



Oregon Board of Massage Therapists

748 Hawthorne Ave NE, Salem OR 97301
(503) 365-8657 fax (503) 385-4465

BOARD MEETING MINUTES

Thursday, July 10, 2003

748 Hawthorne Ave NE
Salem OR 97301

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 Cathy Law, Lisa Oxman and Brad Welker attended the meeting by telephone]

Counsel: Robyn McGinnity, Assistant Attorney General

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 9:03 A.M.
- 2) Approve the Agenda
Jordan submitted the agenda for approval.
The following items were added:
 - 5) a) approval of indorsement application for Svitlana Barrote
 - 4) c) discussion of law cases 7-02-187 and 1-03-202**The agenda was approved as revised.**

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 10:25 A.M.

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3) Action on Executive Session Matter(s)
a) Law Enforcement Cases

Case No. 3-01-109

Allegation: Unlicensed practice of or offer to practice massage. A Final Order assessing a civil penalty was issued. Respondent has declared bankruptcy and the Board cannot collect the civil penalty. **Kern moved** to close the case C20, based on further review. Jordan abstained. **The motion carried.**

Case No. 4-03-208

Allegation: Sexual impropriety with a client. **Manriquez moved** to close the case C04, Allegations Unfounded. Jordan abstained. **The motion carried.**

Case No. 4-03-209

Allegation: (a) Unlicensed practice of massage. Respondent was practicing while his license was in auto-expired status. He has renewed his license. **Oxman moved** to close the case C01, Compliance Met. **The motion carried.**

Allegation: (b) Unprofessional conduct. Later in the meeting the Board re-entered into Executive Session to discuss this case. The Board reconvened Public Session. The Board wanted the record to reflect the appalling and unprofessional behavior of the licensee during the investigation. **Manriquez moved** to issue a Notice of Proposed Intent to reprimand licensee for unprofessional conduct for violations of ORS 687.081 (1)(i) and ORS 687.011 (11). Oxman opposed. **The motion carried.**

Case No. 4-03-210

Allegation: Unlicensed practice of or offer to practice massage. Investigation revealed Respondent has a current license, the name in the database is different than that on her business card and her license number is not on the card. **Kern moved** to close the case C04, Allegations Unfounded. **The motion carried.** Holzman will write a letter to the Respondent confirming the new rule requirement that LMT's place their license number in all advertisements and that an LMT's license must be posted at their place of business. [OAR 334-010-0025 (8) and (9)]

Case No. 4-03-211

Allegation: Unlicensed practice of or offer to practice massage. Investigation revealed Respondent has a current license, the name in the database is different than that on her business card and her license number is not on the card. **Oxman moved** to close the case C04, Allegations Unfounded. **The motion carried.** Holzman will write a letter to the Respondent confirming the new rule requirement that LMT's place their license number in all advertisements and that an LMT's license must be posted at their place of business. [OAR 334-010-0025 (8) and (9)]

Case No. 3-03-212

Allegation: Unlicensed practice of or offer to practice massage. Respondent was practicing while her license was in auto-expired status. She has renewed her license. **Law moved** to close the case C01, Compliance Met. **The motion carried.** Holzman will write a letter to the Respondent confirming the new rule requirement that LMT's place their license number in all advertisements. [OAR 334-010-0025 (9)]

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

Case No. 3-03-213: Elizabeth Lai

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 a first violation of ORS 687.021 (1), advertising to practice massage when unlicensed and to assess a civil penalty in the amount of \$1000 for a second violation of ORS 687.021 (1), practicing massage while unlicensed, for a total civil penalty assessment of \$1500. The Board will suspend \$500 of the civil penalty if Respondent obtains an Oregon massage license within one year of the date of the Final Order. **The motion carried.**

Case No. 4-03-214: Marilyn Volkoff

Allegation: Unlicensed practice of or offer to practice massage. **Frostad moved** to issue a Notice of Proposed Action to assess a civil penalty in the amount of \$500 for a first violation of ORS 687.021 (1), advertising to practice massage when unlicensed and to assess a civil penalty in the amount of \$1000 for a second violation of ORS 687.021 (1), practicing massage while unlicensed, for a total civil penalty assessment of \$1500. The Board will suspend \$500 of the civil penalty if Respondent obtains an Oregon massage license within one year of the date of the Final Order. Oxman opposed. **The motion carried.**

Manriquez moved to open a new case against the Oregon LMT referenced in Case 4-03-214. The investigator shall contact the LMT to determine if she was in violation of OAR 334-030-0002, which states every licensee having knowledge of any suspected violation of the rules or statutes governing massage shall notify the Board. **The motion carried.**

Case No. 6-03-220: Rosie Lai

Allegation: Unlicensed practice of massage. **Oxman moved** to issue a Notice of Proposed Action to assess a civil penalty in the amount of \$500 for a first time violation of ORS 687.021 (1), practicing massage while unlicensed, for a total civil penalty assessment of \$500. The Board will suspend \$500 of the civil penalty if Respondent obtains an Oregon massage license within one year of the date of the Final Order. **The motion carried.**

The Board moved to open a new case against Elizabeth Kosareff, referenced in Case 4-03-214, and to issue a Notice of Proposed Action to assess a civil penalty in the amount of \$500 for a first time violation of ORS 687.021 (1), practicing massage while unlicensed, for a total civil penalty assessment of \$500. The Board will suspend \$500 of the civil penalty if Respondent obtains an Oregon massage license within one year of the date of the Final Order. **The motion carried.**

Kern moved to change the wording in the above cases from "suspend \$500 of the civil penalty" to "refund \$500 of the civil penalty". Oxman opposed. **The motion carried.**

- 4) Assistant Attorney General, Robyn McGinnity
 - a) **Jordan called** for a vote on allowing a Respondent to address the Board before the legal hearing allowed for in the Contested Case Procedures. Oxman and Manriquez were in favor. Frostad, Law, Kern, Jordan and Welker were opposed. **The motion did not carry.**

Oxman presented agenda item 4)a) at the October 9, 2003 meeting: She stated proper action was not taken because a motion was not made. **Oxman moved** that the action that took place be considered invalid until a proper motion is introduced. Discussion followed. **The motion carried. Manriquez moved** to allow a Respondent to address the Board before the legal hearing allowed for in the contested case procedures. Discussion followed. Oxman and Manriquez were in favor; all others opposed. **The motion did not carry. Oxman moved** to approve July 10 minutes as revised. **The motion carried.**

- b) McGinnity presented case 7-02-187. The Respondent's attorney presented a request to depose the second victim in the case. **Frostad moved** to deny the request. **The motion carried.**

McGinnity presented case 1-03-202. The Respondent's attorney presented a counter proposal to the

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Board's Settlement Agreement. **Manriquez moved** to accept the counter proposal. **The motion carried.**

5) Other Business

Kern asked if a Scope of Practice Committee meeting had been scheduled yet. Holzman responded no.

Law asked if an LMT could write their license number on the back of their business card (to meet the rule requirement). Holzman said yes and stated some LMTs have ordered stamps with their number on it so they could easily put the number on their cards, letterheads, etc.

Kern moved to adjourn the meeting at 11:37 A.M. **The motion carried.**

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