



Oregon Board of Massage Therapists

MORROW CRANE BUILDING SUITE 250 3218 Pringle RD SE Salem OR 97302
(503) 365-8657 fax (503) 385-4465

BOARD MEETING MINUTES

November 8, 2002
Pacific Highway Inn
4646 Portland Road NE
Salem OR 97305

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Attendance

Board Members:

Michael Jordan, L.M.T., Chair
David Frostad, L.M.T.
Jacqueline Kern
Cathy Law

Stephanie Manriquez, L.M.T.
Lisa Oxman, L.M.T.
Brad Welker, D.C (via telephone)

Staff: Bev Holzman, Executive Director
Michelle Sherman, Office Manager

Public:

Connie B. Pierce
Jenn Hodges, L.M.T.
Joe Cherepanov

Nicholas Chrones; LCC
Lisa Garofalo; OSM
Daryl Thomas

Wendy Loren, L.M.T.
Steve George

- 1) Call to order
Jordan called the meeting to order at 9:07 A. M.
- 2) Approve Agenda
Frostad moved to remove agenda item 7 b as it had already been voted and acted upon by the Board. Discussion: Oxman asked that it stay on the agenda. Five in favor – 2 opposed. **The motion carried**, the item was deleted from the agenda.
Frostad moved to approve the agenda as revised. One opposed. **The motion carried.**
- 3) Public Forum - An opportunity for the public to address the Board and ask questions
Jordan stated no comments would be allowed on the proposed rules; the comment period for those ended November 7, 2002 at 4:30 P.M.
Connie Pierce – she failed the test and wanted to present comments. Jordan stated the Board could not discuss the exam or an appeal. Pierce wanted to state that Oregon should acknowledge clinical hours and not be so academically structured. She feels there should be an apprentice program in Oregon for those who come from out of state.
Wendy Loren, LMT – regarding the legislative concept for competency evaluations-she stated she was speaking for herself and others. Loren feels the concept is an overreaction by the Board. There is not enough concern to require this level of intervention by the board. Questions: Who initiated the concept? Jordan stated the legislators would be the actual decision makers on this issue. The Board's lack of authority to require competency evaluations has hindered some investigations. Jordan stated this would affect less than 1% of the LMT population. The evaluations would assist the Board in determining if a person is a sexual predator and/or if a person is likely to repeat the same inappropriate behavior. Holzman stated the Board's legal counsel also recommended this concept.
Jennifer Hodges, LMT: Hodges asked how would getting a psychological exam determine whether someone

is guilty? Jordan replied it doesn't; it is to determine a person's state of mind. What if the board abused this privilege? The Board would confer with the Attorney General's office before requiring a competency evaluation. This would not be a random requirement by the Board; there would have to be probable cause.

Nick Chrones: There is no reference in the proposed statute that it is just for sexual cases. He recommended the statute be amended to clarify it's not likely to affect LMTs who do not have a complaint filed against them. Board Member Law asked those providing the comments what are they most worried about?

Hodges: There seems to be a frantic nature in the country right now and we are legislating ourselves to death. Most of the people that go into massage therapy are loving people and isn't there a way to work on this without creating more laws? Jordan asked how could the Board do that? Hodges replied couldn't the board deal with a commitment of self-regulation. She would like to see the board focus on less legislation and focus more on educating the public. Jordan stated the board does spend a lot of time in Executive Session discussing law cases with compassion and concern for the Complainant and the massage therapist.

Joe Cherepanov: Inappropriate behavior should never get to the table where someone gets violated. Psychiatric evaluations or ethics training should start at the school level before a person is an LMT.

Law: In a perfect world that would be nice but there are predators in the world and an ethics class will not help those people. Kern: Agrees the education should come from the schools. We can't remove the sexual predators, but we need a law to keep them from hurting people. Jordan concluded the discussion by saying further comments should be addressed to the legislators.

Kern stated those concerned could also consider working with professional organizations to approach the legislature. Oxman: asked Holzman to post information on the web regarding the legislative process and hearing dates for this concept.

Lisa Garofalo: She will address the model curriculum in her committee report.

