



Oregon

Theodore R. Kulongoski, Governor

Board of Massage Therapists

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BOARD MEETING MINUTES

April 18, 2008

Attendance

Board Members:

Stephanie Manriquez, LMT, Chair
Jordan Barton, LMT, Vice-Chair
Jeanna Catalano, LMT
Jackie Kern, Public Health Member
R. Craig McMillin, Public Member
Kathy Calise, Public Member

Staff:

Patty Glenn, Executive Director
Diana Nott, Enforcement Coordinator

Public:

Ginger Hope	Lynn deBeauclair	Lisa Garofalo
Susan Powell	Patricia Cavener	Jacqueline McCal
Connie May	Nadya Kielhorn	Sara Gregg
Ilse Witterland	Ken Steiner	Sheila Salamon
Martin Mijal	Barbara Griffin Tobie	

Call to order -

Manriquez called the public meeting to order at 1:15pm. Role Call was performed. **All Board members were in attendance.**

- 1) Approve Agenda - Kern moved** to approve agenda. **In favor: Manriquez, Kern, Calise, Barton, McMillin and Catalano** **Opposed: None.** **Motion carried.**
- 2) Approve February 15, 2008 Minutes – Calise moved** to approve the February 15, 2008 meeting minutes as amended. **In favor: Manriquez, Kern, Calise, Barton, McMillin and Catalano** **Opposed: None.** **Motion carried.**
- 3) Public Forum –** Lisa Garofalo voiced concerns over the proposed Practical Exam changes. Martin Mijal asked if he could learn more about the potential exam changes. McCal explained that it wasn't possible because the exam content and scoring is exempt from disclosure by law.
- 4) Report of Executive Director - Glenn** started the report with a summary of the continuing education class that had been offered that morning. There was positive feedback on the Ethics & Boundaries class and more than 50 people attended.
 - a) Financials: Glenn** updated the Board on the Board financials. **McMillin** asked about the "old account" and "new account" and if the Board had any money in an interest bearing account. **Glenn** said that she is working on investment options the Board has available and will report back when she has that information.
 - b) Secretary of State Audit Report – Glenn** provided the Board with the Secretary of State Audit Report. Previously the Board had heard about the informal results.

- c) **SIBA Meeting Report – Glenn** reported to the Board on the last SIBA meeting and what that group was working on.
- d) **Possible New Board Member** – The Board reviewed the application of Crystal Collier for the LMT Board member position that has opened up with the resignation of McCal. The board supports the appointment of Collier and Glenn will notify the Governor’s office of that support.
- e) **Health Regulatory Licensing Agency Meetings – Glenn** reported that she participates in a Health Regulatory Licensing agencies meeting that had been occurring every other month. The group works together to discuss trends they see in the Health Regulatory arena, best practices and other helpful information. Claudia Black from the Governor’s office suggested the group meet monthly to address the issues which have been brought to light recently with some other health regulatory boards and to be proactive with the 2009 legislative session.
- f) **Oregon Health Workforce Initiative – Glenn** provided the Board with information on this initiative. It is meant to address issues with providers in the health care arena so that there can be better forecasting and planning. **Glenn** participates in a once per month conference call with this group.

Due to a larger than expected attendance by the public, **Calise moved** to amend the agenda and move Executive Session to the end of the meeting following public comments. **In favor: Manriquez, Kern, Calise, Barton, McMillin and Catalano** **Opposed: None.** **Motion carried**

5) Committee Updates –

- a) **Education/Scope of Practice Committee – Glenn** reported that a meeting had been scheduled but lacked appropriate participation and had to be cancelled. There was a discussion on the need for committee members and to extend an invitation to the LMT community for those committee openings. Staff is working on how to structure committees and is gathering best practice information. Kat will be the point person for committees, making sure that committee chairs and members understand their roles and responsibilities. The Board will get that information at the next meeting. Attendees were told that anyone interested in a committee position may contact the Board office for more information.
- b) **Rules Committee – Garofalo** reported that the committee incorporated the Board’s prior suggestions in the current draft rules.

McMillin asked what the process was for making rules changes. This meeting is essentially a preliminary review, then there is a rules hearing process that allows stakeholders to give their input. The Board receives information on the rules hearing and a formal vote is done.

Garofalo continued the report with Division 30. The committee cleaned this section up and moved things around for less repetition. The Board received notes on this section to see how the items were moved but showing that everything was still covered. The committee has pulled the discipline and complaints piece out of Division 30 and suggest it have its own Division 40.

There was discussion on time lines for votes, hearings and final implementation. The goal is to have a July 1, 2008 implementation date.

