



Oregon Board of Massage Therapists

MORROW CRANE BUILDING SUITE 250 3218 Pringle RD SE Salem OR 97302
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BOARD MEETING MINUTES

Thursday, May 8, 2003
3218 Pringle Rd SE #250
Salem OR 97302

Attendance

Board Members:

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

Stephanie Manriquez, L.M.T.
Lisa Oxman, L.M.T.
Brad Welker, D.C.

[Board members with the exception of Michael Jordan attended the meeting by telephone]

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

Public: There was no public in attendance.

1) Call to order

Jordan called the Public Meeting to Order at 9:05 A.M.

2) Approve the Agenda

The following items were added to the agenda:

Case No. 1-02-140; Case No. 6-01-120 and Case No. 8-01-135. **Law moved** to approve the agenda as amended. **The motion carried.**

Jordan called the Executive Session to order at 9:07 A.M.

Pursuant to ORS 192.660 (1)(f) and ORS 192.660 (1)(h) the Oregon Board of Massage Therapists met 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 are 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 returned to open meeting.

Jordan called the Public Meeting to order at 10:21 A.M.

3) Action on Executive Session Matter(s)

- a) Law Enforcement Cases
Case No. 10-97-025

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Allegation: Unlicensed practice of or offer to practice massage. Respondent requested a hearing. The Hearings Officer upheld the Board's decision and issued a Proposed Order to assess a civil penalty of \$1000. **Frostad moved** to issue a Final Order adopting the Hearing Officer's Proposed Order. Jordan abstained. **The motion carried.**

Case No. 9-00-096

Allegation: Unlicensed practice of or offer to practice massage. Respondent has offered to settle the case and make payments on the \$1000 civil penalty. **Oxman moved** to accept the Settlement Agreement and sign the Final Order. Jordan abstained. **The motion carried.**

Case No. 1-02-140

Allegation: Unprofessional or dishonorable conduct of a sexual nature. Respondent has offered to settle the case; his license will be revoked. **Kern moved** to accept the Settlement Agreement and sign the Final Order. Jordan abstained. **The motion carried.**

Case No. 4-01-106

Allegation: Unlicensed practice of or offer to practice massage. A Notice was issued and Respondent did not request a hearing. **Law moved** to issue a Final Default Order to assess civil penalties in the amount of \$1000. Jordan abstained. **The motion carried.**

Case No. 1-02-181

Allegation: Unlicensed practice of or offer to practice massage. A Notice was issued and Respondent did not request a hearing. **Manriquez moved** to issue a Final Default Order to assess civil penalties in the amount of \$27,000. Jordan abstained. Oxman opposed. **The motion carried.**

Case No. 4-02-183

Allegation: Unlicensed practice of or offer to practice massage. A Notice was issued and Respondent did not request a hearing. **Oxman moved** to issue a Final Default Order to assess civil penalties in the amount of \$500. Jordan abstained. **The motion carried.**

Case No. 5-02-184

Allegation: Unlicensed practice of or offer to practice massage. A Notice was issued and Respondent did not request a hearing. **Welker moved** to issue a Final Default Order to assess civil penalties in the amount of \$500. Jordan abstained. **The motion carried.**

Case No. 7-02-187

Allegation: Unprofessional or dishonorable conduct of a sexual nature. Respondent has an open case, a Notice has been issued and Respondent has requested a hearing. Another client has filed a complaint. **Oxman moved** to issue an amended Notice of Proposed Action and add the most recent complaint to the Notice. Jordan abstained. **The motion carried.**

Case No. 10-02-197

Allegation: Unprofessional conduct in breast massage and draping issues. A Notice was issued and Respondent did not request a hearing. **Kern moved** to issue a Final Default Order to assess civil penalties in the amount of \$2000. Jordan abstained. **The motion carried.**

Case No. 11-02-200

Allegation: Conduct or practice that could endanger client/public safety. Respondent is co-owner of a spa; the establishment was cited for health and sanitation violations. All of the violations were corrected. **Law moved** to close the case, C01, Compliance Met. **The motion carried.**

Case No. 11-02-201

Allegation: Conduct or practice that could endanger client/public safety. Respondent is co-owner of a spa; the establishment was cited for health and sanitation violations. All of the violations were corrected.

