



Oregon

Theodore R. Kulongoski, Governor

Board of Massage Therapists

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BOARD MEETING MINUTES

October 19, 2007

Attendance

Board Members:

Stephanie Manriquez, LMT, Chair
Jackie Kern, Public, Vice-Chair
Jacqueline McCal, LMT
Lisa Oxman, LMT
Jordan Barton, LMT
R. Craig McMillin, Public Member
Kathy Calise, Public Member

Staff:

Patty Glenn, Executive Director
Diana Nott, Enforcement Coordinator

Public:

Glennath Moyle Leah Bowder

Call to order

Manriquez called the public meeting to order at 1:10 pm. Role Call was performed. **All Board members, except for McCal, were present.**

- 1) **Approve Agenda - Oxman moved** to approve agenda. **In favor: Kern, Calise, Oxman, Barton, McMillin and Manriquez** **Opposed: None.** **Motion carried.**
- 2) **Approve September 14, 2007 Minutes – Calise moved** to approve the September 14, 2007 meeting minutes as amended. **In favor: Kern, Calise, Oxman, Barton, McMillin and Manriquez** **Opposed: None.** **Motion carried.**
- 3) **Public Forum** – Opportunity for the public to address the Board. The Board was introduced to Leah Bowder, the Government Relations person with Oregon AMTA. Moyle suggested the Board try to align traveling Board meetings with AMTA meetings.
- 4) **Report of Executive Director -**
 - a) **Fiscal year 05-07 financials: Glenn** provided year end financials for 05-07. There were some bills that were not taken into consideration with the budget reforecast. As such, 05-07 closed over budget. **McMillin** confirmed that appropriate processes were followed. **Glenn** said that they were, but she was still displeased with the end budget.
 - b) **Fiscal year 07-09 year-to-date financials: Glenn** explained the new budget format and the use of classes and categories to provide a better understanding of income and expenses. The Board reviewed budget vs. actual. Some accounts were consolidated for better tracking and reporting. **Oxman** asked if the Board received the reimbursement from the Federation. **Glenn** said that it was reimbursed in the last biennium. There was discussion on all Board members receiving some training on budget and reconciliation so that there's a better understanding of the process and reports. **Oxman** think that it is a great idea and would better support the staff and provide better accountability for everyone.

- c) **Governor's Office Information Request:** The Board received a copy of the information that was provided to the Governor's office. They reviewed the summary of complaints and disciplinary information from 2003 to September 2007. There was a discussion on trends. They also reviewed the access to information policies for public, complainants and respondents, as well as the provisional license for drug & alcohol issues policy and the ethics protocol.

McCal arrived at 2:19pm.

- d) **OMTA Board Meeting & Ethics Class:** **Glenn** reported that she and **Nott** attended the OMTA annual meeting. On Friday night they met with the Board and attendees. **Glenn** and **Nott** were introduced to the attendees. Glenn answered questions regarding FSMTB, reflexology, SB 170 and more. They were well-received and got excellent feedback from those members in attendance. Glenn encouraged everyone to stay on top of what's going on in their profession. Several attendees offered to assist the Board with the next legislative session.

On Saturday, **Glenn** presented an ethics class to 13 attendees. **Nott** was also present at the class. The ethics class was very well received and there were requests for additional ethics courses to be offered by the Board. The Board then discussed the possibility of presenting monthly, bi-monthly or quarterly ethics courses. They discussed the benefits of interaction with the Board and the benefits to public safety when offering ethics courses.

Glenn shared that the office had received a call concerning the breast massage course taught that weekend. **Calise** also had a conversation with one of the attendee that was concerned with the same course. The Board talked about the possibility of issuing a letter of concern. **Glenn** pointed out that the Board does not have jurisdiction and said that she will work with the organization regarding the concerns. **Barton** stated his concern was the message that was delivered getting to so many people, particularly since there was scope of practice concerns.

- e) **Outstanding Assignments:** The Board went over outstanding tasks from the past biennium. Many were addressed and closed. Those that were still opened were reviewed to determine how to continue.
- f) **Exam Statistics** – The exam scores are trending well over all. There are a few areas of concern which will be addressed with the schools in question and/or with the Oregon Department of Education.
- g) **House Interim Health Care Committee** – **Glenn** updated the Board on the committee meeting. **Oxman** asked why it was even brought about and who attended. **Glenn** explained the some recent issues at the Nursing Board raised concern regarding how all Health Regulatory Boards were handling these types of situations.
- h) **Health Related Boards Meeting** - **Glenn** attended a meeting with Administrators of the other Health Regulatory Boards. Everyone in attendance agreed that the meeting was very informative and beneficial. The boards are planning on getting together every couple of months.

