa Carter Carrick, LMT

Sharon Lemaster, RCC Student
Jerry Yanuck, RCC Student
Tiffany Clarkin, LMT, RCC
Mandi R. Feetham, LMT, RCC
Shannon Peterson

Call to order

Manriquez called the public meeting to order at 1:16 pm. All Board members were in attendance.

1) Approve Agenda

Under New Business add Polarity as Item C. **Oxman** moved to approve the agenda as amended. **In favor: McCal, Kern, Manriquez, Barton, McMillin, and Oxman. Opposed: None. Motion carried.**

2) Approve minutes of the March 9, 2007 meeting.

Item 11 should read "the May meeting has been...." instead of the October meeting. **Oxman** moved to approve the minutes as amended. **In favor: McCal, Kern, Manriquez, Barton, McMillin, and Oxman. Opposed: None. Motion carried.**

3) Public Forum

Jerry Yanuck, RCC Student, asked about the annual meeting at Brittenbush, discussion ensued regarding the difference between regulatory boards and professional associations. Lisa Carter Carrick, LMT, stated that the board's website is very helpful and appreciates the changes the board has made to CE as it is much easier to obtain.

4) Report of Executive Director

a) Legislative Updates

SB399 The Bill has passed through the Senate and is now with the Health Committee. At the hearing there were individuals in attendance who supported the Bill but those in opposition were unable to attend in person. Some presented written testimony instead. Barton asked what the next step for the Bill was. Glenn stated that it goes to the House. The hearing hasn't been scheduled; however, we will announce it as soon as we have the information.

SB170 was heard but has not passed out of senate committee due to the aiding and abetting language and the misconception of how it would be applied. Glenn and AMTA Lobbyist Cindy Roberts met with Senators Verger and Kruse to address their concerns and answer any questions. An amendment was drafted which adds c) individuals serving exclusively as clients and those providing referrals to third parties without compensation. The OMTA and AMTA attended the hearing and testified in favor of the Bill. The Bill will be going to work session on the April 18th. Glenn received a call from Senator Monnes Anderson office regarding correspondence that indicated the Bill would sweep all modalities under the OBMT regulation. Glenn explained that anyone who practices within the definition of massage is already required to have a license issued by the Board; this is not a change. Glenn will address those concerns at the 18th work session.

SB717 is an attempt to address scope of practice concerns in the health field by creating an committee which would oversee scope related issues and make recommendations to the Legislature.

New Bills are still being read into record. They are then to be out of the original committee by the end of April. The Legislative session is expected to wrap up the end of June or early July. McMillin stated that Legislature was going to test implementing a special session.

- b) **Miscellaneous Updates:** The Board received a letter from candidate which stated that the Practical exam is biased and out of compliance with The National Commission for Certifying Agencies (NCCA). The Board practical exam is not accredited by NCCA and therefore not out of compliance. The exam has a strong degree of validity due to the development and oversight process. The Board will send a letter to the candidate to inform her of the validity of the Practical exam.
- c) **Budget Development**
 - i) **2005-2007 Revised Budget:** Glenn discussed several areas that have caused the budget to exceed the original forecast. There are three months remaining in the 05-07 biennium. **McCal** moved to amend the 2003-2005 budget from \$931,768.00 to \$1,064,877.00. Kern seconded the motion. **In favor: McCal, Kern, Manriquez, Barton, McMillin, and Oxman. Opposed: None. Motion carried.**
 - ii) **2007-2009 Adopted Budget:** Glenn reviewed the 07-09 budget line by line, explaining in detail how the numbers were obtained. **LO** moved to adopt the proposed 07-09 budget of \$1,287,346.00. **Barton** seconded the motion. **In favor: McCal, Kern, Manriquez, Barton, McMillin, and Oxman. Opposed: None. Motion carried.**

5) Committee Report

- a) **Exam Committee:** Dianna Polack has agreed to be the new exam committee chair.
- b) **Review of Proposed Rule Changes:** The Board delved into a detailed discussion of the proposed rules changes during the work session. For a copy of the proposed changes contact the Board office.

EXECUTIVE SESSION

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.

6) Action on Executive Session

Law Enforcement

- a) **Case #8-06-533 Allegation:** Failure to include license number in advertising. **Recommendation: Oxman** moved to issue a Notice of Proposed Action for 1 violation of OAR 334-010-0025(9) failure to include license number in advertising. Assess a civil penalty of \$50. **McMillin** seconded the motion. **In favor: McCal, Kern, Manriquez, Barton, McMillin, and Oxman. Opposed: None. Motion carried.**
- b) **Applicant AB:** **McMillin** moved to approve the request for Indorsement subject to alerting the Oregon Ethics Commission. **McCal** seconded the motion. **In favor: McCal, Kern, Manriquez, Barton, McMillin,**

and Oxman. **Opposed: None. Motion carried.**

7) **Law Enforcement Action - Public**

Case #11-06-514 William Currier 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 and 1 violation of ORS 687.021(2)(a) advertising for massage without a license. Assess a total civil penalty of \$1,500. **In favor: McCal, Kern, Manriquez, Barton, McMillin, and Oxman. Opposed: None. Motion carried.**