Barton moved to put the rules changes forward to hearing. **In favor: Manriquez, Kern, Calise, Barton, McMillin and Catalano** **Opposed: None.** **Motion carried.**

c) **Exam Committee** – Discussion was held in executive session pursuant to ORS 192.501(4) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given and if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

6) **FSMTB Updates - Glenn** informed the Board that FSMTB was working on a document to help states understand why the Federation developed the MBLEx and how it differs from the NCB exams. Because of Oregon's involvement in the process, this Board may be more aware and have better insight than some other states.

The administration of the MBLEx has continued to increase significantly; everything is trending well and moving in a positive direction. There has been discussion with several states about moving exclusively towards the MBLEx. This would be positive work towards reciprocity and portability.

There was a FSMTB Board of Directors meeting in Kansas City last week which **Glenn** participated. Discussed during this meeting was working towards the next phase of getting a professional standards committee moving. Planned participation looks amazing. The committee will be working on a recommendation for minimum education for entry into the profession and other components critical for a model practice act. This process is similar to what other professions have gone through before to get to a place where professional mobility is possible.

The Federation Annual Meeting is scheduled for the same weekend as the Board's traveling meeting in October. The FSMTB meeting will be held in Seattle October 17-19. There was discussion on entire Board participation in that meeting since it is so close. It was also discussed that since the whole Board can attend, there is no need to vote on an alternate delegate. In October the Board can vote on the following year's delegates.

The OBMT meeting was rescheduled to October 24th with a Work Session held on October 25th. **Glenn** will present another Ethics & Boundaries class on the morning of the 24th similar to how the April '08 events were scheduled. However, the Board will likely take registrations in October to be sure to have enough materials and space for participants.

OMTA has their annual meeting October 3-5 and has asked Glenn to present.

Glenn presented the Board with a letter from NCB. They have reduced their fee to \$175 for the licensure exam and increased the cost of conversion to become certified through that process.

New York has not taken formal action for accepting the MBLEx at this time, but their requirement for a jurisprudence piece being done electronically lays a foundation for other states to do the same. **Manriquez** stated that she was pleased with the current Oregon Jurisprudence Exam and thinks that it's better because it requires candidates to read the rules and laws. **Glenn** will bring back to the Board pro's and con's of paper vs. electronic format.

There was discussion on the differences between certification and licensure.

7) Board Business

2009 Legislative Concept – The Board went through the development schedule and how that process is handled.

McMillin moved to approve the Legislative Concept as submitted. **In favor: Manriquez, Kern, Calise, Barton, McMillin and Catalano** **Opposed: None.** **Motion carried.**

Barton moved to accept the changes to OAR 334-010-0010(5) as previously approved by the Board. **In favor: Manriquez, Calise, Barton, McMillin and Catalano** **Opposed: None.** **Kern was away from the room.** **Motion carried.**

8) Public Comments – Lisa Garofalo asked if the health care meetings are public, if she could get handouts of the Federation items and if the Federation annual meeting is public.

EXECUTIVE SESSION -

The Board may enter into Executive Session to discuss certain matters on the agenda 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 into Executive Session at 2:27pm and returned to Public Session at 4:03pm.

9) Action on Executive Session Items –

- a) Candidate AA – McMillin moved** to deny applicant’s request for waiver of educational requirements to take the Oregon Practical Exam. **In favor: Manriquez, Kern, Calise, Barton, McMillin and Catalano** **Opposed: None.** **Motion carried.**
- b) Candidate AB- Catalano moved** to deny applicant’s request for exemption from the Oregon Practical Exam. **In favor: Manriquez, Kern, Calise, Barton, McMillin and Catalano** **Opposed: None.** **Motion carried.**
- c) Case 531 – Kern Moved** to issue a Notice of Proposed Action for 3 violations of OAR 334-030-0025(19)(a)(C) sexual impropriety, for a total civil penalty of \$2,500 and require licensee to complete the Board approved Ethics Protocol and Peer Supervision. **In favor: Manriquez, Kern, Calise, Barton, McMillin and Catalano** **Opposed: None.** **Motion carried.**

10) Law Enforcement – In regard to case numbers:

Case No. 270 Mary Rautenstraugh

Allegation: Unlicensed advertising of massage
Summary: Assessed \$500 – entered into payment plan
Closed: Civil Penalty assessed & paid

Case No. 487

Allegation: Unprofessional conduct

Summary: concern of LMT using unlicensed people. LMT previously sanctioned for it. Timeline crosses into previous disciplinary action.