5) Committee Updates –

- a) **Exam Committee** - **Nott** provided information on the progress of the Exam Committee. There is a new “skeleton” for the exam, which will assess the issue of various massage & bodywork modalities. There was also discussion on discontinuing the failed exam review. Discussion followed regarding the risk vs benefits. Two key factors emerged – one, the exposure to a high stakes exam was significant and any benefit or perceived benefit did not offset the risk and two, the individuals who have reviewed their failed exam did not perform any better on retakes than those who had not. **Oxman moved** to stop the exam review process. **In favor: McCal, Kern, Calise, Oxman, Barton, McMillin and Manriquez** **Opposed: None.** **Motion carried.**

- b) **Rules Committee** – Jill Stanard will continue as the Committee Chair. They will be moving forward and setting meetings. **McMillin** expressed that Jill has done an amazing job chairing that committee and that he is pleased that she will continue to chair.
- c) **Education/Scope of Practice Committee** – Paul Pozorski is ready to go with that committee. He will be working with the staff to set up a meeting.

The Board confirmed committee liaisons: **Manriquez** will have education/scope of practice, **McMillin** will have rules and **Barton** will take exam. There was a discussion on “back ups” for the liaisons. **Oxman** still wants it known that she believes the Board should reimburse mileage to the liaisons. There was discussion on liaisons not being required to attend the meetings, but making for better communication between the committees and the Board. **Oxman** suggested looking at budgeting partial reimbursements for committee members as well. Her concern is that one shouldn’t have an out-of-pocket expense to perform a service. **Glenn** will look into what other boards are doing. **McMillin** suggested it may be something to look at in the future and to check with the committees to see what they think. It is tabled for the next work session.

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.

6) Law Enforcement Action – Executive Session

- a) **Case 534 – McCal** moved to issue a suspension of license based on the allegation of 6 counts of sexual abuse and to issue a notice of proposed action for revocation for 6 violations of OAR 334-030-0025(19)(a)(A) Sexual Abuse for a civil penalty of \$6,000. **In favor: McCal, Oxman, Kern, Barton, Calise, McMillin and Manriquez. Opposed: None. Motion carried**
- b) **Licensee AA – Kern** moved to suspend licensees license for violation of ORS 687.081(1)(a) failure to pay renewal fees. **In favor: McCal, Oxman, Kern, Barton, Calise, McMillin and Manriquez. Opposed: None. Motion carried**

7) Law Enforcement – Public

- a) **Case 518 Kathryn Hoover a.k.a. Wha’keena Sitka Tidepool Ripple – Kern** moved to issue a notice of proposed action for 3 violations of ORS 687.021(2)(a) unlicensed advertising of massage and 1 violation of ORS 687.021(1) unlicensed practice of massage for a total civil penalty of \$4,000 and forward to local law enforcement. **In favor: McCal, Oxman, Kern, Barton, Calise, McMillin and Manriquez. Opposed: None. Motion carried**
- b) **Case 543 “Tziporah” Kingsbury – Kern** moved to issue a notice of proposed action for 1 violation of ORS 687.021(1) unlicensed practice of massage for a total civil penalty of \$500. **In favor: McCal, Oxman, Kern, Barton, Calise, McMillin and Manriquez. Opposed: None. Motion carried**
- c) **Case 567 Kathryn Mahan – Barton** moved to issue a notice of proposed action for 1 violation of ORS 687.021(1) purporting to be in the practice of massage without a license and 3 violations of ORS 687.021(2)(a) advertising massage without a license for a total civil penalty of \$3,500. **In favor: McCal, Oxman, Kern, Barton, Calise, McMillin and Manriquez. Opposed: None. Motion carried**

- d) **Case 585 Valerie Lent – McCal** moved to issue a notice of proposed action for 1 violation of ORS 687.021(1) purporting to be in the practice of massage without a license and 2 violations of ORS 687.021(2)(a) advertising massage without a license for a total civil penalty of \$2,500. **In favor: McCal, Oxman, Kern, Barton, Calise, McMillin and Manriquez. Opposed: None. Motion carried**
- e) **Closed Cases –**

