



Oregon

Theodore R. Kulongoski, Governor

Board of Massage Therapists

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BOARD MEETING MINUTES

October 24, 2008

Attendance

Board Members:

Stephanie Manriquez, LMT, Chair
Jordan Barton, LMT, Vice-Chair
Jeanna Catalano, LMT
Crystal Collier, LMT
Kathy Calise, Public Member

Staff:

Patty Glenn, Executive Director
Diana Nott, Enforcement Coordinator

Public:

Stephen Morrell
Glenda Jones
Melody Gandy

Sharon Jakeways
Nishan VanAtta
Jean Simpson

Amber Leanna
Wendy S Truxal
Joshua Andres

Call to order -

Manriquez called the public meeting to order at 1:32pm. Role Call was performed. **Manriquez, Barton, Catalano, Collier and Calise were in attendance. McMillin was excused.**

- 1) **Approve Agenda - Calise moved** to move Executive Session to the end of the agenda and approve the agenda as amended. **In favor: Manriquez, Calise, Barton, Collier and Catalano**
Opposed: None. Motion carried.
- 2) **Approve September 19, 2008 Minutes – Barton moved** to approve the September 19, 2008 meeting minutes. **In favor: Manriquez, Calise, Barton, Collier and Catalano** **Opposed: None. Motion carried.**
- 3) **Public Forum –** Nishan VanAtta suggested leaving in “for compensation” in the definition of client.
- 4) **Report of Executive Director -**
 - a) **2009 Legislative Session: Glenn** met with Claudia Black, the Governor’s Health Care Policy Advisor, and reviewed our legislative concept. We have received approval of the LC from DAS and it is now pending the Governor’s support. It is currently known as LC481 and includes the changes that the Board voted for in September. Those changes included adding the word “knowingly” to two places and restoring the mistakenly deleted reflexology exemption. Once the concept has a bill number, it will be posted to the web site.

Glenn reported that another serious matter is the issue of whether or not the OBMT joins with the other semi-independent agencies to procure a lobbyist, as the entire infrastructure of semi-independence seems to be at stake in part due to substantial misinformation. SIBA (Semi-Independent Board Administrators) will be interviewing lobbyists on November 3rd.

Glenn explained to the attendees at the Board meeting what the semi-independent status was and how that was beneficial.

Barton – thought it was an excellent idea, curious as to how many Boards are participating and how to balance the lobbyist's time. **Glenn** - intent is for the lobbyist to be semi-independent specific. Each agency might be able to contract for additional components if that's something the lobbyist can manage and track. Currently there are 9 Boards committed to the idea, even though the health-related semi-independents are the only ones being directly looked at. There is a common concern that should the structure of the health boards change the other boards would most likely follow. **Manriquez** would like more information and suggested that an emergency Board meeting could be held if necessary. **Barton** – asked about cost. **Glenn** - estimate is \$3,000 - \$5,000 for the session.

Upcoming: **Glenn** will be meeting with Sue Wilson from HLA and **Nott** will be attending their Board meeting on November 3rd specifically to report back on the HLA position statements for aqua chi and ear candling.

- b) Oregon Board of Chiropractic Examiners (OBCE) Letter** – **Glenn** updated the Board on a recent case involving a chiropractic office that had advertised chiropractic assistants as massage therapists which has settled. Subsequent to this case the OBCE has issued a letter to their licensees stating that it is misleading to use the terms “massage therapist” or “therapist” when referring to chiropractic assistants. The Chiropractic Board will address the issue if there is a violation. The letter also states that the title will change from Certified Chiropractic Assistant (CCA) to Chiropractic Assistant (CA).
- c) Finances** – **Glenn** reported to the Board on finances. She is working closely with representatives from US Bank to identify best options for the Board to invest their resources. It has been determined that the savings account interest was substantially less than the earnings credit on the checking account so the savings account has been closed and the funds moved into the checking account. In addition, the old checking account which has been sitting idle since July 2007 with minimum funds do to a few outstanding checks has also been closed. **Glenn** will continue to work with US Bank to find additional ways to secure the best return on investments possible. In addition, the Board needs to update the authorized signers. **Calise moved** to appoint **Barton** as the designated signer on the account. **In favor: Manriquez, Calise, Barton, Collier and Catalano** **Opposed: None.** **Motion carried.**

Continuing with a review of the finances, **Manriquez** asked what period of time was being reported for the late fees. **Glenn** - the data is from July 2007 to present. Although high, the number of late renewals is on the decline indicating that the process seems to be working to encourage timely renewals. The Board hopes to see the number of late renewals continue to decrease.