Law moved to close the case, C01, Compliance Met. **The motion carried.**

Case No. 4-03-215

Allegation: Unprofessional or dishonorable conduct. Respondent knowingly rented space to an unlicensed person who was practicing massage without a license. Respondent's conduct resulted in two violations of OAR, chapter 334. **Manriquez moved** to issue a Notice of Proposed Action to assess a civil penalty in the amount of \$500 for violation of OAR 334-030-0002(2) and to assess a civil penalty in the amount of \$1000 for violation of OAR 334-030-0025(10), for a total civil penalty assessment of \$1500. Jordan abstained. **The motion carried.**

Case No. 8-01-135

Allegation: Unlicensed practice of or offer to practice massage. A Notice was issued and a Hearing Officer conducted a hearing. The Hearing Officer concluded Respondent purported to engage in the practice of massage and twice advertised the giving of massage treatments when she was not licensed by the Board to give massages. The Hearing Officer proposed that Respondent is liable for a civil penalty of \$50 for each violation for a total civil penalty of \$150. The Board considered the Proposed Order and concluded it was not consistent with previous disciplinary actions for similar violations and did not accept the Proposed Order issued by the Hearing Officer. **Frostad moved** to modify the Hearing Officer's Proposed Order as follows: assess a civil penalty of \$500 per violation, for a total civil penalty assessment of \$1500. Jordan abstained. **The motion carried.**

Case No. 6-01-120

Allegation: Unlicensed practice of or offer to practice massage. A Notice was issued; Respondent did not request a hearing and a Final Default Order was issued. Respondent, pursuant to OAR 137-003-0528, asked the Board to reconsider her request for a hearing. The Board reviewed Respondent's request and determined she had reasonable control to timely request a hearing. **Manriquez moved** to deny Respondent's request for reconsideration of a hearing. **The motion carried.**

The following cases were discussed and acted upon during Public Session:

Case No. 10-02-191: Stephanie

Allegation: Unlicensed practice of or offer to practice massage. **Oxman moved** to issue a Notice of Proposed Action to assess a civil penalty in the amount of \$500 for the first violation, advertising to practice massage and to assess a civil penalty in the amount of \$1000 for the second violation, consenting to give a massage, for a total civil penalty assessment of \$1500. The Board will consider entering into a Settlement Agreement with Respondent. Jordan abstained. **The motion carried.**

Case No. 1-03-205: Nora Johnson

Allegation: Unlicensed practice of or offer to practice massage. **Oxman moved** to issue a Notice of Proposed Action to assess a civil penalty in the amount of \$500 for the first violation, consenting to give a massage, for a total civil penalty assessment of \$500. The Board will consider entering into a Settlement Agreement with Respondent. Jordan abstained. **The motion carried.**

Case No. 2-03-206: Angelina Swanson

Allegation: Unlicensed practice of or offer to practice massage. **Manriquez moved** to issue a Notice of Proposed Action to assess a civil penalty in the amount of \$500 for the first violation, consenting to give a massage, for a total civil penalty assessment of \$500. The Board will consider entering into a Settlement Agreement with Respondent. Jordan abstained. **The motion carried.**

4) Exam Appeals

Examinee 10317 There was no evidence of error in the exam procedure or content and no evidence of bias, prejudice or discrimination in the exam process. **Manriquez moved** to deny the appeal of Examinee 10317. **The motion carried.**

Examinee 10388 There was no evidence of error in the exam procedure or content and no evidence of bias, prejudice or discrimination in the exam process. **Manriquez moved** to deny the appeal of Examinee 10388. **The motion carried.**

5) Other Business

a) Discussion on legal services

Holzman stated she was experiencing difficulty with the Board's Assistant Attorney General (AAG) representative. Discussion followed. Some of the difficulties discussed were a large increase in AAG fees and clarity with the AAG in writing legal documents for disciplinary action. **Welker moved** for Jordan and Holzman to schedule an appointment with Christine Chute, Assistant Attorney General, to seek new legal counsel for the Board. **The motion carried.**

b) Discussion on NCE requirement

Holzman opened the discussion. On November 9, 2001 the Board voted to accept verification of the NCE exam as long as the certificate is current and has been in uninterrupted status. Discussion followed and minutes of previous meeting minutes were reviewed. **Oxman moved** to adopt the following policy, effective immediately: The board will accept any verification of the NCE exam taken and passed after February 15, 1998 forward as meeting the requirement for the Board's written exam. An applicant is not required to maintain NCE certification in uninterrupted status from February 15, 1998 forward to qualify. Welker opposed. **The motion carried.**

Kern moved to adjourn the meeting at 11:22 A.M. **The motion carried.**

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