Case #	Closing Code	Name (where applicable)
289	C14 Civil Penalty Assessed & Paid	Kara Poehler
333	C20 Based on Further Review	
345	Final Default Order Issued	Heather Labbe
358	C01 Compliance Met	
359	C01 Compliance Met	
372	Final Default Order Issued	Joseph Bennett
373	Final Default Order Issued	Todd Dallman
379	C14 Civil Penalty Assessed & Paid	Virginia Simonin
381	Final Default Order Issued	Paul Johnson
397	Final Default Order Issued	Amy Simpson
402	C14 Civil Penalty Assessed & Paid	Jani Whitacre
403	Final Default Order Issued	Gil Guzman
404	C13 Letter of Concern	
419	C25 No Violation Found	
424	Final Default Order Issued	Dale Fox
431	C21 Unable to Locate	
434	Final Default Order Issued	Jian Dong Jin
438	Final Default Order Issued	Ying Wang
441	Final Default Order Issued	Michael Gates
443	C12 Insufficient Evidence	
446	Final Default Order Issued	Karen Capo
447	C25 No Violation Found	
450	C02 Board Lacks Authority	
452	C12 Insufficient Evidence	
456	C04 Allegations Unfounded	
459	C15 Not a Board Issue	
461	C01 Compliance Met	
462	C01 Compliance Met	
470	C02 Board Lacks Authority	
477	C18 Stipulated Agreement	Keith Kademan
480	C12 Insufficient Evidence	
484	C02 Board Lacks Authority	
485	Final Default Order Issued	Ben Ross
488	C04 Allegations Unfounded	
489	C01 Compliance Met	
502	C21 Unable to Locate	
503	C14 Civil Penalty Assessed & Paid	Yong Qiang Zhang
505	C12 Insufficient Evidence	
506	C21 Unable to Locate	
511	C12 Insufficient Evidence	
512	C21 Unable to Locate	

513	C15 Not a Board Issue	
514	C03 Allegations Withdrawn	
515	C21 Unable to Locate	
517	C03 Allegations Withdrawn	
519	C02 Board Lacks Authority	
521	C14 Civil Penalty Assessed & Paid	Bryan Miller
523	C02 Board Lacks Authority	
527	C12 Insufficient Evidence	
535	C14 Civil Penalty Assessed & Paid	Giang Kieu Tran Lang
538	C14 Civil Penalty Assessed & Paid	Hien D Tran
539	C14 Civil Penalty Assessed & Paid	Nhi Thi Hieu Nguyen
540	C14 Civil Penalty Assessed & Paid	Hoang Mai Thi Tran
544	C03 Allegations Withdrawn	
566	C20 Based on Further Review	

8) New Business

- a) **2008 Board Meetings** – The Board plans to hold meetings on the 3rd Friday of each month. The April 2008 meeting will be a traveling meeting to be held in Northeast Oregon. A final location should be determined in November. The Board will plan on having the July 2008 meeting in the Portland area. **Nott** will look into a location. The October 2008 meeting will be a traveling meeting to be held in Eugene. It was also suggested that the Board look into when the professional organizations have their meetings and see about coinciding with those meetings.
- b) **2009 Legislative Session** – 2009 Legislative Concepts need to be submitted by April 2008. The Board was prompted to keep in touch with their Senators and Representatives while things are relatively slow. There was a discussion on the Governor’s Salary Package for Administrators. This package has no effect on our agency because, as a semi-independent agency, the board has adopted its’ own personnel policy.
- c) **IT Support** – In speaking with other agencies about IT support, there has been a strong positive theme with those who currently use Confuzer, Inc. After significant research the OBMT will be moving IT services Confuzer, Inc. in November. There was discussion of the fee structure with the current system and the proposed. The Board had no concerns about the change.
- d) **Board Member Applications** – Staff is unaware of any pending Board applicants for the upcoming LMT Board position.

9) Old Business

- a) **CLEAR Conference Report** – **Nott** presented the Board with information from the September 2007 Annual CLEAR Conference. It was a positive experience which highlights the successes and areas for improvement for the Board. It also provided Nott with insight to regulation in other states and countries, as well as valuable resources for the agency.

10) FSMTB Update – There was a discussion on the annual meeting which **Glenn, Manriquez and McMillin** attended. An overview of the meeting was provided. **Manriquez** stated Oregon is at the forefront of proactive thinking by sending an alternative delegate.

With 19 states participating, the bylaws changes that were previously received were adopted with some minor changes. The states also voted unanimously to have FSMTB move forward with the disciplinary database development and to have FSMTB contact NCB for possible financial support for its development.

There was talk about how well received the MBLEx has been and a discussion on how it is in the regulatory best interest to accept a single exam rather than multiple exam options. The Board will discuss the concept of phasing out the NCE and acceptance of only the MBLEx. If it has not been decided by the April meeting, the Board will re-address the issue at the April work session. They will also choose a back-up delegate for 2009 at that time.

11) Public Comments – There were no public comments.

12) Announcements – Board member elections will be held in the November meeting.

13) Adjourn Meeting – Oxman moved to adjourn. **In favor: McCal, McMillin, Kern, Oxman, Calise, Barton and Manriquez. Opposed: None. Motion carried.** Meeting adjourned at 4:44 pm.