4) Approve September 8, 2002 and October 24, 2002 Board meeting minutes

Oxman submitted the following corrections –

September 8, 2002 minutes: The statement under attendance should say: "Oxman attended the Executive Session and was excused from the public meeting". Page 4, Agenda Item 10, Patricia Edge: Did the Board want to delete the word "Sometimes" from Jordan's statement? Jordan verified that was the word he wanted to use and he did not want the minutes to be changed. The word "Sometimes" will be left in his statement.

October 24, 2002 minutes: During the meeting Oxman had added item 3) e) the staff should send copies of board correspondence, to those who request it.

Kern Moved to approve the minutes as revised. **The motion carried.**

5) Report of Executive Director

a) Financial Report

Holzman clarified "Exam expenses" includes the cost of the exam site and payment of examiners.

b) Correspondence Report

Oxman stated she appreciates the opportunity to review the correspondence and the Executive Director's responses.

c) Building Update

Holzman stated an offer had been made on a commercial building and adjoining lot. The original price was \$199,900. Holzman's offer of \$185,000 was accepted. The building has a lot of potential. The downstairs portion would be used for exams and board meetings. It could easily meet ADA requirements. Oxman stated she wants to see figures of what it will cost to remodel before finalizing the purchase. Holzman stated the offer is contingent upon the remodeling costs being affordable for the Board. The Board is currently waiting for approval from the Attorney General's office and confirmation from the bank before moving forward. Holzman will keep the board members apprised of the status; if necessary, the Board can call a Special Meeting to discuss the building.

6) Committee Report

Education Committee: Committee Chair Lisa Garofalo

Garofalo apologized for not including list A and list B with the model curriculum. The lists are from the Occupational Profile and she will provide them. She would also like to include in the curriculum information on the purpose of the document and how it might be used and she would like to correct typographical errors. Garofalo will meet with the committee members and have the corrected document to Holzman by December 15, 2002. Jordan will review the document and, if appropriate, approve it so it can be sent to the Department of Education and the schools in January 2003.

Manriquez and Kern asked if there had been any progress on scheduling an all-committee meeting. Sherman stated she has been working on it and will provide a report for the February 2003 meeting.

7) Old Business

a) Vote on proposed rules

334-001-0060 (11) Redefines "Client".

334-001-0060 (14) Redefines "Compensation".

334-010-0005 (1) Deletes the word **original**.

334-010-0010 (3) Adds verbiage concerning refund of examination fees.

334-010-0010 (13) Adds information concerning applicants with special needs.

334-010-0015 (3) Increases continuing education hours to 25.

334-010-0016 (3) Increases continuing education hours to 25.

334-010-0017 (4)(c) Increases continuing education hours to 25.

334-010-0017 (5)(e)(f) Increases continuing education hours to 25.

334-010-0017 (6) Changes the expiration date of auto-expired status.

334-010-0017 (7)(e)(f)(g) Increases continuing education hours to 25.

334-010-0025 (2)(e) Deletes "Intent to Cure".

334-010-0025 (3) Deletes Client definition.

334-010-0025 (7) Requires address changes in writing.

334-010-0033 (1) Deletes "Biennial".

334-010-0033 (2) Deletes "A Biennial".

334-010-0033 (4) Deletes Non-refundable.

334-010-0033 (5) Deletes the word application and changes it to examination for clarification purposes.

334-010-0033 (8) Adds a fee for a mailing list.

334-010-0033 (9) Adds a fee for license reprints.

334-010-0033 (10) Adds a fee for credit card usage.

334-010-0033 (11) Adds a fee for license verifications.

334-010-0050 This entire rule has been redrafted. It has been written to clarify various requirements and also to increase the number of hours required for CEU.

Frostad moved to adopt the entire list of proposed rules. A long discussion followed:

Manriquez stated she wants to stay with 12 hours of continuing education and for the board to be more specific about the CEU requirements. Kern asked if it would be appropriate for the education committee to consider what courses would be best. Frostad stated with the new model curriculum the content of certifying classes and the quality of CEUs can now be addressed. Manriquez asked if he was suggesting setting up a committee to approve CEU providers. Frostad said that is a possibility. Oxman said she would like the education committee to look at the current CEU requirements and recommended the Board review this item at the next retreat. She would also like to see the Board do some things to address the financial burden created by increased CEU hours. Frostad read the letters sent by massage therapists and stated he was disappointed with the number of people expecting the professional level of massage therapy to stay the same. He does agree there needs to be direction on appropriate education. The letters indicated a lot of people have not educated themselves in the last 20 years and he personally thinks 60 CEU hours would be more appropriate. Law agrees with Frostad about the written comments, they indicated many LMTs did not want continuing education. She feels it is very important.