Case #11-06-532 Steven Koehler Allegation: Unlicensed practice of massage. **Recommendation:** Barton 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 and 1 violation of ORS 687.021(2)(a) advertising for massage without a license. Assess a total civil penalty of \$1,500. **In favor: McCal, Kern, Manriquez, Barton, McMillin, and Oxman. Opposed: None. Motion carried.**

Case #3-07-535 Giang Kieu Lang Allegation: Unlicensed practice of massage. **Recommendation:** McMillin 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. Assess a total civil penalty of \$500. **Kern** seconded the motion. **In favor: McCal, Kern, Manriquez, Barton, McMillin, and Oxman. Opposed: None. Motion carried.**

Case #3-07-536 Van K. Trinh 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. Assess a total civil penalty of \$500. **Kern** seconded the motion. **In favor: McCal, Kern, Manriquez, Barton, McMillin, and Oxman. Opposed: None. Motion carried.**

Case #3-07-537 Yen H. Mai 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. Assess a total civil penalty of \$500. **McMillin** seconded the motion. **In favor: McCal, Kern, Manriquez, Barton, McMillin, and Oxman. Opposed: None. Motion carried.**

Case #3-07-538 Hien D. Tran 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. Assess a total civil penalty of \$500. **Kern** seconded the motion. **In favor: McCal, Kern, Manriquez, Barton, McMillin, and Oxman. Opposed: None. Motion carried.**

Case #3-07-539 Nhi Thi Hieu Nguyen Allegation: Unlicensed practice of massage. **Recommendation:** McMillin 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. Assess a total civil penalty of \$500. **McCal** seconded the motion. **In favor: McCal, Kern, Manriquez, Barton, McMillin, and Oxman. Opposed: None. Motion carried.**

Case #3-07-540 Hoang Mai Thi Tran 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. Assess a total civil penalty of \$500. **McMillin** seconded the motion. **In favor: McCal, Kern, Manriquez, Barton, McMillin, and Oxman. Opposed: None. Motion carried.**

8) **New Business**

- a) **LMTs with dba (doing business as):** The Board has received a complaint of an individual who used their dba in an advertisement which included the license number. The Complainant believed that this was in violation of the OARs. In fact, there isn't a violation as an individual in Oregon may practice under a dba. For the October work session: When a business is advertising should there be at least one license number?
- b) **FSMTB Job Task Analysis and Licensing Exam:** Glenn presented the FSMTB Job Task Analysis. McMillin inquired as to the gender percentage. The industry is 82% of female. The examination is to begin October 1, 2007. In order for the OBMT to accept this exam as an alternative the language of OAR 334-010-0010(4) needs to be amended. The amended language was proposed. **McCal** moved to accept the proposed language for OAR 334-010-0010(4). **McMillin** seconded the motion. **In favor: McCal, Kern, Manriquez, Barton, McMillin, and Oxman. Opposed: None. Motion carried.** The next step at FSMTB is the

weighting of the exam itself and a blueprint of the exam will be presented when complete.

- c) **Polarity:** As a result of SB399 Glenn received a call from Ann Watters who wanted to know if the board would exempt polarity from having to obtain a massage license. Glenn met with Ms. Watters and discussed the pros and cons of exemption. Ms. Watters expressed that she understood the potential benefits of licensure and a title act, rather than exemption, might be a better solution. Glenn explained the general difference between a practice act and title act. The Board discussed what the process would be if other modalities requested exemption. McCal stated that the Board should show that we're willing to work with them. **Oxman** moved to table the discussion to allow more time to discuss. **McMillin** seconded the motion. **In favor: Kern, Manriquez, Barton, McMillin, and Oxman. Opposed: McCal. Motion carried.** The Board asked that Ms. Watters be invited to a future meeting.

9) Old Business: No items

- 10) Public Comments:** Sharon Lemaster is a student at RCC and is frustrated that she has to take classes to meet the 500 hour minimum for licensure, even though she has been practicing since the 1970's. She also voiced thoughts on the practice act and SB170 and the process. Manriquez reminded the public that we have a public seat available on the Board. Tiffany Clarkin, LMT, asked about the FSMTB exam's inception. Glenn state that it will begin October 1, 2007 and that Pearson-VUE will be administering the exam in their testing centers.
- 11) Announcements:** The May meeting will be on May 18, 2007 at the Board office. Discussion over who was going to attend the FSMTB meeting in October was briefly discussed but then tabled to the next meeting.
- 12) Adjourn Meeting— Barton** moved to adjourn. **In favor: Oxman, McCal, Barton, McMillin, Kern, and Manriquez. Opposed: None. Motion carried.** Meeting adjourned at 4:23pm.