Glenn – in conclusion noted that the finances are trending well.

- d) House interim committee on health care** – Will be meeting again in November. At that time **Glenn** should received updated concepts to bring back to the Board.
- e) Scope of practice advisory group** – A meeting is slated for November 12th but may need to move because of a scheduling conflict with Senator Monnes-Anderson. **Glenn** explained

the intent of this group to the attendees of the meeting.

- f) **Health related boards** – The group is meeting every other month and it is still going well. **Glenn** explained the role of that group for the attendees. She attended a meeting with Dawn Farr with Legislative Fiscal Office on key performance measures. As a semi-independent agency, we report performance in our biennial report to the Governor rather than in key performance measures. However, we were asked to participate in a pilot project to come up with a couple of common key performance measures. As a participant we will have access to a DAS expert in statistics and reporting who will be working with board staff which will benefit both the Key Performance Measure project as well as the OBMT.
- g) **Staff meetings** – Board staff are meeting once a month. Minutes from those meetings will become part of the Board packet.

5) **Committee Updates:**

Rules Committee – The Rules Committee met and reviewed the correspondence and testimony pertaining to the proposed rules changes. They took all feedback into consideration and have brought back to the Board their recommendations. **Glenn** went over the recommend changes one at a time. **Catalano moved** to accept the changes as put forward. **In favor: Manriquez, Calise, Barton, Collier and Catalano** **Opposed: None.**
Motion carried.

- 6) **FSMTB Updates** - **Glenn** informed the Board that she did not re-run for President of the Federation. She then explained to the attendees what FSMTB is. The entire Oregon Board attended the annual meeting in Seattle. There were 25 states in attendance. AMTA's response was very positive and supportive of the Federation. **Glenn** will be attending the Body of Knowledge meeting in November and is looking forward to working on the committee that will be looking at model practice act language.

Barton moved to amend the earlier change to the agenda to include Law Enforcement. **In favor: Manriquez, Calise, Barton, Collier and Catalano** **Opposed: None.** **Motion carried.**

7) **Board Business**

- a) **Other states written examinations** – Staff requested clarification on acceptance of previously accepted state written exams as meeting the written requirements of the licensing process. The Board will continue to accept New York, Ohio and Hawaii if the written exam was taken prior to July 1, 2008.
- b) **Public Records Fee Structure** – This will be reviewed at the work session on October 25th.

- 8) **Public Comments** – Nishan Van Atta asked if there were any states that accept an Oregon massage license as sufficient to get a license in another state. It was explained that currently there is no reciprocity with any state. Qualifications may be transferrable in some states, but the applicant would still have to provide each state with all information which that state requires. This is something that the FSMTB is working to accomplish; creating accessibility and portability between the states. There was some discussion on the variations between states.

Nishan VanAtta asked if the FSMTB would take power away from each state and will it standardize testing requirements. **Glenn** replied that the FSMTB does not take power from the states, as it is made up of state Boards. The FSMTB makes informed, knowledgeable recommendations to its members with the intent of bringing more regulatory consistency and

therefore improved portability to the profession. The FSMTB has taken that first step with the creation and adoption of the MBLEx.

It was suggested that the Board look into joining a credit union as an investment possibility.

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 3:14pm and returned to Public Session at 4:08pm.