Jordan stated the discussion seemed to be addressing content and brought it back to the number of hours, which is what the proposed rule addresses. Oxman stated most of the people who wrote were concerned about the cost and the necessity for additional CEU hours for those LMTs who work part time. Does the board want to be responsible for those who are put out of business because of the cost of CEUs? She asked where did the "move" towards additional CEUs come from? Jordan replied the industry is moving towards national reciprocity and the board should move towards the national standard that is currently 50 hours every 4 years. Four in favor - three opposed. **The motion carried.**

b) Review Kinesiology section of the Model Curriculum
Deleted from the agenda.

c) LC Draft – latest revised copy from Legislative Concepts

Oxman moved to not bring this before the legislature. Discussion followed: Oxman feels it is intimidating and a breach of privacy, it is a control issue. Oxman thought the discussion was on fingerprint cards for applicants and she withdrew her motion. **Law moved** to accept the latest draft of the concept and move the bill towards the legislature. **The motion carried.**

8) New Business

a) Fingerprint cards for applicants

Jordan stated the board is already authorized under ORS 687.075 to request such information. Discussion followed. Oxman stated the Board should not assume that someone would lie on their application and should only do backgrounds checks on those that indicate they have been arrested. She believes it is a breach of privacy. Frostad does not feel background checks should be done on everybody – but maybe ask for fingerprint cards and do a random check. Jordan questioned who should pay the cost of random checks? The Board. Law stated a lot of agencies are going towards fingerprinting; she had to submit her fingerprints for teaching. Frostad asked if current licensees would have to be fingerprinted. Oxman stated she feels it is ludicrous to consider asking for fingerprints and background checks on all applicants. She has concern that someone might hold on to the fingerprint cards and not destroy them as required. Kern asked if the Board could think about this some more? This item was tabled until the February 13, 2003 meeting. Jordan stated that those who want to provide written comments to their fellow board members before that meeting are to submit them to Holzman by January 27, 2003 and she will forward them on to the other members.

b) Consider full-time investigator

Jordan clarified the consideration could be for a full or part time investigator. Jordan has been serving as investigator pro bono for past year or so. Even with expenses the cost has been under \$4000 so far; the Board has collected over \$9000 in civil penalties. The Board has just signed a contract with a private investigator to take on some of the investigative load. The associated costs are: \$70 hour, meals, mileage, and lodging. Manriquez thinks it is a reasonable for the Board to consider this type of service in the future. Oxman requested that if Jordan continues to be an investigator for the Board he is to recuse himself from discussions and votes and that he remove himself from the room during the case discussions. She would like to see all of the documents relative to investigations, not just Jordan's reports. Holzman will review the advice of the Board's legal counsel regarding Jordan serving as an investigator. Frostad asked Holzman to do a feasibility study on costs of an on-staff investigator and study of Jordan's donated time to date. He would like an investigator to do random spot checks on massage businesses also. Oxman asked to place on the agenda for next meeting: consideration of an alternate chair if Jordan is required to leave room.

c) Board member to serve as Financial Officer

Frostad is happy to continue as is, reviewing the documents sent to him. If someone else is interested in doing this he would be happy to turn the responsibility over to him or her. Oxman asked what kind of reports did he get and was he satisfied with the information he received. Frostad replied he receives the bank reconciliations and is satisfied with the information in those reports. No one else expressed an interest in serving as Financial Officer at this time.

d) Meeting dates for 2003

Oxman moved to accept the meeting dates as submitted for 2003. Discussion: Manriquez what about

retreat dates? Those can be discussed at February meeting. Board members were encouraged to submit their requests and recommendations to Holzman by January 27, 2003. **The motion carried.**

9) Public Comments

Holzman provided clarification of the 2003 meeting dates, public session vs. executive session.

Hodges: she wished to make a comment on not allowing teachers to serve as examiners. Prior to that policy she found serving as an examiner to be very helpful in her role as an instructor. She agrees that instructors should not be allowed to examine their own students.

10) Announcements

No announcements.

11) Adjourn

Frostad moved to adjourn. **The motion carried.** The meeting was adjourned at 11:40 A.M.