Closed: Letter of concern

Case No. 501 Jose Coriat

Allegation: Sexual misconduct, out of scope

Summary: Board voted to assess civil penalty \$4,500 and impose peer supervision for 2 years and require completion of Ethics Protocol. Settled at \$2,750 with probation and ethics.

Closed: Entered into Settlement Agreement, Civil Penalty assessed & paid

Case No. 567 Judith Schierholz

Allegation: Unprofessional or dishonorable conduct

Summary: Board issued Notice for \$1,000 and suspend her license pending completion of Board protocol. Respondent did not request a hearing, went to Default Order.

Closed: Suspended. Civil Penalty assessed & paid.

Case No. 576 Kathryn Mahan

Allegation: Unlicensed advertising of massage

Summary: Respondent advertised for massage while her license was lapsed. Notice issued for \$3,500. Settled for \$1,750. Respondent has since renewed her massage license.

Closed: Civil penalty assessed & paid

Case No. 588 Jacqueline Marie

Allegation: Unlicensed advertising of massage

Summary: Respondent advertised for massage while her license was lapsed. Notice issued for \$22,000. Respondent renewed her massage license but failed to respond to the Notice. Went to Default Order. Respondent contacted Board Office after Default Order went into effect. Entered into negotiations and settled for \$2,000 and 150 hours community service. Failure to meet obligations of SA will result in full penalties as Noticed.

Closed: Entered into Settlement Agreement. Civil Penalty Issued

Case No. 630

Allegation: unprofessional or dishonorable conduct

Summary: Inappropriately collecting funds from client as to get more money than the spa pays. During the investigation, complainant failed to return phone calls. Unable to interview or obtain evidence.

Closed: Complainant unreachable, unable to substantiate

Case No. 631

Allegation: Unlicensed advertising

Summary: Respondent states in her advertising that she practiced massage for 20 years, but the ad is for essential oils not for massage services.

Closed: Letter of concern

Case No. 632

Allegation: unlicensed practice

Summary: 2nd case anonymously e-mailed with minimal information – only given name and partial address. No way to contact complainant or respondent.

Closed: Unable to locate

Case No. 633

Allegation: unprofessional conduct by business owner, sanitation issues

Summary: business owner of local spa allegedly bullies LMT's, uses scare tactics to make them avoid the Board, not maintaining sanitation requirements, etc

Closed: Board lacks authority over facility

Case No. 634

Allegation: unprofessional conduct by business owner, sanitation issues

Summary: business owner of local spa allegedly bullies LMT's, uses scare tactics to make them avoid the Board, not maintaining sanitation requirements, etc

Closed: Board lacks authority over facility

Case No. 635

Allegation: unlicensed practice

Summary: anonymous e-mail with few details – no advertising, no way to verify practice. Complaint based on amount of people she has going in and out of her house.

Closed: unable to substantiate

Case No. 636

Allegation: Unprofessional conduct by business

Summary: Several business issues including scheduling, etc

Closed: Board lacks authority

Case No. 637

Allegation: unprofessional or dishonorable conduct

Summary: failure to pay staff appropriately

Closed: Not a Board issue

Case No. 638

Allegation: Boundary issue with client comfort

Summary: Friend of complainant wrote about an issue with breast massage and draping for a friend who had just had a baby. Nobody can provide LMT's name for investigation.

Closed: unable to substantiate

Case No. 639

Allegation: That LMT is "crazy"

Summary: Bitter separation between couple. Several calls to Board office by both parties. This is a relationship issue, not a Board issue. Nothing the LMT has done is a violation of massage law

Closed: Not a Board issue

Case No. 640

Allegation: unlicensed practice

Summary: Rumored that massage student accepted tips. Unable to locate respondent. Has not applied for license

Closed: unable to locate

Case No. 641

Allegation: unlicensed advertising
Summary: rec'd ad for cellulite reduction treatment. Within the scope of practice of an esthetician – business advertising, esthetician providing services
Closed: No violation found

Case No. 642

Allegation: unprofessional or dishonorable conduct
Summary: advance purchased massages. Complained that LMT not honoring those. Tried multiple times to contact complainant. Did not get a response
Closed: Complainant unreachable

McMillin moved to accept the report of closure and to close the cases for the reasons indicated. **In favor: Manriquez, Kern, Calise, Barton, McMillin and Catalano** **Opposed: None.** **Motion carried.**

11)Announcements – Glenn reminded the Board members to meet in Hampton Hall on Saturday from 9 – noon for the Work Session.

12)Adjourn Meeting – Barton moved to adjourn the meeting. **In favor: Manriquez, Kern, Calise, Barton, McMillin and Catalano** **Opposed: None.** **Motion carried.** Meeting adjourned at 4:30pm.