9) Action on Executive Session Items –

- a) Candidate AA – Collier moved** to approve application for licensure. **In favor: Manriquez, Calise, Barton, Collier and Catalano Opposed: None. Motion carried.**
- b) Candidate AB- Catalano moved** to approve application for licensure. **In favor: Manriquez, Calise, Barton, Collier and Catalano Opposed: None. Motion carried.**
- c) Case 575 – Calise Moved** to issue a Notice of Proposed Action for 1 violations of OAR 334-030-0025(19)(a)(C) sexual impropriety, and require licensee to complete the Board approved Ethics Protocol. **In favor: Manriquez, Calise, Barton, Collier and Catalano Opposed: None. Motion carried.**
- d) Case 601 – Catalano moved** to issue a Notice of Proposed Action for 1 violation of OAR 334-030-0025(19)(a)(C), sexual impropriety, and 1 violation of OAR 334-030-0025(19)(f), exercising undue influence on a client, for a total civil penalty of \$2,000, revoke license and forward to the Lane County DA. **In favor: Manriquez, Calise, Barton, Collier and Catalano Opposed: None. Motion carried.**
- e) Case 686 – Calise moved** to issue a Notice of Proposed Action of 1 violation of OAR 334-303-0025(18), failure to comply with an existing Board order, and suspend license until compliance is met or suitable arrangements have been made. **In favor: Manriquez, Calise, Barton, Collier and Catalano Opposed: None. Motion carried.**

10) Law Enforcement – In regard to case numbers:

- a) Case 723 Dara Heath – 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 4 violations of ORS 687.021(2)(a), advertising massage without a license, for a total civil penalty of \$4,500. **In favor: Manriquez, Calise, Barton, Collier and Catalano Opposed: None. Motion carried.**
- b) Case 727 Roxanne Brown – 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 6 violations of ORS 687.021(2)(a), advertising massage without a license, for a total civil penalty of \$6,500 and forward to the Washington Board of Massage. **In favor: Manriquez, Calise, Barton, Collier and Catalano Opposed: None. Motion carried.**
- c) Closed case report – Catalano moved** to accept the closed case report as presented. **In favor: Manriquez, Calise, Barton, Collier and Catalano Opposed: None. Motion carried.**

Case No. 231 Michael Gates

Allegation: Unlicensed practice of massage. **Closed:** Civil Penalty assessed & paid

Case No. 570

Allegation: Unprofessional conduct. **Closed:** allegations unfounded

Case No. 579

Allegation: unlicensed practice. **Closed:** compliance met

Case No. 598 Tanya Colgan

Allegation: unlicensed advertising & practice. **Closed:** Stipulated agreement issued.

Case No. 612 Albert Trople

Allegation: Sexual impropriety. **Closed:** Stipulated agreement issued

Case No. 645

Allegation: Unlicensed advertising of massage. **Closed:** Compliance met

Case No. 664

Allegation: unlicensed advertising & practice. **Closed:** respondent unreachable

Case No. 673

Allegation: unlicensed practice. **Closed:** respondent unreachable

Case No. 676

Allegation: unlicensed practice. **Closed:** allegations withdrawn

Case No. 677

Allegation: unlicensed practice. **Closed:** allegations withdrawn

Case No. 678

Allegation: unlicensed practice. **Closed:** allegations withdrawn

Case No. 688

Allegation: no license number in ad. **Closed:** compliance met

Case No. 696

Allegation: work outside of scope. **Closed:** compliance met

Case No. 701

Allegation: no license number in ad. **Closed:** compliance met

Case No. 703

Allegation: no license number in ad. **Closed:** compliance met

Case No. 704

Allegation: no license number in ad. **Closed:** compliance met

Case No. 705

Allegation: no license number in ad. **Closed:** compliance met

Case No. 706

Allegation: no license number in ad. **Closed:** compliance met

Case No. 707

Allegation: no license number in ad. **Closed:** compliance met

Case No. 708

Allegation: no license number in ad. **Closed:** compliance met

Case No. 709

Allegation: no license number in ad. **Closed:** compliance met

Case No. 714

Allegation: no license number in ad. **Closed:** compliance met

Case No. 715

Allegation: no license number in ad. **Closed:** compliance met

Case No. 716

Allegation: no license number in ad. **Closed:** compliance met

Case No. 718

Allegation: no license number in ad. **Closed:** compliance met

Case No. 719

Allegation: no license number in ad. **Closed:** compliance met

Case No. 724

Allegation: unlicensed practice. **Closed:** unable to substantiate

11)Announcements – none

12)Adjourn Meeting – Barton moved to adjourn the meeting. In favor: Manriquez, Calise, Barton, Collier and Catalano Opposed: None. Motion carried.

Meeting adjourned at 4:22pm.